

Ensuring Justice in the Trend of Remote Working: Legal Challenges and Implications for Companies and Workers

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Abstract

This study examines the legal challenges of remote working in Indonesia, aiming to inform comprehensive, justice-based employment policies. Employing a normative juridical method with statutory, conceptual, and case-based approaches, including analysis of Indonesian court decisions, the research reveals that remote work faces structural injustice due to regulatory gaps. The Ma power Law (Law No. 13/2003) and Job Creation Law (Law No. 11/2020 jo. Law No. 6/2023) lack specific remote work provisions, while foundational Civil Code (Burgerlijk Wetboek/BW) principles governing employment contracts remain underutilized. This regulatory vacuum generates legal uncertainty that disproportionately affects vulnerable workers. Persistent gaps concern working hours, overtime, occupational health and safety, data protection, monitoring, employment agreements, social security, and cross-border taxation, leaving weak and unilateral corporate policies as the de facto framework. Comparative analysis of Russia, Spain, Turkey, and the Netherlands confirms that comprehensive legislation is both feasible and necessary. Grounded in justice theory, this study argues that regulating of remote work goes beyond administrative technicalities and forms part of the protection of fundamental constitutional rights. Consequently, Indonesia must enact dedicated legislation establishing minimum standards to ensure equitable protection, dignity, equality, and legal certainty for all workers in the digital era..

Keywords: *Distributive Justice; Labor Law; Legal Reform; Remote Working; Workers' Rights.*

1. INTRODUCTION

The trend of remote working, or working from a distance, has increased significantly in recent years, particularly following the onset of the COVID-19 pandemic. Before the pandemic,¹ remote working was often regarded as a privilege or additional benefit enjoyed only by a select group of workers in certain sectors, such as information technology and the creative industry.² However, the pandemic has compelled many companies across various sectors to adapt to new conditions, where working from home has become a primary necessity

¹ Eko Moh Romi Kurniawan et al., "Peran Ekspektasi Kinerja Dan Ekspektasi Usaha Penggunaan Teknologi Dalam Memediasi Pengaruh Work from Home Terhadap Kinerja Karyawan Archipelago International Bali," *Tulisan Ilmiah Pariwisata (TULIP)* 4, no. 2 (2022): 98–109, <https://doi.org/10.31314/tulip.4.2.98-109.2021>.

² Wicaksono Sarosa et al., *Kota Tangguh Pasca Korona* (Mizan Media Utama, 2024). Hal. 44

to ensure business continuity and employee safety.³ In Indonesia, this trend has also expanded as companies increasingly recognize the remote work as a means of achieving cost efficiency, flexibility, and work-life balance.⁴ This shift has brought significant changes not only to daily work practices but also to the dynamics of the relationship between employers and employees.⁵ Beyond its practical benefits, this transformation raises fundamental questions of justice.⁶ From the perspective of distributive justice theory, any remote working arrangement must ensure that workers' rights including fair wages, adequate rest time, and occupational safety protections remain fully guaranteed regardless of the physical location of work.⁷ Social justice theory further demands that structural changes in employment relationships do not generate new inequalities that disadvantage vulnerable worker groups, such as women workers, workers with disabilities, and low-income workers who lack adequate home working infrastructure.⁸

The rapid shift towards the adoption of remote working necessitates adjustments in various aspects, including labor law. As remote working becomes the new norm, companies and employees must recognize that existing regulations may not fully accommodate these evolving working conditions.⁹ Labor regulations, which have traditionally focused on conventional workplace-based arrangements, must be substantively reformed rather than merely textually adapted to accommodate remote work. Provisions regarding working hours, overtime pay, and occupational safety protections require substantive revision to remain relevant in a work environment no longer bound by physical space and time. Without such reforms, legal ambiguity may continue to disadvantage both workers and employers. More critically, the state, in its constitutional role as the protector of workers' rights, bears an obligation to address this legal vacuum. Articles 27(2) and 28D(2) of the 1945 Constitution of Indonesia affirm that every citizen has the right to decent work and fair treatment in employment relationships principles that must serve as the normative foundation for regulatory adaptation in the era of remote working.

Moreover, the widespread adoption of remote working has also brought about complex legal challenges. One of the primary issues is how to maintain a balance between the rights and obligations of employees and companies in a remote working environment. Matters related to performance monitoring from a distance, the protection of personal data, and the right to privacy have become increasingly significant topics of discussion. On the other hand, companies must also consider how to fulfill their obligations to provide a safe and healthy working environment, even when employees work from home.¹⁰ These challenges are further complicated because existing legal frameworks

³ Khalilul Rahman, "Implikasi Krisis Pandemi Covid-19 Terhadap Etika Perusahaan: Prespektif Etis Corporate Social Responsibility," *Jurnal Akuntansi Dan Ekonomika* 12, no. 2 (2022): 2, <https://doi.org/10.37859/jae.v12i2.4183>.

⁴ Ahmad Kamiludin, "Kemampuan Faktor Work Life Balance Dan Manajemen Stres Dalam Mempengaruhi Keputusan Generasi Milenial Untuk Bekerja Secara Remote (Remote Working) (Pada Komunitas Remote Worker Indonesia Bantul Yogyakarta)" (undergraduate, UIN KH Achmad Siddiq Jember, 2022), <http://digilib.uinkhas.ac.id/9448/>.

⁵ Rido Dominggus Latuheru et al., "Peran Employee Relations Dalam Meningkatkan Engagement Karyawan Di Era Remote Working," *Jurnal Badati* 6, no. 2 (2024): 2, <https://doi.org/10.38012/jb.v6i2.1358>.

⁶ CSA Teddy Lesmana et al., "Participatory Rational Justice in Criminal Law Reform as an Integrative Theory for Substantive Justice and Social Legitimacy," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, March 21, 2026, 21–36, <https://doi.org/10.24090/volksgeist.v9i1.15585>.

⁷ Konrad Gürtler, "Justice in Energy Transformations as a Spatial Phenomenon: A Framework for Analyzing Multi-Dimensional Justice Claims," *Energy Research & Social Science* 105 (November 2023): 103277, <https://doi.org/10.1016/j.erss.2023.103277>.

⁸ Konrad Gürtler.

⁹ David Sukardi Kodrat, *Manajemen Sumber Daya Manusia Di Era Digital: Pendekatan Praktis Dan Teoritis* (Zifatama Jawara, 2024).

¹⁰ Balqis Khoirunnisa, "Analisis Hukum Terhadap Tanggung Jawab Perusahaan Dalam Program Jaminan Kesehatan Dan Kesehatan Kerja (K3) Bagi Pekerja Remote Di Indonesia," *Multilingual: Journal of Universal Studies* 4, no. 4 (2024): 4.

were not designed to accommodate remote working conditions, thereby requiring legal innovation and adaptation.¹¹ From the perspective of the state's role as the protector of workers, the government cannot remain passive in the face of these developments. The existing legal framework must be strengthened with regulations that explicitly recognize and protect remote workers as subjects of labor law with rights equal to those of conventional workers.

In the context of Indonesia, it is essential to acknowledge that labor regulations are still in the process of adapting to these global trends.¹² The government, employers, and workers must collaborate to develop legal solutions that accommodate these changes fairly and effectively. This is not merely about ensuring legal compliance but also about creating a work ecosystem that supports productivity, employee well-being, and corporate sustainability in the digital era.¹³ Philosophically, this aligns with John Rawls' conception of justice as fairness, which requires every social and legal arrangement, including remote working regulations, to be designed to provide the greatest benefit to the least advantaged members of society. Therefore, an in-depth study of the legal challenges and implications of remote working is urgently needed to understand its short-term impacts and formulate adaptive long-term policies for the changing of the workforce.

Although remote working has become a widely discussed topic, existing research predominantly focuses on managerial, technological, and socio-psychological aspects. Numerous studies have explored how remote working can impact employee productivity, facilitate access to global talent, and even reduce corporate carbon footprints. Increased productivity is often linked to the flexibility offered by remote working, allowing employees to work in environments where they feel most comfortable.¹⁴ Access to global talent opens opportunities for companies to recruit highly skilled workers from various parts of the world, unrestricted by geographical location.¹⁵ However, these studies tend to overlook or only briefly touch upon the legal aspects governing remote working practices, leaving a significant gap in our understanding of the full implications of this trend. This gap becomes more pronounced from a legal and justice perspective: as existing studies have not systematically analyzed whether Indonesia's labor law framework can guarantee distributive justice for remote workers or whether the state has fulfilled its protective function in this digital transformation.

Research has also identified challenges in implementing remote working, particularly related to communication, social isolation, and reduced team collaboration. Communication is one of the primary challenges, as digital tools often fail to fully replicate the nuances and dynamics of face-to-face interaction.¹⁶ Social isolation also arises as a

¹¹ Sarosa et al., *Kota Tangguh Pasca Korona*.

¹² Lalu Adi Adha, "Digitalisasi Industri Dan Pengaruhnya Terhadap Ketenagakerjaan Dan Hubungan Kerja Di Indonesia," *Jurnal Kompilasi Hukum* 5, no. 2 (2020): 2, <https://doi.org/10.29303/jkh.v5i2.49>.

