

**HEALTH OF THE WORKER AND HUMAN RIGHTS: THEORETICAL AND
CONCEPTUAL ANALYSIS IN PUBLIC ENVIRONMENTS**

**SAÚDE DO TRABALHADOR E DIREITOS HUMANOS: ANÁLISE TEÓRICA E
CONCEITUAL EM AMBIENTES PÚBLICOS**

**SALUD DEL TRABAJADOR Y DERECHOS HUMANOS: ANÁLISIS TEÓRICO Y
CONCEPTUAL EN ENTORNOS PÚBLICOS**

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ABSTRACT

This article discusses workers' health and human rights through a theoretical and conceptual analysis in public settings. Based on the 1988 Federal Constitution and international fundamental rights treaties, the study recognizes health as an essential social right and a duty of the State. Therefore, the research question was: How do theoretical and normative foundations support workers' health as a human right in public work settings, especially in light of evidence of institutional illness? The overall objective was to provide a theoretical and conceptual analysis of workers' health as an expression of human rights in public settings, exploring its legal, social, and environmental foundations. Based on a literature review, the study examines the main factors of workplace illness in the public sector, highlighting absenteeism as an indicator of job insecurity. It concludes that consolidating workers' health as a human right requires institutional commitment and a cultural shift in public management.

Keywords: Workers' Health. Human Rights. Public Service. Absenteeism.

RESUMO

O presente artigo discutiu a Saúde do trabalhador e direitos humanos por meio de uma análise teórica e conceitual em ambientes públicos. Direito, fundamentado na Constituição Federal de 1988 e em tratados internacionais de direitos fundamentais, o estudo reconhece a saúde como um direito social essencial e dever do Estado. Nesse sentido a pergunta investigativa pautou-se em: Como os fundamentos teóricos e normativos sustentam a saúde do trabalhador como um direito humano em contextos públicos de trabalho, especialmente à luz das evidências de adoecimento institucional? O objetivo geral foi evidenciar uma análise teórica e conceitual da saúde do trabalhador como expressão dos direitos humanos nos ambientes públicos, explorando seus fundamentos legais, sociais e ambientais. Com base em revisão bibliográfica, examina os principais fatores de adoecimento laboral no setor público, destacando o absenteísmo funcional como indicador da precarização do trabalho. Conclui-se que a consolidação da saúde do trabalhador como direito humano exige compromisso institucional e mudança cultural na gestão pública.

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Palavras-chave: Saúde do Trabalhador. Direitos Humanos. Serviço Público. Absenteísmo.

RESUMEN

Este artículo aborda la salud de los trabajadores y los derechos humanos a través de un análisis teórico y conceptual en entornos públicos. Con base en la Constitución Federal de 1988 y los tratados internacionales de derechos fundamentales, el estudio reconoce la salud como un derecho social esencial y un deber del Estado. Por lo tanto, la pregunta de investigación fue: ¿Cómo los fundamentos teóricos y normativos sustentan la salud de los trabajadores como un derecho humano en entornos laborales públicos, especialmente a la luz de la evidencia de enfermedad institucional? El objetivo general fue proporcionar un análisis teórico y conceptual de la salud de los trabajadores como una expresión de los derechos humanos en entornos públicos, explorando sus fundamentos legales, sociales y ambientales. Con base en una revisión de la literatura, el estudio examina los principales factores de enfermedad laboral en el sector público, destacando el ausentismo como un indicador de precariedad laboral. Concluye que la consolidación de la salud de los trabajadores como un derecho humano requiere compromiso institucional y un cambio cultural en la gestión pública.

Palabras clave: Salud Laboral. Derechos Humanos. Servicio Público. Absentismo.

1 INTRODUCTION

Workers' health is a fundamental human right, consolidated in the Brazilian legal system through the Federal Constitution of 1988 (art. 6 and art. 196), and is inseparable from the principle of human dignity and the promotion of safe, healthy and balanced work environments. Corroborating this statement, Agro (2022) stresses that the right to health should be considered as an essential prerogative of citizenship, and should be implemented in its sufficient density by the mechanisms of constitutional implementation.

