

Urgensi Rekonstruksi Regulasi Ketenagakerjaan Dalam Mengisi Kekosongan Hukum Pengaturan Remote Working di Indonesia

Abstract: This article examines the legal vacuum surrounding the regulation of remote working in Indonesia and the urgency of reconstructing labor regulations that can adapt to technological developments. The study aims to assess whether the current legal framework provides adequate certainty and protection for remote workers. Using a normative juridical method with statutory and conceptual approaches, the research finds that existing laws, particularly the Labor Law, the Job Creation Law, and their implementing regulations do not explicitly address essential aspects of remote working, including working hours, wages, social security, occupational safety and health, and personal data protection. This regulatory gap creates uncertainty in employment relationships and exposes workers to various risks such as exploitation, excessive workloads, disproportionate wages, and potential violations of privacy and data security. The findings highlight the need for comprehensive and responsive reconstruction of labor regulations, drawing on comparative practices from other countries. A specific regulatory framework for remote working is urgently required to ensure the protection of workers' rights, legal certainty in employment relations, and the sustainability of digital work models in Indonesia.

Keywords: Legal Vacuum; Remote Working; Labor Law; Regulatory Reconstruction

Abstrak: Artikel ini mengkaji kekosongan hukum dalam pengaturan sistem kerja remote working di Indonesia serta urgensi rekonstruksi regulasi ketenagakerjaan yang adaptif terhadap perkembangan teknologi. Penelitian ini bertujuan untuk menilai sejauh mana kerangka hukum yang ada mampu memberikan kepastian dan perlindungan bagi pekerja remote. Metode yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan dan konseptual. Hasil penelitian menunjukkan bahwa Undang-Undang Ketenagakerjaan, Undang-Undang Cipta Kerja, dan peraturan pelaksanaannya belum mengatur secara eksplisit aspek-aspek fundamental kerja jarak jauh, termasuk jam kerja, pengupahan, jaminan sosial, keselamatan dan kesehatan kerja, serta perlindungan data pribadi. Kekosongan hukum ini menimbulkan ketidakpastian hubungan kerja dan risiko yang signifikan bagi pekerja, seperti eksploitasi, beban kerja berlebih, ketidakseimbangan upah, serta potensi pelanggaran privasi. Temuan tersebut menegaskan perlunya rekonstruksi regulasi ketenagakerjaan yang komprehensif dan responsif, dengan mengadopsi praktik negara lain sebagai rujukan. Regulasi yang secara khusus mengatur remote working menjadi kebutuhan mendesak untuk menjamin perlindungan hak pekerja dan keberlanjutan model kerja digital di Indonesia.

Kata Kunci: Kekosongan Hukum; Remote Working; Ketenagakerjaan; Rekonstruksi Regulasi

1. Introduction

The rapid development of technology and information systems in the era of globalization has created a new paradigm in the working system within labor law in Indonesia, which is one of the sectors experiencing significant transformation. A concrete example of this transformation is the emergence of a remote working system

or practice. Remote working is a digital-based work practice that allows workers to carry out their job responsibilities outside the office or company environment in a flexible way, supported by communication and digital information technology facilities to maintain work productivity (Nabima et al., 2023).

This remote working model is considered to provide ideal benefits for companies because it reduces operational costs, allows optimal use of workers' skills and competencies, and enables better efficiency. In addition to companies, this work model also gives positive benefits to remote workers, such as flexibility in time and place of work, no need to spend money on commuting, increased work productivity, and better work-life balance between professional and personal life (Muliati, 2025).

Currently, the remote working system has been adopted and even permanently implemented by several companies in Indonesia. However, there are challenges in its implementation due to the absence of clear regulations governing remote working. Some essential aspects that need to be the main focus of policymakers in updating regulations include drafting laws that can accommodate legal protection for remote workers, such as rules on working hours, salary, allowances, and proper overtime pay, social security including health and workplace safety, adequate work facilities, as well as protection of personal data and the privacy of remote workers. The fulfillment of these aspects is very important to ensure the sustainability and productivity of remote workers so they can carry out their duties effectively and efficiently.