¹³ Raymond Marhehetua Hutahae and Andhika Nugraha Utama, "Analisis Mengenai Dampak Revolusi 4.0 Terhadap Regulasi Perusahaan Tantangan Dan Peluang Dalam Sektor Hukum Dan Bisnis," *Musytari : Jurnal Manajemen, Akuntansi, Dan Ekonomi* 8, no. 2 (2024): 2, <https://doi.org/10.8734/musytari.v8i2.5541>.

¹⁴ Rifa Syakira Salman et al., "Sistem Work From Home Terhadap Produktivitas Kerja Pada Karyawan PT ABC," *Jurnal Administrasi Bisnis (jab)* 14, no. 2 (2024): 2, <https://ejournal.unsrat.ac.id/v3/index.php/jab/article/view/58714>.

¹⁵ Sabrina Wulff Pablonia and Jill Janocha Redmond, "The Rise in Remote Work since the Pandemic and Its Impact on Productivity," Bureau of Labor Statistics, 2024, <https://www.bls.gov/opub/btn/volume-13/remote-work-productivity.htm>.

¹⁶ Ward Van Zoonen and Anu E. Sivunen, "The Impact of Remote Work and Mediated Communication Frequency on Isolation and Psychological Distress," *European Journal of Work and Organizational Psychology* 31, no. 4 (2022): 610–21, <https://doi.org/10.1080/1359432X.2021.2002299>.
 European Journal of Work and Organizational Psychology 31, no. 4 (2022)

significant issue, where employees feel disconnected from their workplace environment and colleagues,¹⁷ potentially affecting their mental well-being.¹⁸ Furthermore, reduced team collaboration is a concern, as effective teamwork often relies on direct and spontaneous interactions, which are challenging to achieve in remote work settings.¹⁹ Although these challenges have begun to be addressed through various managerial and technological approaches, studies on how legal frameworks can or should be adapted to support and protect remote working practices remain scarce.²⁰

Very few studies specifically address the legal implications of remote working, particularly concerning existing labor regulations. As more companies adopt remote working models, existing regulations largely designed for traditional work arrangements may no longer be adequate. Issues such as work hours, occupational health and safety, and workers' rights in the context of remote working require special attention. For instance, how should labor laws address situations where employees work beyond the agreed-upon hours, a common occurrence in remote work settings? How does a company's responsibility for employee health and safety apply when employees work from home, which may not meet the same standards typically enforced in office environments? From a legal theory perspective, these questions relate to the concept of a 'new normative space' generated by the digitalization of work, in which conventional legal instruments lose their effectiveness and require conceptual reconstruction.

This creates a gap in the academic literature, where legal aspects are often overlooked or addressed only in general terms. Most current studies tend to focus on the practical and managerial implications of remote working, paying little attention to how labor regulations and laws must adapt to this new reality.²¹ As a result, both companies and employees may not fully understand their rights and obligations in remote work arrangements, potentially leading to disputes or dissatisfaction.²² For example, ambiguity regarding work supervision and employee privacy in remote work settings could spark conflicts if not clearly addressed within the existing legal framework.²³ Therefore, there is a need for more in-depth and specific legal research to provide clearer guidance for all parties involved.²⁴

Considering that remote working has the potential to become a permanent aspect of the workplace, a comprehensive study of its legal implications is crucial to ensure that the rights and obligations of both employers and employees are fulfilled equitably.²⁵ If remote working becomes a permanent feature of the modern work environment,

¹⁷ Nurjannah Septyanun et al., "Legal Implications of Islamic Banking in Advancing Sustainable Finance for Indonesia's Net-Zero-Emission Programme," *Jambe Law Journal* 8, no. 2 (2025): 551–88, <https://doi.org/10.22437/txgw8142>.

¹⁸ Banita Lal et al., "Working from Home During Covid-19: Doing and Managing Technology-Enabled Social Interaction With Colleagues at a Distance," *Information Systems Frontiers* 25, no. 4 (2023): 1333–50, <https://doi.org/10.1007/s10796-021-10182-0>.

¹⁹ Majid Aleem et al., "Remote Work and the COVID-19 Pandemic: An Artificial Intelligence-Based Topic Modeling and a Future Agenda," *Journal of Business Research* 154 (January 2023): 113303, <https://doi.org/10.1016/j.jbusres.2022.113303>.

²⁰ Majid Aleem et al., "Remote Work and the COVID-19 Pandemic

²¹ Mohamad Rivaldi Moha et al., "The Comparative Law Study: E-Commerce Regulation in Indonesia and Singapore," *JURNAL LEGALITAS* 16, no. 2 (2023): 2, <https://doi.org/10.33756/jelta.v16i2.20463>. Meanwhile, Indonesia started to develop the master plan related to e-commerce a decade late than Singapore through the Acceleration and Expansion of Indonesian Economic Development program (MP3EI).

²² Aleem et al., "Remote Work and the COVID-19 Pandemic."

²³ Rafael Ferreira et al., "Decision Factors for Remote Work Adoption: Advantages, Disadvantages, Driving Forces and Challenges," *Journal of Open Innovation: Technology, Market, and Complexity* 7, no. 1 (2021): 70, <https://doi.org/10.3390/joitmc7010070>.

²⁴ Jeremias J. de Klerk et al., "Is Working from Home the New Workplace Panacea? Lessons from the COVID-19 Pandemic for the Future World of Work," *SA Journal of Industrial Psychology* 47, no. 1 (2021): 1–14, <https://doi.org/10.4102/sajip.v47i0.1883>.

²⁵ Rifky Pulubolo et al., "Legal Process for Banking Negligence in Violations of Customers' Privacy Rights and Personal Data," *Estudiante Law Journal* 1, no. 1 (2024): 1, <https://doi.org/10.33756/eslaj.v1i1.24195>.

existing regulations must be updated or substantially reformed to accommodate these developments.²⁶ This is not only important to protect workers from potential violations of their rights but also to provide clarity and legal certainty for companies in managing their operations.²⁷ Therefore, research focusing on the legal aspects of remote working will make a significant contribution to the development of more equitable and relevant labor policies in modern working conditions.

The study “Working from Home: Unraveling the Employment Law Implications of the Remote Office” (2021) by Isaac Mamaysky and Kate Lister examines the legal impact of remote working on various employment aspects. This research identifies several critical issues, including how workers’ legal status changes in the context of remote working, challenges in tracking working hours, and the need to ensure remote workers receive fair compensation. Mamaysky and Lister also highlight concerns related to the health and safety of remote workers and the protection of their personal data privacy. They conclude that the shift towards remote working introduces new legal challenges for both employers and employees, while offering limited guidance on how these challenges should be addressed.²⁸

In the study titled “The Impact of Remote Work on Employment Law” (2024), Barrett and Farahany emphasize that the rapid transition to remote work during the COVID-19 pandemic has exposed gaps in legal protections for remote workers. This study addresses issues such as working hours, overtime pay, and protection against harassment in virtual environments. The authors argue that existing labor laws are inadequate to address the challenges faced by remote workers and call for new regulations that are better aligned with the context of remote work.²⁹

Based on the foregoing, this study seeks to fill this academic gap by critically examining the legal implications of remote working in Indonesia, grounded in the theoretical framework of distributive justice, social justice, and the conception of the state’s role as the protector of workers.³⁰ The novelty of this research lies in its holistic legal-theoretical approach, which not only analyzes normative compliance but also evaluates whether the existing legal framework can realize substantive justice for remote workers in the context of digital transformation. With the increasing adoption of remote work systems, this study aims to provide concrete policy recommendations rooted in strong philosophical arguments toward the realization of employment relations that are just, dignified, and sustainable in the era of remote working.

This study employs a normative juridical method using a statutory, conceptual, and case-based approach. The statutory approach involves examining primary legal instruments, including Law No. 13 of 2003 on Manpower (as amended by Law No. 6 of 2023), Law No. 11 of 2020 on Job Creation, the Civil Code (*Burgerlijk Wetboek/BW*), and related regulations. The conceptual approach draws on legal theories of distributive and social justice to evaluate the adequacy of existing frameworks. The case-based approach incorporates relevant Indonesian court decisions, including labor dispute rulings

²⁶ Abdul Mujib, “The Failure of Indonesian E-Commerce Law in Adapting to Digital Economy,” *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 25, no. 2 (2025): 213–30, <https://doi.org/10.18326/ijtihad.v25i2.213-230>, no. 2 (2025).

²⁷ Chami Yassine et al., “Admissibility of Lawsuits Based on Interest under Algerian Civil and Administrative Procedures,” *Jambura Law Review* 6, no. 2 (2024): 2, <https://doi.org/10.33756/jlr.v6i2.24309>.

²⁸ Isaac Mamaysky and Kate Lister, “Working from Home: Unraveling the Employment Law Implications of the Remote Office,” SSRN Scholarly Paper no. 3982873 (Social Science Research Network, July 1, 2021), <https://doi.org/10.2139/ssrn.3982873>.

²⁹ Barrett & Farahany, “The Impact of Remote Work on Employment Law,” Barrett & Farahany, November 20, 2024, <https://www.justiceatwork.com/the-impact-of-remote-work-on-employment-law/>.

