
THE FUTURE OF WORK: THE ROLE OF THE ILO IN REGULATING ARTIFICIAL INTELLIGENCE IN LABOUR MARKETS

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ABSTRACT

The fast development of artificial intelligence is radically changing the employment environment and work processes throughout the world; every field, such as hiring and HR, productivity monitoring, and management decision-making, is becoming increasingly biased toward the use of artificial intelligence. On the one hand, these innovations appear to contribute to increased efficiency and economic development; however, on the other hand, they create real concerns regarding the presence of algorithmic bias, covert surveillance of employees, job loss, and decline in the rights of the workers. Due to this fact, the development of international labor law in the era of AI can be deemed to depend on the International Labour Organization (ILO) indeed. In this paper, the future consequences of AI on employment are examined with a closer look, and the contribution of the ILO to addressing the challenges of new technology using the international labor standards, policy efforts, and social dialogue mechanisms is evaluated. In fact, the global labor body, aka the ILO, is the one that is extremely vital in formulating labor regulations around the world as AI continues to be rolled out. In addition to scanning the ILO on how it is addressing labor issues related to technology through its standards and policies and even work-related discussions, this paper will excavate what AI may spell out in the future about employment. In essence, the development of international labour governance in the age of artificial intelligence is significantly influenced by the normative framework established by the International Labour Organization. The paper examines the impact of AI on the future of employment and identifies the roles played by the ILO to address emerging technological challenges through global labour standards, policy initiatives, and social dialogue.

Keywords: Artificial Intelligence and Labour Regulation; Future of Work; International Labour Organization (ILO); Algorithmic Management and Worker Rights; International Labour Standards.

1. INTRODUCTION

Technological innovation has never been a vacuum in our mode of work; the people with whom we work have always been taught a lot about it throughout history, from the Industrial Revolution to the one we are in, the digital age. Each significant wave of technology appears to reorganize the workplace layout. Recently, AI has come out with a force as a gigantic entity that is transforming the job market. It is an AII that is applied in the form of resume screening, monitoring the job, performance tracking, and automatic decision-making.

These changes have drawn excitement and concern within the circles of teachers, policymakers, researchers, and union folks. On the one hand, AI will entail increased production, reduced time loss, and novel concepts in the various sectors. Conversely, it raises difficult issues regarding privacy, the bias in algorithms, people losing their jobs, and the possibility of unions still defending the rights of workers.

The International Labour Organization (ILO)¹, the primary international entity that addresses the worker regulations, has begun to pay increased attention to the implications that AI and digitization have on workers and the labor market in general. In its Future of Work strategies, the ILO emphasizes that technology advances must not be out of sync with the concepts of decent work, fairness, and human dignity. This article examines the impact of AI on worker relations and the way the ILO attempts to develop rules and solutions that can address emerging issues.

2. THE CONCEPT OF THE FUTURE OF WORK

I believe that the future of work has already become a burning issue of the global labor policy. Simply put, it is an indication of massive shifts in the way people obtain employment, which are being caused by the advancement of technology, migration, globalization, and environmental changes. This is particularly the case with AI since machines can now perform cognitive tasks that were previously exclusive to humans.

According to the research out there, AI is more likely to transform the jobs than to take them away completely. Much of the monotonous work will be automated, but, simultaneously, new

¹ International Labour Organization, *Work for a Brighter Future: Global Commission on the Future of Work* (ILO, Geneva, 2019).

jobs will emerge in the fields of data science, AI engineering, and digital services. On the other hand, it may increase the economic disparity between high-skill and low-skill employees, which is an objectionable factor.

Its direction is highlighted by the Global Commission on the Future of Work², which is headed by the ILO, with an emphasis on the human-centered approach to the change in technology. They are concerned with investing in the skills of the people, empowering the labor institutions, and facilitating sustainable economic growth. The ambition of the ILO is to ensure that the payoffs of AI are distributed in society, which prioritizes human well-being over efficiency in pure technology.

3. ARTIFICIAL INTELLIGENCE AND LABOUR LAW CHALLENGES

Management systems in the workplace that embrace the use of artificial intelligence have put forth some challenges in the traditional labor law frameworks. The most massive development has been the emergence of algorithmic management, where automated processes are used to carry out managerial roles like tasks, performance of workers, and wage determination.

