

## A Word with Julio Armando Grisolia: COVID-19 and remote working, a paradigm shift in labour relations.

An interview by Silvia Caneve to Julio Armando Grisolia, judge and professor at the Universidad Nacional de Tres de Febrero (UNTREF).

The interview took place during the 13<sup>th</sup> Edition of ADAPT's International Conference, «[Towards a Workless Society? An Interdisciplinary Reflection on the Changing Concept of Work and its Rules in Contemporary Economies](#)», held in Bergamo from 30 November to 2 December 2023. Julio Armando Grisolia participated in the event, delivering a presentation titled *Hacia donde vamos. Los desafíos del derecho laboral en tiempos de cambios* during [Plenary Session #3](#).

***The COVID-19 pandemic has had a significant impact on our society and the world of work in terms of health and safety and work organisation. What, in your opinion, are the legacies of this experience? How has it changed the world of work and industrial relations?***

I believe that the Covid-19 pandemic represented a turning point in the world of industrial relations. There is a before and an after. It changed the way of conceiving time and space for workers. With the emergence of technology, the world of work changed, because the expectations of the worker changed. The emergence of remote working has shown that much more can be done remotely than previously thought. So, in the post-pandemic, workers wonder why they have to go back to the previous situation if working remotely produces the same result with greater benefits. Then companies realise that it is also an advantage for them and for society as a whole. There has been a major change brought about by the pandemic, an acceleration of technology. I am a labour judge. In Argentina, as in many Latin American countries, we had everything

on paper. So, when the pandemic occurred, with the closure of the buildings and the inability to access the files, we quickly invested in technology. In 2020 remote work appeared, the files were digitised, doing in three or four months what had not been done in ten. What did this produce? Justice that did not work remotely began to work in 2020, and by the end of the year all the court proceedings that were done in person had taken place. So, in addition to working at a distance, remote hearings were also possible, although there was a debate on the question of procedural formalities, i.e., whether or not a remote hearing could take place because witnesses had to be present. A discussion that has now been overcome. Then, when the pandemic was over, in the courts and also in many workplaces there were calls for a return to working onsite. And now, the workers' question is: why, if we can achieve the same result with teleworking? And it creates a discussion among younger or older people with a progressive mindset, against the conservative past, the establishment, formalism and ritualism. Well, what happened next? The evolution of 100 per cent remote work is mixed or hybrid work,

i.e., the 'three-for-two' format, as they say in Argentina, in which one works three days virtually and two in person. This is what is applied in part of the Argentine labour justice system. Mixed work is superior to telework pure and simple. There is no isolation. Procedural acts or work that must necessarily be done in presence are done this way. Work that does not require presence is done remotely and the team, the working group, is preserved. But twice a week is enough. It is not necessary to be physically present every day, because what is more important than being present is productivity. I think the key concept for today's young workers is productivity, that is, no longer physically working from 8 a.m. to 5 p.m., or 9 a.m. to 6 p.m. In other words, it is not about time, but productivity. I can work at 10 a.m., 12 noon or 6 p.m., as I please, what the company needs is the work to be done. It is an old concept of time card punching. So I think there is a paradigm shift in labour relations that has occurred since the pandemic.

***However, beyond this, a number of important transformations have occurred in recent years, such as the ageing of the workforce and the presence of new technologies that are changing organisational structures. How do you think these changes have influenced and may continue to influence the world of work?***

The process we are talking about occurs with the 'great resignations', those that occur in the United States with those 33 million people who quit their jobs when they are told they must return to work in presence. And this phenomenon is not specific to the US, because it is replicated in several countries around the world. It shows that workers are beginning to show a kind of weariness with the previous way of working. In fact, there is a traditional model of service delivery and then with the pandemic, which marks a turning point, the worker realises the benefits of remote working and the concept of productivity is reinforced. He realises that he can work remotely, he can work mixed and on his own time. In other words, he understands that he can come to the company when it suits him and when it suits the company. In a win-win system. So, if these conditions are not met, new horizons are sought. Time is important to him; he starts to value it differently. Employees begin to give more priority to life, to their own time. The previous concept of wanting to stay in a job for life, then finish your

career and receive thanks from the company no longer exists. A worker under 35, on average, does not want to have a permanent job, but to change steadily, to progress, to have a full job and to reintegrate quickly into another job. He no longer claims stability, which is the protection of classical labour law. Therefore, all this made me rethink labour law, which is supposed to provide protection to the worker. But in many cases this protection is 'a protection that does not protect'. That is, protection should have a purpose, i.e., economic growth together with social protection. Therefore, if protection means that you cannot do this, you cannot do that, and there are rigidities at the time of hiring and during the development of the employee-employer relationship, in practice it does not serve the employee and it does not serve the employer. If we look at it from a finalistic point of view, at least in several Latin American countries, protection is implemented in the wrong way, because this protection ends up leaving workers unprotected, because it takes away their possibility to work. Regarding the third question, access to the labour market is very difficult in Latin America. With high labour costs and very high social charges, it is very expensive for the employer to have a formally registered worker. So what happens in our countries? In Argentina, in particular, there is 'unregistered' work, i.e., precarious work. In what percentage? More than 40%. And within this 60% registered there are also irregularities. But what is happening? Flexibilization was spoken of as a phenomenon of the 1980s and 1990s. It was the flexibilization of rights. But in many Latin American countries, although there is formally protective legislation, there is de facto flexibilisation; in practice, workers do not exercise all the rights stated in legislation. So why do we want these rights if they are not exercised? We must therefore effectively protect workers and labour. That is why I believe that in most countries we need to modernise the basic legislation, to provide a framework that is appropriate to the new reality, to the new scenario of labour relations. And, again, this does not mean not protecting: this is not an employer position; on the contrary, we need to protect workers of 2023, 2030 and 2040, not protect workers of the 1970s and 1990s, because labour legislation in some countries is protecting workers who no longer exist. In my personal experience, in the court where I am a judge, I have staff between 25 and 50 years old. Everyone wants to work remotely, everyone is producing. In other words,