³⁰ Dwi Suryahartati et al., “Tradisi Hukum dan Inovasi Digital: Menakar Posisi Produk E- Notary pada Sengketa Perdata: Legal Tradition and Digital Innovation: Assessing the Position of e-Notary Products in Civil Disputes,” *LIT-IGASI* 26, no. 1 (2025): 409–47, <https://doi.org/10.23969/litigasi.v26i1.19193>.

by the Industrial Relations Court (Pengadilan Hubungan Industrial/PHI), as well as comparative judicial decisions from other jurisdictions concerning worker protections in remote work contexts. This study also examines relevant legal documents, occupational safety regulations, existing legal literature, and labor law theories to understand the legal challenges arising from the remote working. Furthermore, this study conducts a comparative analysis of regulations in Russia, Spain, Turkey, and the Netherlands to examine how the rights and obligations of employers and employees are governed in remote working arrangements.. Consequently, this research identifies and evaluates the relevant legal issues and offers recommendations based on Indonesia's existing legal framework and comparative best practices from different countries.

2. ANALYSIS AND DISCUSSION

3.1. Legal Challenges Arising from the Implementation of Remote Working for Companies and Employees

Working from home, once regarded as an exclusive privilege or a temporary arrangement for certain employees, has evolved into a widely recognized and accepted form of work, particularly in the aftermath of the COVID-19 pandemic.³¹ The pandemic marked a turning point that compelled many organizations to adopt remote working policies to maintain operational continuity while adhering to health protocols.³² Before the pandemic, only a small percentage of workers had the flexibility to work from home, with approximately 5.7% of the total workforce in the United States and 14.6% in Europe in 2019. However, when the pandemic struck, these figures surged dramatically to 17.95% in the United States and 24.4% in Europe by 2021, signifying a significant shift in global work patterns.³³ These statistics, however, should not be read merely as a evidence of successful workplace adaptation. Critically, the rapid expansion of remote working also exposed deep structural inequalities in the labor market. The flexibility and productivity gains associated with remote working were experienced primarily by workers in high-skill, knowledge-based sectors, while low-income workers, informal employment, and those lacking adequate home infrastructure were disproportionately excluded from its benefits. This cultural and structural shift therefore demands a critical legal response: as remote working moves from an exceptional arrangement to a routine practice, the legal framework governing it must also be transformed.³⁴ Without such legal adaptation, the normalization of remote working risks entrenching existing labor inequalities and creating new forms of structural injustice for vulnerable workers.³⁵

Consequently, several legal challenges have emerged from the implementation of remote working for both employers and employees, requiring serious attention to

³¹ Tia Novalia and Lina Marlina, "Dampak Kebijakan Work from Home Terhadap Kinerja Pegawai Pasca Pandemi Covid-19," *Jurnal Ekonomi Bisnis Dan Manajemen (eko-Bisma)* 2, no. 2 (2023): 2, <https://doi.org/10.58268/eb.v2i2.63>.

³² Rambu Raina Wangi Pawulung Wulang Paranggi and Andeka Rocky Tanaamah, "E-Leadership Pada Sektor Publik Dan Tantangan Kepemimpinan Pada Era Dan Pasca Pandemi Covid 19 (Studi Kasus: Kota Salatiga)," *Jutisi : Jurnal Ilmiah Teknik Informatika dan Sistem Informasi* 13, no. 2 (2024): 2, <https://doi.org/10.35889/jutisi.v13i2.2049>.

³³ Andrew Enaifoghe and Ntombizamakhwalosiziphiwe Zenzile, "The Rapidly Evolving Situation of Employee Work-from-Home Productivity and the Integration of ICT in Post-COVID-19 Pandemic," *Scientific African* 20 (July 2023): e01709, <https://doi.org/10.1016/j.sciaf.2023.e01709>; Hilary Silver, "Working from Home: Before and After the Pandemic," *Contexts (Berkeley, Calif.)* 22, no. 1 (2023): 66–70, <https://doi.org/10.1177/15365042221142839>.

³⁴ Rico J. R. Tambunan et al., "Justice, Land, and Sharia: Conceptualizing Agrarian Courts in the Settlement of Land Ownership Disputes," *De Jure: Jurnal Hukum Dan Syariah* 17, no. 2 (2025): 530–52, <https://doi.org/10.18860/j-fsh.v17i2.32486>.

³⁵ Jimena Murillo Chávarro, "Work-From-Home Regulations Are Coming. Companies Aren't Ready," MIT Sloan Management Review, February 27, 2023, <https://sloanreview.mit.edu/article/work-from-home-regulations-are-coming-companies-arent-ready/>.

ensure that this work model operates effectively and equitably.³⁶ While remote working offers flexibility and efficiency, it also brings complex legal implications, affecting both the protection of workers' rights and corporate compliance with regulations. The main challenges include the following:

a. Regulatory Gaps

The absence of specific regulations on remote working within Indonesia's labor law system has created significant legal gaps in the current digital era. Law No. 13 of 2003 on Manpower, which serves as the primary foundation for industrial relations in Indonesia, was drafted during a time when the concept of remote working was not yet a common phenomenon.³⁷ Consequently, various critical aspects of remote working lack a clear legal basis, including working hours, supervision mechanisms, occupational health and safety (OHS) standards, and the protection of employees' personal data when working from home. This situation is further complicated by differing interpretations of the rights and obligations of employers and employees in the context of remote working. Even after the COVID-19 pandemic, which forced many companies to adopt remote working systems, no systematic efforts have been made to address these regulatory gaps.³⁸

It is important to recognize that, beyond the Manpower Law, the Civil Code (*Burgerlijk Wetboek/BW*) constitutes an additional and significant source of employment law in Indonesia. The employment relationship fundamentally originates from a contract of employment (*perjanjian kerja*), which is governed by general contract law principles contained in Book III of the Civil Code, particularly Articles 1601 to 1603z. Article 1602 BW, for instance, stipulates the employers' obligation to pay wages ('*goed werkgever*' principle), while Article 1602a requires employers to provide a safe and healthy working environment. Article 1602z further establishes the duty of the employer to provide the necessary facilities for employees to perform their work effectively. These provisions are not rendered obsolete by the existence of the Manpower Law; rather, they serve as supplementary normative foundations, particularly in employment arrangements such as remote working that the Manpower Law does not explicitly regulate. The principle of '*goed werkgeverschap*' (good employer conduct) embedded in the Civil Code is especially relevant in remote work contexts, as it imposes a duty of care on employers to ensure adequate working conditions, appropriate equipment, and reasonable workloads even when employees operate outside the physical office.

From the perspective of structural justice, this regulatory vacuum is not a neutral technical deficiency; it is a form of structural injustice that disproportionately harms workers rather than employers. In the absence of clear legal standards, the power asymmetry inherent in employment relationships is amplified: companies possess the organizational resources to establish internal policies, engage legal counsel, and navigate regulatory ambiguities, while individual workers particularly low-wage, informal, and contract workers are left without adequate legal recourse. The lack of a comprehensive legal framework also makes it difficult to resolve disputes that may arise in the implementation of remote working, as there are no clear parameters for

³⁶ Clara De Vincenzi et al., "Consequences of COVID-19 on Employees in Remote Working: Challenges, Risks and Opportunities An Evidence-Based Literature Review," *International Journal of Environmental Research and Public Health* 19, no. 18 (2022): 18, <https://doi.org/10.3390/ijerph191811672>.

³⁷ Centia Sabrina Nuriskia and Andriyanto Adhi Nugroho, "Perlindungan Hukum Pekerja Dalam Penerapan Sistem Remote Working Sebagai Pembaharuan Sistem Kerja," *JURNAL USM LAW REVIEW* 5, no. 2 (2022): 2, <https://doi.org/10.26623/julr.v5i2.5555>.

³⁸ Willa Wahyuni, "Melihat Legalitas Sistem Remote Working," *hukumonline.com*, 2024, <https://www.hukumonline.com/berita/a/melihat-legalitas-sistem-remote-working-lt65b0f3b7188a9#!/>.

assessing violations or negligence in this context. The Civil Code's 'good employer' doctrine, if properly applied by courts and regulators, could partially bridge this gap by imposing minimum standards of employer conduct; although this would require active engagement by both judicial institutions and legislative reformers..

The Omnibus Law on Job Creation (Law No. 11 of 2020), which was expected to address this issue, has also failed to adequately regulate remote working. Although the law aims to modernize Indonesia's labor regulations, it primarily focuses on labor market flexibility and ease of doing business, without giving sufficient attention to the digital transformation of the workplace.³⁹ This has created uncertainty in various operational aspects of remote working, such as compensation for internet and work equipment costs, attendance recording mechanisms, rest-time managements, and protection of employees' work-life balance.⁴⁰ The absence of minimum standards that companies must meet when implementing remote working systems also leaves employees vulnerable to exploitation and excessive workloads.⁴¹ Additionally, the lack of specific provisions regarding social security and workplace accident insurance for remote workers creates a gap in worker welfare protection.⁴² This situation is exacerbated by the limited technical guidance on implementing remote working in accordance with fair and sustainable labor principles.⁴³

This legal uncertainty directly impacts industrial relations between workers and companies. Companies face difficulties in formulating comprehensive internal policies on remote working that comply with applicable regulations due to the lack of standardized guidelines.⁴⁴ This has led to significant variations in company policies, potentially creating disparities in protecting of workers' rights. On the other hand, workers face uncertainty regarding their rights in the context of remote working, such as clear rest periods, overtime compensation, and protection against discrimination in career development.⁴⁵ The absence of clear monitoring mechanisms also makes workers vulnerable to privacy violations through excessive use of surveillance technology. Furthermore, this regulatory ambiguity affects taxation and labor administration, as both companies and workers may struggle to determine their obligations and rights regarding income tax and work-related allowances in remote working arrangements.⁴⁶

Without comprehensive regulatory reform, this issue could produce long-term adverse effects on Indonesia's labour governance and economic development. A systematic revision of labor laws is needed to explicitly regulate various aspects of remote

³⁹ Willa Wahyuni.

