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## Legal Protection for Remote Working Workers: Comparison of Positive Law Between Indonesia and United States

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**Abstract:** The development of increasingly diverse and time-spanning work arrangements: remote work systems need to be known and understood with certainty and legal protections for remote employees. Remote Working workers are prone to non-compliance with the following rights in the company's work cycle. The United States, one of the developed countries, has regulations to protect remote workers, and interpreting these regulations according to the situation in Indonesia can be helpful if they are implemented appropriately. This study aims to obtain reference materials regarding regulations that can be applied in Indonesia to ensure legal protection for remote workers. This research is comparative legal research using literature studies. In Indonesia, Remote Working worker regulations do not exist specifically, so they are still based on the Job Creation and Manpower Law. Meanwhile, in the United States, regulations for Remote Working workers have existed since 1990 until now. Despite the differences in legal systems between Indonesia and the United States, efforts are being made to coordinate appropriate regulations to develop government regulations in line with the increasing diversity of employment systems. Therefore, the government must clarify and follow up on determining legal protection for remote workers.

**Keywords:** Legal Protection, Workers, Remote Working.

### 1. INTRODUCTION

As living beings, by prioritizing survival agility, humans continue to evolve in trying to survive. Nowadays, people work as the primary basis for meeting their life needs. The state also provides the foundation in Article 27, paragraph (2), which states that "every citizen has the right to get a job and livelihood for humanity. The state provides the right to get a job that provides benefits for every citizen". As technology and communication develop in this digital era, workers' abilities also become more varied. One is the emergence of a Remote Working system or remote workers who work from remote locations outside the company's office. Since the COVID-19 outbreak, which required a remote working system, the system has been increasingly in demand by some workers and companies. Based on data obtained, 8 out of 10, or 81% of workers in Indonesia, have been working remotely for an extended period (W.D Dicky Christianto, 2024). Like Indonesia, in the United States, even according to research from Forbes, around 98% of workers want to work online at home for at least part of their working time. It is also mentioned that by 2025, around 32.6 million Americans will work online (Susandijani, 2024).

The development of work systems to become more varied and transcend time and distance, such as remote working systems, certainly need to be known and understood together with legal protection for remote workers. Those who work long distances also get the same legal protection as everyday workers who work in their company. However, remote workers or Remote Working workers are prone to unfulfilled rights in the company's work cycle, such as working hours, overtime, and even

arrangements regarding occupational health, security, and safety. The United States, as one of the developed countries, has regulations that provide peer protection for remote workers that can be used as a reference and good regulatory adaptation by interpreting regulations also based on the situation in Indonesia. Therefore, a comparison of the law regarding legal protection for workers in positive law in Indonesia with the law in the United States is carried out. This research aims to obtain a reference for regulations that Indonesia can adopt to provide legal protection for Remote Working workers.

## 2. RESEARCH DESIGN AND METHOD

The research conducted uses normative juridical research. According to Soerjono Soekanto, normative juridical legal research is conducted by researching literature materials and/or basic secondary materials to be researched by searching for regulations and literature related to the problem being studied. The information collection method used in this study is a literature study method that explores legal rules and related reference sources. Then, the information analysis method used in this study uses a comparative approach or a comparative study of law. In this case, the author conducts a comparative analysis of the legal protection of Inaccessible Working workers in positive law in Indonesia and the law in the United States.

## 3. RESULT AND DISCUSSION

Remote Worker's Work, which is also essentially synonymous with working from home (WFH), is part of the concept of working from home (remote work), which is not new in the world of work and urban planning and has even been known since the 1970s as one of the efforts to overcome traffic congestion from daily home-office commuting. According to McShane & Glinow (2021), inaccessible working is the same concept as teleworking, where a person is flexible regarding time, place, way of communication, and use of information. Farther Working became popular in 2006 in the United States, where the percentage rose to 60 and increased in 1996, which only touched 20% of companies (van der Lippe & Lippenyi, 2020).