Furthermore, "if health is life in the silence of the organs (René Leriche, 1879-1955), the refinement of symptom auscultation methods can allocate noises in different body positions", depending on the accuracy of the method (Tomelin, 2022, p. 140).

Thus, when considering the reality of public institutions, notably the bodies of the Judiciary, there is a worrying growth in the rates of functional illness, especially due to causes related to mental disorders, musculoskeletal disorders, and recurrent infections, as demonstrated in recent studies (Nascimento *et al.*, 2024).

Lamy (2018) argues that the right to health should be understood as a human and fundamental right, inseparable from the right to life and physical integrity, being present in almost all contemporary constitutions and international treaties. In the same sense, Müller (2014) emphasizes that the right to health is not limited to the absence of diseases, but extends to the search for quality of life, being a very personal and provisional right, which is owned by all human beings, including future generations.

Thus, the debate on health at work transcends the biological field and is projected as an interdisciplinary theme, involving environmental labor law, the psychodynamics of work and public health policies. According to Hahn, Roldan and Lamy (2020), factors such as noise pollution, confinement, repetitive efforts and moral harassment, recurrent in artificial work environments, represent concrete risks to the physical and mental integrity of the worker.

As soon as Marcelo Lamy *et al.* (2018) argue that the right to health should be understood as a human and fundamental right, being closely linked to life and physical integrity. This understanding reinforces the need for effective state action and institutional policies aimed at protecting public servants. In addition, the right to health is multidimensional, as proposed by Müller (2014), encompassing individual, social and solidarity aspects, and even covering future generations.

To this end, the legal protection of the work environment requires the recognition of its diffuse and meta-individual nature, according to Napolitano *et al.* (2003), requiring not only

corrective actions, but fundamentally preventive and integrated policies, based on constitutional principles and international human rights treaties.

In addition, in public environments, especially in the administrative and jurisdictional sectors, working conditions have direct implications for the health of civil servants. Continuous exposure to occupational stress, ergonomic hazards, bullying, and poor organizational conditions result in high rates of absenteeism, as evidenced by Magnago *et al.* (2016), which highlight the multifactoriality of the phenomenon and its relationship with psychosocial and structural aspects of work in the public sector.

In this context, this article proposes a theoretical and conceptual mapping of the evidence that articulates workers' health with human rights, with a focus on public environments. It starts from the following problem: How do the theoretical and normative foundations sustain workers' health as a human right in public work contexts, especially in light of evidence of institutional illness?

The general objective is to evidence a theoretical and conceptual analysis of workers' health as an expression of human rights in public environments, exploring its legal, social and environmental foundations. Based on this scope, the specific objectives that will guide the development of this research are:

- Contextualize workers' health as a fundamental human right, based on the Federal Constitution of 1988 and international treaties for the protection of human dignity;
- Identify the main risk factors for physical and mental health in public institutional settings, based on recent studies and national reports on absenteeism and functional illness;
- Discuss the relationship between the work environment, human rights and the dignity of the human person, highlighting the legal frameworks, the concepts of artificial environment and the foundations of environmental labor law;
- To systematize theoretical and conceptual evidence on prevention and health promotion strategies in the public service, with emphasis on state action, institutional norms, and bioethical and collective approaches.

Methodologically, this is a qualitative research, exploratory-descriptive objective based on a bibliographic review, on materials that deal with and dialogue about the thematic object and point out answers about the problem evidenced.

The scientific relevance of this study lies in its contribution to the strengthening of institutional policies for health promotion and valuing workers, especially in public institutions with a high incidence of absenteeism due to illness. In addition, the article dialogues with the contemporary challenges of occupational health and the realization of social rights in a Democratic State of Law in public spaces.

2 THEORETICAL FRAMEWORK

2.1 WORKERS' HEALTH AS A FUNDAMENTAL HUMAN RIGHT

Tavares (2022) mentions that social rights in a broad sense encompass both a universal conception (health, housing, social security), and a specific one (for the disabled, children and adolescents), and they can also affect the field of cultural rights (education, science) or the economic field (pecuniary and labor rights). As explained by the author, social rights are grouped into the following categories: a) social rights of workers; b) social rights of social security; c) social rights of an economic nature; d) social rights of culture; e) social security rights. Corroborating Sarlet (2007, p. 112) emphasizes that:

Social rights have the function of ensuring compensation for factual inequalities between people through the guarantee of certain benefits by the State or society. Its function is considered to be to provide a common core for the maintenance of the social structure, in which citizens, despite belonging to hypercomplex societies, have prerogatives that make them recognize themselves as equal members of the same political organization.