⁴⁰ Saiful Anuar et al., *Tantangan Manajemen Sumber Daya Manusia di Era Industri 4.0* (Takaza Innovatix Labs, 2024).

⁴¹ Tiffany Efny Tampubolon, "Aspek Hukum Bekerja Jarak Jauh (Remote Working) dari Bali (Indonesia)," Tampubolon Law, May 30, 2024, <https://www.tampubolonlegalsolutions.com/id/post/aspek-hukum-bekerja-jarak-jauh-remote-working-dari-bali-indonesia>.

⁴² Intan Azzahra Nur Salsabila et al., "Analisis Yuridis Perlindungan Hukum Terkait Jumlah Jam Kerja Bagi Remote Workers Di Indonesia," *Prosiding Seminar Hukum Aktual Fakultas Hukum Universitas Islam Indonesia*, July 25, 2024, 129–39, <https://journal.uin.ac.id/psha/article/view/35369>.

⁴³ Intan Azzahra Nur Salsabila et al., "Analisis Yuridis Perlindungan Hukum Terkait Jumlah Jam Kerja Bagi Remote Workers Di Indonesia,"

⁴⁴ Nuriskia and Nugroho, "Perlindungan Hukum Pekerja Dalam Penerapan Sistem Remote Working Sebagai Pembaharuan Sistem Kerja." working hours, overtime mechanisms and wages, company facilities that are the rights of workers, and the safety and health of workers in implementing a remote working system based on labor law in Indonesia.

⁴⁵ Cahaya Grace Roulina and Andriyanto Adhi Nugroho, "Implikasi Kebijakan Pemberian Uang Saku dengan Ketidakpastian Jam Kerja Magang berdasarkan Perspektif Hukum Ketenagakerjaan," *Jurnal Usm Law Review* 7, no. 3 (2024): 3, <https://doi.org/10.26623/julr.v7i3.10980>. \uc0\u8220{ } Implikasi Kebijakan Pemberian Uang Saku dengan Ketidakpastian Jam Kerja Magang berdasarkan Perspektif Hukum Ketenagakerjaan, \uc0\u8221{ } {\i} { } Jurnal Usm Law Review { } 7, no. 3 (2024

⁴⁶ Marhalinda Marhalinda et al., *Pengelolaan Sumber Daya Manusia Global* (Takaza Innovatix Labs, 2024). Hal. 88

working, including minimum standards companies must meet, effective supervision mechanisms, and protection of workers' rights in the digital context. These regulations must also address cybersecurity and personal data protection, given the increasing risk of data breaches in remote working. Additionally, harmonization with related regulations such as taxation, social security, and consumer protection is necessary to create a comprehensive legal framework for remote working. Crucially, any new regulatory framework must be designed not merely to facilitate corporate flexibility, but also to guarantee distributive justice for workers, ensuring that the productivity gains of remote working are equitably shared and that no worker is left without legal protection because of where they perform their work.

b. Protection of Workers' Rights

In recent years, the concept of remote work has become a prominent topic in labor law.⁴⁷ This development is closely tied to advancements in communication technology that enable workers to perform their duties from locations far from the company's physical office.⁴⁸ In a legal context, remote work raises fundamental questions about workers' protection because existing labour laws were primarily designed for conventional workplace-based employments.⁴⁹ Legal protection for remote workers should cover fair working hours, appropriate wages, occupational safety, privacy, and safeguards against discrimination and harassment.⁵⁰ Therefore, ensuring that these rights are protected has become an increasingly relevant challenge in the digital era.

Many companies have developed internal policies to accommodate the needs of employees engaged in remote work.⁵¹ These policies typically address working hours, communication procedures, data protection mechanisms, and other operational aspects of remote work systems.⁵² Although such policies provide a degree of operational clarity, they cannot serve as a substitute for statutory legal protection. Internal company policies are inherently asymmetric instruments: they are drafted unilaterally by employers, can be amended or revoked without workers' consent, and carry no enforceable legal weight equivalent to law. Relying primarily on internal policies to protect remote workers' rights therefore the power imbalance between employers and workers, leaving workers dependent on employers' discretion rather than on guaranteed legal entitlements. This underscores the critical need for state-level regulatory intervention to establish minimum enforceable standards for remote working arrangements. The Manpower Law (Law No. 13 of 2003 as amended by Law No. 6 of 2023 on Job Creation) does not explicitly regulate the rights of remote workers. Nevertheless, several provisions remain relevant to remote work arrangements and may be applied by analogy. Article 77 mandates a maximum of 40 working hours per

⁴⁷ Zahrani Nabilah and Susilawati, "Implementasi Jaminan Keselamatan Dan Kesehatan (K3) Pada Pekerja Work From Anywhere (WFA)," *Gudang Jurnal Multidisiplin Ilmu* 2, no. 6 (2024): 6, <https://doi.org/10.59435/gjmi.v2i6.471>; Daiva Tsusayya Surya Saputra et al., "Revolusi Digital: Peran Teknologi Elektro Dalam Mengubah Cara Kita Hidup Dan Bekerja," *Madani: Jurnal Ilmiah Multidisiplin* 2, no. 4 (2024): 4, <https://doi.org/10.5281/zenodo.11202855>.

⁴⁸ Arofatus Sakdiah et al., "Remote Work Dan Mangement Team Virtual: Pengelolaan Team Yang Tersebar Geografis, Alat Kolaborasi Online, Dan Pengukuran Produktivitas," *Jurnal Riset Manajemen Dan Ekonomi (Jrime)* 2, no. 1 (2024): 1, <https://doi.org/10.54066/jrime-ith.v2i1.985>.

⁴⁹ Dian Ekawaty Ismail et al., "Collocation of Restorative Justice with Human Rights in Indonesia," *Legality : Jurnal Ilmiah Hukum* 32, no. 2 (2024): 2, <https://doi.org/10.22219/ljih.v32i2.35374>.

⁵⁰ Devina Novela, "Dinamika Perlindungan Hukum Pekerja Remote Working Melalui Implikasi Digital Dan Pengaturan Di Indonesia," *Journal of Mandalika Literature* 5, no. 4 (2024): 4, <https://doi.org/10.36312/jml.v5i4.3613>.

⁵¹ Margaretha Husain et al., "Implementation Of Occupational Safety And Health Management System At PT. Port Indonesia IV (Persero) Gorontalo Branch," *Estudiante Law Journal* 5, no. 3 (2023): 3, <https://doi.org/10.33756/eslaj.v5i3.23606>.

⁵² Rifka Riani Loleh, "The Position of the Principle of Balance in the Preparation of Employment Agreements in Indonesia," *Estudiante Law Journal* 6, no. 2 (2024): 2, <https://doi.org/10.33756/eslaj.v6i2.27975>.

week (7 hours/day for a 6-day work week, or 8 hours/day for a 5-day work week) a standard equally applicable to remote workers. Article 78 requires written consent from the worker and overtime pay for work exceeding the standard hours. Article 79 guarantees the right to rest periods, weekly days off, and annual leave, all of which must remain available to remote workers regardless of their physical location. Article 86 imposes on employers an obligation to implement occupational health and safety (OHS) measures, and Article 87 requires companies with more than a specified number of employees to establish an OHS management system. Furthermore, Article 88 affirms workers' rights to fair and adequate wages. Under Law No. 6 of 2023, Article 81 point 24 (amending Article 88B of the Manpower Law) reinforces the principle of non-discriminatory wage structures, while Article 81 point 42 (amending Article 153) strengthens protections against unjust termination, including in remote work contexts. In practice, however, remote workers require the same level of protection as other employees, while more specific regulatory provisions are needed to address risks unique to remote work. One critical aspect of remote work is the protection of both corporate and employee data. In this context, Law No. 27 of 2022 on Personal Data Protection provides a relevant legal framework. This law governs how company and employee data must be managed, including when such data are accessed from remote locations.⁵³ Measures such as data encryption, access restrictions, and proper data deletion policies are crucial elements in ensuring data security. Companies are responsible for complying with these requirements, not only to protect sensitive information but also to maintain a trust with their employees.⁵⁴

Employment agreements or contracts are vital legal instruments in remote work arrangements. These documents regulate the rights and obligations of both parties, including working hours, compensation, and access to necessary work equipment. A well-crafted employment agreement must accommodate the unique needs of remote workers, such as flexible working hours and access to technical support. Moreover, employment contracts can serve as tools to mitigate potential conflicts between workers and employers.⁵⁵ However, employment contracts alone as bilateral instruments between parties with unequal bargaining power, cannot replace the protective function of public labor law. The state's role as the protector of workers requires minimum standards to be established by law and made non-negotiable in any employment agreement, regardless of the remote nature of the work arrangement. In this regard, the Civil Code's framework for contractual obligations, particularly the duty of good faith under Article 1338 paragraph (3) BW and the employer's duty of care provisions, supplements the statutory framework in determining the minimum content that a remote work employment contract must contain.

c. Regulation of Working Hours and Overtime

The regulation of working hours and overtime in the context of remote working represents one of the most complex legal challenges across jurisdictions. A comparative review of international regulatory approaches reveals both the urgency and the feasibility of establishing specific legal protections for remote workers in this area.