**Table 1. Comparison of Labor Regulations in Indonesia and the United States**

Year	Indonesia	United States
1990-2000	Indonesia has a legal policy through Law No. 21 of 2000 concerning Trade Unions/Trade Unions. This law addresses labor disputes over membership and the exercise of union rights and obligations, and such disputes must be settled by law.	Treasury Postal Service and The General Government Appropriations Act, 1991 Public Law 101-509, regulates government institutions involved in Government Flexiplace Extend activities to utilize funds intended to pay for telephone installation, purchase of devices, and monthly telephone bills in employees' homes. For the first time, Congress provided funds for the implementation of flexiplace. Then, in 1996, this regulation began to respond by permitting the GSA to build a remote work center.
2000-2005	Through Law Number 13 of 2003 Regarding Manpower, regulating rights and obligations, and legal protection for workers in general.	Regulatory updates that give government institutions the authority to submit to the Office of Personnel Management (OPM) discuss plans to implement remote working programs. In 2003, regulations were strengthened through the Consolidated Appropriations Resolution, Public Law 108-7 (page 93), and Telecommuting and other alternative workplace arrangements, Public Law 107-217 (pages 53-55).
2005-2010		Regulated by Laws that order and provide policies for remote work and many related special regulations in guaranteeing the rights and

Year	Indonesia	United States
		obligations of remote workers through the Telework Enhancement Act of 2010, Public Law 111-292
2010-Present	Law Copyright Work No.6 of 2023	

In Indonesia, the labor law regulates the concept of legal protection for workers. This legal protection is a form of affirmation related to workers' rights and protection related to health, occupational safety, and social life as a society. According to Soepomo, in his theory of legal protection for workers, there are three types of protection. The first is related to economic protection, which is the protection of getting enough wages. Second, social protection includes occupational health and those related to other social life. Third, technical protection includes work safety and security protection during work. In-laws and regulations state that work blocking is not explicitly regulated. It is complex as workers consider how to protect the law, even in Law No. 13 of 2003 concerning Manpower and Law No. 11 of 2020 concerning Job Creation. In Law No. 13 of 2003 Article 54, which regulates employment agreements, paragraph (2) states that if the agreement's provisions do not conflict with the company's regulations, the collective labor agreement and the applicable regulations and regulations can become one regulation that protects workers. Work Further in getting protection. This employment agreement is an apparent reference and validation of the rights of remote workers. Then, I will discuss the safety of workers who work remotely. Remote workers can work from home and in cafes, workspaces, and other more flexible places. Meanwhile, the guarantee of occupational safety and occupational health regulated in Government Regulation No. 44 of 2015 concerning the Implementation of the Work Accident and Death Insurance Program only states that the scope and coverage of work accidents are only during the trip to or from work and while at work (Ngabidin Nurcahyo, 2021). So, work safety for *Remote Working workers* is not mentioned in the guarantees regulated in work safety regulations.

The next problem is about the concept of working hours and overtime wages for remote workers. Article 77 of the Manpower Law, as amended in the Job Creation Law, limits working hours, namely 7 hours/day for six or 8 hours/day for five working days. Remote Working workers who work remotely from the company can determine their working hours, but the tasks carried out must still be adjusted to the deadlines that have been determined by the company (Nugroho & Nuriska, 2022). In addition, it will seem difficult to calculate overtime wages faced by Remote Working workers due to the absence of special regulations regarding Remote Working workers. Article 78 of the Manpower Law, as amended in the Job Creation Law, explains that if the company employs workers for more than the specified time, they must be given overtime wages if there is an agreement on overtime agreed upon by the worker and the company. The overtime time that can be applied is 4 hours/day or 18 hours/week. For remote control workers whose flexibility in working hours is unlimited and who have to chase deadlines, workers cannot expect the effectiveness of the overtime system.

Article 100 of the Manpower Law states that companies are obliged to provide facilities to support and improve the welfare of workers by the company's capabilities and needs. For remote working workers, the facility allowance that workers generally get is for work devices such as electronic devices, computers, and smartphones. However, in some situations, the company only provides allowances in the form of internet quotas, and some companies do not provide good facilities to support the work needs of Remote Working workers.

The law in Indonesia has not been able to clearly and firmly protect Remote Working workers. This requires the government to provide more preventive legal protection. Legal protection for workers must include their safety, comfort, and welfare. Developing laws and regulations for remote workers is significant and helps ensure economic protection, social life, and protection related to workers' rights and work techniques. In particular, remote work attempts to penetrate company management, social

life, the environment, transportation, and urban development. In the 1900s, transportation planning in the United States considered remote work a strategy for managing travel demand.

