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# Recent Developments in Labour Law: Traversing the New Terrain

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PREM RAJ<sup>1</sup>

## ABSTRACT

*This article reports on the transformation of labour laws which are a result of changes in work practices today. We have seen the move to remote work, the growth of the gig economy, and also issues related to mental health and work which are now at the forefront which also require immediate response.*

*In issue is that of worker classification per California's AB5 which in turn is but a element of a larger scale redefinition of what constitutes employee rights. Also, we see states and legislatures looking at issues like mental health in the context of wrongful termination which is in turn redefining these rights. Also, in the issue of hiring which has seen the introduction of artificial intelligence we see great concern over issues of fairness and discrimination which in turn is prompting a revaluation of the use of these techs in the legal field.*

*Recent the National Labour Relations Board (NLRB) has been putting out decisions which support the right to unionize and to engage in collective action. Also, we see the introduction of wage transparency laws and stronger whistle-blower protection which in turn is to ensure workplace fairness.*

*The article reports on these changes which we put forth to increase stakeout of issues at hand and also to get stakeholders to proactively participate. As labour laws continue to change, they must address new issues at which they present themselves also to which we must see to that they uphold the tenets of fairness and accountability in the modern work place.*

## I. INTRODUCTION

The chain of custody in the criminal law states that a documentation and managing of all the evidence, and materials collected from the crime scene through forensic tracing process. It is the foremost analytical concept into the numerous fields including crime, forensic, toxicology, managements and pharmacology. The initial focus of managing a chain of custody under the criminal law make a ensuring and reliable to the dimension of integrity and considering the evidence on record which handles the time, place, and purpose of the transfer. In forensic

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science, for example, the Chain of Custody serves as a safeguard to confirm that evidence which is to be pre

## **II. THE REMOTE WORK TRANSITION AND ITS LEGAL IMPLICATIONS<sup>2</sup>**

The COVID 19 pandemic has transformed the work environment which in turn has seen a great increase in remote work. This shift brings to light new issues for labour law. In response to the great change brought by the pandemic to the work setting we have seen an unprecedented increase in remote work. This transformation brings with it issues of labour law which are very much uncharted. We see in this the need to adapt current laws to include remote work environments. Also we note that employers are at present trying to figure out how to deal with issues of safety in the remote setting, data privacy issues, and also the in large issue of remote employee well being.

How to achieve a balance between that of workplace surveillance and that of privacy. Workers today report on issues related to privacy's issue and also to that of which their rights are respected and this in turn is bringing to the fore the issue that our labour laws must change to do justice to the issues at hand.

As remote work is here to stay in many fields we should reevaluate our workplace standards which include provision of ergonomic tools for employees, consistent communication platforms, and equal access to opportunities and benefits. Legal professionals also put forth that which we should see in the reform of jurisdiction issues in employment contracts that at large -- in particular for workers which may be resident in one state or country and are put to work by a company based in a different. Employers are to also create internal policies which address time tracking, work hours, and productivity issues at the same time that they respect the private space and autonomy of the employees.

## **III. UPDATES TO THE GIG ECONOMY LEGISLATION<sup>3</sup>**

The rise of the gig economy has put into play very important issues of worker classification. We see in AB5 out of California which is a game changer legislation through this they have restructured how gig workers are classified under labour laws. That law which puts forth the ABC test for determination of employee vs independent contractor status is a step towards including more into the benefits and protections which until now have been out of reach for

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<sup>2</sup> Ifeoma Ajunwa, *The Quantified Worker: Law and Technology in the Modern Workplace*, 102 Minn. L. Rev. 1, 9–14 (2017) [https://www.researchgate.net/publication/370324436\\_The\\_Quantified\\_Worker\\_Law\\_and\\_Technology\\_in\\_the\\_Modern\\_Workplace](https://www.researchgate.net/publication/370324436_The_Quantified_Worker_Law_and_Technology_in_the_Modern_Workplace)

