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### DIGITAL TRANSFORMATION, COOPERATION AND GLOBAL INTEGRATION IN THE NEW NORMAL

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## THE RISE OF REMOTE WORK: LEGAL CHALLENGES AND IMPLICATIONS FOR EMPLOYMENT LAW IN VIETNAM

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### **Abstract**

*This research paper delves into the legal intricacies surrounding remote work in Vietnam, specifically focusing on the impact on employment relationships and policy recommendations. A comprehensive analysis of remote work is presented, elucidating its escalating adoption propelled by technological advancements and evolving work dynamics. The study meticulously examines how remote work affects employment relationships. By scrutinizing the existing labor laws, significant gaps and challenges in the legal framework are identified, necessitating policy interventions. In addition, this study strongly advocates for the implementation of pertinent policies that cultivate an enabling legal environment for remote work in Vietnam. Key policy recommendations encompass the establishment of clear guidelines governing remote work arrangements and the provision of robust legal protection mechanisms for remote workers. The findings of this research not only enhance the understanding of the legal implications of remote work in Vietnam but also provide valuable insights to guide policy development. Furthermore, it underscores the imperative nature of adapting labor laws to align with the evolving work landscape and ensuring remote workers' holistic well-being and rights.*

**Keywords:** *Remote Work; Classification of workers; Work safety; Mental health.*

### **1. Introduction**

Remote work, also known as telecommuting or teleworking, has emerged as a significant phenomenon in today's rapidly evolving work environment (Armache et al., 2022). With technological advancements and the increasing need for flexibility and work-life balance, remote work has gained popularity worldwide, including in Vietnam (Hao, 2022). This section of the paper will provide an overview of the background and significance of remote work in Vietnam (Lee et al., 2021).

Over the past decade, Vietnam has experienced significant economic growth and witnessed transformative changes in the workplace (Hang, 2022). The traditional office-based work model is gradually being challenged by the emergence of remote work arrangements (Cunningham et al., 2018). Remote work refers to a working setup where employees have the flexibility to carry out their job duties from a location outside the traditional office environment, utilizing technology to stay connected and collaborate with their colleagues (Jalagat & Jalagat, 2019). The rapid adoption of digital technologies and the COVID-19 pandemic have accelerated the shift toward remote work in Vietnam (Hao, 2022). The pandemic served as a catalyst, forcing organizations and employees to quickly adapt to remote work arrangements to ensure business continuity and employee safety (Cunningham et al., 2018). This has led to a newfound recognition of remote work's potential benefits and challenges.

Remote work offers several advantages for both employers and employees in Vietnam. For employers, it can result in cost savings related to office space, increased productivity, access to a wider talent pool, and improved employee retention (Hao, 2022). On the other hand, employees can enjoy flexibility in managing their work schedules, reduced commuting time and costs, improved work-life balance, and increased autonomy in their job roles (Zykova et al., 2021). However, remote work also presents unique challenges and implications for employment relationships, which need to be addressed within the legal framework of Vietnam (Hao, 2022). This paper aims to explore the legal dimensions and implications of remote work on employment law in Vietnam, shedding light on the challenges and opportunities it brings.

The primary focus of this research is to examine the legal challenges and implications of remote work on employment law in Vietnam. The research questions that will guide this study are as follows:

- a) How does remote work impact employment relationships in Vietnam?
- b) What policies are needed to foster a supportive legal environment for remote work in Vietnam, ensuring the protection of worker rights and promoting sustainable work practices?

The scope of this research will primarily focus on the overview of remote work in Vietnam and its implications for employment law. It will draw upon relevant legislation, scholarly articles, and empirical data to comprehensively analyze the subject matter.

In conclusion, this section has provided an introduction to the topic of remote work in Vietnam, highlighting its background, significance, and research questions and scope. The subsequent sections of the paper will delve deeper into the overview of remote work in Vietnam, the legal challenges and implications of remote work, and explore various aspects such as worker classification, employment contracts, worker rights and benefits, occupational safety and health regulations, and the impact on work-life balance. By examining these research questions, the paper aims to contribute to understanding remote work in Vietnam and provide policy and legal reform recommendations in this evolving work landscape.