these are not people who want to work less, on the contrary, they want to work better, produce, be happy, happy, and they know it can be done. In other words, I think we are at a breaking point in this discussion, but also in a process of transition. That is, just as there has been a transition from paper to digital, and until recently there was a discussion about in-person work and remote work, we are now talking about mixed work, for example. But as time goes on, this discussion will disappear. In 10 or 15 years something logical will happen. The 18-year-old worker will be 28 years old, but the 8-year-old child who will enter the labour market will be a digital native. So, he will think in the same way as the 28- and 38-year-old today. This means that workers and employers who are over 50 years old today will leave the labour market in 10 or 15 years, while those entering the labour market will be supportive of mixed or remote work and technology. This is to say that this discussion is a discussion of today, but it will not exist in 10 years, however unfortunately we still must fight a battle today: some people say that rights cannot be touched, it is like an infinite scale of rights, but I believe that we have to adapt them, that is, give workers different rights. While some jobs will disappear, others will change, and new ones will appear. And what needs to be done to prevent unemployment? The answer is: training. It is clear that technology and change will create new jobs, indeed they are already doing so. It is true that others will disappear. But workers must be retrained so that they will be prepared. It's as simple as that. It is a matter of education and training and of the will of companies. It requires social dialogue, good faith on the part of workers and entrepreneurs. So I think new rules of the game have to be established in Latin American countries, a system that is predictable, simpler, with fewer rules, that fits this reality, because this reality is what will continue. For example, in the judiciary, when the pandemic ended, there was a discussion among judges on the issue of virtual hearings, because they said that we need to go back to in-person hearings. But for what reason? From the legal point of view, they say it is a formal act and the Code of Procedure does not provide for it. But how can it provide for it if the code predates this, the technology? It was discussed and voted on, and in that vote out of 24 judges the result was 14 to 10. The majority position was to keep the possibility for the judge to decide on a case-by-case basis and to include virtual hearing as one of the modalities. So now, in the

labour justice system in Buenos Aires, Argentina, the option is the in-person hearing or the semi-presential hearing (i.e., witnesses in court, but lawyers in their offices), or the virtual hearing, which is 100 percent remote, which works just fine.

Today, in 2023, it is no longer debated, but it was debated in 2020, 2021 and 2022. However, this vote means that we had 40 percent of the judges who were against it. Something similar happens in companies because the head of the old employer does not change. It is as if it bothers him that a person is at the computer working while watching TV or sunbathing. My point of view, which is the modern point of view, is that everyone has a mission, has a goal, and if he achieves that goal, the employer does not have to worry about when and how the worker does it. And that is also the way to business success, because that is the concept of productivity. But I insist, this is a new thing. It started becoming popular in 2020, 2021, 2022, but this will be the future, there is no doubt about it. That is, as I said before, in 10 years there will be no more discussion about this, because it will simply be the norm. I go back to the court example to recall the case of a new employee who started working in 2023. Until 2020, the court was all paper-based. In 2020, digital transformation began and remote work, court documents, hearings, and so on. This person who walks in in 2023, who is 20 years old, and sees a paper file says, 'Ah, these are the ones you used before'. And that's when he realizes. Because he is 100 percent digital. For him, what happened in 2020 is the past, it will never come back. And that's the concept. For him, digital is the present, remote is the present, productivity instead of time is the present. If you segmented the opinions on telecommuting or mixed work into groups under 30 years of age, you would get 90% in favour. If you do it between the ages of 30 and 50 you would have more than 50 percent, and if you do it with the over-50s you would have a lower percentage. But as I said, it is just a present-day discussion.

***In this context, the social partners, who represent the sometimes-opposing interests of workers and employers, are called upon to be the main actors in the changes affecting the labour market. In your opinion, what is and what should be the role of the social partners in managing the recent changes in the world of work?***

Workers want flexible work. Having time off, working four days a week, flexible hours, no rigidity, time for vacation. This is the new concept, which does not mean working less, but working better. Workers and employers have to understand it, as do Unions and the State, because it is the State that has to set the rules of the game, to be the guarantor to a large extent of labour relations. What I mean is that sometimes the protection that is claimed today does not exist in practice, because in reality if workers are not well it is because something is going wrong. In each region the changes needed are different, you cannot import models because the characteristics and idiosyncrasies of Italy, Spain, Argentina, Mexico, Colombia or Guatemala are not the same. They have different problems that require different solutions, but in all cases legal systems and countries must strive to achieve economic growth with social protection and to ensure that workers can work in appropriate conditions and environments (and grow) and that employers can make a profit, prioritizing social dialogue across sectors.

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