<sup>3</sup> Orly Lobel, *The Gig Economy & the Future of Employment and Labor Law*, 51 U.S.F. L. Rev. 51, 55–56 (2017), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2848456](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2848456)

precariously employed workers. Recent in the case of *Dynamex Operations West, Inc. v. Superior Court* (2018) we see the trend which is to put gig workers into the employee category. As more states look to pass similar legislation the labour law landscape is to greatly transform which in turn puts forth the issue of better protection and benefit for all gig workers. Gig workers also find themselves in what can be called gray areas in the social security, unemployment benefit, and workplace protection departments which in turn leaves them open to exploitation and economic instability. The issue which the ABC test brings up is that of a third category which is in between that of independent contractors and employees which we may see put forward. Legal changes are now aimed at setting minimum pay out lines, access to benefits, and formal grievance mechanisms for gig workers which play out across many platforms.

#### IV. ISSUES OF MENTAL HEALTH IN THE WORKPLACE<sup>4</sup>

In the past few years there has been a large scale recognition of mental health issues in the workplace, which in turn has brought about recent legal changes which put forward the case for in depth protection of employees which have had mental health issues. In the case of *Rachael P. v. Clark County School District* (2022) we see that which puts forth the idea that not only educators but also employees may bring suit for wrongful termination because of mental health issues, thus putting into play the issue of mental health in labour law. This growing attention to mental health issues requires that organizations put in place which they address at the same time physical safety and mental well being thus at the same time changing out workplace culture and legal frameworks.

In recent years we see an increase in what is burning out among employees as well as in anxiety and depression which in turn is calling for the development of corporate wellness programs but also for the introduction of formal legal protections and changes in labour law. Employers today are responsible for creating a toxic free environment, one that also pays the same attention to mental health issues as physical health issues. In also reports of which are brought to court beyond that of wrongful termination are hostile work environments and lack of reasonable accommodations which are put forth as legal reasons for which redress is sought.

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<sup>4</sup> U.S. Equal Emp. Opportunity Comm'n, *Depression, PTSD, & Other Mental Health Conditions in the Workplace: Your Legal Rights*, <https://www.eeoc.gov/laws/guidance/depression-ptsd-other-mental-health-conditions-workplace-your-legal-rights>

## **V. ARTIFICIAL INTELLIGENCE'S ROLE IN LABOUR LAWS.<sup>5</sup>**

Advances in artificial intelligence are transforming labour practices which in turn is presenting complex issues regarding worker rights. We see that in the use of AI in hiring which often plays out in conflict with anti discrimination laws, which in turn is putting these automated decision systems under the microscope in the courts. As we see the changes in the business environment today it is of great importance that which AI we put to use supports present labour laws and which in turn promotes fair play in the workplace and also we are in compliance.

There is an increasing issue of transparency in which we see in AI which is used in hiring, performance reviews, and even in termination which at times results in unaccountable decisions that may be discriminatory. Algorithmic accountability which is a growing legal trend sees to it that which employers put in use tools of AI they do which is to audit said tools for issues of fairness, transparency, and also compliance with equal opportunity laws. Workers and advocacy groups are pushing for the implementation of a model which is similar to the GDPR in the area of AI used in the workplace which would include employees' rights to explanation and redress.

## **VI. RECENT DECISIONS FROM THE NATIONAL LABOUR RELATIONS BOARD (NLRB) WHICH PRESENT.<sup>6</sup>**

The National Labour Relations Board (NLRB) has been very much into enforcing worker rights related to union activities and what is put in place against retaliatory actions. In the case of *Culinary Workers Union Local 226 v. The Smith Centre for the Performing Arts* (2022) the NLRB issued a decision which puts forth that workers do indeed have the right to engage in group action without the fear of retribution from the employer which also brings to light the very important role that unions play in the issue of workers' rights. This trend reports a growth in union support which is seen in many sectors as workers put forth for better wages and work conditions in their fields.

