Teleworking, diversity and inclusion: an analysis of legislation and companies from the perspective of people with disabilities in Brazil

Teletrabalho, diversidade e inclusão: uma análise sobre legislação e empresas na perspectiva da pessoa com deficiência no Brasil

Teletrabajo, diversidad e inclusión: un análisis de la legislación y de las empresas desde la perspectiva de las personas con discapacidad en Brasil

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ABSTRACT
The significant increase in people teleworking, resulting from the Technological Revolution, made it possible for people with disabilities to enter this new type of work, as it reduces travel and accessibility barriers. This text seeks to broaden the discussion on legislation, public policies and corporate strategies and their intertwining regarding the inclusion of these professionals with disabilities. To this end, we used a review of standards and literature on the topic within the context of Corporate Social Responsibility, considering new dynamics in the economy and sociology of work. Question: what are the ways to manage people for the effective inclusion of people with disabilities in teleworking, taking into account diversity, productivity and promoting quality of life? The results point to the importance of applied legislation, public and business policies and strategies in the area of People Management and mainly the use of Assistive Technologies, aiming to promote diversity and inclusion in the business environment.

Keywords: law, teleworking, assistive technology, people and diversity, corporate social responsibility.
RESUMO
O aumento significativo de pessoas no teletrabalho, decorrente da Revolução Tecnológica, possibilitou à pessoa com deficiência ingressar nesta nova modalidade de trabalho, uma vez que diminui entraves de deslocamento e acessibilidade. Este texto busca alargar discussão sobre legislação, políticas públicas e estratégias corporativas e seus entrelaces acerca da inclusão desses profissionais com deficiência. Para tanto, utilizou-se de revisão de normas e de literatura sobre o tema dentro do contexto da Responsabilidade Social Corporativa, considerando novas dinâmicas da economia e da sociologia do trabalho. Questão: quais os caminhos da gestão de pessoas para inclusão efetiva de pessoas com deficiência no teletrabalho, tendo em conta diversidade, produtividade e promoção da qualidade de vida? Os resultados apontam para a importância da legislação aplicada, das políticas públicas e empresariais e estratégias da área de Gestão de Pessoas e principalmente da utilização das Tecnologias Assistivas, visando promoção da diversidade e inclusão no ambiente empresarial.

Palavras-chave: direito, teletrabalho, tecnologia assistiva, pessoas e diversidade, responsabilidade social empresarial.

RESUMEN
El importante aumento del teletrabajo, fruto de la Revolución Tecnológica, posibilitó la incorporación de personas con discapacidad a esta nueva modalidad laboral, ya que reduce las barreras de desplazamiento y accesibilidad. Este texto busca ampliar la discusión sobre legislación, políticas públicas y estrategias corporativas y su entrelazamiento en torno a la inclusión de estos profesionales con discapacidad. Para ello, utilizamos una revisión de normas y literatura sobre el tema en el contexto de la Responsabilidad Social Empresarial, considerando nuevas dinámicas en la economía y la sociología del trabajo. Pregunta: ¿cuáles son las formas de gestionar personas para la inclusión efectiva de las personas con discapacidad en el teletrabajo, teniendo en cuenta la diversidad, la productividad y promoviendo la calidad de vida? Los resultados apuntan a la importancia de la legislación aplicada, las políticas y estrategias públicas y empresariales en el área de Gestión de Personas y principalmente el uso de Tecnologías de Asistencia, con el objetivo de promover la diversidad y la inclusión en el entorno empresarial.

Palabras clave: derecho, teletrabajo, tecnología de asistencia, personas y diversidad, responsabilidad social corporativa.

1 INTRODUCTION
The world of work has undergone major changes in the face of the Technological Revolution, with new formats and platforms emerging. The
COVID-19 Pandemic has intensified remote work, in response to the need for production, within the context of social isolation, adopted or imposed by local or national governments, with the aim of preventing viral spread. This transformation in the fields of economics and sociology of work has reached people with disabilities. The so-called “telework”, a model regulated in Brazil through Law 14.442/2022, proposes easier access for people with disabilities, as it reduces obstacles arising from structural barriers.

