



The “Uberization” of Work under the Analysis of Bill No. 1471/22, The Uberization of Work under the Analysis of Bill No. 1471/22

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SUMMARY

The TCC will address Labor Law in the era of Uberization, including general aspects and the relationship between Labor and Employment. The impact of Neoliberalism and intermediation applications on “on-demand work” and the judicial position in relation to the configuration of the relationship used in Uberization will also be discussed. The possibility of regulation through PL No. 1471/22 will also be observed.

Keywords: uberization. Labor Law. PL no. 1471/22

ABSTRACT

This dissertation will address Labor Law in the era of Uberization, including general aspects and the relationship between Work and Employment. The impact of Neoliberalism and intermediary applications on “on-demand work” will also be discussed, along with the judicial position regarding the configuration of the employment relationship in Uberization. The possibility of regulation through Bill No. 1471/22 will also be observed.

Keywords:Uberization, Labor Law, Bill No. 1471/22

1. INTRODUCTION

Labor law is an area of law that aims to regulate relations between employers and employees. In this context, it is essential to understand the difference between employment relationship and employment relationship, as well as the general aspects of labor law. However, with the arrival of neoliberalism and the Uberization of work, which are characterized by the use of intermediation applications and “online” work, - demand”, there has been a change in the organization of work, which has generated discussions about the configuration of the employment relationship in this context. Faced with this social reality, many questions arise about the judicial position and the need for a regulatory law, such as PL No. 1471/22, to guarantee rights and protection to workers in the era of uberization.

In this context, it is important to analyze how the Uberization of work has affected the configuration of the employment relationship. With the use of intermediation applications, many companies argue that they are not employers, but merely service providers, which has raised several questions about the characterization of the employment relationship. Some experts argue that this type of work should be characterized as an employment relationship, as it presents several elements that constitute subordination, such as control working hours and setting goals.

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Given this scenario, many lawsuits have been filed by workers seeking recognition of the employment relationship, with the aim of guaranteeing labor rights such as vacation, thirteenth salary and FGTS. The judicial position, however, is still controversial regarding this issue. Some

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Decisions have recognized the employment relationship, while others have considered that it is only a service provision relationship.

In this context, there is a growing discussion about the need for a regulatory law for this new form of work. PL No. 1471/22, for example, proposes the creation of a specific legal regime for workers who work on digital platforms, guaranteeing labor and social security rights, in addition to establishing rules for the supervision and regulation of these companies. This would be a way to protect workers in a social reality that has proven challenging for labor law.

2. THEORETICAL FRAMEWORK

2.1 GENERAL ASPECTS OF LABOR LAW

Labor Law is the branch of legal science that regulates the relationship between employers and employees. Considered a complex area that regulates all issues related to employment contracts, remuneration, working hours, workers' rights and obligations, safe working conditions, health and safety at work, among others.

Labor Law also regulates the protection of pregnant workers, discrimination and harassment in the workplace, the labor rights of unemployed workers, paid and unpaid leave, acquired rights, overtime, collective and union agreements, among others. .

The objective of Labor Law is to ensure the protection of workers' fundamental rights, guaranteeing them fair and dignified working conditions. Labor Law rules cover all aspects of the employment relationship, from hiring to termination, including rights and duties, working conditions, payment, vacations, working hours, occupational safety and health, as well as other related issues.

Labor Law is fundamental to ensuring the rights of workers and ensuring that they can carry out their activities in fair and dignified conditions.

Regarding the Uberization of Work, this is a term used to describe the increase in informality in employment, which generally consists of jobs with little or no labor rights or social protection. It refers to the increasing use of contracts or employment relationships through digital applications, allowing companies to reduce labor costs and be able to hire workers more flexibly. Regarding this, he highlights (Pingle and Sharma, 2019, p. 2):

"The Gig Economy, in conjunction with the widespread adoption of digital technology, is fundamentally changing how workers are hired and treated, leading to the fragmentation, destabilization and precariousness of labor relations"

The Uberization of work is related to the emergence of services that are performed in a fragmented, precarious and deregulated manner. In this type of work, the relationship between employer and employee is much more flexible, as unlike what happens in traditional work relationships, there is no contract of formalized work between those involved.

