
Adapting Labour Laws to Remote Work and Digital Nomadism: Legal Implications and Regulatory Challenges

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Abstract

Significant changes in labour markets across the globe have been brought about by the quick emergence of remote employment and digital nomadism, which has been hastened by technical improvements and the global pandemic. Traditional labour laws, which were created for traditional employment settings, find it difficult to handle the changing dynamics of the contemporary workforce as employees increasingly operate across national boundaries. The legal ramifications of remote work and digital nomadism are examined in this essay, with an emphasis on how current labour rules need to change to account for the flexibility and mobility that new work arrangements require. The report identifies important regulatory obstacles, such as those pertaining to jurisdiction, taxes, social security, and workers' rights in various geographical areas. It looks at the lack of legal protections for remote workers, who may not be able to access the same job security, health and safety safeguards, or employment benefits as their colleagues who work in offices. With a special focus on protecting employees in non-traditional work contexts, the study also examines how national labour law changes and international agreements regulate remote employment. With an emphasis on developing frameworks that guarantee fair treatment, job stability, and access to social benefits, the paper examines the difficulties and suggests possible changes and policy proposals to guarantee that digital nomads and remote workers are protected under labour laws. In order to handle the global character of remote labour, the study's conclusion highlights the significance of regulatory innovation and international cooperation.

Keywords: Remote Work, Digital Nomadism, Labour Laws, Employment Rights, Legal Protections.

Introduction

The global labour market is going through one of the biggest changes in the history which digital technology, globalisation, and changing expectations of workers. Due to COVID-19, many companies started remote working which is getting popular

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day by day. Something that was thought to be temporary is now permanent in today's labour market. In recent years, the phenomenon of digital nomadism – whereby individuals use digital technologies to work from different countries – has grown markedly. This challenges our traditional assumptions regarding the relationship between work, space and the law.

Labour laws, however, have not kept pace with these shifts. Many of our laws arose during the industrial age when people worked in factories and offices. These laws had clear employees to look after and so did the employer and the state. They set the minimum salary levels and maximum allowable working hours. They also ensure membership to occupational health and safety bodies. These frameworks rely on three assumptions: work occurs at a fixed workplace, employer and employee are in the same jurisdiction and the employer controls the working conditions. The rise of remote work and digital nomadism shows major regulatory gaps in all three assumptions.²

Jurisdiction is one of the most immediate challenges. Urban areas have invested heavily in the same visioning processes to attract permanent residents and high-income visitors. What happens when communities put their same focus on retaining visitors as temporary residents? A digital nomad who lives in Portugal, works for an American company, and services clients in Asia may be subject to multiple and conflicting laws.

Taxation and social security further complicate matters. Several states impose residency-based thresholds to assign tax liability, but nomadic workers likely breach these thresholds in multiple countries. Concerns are increasing about either double taxation or the possible use of loopholes in treaties. Like social security systems, any public benefit programs are designed for economic and social regulatory issues. If you cross borders often for work, you may not get the pension, health, or unemployment benefits you're entitled to.

Remote work brings about new fairness and human well-being challenges apart from legal uncertainty. Working remotely is flexible and allows more independence. However, it makes work-life boundaries less clear, leading to

²S. Hensellek and N. Puchala, "The emergence of the digital nomad: A review and analysis of the opportunities and risks of digital nomadism" in (eds.), *The flexible workplace* 195-214 (2021).

burnout and stress. Employers are increasingly using digital monitoring tools, leading to privacy concerns. Another advantage is that not all workers are helped equally. Women are still doing more of the domestic work than men. Also, remote work mostly has wage cuts. Further, lower-waged jobs which means those in the lower sector can't avail opportunities.³

Research Problem

The central research problem addressed in this study is the mismatch between traditional labour laws and the realities of modern work arrangements. Labour laws across the world were originally designed during the industrial and post-industrial eras, when employment was geographically fixed, nationally bounded, and predominantly tied to physical workplaces. These frameworks assumed that workers and employers operated within the same jurisdiction, that work was location-specific, and that the employer exercised control over the physical workplace. However, the rapid growth of remote work and the phenomenon of digital nomadism have disrupted this paradigm by making work mobile, cross-border, and digitally mediated.