Access to work, according to Williams (2000), is precisely the field in which there is the biggest gap between people with and without disabilities. The World Report on Disability (World Health Organization, 2011) provided evidence that many people with disabilities do not have equal access to health care, education and employment opportunities, as well as do not receive the disability-related services they need and are excluded from daily life activities.

In the international sphere, considering important institutions and even economic agents more responsible and committed to global discussions, there are recommendations or conventions that go beyond issues covered by corporate governance, in the sense of protecting people with disabilities. However, Brazil is still moving towards understanding the work environment and implementing more assertive and forceful actions.

In this sense, the company assumes an essential role for inclusion, using elements of Corporate Social Responsibility to resolve issues linked to compliance with the Quota Law, in its legal coefficient, the breaking of technological barriers, recovered by the Brazilian Law of Inclusion and the lack of regulation expressed in the Consolidation of Labor Laws, in relation to Assistive Technology (AT).

In view of the above, this study raises the question: which ways of people management activity make it possible to effectively include people with disabilities in teleworking, taking into account differences and promoting quality of life? Aiming to promote the importance of the people management sector for the inclusion of everyone in the aforementioned model, through responsible
practices, providing the necessary AT, with a view to filling gaps in legislation and demonstrating the advantages of diversity in organizations.

2 METHODOLOGICAL ASPECTS

The research is descriptive in nature, dealing with phenomena that are still little known or perceived in degree and importance by academia or the market, certainly due to their complexity, fragmentation and interconnections (Pádua, 2016). It is reinforced that TA is a new and recent theme in scientific explorations, mainly related to the scope of relationships and work dynamics, therefore being a qualitative research, which demonstrates the variety of perspectives on the object. To this end, bibliographic and documentary research techniques were applied, with a survey of references, in specific publications, doctrines, legislation and specialized journals, with the aim of providing theoretical depth on the problem (Lakatos; Marconi, 2003).

Likewise, to systematically and consistently approach the study, we chose to use the content analysis technique, which is suitable for exploratory research purposes (Martins; Theóphilo, 2007), taking as a reference the model proposed by Bardin (2007), which consists of three stages: pre-analysis, characterized by the construction of the theoretical framework and the analysis structure. The latter is carried out in each section of the text.

The importance of this research lies in the interweaving between legal, technical and People Management content for a better understanding of the phenomenon and implementation of public policies for the inclusion of people with disabilities, highlighting that this is not a simple adjustment in the way of managing, but above all a change in the company's paradigm, in the sense of including diversity in the field of organizational culture, attributing to it the way of adding value to the company, in addition to converging Corporate Social Responsibility with legislation on inclusion in Brazil.
3 DECENT WORK AND THE RIGHT TO DIFFERENCE

The Brazilian Constitution considers a person with a disability to be someone who has a long-term impairment of a physical, mental, intellectual or sensory nature, which, in interaction with one or more barriers, may obstruct their full and effective participation in society under equal conditions. with other people” (Brazil, 2015), based on the Convention on the Rights of Persons with Disabilities (UN, 2006) and represents an evolution in the way of understanding disability, being anchored in human dignity and equality.

This terminology is a historical achievement resulting from struggles in search of dignity and rights, surpassing the understanding limited to the medical model established by the World Health Organization (WHO), revised in 2001, resulting from constant criticism of understanding and practices, which did not consider the social aspects of these people; resulting in a new classification, with the proposition of a “biopsychosocial” model of disability, an agenda incorporated by the Convention on the Rights of Persons with Disabilities (UN, 2006) which involves not only the Medical conception surrounding the individual, but their relationship with Society.

At this juncture, the current terminology represents a redefinition of the way these people are seen, that is, capable and autonomous human beings, and it is essential to sufficiently contemplate the rights of people with disabilities, from appropriate terminology to decent working conditions. It is worth recalling that decent work and economic growth are at the heart of the 8th sustainable development goal of the 2030 Agenda. This document reflects the responsibility of countries to implement public policies capable of providing social inclusion, involving attention to gender issues, social inequalities and minority groups, reinforcing that they all demand special attention in the context of the current economic production model.

