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# Comprehensive Analysis of Remote Work its Relation and Impacts on Labour Law

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## ABSTRACT

*The onset of Covid-19 has brought numerous changes in the lifestyle of people from all around the world. This period impacted the world's economy, including the Indian economy as the world went still and impacted the work environment of every person in all corners of world across diverse businesses. Remote work or work from home has been the new trend that boomed during the Covid-19 and has been continuing since due to the ease of work and ease of deliverables. The profound impact was felt in labour law necessitating a re-evaluation of existing frameworks. There are several challenges and grey areas that the existing labour law in needs to take into consideration. This paper explores the different types remote works and statistical analysis on how remote work is India and world. The paper analysis on legal provisions currently in existence and case laws provide with the stance of India on remote work. The paper further gives a comparative analysis on laws of other land in comparison to India and the author's critical analysis along with the way forward.*

**Keywords:** Remote work, Work from home, India, Labour law.

## I. INTRODUCTION

The significant transformation of the employment landscape in India, since after the COVID-19 pandemic by shifting various sectors to remote work. The remote work environment has not only eased the work atmosphere that are currently established, but also created and opened up new job settings for many. The dramatic increase of remote work, it becomes more prevalent, it is pivotal to establish legal framework that is essential to protect the rights and interests of the employers as well as the employees, while side by side increasing the productivity and confidence in a virtual work environment. The digitalisation of the world have made the possibility of remote work and helped the rise in such culture in several work spaces. Various different industries that are covered under the Industrial Disputes Act, 1947 ('IDA') such as the IT, banking, hospitality, insurance and several others, and the employees as their workers. A study by the International Labour Organization, in 2021 highlighted that there was a significant gap in protecting the remote workers, especially regarding access to benefits such as minimum

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wage, social security, and health coverage.<sup>2</sup> The recent 2024 study, shows there has been a rise of technological progress experienced during the 2003-2019 period strongly linked to the development of several digital technologies.<sup>3</sup> The troubleshooters in remote work in such sectors leads to exploitation by both the employers as well as employees as the close monitoring as in the physical offline work would entail. This paper brings attention to several such weary points that require a close attention to in improving the labour laws in India and makes a comprehensive in relation to other countries as well.

## **II. ISSUE AT HAND**

### **(A) Research Objective**

There are several loopholes in remote work that can be exploited and is currently being exploited by both the employers and employees alike. The general agreements between the two parties involved are tested from time to time and labour laws in India are put to test.<sup>4</sup> There is a need to analyse these systematic flaws in the system and fix it alike for all the sectors, here the intervention of labour law is much necessitated.

### **(B) Research Question**

The questions answered in this paper is as followed:

- What are the challenges faced in remote work?
- How the current legislation of labour law helps to overcome the challenges?
- What are judicial interpretation and current stance in India, in relation to labour law and remote work?
- Where does India stand when compared to its foreign counterparts?
- What is the future of remote work and its impact on labour law?

## **III. DESCRIPTIVE ANALYSIS**

### **(A) Definition and Benefits of Remote Work:**

The remote work environment enables the employees to carry out their responsibilities away from the physical offline work environment and the employees can connect from anywhere, but

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<sup>2</sup> World Employment and Social Outlook – Trends 2021, International Labour Organisation, <https://www.ilo.org/research-and-publications/world-employment-and-social-outlook/world-employment-and-social-outlook-trends-2021>

<sup>3</sup> World Employment and Social Outlook: September 2024 Update, International Labour Organisation, <https://www.ilo.org/publications/flagship-reports/world-employment-and-social-outlook-september-2024-update>

<sup>4</sup> Archana Sawant, Contemporary Issues And Challenges In Labour Law Reforms: An Overview, *Bharati Law Review*, Oct.-Dec., 2015.

requires technological setup such as the internet in any safe environment that the employees.<sup>5</sup> There are different places in which the employees carry out their work without having to commute to their physical offices such as work from home or co-working spaces.