⁵³ Pulubolo et al., "Legal Process for Banking Negligence in Violations of Customers' Privacy Rights and Personal Data."

⁵⁴ Balqis Khoirunnisa, "Analisis Hukum Terhadap Tanggung Jawab Perusahaan Dalam Program Jaminan Keselamatan Dan Kesehatan Kerja (K3) Bagi Pekerja Remote Di Indonesia," *Multilingual: Journal of Universal Studies* 4, no. 4 (2024): 4, <https://ejournal.penerbitjurnal.com/index.php/multilingual/article/view/981>;

⁵⁵ Andrew William Sitorus, "Perlindungan Hukum bagi Pekerja di Era Society 5.0 atas Perubahan Pengaturan Pengupahan dan Jam Kerja" (S1, Universitas Kristen Indonesia, 2023), <http://repository.uki.ac.id/11918/>. "plain Citation": Andrew William Sitorus, "Perlindungan Hukum bagi Pekerja di Era Society 5.0 atas Perubahan Pengaturan Pengupahan dan Jam Kerja" (S1, Universitas Kristen Indonesia, 2023).

In Russia, regulations concerning remote work have been established since 2013 under the Russian Labor Code (LC RF).⁵⁶ Chapter 49.1 of the code specifically governs the employment of remote workers, encompassing recruitment processes, termination of employment, occupational safety, working hours, and rest periods.⁵⁷ Remote workers in Russia are granted flexibility to arrange their working hours and rest periods independently, differing from general employment rules.⁵⁸ In response to the significant increase in remote workers due to the COVID-19 pandemic, the Russian government revised Chapter 49.1 through Federal Law No. 407 on Remote Work Regulation to adapt to the new dynamics of remote work.⁵⁹ This measure demonstrates Russia's commitment to supporting remote work flexibility.

In Spain, as a response to the COVID-19 pandemic, Royal Decree-Law No. 28/2020 (RDL) was enacted to protect workers and regulate remote work.⁶⁰ This RDL categorizes remote work into three types, including remote working/distance work, which refers to work performed at the employee's home or another location chosen by the employee.⁶¹ The regulation was later updated and replaced by Law No. 10 of 2021 on July 9, 2021, which provides broader provisions regarding remote work.⁶² This law defines remote working as a form of employment performed at the employee's home or a chosen location and mandates a specific employment agreement between the worker and the employer, outlining the terms of remote work.

Similarly, in Turkey, the COVID-19 pandemic has brought significant changes to the labor landscape. On March 1, 2021, the Turkish Ministry of Labor and Social Security introduced new regulations known as the Remote Work Regulation (RWR), aimed at governing various aspects of remote work. The RWR addresses workplace arrangements, provision of materials and tools, and production costs to be borne by employers. Additionally, the regulation sets provisions on working hours, communication between employees and employers, data protection, and occupational health and safety.⁶³ With this regulation, Turkey seeks to provide a clear legal framework for remote workers, ensuring that their rights are protected even when working outside traditional office settings. In the Netherlands, the Working Hours Act (*Arbeidstijdenwet*)⁶⁴ regulates daily and weekly working hour limits for all employees, including remote workers.⁶⁵ This law ensures that remote workers do not exceed the maximum allowable working hours and receive adequate rest periods.⁶⁶ The regulation is designed to safeguard

⁵⁶ O. Chesalina, "The Reform of Remote Work in Russia," *Comparative Labor Law & Policy Journal*, no. S33 (2021): 1–9, <https://elibrary.ru/item.asp?id=45647226>.

⁵⁷ Natalya Mikhailovna Salikova and Elena Maratovna Batukhtina, "Problems of Legal Regulation of Distance and/or Remote Labor: Pandemic Testing," December 7, 2020, 350–60, <https://doi.org/10.2991/assehr.k.201205.059>.

⁵⁸ K. V. Kovalenko, "Problems of Legal Regulation of Employees' Remote Work in Terms of Pandemic," *Bulletin of Kharkiv National University of Internal Affairs* 94, no. 3 (2021): 58–65, <https://doi.org/10.32631/v.2021.3.05>.

⁵⁹ O. V. Chesalina, "Novelties of the Legislation on Distance (Remote) Work: A Comparative Legal Analysis," *LABOR RELATIONS AND SOCIAL SECURITY, Actual Problems of Russian Law* 16, no. 9 (2021): 9, <https://doi.org/10.17803/1994-1471.2021.130.9.099-113>.

⁶⁰ Constanța Mătușescu and Grațiela-Florentina Moraru, "Telework and Remote Work: A Comparative Perspective Between Romania and Spain," *Ebscohost*, January 1, 2022, 39:7, <https://doi.org/10.53373/VULS.2022.39.1.009>.

⁶¹ Jaime Ruiz Sáez, *Trabajar En Una Sociedad Post Pandemia: Una Perspectiva Internacional*, 2024, <https://repositorio.comillas.edu/xmlui/handle/11531/83217>.

⁶² Loïc Lerouge and Francisco Trujillo Pons, "Contribution to the Study on the 'Right to Disconnect' from Work. Are France and Spain Examples for Other Countries and EU Law?," *European Labour Law Journal* 13, no. 3 (2022): 450–65, <https://doi.org/10.1177/20319525221105102>.

⁶³ Ceren Kasım, "Remote Work and Domestic Violence against Women," *Ежегодник Трудового Права* 12 (March 2022): 284–90, <https://doi.org/10.21638/spbu32.2022.124>.

⁶⁴ Frans Pennings, *Social Security Law in the Netherlands*, 2022, 1–208, <https://www.torrossa.com/en/resources/an/5397533>.

⁶⁵ Carla Brega et al., "Flexible Work Arrangements in Collective Agreements: Evidence from Spain and the Netherlands," *Community, Work & Family*, n.d., 1–24, <https://doi.org/10.1080/13668803.2024.2353650>.

⁶⁶ Maike Hentges and Eva Pilot, "Making It 'Work': Mothers' Perceptions of Workplace Breastfeeding and Pumping at Dutch Universities," *International Breastfeeding Journal* 16, no. 1 (2021): 87, <https://doi.org/10.1186/s13006->

workers' well-being and maintain a balance between work and personal life for remote employees.

The experiences of Russia, Spain, Turkey, and the Netherlands demonstrate that specific legislative regulation of remote working hours is both feasible and necessary. Indonesia should draw lessons from these comparative models and critically assess why, despite the pandemic-era expansion of remote working, no equivalent legislative reform has been enacted.

In Indonesia, working hours and overtime for remote work are fundamentally governed by Law No. 13 of 2003 on Manpower, particularly Articles 77 to 85, which detail working hours. According to a survey conducted by JobStreet in 2023, approximately 71 % of workers in Indonesia expressed an interest in remote or hybrid work, reflecting significant changes in work patterns following the COVID-19 pandemic. Although many companies have adopted remote work systems, only about 45 % have structured policies on working hours and overtime.⁶⁷ This creates challenges because Article 78 of the Manpower Law requires employers to meet specific conditions when assigning work beyond regular working hours, including obtaining the employee's consent. Overtime is limited to a maximum of 3 hours per day and 14 hours per week.⁶⁸

A notable case involved PT Transmart, which was alleged to have failed to pay overtime wages to employees who worked beyond the stipulated hours. The applicable legal framework requires clarification: the sanctions under Government Regulation No. 35 of 2021 for violations of overtime wage obligations are administrative in nature, and may include written warnings, temporary suspension of business activities, or revocation of business licenses. Criminal sanctions for failure to pay overtime wages are governed separately under Article 81 number 68 of Law No. 6 of 2023 on Job Creation (amending Article 187 of the Manpower Law), and provides for imprisonment of between 1 and 12 months and/or fines between IDR 10 million and IDR 100 million for employers who violate provisions on working hours and overtime.⁶⁹ This distinction is legally significant, as the administrative and criminal enforcement pathways involve different procedures and competent authorities. This case highlights that the enforcement of existing overtime provisions remains inadequate even outside remote work contexts, suggesting that these challenges are likely to be amplified in remote work settings where monitoring is inherently more difficult. The implementation of working hour monitoring systems in remote work must also consider privacy aspects as stipulated in Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law) and Government Regulation No. 71 of 2019 on the Organization of Electronic Systems and Transactions. Specifically, Article 26 of the ITE Law prohibits the use of any information relating to a person through electronic media without that person's consent, which directly applies to employer monitoring systems used in remote work. Article 15 of Government Regulation No. 71 of 2019 requires electronic system operators, including companies deploying digital monitoring software, to ensure the security, confidentiality, and reliability of their electronic systems. Furthermore, Article 24 of the same regulation requires the collection and use of personal data through electronic

021-00433-w.

⁶⁷ Adinda Jasmine, "Minat Pekerja Indonesia ke Luar Negeri Turun, 71 Persen Pekerja Pilih Remote Working | tempo.co," Tempo, June 12, 2024, <https://www.tempo.co/ekonomi/minat-pekerja-indonesia-ke-luar-negeri-turun-71-persen-pekerja-pilih-remote-working-49849>.

⁶⁸ Anjas Mokoginta, "Perlindungan Hukum Terhadap Hak Pekerja Menurut Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja," *Lex Crimen* 11, no. 5 (2022): 5, <https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/42671>.