This disruption exposes critical gaps in existing regulatory systems. Jurisdictional questions arise when employees reside in one country while being employed by companies in another and serving clients globally. Taxation rules, often based on residency and physical presence, fail to account for workers who are highly mobile, creating risks of double taxation or regulatory avoidance. Similarly, social security systems—built around national contributions—lack mechanisms for portability, leaving mobile workers without reliable access to pensions, health insurance, or unemployment protection. Workplace protections also become difficult to enforce in decentralized environments, raising concerns about health and safety standards, privacy, and the erosion of collective bargaining rights.

As a result, workers increasingly risk exclusion from fundamental rights and benefits, while employers face uncertainty in complying with overlapping or conflicting legal regimes. This research seeks to address this core problem by exploring how labour laws can adapt to safeguard both workers and employers in an increasingly borderless digital economy.

³Supra note 1.

Research Hypothesis

The study hypothesizes that current labour laws are insufficient to protect the rights of remote workers and digital nomads, and that without deliberate regulatory innovation and international cooperation, these workers will remain in precarious positions. Updating labour laws to account for mobility and digitalization can enhance fairness, ensure social protections, and create legal clarity for both employees and employers.

Research Questions

1. How do existing labour laws address or fail to address remote work and digital nomadism?
2. What are the primary legal and regulatory challenges arising from these new work arrangements?
3. How have national governments and international organizations responded to these challenges?
4. What reforms or policy frameworks can be proposed to ensure adequate protection and fair treatment of remote workers and digital nomads?
5. How can international cooperation facilitate a consistent and equitable regulatory environment?

Research Objectives

- To critically examine the gaps in existing labour laws with respect to remote work and digital nomadism.
- To analyze jurisdictional, taxation, social security, and worker rights challenges arising from these arrangements.
- To review national and international policy responses to date.
- To propose legal and regulatory reforms that balance flexibility with protection.
- To highlight the need for global cooperation in addressing labour issues in digital, borderless contexts.

Conceptual Foundations

Working from home was once not common. Now, it is becoming the 21st-century boy. Remote work is the type of work where tasks associated with an office take place somewhere else than the office. With the help of technology like high-speed internet, cloud storage and software collaborative, its implementation has now

become easy. It could be a hybrid one where staff members work in the office and at home or completely remote. Digital nomadism offers additional flexibility as individuals travel between countries while also keeping their digital employee relationships. Many digital nomads depend on special visas such as those adopted by Estonia, Croatia and Barbados to legitimise their stay while working for foreign employers (Mak, 2021). The drivers of these trends are manifold. To begin with, technological advancements allow individuals to communicate easily, cutting down on travel. Another benefit of globalization is that businesses can take advantage of global talent for greater efficiency. Workers are also using globalization for greater location independence. As cultures evolve, they begin to value flexibility and autonomy. The Covid-19 pandemic made remote work normal. Both employees and employers found it possible to be productive without having a workplace (Messenger, 2019). But these developments call into question the main assumptions of labour law. In the past, the employment regulations or rules assume that both the workers and the employers are under the jurisdiction of the law. It also means the work is done at a fixed workplace. Further, the work is done under the supervision of the employer. The employment is long term and stable. Remote work and digital nomadism challenges these assumptions of the firm. For instance, someone who is a freelancer and a digital marketer living in Portugal can take up a digital nomad visa. But, this person can work for a firm in the USA. And at the same time, they can have a contract with clients from Asia. Arrangements like these raise questions of the law that is applicable, tax, and benefits entitlement.⁴

Historical Development of Labour Laws

Labour laws developed in the nineteenth and early twentieth centuries as responses to industrialization. Early statutes such as the UK's Factory Acts (1833, 1844, 1847) regulated working hours and child labour. Internationally, the International Labour Organization (ILO), founded in 1919, created conventions on working hours, minimum age, and collective bargaining rights. These frameworks assumed a clear physical workplace where employers exercised control. In India, laws such as the Factories Act 1948, the Industrial Disputes Act 1947, and later the Code on Wages 2019 codified protections around wages, hours, and workplace safety. In the U.S., the Fair Labor Standards Act 1938 introduced federal minimum wage and overtime

