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DOI <https://doi.org/10.32782/npuola.v34.2024.8>*I. V. Lagutina***INTERNATIONAL LABOUR STANDARDS AND DIGITAL TRANSFORMATION OF LABOUR RELATION**

Formulation of the problem. There is nothing new about the need for change in the labour market. Change is and always has been the norm. More recently, however, there has been a sharper edge to things. Competition sets international standards.

Modern international labour standards are based on the following fundamental provisions: 1) the labour rights of the employee as personal goods are inalienable, they are based on the principles of freedom, equality, prohibition of discrimination in labour. In this sense, labour rights should be considered as natural rights. On the other hand, the scope and content of labour rights are determined by the state; 2) approval and enforcement of human labour rights is the responsibility of the state, which must create appropriate conditions for the implementation of human rights in the field of labour; 3) the system of labour rights consists of individual and collective labour rights, is dynamic, is able to change and expand; 4) collective labour rights are inseparable from individual labour rights, they should not contradict the latter, limit the legal status of the individual; 5) the exercise of labour rights and freedoms should be based on social dialogue based on the principle of tripartism.

International labour standards are a normative substance of international labour law, which reflected the results of the activities of states to introduce social values into the market economy, the development by the efforts of the world community of social policy tools acceptable to its states.

As stated in the Statute of the International Labour Organisation, the general and long-lasting peace can be established without the condition that it is based on social justice, it is also stated that unsatisfactory conditions of labour, which stipulate injustice, evil and imprisonment for a large number of people, can cause such great disturbances that peace and harmony in the world will be put under threat.

The **purpose of this article** is to study the impact of international standards of labour rights on digital transformation of labour relations, paying special attention to the future of telework and hybrid work.

Analysis of recent research and publications. In the legal literature, research on the impact of international standards of labour rights on digitalization on labour relations has already been subjected to scientific analysis by such domestic and foreign scientists as L. Addati, V.M. Andriyev, M. Arena, J. Angelici, M. Bai, M. Belizon, R.T. Blanpain, M.I. Baru, N.B. Bolotina, V. Burak, G.R. Carroll, A. Chapman, L. Chang, K. Donovan, R. Epstein, P. Gal, J. Geary, J. Golden, L. Gonsalves, T.W. Greer, C. Freudenberg, W. Leidecker, L.F. Losma, N.B. Kurland, D. McCann, U. Menz, G. Nicoletti, B. Pangert, S.C. Payne, L. Pauls, P.D. Pylypenko, S.M. Prylypko, C.A. Profeta, V.F. Puzyrnyi, P. O'Reilly, B. Rogers, C. Schuchart, A. Spurgeon, M. Vartiainen, O.M. Yaroshenko and others.

Presentation of the main material of the study. Exploring the problems of international labour regulation, one can come to an understanding that labour rights are human rights. They were subject to international regulation much earlier than other rights.

Human rights are, in fact, an interpretation of the ideals of humanism: freedom, equality, solidarity, justice, but the interpretation of a special kind – ethical-political-legal. This has caused the complex nature of human rights, which are an integral phenomenon without the quiet tasks, in the name of which they appeared – the protection of the present and future of man.

In the meantime it is decent work is recognised as the first step towards greater social integration, creating conditions for the comprehensive development of the individual.

Also, decent work is a reflection of people's aspirations in the field of labour. It includes opportunities for productive and fairly paid work, achieving workplace safety and ensuring social protection of families, better opportunities for personal development and social integration, freedom to express personal beliefs, freedom to unite and participate in decisions that affect their lives, as well as equal opportunities and equal treatment of women and men.

The concept of “decent work” includes components that directly relate to the mechanism for ensuring labour rights, namely: the establishment of equal opportunities and equal treatment in the field of employment, ensuring safe work.

From the very beginning of the ILO's activities, its acts were not adopted within the framework of any centralised plan, but as a result of discussions of individual problems at the International Labour Conference [1, p. 13–14]. Over time, a large corpus of conventions and recommendations was formed, which, although it was called the international labour code in the early period of the ILO's activities, was never such. New conventions and recommendations were adopted to replace the old ones on the same issue.

The reasons for the origin of international legal regulation of labour and the reasons for the emergence of national labour legislation are the same. International labour regulation should be considered as a type of international protection of human rights, the purpose of which is to contribute to the improvement of the working conditions of workers. The emergence of the first norms of labour legislation is primarily related to the legal regulation of working hours.