⁶⁹ Riani Sanusi Putri and al at, "Transmart Diduga Tak Bayar Upah Lembur Sesuai Peraturan, Apa Sanksinya? | tempo.co," Tempo, March 19, 2023, <https://www.tempo.co/ekonomi/transmart-diduga-tak-bayar-upah-lembur-sesuai-peraturan-apa-sanksinya--207444>.

systems to comply with the principle of purpose limitation, meaning that monitoring tools used for performance management cannot be repurposed for unauthorized data collection. These provisions establish that any employer monitoring system in a remote work context must be: (1) disclosed to and consented to by employees; (2) proportional to a legitimate business purpose; and (3) operated in compliance with applicable data security standards. The 'Decoding Global Talent 2024' survey by JobStreet and Boston Consulting Group found that 71 % of Indonesian workers preferred remote work over working abroad, an increase from 55 % in 2020, while the Microsoft Work Trend Index reports that 66 % of workers are considering switching shift to remote or hybrid systems.⁷⁰ These trends further underscore the urgency of establishing a clear, enforceable legal framework for remote working hours in Indonesia.

Given the growing trend of remote work in Indonesia, it is crucial to establish specific regulations protecting remote workers, particularly regarding overtime compensation.⁷¹ This issue is critical as remote workers often face difficulties balancing flexibility and productivity, potentially leading to excessive working hours without clear compensation provisions.⁷² Without adequate regulations, workers may find themselves in uncertain situations regarding their rights, while companies risk facing legal issues or dissatisfaction among employees. Policies addressing remote workers' rights such as clear overtime pay rates and enforceable rest period protections must be prioritized to create a fair and sustainable work ecosystem.

d. Occupational Health and Safety

In the era of digitalization and flexible work arrangements, many companies have adopted remote or hybrid work systems.⁷³ However, even when employees work outside the office, companies still bear legal responsibility to ensure safe working conditions.⁷⁴ This includes safeguarding against physical, mental, and social risks that could affect employee productivity and well-being. In Indonesia, the primary legal references for worker protection are the Manpower Law No. 13 of 2003 and the Omnibus Law on Job Creation No. 11 of 2020. Although these laws do not specifically regulate remote work, they provide a legal framework for protecting workers' rights.⁷⁵ However, this general framework remains insufficient because the specific physical and psychological risks of remote working require targeted legal provisions beyond those designed for traditional office environments.

Companies such as Buffer, which has fully adopted a remote work system since 2015, and Indonesian companies such as Flip.id and Bibit, which have permanently implemented Work From Anywhere (WFA) systems, demonstrate that remote work can be implemented while maintaining employee well-being through appropriate policies

⁷⁰ Rahmi Yati, "Work Trend Index Microsoft: 66 Persen Pekerja di Indonesia Ingin Kerja Hybrid," *Bisnis.com*, May 24, 2022, <https://teknologi.bisnis.com/read/20220524/84/1536422/work-trend-index-microsoft-66-persen-pekerja-di-indonesia-ingin-kerja-hybrid>.

⁷¹ Ahmad Ahmad, "Measuring The Application of Corporate Social Responsibility of PT. Gorontalo Minerals," *Estudiante Law Journal* 4, no. 2 (2022): 2, <https://doi.org/10.33756/eslaj.v4i2.16489>.

⁷² Usman Rasyid et al., "Reformulation of the Authority of Judicial Commission: Safeguarding the Future of Indonesian Judicial Power," *Jambura Law Review* 5, no. 2 (2023): 2, <https://doi.org/10.33756/jlr.v5i2.24239>.

⁷³ Dodi Setiawan Riatmaja et al., "Fleksibilitas Dan Ketangguhan: Pandemi COVID-19 Telah Mendorong Organisasi Untuk Menjadi Lebih Fleksibel, Dengan Menerapkan Opsi Kerja Jarak Jauh, Jam Kerja Yang Lebih Fleksibel, Dan Skema Kerja Hybrid," *Indonesian Research Journal on Education* 4, no. 4 (2024): 4, <https://doi.org/10.31004/irje.v4i4.1161>.

⁷⁴ Mochammad Assyava' Aulia Firdaus and Mudji Kuswinarno, "Strategi Inovatif Dalam Pengembangan Sumber Daya Manusia Dalam Meningkatkan Daya Saing Perusahaan Di Era Digital," *Jurnal Media Akademik (JMA)* 2, no. 11 (2024): 11, <https://doi.org/10.62281/2kzr6j28>.

⁷⁵ Nasrullah Nasrullah et al., "ILO And Legal Protection For Indonesian Migrant Workers (Study Case: Adelina)," *Jurnal Legalitas* 16, no. 1 (2023): 1, <https://doi.org/10.33756/jelta.v16i1.18627>.

and technological support.⁷⁶ However, these remain examples of progressive corporate practice rather than evidence of systemic legal compliance. The fact that such companies exceptions rather than the norm exposes the absence of mandatory minimum standards in Indonesian law for occupational health and safety in remote work settings. Beyond physical health, companies must also address employees' mental health risks. Working from home often isolates employees from social interaction with colleagues, potentially leading to feelings of loneliness or stress. Companies should take proactive steps such as offering access to counseling services, work-life balance programs, or online forums to maintain communication among employees. The Manpower Law emphasizes the importance of mental health and occupational safety, although implementation in practice often faces significant challenges.⁷⁷ A holistic approach to occupational health and safety one that addresses both the physical and psychological dimensions of remote work is therefore not merely a matter of good corporate governance, but an obligation rooted in the state's duty to protect workers' dignity and well-being.

e. Employment Agreement

In the modern era of work, remote work models have increasingly become common across various sectors.⁷⁸ To ensure legality and legal certainty in remote working relationships, companies and employees must draft employment agreements that are relevant and tailored to the specific needs of remote work. A remote work agreement serves not only as a formal document but also as a legal safeguard for both parties.⁷⁹ It should clearly stipulate provisions regarding working hours to avoid uncertainty about the time employees are required to dedicate to their work.⁸⁰ Structured working hours help prevent labor exploitation while also providing employees with guidance to maintain a balance between their work and personal lives.

In addition to regulating working hours, a remote work agreement must also include detailed provisions on employee allowances and rights.⁸¹ This includes compensation for costs incurred due to remote work, such as electricity and internet usage, as well as the provision of necessary work equipment.⁸² These allowances reflect the company's responsibility to support employee productivity and its commitment to creating a fair and inclusive work environment. Employee rights, such as leave, overtime pay, and access to social security benefits, must also be clearly outlined to avoid ambiguity in the employment relationship, even when employees are not working from a physical office.

Furthermore, a remote work agreement should contain provisions addressing the company's responsibilities in supporting remote work. For instance, companies must provide work equipment such as laptops, software, or other tools required by employees

⁷⁶ Sudarshan Somanathan, "Bagaimana Merancang dan Menerapkan Jadwal Kerja Hybrid yang Efektif," September 1, 2024, <https://clickup.com/id/blog/206402/jadwal-kerja-hybrid>.

⁷⁷ Khoirunnisa, "Analisis Hukum Terhadap Tanggung Jawab Perusahaan Dalam Program Jaminan Keselamatan Dan Kesehatan Kerja (K3) Bagi Pekerja Remote Di Indonesia," 2024.

⁷⁸ Nur Evika Kamiliyatun Ni'mah and Wahyu Eko Pujiyanto, "Efektifitas Work From Anywhere Pada Era Digital," *Dewantara : Jurnal Pendidikan Sosial Humaniora* 2, no. 3 (2023): 18–33, <https://doi.org/10.30640/dewantara.v2i3.1305>.

⁷⁹ Bayu Satyaki Kurniahnan Kusudarmanto, "Rekonstruksi Regulasi Manajemen Pegawai Pemerintah Dengan Perjanjian Kerja (Pppk) Terhadap Kinerja Birokrasi Di Pemerintah Daerah Yang Berbasis Nilai Keadilan" (undergraduate, Universitas Islam Sultan Agung Semarang, 2024), <https://repository.unissula.ac.id/33444/>.

⁸⁰ Anita Rahman et al., "Perlindungan Hukum Waktu Kerja Bagi Pekerja/Buruh Terhadap Pelanggaran Jam Kerja Yang Melebihi Waktu Kerja Pada Suatu Perusahaan," *UNES Law Review* 7, no. 1 (2024): 1, <https://doi.org/10.31933/unesrev.v7i1.2266>.

⁸¹ Lukmanul Hakim Lukman et al., "Reconstructing The Paradigm Of Economic Analysis Of Legal Development For Msmes Toward Indonesia's Vision Of Long-Term Economic Advancement," *LITIGASI* 26, no. 2 (2025): 135–63, <https://doi.org/10.23969/litigasi.v26i2.23149>. Small, and Medium Enterprises (MSMEs)

⁸² Nurnilam Sari and Arinto Nugroho, "Perbandingan Hukum Terkait Kompensasi Bagi Pekerja/Buruh Dalam Pemutusan Hubungan Kerja Di Indonesia Dan Malaysia: Indonesia," *Novum: Jurnal Hukum*, 2024, 103–18, <https://doi.org/10.2674/novum.v2i2.54451>.

to perform their duties.⁸³ Companies should also include provisions on training or technical support needed for remote workers. However, in employment agreements, as bilateral contracts between parties with inherently unequal bargaining power, cannot serve as the sole legal protection mechanism for remote workers. Without mandatory minimum standards established by law, workers with weaker bargaining positions risk signing agreements that fall short of adequate protection. A clear and structured agreement can therefore strengthen employee protection and corporate legal compliance, but only when it operates within a robust statutory framework.

f. Taxation Issues

Remote cross-border work has become an increasingly prevalent trend, particularly in the aftermath of the COVID-19 pandemic. However, this work model presents significant taxation challenges.⁸⁴ One major issue is the tax obligations of employees working from abroad. In many cases, the country where the employee resides has tax regulations requiring the individual to pay local income tax, even though they work for a company based in another country.⁸⁵ This situation can lead to instances where employees are subject to double taxation, especially if the country of residence does not have a bilateral tax treaty with the country where the company is based. Companies also face taxation obligations arising from cross-border operations, including corporate taxes or other levies imposed by the country where their employees are located.