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Furthermore, these services are provided by self-employed workers, who do not have an employment relationship with the contracting company. These workers do not receive the same labor rights as traditional employees, such as stability, vacations, FGTS, among others.

The use of Uberization of work has generated many discussions, as many argue that it is a form of precariousness of workers' rights, since they do not receive the same labor rights as traditional employees. However, others argue that it could be a way to expand

the offer of work for those who do not have an employment relationship and that it can be beneficial for the economy. In this sense, adds Delgado (2019, p. 5):

Labor Law is the set of regulations that regulate employment relations, organizing and protecting, in a coherent and harmonious way, the social reality of work between the employer and the employee.

Labor Law is a branch of Law that regulates the relationship between the employer and the employee, seeking to ensure balance and effective protection of each person's rights. It is a branch of Public Law, as it is of interest to society and regulates labor relations, with a view to social well-being.

Labor Law is intended to regulate all existing relationships between employer and employee, covering everything from hiring, working conditions, hours, salary, payment of taxes, health and safety rights, to termination of the contract.

Labor Law is based on the principle of equality between the parties, the protection of the worker and the protection of the employer's assets. Furthermore, Labor Law aims to protect the health and safety of workers, as well as guarantee compliance with labor laws and compliance with quality and efficiency standards.

"Uberization not only makes work even more precarious, it treats its owners as mere disposable inputs of a business logic with no commitment to life" (SOUZA, 2019, p. 61).

The Uberization of Work means the replacement of traditional hiring models with work relationships with greater flexibility and less ties between employer and worker. This trend has become increasingly popular with the emergence of new digital platforms, such as Uber, which allow companies to hire temporary workers to carry out specific tasks without the need to be formally hired.

The Uberization of Work can have several impacts on the relationship between employer and employee. On the one hand, it offers less protection for workers' interests, as there is no guarantee of labor rights or other protections, such as minimum wages, working hours, vacations, etc. On the other hand, this form of contracting can offer greater predictability for companies, as they do not need to worry about the contracting obligations that normally accompany more traditional contract models.

However, it is important to note that the Uberization of Work model is not the only form of contracting available, there are other forms of flexible contracting that offer greater protection to workers, such as self-employment, which can offer labor rights and other protections. Therefore, companies must consider the different work options according to the hiring model that best suits their interests.

With regard to the general aspects of labor law, we can highlight some of the main rights guaranteed to workers by the State, such as: right to a fair wage, right to working hours, right to protection against harassment and discrimination in the workplace, right security at work, the right to paid vacation, among others. Furthermore, labor law also provides for the right to collective bargaining and participation in unions.

2.2 LABOR RELATIONSHIP AND EMPLOYMENT RELATIONSHIP

The employment relationship is a contract in which the employer and employee agree on the price, term duration, location and other aspects related to work. It is the contract that creates the obligation and rights between the employer and the employee.

The employment relationship is one that aims to provide services, which is considered



as a short-term employment contract. This relationship does not generate any type of employment relationship between the employer and the employee.

The employment relationship, in turn, is one that has stability characteristics and aims to continuity of services provided. This relationship creates an employment relationship between the employer and the employee, which means that the employee has labor rights guaranteed by law.

The work relationship and employment relationship are addressed from a broad perspective by Martinez (2019). According to the author, the employment relationship would be the legal relationship established between the employer and the employee for the performance of paid labor services, on a regular and continuous basis, in the form of subordination.

On the other hand, any service provision of a non-occasional nature, in which the employee makes his or her workforce available to the employer, with corresponding remuneration" (BAR-ROS, 2018, p. 75). The employment relationship and employment relationship are two important ways of establishing a working relationship between employer and employee. In the current scenario of transformations in the labor market, the work and employment relationship requires adaptation and flexibility on the part of the parties involved. Both models have their place and value in the job market, but labor laws and rights must be respected and followed to guarantee the protection and safety of workers.