## ***2. Overview of Remote Work in Vietnam***

Remote work, also referred to as telecommuting or teleworking, is a contemporary work arrangement that allows employees to perform their job responsibilities outside the confines of a traditional office environment (Jalagat & Jalagat, 2019). This arrangement is made possible by the utilization of digital technologies, enabling individuals to work remotely and maintain effective communication and collaboration with their colleagues. The concept of remote work has gained significant traction in Vietnam, owing to technological advancements and evolving work preferences. It offers employees the flexibility to work from various locations, such as their homes or shared workspaces, as long as they have access to a reliable internet connection (Simenenko & Lentjushenkova, 2021).

Different types of arrangements can be identified within the realm of remote work in Vietnam (PwC, 2021). Firstly, full-time remote work involves employees who primarily work remotely and do not have a designated physical workspace within a traditional office setting. These individuals rely heavily on digital tools and communication platforms to fulfill their job responsibilities and interact with supervisors and peers (PwC, 2021).

Secondly, part-time remote work is characterized by employees having the option to work remotely for a specific number of days or hours per week while also spending time in a traditional office environment (PwC, 2021). This flexible arrangement allows for a combination of remote work and in-person collaboration with colleagues, striking a balance between the benefits of remote work and face-to-face interaction.



Thirdly, the hybrid remote work model encompasses a blend of remote work and on-site work (PwC, 2021). Employees are granted the flexibility to divide their workweek between remote work and working from a physical office location. This model aims to harness the advantages of remote work, such as flexibility and autonomy, while also facilitating in-person collaboration and engagement.

Lastly, temporary remote work arises in situations where employees are permitted to work remotely for a limited duration. This can occur during temporary projects, personal circumstances, or unexpected events like the COVID-19 pandemic. Temporary remote work arrangements allow organizations to maintain productivity during exceptional circumstances without requiring physical presence in the office (Hao, 2022).

The prevalence of remote work in Vietnam has been further accelerated by the COVID-19 pandemic, which necessitated widespread adoption of remote work practices to ensure business continuity while safeguarding employee health and well-being. The Government's issuance of Directives 16, 15, and 19 during the Covid-19 period has required businesses to implement measures ranging from encouraging remote work to mandating work-from-home with a maximum of two people allowed to gather at the workplace (HCDC, 2021). The increasing prominence of remote work in Vietnam presents various opportunities and challenges. On the one hand, it offers advantages such as enhanced flexibility, reduced commuting time and expenses, improved work-life balance, and access to a wider talent pool. Remote work can also foster higher levels of employee productivity and engagement. On the other hand, remote work poses certain challenges pertaining to effective communication and collaboration, the maintenance of work-life boundaries, data security considerations, and potential issues related to social isolation and burnout.

In conclusion, this section has provided an academic overview of remote work in Vietnam, encompassing its definition and various types of arrangements. The growth of remote work in the country can be attributed to technological advancements and changing work dynamics. The subsequent sections of this paper will delve into the legal challenges and implications associated with remote work in Vietnam, exploring aspects such as worker classification, employment contracts, worker rights, and benefits, as well as occupational safety and health regulations. By examining these dimensions, this research aims to contribute to a deeper understanding of the legal implications of remote work and provide valuable insights for policymakers, employers, and employees in Vietnam.

### **3. Legal Framework for Remote Work in Vietnam**

#### **Current labor laws and regulations in Vietnam**

To comprehensively analyze the legal framework for remote work in Vietnam, it is imperative to conduct a thorough review of the existing labor laws and regulations. The primary legislation governing employment relationships in Vietnam is the Labor Code, which serves as the fundamental legal document providing guidelines and regulations for various aspects of employment, including worker rights, employment contracts, working conditions, and dispute resolution (Labor Code, 2019).

The current Labor Code (the Labor Code 2019) establishes the general principles and rules governing employment relationships, ensuring fair and equitable treatment for employers and employees. It outlines the employment creation support policies (Article 1, Labor Code 2019). These provisions serve as the basis for assessing the legal implications of remote work on employment relationships.

As can be seen, the primary legislation governing employment relationships and worker rights in Vietnam is the Labor Code. However, Vietnam's Employment Law also contains relevant provisions that provide the legal framework and policies supporting employment, including potential implications for remote work arrangements. The Employment Law outlines policies to promote employment and

sustainable, quality jobs for workers (Article 1, Employment Law 2013). Key aspects regulated under this law include labor market information; assessment and grant of certificates of national occupational skills; employment service organizations and activities; unemployment insurance; and state employment management. While the Employment Law 2013 does not directly address remote work, its focus on facilitating employment access and support is relevant when considering the growth of remote work.