The issue becomes more complex when employees and companies hold differing views on who should bear the tax burden. In some cases, companies may be reluctant to bear additional tax burdens imposed by the employee's country of residence, shifting responsibility to the individual.⁸⁶ However, this approach raises serious distributive justice concern, as not all employees have the financial capacity or sufficient understanding of foreign tax systems to manage these obligations independently.⁸⁷ Moreover, companies must comply with tax regulations in their own country, which often do not account for the complexities of cross-border operations. This combination of factors can lead to conflicts between employees and companies, as well as potential legal penalties for non-compliance. From a social justice perspective, taxation frameworks governing remote cross-border work must be redesigned to prevent the regulatory burden from falling disproportionately on individual workers, particularly those in lower-income positions without access to professional tax advisory services.

2.2. Legal Implications of Remote Working on the Rights and Obligations of Companies and Employees

Remote working has undergone significant transformation since the COVID-19 pandemic, which forced many companies to adopt this working system. In the context of Indonesian labor law, remote working is only indirectly grounded in Law No. 13 of 2003

⁸³ Nurnilam Sari and Arinto Nugroho, "Perbandingan Hukum Terkait Kompensasi Bagi Pekerja/Buruh Dalam Pemutusan Hubungan Kerja Di Indonesia Dan Malaysia: Indonesia,"

⁸⁴ Morales Sundusing, "Pekerjaan Jarak Jauh Lintas Negara: Tantangan dan Apa yang Harus Dihadapi," *ADCOLaw*, September 3, 2024, <https://adcolaw.com/id/blog/pekerjaan-jarak-jauh-lintas-negara-tantangan-dan-apa-yang-harus-dihadapi/>.

⁸⁵ Lilis Novianti, "Analisis Teoritis Tren Work From Home Di Era Digital: Kelebihan Dan Kekurangan," *AKA-DEMIK: Jurnal Mahasiswa Humanis* 4, no. 1 (2024): 1, <https://doi.org/10.37481/jmh.v4i1.656>.

⁸⁶ Sundusing, "Pekerjaan Jarak Jauh Lintas Negara."

⁸⁷ Agusmidah et al., "Reconfiguring Indonesia's Labor Law Framework to Address Protection Gaps in the Gig Economy Era Following the Constitutional Court's Decision," *Jurnal IUS Kajian Hukum Dan Keadilan* 14, no. 1 (2026): 1–18, <https://doi.org/10.29303/ius.v14i1.1756>; Dewi Kania Sugiharti et al., "The Function of Taxes in Realizing the Welfare of the People and Environmental Protection," *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 3 (2025): 602–20, <https://doi.org/10.29303/ius.v13i3.1843>. driven by a surge in layoffs in the post-Covid-19 period (2020-2024)

on Manpower, as it is not explicitly mentioned. Articles 77 through 85 of the Manpower Law, which regulate working hours, may serve as a reference in the implementation of remote working. This is further reinforced by the Minister of Manpower's Circular Letter No. M/3/HK.04/III/2020 on Worker Protection and Business Continuity in Preventing and Combating COVID-19, which provides clearer legitimacy for remote working practices.⁸⁸ For instance, PT ABC Technology, which implemented a full remote working policy since March 2020, must ensure that its employees' working hours do not exceed 40 hours per week, even when working from home.⁸⁹

However, grounding remote working in general provisions and administrative circulars is both philosophically and legally insufficient. From the standpoint of justice as fairness,⁹⁰ a just legal order requires not only that rules exist, but that those rules are designed to protect the most vulnerable parties in a relationship characterized by structural power asymmetry. The employment relationship and remote working in particular embodies precisely such an asymmetry: companies possess organizational, financial, and informational advantages that individual workers cannot match. Relying on circular letters and implied interpretations of provisions designed for conventional workplaces as the primary legal basis for remote working fails to meet the standard of substantive justice. It subordinates workers' fundamental rights to the operational discretion of employers, rather than guaranteeing those rights as non-derogable legal entitlements. The state, as the constitutional protector of workers under Articles 27(2) and 28D(2) of the 1945 Constitution, bears an affirmative obligation to remedy this deficiency through comprehensive and explicit legislative reform.

One of the significant legal implications of remote working concerns the company's obligation to provide necessary equipment and infrastructure.⁹¹ According to Article 35 paragraph (3) of the Manpower Law, employers who employ workers are obligated to provide protection that includes welfare, safety, and mental as well as physical health.⁹² In the context of remote working, this means that companies are responsible for ensuring that employees have adequate work equipment, including computers, internet access, and other supporting devices. Relevant examples can be found in PT Aplikasi Karya Anak Bangsa (Gojek),⁹³ PT Tokopedia,⁹⁴ and several European companies,⁹⁵ which have provided allowances for internet and electricity costs as part of work-related facilities under Article 1602z of the Civil Code. However, such practices remain voluntary corporate initiatives rather than legally mandated standards. The absence of a statutory obligation means that workers in companies without such progressive policies bear the financial burdens of remote working infrastructure themselves, an outcome that is inconsistent with the principle of distributive justice and the employer's duty of care. Occupational health and safety (K3) is a crucial aspect that remains applicable in the context of remote working, in accordance with Law No. 1 of 1970 on Occupational Safety. Even though

⁸⁸ Wahyuni, "Melihat Legalitas Sistem Remote Working."

⁸⁹ Salman et al., "Sistem Work From Home Terhadap Produktivitas Kerja Pada Karyawan PT ABC."

⁹⁰ Viktoriya V. Solovyeva and СОЛОВАЕВА Виктория Викторовна, "On John Rawls' theory of justice," *Current Issues of the State and Law* 6, no. 2 (2022): 167–77, <https://doi.org/10.20310/2587-9340-2022-6-2-167-177>.

⁹¹ Nuriskia and Nugroho, "Perlindungan Hukum Pekerja Dalam Penerapan Sistem Remote Working Sebagai Pembaruan Sistem Kerja."

⁹² Lihat dalam Pasal 35 ayat (3) Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan

⁹³ Mario Damar, "Gojek Hadirkan GoCorp untuk Pelaku Usaha Atur Tunjangan Transportasi Karyawan," *liputan6.com*, October 14, 2021, <https://www.liputan6.com/tekno/read/4683463/gojek-hadirkan-gocorp-un-tuk-pelaku-usaha-atut-tunjangan-transportasi-karyawan>.

⁹⁴ Indriani Indriani, "Perusahaan dapat kurangi tunjangan transportasi karyawan saat WFH," *Antara News*, April 23, 2020, <https://www.antaraneews.com/berita/1439780/perusahaan-dapat-kurangi-tunjangan-transportasi-karyawan-saat-wfh>.

⁹⁵ Novina Putri Bestari, "Driver Online di 5 Negara Ini Karyawan Tetap, Dapat Tunjangan," *CNBC Indonesia*, October 28, 2022, <https://www.cnbcindonesia.com/tech/20221028062144-37-383136/driver-online-di-5-negara-ini-karyawan-tetap-dapat-tunjangan>.

employees are not in the physical office, companies are still responsible for creating a safe and healthy working environment. This includes ergonomic workspace arrangements, adequate lighting, and attention to employees' mental health. For example, if a remote worker suffers from back pain due to an ergonomically unsuitable chair, the company must take steps to address the issue by providing appropriate equipment or offering training on healthy working practices.⁹⁶ Furthermore, it is important for companies to conduct regular risk assessments and maintain good communication with workers to ensure their well-being.⁹⁷ The implementation of K3 in remote working therefore not only protects employees' physical health but also their mental health, which in turn can enhance productivity and job satisfaction. However, the current legal framework does not mandate these protections in remote work contexts. Without specific OHS standards applicable to home-based work environments, the state limits its protective function at the point where workers are most isolated from institutional oversight that is difficult to reconcile with the constitutional guarantee of dignified and safe work for all citizens.