The special importance of the institution of working time was already confirmed in the preamble to the Charter of the International Labour Organisation, where in as a priority task was indicated regulation of working hours, including setting the maximum duration working day and working week.

International labour standards are in fact the quintessence of world experience in the legal regulation of such relations. The use of approaches and concepts recognised on a global scale and adopted by most countries as a mandatory minimum of the rights and obligations of subjects of labour relations allows use in national law solutions that have repeatedly proved their expediency, while avoiding mistakes and deliberately abandoning ineffective directions of development of domestic labour law.

In recent years, a rapid change not only in equipment and technology, but also in labour relations are observed, and, as a result, the transformation of the system of labour rights. In these conditions, it is necessary to pay attention to trends that affect and will affect labour legislation in the future. The introduction of new technologies, “cloud work” requires daily acquisition of new knowledge, development of new competencies by employees. In addition, new technologies contribute to the fact that we have not been working 40 hours a week for a long time, and are in touch with the employer almost all the time. Although this problem is not new, the first convention of the International Labour Organisation was Convention № 1 “On Working Time in Industry” (1919), today it receives a different expression. Some of the main problems in this area have remained important since the beginning of the industrial era: too long working hours and the need to protect the health and safety of workers by limiting working hours. However, many factors in recent years have led to new trends and changes in both working hours and labour organisation.

Today’s trends are also: outsourcing of employees, various forms of “non-standard” employment (parttime work, expanding the possibilities of concluding fixed-term employment contracts, not including an employee in the staff of the organisation), the employer’s reluctance to recognise the relationship as labour, reducing access to social protection.

It is necessary to pay attention to the following changes related digital transformation of labour relations that affect legislation in the sphere of labour:

Involvement of employees and employers to work on “cloud platforms” not only in the service sector, but also in various sectors of gygmony. Creation of so-called ecosystems for interaction between employees and employers, training, additional education, professional development, job search. This makes it possible for the employer to unite employees who have several specialties and own several professions to solve a variety of problems. Such systems operate in many countries of the world. For example, on July 15, 2021, Ukraine adopted the Law “On Stimulating the Development of the Digital Economy in Ukraine”, which provides for the creation of such an ecosystem on the cloud platform “Diia City” [2]. the law is the legal basis for IT companies and employees who want to work on a cloud platform. According to the developers of the law, the platform has several advantages, including

options for involving staff in the platform, providing information on changes in work permit requirements for foreign workers. Among the key innovations – the “gig contract” – a combination of freelance and an employment contract – a completely new model of interaction for the Ukrainian market. Such an innovation should give employees all labour rights. Before the adoption of the law, no employment contracts were concluded with such employees, 90% of those working in this industry were self-employed and did not receive all the guarantees established by labour legislation and social security legislation. However, the law did not provide an opportunity to conclude an employment contract.

All this indicates the need to comply with the norms of national labour legislation, and, moreover, international labour standards. In this case, we are talking about the observance of the right of employees to decent work. However, the concept of “decent work” in its traditional sense has also changed over several years of the pandemic and under the influence of digitalisation. For example, today the concept of “decent work” includes the right to disconnect.

In brief, the right to disconnect has three main elements: 1) the right of an employee to not routinely perform work outside normal working hours; 2) the right to not be penalised for refusing to attend to work matters outside of normal working hours; 3) the duty to respect another person’s right to disconnect (e.g., by not routinely emailing or calling outside normal working hours). The “right to disconnect” goes beyond recognising that employees should not be contacted whatever the time. The “right to disconnect” not only removes the need for immediate response, but also protects employees against any detriment for being unreachable. Instead of management simply not expecting a response from workers outside normal working hours, workers are actively encouraged not to respond outside their regular hours. The “right to disconnect” can benefit both individual employees and organisations as a whole. Establishing an effective work-life balance for employees is likely to reduce staff burn-out and overload, leading to a more productive workforce during working hours.

There is no doubt that decent work deficits persist, with considerable heterogeneity across regions and groups. The decline in unemployment rates obscures a significant lack of decent employment opportunities. The jobs gap stood at nearly 435 million in 2023. Moreover, many individuals in employment are confronted with several barriers to decent work, including declining real wages, elevated levels of informal employment and deteriorating working conditions. In other instances, barriers to labour market participation persist, notably for women, and for youth, who also continue to be confronted with higher levels of unemployment. Together, these factors are undermining long-run progress to improving decent work and social justice [3, p. 28].