⁴S.N. Cheung, Transaction Costs, Risk Aversion, and the Choice of Contractual Arrangements, 12(1) *The J. of Law & Econ.* 23-42 (1969).

rules, premised on employer-employee co-location. In Europe, directives such as the Working Time Directive (2003/88/EC) codified weekly hours and rest periods for on-site employees. These protections are rooted in three assumptions:⁵

- (1) employment is geographically bound,
- (2) employer and employee share jurisdiction, and
- (3) work is long-term and under employer supervision.

Remote work and nomadism disrupt all three. The inadequacy of traditional frameworks becomes evident in cases such as *Uber BV v. Aslam*⁶, where gig workers challenged their classification as self-employed. Although not nomads per se, the case illustrates how digital platforms blur conventional employment categories. Similarly, U.S. courts in *Glatt v. Fox Searchlight Pictures Inc.* (2016)⁷ grappled with the definition of “employee” in a non-traditional arrangement. These examples foreshadow the difficulties in applying old frameworks to borderless, digital labour markets.

Jurisdictional Challenges

Where does a remote or nomadic worker's work ‘take place’ for jurisdictional purposes? For a long time, the law governing the workplace activity was determined by the *lex loci laboris*, which means the law of the place of work. Yet the “place” of work becomes more complicated where work is done virtually across borders. Someone who lives in Spain on an EU nomad visa and works for a U.S. tech company is a digital nomad. Spanish law may state that one party's residence can determine which law governs any contract. Inefficiencies in labor law lead to uncertainties of what protections workers will receive, such as minimum wage and rights in the event of a dismissal.

The law of European Union provides for the issue to some extent by the Posted Workers Directive (96/71/EC) which entitles workers temporarily posted to another Member State to core protections of host state⁸. However, this instruction assumes

⁵E. Carmel and E. Kojola, “Timeshifting into the Night: Guidelines vs. Practices Affecting Time Zone Dependent Workers,” Unpublished Paper (September 17, 2012).

⁶[2021] UKSC 5.

⁷No. 13-4478 (2d Cir. 2015).

⁸M. Andriescu, S. Buckingham, et al., Study Supporting the Monitoring of the Posting of Workers Directive 2018/957/EU and of the Enforcement Directive 2014/67/EU. The

an employer posting arrangement, not voluntary relocation by a digital nomad. Like all other countries in the world, legality of U.S. laws applies only in limited context which means that remote U.S. employees who are in working abroad lie in a grey area. Case law reflects this tension. In *Carnero v. Boston Scientific Corp.* (2016)⁹, U.S. courts did not extend whistleblower protection to a worker overseas due to territorial limitations. By contrast, in *Lawrie-Blum v. Land Baden-Württemberg* (1986)¹⁰ the European Court of Justice interpreted “worker” very broadly to ensure protection across borders; but still limited to the EU. Employers face compliance challenges due to lack of harmonization. Multinational companies may have to comply with several sets of employment laws at the same time whereas smaller companies may inadvertently breach their obligations. When there’s jurisdictional uncertainty, workers may be completely excluded from rights.

Taxation Issues

Taxation presents another major difficulty. Most tax systems have a residence or physical presence test to determine liability, typically 183 days. Exceeding the limits in numerous countries, digital nomads may face double taxation. If an employee’s presence creates a “permanent establishment” for corporate tax purposes, the employer is also exposed to local corporate taxes.

The OECD Model Tax Convention was created to deal with double taxation but not with voluntary digital mobility¹¹. Rather it considers traditional expatriate assignments. Bilateral treaties usually don’t mention remote work. A Canadian company employing a programmer who works out of Bali for more than six months may result in tax obligations in Indonesia even if there was no office. Some countries have adapted. Estonia’s e-Residency program permits non-residents to create corporations and manage taxes online, but it does not address the difficulty of personal income tax. The “Welcome Stamp” visa launched by Barbados dismisses all local income taxes on nomads who work for foreign companies. Case law has

Situation of Temporary Cross-Border Mobile Workers and Workers in Subcontracting Chains (European Commission, 2024).