However, there is still a legal gap regarding the regulation of remote working, making its legality in Indonesia unclear or uncertain. Although the Labor Law and the Job Creation Law are still used as legal references, these laws are considered not sufficient to fully accommodate the legal needs of remote working. There are still challenges and legal gaps in its implementation in Indonesia, especially concerning legal protection for workers in social, economic, and technical aspects. Therefore, there is a need to update labor regulations to strengthen the legal foundation and framework to accommodate the needs of workers who work under a remote working system (Azzahra et al., 2024).

This research aims to examine the urgency of reconstructing labor regulations in a comprehensive, critical, and in-depth manner to address the legal gap in laws regulating remote working in Indonesia. The main issue analyzed in this study relates to the absence of specific regulations governing remote working and its implications for labor dynamics in the current digital era in Indonesia. In addition, this study also focuses on how this legal gap affects legal protection and the rights of remote workers, who are currently facing challenges and legal uncertainty. Therefore, this research is expected to

provide a comprehensive, analytical, and critical understanding of the urgency of updating laws to accommodate the legal needs of remote workers in Indonesia.

2. Research Method

The method used in this study is a normative juridical method, which is a legal research method that focuses on examining data through literature analysis (library study) or secondary materials that discuss legal norms from various perspectives, with data collection techniques in the form of reviewing legal documents, literature, scientific journals, and other reliable sources.

This research uses a statutory approach, carried out by examining Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation, Law of the Republic of Indonesia Number 13 of 2003 on Manpower, and Minister of Manpower Regulation Number 17 of 2024 on the Protection of Digital Workers, as well as a conceptual approach that is adjusted to legal issues or problems in a comprehensive and in-depth manner.

3. Result and Discussion

3.1. The Absence of a Legal Framework to Accommodate Remote Working in Indonesia

Article 27 paragraph (2) of the 1945 Constitution emphasizes the responsibility of the state to ensure that every citizen has the right to work and to earn a decent living. This constitutional mandate is then realized through the enactment of Law Number 13 of 2003 on Manpower, which basically functions as a legal instrument to protect workers by the state. The existence of labor law regulations is a concrete form of the government's presence in ensuring the rights that should be obtained by society and plays a very important role as a means of regulating and supervising the legal relationship between employers and workers (Soepomo, 1995).

Until now, the legal basis of labor law in Indonesia still refers to several laws and regulations that explicitly regulate employment, such as Law Number 13 of 2003 on Manpower as the main legal foundation. In addition, other legal references include Law Number 11 of 2020 on Job Creation, which has received many criticisms and controversies, Government Regulation Number 35 of 2021 on Fixed-Term Employment Agreements, Outsourcing, Working Time and Rest Time, and Termination of Employment as implementing regulations of the Job Creation Law in the labor sector, Law Number 21 of 2000 on Trade Unions/Labor Unions, and other labor-related regulations.

The existing labor law regulations still mainly regulate conventional working relationships that take place physically in the workplace. Over time, new work models such as remote working have started to be permanently implemented by several companies in Indonesia. However, since the legal position of remote working is not clearly regulated in current laws, the legal status of employment relationships for remote workers still refers to existing labor regulations. As long as the basic elements of

employment such as work, wages, and orders are fulfilled, the employment relationship is considered valid under the law.

Along with the development of modern work systems, labor regulations in Indonesia face new challenges that are not fully protected or accommodated by current laws. One of the relevant issues is the absence of specific regulations governing the implementation of remote working in Indonesia, which creates a legal gap (Nuriya, 2024).

This legal gap in regulating remote working creates uncertainty in labor aspects and in the fulfillment of workers' rights, such as the right to receive proper wages, the absence of digital or remote-based work regulations, lack of supervision of working hours, uncertainty in social security and occupational safety and health standards for remote workers, and unclear mechanisms for dispute resolution if legal problems occur between companies and remote workers, whether for local companies or those based abroad (Putri, 2024).