Therefore, as a right, it is noted that workers' health occupies a prominent position in the Brazilian legal system as it is recognized as a human and fundamental right, directly linked to the dignity of the human person, to citizenship and to the promotion of physical, psychological and social well-being. The Federal Constitution of 1988 inscribes, in its article 1, item III, the dignity of the human person as the foundation of the Republic, and this principle is the matrix of all other rights enshrined in the constitutional text (Brasil, 1988).

In this context, Article 6 of the Magna Carta includes health in the list of social rights, along with education, housing, work, security and social security. Article 7, item XXII, establishes as the right of workers to "reduce the risks inherent to work, by means of health, hygiene and safety standards" (Brasil, 1988), evidencing the obligation of the State and employers to ensure working conditions that respect the limits of human integrity. In addition, article 196 states:

Health is a right of all and a duty of the State, guaranteed through social and economic policies aimed at reducing the risk of disease and other health problems and universal and equal access to actions and services for its promotion, protection and recovery (Brasil, 1988).

The statement of the Magna Carta contextualizes that health, as a fundamental prerogative, is a "right of all and a duty of the State (Union, Member States, Federal District and Municipalities), which must enable its access to the population" (Agra, 2022, p. 213). Next, the author stresses that, if public entities refuse to provide this fundamental service to citizens without any plausible reason, the Constitution allows the Judiciary to protect and guarantee this prerogative.

Corroborating Lamy *et al.* (2018) maintain that the right to health is inseparable from the right to life, and is therefore a natural and inalienable right that must be guaranteed in an integral and universal way, including in public institutional spaces. This understanding reinforces that health is not limited to the absence of diseases, but encompasses full physical, mental and social well-being, as defined by the World Health Organization (WHO) and accepted by the Brazilian legal system.

From the perspective of human rights, the worker's right to health should be understood as a collective and very personal good, whose ownership transcends the individual and involves the entire community inserted in the work environment. The dignity of the human person, in this scenario, cannot be dissociated from the material conditions of existence and respect for the psychosocial needs that enable the full exercise of citizenship.

Müller (2014) reinforces that the right to health is a structuring condition for a dignified life and the development of the human personality, and its implementation is a duty of the State and the institutions that make up the public administration. Health, in this sense, is a provision and structural right, and must be ensured through consistent public policies that promote not only the treatment of diseases, but, above all, the prevention of health problems resulting from working conditions.

The link between health, citizenship and physical and mental integrity requires the recognition of the worker as a subject of rights and not as a mere instrument of the bureaucratic machine or of the productivist logic.

Thus, workers' health should be understood as the structuring axis of an efficient, democratic and fair public administration, in which social rights are not only proclaimed normatively, but ensured in a concrete and continuous way through planned, inclusive and sustainable actions.

2.2 THE LEGAL RECOGNITION OF HEALTH IN THE PUBLIC SERVICE

The health of public workers must be understood as a fundamental right, a direct expression of the principle of isonomy (FC, art. 5), as well as of the State's duty to guarantee dignified and safe working conditions (FC, art. 7, XXII; art. 37). In the case of public servants, health protection is also linked to the principle of administrative efficiency, as the maintenance of functional health directly impacts the quality of services provided to society.

Thus, the constitutionally guaranteed right to health "instigates the State to comply with demands that can provide citizens with a life without any impairment that affects their physical or mental balance" (Agra, 2022, p. 214). Its range of incidence is very broad, since it encompasses all measures that protect the integrity of the human person, therefore, it requires preventive measures, with the objective of preventing the emergence of diseases, and measures of a recuperative nature, aimed at restoring the well-being of the population.

Concomitantly, Agra (2022) points out that the Federal Constitution of 1988 consolidated health as an essential social right, whose implementation depends on both constitutional mechanisms and effective legal action by the State, and cannot be reduced to a simple abstract normative provision. This implies the duty of the Public Administration to implement policies that guarantee occupational health and prevent absenteeism and recurrent illnesses.