Algorithms in decision-making may heavily influence the livelihoods of workers, and in most cases, employees do not know how such a system works. Such transparency entails a lack of transparency, which brings up the issue of due process and fair play in employment decisions. Moreover, the automated systems can reproduce any bias that is embedded in the past records, thus resulting in discrimination in hiring or promotion decisions.

Workplace surveillance is another serious concern. The artificial intelligence (AI)-based monitoring systems will enable employers to monitor the productivity and behavior of their workers in real time. Such systems would bring efficiency, but it is also true that some of them would increase the issues of privacy and psychological strain. Monitoring can be too much in that it will affect the dignity and autonomy of the workers.

4. INTERNATIONAL LABOUR STANDARDS AND AI

International labor standards established by the International Labour Organization³ offer a

² International Labour Organization, Global Commission on the Future of Work Report (2019).

³ International Labour Organization, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* (ILO, 2021).

normative framework for safeguarding workers' rights amid technological change. Many of the conventions embraced by the ILO include principles that still apply to regulating artificial intelligence in employment contexts.

So, for example, you have the Freedom of Association and Protection of the Right to Organize Convention (No. 87)⁴, which is about workers being able to form unions and have a voice in collective bargaining. When considered within the context of algorithmic management, collective bargaining mechanisms serve as a means for workers to negotiate guardrails around the utilization of automated decision-making systems.

Some aspects of the Convention include freedom to join labor unions and the Discrimination (Employment, Occupation) Convention (No. 111)⁵, which forbids discrimination in employment. This notion can be applied to ensure that algorithmic recruitment systems do not generate biased results from automated procedures.

5. THE ILO'S INITIATIVES ON AI

Recognizing the transformative potential of artificial intelligence, the ILO has launched several initiatives aimed at studying and regulating its impact on labor markets. The main initiative would be the ILO Observatory on AI and Work in the Digital Economy⁶, a commitment to having a global research platform that examines the interaction between AI technologies and labor.

The ILO has also written several studies looking at the impact of AI on job creation, working conditions, and social protection systems. These studies emphasize that technological change must not be at the expense of workers' rights or worsen social inequalities.

Social dialogue is the other pillar of ILO's approach. The ILO aims to anchor such a collaborative mode and arrangement in implemented AI policy responses within a common agenda across governments, employers, and workers' organizations through dialogue.

⁴ International Labour Organization, Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

⁵ International Labour Organization, Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

⁶ International Labour Organization, *ILO Observatory on AI and Work in the Digital Economy* (ILO Report)

6. COMPARATIVE GLOBAL REGULATION

The European Union Artificial Intelligence Act⁷ could potentially be the first full-fledged attempt at governing artificial intelligence technologies. The Draft Regulation has categorized Artificial Intelligence applications in a risk-based approach and has placed the most stringent obligations on Artificial Intelligence used in Employment Decisions.

Furthermore, various organizations like the OECD⁸ and UNESCO⁹, among many, have proposed ethical frameworks that govern artificial intelligence in an ethical manner. This promotes the ethical governance of artificial intelligence in an accountable, transparent, and human rights-based manner.

Although these efforts are encouraging in terms of the governance of artificial intelligence globally, it has been observed that it is more focused on the governance of technology rather than the rights of the workers. Thus, it is apparent that ILO is in the best position to govern artificial intelligence in the context of labor laws.

7. INDIAN LEGAL PERSPECTIVE

India has experienced tremendous expansion in terms of digital labor platforms and AI-driven business models. However, the expansion has taken place in the context of labor laws that are mostly outdated and have been framed in the context of the traditional labor contract.

It is pertinent to mention that the Code on Social Security, 2020¹⁰, is the first piece of legislation in India that has recognized the existence of the platform and gig economy workforce by providing minimal and inadequate provisions of social security.

However, there are certain provisions that exist in the context of the Indian Constitution. For instance, the recognition of the right to privacy by the Supreme Court in the case of Justice K.S. Puttaswamy v. Union of India¹¹ has significant implications for the use of surveillance technology in the workplace. India has no such legislation that specifically deals with the issue of Artificial Intelligence and its use in the workplace. Hence, there is a need to strengthen the

⁷ European Union, Artificial Intelligence Act, Official Journal of the European Union (2024).

⁸ Organisation for Economic Co-operation and Development, OECD Principles on Artificial Intelligence (2019).

⁹ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021)

¹⁰ Code on Social Security, 2020 (India).