The Brazilian state established the quota system as a means of access for people with disabilities to work, which are intended to reserve vacancies in the public and private sectors, respectively, and which sought to provide adequate means for people with disabilities to work, ensuring equal opportunities with other
people or professionals. The legal provision highlights the importance of AT as a fundamental right for those in the workplace, so that equality is protected in the context of production methods, which will only be viable with resources specific to the needs of each disability.

Therefore, dignity for such groups is closely linked to equality, a constitutional principle that provides not only for equal treatment for all people, but above all for dispensing unequal treatment to unequals, so that they can, through affirmative actions by the State, overcome social inequalities perpetrated over time, through discrimination and prejudice. Understanding the politics of difference as an important dimension for recognizing others as equal, promoting affirmative actions based on disadvantaged status, is the first step towards confronting inequalities. In the economics and sociology of work, it is understood that reserving jobs for people with disabilities is a fundamental component to provide access to teleworking, the objective of this discussion.

4 TELEWORKING AND PROFESSIONAL INCLUSION

The opening of the market in developing countries for multinational companies and the advancement of new technologies have made new forms of work possible, including teleworking, given the recent phenomenon in large economic agents, whose prerogative is to grant workers the possibility of autonomous work, outside of the company’s physical space and without direct relationships with superiors and co-workers, through the use of technological resources (Nilles, 1997).

In the 1970s, the first notes showed that teleworking was gaining ground amid innovation and technology; and that, in addition to the Information Revolution in the 20th century, the recent COVID-19 Pandemic expanded its scale, due to the health crisis and social isolation. At this point, this modality cannot be understood apart from the process of social construction of homework, which presents the formats at home, partial or home office model, but which should not be confused with work at home implemented in the industrialization phase (Bridi, 2020).
In Brazil, the regulation of teleworking in 2022 filled some gaps that permeated the topic in Law 5.452/1943 (Consolidation of Labor Laws). According to the definition applied, it appears that one of the conditions for configuring teleworking is the provision of services outside the employer's premises, which leads to other points of inconsistency that labor legislation has not been able to unravel, such as the case of the environment and structure, as well as responsibility for the equipment necessary to carry out the work, supported by law.

The device reveals the legislator's intention to monitor the advancement of technologies, but also the serious violation of the principle of otherness, according to which the risks of economic activity cannot be transferred to the employee, as noted in art. 2nd of said Consolidation. This is because it relieves the employer of the costs of purchasing and maintaining equipment necessary for work, disregarding the employee's vulnerable situation in relation to the employer, failing to comply with the responsibility guidelines of the proposed governance model. It is worth noting that there is imprecision in the text and interpretation of the subject, allowing for different legal and business approaches (Delgado, 2018).

Therefore, this study identifies a distortion of the meaning of teleworking. Positive points can be listed as autonomy, flexible schedules, life with family and stress reduction (Nohara et al., 2010), in addition to saving time and travel, especially in large regions or urban centers. In another view, a transgression of the principle of alterity is observed when analyzing the economic burden provided for in the regulation.

The device portrays the concern with the inclusion of people with disabilities in the job market, in the business space in the office or home, given their accessibility limitations to the work environment, as well as in urban space, including the conditions of access or transit on public roads and public transport. However, there are legislative gaps regarding the burden of providing TA to employees with disabilities, separating companies that play an important social role in conducting responsible business, with inclusive governance practices, on
a broad and long-term scale, contributing to the development of organizations and regions.

5 ASSISTANT TECHNOLOGY IN THE CONTEXT OF TELEWORK

In the context of teleworking intended for people with disabilities, it is important to mention the technological barriers, set out in Law 13.146/2015, corresponding to attitudes or behaviors that prevent or harm the social participation of those on equal terms and opportunities with other people, which may relate such barriers to computer accessibility resources, essential in achieving teleworking. Bersch (2017) defines computer accessibility resources as the set of hardware and software specially designed to make the resource accessible to people with sensory (visual and auditory), intellectual and motor deprivations. It includes input devices and output devices.