It is worth remembering that hybrid forms of work are likely to become the norm for a substantial proportion of employees in the coming years

Hybrid work is a type of “flexible work”, in contrast to permanent, fixed work arrangements such as “office work”, “remote work and telework” and similar concepts. From the viewpoint of employers and employees, flexibility

is a controversial issue, as it can represent different things to different parties. For employers, flexible working is usually an asset of productivity or efficiency and a strategic alignment in the organisation and management of production and service processes and people as human resources. For employees, flexibility is often seen as enabling individual or team autonomy and self-management and leadership at work and as a way to reduce conflicts between work and family and enhance work-life integration. These two perspectives have been referred to as the organisational perspective and the worker perspective.

Hybrid work can be thought of as a way of organising work and is implemented in practice by referring to the intersection between telework or remote work and on-site work. Synthesising findings from recent literature and definitions used during the pandemic, hybrid work can be interpreted as a form of work organisation which results from the interplay of four main elements: physical, temporal, virtual and social. Each of these elements is composed of different sub-elements that interact with each other and can be combined in many different forms.

There are some advantages to the hybrid working model for employers including better staff retention and reduced overheads. However, for it to work effectively, there are some legal and practical factors that they will need to address. These include: reviewing existing policies and implementing new policies that clearly set out the arrangements and conditions for remote working; tailoring standard employment contract clauses to include hybrid working; taking the necessary measures to protect personal data and confidential information; considering the health and safety implications and completing a risk assessment; deciding whether any special equipment should be provided to employees; considering whether any specific planning or insurance agreements are needed; what arrangements need to be made to manage and supervise hybrid employees; identifying tax implications for hybrid working; cost considerations during the energy crisis and whether extra support should be given to cover the cost of heating and to some extent the electricity [4].

The response to the hybrid challenge to successfully manage the shift to hybrid work, organisations need to consider rearchitecting work, unleashing the workforce, and adapting the workplace around three factors: human, digital, and physical. The human factor: taking human-machine collaboration to the next level by enabling workers to enhance their capabilities through technology while enjoying greater flexibility through hybrid ways of working

The digital factor: creating an engaging and inspiring digital collaboration that enhances human interaction, creativity, and the employee experience.

The physical factor: transforming how people engage with their workspaces – no matter where or how they are working – by seamlessly combining virtual and physical workplaces.

Responding to this new necessity, organisations started to ‘up their game’ and invested in expanding their digital capabilities to offer a seamless experience for employees as they collaborate with colleagues and interact with the organisation virtually.

While organisations have benefited from improved efficiency, enhanced digitalization, and lower operating costs under new hybrid work models, many employees have reported feelings of fatigue and high levels of anxiety. A study from 2022 found that 40% of workers across 31 global markets were considering leaving their jobs [5]. Of the 68.9 million workers who indeed left their jobs in 2021, 70% quit voluntarily [6].

The hybrid work model can take different forms depending on the organization and the type of work being done.

These are the four most common hybrid work models:

1. Flexible hybrid work model. Employees choose their location and working hours based on their priorities for the day. For example, if they need to spend time focusing on a project, they can choose to work from home or in a coffee shop. If they want a sense of community, need to meet with their team, attend a training session or join a town hall, they can choose to go into the office. Cisco is leveraging this model and offering its employees the option to choose where they work on any given day.

2. Fixed hybrid work model. The organisation sets the days and times employees are allowed to work remotely or go into the office. For example, it could be that certain teams go into the office on Mondays and Wednesdays, while others go in on Tuesdays and Thursdays. Or an organization could allow everyone to work from home on predetermined days each week. American Express is an example of an organization that has adopted a fixed hybrid work model.

3. Office-first hybrid work model. Employees are expected to be on-site but have the flexibility to choose a few days a week to work remotely. Google plans to adopt this type of model where employees work in the office three days a week but have the option to choose two days for working remotely.

4. Remote-first hybrid work model. Employees work remotely most of the time with occasional visits to coworking spaces or the office for team building, collaboration, and training. In this model, the company may not have an office space and instead relies on team members in the same area to get together when they see fit. Twitter adopted this remote-first model and will allow all employees to work from home [7].

It is necessary to distinguish hybrid work and working from home. Remote workers work from home all the time and may not have the option to go into the office. While hybrid workers will spend a portion of their time working from home, they also have the flexibility to choose where and when they work. According to research, 49% of remote workers feel isolated, 37% encounter more distractions, and 35% find it hard to connect with their colleagues. Hybrid work provides options for employees to decide which days they want to go into the office. If a person is feeling a sense of isolation, wants to remove themselves from a distracting environment, or connect with colleagues, they have the option to go into the office.