⁹433 F.3d 1 (1st Cir. 2006).

¹⁰(1986) Case 66/85.

¹¹T. Homa, “Taxation of digital economy according to OECD,” in *INTERACTION OF LAW AND ECONOMICS: SUSTAINABLE DEVELOPMENT* 76 (2024).

also touched on cross-border taxation. The Koenig v. Austria case¹² examined the double taxation of a cross-border service and treaty coordination. Even so, an overall ruling of this kind would be bound to EU structures. This leaves global nomads in the lurch. If reform doesn't happen, taxes will either overload workers or encourage them to avoid. To adapt to digital nomadism and to clarify permanent establishment, we must update bilateral treaties.

Social Security and Employment Benefits

Social security schemes depend on national pay-ins which do not suit mobile workers. The benefits include pensions, health care, unemployment protection; sustained contributions at one jurisdiction. Frequent international transfers by nomadic workers make it tough for them to accumulate benefits. This makes them vulnerable. Regulation (EC) No 883/2004, in the EU, allows for partial portability: i.e. contributions made in one Member State can count towards benefits in another Member State. However, this framework does not extend globally. If a worker regularly moves from India to Thailand to Germany, he will not be entitled to any system. In the United States, benefits under the Social Security system depend on the domestic employment history of any person. However, certain countries have entered into frameworks called totalization agreements wherein the credits received can be combined together. India has established limited bilateral pacts on social security but coverage is patchy. Examples highlight the gap. An IT consultant from India who works remotely in Germany under a digital nomad visa may pay into German health insurance but loses portability if he then moves to Spain. On the other hand, a natural person who is a citizen of the United States is subject to United States social security regardless of residence but may be required to contribute to another system as well. This breaking up of jobs distorts inequalities between sedentary and mobile workers. If digital nomads' portable accounts aren't developed, they risk long-term insecurity.

Employment Rights and Protections

Remote Work Challenges the Applicability of Traditional Labor Protections. When contracts become flexible or project-based, job security becomes weaker as more workers are misclassified as independent contractors. In the case of Uber BV v

¹²Application no. 8559/7.

Aslam¹³, the UK Supreme Court ruled that drivers are ‘workers’ entitled to be paid at least the national minimum wage and to paid holiday despite the platform characterisation. This case shows how digital arrangements blur employment categories. Occupational health and safety laws assume that the employer controls the workplace. Still, it is not easy to ensure ergonomic setups or safety conditions in homes. Employers must keep workers safe under the EU Framework Directive 89/391/EEC, but it does not apply to teleworking. In *Hargreaves v. Telstra Corporation Ltd* (2011)¹⁴, there was recognition in Australia that an injury to a worker at home can be covered by workers’ compensation. However, such a finding is not universal. Remote work also heightens privacy concerns. More and more, businesses are using surveillance software to monitor productivity. This raises concerns about data protection laws including the EU General Data Protection Regulation (GDPR). Court cases like *Lopez Ribalda v. Spain*¹⁵ highlight the tensions between surveillance and privacy rights in the digital workplace. Equality issues further complicate protections. Remote work may exacerbate gender inequalities, with women taking on more caregiving responsibilities. Poverty is still there in countries. Workers in countries like Kenya earn less for the same output. The ILO Equal Remuneration Convention (No. 100, 1951) addresses payment equity among men and women. However, there is weak enforcement of the convention across borders.¹⁶

National Responses

Governments have begun adapting, though unevenly. The EU has introduced directives such as the Work Life Balance Directive (2019/1158/EU), which grants rights to flexible arrangements, and the Directive on Transparent and Predictable Working Conditions (2019/1152/EU), which ensures clarity of contractual terms. While these measures add protections for remote workers, they do not tackle cross-border nomadism. Laws in states cover up gaps in law in the US. For example, California’s Assembly Bill 5 (2019) created the ABC test for worker classification, applicable to gig and remote workers. However, no federal framework tackles

¹³[2021] UKSC 5.