This list of rights emerges as "positive benefits of the State, which should implement legal, political, and social equality among the subjects that make up the uneven social fabric" (Masson, 2017, p. 281). Still from the perspective of social rights, the Right to Health is a fundamental right indispensable to a full and dignified life, it is built and developed through public policies, which are government actions that aim to prevent and combat various health problems and diseases in general, and that aim at universal access to treatment, recovery and promotion of health for all, regardless of the class or socio-economic situation of the patient or person being treated (Oliveira; Lamy, 2018).

In the public sector, the State is both an employer and a guarantor of fundamental rights. This dual position imposes an aggravated responsibility with regard to the health of its employees. As Oliveira and Lamy (2018) point out, the right to full health must be ensured through structured public policies, especially after the changes brought about by the Labor Reform, which intensified the risks to the physical and mental integrity of workers.

In addition, health protection in the public service is supported by international human rights treaties, such as the International Covenant on Economic, Social and Cultural Rights

(ICESCR), ratified by Brazil, which reinforces the obligation of States to ensure adequate working conditions, including with regard to mental health, safety and well-being in the workplace.

Recent studies indicate that the public sector, including the Judiciary, has shown high rates of absenteeism due to work-related mental disorders, evidencing the need for institutional interventions to improve working conditions and the psychosocial monitoring of civil servants (Melo; Saints; Fernandes, 2022). These data reveal that the organizational environment, hierarchical relationships and workload are central elements in mental illness.

It is essential, therefore, to recognize that the realization of the right to health of civil servants goes beyond the legal formality: it requires structural investments, humanized management and political commitment to health as a collective and strategic value in the Public Administration. As Marques, Martins and Sobrinho (2011) argue, the subjectivity of the worker cannot be dissociated from the logic of health and productivity, and it is essential that the State adopts a broader perspective of health promotion in the public sector.

2.3 OCCUPATIONAL ILLNESS IN THE PUBLIC SERVICE: FACTORS AND CONSEQUENCES

The illness of public servants, especially in administrative and judicial contexts, represents a growing and complex phenomenon, marked by a combination of organizational, psychic and structural factors that compromise the health of workers and, consequently, the effectiveness of public management. Causing an absence called absenteeism due to illness has been revealed, in different studies, not only the fragility of working conditions, but also the absence of effective institutional policies for prevention and health promotion.

Sickness absenteeism is configured as the individual's absence from work for health reasons, and may indicate existing problems related to the work context, in addition to triggering consequences and damage not only for the worker, but also for the organization and society (Melo; Saints; Fernandes, 2022).

In addition, a work context characterized by increased demand and the presence of stress exposes workers to psychological overload, tension and permanent alerts, which can lead them to experience sickening experiences and the development of psychophysiological disorders related to the occupational environment (Franco; Druck; Seligmann-Silva, 2010).

Data from various public agencies indicate that the main reasons for functional absence are associated with mental and behavioral disorders, diseases of the

musculoskeletal system, occupational stress, and syndromes related to work overload (Melo; Saints; Fernandes, 2022). These diagnoses reflect, according to the authors, the confluence between pressure for productivity, rigidity of hierarchical relationships and the absence of institutional spaces for listening and welcoming.

The study by Balbino (2020), when analyzing absenteeism in the public service, reveals that leaves due to psychiatric diseases and repetitive strain injuries have increased progressively in recent years. The author points out that this scenario is related to the precariousness of labor relations and the mismatch between institutional demand and the physical and emotional response capacity of civil servants.

From this perspective, functional absenteeism should be understood as an indicator of the precariousness of working conditions, and not only as a statistical phenomenon of absence. As Oliveira (2023) observes, the high number of leaves due to occupational diseases compromises the continuity of public services, overloads reduced teams, and leads to institutional losses in terms of efficiency, public image, and costs with readaptations and extended leaves.

In addition, the invisibility of the structural causes of illness, often treated only as individual issues, contributes to institutional negligence in the face of the fundamental rights of civil servants. The pathologization of suffering, as Siqueira (2024) warns, diverts the focus from managerial failures and the need for organizational reform, promoting the blaming of the individual for problems that, most of the time, are collective and institutional.