The discussion about technologies and inclusion in this sphere arises because labor legislation prioritizes only vacancies for teleworking, not literally requiring the employer to bear the cost of such accessibility resources. Therefore, this issue must be pacified through Law 13.146/2015, which provides legal entities under public, private or any nature with the obligation to guarantee accessible and inclusive work environments.

The review of legislation and literature verified that the regulation ensured the right to TA; however, the aforementioned Consolidation maintained a legislative gap in relation to the topic. Public policies regarding Assistive Technologies in the workplace and at the time of this analysis have not yet been concretely implemented.

It appears that people with disabilities are located in an uncertain environment between norms and the lack of implementation of policies. Today, the understanding of this text is that it is up to the Public Administration to transpose the legal order into actions that can solve such social problems, so that the State and companies carry out what is provided for in the provisions of the Constitution, especially with regard to rights fundamental that depend on actions for their promotion (Barcellos, 2005).
While teleworking can be an agent that facilitates social inclusion, operating as an instrument that contributes to opportunities and reduced inequality, also promoting the creation of jobs for those who feel marginalized or disadvantaged (Silva; Gilio, 2020); can become an agent of exclusion when the person does not have resources for the Assistive Technologies necessary for work. Regarding business economics, the solution to the impasse has been resolved through governance practices and responsibility in the form of management that must be present in any debate on development and sustainability, assuming in this text that these are interdependent concepts and not exclusionary (Ethos-Reis, 2019).

Andrade and Castro (2016) recover sustainability as a point of fusion between economic, environmental and social dimensions. Thinking about social and professional inclusion within the business panorama, comprises an ethical stance of the economic agent based on the fundamental right to work for everyone from the perspective of human rights. It constitutes a vision that goes beyond economic and financial aspects, encouraging respect for difference and also strengthening its institutional image in society and other stakeholders.

In the scope of economics and the sociology of work, understanding changes in the dynamics of work, employment and income is crucial. It is up to the company to understand the complexity and rationality of the inclusion process and provide quality of life at work, with the implementation of improvements and technological innovations in the environment (Limongi-França, 1997), and it is important to note that improvements in teleworking reflect the effort to linked adaptation, involving all accessibility resources through AT.

6 PEOPLE MANAGEMENT AND PROMOTION OF INCLUSION

At this point in the approach, a dialogue must be considered between the effectiveness of the quota policy, inclusion and teleworking of people with disabilities. It can be said that the key point for linking these elements is found in the people management model, which is reflected in the modeling of processes to meet demands, apply and monitor teams (Gil, 2006).
Prior to the promulgation of the Brazilian Inclusion Law and Law 14.442/2022 (which regulated teleworking), the World Report on Disability (World Health Organization, 2011) already discussed that a person's environment has a huge impact on their experience and extent of the disability. Inaccessible environments increase or create disability by imposing barriers to participation and inclusion. Examples of the possible negative impact of the environment include: a deaf person without a sign language interpreter; a wheelchair user in a building without an accessible bathroom or elevator; and a blind person using a computer without screen reading software.

In the social perspective of Agenda 2030 (UN), the diversity of workers corresponds to added value for society and the company, in which it is fundamental to the people and human capital sector, in this case, to encourage respect and understanding of differences and connect structure and social function of the company, making compatible the different interests involved in the economy and regional development, while seeking to preserve the company and profitable activity (Frazão, 2018).

It comprises the function of the People Management area to know the expectations, skills and limitations of employees to provide the necessary equipment for the good performance of teleworking and continuity in the company. Regarding AT, it means offering accessibility resources to the computer according to the specificity of the disability, reducing or eliminating limitations. Jhonson (2020) applies a neologism to the context of inclusion when developed by leaders. It refers to the act of “inclusifying”, defined as: “leadership skills of the future” (2020, p. 16), so that the role of the leader is fundamental for the organization to welcome diversity and participate in inclusion, considering individuality and a sense of belonging for better productivity.