2.3 NEOLIBERALISM AND THE UBERIZATION OF WORK - A NEW ORGANIZATIONFROM WORK

Neoliberalism is a governing philosophy that promotes free markets, a business environment with little regulation, where market forces determine supply and demand. Neoliberalism exalts the benefits of the free market, competition and private initiative.

Neoliberalism is a set of economic measures adopted in the early 1980s, which aim to deregulate the market, reduce public spending and reduce labor rights. The Uberization of work is the process of deregulation and precariousness of work relations, which has been accompanying this neoliberal movement.

Several writers have taken a stand on this phenomenon, highlighting its impacts on society. French philosopher Michel Foucault was one of the main critics of neoliberal logic, pointing out how its measures end up excluding the poorest and most marginalized population. He argued that neoliberal logic, by focusing on profit maximization and efficiency, excludes people who are not able to benefit from these principles.

Furthermore, he emphasized that the worldviews that are promoted by neoliberal logic reduce people's ability to be subjects of their own history and destiny, as people are forced to adapt to a certain economic model. He also criticized neoliberal logic for the inequality it creates and perpetuates, as low-income people, those who do not adapt to economic rules, are marginalized.

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French economist Thomas Piketty, author of "Capital", in the 21st Century, is also an important critical voice of neoliberalism, highlighting the increase in social and economic inequalities resulting from neoliberal policies. He argues that the concentration of income and wealth in the hands of a small group is the result of an unbalanced and unequal economic model, which tends to deepen inequalities.

For Piketty, the only way to combat this trend is with income redistribution policies, such as increasing taxes on capital to finance investments in education, health and infrastructure. Furthermore, he advocates the implementation of a universal minimum wage, which would allow all citizens to enjoy a decent standard of living.



American writer David Graeber points out that the uberization of work is part of a broader trend towards the dehumanization of work, which goes against the ideals of freedom and equality that were defended during the 20th century. According to him, Uberization is a way of reducing labor costs, but it also has the consequence of reducing workers' authority, as well as reducing the quality of the work performed.

He argues that Uberization creates an economy of precarious work, with low wages and little or no guarantees of job security. Furthermore, he argues that Uberization creates incentives for individual entrepreneurship at the expense of collective work, which reduces workers' power and increases worker exploitation.

French economist Guy Standing, author of the book "The Precariat": The new class of workers, also draws attention to the impacts of the Uberization of work on people's lives, highlighting how it ends up generating a new form of precariousness and inequality in society. According to him, uberization has a direct impact on the loss of labor rights, reduced wages, precarious contracts and a greater workload, in addition to forcing workers to be extremely flexible to adapt to market demands.

Furthermore, Standing argues that uberization could lead to the creation of a new class of workers, the precarious, who are people who do not have labor rights, decent wages or any form of social security. This new class of workers is growing rapidly, mainly due to the expansion of online work platforms, which allow companies to hire people more easily and cheaply, without having to comply with labor laws.

For these reasons, Standing argues that it is necessary to create protection mechanisms for precarious workers, which guarantee them basic labor rights, such as adequate wages, social security, access to benefits, among others. He also believes that it is necessary to create forms of regulation for digital platforms that allow workers to be properly paid and protected.

The Uberization of work refers to the tendency of companies to replace regular jobs with precarious jobs. This trend has been accentuated in the last decade, with the popularization of the app-based work model, such as Uber.

Tiago Peixoto (2018), in his book "Neoliberalism and Uberization of Work: Challenges to Democracy", argues that neoliberalism has contributed to the Uberization of work, by reducing labor market regulation and encouraging deregulation.

Peixoto (2018) states that deregulation has allowed businesspeople to reduce costs and obtain greater profits, while making the work of employees precarious.

The "uberization" of work is a consequence of the adoption of neoliberalism. It is the process by which many companies are moving from permanent employment to temporary or ongoing employment, where employees have no employment rights and are paid hourly. This change means that workers lose basic rights such as unemployment insurance, sick leave, limited working hours, maternity leave/parenting, among others.