Hybrid work was less common in other sectors, such as accommodation and food services, construction, agriculture, manufacturing and mining.

There might also be some negative impacts on the health and the well-being of hybrid workers (headaches and eyestrain (fatigue, anxiety and virtual

presenteeism (working from home when one is sick although not to an extent that precludes working) associated with heavy workloads and continuous connectivity).

Whether or not the extra work is directly triggered by out-of-hours communication, many surveys indicate that a high share of workers work additional hours remotely, with negative implications for their health and well-being. In a representative French study, 69% of respondents claimed to have worked at least occasionally outside their regular working hours [8]. A survey commissioned by the Labour Institute of the Greek General Confederation of Labour in Greece found that among those working remotely during the pandemic 65% reported an increase in working hours. Around 55% indicated that this had been detrimental to their mental health and 52% reported a negative impact on their personal lives [9]. The following data gathered on behalf of the Hellenic Federation of Enterprises highlight the main benefits of teleworking: 79% of respondents recorded a reduction in time spent commuting to work, 40% welcomed having additional time to spend with their family and 40% indicated that they had a better work-life balance. However, 59% reported a potential blurring of boundaries between paid work and personal life, and 29% reported that it was more difficult to balance work and private life [10].

If the future of telework and hybrid work is left to the market, there is a risk that the needs and wants of the actors with greater negotiating power will prevail. Such a result may not necessarily favour a healthy and productive work environment. By contrast, if the needs of employers and employees, but also of society in general, are taken into consideration in the various areas of possible intervention – from legislation and regulation to day-to-day practice – it is more likely that the future of telework and hybrid work will contribute to sustainable work, better individual and collective performance, and a healthier and more productive society with greater social cohesion [11, p. 36].

Even if organisations have flexible work policies, the organisational culture may still discourage employees from working remotely if physical presence is considered a sign of productivity [12, p. 1079] and if remote work is perceived as risky from the perspective of career advancement [13, p. 258]. Therefore, organisational culture significantly influences employees' willingness to telework. Specific cultural characteristics such as trust [14, p. 35], a culture that supports change and innovation [15, p. 1482] and a culture that recognises the legitimacy of remote work [16, p. 98] have been identified as important cultural characteristics supporting the adoption of telework. Telework also requires additional effort from management to establish and maintain social ties within the team and the willingness and skills to engage in the remote monitoring, mentoring, and managing of employees [17, p. 113].

Conclusions. International labour standards are given special attention in the legal doctrine, which has not yet reached a consensus on the understanding of the essence of this legal concept. The points of view presented in the legal literature allow for the formation of three main approaches, by which international labour standards are defined as: rules, orienting standards, norms

in the field of labour, enshrined in international legal acts; a set of sources of international legal regulation of labour; the minimum level of labour rights guaranteed by the state in the performance of its international obligations.

It is necessary to consider international labour standards in a broad sense as standards that are expressed not only in ILO conventions and recommendations, but also in other international legal instruments.

Finally it is important to mention that the Ukrainian social partners should be able to promote the digital labour right – “right to disconnect” that would make it possible to counter the deleterious effects of digital technologies (e.g. blurred work-life boundaries) and the organisational changes related to hybrid work. Generally speaking, the challenge of combining flexibility and safety penetrates collective bargaining systems, and related balancing efforts have increasingly often unraveled to the benefit of flexibility. Ensuring fairness in the workplace is vital.

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Summary

Lagutina I. V. International labour standards and digital transformation of labour relations. – Article.

The article examines that the ILO addresses digitalisation through a wide range of topics including digital labour platforms, digital skills knowledge, employability, artificial intelligence, automation and data governance – and more broadly, the future of work.

The impact of digitalisation on society and the world of work is growing and will only become more pervasive. But the transformation is a multifaceted one. We are simultaneously witnessing the emergence of new business models, such as platform and gig work, and the expansion of digital marketplaces and service providers with extraordinary market power (such as Amazon). Both evolutions entail profound changes to certain industries and to labour relations. At the same time, the introduction of AI in the workplace presents new issues with regards to surveillance and health and safety.

Remote work refers to any type of work arrangement where workers work remotely, away from the employer's premises (or a fixed location), using information and communications technologies (e.g. networks, laptops, mobile phones and the Internet).