Among workers in the judicial sector, for example, the increase in workload and mental effort in recent years resulting from the new requirements imposed by the establishment of goals, technological innovations and modernization of activities, have made the public service environment conducive to the development of conflicts (Fonseca; Carlotto, 2011).

From a social point of view, the illness of public workers directly impacts the performance of the state machine, negatively affecting the provision of essential services, such as health, education, security, and justice. Institutionally, it causes discontinuity of public policies, loss of qualified human capital and worsening of internal inequalities in the workplace.

Thus, the absence of preventive actions, associated with the low valuation of the civil servant, reveals a historical deficit in the recognition of health as a strategic dimension of public administration, and it is urgent to adopt structured measures that prioritize the care of the worker as a subject of fundamental rights.

2.4 SOCIAL RIGHTS AND INSTITUTIONAL POLICIES FOR HEALTH PROMOTION

The worker as a subject has the fundamental right to personal, professional and affective development inside and outside his work environment and this is guaranteed by labor law that "establishes minimum conditions of decent work that must be considered inviolable" (Carvalho, 2017, p.82), and these dignified and healthy conditions are guaranteed in the rules of public order and unavailable in Security, Hygiene and Occupational Medicine, as a minimum condition of dignity.

In this sense, the promotion of workers' health, especially in the public sector, should be understood as a shared responsibility between the State, employers, and civil society, being directly linked to the social rights guaranteed by the Federal Constitution of 1988. In its article 6, health is listed as a social right, and in article 196, as a duty of the State to be guaranteed through social and economic policies that promote prevention and universal access to health services.

In the context of public administration, several initiatives have sought to institutionalize occupational health policies aimed at the protection of civil servants. CNJ Resolution No. 207/2019, for example, instituted the Comprehensive Health Care Policy for Magistrates and Judicial Branch Employees, with guidelines aimed at preventing psychosocial risks, evaluating work environments, and monitoring absenteeism indicators. However, the literature shows that the implementation of these policies is still incipient and uneven among the courts (Nascimento et al., 2024).

As Oliveira and Lamy (2018) point out, for public occupational health policies to be effective, they need to be articulated with humanized management programs and with the institutional recognition of the centrality of work in the production of health or illness. The absence of mechanisms for listening, welcoming and continuous monitoring compromises the effectiveness of these policies, which are often restricted to normative formality.

One of the main limits of state action in promoting the health of civil servants lies in the lack of organizational and budgetary structure. Studies such as that of Balbino (2020) point out that, even with the existence of regulations, courts and public institutions face difficulties in implementing multidisciplinary teams, permanent mental health and ergonomics programs, as well as psychosocial rehabilitation and functional reintegration policies after prolonged absences.

Another recurring obstacle is the regulatory and bureaucratic barriers, which hinder the execution of preventive and continuous actions. Many institutions lack internal regulations

that support preventive action, being limited to reactive measures, such as granting sick leave or leave. As Siqueira (2024) points out, the absence of a unified normative framework and the fragmentation of actions between administrative sectors reduce the effectiveness of institutional interventions.

In addition, the health of the civil servant is still, in many contexts, treated as an individual responsibility, which disregards the collective and structural character of the factors that lead to illness. This logic contradicts the principles of collective health, which point to the need for integrated institutional interventions, supported by situational diagnoses, qualified listening, and valuing the worker as a subject of rights (Müller, 2014).

Therefore, for the right to health to be effective in the public service, the existence of public policies is not enough; It is necessary that these be implemented with an adequate budget, technical training, participation of civil servants in their elaboration and monitoring and evaluation instruments. Overcoming structural and normative obstacles requires political will, ethical commitment, and cultural change in the way workers' health is understood and prioritized within public institutions.

2.5 THEORETICAL CONTRIBUTIONS TO THE STRENGTHENING OF WORKERS' HEALTH

As Santos (2012) infers, the first part of article 196 deals with the conceptualization of health in the wake of the definition of the World Health Organization - WHO, a complete physical, social and psychological well-being that works as a guarantee of public policies that avoid health problems. In this sense, the responsibility according to the author is incumbent on the State and society as a whole, since each one in its own measure is responsible for balanced economic and social development, which contemplates the quality of life as one of the means of guaranteeing the right not to get sick.