The employers and employees have several benefits arising out of the remote work environment such as the flexibility of work as it allows the employees have a better work-life balance, and hence enhancing productivity. The elimination of physical work environment saves costs to the employers and enables to enlarge their access to talents from all around the world.<sup>6</sup>

### **(B) Challenges involved in Remote work in relation to Labour law**

There are several challenges that remote works and their employers especially when related to labour law are as follows:

- **Long work hours** extending to their personal time due to remote work settings being more flexible, only the clear terms and conditions in the agreement between the two parties, the employer and employee can help in enforcing proper working hours, breaks and record to keep in case of payment for overtime.<sup>7</sup>
- Even though a virtual environment is creation due to remote work its is essential to ensure employees **occupational health including mental health and other safety regulation**<sup>8</sup> which include ergonomic assessments, maintenance of a safe home environment and also strict cybersecurity measures. It also includes **discrimination and harassments** being invoked in a virtual space.<sup>9</sup>
- The remote work environment lets the employer to access talents from different corners of the country and utilise them to the best of their interest, in case of any dispute, both the employee and the employers should be able to navigate the legal landscape in order to establish the **jurisdictional issue** which has not been settled in such virtual environments under labour law.<sup>10</sup>
- The employer would find it extremely difficult to **monitor and manage the progress and productivity** of the employees, as the virtual set up as a work space at the comfort

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<sup>5</sup> Das, S, "Remote Work: Legal and Ethical Considerations." ,Springer 2021.

<sup>6</sup> Narayanan, N, "Employee Rights and Employer Obligations in Remote Work." LexisNexis, 2019.

<sup>7</sup> Kalpesh Shailendra Amrute, Grievance redressal mechanism to solve an industrial dispute in India.

<sup>8</sup> Aashmi Brijet Benny, The Legal Implications of Remote Work: Adapting Labor Law Compliance To A Virtual Environment,IJCRT, Volume 12, Issue 4 April 2024 .

<sup>9</sup> Prasad, K. D. V., Vaidya, R. W., & Mangipudi, M. R. (2020). Effect of occupational stress and remote working on psychological well-being of employees: an empirical analysis during covid-19 pandemic concerning information technology industry in Hyderabad. *Indian Journal of Commerce and Management Studies*, 11(2), 1-13.

<sup>10</sup> Gupta, A. K., "Labour Laws in India: Challenges and Solutions." Bloomsbury Publishing India, 2020.

of their own space would be a slight liability in face of management aspect of the business.

- The employers have to protect the sensitive data and that affects the privacy of the employers as well as their clients. Employers must **safeguard their Intellectual property** and protect the **data privacy and security** of the company.

#### IV. STATISTICAL ANALYSIS

Post the COVID-19 era, the trends in remote work have been increasing and a statistical data to understand the trends better and the challenges involved in it according to the top companies in the market.

The Forbes provided the statistical information as to the condition rate of remote work towards the year 2024 and its trends that 12.7% of employees in India work full time work from home and that 28.2% work in hybrid mode.<sup>11</sup> It was also stated that 16% of companies operate in remote entirely. The World Bank data, suggests that by the year 2025, 60 to 90 million Indians would work remotely.<sup>12</sup>

The challenges faced during the remote work is detailed in the survey conducted by Deloitte as given in the image below:

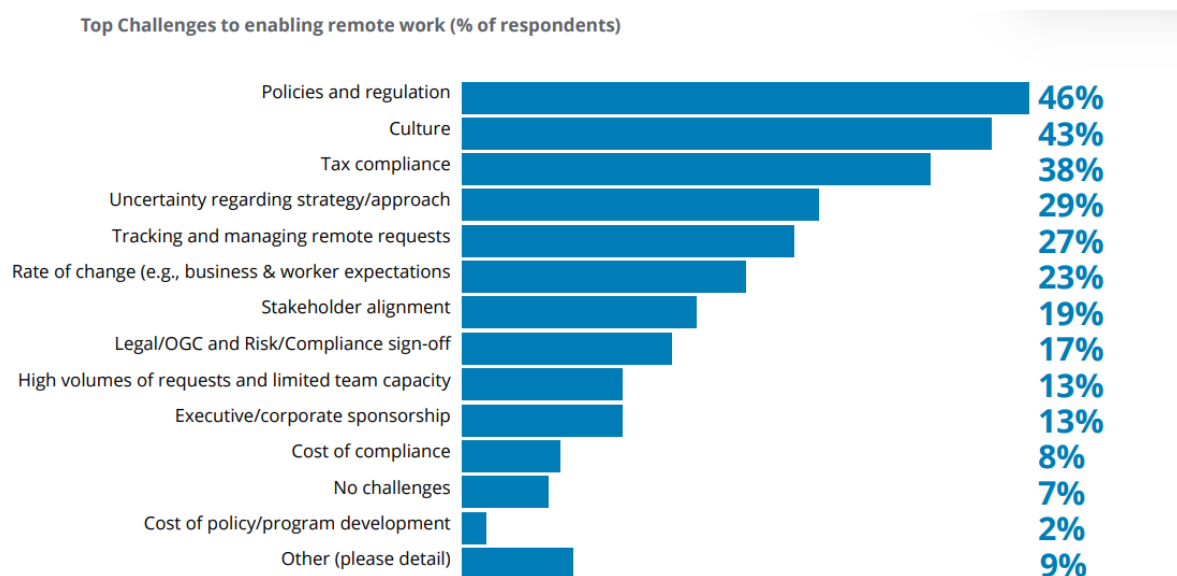


Fig 1: Challenges enabling remote work<sup>13</sup>

<sup>11</sup> Kathy Haan and Kelly Main, Remote Work Statistics And Trends In 2024, <https://www.forbes.com/advisor/in/business/remote-work-statistics/#:~:text=Specifically%2C%2038%25%20of%20men%20work,policies%20to%20ensure%20equal%20opportunities.>

<sup>12</sup> Data, World Bank data obtained from ILO, <https://data.worldbank.org/indicator/SL.TLF.TOTL.IN>

<sup>13</sup> Deloitte Global Remote Work Survey, Jan 2023,

## V. LEGAL ANALYSIS

There are several legal provisions with respect to labour law in India, the analysis of such legal provisions is being made below:

- **Section 5 of Indian Employment Act:** The provision makes sure that the employment agreement between the employer and employee to include the provision of remote work.
- **Occupational Safety, Health and Working Code 2020 and the Code on Social Security, 2020:** The Ministry of Labour and Employment, Government of India, brought into force for remote workers, failed to contemplate the different classes of workers and gives no clarity of the definition or circumstances of the remote work<sup>14</sup>
- **Employees State Insurance Act, 1948**<sup>15</sup>
- **Employees Provident Fund and Misc. Provisions Act, 1952**<sup>16</sup>
- **The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959**<sup>17</sup>
- **Factories Act, 1948**<sup>18</sup> and **Industrial Disputes Act, 1947**<sup>19</sup>
- **Payment of Bonus Act, 1965**<sup>20</sup>
- **Payment of Gratuity Act, 1972**<sup>21</sup>
- **Workmen's Compensation Act, 1923**<sup>22</sup>
- **Maternity Benefit Act, 1961**<sup>23</sup>: The provision benefits the pregnant and post pregnant women to work as remote workers
- **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**<sup>24</sup>: The provisions that provides safety to women at their workplace even when they are virtual environment.

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[https://www2.deloitte.com/content/dam/Deloitte/fi/Documents/tax/dttl\\_global\\_tax\\_remote\\_work\\_survey\\_FI.pdf](https://www2.deloitte.com/content/dam/Deloitte/fi/Documents/tax/dttl_global_tax_remote_work_survey_FI.pdf)

<sup>14</sup> Béland, L. P., Brodeur, A., & Wright, T. (2023). The short-term economic consequences of Covid-19: exposure to disease, remote work and government response

<sup>15</sup> Employees State Insurance Act, 1948, Act No. 34 of 1948 (India)

<sup>16</sup> Employees Provident Fund and Misc. Provisions Act, 1952, Act No. 19 of 1952 (India)

<sup>17</sup> The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, Act No. 31 of 1959 (India)

<sup>18</sup> Factories Act, 1948, Act No. 63 of 1948 (India)

<sup>19</sup> Industrial Disputes Act, 1947, Act No. 14 of 1947 (India)

<sup>20</sup> Payment of Bonus Act, 1965, Act No. 21 of 1965 (India)

<sup>21</sup> Payment of Gratuity Act, 1972, Act No. 39 of 1972 (India)

<sup>22</sup> Workmen's Compensation Act, 1923, Act No. 8 of 1923 (India)

<sup>23</sup> Maternity Benefit Act, 1961, Act No. 53 of 1961 (India)

<sup>24</sup> Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Act No. 14 of 2013 (India)

- **Digital Data Protection Act, 2023**<sup>25</sup>: In order to protect the data privacy and security.
- **Information Technology Act, 2000**<sup>26</sup>: To enable to provide secure connection in a virtual environment
- Draft Model Standing Orders for Service Sector, 2020 ('Model Orders') introduced under Section 29 of the Industrial Relations Code, 2020, there are number of Rules with respect to remote work as the below:
  - **Rule 8** for shift work,
  - **Rule 11** that govern the attendance,
  - **Rule 12** that elucidates on the leave
  - **Rule 14** for the wages,
  - **Rule 17** on retirement, and
  - **Rule 18** on transfers.