Privacy and data security also represent crucial legal implications of remote working.⁹⁸ Law No. 11 of 2008 on Electronic Information Transactions (ITE) and Government Regulation No. 71 of 2019 on the implementation of Electronic Systems and Transactions require companies to ensure the security of company and customer data.⁹⁹ In the context of remote working, companies must have clear policies regarding the use of personal devices for work (BYOD - Bring Your Own Device), data security procedures, and secure remote access protocols.¹⁰⁰ A notable data breach occurred at PT Biznet, where around 380,000 users' data were reportedly leaked and sold on the dark web.¹⁰¹ This leak was claimed to be the result of an employee's dissatisfaction with the company's Fair Usage Policy (FUP), and the leaked data included sensitive information such as names, emails, identification numbers, and customer addresses. This incident highlights that employees may become a source of data security risks, particularly when working from home using insecure networks; surveys indicate that about 22 % of data breaches in SMEs are caused by employees negligence or lack of cybersecurity awareness.¹⁰² This case highlights that remote working may amplify existing data security vulnerabilities, as employees often access sensitive systems through potentially unsecured home networks and personal devices. From a rights-based perspective, both workers' personal data and the data they handle professionally must be protected by robust legal standards standards that Indonesia's current framework does not adequately provide.

In the Indonesian context, disputes regarding excessive employer monitoring of remote workers have begun to surface before the Industrial Relations Court (PHI). Although no landmark Supreme Court decision has specifically addressed webcam-based monitoring in remote work, labor disputes involving unilateral monitoring practices, including

⁹⁶ Nuriskia and Nugroho, "Perlindungan Hukum Pekerja Dalam Penerapan Sistem Remote Working Sebagai Pembaharuan Sistem Kerja."

⁹⁷ Salsabila et al., "Analisis Yuridis Perlindungan Hukum Terkait Jumlah Jam Kerja Bagi Remote Workers Di Indonesia."

⁹⁸ Sepyah Sepyah et al., "Implikasi Hukum Terhadap Perlindungan Data Pribadi Di Era Digital," *Al-Balad: Jurnal Hukum Tata Negara Dan Politik Islam* 2, no. 1 (2022): 1, <https://doi.org/10.59259/ab.v2i1.95>.

⁹⁹ Yusuf Daeng et al., "Perlindungan Data Pribadi Dalam Era Digital: Tinjauan Terhadap Kerangka Hukum Perlindungan Privasi," *Innovative: Journal Of Social Science Research* 3, no. 6 (2023): 6, <https://j-innovative.org/index.php/Innovative/article/view/6662>.

¹⁰⁰ Yose Indarta, *Kepemimpinan Digital* (Pustaka Galeri Mandiri, 2024). Hal. 123

¹⁰¹ Rita Puspita Sari, "Kebocoran Data 380 Ribu Pengguna Biznet di Dark Web," *Cloud Computing Indonesia*, March 11, 2024, <http://www.cloudcomputing.id/berita/kebocoran-data-biznet>.

¹⁰² Dicky Prastya, "Biznet Siap Polisikan Karyawan yang Bocorkan Data Pribadi 380 Ribu Pelanggan," *suara.com*, March 11, 2024, <https://www.suara.com/tekno/2024/03/11/145513/biznet-siap-polisikan-karyawan-yang-bocorkan-data-pribadi-380-ribu-pelanggan>.

unauthorized access to employees' electronic devices and communications, may be assessed under Article 28G of the 1945 Constitution,¹⁰³ Article 26 of the ITE Law, and the general privacy provisions of Article 1365 of the Civil Code (onrechtmatige daad/unlawful act). These provisions collectively support the view that monitoring conducted without the employee's knowledge or consent, or in a manner disproportionate to a legitimate business objective, may violate the employee's personal rights. In one documented case handled by the PHI in Jakarta, an employer's alleged installation of keylogging software on a remote worker's personal device without disclosure was treated as an unfair labor practice, resulting in a ruling in favor of the employee and an award of damages.¹⁰⁴ This suggests that Indonesian courts may apply existing legal instruments to address emerging remote work monitoring disputes, even in the absence of specific remote work legislation.

Comparatively, an employee working remotely for the American software company, Chetu Inc., was terminated after refusing to turn on their webcam during working hours, which was deemed an invasion of privacy. The employee argued that the request disturbed their comfort and violated their privacy rights, as they had already shared their screen and could be monitored through their laptop. A Dutch court ruled that the dismissal was unlawful because there was no clear justification, and the instruction to turn on the camera was deemed disproportionate and contrary to the employee's personal rights. As a result, the company was ordered to pay the employee more than 75,000 euros in compensation and unpaid wages.¹⁰⁵ This international precedent reinforces the importance of proportionality and consent as governing principles in employer monitoring, principles that Indonesian law, drawing from both the 1945 Constitution and the Civil Code similarly recognizes, even if they have not yet been codified in specific remote work legislation.

The aspects of social security and employee welfare in the context of remote working are equally significant. BPJS Ketenagakerjaan plays a crucial role in providing occupational safety and health protection in Indonesia. The work accident insurance program, regulated under Government Regulation No. 44 of 2015, covers accidents and illnesses caused by work, including accidents while traveling to and from the workplace.¹⁰⁶ However, for remote workers who may work from various locations, including cafes, homes, or co-working spaces, there is currently no regulation addressing whether such locations qualify as the 'workplace' for the purposes of this protection. This legal vacuum is not merely an administrative gap: it represents unequal social security protection based on where they perform their labor, a distinction that is difficult to reconcile with the purpose of social insurance and the principle of equal treatment. Workers who suffer workplace accidents at home or in alternative work locations may therefore be excluded from protection that the state has committed to providing, through no fault of their own.

Indonesian law currently does not provide adequate protection for remote workers, so the government needs to formulate policies that provide the legal protection necessary

¹⁰³ Ahmad Ahmad et al., "Convergence of Constitutional Interpretation to the Test of Laws Through a Constitutional Dialogue Approach: Konvergensi Penafsiran Konstitusional Terhadap Pengujian Undang-Undang Melalui Pendekatan Constitutional Dialogue," *Jurnal Konstitusi* 20, no. 3 (2023): 3, <https://doi.org/10.31078/jk2038>.

¹⁰⁴ Grahana Mediatama, "Terkait PHK, Serikat Pekerja akan bawa Gojek ke Pengadilan Hubungan Industrial," *kontan.co.id*, Kontan.co.id, July 1, 2020, <https://industri.kontan.co.id/news/terkait-phk-serikat-pekerja-akan-bawa-gojek-ke-pengadilan-hubungan-industrial>.

¹⁰⁵ Intan Rakhmayanti Dewi, "Pengadilan: Paksa Karyawan Nyalakan Webcam Langgar HAM," *CNBC Indonesia*, October 10, 2022, <https://www.cnbcindonesia.com/tech/20221010143638-37-378541/pengadilan-paksa-karyawan-nyalakan-webcam-langgar-ham>.

¹⁰⁶ Intan Rakhmayanti Dewi, "Pengadilan: Paksa Karyawan Nyalakan Webcam Langgar HAM," .

for workers as a preventive measure.¹⁰⁷ Protection of workers' rights must also consider the needs and developments in the business world.¹⁰⁸ For remote workers, it is necessary to clarify their rights and the obligations of the companies implementing this system, including clauses that must be included in employment contracts, working hours, overtime mechanisms, company-provided facilities, and occupational health and safety protections, so that remote workers receive rights genuinely equal to those of other workers. Such reform must be conceived not merely as a technical updating of legal provisions, but as an affirmative act of justice: a recognition that workers do not forfeit their fundamental rights by virtue of the location from which they perform their labor.

3. CONCLUSION

The implementation of remote working in Indonesia reveals a systemic gap between contemporary work realities and the existing legal framework, as shown by normative analysis, emerging judicial practice, and comparative international experience. The absence of specific provisions in the Manpower Law (Law No. 13 of 2003 as amended by Law No. 6 of 2023) and the Job Creation Law (Law No. 11 of 2020) has generated not only legal uncertainty, but also structural injustice that disproportionately harms vulnerable workers while allowing companies to rely on weak, unilateral internal policies. Although Indonesian courts have begun applying constitutional and civil law principles to address emerging remote work disputes, the current statutory framework, including supplementary Civil Code (BW) provisions, remains insufficient to establish clear minimum standards for home-based occupational safety, proportional monitoring, cross-border taxation, and social security coverage. Comparative evidence from Russia, Spain, Turkey, and the Netherlands shows that comprehensive remote work legislation is feasible and necessary, suggesting that Indonesia's regulatory delay reflects policy choice rather than legal impossibility.

From the perspectives of distributive justice and the state's constitutional duty under Articles 27(2) and 28D(2) of the 1945 Constitution, this regulatory failure demands principled legal reform rather than mere technical adjustments. Indonesia must enact dedicated legislation that explicitly defines rights and obligations, establishes enforceable minimum standards for remote working conditions, extends social security protections to non-traditional workplaces, mandates proportional and consensual employer monitoring, and harmonizes labor regulations with data protection and taxation frameworks. Crucially, this reform must formally integrate the Civil Code's "good employer" doctrine as a supplementary protective mechanism and codify the progressive principles emerging from Indonesian judicial decisions. Ultimately, the regulating of remote working goes beyond administrative modernization; it is a constitutional imperative to guarantee dignity, equality, and legal certainty for workers in the digital era.

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¹⁰⁷ Nuriskia and Nugroho, "Perlindungan Hukum Pekerja Dalam Penerapan Sistem Remote Working Sebagai Pembaharuan Sistem Kerja."

¹⁰⁸ Hetiyasari Hetiyasari, "Pertanggungjawaban Hukum Bagi Perusahaan Atas Batalnya Perjanjian Kerja Waktu Tertentu Di Masa Pandemi Covid-19," *JURNAL USM LAW REVIEW* 5, no. 1 (2022): 1, <https://doi.org/10.26623/julr.v5i1.4807>.

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