The absence of explicit regulations on these matters shows that labor laws in Indonesia have not fully kept up with the transformation of the world of work. When regulations stop evolving, workers become the most vulnerable, followed by companies that operate without legal certainty. Therefore, reconstructing labor regulations has become an urgent need so that national law can accommodate current working conditions. The state is not only required to act as a supervisor but also as an architect of a legal system that is responsive, adaptive, and able to protect all parties amid the increasingly digital transformation of industrial relations (Trixie & Lie, 2025).

3.2. The Dynamics of the Absence of Regulation on the Legal Protection of Remote Workers

Legal protection for remote workers still lacks legal certainty due to the absence of specific regulations governing it. With a work system based on flexibility in time and place, this model still has legal gaps that make it difficult to fully guarantee the fulfillment of the fundamental rights of remote workers. Even though remote workers continue to perform their duties and contribute to company productivity, their position remains vulnerable. Companies may potentially violate the rights of remote workers, ranging from exploitation, assigning workloads beyond their capacity, providing wages that are not proportional to their contributions, to adding working hours without proper compensation. This condition shows that without clear regulations, remote workers are at risk of being disadvantaged (Muliati, 2025).

One form of this legal gap in the development of remote working in Indonesia is the absence of clear provisions regulating working hours for remote workers. Although working hours are legally regulated under Article 81 paragraph (23) of the Job Creation PERPPU as an amendment to Article 77 of Law Number 13 of 2003 on Manpower, these rules cannot be directly applied to remote workers because they are designed for conventional workers. The flexibility in time and place offered by remote working is

often vulnerable to misuse by companies, allowing them to exploit working hours without providing balanced compensation (Adhitya & Gorda, 2021).

The lack of clear regulation on working hours can negatively affect the welfare of remote workers, especially when companies intentionally do not provide overtime pay or proper compensation, while at the same time requiring workers to complete tasks beyond the agreed working hours in their contracts. This situation may lead to illness, stress, and fatigue, which ultimately reduce work productivity. Such violations are more likely to occur due to weak supervision systems over remote workers, which is also caused by the absence of clear legal regulations (Pidaang, 2024).

In addition to fair wages, uncertainty in the provision of work facilities, occupational safety, and difficulty in accessing social security rights can also reduce the productivity of remote workers. On one hand, workers are still required to deliver optimal performance, but on the other hand, regulations on occupational safety and health (OSH), especially those under Law Number 1 of 1970 on Work Safety, are still focused on workers in physical workplaces or work-from-office settings. Even regulations on social security, such as Law Number 40 of 2004 and Government Regulation Number 44 of 2015, have not been able to fully accommodate protection for remote workers in cases of work-related accidents. This is due to several irrelevant provisions, weak supervision systems, and difficulties in proof, making these laws less suitable for modern work models, especially remote working (Khoirunnisa, 2024).

In addition, remote workers also face the risk of cybercrime because they rely heavily on the internet to perform their tasks. Therefore, Law Number 27 of 2022 on Personal Data Protection becomes highly relevant. This law provides protection for workers' personal data, which must be kept confidential by companies.

Furthermore, the remote working system increases workers' dependence on internet networks and digital devices. This condition creates opportunities for cybercrime, including data theft that can be misused. Law Number 27 of 2022 on Personal Data Protection emphasizes that workers' personal data is an asset that must be protected by companies, both in the process of collection, storage, and management. This obligation is not only intended to maintain confidentiality but also to ensure that companies have adequate security standards to prevent data breaches in remote work environments, which are relatively vulnerable (Mugiono & Indradewi, 2025).

The impact of the absence of specific regulations on remote working is that the protection of workers' rights is still not fully guaranteed. Legal uncertainty regarding the rights and obligations between workers and companies, as well as the risk of misuse, arises from this regulatory gap. This condition not only harms workers but can also

hinder the development of flexible work systems that actually have the potential to improve productivity and quality of life. Therefore, more comprehensive and relevant regulations are needed to meet the legal needs of digital-based work systems, so that remote workers can obtain legal certainty, a sense of security, and proper protection, while also supporting inclusive and sustainable economic growth (Nuriskia & Nugroho, 2022).