The Clean Air Act (1990) amendments require states to include travel reduction programs in their implementation plans. In the United States, the International Surface Transportation Efficiency Act (ISTEA) of 1991 provides free stages for state and local governments to meet these obligations through travel request measures (TDMs), such as working from home. In recent years, remote work in the United States has been seen as a strategic management tool in emergencies or business performance disruptions, such as extreme weather or other emergencies. Congress's interest in expanding the use of remote work for government agencies began with enacting the Transportation and Related Agency Appropriations Act of 2001 (Public Law 106-346). The law requires every government agency to develop a policy allowing employees to work remotely.

To implement this rule, the Office of Personnel Management (OPM) must ensure that at least 25 percent of protected government employees begin implementing remote work within six months of the effective date of this rule—the percentage of qualified staff for the following year. In 1990, through the regulation of the Treasury, Postal Benefit and Common Government Assignments Act, 1991 Open Law 101-509, It allowed government agencies to participate in the activities of the Government Flexiplace Project and use the funds to install telephones, purchase equipment, and pay employees' monthly telephone bills in their homes. This is the first time Congress has allocated funds for a "flexiplace" (another name for working from home). Then, in 1996, some regulations allowed GSA to set up remote work centers. In addition, it allows the GSA to provide guidance, assistance, and oversight in the planning, development, and management of alternative workplace settings. Through the Omnibus Combination and Crisis Supplemental Apportionments Act, Open Law 105-277 (523 pages), this regulation funds relevant government agencies to implement flexible work-from-home programs. This program is defined as a program that allows government employees to carry out part or all of their activities in a remote work center (Flexiplace Work Working from Home Center). Regulations governing legal protections for telecommuters in the United States continue to evolve. In 2002, relevant government agencies were able to report the implementation of remote work programs to the Office of Personnel Management (OPM). In 2003, Public Law 108-7 (page 93), based on the Consolidated Budget Resolution, provided grants to the Departments of Commerce, Justice, State, Judiciary, and Small Business Administration to implement a remote work program. They must also submit a report and appoint a program coordinator within six months.

The Remote Work Enhancement Act of 2010, Public Law 111-292 (external link), requires every government agency to develop and implement policies that allow employees to work remotely. It also directs each facility to appoint a person responsible for remote work management, requires employees to attend training and sign written consent forms, directs facilities to incorporate remote work into their work plans, and provides annual reporting meeting requirements. The Remote Work Enhancement Act of 2010 was the primary regulation that encouraged the U.S. federal government to implement a remote work program. The signing of this law is a form of legislative achievement in advancing federal programs. In general, this law includes several important provisions, including:

- a. Direct each federal agency to develop policies that allow employees to implement remote work and telecommuting programs;
- b. Develop a formal definition of remote work and determine the team member's appropriateness; some employees may participate in remote work due to the nature of the work or the team member's discipline.
- c. Written consent is required between the team member and the supervisor. At a minimum, this contract contains performance goals that must be met.
- d. Require office administrators to incorporate remote work into their work schedules;
- e. Specifies that managers will work remotely.
- f. Requiring managers and employees to participate in training for prospective remote employees;

- g. Outline responsibilities and expectations as input to reporting policies and guidelines.
- h. Collaboration with OPM is required to generate data and reports.
- i. website development;
- j. Provide a framework for technology development and optimize the use of remote work;
- k. Assisting the institution in achieving its goals, and (ii) improving team members' work-life balance.

#### 4. CONCLUSION

In Indonesia, there is no specificity in regulating workers who work remotely or remotely, especially regulations regarding their legal protection. Although by the Labor Law, workers can make employment agreements as the basis for recognition of rights and obligations between workers and companies, Remote Working workers are confused about their legal protections, including working hours, overtime wages, occupational health, occupational safety, and occupational safety guarantees as well as the empowerment of facilities at work. Meanwhile, in the United States, regulations regarding remote working workers existed from 1990 until 2010, which created complex regulations regulating remote working workers. Although there are differences between Indonesia and the United States regarding legal systems, reasonable regulatory adaptation efforts are aimed at developing state regulations when the work system is increasingly varied. So, this requires the government to be aware of and follow up on establishing legal protection for remote-working workers.

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