## VI. ANALYSIS WITH CASE LAWS

- In the case of **Pratik Kumar vs. M/s Allsec Technologies Ltd** <sup>27</sup>, it was held that the employer's right to terminate the employee for insubordination for not following the terms in the employment contract. The Court further observed that the employer had provided all the equipment and infrastructure for work from home which was not rejected at that time.
- In the case of **Ritu Mahajan v. State of NCT of Delhi and Ors**<sup>28</sup>, the High court highlighted that the importance of remote work policies and that employer must take into account the needs of all the employees and should not discriminate against each other.

## VII. COMPARATIVE ANALYSIS

The labour laws around world have highlighted many challenges that need to be put in focus for the remote workers and then it was highlighted in 2017 report that US, UK, Germany and France stated that people worked 4 hours more than in an offline physical office environment. In Japan there is a legally recognized concept of death by overwork that damages cultures and

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<sup>25</sup> Digital Data Protection Act, 2023, Act No. 22 of 2023 (India)

<sup>26</sup> Information Technology Act, 2000, Act No. 21 of 2000 (India)

<sup>27</sup> Pratik Kumar vs. M/s Allsec Technologies Ltd, (2020) AIR 256

<sup>28</sup> Ritu Mahajan v. State of NCT of Delhi and Ors, MANU/DE/1016/2020

mental health of people.<sup>29</sup>The Polish legislators still do not have a solution that provides the scope of objective and definition of remote work and decision on the same.<sup>30</sup>

### **VIII. CRITICAL ANALYSIS**

The major issue arises when the terms and conditions of employment are not clearly defined in the contracts, and in case of any dispute arises between the two parties since there is no specific legislation as to how to resolve the issue.<sup>31</sup> The general legislation has to be made in order to address problems that are impending and that might prop up with the upcoming innovative ways in which the work space is growing more and more into the virtual environment. There are problems that arise out of moonlighting that claws more at the employer's agreement and the employee being worked several folds for the want of money, which might violate several terms between the already existing party. In the concept of moonlighting the employee takes up more than one job as he is working in as a remote worker, can cause harm to the company that formally employed him to him his skills and time were dedicated to, and who might lose information to any other competitor. Along with the other challenges which were listed above none of such real time fraudulent practices were addressed nor resolved. It is important that with the growing need of the technology the legislation also adapts with the same pace.

### **IX. CONCLUSION AND WAY FORWARD**

The way forward is a vision that needs to be thought out for the country as whole, along with its various sectors of business, as there are several sectors that provide abundant opportunities to the remote workers from around the world, to standardise the relationship between the remote workers and their employer is crucial. It is hence concluded that there were several challenges that arouse from the remote work environment and only some of which the solutions can be relied on and applied to. The labour law legislation in India with respect to remote work addressing the challenges at hand are limited and are subject to only few classes of people and not all are considered, the intervention of the Court is required in several instance to sort out the issue at hand due to breach of terms and conditions in the employment contract. This shows that in case the employment contract does not contain all the required points and ends up in dispute than the resolution would cause more difficulty. The labour law legislation in other countries also revolve on issues such as the mental health and data privacy at a higher pedestal. It is hence

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<sup>29</sup> Aksoy, C. G., Barrero, J. M., Bloom, N., Davis, S. J., Dolls, M., & Zarate, P. (2022). Working from home around the world(No. w30446). National Bureau of Economic Research

<sup>30</sup> The remote working model for Polish labour law, ŁucjaKobroń-Gąsiorowska, pItalian Labour Law e-JournalIssue 1, Vol. 15(2022)ISSN 1561-8048

<sup>31</sup> Adesh Kumar Singh, Rights of Workers in the Era of Remote Work in India: Legal Challenges and Solutions, International Journal for Multidisciplinary Research (IJFMR), Volume 6, Issue 2, March-April 2024



a grave need for the Indian legislators to implement a standardized labour law that regulated remote work throughout the country.

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