#### Applicability of current employment law provisions to remote work

While the Labor Code does not explicitly address remote work, its provisions can still be applied to remote work arrangements. Specifically, article 2 of the Labor Code 2019 has regulated that all of the employment relationships between the employer and the employee will be in the scope of the Labor Code 2019. Because of this flexibility, the current Labor Code allows for adaptation to accommodate the evolving nature of work, including remote work. For example, the provisions related to employment contracts, working hours, and wages can be interpreted and adjusted to suit remote work arrangements.

Take employment contracts as an example. Employment contracts are crucial in establishing employers' and employees' rights and responsibilities (Article 24, Labor Code 2019). Regarding remote work, the terms and conditions of the employment contract should clearly outline the nature of the remote work arrangement, including working hours, location, communication methods, and performance evaluation (Article 26, Labor Code 2019). It is essential to ensure that these contracts adequately address the unique aspects of remote work to protect the interests of both parties.

Another example can be the worker rights and benefits. Specifically, worker rights and benefits are also important considerations in the legal framework for remote work. Remote workers should be entitled to the same rights and benefits as traditional office-based employees, such as social insurance (Article 16, Labor Code 2019), annual leave (Article 113, Labor Code 2019), and sick leave (Article 26, Law on Social Security 2014). However, it is crucial to assess how these rights and benefits are implemented and enforced in the context of remote work. Clear guidelines and mechanisms must be established to ensure remote workers receive the same protection and benefits as their counterparts in traditional work environments.

Furthermore, certain policies within Vietnam's Employment Law 2013 could be interpreted to incorporate remote work arrangements. For example, the Employment Law aims to promote and adopt policies on employment creation support, labor market development (Article 5, section 4 of Employment Law 2013). These employment facilitation policies could be extended to provide placement support and social protection specifically for remote workers. In other words, Vietnam's Employment Law contains provisions that could potentially support remote work arrangements but lacks concrete policies and mechanisms tailored to remote work. Targeted reforms and inclusion of remote work in the Employment Law would help address these limitations and provide a more robust legal framework for remote work aligned with the Labor Code.

#### Challenges and gaps in the legal framework

The legal implications of remote work on employment relationships in Vietnam are significant, as highlighted by the challenges and gaps within the existing labor laws and regulations. While the current legal framework can be applied to remote work, crucial aspects must be addressed to protect remote workers' rights.

One of the primary challenges is the classification of remote workers, considering the diverse categories of workers in Vietnam, such as employees, independent contractors, and freelancers. The determination of their classification is vital to guarantee that remote workers receive the appropriate rights and protections they deserve. Establishing clear criteria and guidelines that differentiate remote workers

from other worker categories is essential to achieve this. These criteria will also determine their eligibility for specific benefits and protections. By addressing the classification challenge, the legal framework can bring clarity and consistency to the employment status of remote workers. This ensures that employers fulfill their obligations and that remote workers enjoy their rightful entitlements. Moreover, it contributes to the development of a supportive legal environment for remote work, emphasizing the protection of worker rights and the promotion of sustainable work practices. To effectively bridge the challenges and gaps in the legal framework, comprehensive reforms are necessary, taking into account the dynamic nature of modern work arrangements. Collaboration among policymakers, legal experts, labor organizations, and stakeholders is crucial in developing policies that support remote work, safeguard worker rights, and foster sustainable work practices in Vietnam.

Another significant challenge in the legal framework for remote work in Vietnam pertains to the effective application of occupational safety and health regulations. Unlike traditional workplaces, which are subject to routine inspections and regulations to ensure a safe working environment (Simenenko & Lentjushenkova, 2021), remote work introduces distinct challenges regarding monitoring and enforcing safety standards. The physical separation of remote workers from the centralized workplace requires employers to adopt proactive measures to assess and mitigate the potential risks associated with remote work. Ensuring occupational safety and health in remote work involves various considerations.

Firstly, employers must address ergonomic factors to promote remote workers' well-being and physical health (Jalagat & Jalagat, 2019). This includes providing guidance on proper workstation setup, ergonomic equipment, and regular breaks to prevent musculoskeletal issues.

Secondly, mental health support becomes paramount as remote workers may face isolation, blurred work-life boundaries, and increased stress. Employers should prioritize providing resources and support systems to maintain the mental well-being of remote workers, such as access to counseling services or wellness programs.