Thus, the understanding of workers' health as a fundamental human right requires the articulation between legal theory, public management and applied social science. The theoretical framework that supports this perspective recognizes that health is more than a biological condition — it is the result of interactions between the subject and his or her work environment, and is also determined by psychosocial, institutional, and organizational factors.

According to Müller (2014), the effectiveness of the right to health in the institutional context depends on the construction of a culture of collective care and institutional responsibility, in which the worker is seen not only as a productive force, but as a subject of

dignity and full protection. For the author, the role of the State is not limited to legal regulation, but implies active action in the promotion of healthy and humanized work environments.

The scientific production analyzed points to a convergence around the need to overcome bureaucratic and fragmented models of personnel management, replacing them with more integrated approaches, centered on the promotion of health and well-being of workers. Author such as Siqueira (2024) reinforces that, in addition to formal protocols, institutions need to adopt instruments that involve the active participation of civil servants in the formulation of health policies, ensuring spaces for listening, reporting channels, and permanent psychosocial support measures.

Another important point is the role of the continuing education of public managers from the perspective of human rights. The literature consulted shows that many health promotion actions are limited by lack of normative knowledge or lack of institutional sensitivity in the face of manifestations of occupational suffering. Thus, training leaders, health committees and civil servants to mediate conflicts and promote collective health is essential (Marques; Martins; Sobrinho, 2011).

Finally, it is necessary to reinforce the ethical and constitutional dimension of the right to health in the public service. As Marcelo Lamy et al. (2018) point out, health protection cannot be conditioned to economic interests or budgetary constraints, under penalty of direct violation of the dignity of the human person and the effectiveness of fundamental rights. The public servant, as an agent of the State, must have his health protected not only as an administrative matter, but as an expression of social justice and guarantee of citizenship in the institutional space.

Thus, the consolidation of workers' health as a public value requires normative, institutional and cultural efforts, based on a broader conception of human rights, in which decent work, physical integrity and emotional well-being are not exceptions, but structuring conditions of a democratic and efficient public administration.

3 FINAL CONSIDERATIONS

The main objective of this article was to carry out a theoretical and conceptual mapping of the relationship between workers' health and human rights in the context of public service, focusing on the legal basis, the factors that contribute to functional illness and institutional policies aimed at promoting the well-being of civil servants.

From the constitutional analysis and international treaties, it was found that the health of public workers is a fundamental social right, closely related to the principles of human dignity, citizenship and administrative efficiency. The Federal Constitution of 1988, by ensuring health as a right of all and a duty of the State, imposes concrete obligations on the Public Administration in order to guarantee adequate, safe working conditions that promote the quality of life of civil servants.

Data extracted from institutional reports and scientific literature point to a significant increase in sick leave due to work-related diseases, especially with regard to mental disorders, musculoskeletal diseases and burnout syndromes. Such evidence demonstrates that functional illness in the public service is multifactorial and reflects structural, organizational and normative failures in occupational health care.

It was also found that although there are public policies and internal regulations aimed at promoting the health of civil servants, such as CNJ Resolution No. 207/2019, their implementation still faces numerous obstacles, such as budget limitations, absence of adequate infrastructure, excessive bureaucratization and lack of awareness on the part of senior management.

In this sense, the study allowed us to conclude that strengthening workers' health in the public service requires a paradigm shift: it is necessary to abandon the reductionist view that understands illness as an individual problem and adopt an expanded approach, based on human rights, qualified listening and valuing civil servants as subjects of rights and fundamental agents of institutional functioning.

The consolidation of a culture of care in the public sector depends on integrated, continuous and participatory actions, ranging from the training of leaders to the restructuring of work environments. In addition, it is essential to have a political and ethical commitment to health as a public value essential to social justice, democracy and the construction of a truly humanized public administration.

As a perspective for future research, it is suggested that field studies be carried out on the perception of civil servants in relation to institutional health actions, as well as comparative investigations between different spheres of public power (Executive, Legislative and Judiciary), aiming to identify good practices and replicability of successful models of occupational health care.

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