3.3. The Urgency of Updating Adaptive Remote Working Regulations to Fill the Legal Gap

The Netherlands is one of the countries that already has laws to regulate and protect remote workers, which are included in its updated Civil Code. In its latest revision, there are new provisions that regulate legal protection for remote workers with the aim of ensuring and protecting their rights. These rights include the right to a written employment contract that contains clear terms and conditions. In addition, remote workers are also entitled to receive the same benefits and protections as office workers, such as holiday pay and sick leave. This revision also guarantees occupational health and safety protection for remote workers in the Netherlands, which has become a mandatory requirement for employment as part of the company's responsibility.

Even neighboring countries such as Malaysia have started to consider revising their labor laws with the same goal, which is to provide legal protection for remote workers. The revision of labor law in Malaysia allows companies to permit employees to work remotely, as long as there is a valid written employment agreement. This can be implemented with the condition that companies must provide social security and create a healthy working environment. It also encourages companies to develop policies that ensure remote workers receive proper work facilities to support their productivity and work sustainability (Rivermate, 2025).

Looking at these countries that have shown awareness in protecting remote workers, the government in Indonesia should also review and update its regulations to accommodate the rights of remote workers in today's rapidly evolving digital era. As stated in Article 28D paragraph (2) of the 1945 Constitution, workers have the right to legal protection, equal opportunities, non-discrimination, and fair treatment in order to achieve their welfare, especially for remote workers (Rahman et al., 2019).

In this context, the government has an important role in updating labor policies to ensure legal certainty for remote workers. The effort to reform labor regulations should be carried out in a transparent and fair manner, and should involve public participation, especially from affected parties such as companies and workers. This is necessary to create a legal framework that is comprehensive, adaptive, responsive, effective, and relevant in filling the existing legal gap, while also strengthening and protecting the legal rights of remote workers.

Several important aspects must be considered by the government. Remote workers have the right to health protection to maintain their stability and productivity. They are

also entitled to fair wages and benefits, including overtime pay if they work beyond the agreed working hours stated in their contracts. In addition, there must be clear regulations regarding working hours and overtime that align with the flexibility of remote working. Companies must comply with these rules to prevent discrimination, exploitation, or misuse of workers' labor and abilities.

In today's era of technological advancement and digitalization, remote workers are highly vulnerable to cybercrime. Therefore, they have the right to protection of their privacy and personal data. Strengthening regulations in this area is necessary to control and prevent digital crimes such as data breaches, unauthorized access, and misuse of personal or financial information, ensuring the security of remote workers while performing their duties (Utami et al., 2025).

The government should reconstruct labor laws related to remote working to allow companies to operate efficiently while creating a healthy work environment and improving productivity. At the same time, these legal updates must provide protection for workers to prevent pressure or abuse by employers, so that they can work comfortably and productively. Increased productivity will ultimately have a positive impact on overall national development..

4. Conclusion

Based on the results of the study, it can be concluded that the existence of regulations governing remote working is an urgent need in the Indonesian labor system. The development of technology and the transformation of digital work patterns have not been followed by adequate regulatory updates, resulting in a legal gap in various aspects such as working hours arrangements, wage mechanisms, social security, occupational safety and health, and the protection of personal data of remote workers. This legal gap leads to uncertainty in employment relationships, weak legal protection, and an increased risk of exploitation of remote workers.

Considering these conditions, the reconstruction of labor regulations that are adaptive, responsive, and comprehensive is highly necessary to provide legal certainty and to ensure the fulfillment of the rights of remote workers in accordance with constitutional mandates. The government needs to formulate specific regulations that accommodate the characteristics of digital work, as has been practiced in several other countries, so that the regulation of remote working can be implemented effectively and fairly. Regulatory updates not only serve to protect workers but also to create a healthy system of industrial relations and support the productivity of digital work models in Indonesia.

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