Telework is a subcategory of remote work when remote work involving ICT is performed from home (or more rarely in out-of-the-home-based office spaces dedicated to teleworking). It includes, by definition, only work that entails a formal relationship between an employer and an employee.

Hybrid work is a combination of telework and work at the employer's premises. In this form of work, an employee may work both from the office and from home (or from an out-of-the-home-based office space dedicated to telework or another location such as a café, means of transport, etc.). In practice, hybrid work is mainly performed both from home (telework) and at the employer's premises. The weekly distribution of the teleworking and on-site work periods varies widely (e.g. one, two or more days of telework per week). As teleworkers, hybrid workers use digital technologies and an Internet connection for work "always" or "almost all of the time, whichever the location of work.

Digitalisation has accelerated changes in the distribution of bargaining power, leading to the emergence of enterprises with very strong market power. Representatives from the trade union world and experts in the field will explain the various challenges and opportunities for collective bargaining in this new world.

Indeed, the stakes are high. If ILO constituents consent, a future instrument can break new ground, amongst other things, by extending certain protections, like maximum working hours, to all platform workers regardless of employment status, or by giving concrete shape to self-employed workers' collective rights in the platform economy. The boundaries that are shifted in this regard could serve as a precedent in future decades.

Key words: decent work, digital technologies, labour market, labour rights, human resources.

Анотація

Лягутіна І. В. Міжнародні трудові стандарти та цифрова трансформація трудових відносин. – Стаття.

У статті досліджується, що МОП розглядає цифровізацію через широкий спектр тем, включаючи цифрові платформи праці, знання цифрових навичок, можливості працевлаштування, штучний інтелект, автоматизацію та управління даними – і ширше, майбутнє праці.

Вплив цифровізації на суспільство та сферу праці зростає та ставатиме все більш поширеним. Але трансформація багатогранна. Ми одночасно є свідками появи нових бізнес-моделей, таких як платформи та концерти, а також розширення цифрових ринків і постачальників послуг із надзвичайною ринковою владою (таких як Amazon). Обидві еволюції спричиняють глибокі зміни в певних галузях промисловості та трудових відносинах. Водночас запровадження штучного інтелекту на робочому місці створює нові проблеми щодо нагляду, здоров'я та безпеки.

Віддалена робота стосується будь-якого типу робочої організації, коли працівники працюють віддалено, поза межами приміщення роботодавця (або фіксованого місця), використовуючи інформаційні та комунікаційні технології (наприклад, мережі, ноутбуки, мобільні телефони та Інтернет).

Дистанційна робота – це підкатегорія віддаленої роботи, коли віддалена робота із застосуванням ІКТ виконується з дому (або рідше в офісних приміщеннях поза домом, призначених для дистанційної роботи). Він включає, за визначенням, лише роботу, яка передбачає офіційні відносини між роботодавцем і працівником.

Гібридна робота – це поєднання дистанційної роботи та роботи на території роботодавця. У цій формі роботи працівник може працювати як з офісу, так і з дому (або з офісного приміщення поза домом, призначеного для дистанційної роботи, або з іншого місця, наприклад кафе, транспортного засобу тощо). На практиці гібридна робота в основному виконується як вдома (дистанційна робота), так і на території роботодавця. Тижневий розподіл періодів дистанційної роботи та роботи на місці значно змінюється (наприклад, один, два або більше днів дистанційної роботи на тиждень). Будучи дистанційними працівниками, гібридні працівники використовують цифрові технології та підключення до Інтернету для роботи «завжди» або «майже весь час, незалежно від місця роботи».

Цифровізація прискорила зміни в розподілі переговорної сили, що призвело до появи підприємств з дуже сильною ринковою владою. Представники профспілкового світу та експерти в цій галузі зазначають різноманітні проблеми та можливості для ведення колективних переговорів у цьому новому світі.

Дійсно, ставки високі. Якщо трьохсторонні учасники МОП досягають згоди, майбутній документ може відкрити новий шлях, серед іншого, розширивши певний захист, як-от максимальну тривалість робочого часу, на всіх працівників платформи, незалежно від статусу зайнятості, або надавши конкретної форми колективним правам самозайнятих працівників у економіці платформи. Межі, які порушуються в цьому відношенні, можуть стати прецедентом у наступні десятиліття.

Ключові слова: гідна праця, цифрові технології, ринок праці, трудові права, людські ресурси.