¹¹ Justice K.S. Puttaswamy v Union of India, (2017) 10 SCC 1 AIR 2017 SC 4161

existing framework in the context of digital labor.

8. ROLE OF SOCIAL DIALOGUE

Tripartism, which is a partnership between the government, employers, and the employees' organizations, is one of the unique styles of labor governance of the ILO.

Through social dialogue, the other actors involved will be able to negotiate the best way of protecting themselves from the ones using algorithmic management in monitoring their employees. Trade unions will be instrumental in ensuring that there is some level of transparency and accountability in the use of automated decision-making systems.

The ILO has always been very clear that the involvement of the employees in the process of technological change is very essential so that both the employer and the employee can benefit from the process.

9. POLICY RECOMMENDATIONS

To design effective regulations for the use of artificial intelligence in the workplace, various policy initiatives can be suggested.

Firstly, policymakers can introduce legislation for the mandatory disclosure of the algorithms used for the formulation of employment-related decisions.

Secondly, the privacy and data protection of the employees can be made part of the provisions for the protection of employees under the labor laws.

Thirdly, the relevant bodies can be empowered for the inspection of the AI-operated workplaces under the provisions for the inspection of the workplaces.

Fourthly, the state can provide subsidies for the reskilling and continuous education of the employees so that they can cope with the changing technology.

Lastly, the ILO can be encouraged to introduce a new labor standard on algorithmic management and digital labor platforms.

10. KEY CASE LAWS

A) Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC ; AIR 2017 SC 4161;

Thus, the right to privacy under Article 21 was declared a fundamental right in Justice K.S. Puttaswamy v. Union of India. The Supreme Court found that privacy is a fundamental aspect of liberty, including informational privacy, body autonomy, and bodily integrity. The Court noted that any interference with an individual's privacy must fulfill the principles of legality, necessity, and proportionality.

This ruling has major ramifications for artificial intelligence and using surveillance technologies in the workplace. AI-powered monitoring systems are widely used in many modern workplaces, including biometric attendance devices, facial recognition software, GPS tracking, and productivity analytics tools. Although these types of technologies could lead to more efficient and streamlined operations, they also pose significant risks in terms of pervasive surveillance and the abuse of employee information. The Puttaswamy judgment enshrines an important constitutional protection that any form of data collection or monitoring must respect the worker's right to privacy and dignity. Consequently, employers deploying AI systems must ensure that workplace monitoring mechanisms are proportionate, transparent, and consistent with constitutional protections.

B) Internet and Mobile Association of India v. Reserve Bank of India, (2020) 10 SCC 274.¹²

In Internet and Mobile Association of India versus Reserve Bank of India, the Supreme Court looked at whether the Reserve Bank of India's rule was legal. This rule stopped banks from helping cryptocurrency businesses. Even though this case was about money rules, the court made some points about new technology and finding a balance with rules.

The court said that while those in charge of rules can limit technologies, they must do so in a fair and balanced way. The judgment said that many rules can hurt new ideas and progress. At the time, the court knew that some rules were needed to handle risks that come with new technologies.

¹² Internet and Mobile Association of India v Reserve Bank of India, (2020) 10 SCC 274.

This idea is very important for making rules about intelligence in jobs. As AI becomes a part of managing workplaces, policymakers must find a balance. They need to encourage ideas while protecting the rights of workers. The judgment shows that rules should not completely stop technologies but make sure they follow the law and the Constitution.

The Internet and Mobile Association of India and Reserve Bank of India case gives us lessons. New technology, like AI and cryptocurrency businesses, needs rules. The Supreme Court's decision helps us understand how to make rules.

The case also tells us that we need to be careful. We must make sure that rules do not hurt ideas. At this time, we need to keep people safe.

C) Uber BV v. Aslam [2021] UKSC 5¹³

The decision in Uber BV v. Aslam is important because it talks about the employment status of gig economy workers. The United Kingdom Supreme Court said that Uber drivers should be called "workers" or independent contractors. This means they are entitled to things like minimum wage, paid leave, and protection from working too much.

The Court looked at how Uber controls its drivers through its platform. They set the fares, decide the rules, watch how well the drivers are doing, and limit how much drivers can talk to passengers. A lot of this control happens automatically through computer systems. These systems give drivers rides, track how they are doing, and punish them if they do not follow the rules.