¹⁴AATA 417.

¹⁵Case nos. 1874/13 and 8567/13.

¹⁶International Labour Office, *Promoting Gender Equality: Guide on ILO Conventions and Recommendations of Particular Concern to Women Workers* (International Labour Organization, 2004).

digital nomadism at all. Laws in India recognizing gig and platform workers as vulnerable. Further, Code on Social Security 2020 covers them under its benefits.¹⁷ Implementation is still uncertain and cross-border arrangements are excluded. Estonia, Barbados and Portugal are all among the countries that offer a digital nomad visa. These clarify immigration status but seldom tackle labour rights, leaving nomads as “taxable residents” without full protections.

International Legal Instruments

Traditional models still dominate international labor regulation. The ILO has approved various conventions dealing with the working hours (C 1, 1919), social security (C 102, 1952) and occupational safety (C 155, 1981). However, none explicitly cover remote or nomadic work. According to 2021 ILO guidance (non-binding) on teleworking (ILO, 2021), teleworking should not be rarer. The OECD Model Tax Convention clarifies income taxation but is silent on labour protection issues. Like other UN efforts on the digital economy, it is about e-commerce, not e-employment. Regional agreements provide more innovation. The European rules on portable social security and flexible working are incomplete models. However, in order to be used globally, we need international agreement. Currently, remote and nomadic workers do not have a binding instrument. This absence points to an urgent need for international legal innovation.

Regulatory Challenges

Remote work and nomadism create many regulatory issues. First, national laws are fragmented, resulting in unequal protections and burden of compliance. Second, enforcement is difficult in virtual environments. It is difficult for labour inspectors to police home offices or global nomad arrangements. Third, fights over classification have muddied the waters between “employee” and “independent contractor” with cases like Uber and Glatt. Fourth, as employers turn to various forms of monitoring, privacy issues arise which risk breaches of data protection frameworks like the GDPR.

¹⁷S. S. Mahadik and P. M. Pawar, "Digital privacy in healthcare: State-of-the-art and future vision" 12 IEEE Access 84273-84291 (2024).

Policy Recommendations

To address these challenges, reforms are needed at national, international, and employer levels.

- At the national level, laws should redefine “workplace” to include digital contexts, ensuring occupational health and safety apply to home work. Portable social security accounts should be established, enabling contributions to follow workers across borders. Rights such as the “right to disconnect,” already recognized in France (Labour Code, Article L2242-17), should be extended more widely.
- At the international level, bilateral tax treaties must be updated to account for digital nomadism, clarifying residency and avoiding double taxation. The ILO could develop a framework convention on remote work, setting minimum global standards. Cross-border social security agreements modeled on EU Regulation 883/2004 could provide portability of benefits.
- Employers should adopt transparent contracts specifying applicable law and benefits, implement fair monitoring respecting privacy, and provide equal pay for equivalent work regardless of location.

Conclusion

Remote work and digital nomadism have transformed the global workforce, offering opportunities for autonomy, flexibility, and productivity. Yet traditional labour laws, rooted in industrial-era assumptions, lag behind. Jurisdictional conflicts, taxation ambiguities, fragmented social security, and weakened protections expose workers to vulnerability and employers to compliance risks.

Case law from *Uber BV v. Aslam* to *Lopez Ribalda v. Spain* illustrates the struggles of courts to adapt existing categories to digital work. National reforms—whether India’s Social Security Code, California’s AB5, or EU directives—represent progress but remain piecemeal. Internationally, the absence of binding instruments leaves gaps unaddressed. Adapting labour laws to this new reality requires innovation. Portable benefits, updated tax treaties, and international frameworks must be developed. Workers must retain rights to fair wages, health and safety, and social protection regardless of location. Employers must gain clarity to operate across borders without excessive risk. Ultimately, the challenge is balancing flexibility with security. Properly adapted, remote work and digital nomadism can be engines of inclusive, equitable growth. But without reform, they risk entrenching inequality and precarity. The future of labour law must therefore be international, adaptive, and rooted in protecting dignity at work in a borderless digital age.

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