To promote uniqueness, Jhonson (2020) defines four fundamental strategies: support, empathy, learning and justice. The latter in this text should not be limited to the admission phase, to entry into work through the quotas imposed by law; on the contrary, justice must be present at all stages, recruitment, training, monitoring, so that employees with disabilities can fully
develop their capabilities. Jhonson (2020) adds rules for creating inclusion: transparency; empowerment; alignment of supporters in the dialogue on diversity and inclusion; and stimuli; It is essential that professionals with disabilities participate in the company's actions as an active agent in decision-making.

In Brazil, the State created a legal instrument that involves equality and dignity: in insertion, maintenance, exercise of the function and termination of the employment contract. For the purposes of this study, the stage of performing the function is considered elementary, so that the company can observe the peculiarities and needs of workers with disabilities in the full development of their functions. This professional will be able to add value to the organization and participate in training and career programs, considering that they will have the appropriate means to perform their functions on an equal basis with others.

In this context, it is important that companies maintain insertion and development programs, maintaining an environment of productivity, competitiveness and results, understanding the role of motivation for everyone involved (Gil, 2006), once again reinforcing the need for AT in the process of ensuring organizational equality.

It is considered that “more than a legal obligation, the social inclusion of people with disabilities must be treated by companies as an action that contributes to the success of business” (Ethos-Reis, 2019, p. 18) and here it is necessary to understand the role of companies, their responsibilities and constant demands of an increasingly dynamic economy and society and working to promote decent, diverse and inclusive work.

7 CONCLUSIONS

This text made it possible to reflect and verify teleworking as a modality of the new economy and sociology of work and which must be planned while preserving the same rights applicable to other forms of organization and production. In Brazil, the enforcement of the legislation on business quotas for people with disabilities, through Law 8.213/1991, the model emerged as a favorable agent for the inclusion process, including enabling new means of
access and work, often considering urban planning inadequate to the meeting the needs of all citizens.

The literature adopted increased knowledge of the value of diversity for the success of the inclusion process, contributing to a paradigm shift in current economic and social models, which in the most diverse forms and instruments ignore or exclude people with disabilities based on unfounded arguments of inability, incapacity and unproductivity.

It was understood that this new modality of work depends on the understanding and adoption of the standard, basically the Brazilian Inclusion Law, responsible for filling gaps existing in the Consolidation of Labor Laws, which was silent in relation to the topic of TA, leaving room for violations to the principle of otherness incorporated by current labor legislation.

A frequently discussed point is the costs of TA when teleworking. It is important to know that these, in some cases, have already been implemented in corporate spaces or environments. The problem that the text presents is the investment of AT for work carried out outside the company's business office, intensified by the COVID-19 Pandemic. The lack of Assistive Technologies becomes a barrier for professionals with disabilities, in violation of legal rights to inclusion and exercise of work.

The text on screen also analyzes the role of the People Management area in this process. The efforts of its leaders are fundamental in the stages, with an emphasis on welcoming and promoting the work of professionals with disabilities, ensuring participation in specific plans and resources for carrying out activities, enabling the desired performance, in compliance with governance guidelines and practices. and inclusive management models within the perspective of Corporate Social Responsibility. People management is also essential for the quality of life at work in any structure or modality. Leaders must understand the difficulties of the areas and teams, acting sensitively and judging the value of diversity, activities incorporated under legal precepts and responsibility mechanisms.

It was realized that guidelines on the inclusion process must be based on human rights guidelines: human dignity, equality, accessibility, recognition,
solidarity, respect for difference and the right to work; This requires special attention not only to the aspect of hiring people with disabilities in compliance with legal quotas or corporate policies, but to the appropriate means so that the employee in question can carry out their activities in a dignified manner and with equal conditions before their peers.

It was concluded that the main challenge imposed on new structures in the labor economy is overcoming constructed ideas or prejudices that people/professionals with disabilities are not capable of. Studies show that a properly receptive work environment and AT resources promote inclusion and normalize team activities. Such strategies value diversity and decent work in the company, based on sustainability and human rights principles. Finally, it is an emerging topic for companies and researchers, and new academic studies of the phenomena that involve it and the countless verticals and areas that reach it are opportune and necessary, expanding knowledge on the topic and assertiveness in formulating policies. public and business initiatives on diversity and inclusion.
REFERÊNCIAS