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This new work organization is a challenge for workers, who need to adapt to new demands and strive to remain competitive. Furthermore, as workers do not have labor rights, they have to deal with instability in their jobs and the uncertainty of being fired at any time.

However, the Uberization of work also brings some benefits. For example, it allows workers to exercise their own initiative, choose their hours, and work across multiple companies at once.



Same time. In addition, workers also have greater flexibility and autonomy to work on their jobs. Oconditions.

2.3.1 Work "*on-demand*" and "*uberization*"

The work "*on-demand*" and "*uberization*" are terms used to describe the increasing use of platforms. digital formats for hiring workers. These platforms allow workers to be hired quickly and flexibly, allowing them to be paid hourly or per task completed.

"Uberization" refers to the growing trend of companies using digital platforms to hire workers. These platforms allow companies to hire workers in real time, based on their needs and budget, and make it easier for workers to accept tasks flexibly. It is a form of work that allows workers to earn money without a permanent link to a single company, and offers employers the possibility of hiring workers quickly and economically.

The Uberization of Work has been a topic of debate among Labor Law scholars and jurists. son. According to scholar Léo de Almeida, the Uberization of Work is the tendency of the labor market to adapt to new technologies, and work relationships are increasingly flexible. These relationships, in turn, are adapted according to the needs of each worker.

However, labor rights have not yet kept up with this change in the labor market. Labor law has not yet adapted to new employment relationships and, as a result, often does not adequately protect workers. For example, self-employed workers do not have the right to paid leave, social security contributions or unemployment insurance, which places them in a vulnerable position.

Therefore, it is necessary for labor law to adapt to new employment relationships, in order to ensure that workers are not placed at a disadvantage in relation to their employers. One way to do this would be to establish specific rights for self-employed workers to adequately protect them.

The work "*on-demand*" is a form of work in which workers are hired to complete specific tasks for a certain period of time. These tasks can be simple menial tasks, such as house cleaning, or more complex work, such as software development. This form of work allows workers to be paid by the hour or per task completed, and offers flexibility so that workers can work at their own pace.

The work "*on-demand*" means work *freelance* which is carried out online, usually through digital platforms. Labor Law professor Ives Gandra Martins Filho considers that work "*on-demand*" is a challenge for labor law. According to him, the work "*on-demand*" has some of the requirements of the employment relationship, such as subordination and onerousness, but is not subject to labor standards. This creates a gap between work "*on-demand*" and labor legislation, as there is no regulation for this type of work.

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Therefore, professor Ives Gandra Martins Filho argues that labor law must be applied to work "*on-demand*" to ensure workers are protected. He believes that labor law should be applied comprehensively and flexibly to cover all forms of work, including work "*on-demand*". This would allow workers in this sector to receive the same rights and benefits as other workers.



2.4 SOCIAL REALITY, JUDICIAL POSITION AND POSSIBLE SOLUTIONS

Uberization has been a much discussed topic in today's society due to its impact on the world of work and its effects on economic and social dynamics. The word “uberization” comes from the name of the company Uber, which transformed the way people use transportation through an app that connects independent drivers with potential customers. This business model inspired other companies to adopt the same approach and, with this, a new way of organizing work emerged.

The main characteristic of uberization is the use of digital platforms to connect independent service providers and end consumers, which brings flexibility of choice for users and workers alike. However, it is important to consider that uberization can have negative consequences for society.

One of the main impacts of uberization on society is the precariousness of work, since independent workers are responsible for guaranteeing access to labor rights, often without social protection or a guaranteed minimum wage. This lack of effective regulation can lead to worker exploitation and growing social inequality.

Furthermore, Uberization could impact other sectors of the economy, such as the local merchant sector, as international app companies can offer cheaper and more convenient products than physical stores, which could contribute to the “Uberization” of the economy as a whole.

In short, uberization redefines the way people work and consume, but it is essential that measures are adopted to guarantee fair working conditions and social protection for those who carry out the activities. This could include efforts to regulate the sector, promote dialogue between app companies, workers and union organizations, and opportunities for the formation of cooperatives and worker associations. Only in this way can we guarantee a fair and equitable economy for everyone.