The court said that just because a company uses technology, it does not mean they can avoid following labor laws. If a company has a lot of control over how people work, then those people are not really independent. This case is especially important for workplaces that use intelligence like Uber. It shows how companies can still oversee their workers even if they use computers to do it. The Uber case is a deal because it is about the employment status of gig economy workers, and Uber drivers are gig economy workers.

¹³ Uber BV v Aslam [2021] UKSC 5.

D) *Dynamex Operations West Inc. v Superior Court*, 416 P.3d 1 (Cal. 2018)¹⁴

The California Supreme Court decided in the case of *Dynamex Operations West Inc. v. Superior Court*. They had to figure out if delivery drivers should be considered employees or independent contractors. The Court came up with the ABC Test to help make this decision. This test really helped workers in industries that use platforms.

So, what is the ABC test? Well, it says that a worker is an employee unless the company can prove three things:

- The worker does not have to do what the company says
- The work the worker does is not part of the company's business.
- The worker has their business or does the same kind of work for other people

This decision was a big deal for companies that use online platforms to manage workers. It showed that these companies cannot just call workers contractors to avoid following labor laws. The *Dynamex Operations West Inc. v. Superior Court* case is important for talking about how to regulate companies that use intelligence to manage workers. We need to make sure workers are protected when they work for companies that use computers to manage them. The *Dynamex Operations West, Inc. v. Superior Court* decision helps us think about how to do this.

E) *Canadian Union of Postal Workers v Foodora Inc., Ontario Labour Relations Board* (2020) 2020 CanLII 16759 (ON LRB)¹⁵

The case of the Canadian Union of Postal Workers versus Foodora Inc. was about whether food delivery riders working for Foodora could form a union. The Ontario Labour Relations Board decided that Foodora riders were contractors. This category is between contractors and employees.

The Board noted that riders had some flexibility in choosing their working hours. Foodora controlled them through its computer system. Foodora decided which deliveries riders had to

¹⁴ *Dynamex Operations West Inc v Superior Court*, 416 P.3d 1 (Cal. 2018).

¹⁵ *Canadian Union of Postal Workers v Foodora Inc.*, 2020 CanLII 16759 (ON LRB).

make. It also watched their performance. Punished them for turning down orders.

These things showed that riders depended on Foodora economically. They were also under Foodora's control. This decision matters for intelligence and platform work. It shows how digital platforms use computer systems to control workers. They make it seem like workers have freedom.

The case shows that labor laws need to be changed. They must deal with work that is done through technology. The Canadian Union of Postal Workers and Foodora Inc. case is one. It is about Foodora riders and their relationship with Foodora.

F) State v. Loomis, 881 N.W.2d 749 (Wis. 2016)¹⁶

This is a deal for criminal law, but it also tells us a lot about the problems with using algorithms to make decisions. The case was about a tool that courts were using to figure out if someone was going to commit a crime again. The defendant said that it was not fair to use this tool because no one knew how it was working.

"It was okay to use this tool," said the court in Wisconsin. They said that there were huge risks involved in using these tools, even though no one knew how they were working. They said that these tools could be biased, but we need to be careful. They said that we should not use these tools to make decisions, and we should involve people in these decisions.

This case is important for more than just criminal law. At work, companies are using intelligence to hire people, figure out how well they are doing, and determine whether to discipline an employee. If these are closed boxes, employees will have no time to fight the decisions that are made about their work. The case of State v. Loomis teaches us that we must make sure that these are open boxes and that we are accountable for their use. This is an important case, especially for the use of artificial intelligence in the work world.

11. CONCLUSION

Artificial intelligence is having a significant effect on the way people work and the way companies treat their employees. All of this is happening very quickly. This is true everywhere

¹⁶ State v Loomis, 881 N.W.2d 749 (Wis. 2016).

in the world. These new technologies can be used to make things and to grow businesses. At the same time, these new technologies are causing some large problems. For example, a company can now observe its employees. Computers can now make unfair decisions. People can now lose their jobs because of these new technologies.

The International Labour Organization plays a very important role in this situation. The international labor standards are by consulting people. New technologies have to be developed in a way that is good for people. This means that new technologies must be used to provide people with jobs, to protect the rights of employees, and to ensure that people are treated fairly. The International Labour Organization and artificial intelligence have a lot to do with each other. Artificial intelligence must be used to support people at work. Artificial intelligence has to be used to ensure that the labor market is good for everyone.

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