The NLRB decisions also serve as a reflection of what is changing in terms of social and political views regarding collective bargaining and union rights. These decisions establish that which employers do in retribution for example, demotion, threat, or wrongful termination will not be left unchallenged by the federal labor law. Increased in membership action in

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<sup>5</sup> U.S. Equal Emp. Opportunity Comm'n, Artificial Intelligence and Algorithmic Fairness, <https://www.eeoc.gov/newsroom/eeoc-launches-initiative-artificial-intelligence-and-algorithmic-fairness>

<sup>6</sup> Nat'l Lab. Rels. Bd., *Your Rights During Union Organizing*, <https://www.nlr.gov/about-nlr/b/rights-we-protect/your-rights-during-union-organizing>

fields which are not traditional ones like tech, media, and higher education we see where young workers are putting forth demand for more input in to the running of the workplace.

## VII. WAGE TRANSPARENCY AND EQUITY<sup>7</sup>

Wage transparency is an issue of great import in labour law at present which is seeing the passage of measures to put in place better pay practices. In the case of *Friedman v. Williams-Sonoma, Inc.* (2021) the Ninth Circuit ruled that which employers put out job posts which include details of salary ranges to also include what the pay range will be in a bid to put an end to pay discrimination. This push for transparency also includes wage equity which at the same time encourages a culture of accountability in the business world that which in turn fosters work places that put fairness in pay forward.

Pay transparency measures also see great success in that they close in on gender and racial wage gaps because of the which is past fact that salaries have been doled out in secret. In many states legislators have put forth bills which require that employers report salary ranges for each position and also do away with ask for of past pay history. Transparency also creates trust which in turn empowers job candidates to negotiate better terms which in turn results in more equal distribution of reward.<sup>8</sup>

## VIII. WHISTLE-BLOWER PROTECTION CHALLENGES<sup>9</sup>

In 2021 Aiken County reported that it is of great importance to have in place strong measures which put a stop to retaliation, also we see that which report by the County is a call for secure setting for employees to report on illegal doings. Strengthening of whistle-blower protection is key to promoting transparency and accountable practices which in turn will develop safe work environments for employees that report misconduct.

Fear of retribution in the form of job loss or workplace harassment still is a large issue for which many would blow the whistle but don't. Whistle-blower protection laws are changing to include anonymous reporting options, longer time frames for filing complaints, and provisions against defamation. Stronger measures are a must in health care, finance, and government which see large scale public impact from ethical violations.

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<sup>7</sup> Women's Law Ctr., *Wage Transparency Laws by State*<https://www.americanprogress.org/article/quick-facts-about-state-salary-range-transparency-laws/>

<sup>8</sup> H.R. 1599, 118th Cong. (2023) (Transparency in Pay Act), <https://www.congress.gov/bill/118th-congress/house-bill/1599>.

<sup>9</sup> U.S. Dep't of Labor, *Whistleblower Protection Programs*, <https://www.whistleblowers.gov>

## **IX. CONCLUSION<sup>10</sup>**

Presently we see that labour law is in a state of flux and growth which is responsive to the changeable nature of work. In the issues of remote work and the gig economy we see as also in issues of mental health and that of AI's role the legal field is very much in the midst of transformation.

It Is a must for employers and employees to be aware of these changes which in turn will promote compliance with the new regulations and also foster equitable work environments. Through engagement in current issues of labour law stakeholders may put forth effective advocacy for their issues.

In that which is to come labour law is a field that is in a state of constant evolution which sees the fine line between employer and employee play out. We will see which new judgments and legislation come to pass as they will be key to our success in overcoming issues and in the same time taking advantage of what is to present itself, thus we move towards a more fair and just work environment.

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<sup>10</sup> U.S. Dep't of Labor, Future of Work Initiative, <https://www.bls.gov/emp/>

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