The current social reality is marked by the precariousness of work and the increase in social inequality, which have a significant impact on the lives of workers. The implementation of neoliberal policies and the increasing use of digital work platforms have led to greater uncertainty and vulnerability for workers.

Precarious work is characterized by a lack of security, stability and social protection. Workers are often hired differently, without a minimum wage or without benefits, such as vacation, 13th salary and regulated working hours. Furthermore, the increase in outsourcing and informality has contributed to the reduction of labor rights.

Increasing the vulnerability of workers, the lack of labor protection is a problem that affects many countries around the world. Workers often do not have access to social security, which means that if they become ill or injured on the job, they may be left without medical and financial assistance. Likewise, in the event of a layoff, they may not always have access to severance pay or a decent benefits package.

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In summary, precarious working conditions and the lack of social protection are urgent issues that need to be addressed to avoid growing social inequality and economic exclusion. It is essential that there is joint work between governments, labor organizations and unions to ensure that workers are not left behind in the face of the rapid changes in the current economy.

The judicial position regarding app workers is a very controversial topic in relation to labor rights. There is an ongoing discussion about whether these workers should be classified as self-employed or as employees, as this has significant implications for how they are treated under employment law.



The issue of worker classification has become especially important with the growth of the digital platform sector. App companies generally avoid classifying their workers as employees, arguing that they are independent freelancers who work “on their own.” As a result, these workers often lack access to labor protections such as minimum wage, paid vacation, and health care.

However, there is a critical view of the companies' practices and that the State must protect these workers, ensuring that they have the right to adequate labor protection. In some countries, courts have ruled that these workers should be classified as employees and not self-employed, giving them access to basic labor rights.

Therefore, it is clear that there are controversies regarding the labor rights of digital platform workers. It is crucial for the State, the Judiciary and application companies to enter into a fruitful dialogue to regulate this type of work, discussing topics such as the appropriate classification of workers and adequate labor protection for these professionals. This will help ensure that workers have access to basic rights and carry out their activities in a fair and safe way.

To face the challenges related to the precariousness of digital platform work, it is essential to discuss and implement possible solutions that can guarantee adequate social protection for workers involved in this type of work.

One of the possible solutions would be the regulation of digital platforms, forcing them to guarantee better working conditions for their employees. This could include requiring compliance with labor laws and the payment of adequate remuneration, as well as guarantees of health and safety at work.

The inclusion of application workers in social security would also be an important solution, as it would guarantee workers basic rights, such as unemployment insurance, paid sick leave and retirement.

Another measure would be to encourage the formation of cooperatives and worker associations. This would allow professionals in the digital platform sector to come together and have more negotiating power, in addition to encouraging a culture of solidarity aimed at protecting labor rights.

Finally, constructive dialogue between app companies, workers, and labor organizations should be encouraged so that everyone can contribute ideas to help address these labor challenges. The collaboration of these groups would be essential to find viable solutions that result in better working conditions for everyone involved.

Therefore, it is important that everyone works together to find solutions to ensure that digital platform professionals have adequate labor protection and social justice. The search for dialogue and innovative solutions is the first step towards a real transformation of the sector.

2.4.1 The (in)configuration of the employment relationship in Uberization

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The Uberization of labor relations has been a much discussed topic in recent years. The transformation of the labor market, especially in the digital platform sector, has brought new challenges regarding the configuration of these workers' employment relationships.

At Uber, for example, there is a doubt in the configuration of the employment relationship of its drivers. The company defends the autonomy of these professionals, labeling them as “partners”, that is, as if they were autonomous. However, many question whether they should be classified as employees, which gives them



would guarantee a series of labor rights, such as guaranteed vacations, recess, 13th salary, among others.

The main concern is the precariousness of work, as many of these professionals work long hours without adequate labor protection, such as mandatory occupational accident insurance coverage.

However, the situation is complex and there is still no clear solution to define the employment relationship of these workers. Dialogue between application companies, workers, union organizations and governments is essential to find solutions that can guarantee adequate social protection for workers involved in this type of work.

Technology can be an ally to improve the lives of these professionals. A possible solution would be the creation of cooperatives and worker associations, so that workers can come together and offer services as a group. With this, workers would have greater negotiating power, in addition to encouraging a culture of solidarity aimed at protecting labor rights.

Furthermore, the inclusion of app workers in social security would be an important solution, as it would guarantee workers basic rights, such as unemployment insurance, paid sick leave and retirement.

The relationship between the two themes is that they both refer to the precariousness of work in the era of uberization. PL N° 1471/22 is a bill presented in the Chamber of Deputies that aims to regulate the activities of app-based transport companies, such as Uber and 99. Among other things, the project provides for the creation of a “portfolio of digital work” for drivers, guaranteeing them some labor rights such as maximum working hours, insurance payment and medical assistance.

The issue of the (in)configuration of the employment relationship in Uberization refers to the fact that many drivers who work for these companies are not formally employed, but rather considered independent contractors, which means they are not entitled to employment benefits such as vacation, salaries, thirteenth salary and social security contributions.

Both themes, therefore, are related to the precariousness of work in the era of the sharing economy, where formal work is being replaced by more informal and precarious forms of work.

2.4.2 The creation of a regulatory law in an analysis of PL No. 1471/22

PL No. 1471/22 is a bill that seeks to regulate digital service provision platforms, including companies such as Uber, iFood and Rappi. The proposal presented aims to define the rights and duties of workers on these platforms and create mechanisms for monitoring and punishing companies that do not comply with the legislation.

The discussion surrounding this bill reflects the issue of the “uberization” of the job market, which has been increasingly present in this sector. The controversy involves defining the type of employment relationship between platforms and the workers who provide services through them. There is a debate as to whether work on these platforms should be considered a relationship of subordination, partnership or autonomy.

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On the one hand, some argue that application companies should be obliged to guarantee labor and social rights to their service providers, such as life insurance, vacations, thirteenth salary, among others. On the other hand, there are those who argue that work in these services should be considered as independent service provision, without the labor guarantees that are offered by traditional employers.

The regulation of the labor market on digital platforms is a subject that still generates a lot of controversy and there is no consensus on the best approach. PL No. 1471/22 is one of the attempts to legislate



on the subject, but its approval is uncertain and will depend on a broad debate involving legislators, companies and workers to find a common point that can guarantee labor protection for workers without making the business models of these companies unviable.

PL No. 1471/22 aims precisely to regulate and establish some labor protections for drivers who work for these companies, who are often not considered formally employees. The issue of the (in)configuration of the employment relationship in Uberization is directly related to the absence of labor regulations for these professionals.

Therefore, the analysis of PL No. 1471/22 is important to understand how the State is trying to regulate work in the era of Uberization, establishing labor protections for drivers and other professionals who work in similar activities.

CONCLUSION

The analysis of the general aspects of labor law and the relationship between worker and employer proved to be fundamental in understanding the current scenario of uberization. With the advent of neoliberalism, a new organization of work emerged, characterized by paid and intermittent forms, such as “on-demand” work and the application of intermediation models. Faced with this reality, the judiciary faces the challenge of defining clear criteria for characterizing the employment relationship in Uberization. The presentation and analysis of PL No. 1471/22 are shown to be possible solutions for the creation of a regulatory law. Reflections on the impacts of this transformation in the world of work need to advance further, in order to ensure a balance between the need for innovation and the protection of labor rights

In this sense, it is essential that debates be held between interested parties, such as workers, companies and the government, in order to discuss the pros and cons of Uberization and establish ways to guarantee the protection of labor rights in this new work format. Furthermore, the creation of public policies that encourage innovation and entrepreneurship, combined with social protection for workers, can be a viable solution, capable of reconciling market demands and workers' needs. It is also worth highlighting the importance of raising workers' awareness of their rights, as well as the possibilities and limitations of Uberization, in order to avoid exploitation and guarantee social justice.

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