Thirdly, effective communication protocols must be established to facilitate prompt reporting of accidents, incidents, or potential hazards in remote work settings (Simenenko & Lentjushenkova, 2021). This ensures that employers can promptly respond and take appropriate actions to mitigate risks and provide the necessary support. Addressing these challenges and developing mechanisms to protect remote workers' occupational safety and health are crucial for fostering a supportive legal environment for remote work in Vietnam. This entails the collaboration of employers, regulatory bodies, and relevant stakeholders to establish guidelines, best practices, and monitoring mechanisms specific to remote work. Implementing comprehensive policies and regulations will help ensure that remote workers are not left vulnerable to occupational hazards and their rights to a safe and healthy working environment are safeguarded.

Furthermore, the legal framework should adapt to the evolving nature of remote work. As technology advances and new forms of remote work emerge, the legal framework should be flexible enough to accommodate these changes. This may require regular updates and amendments to existing labor laws and regulations to address remote work's specific needs and challenges. Proactive measures should be taken to anticipate and regulate emerging issues related to remote work, such as data protection, intellectual property rights, and digital security.

In conclusion, the legal framework for remote work in Vietnam requires a comprehensive review and assessment. While the existing labor laws and regulations can be applied to remote work arrangements, there are challenges and gaps that need to be addressed. Clarifying worker classification, ensuring worker rights and benefits, and addressing occupational safety and health concerns are crucial aspects to consider. Additionally, the legal framework should be flexible enough to adapt to the evolving nature of remote work.

By addressing these issues, Vietnam can establish a robust legal framework that protects the rights and well-being of remote workers, fosters a positive and sustainable remote work culture, and contributes to the overall development of the country's workforce in the digital era.

#### **4. Creating a supportive legal environment for Remote Work in Vietnam: Essential Policies and Considerations**

To foster a supportive legal environment for remote work in Vietnam and ensure the protection of worker rights, several key policies need to be implemented. These policies should address remote work's unique challenges and opportunities while promoting sustainable work practices that benefit both employees and employers. This paper will discuss some of the essential policies that can contribute to creating a favorable legal framework for remote work in Vietnam.

First and foremost, it is crucial to establish clear guidelines and regulations regarding remote work arrangements. The government should develop specific provisions within existing labor laws that explicitly recognize and define remote work, outlining employers' and employees' rights and responsibilities. These provisions should cover essential aspects such as working hours, compensation, leave entitlements, and performance evaluation, tailored to the context of remote work. By providing a comprehensive legal framework, employers and employees will clearly understand their rights and obligations, fostering transparency and fairness in remote work relationships.

Second, worker protection is another critical aspect that should be addressed through appropriate policies. It is imperative to ensure that remote workers receive the same level of protection as their counterparts in traditional office-based settings. This can be achieved by extending labor rights and benefits to remote workers, including social insurance coverage, annual leave, sick leave, and other entitlements. Additionally, policies should be implemented to protect remote workers from workplace harassment and discrimination, irrespective of their physical location. By safeguarding worker rights and promoting equality, the legal environment for remote work will foster a supportive and inclusive working culture.

Third, the issue of worker classification is also of great importance when it comes to remote work. Policies should be established to determine the proper classification of remote workers, distinguishing them from independent contractors or freelancers. Clear criteria and guidelines should be developed to determine the employment relationship and the corresponding rights and protections applicable to remote workers. This will ensure that remote workers receive the necessary benefits and protections afforded to employees under labor laws. By addressing worker classification, the legal environment for remote work will be better equipped to prevent exploitation and ensure fair treatment of workers.

Last but not least, policies should be implemented to address occupational safety and health concerns in remote work settings. While Vietnam's employment laws remain broadly applicable to remote work, targeted reforms would strengthen protections and eliminate gaps in the existing framework in the combination with labour law. Specifically, employers should be responsible for conducting risk assessments and supporting remote workers to ensure their physical and mental well-being. Guidelines and regulations should be established to ensure ergonomic workstations, proper equipment, and health and safety practices training. Additionally, policies should promote work-life balance and mental health support, as remote work can blur the boundaries between personal and professional life. By prioritizing occupational safety and health, the legal environment for remote work will contribute to remote workers' overall well-being and productivity.

In conclusion, fostering a supportive legal environment for remote work in Vietnam requires implementing various policies. Clear guidelines and regulations, worker protection measures, proper

worker classification, occupational safety and health policies, and stakeholder collaboration are essential elements to consider. By establishing these policies, Vietnam can create a conducive legal framework that promotes sustainable work practices, protects worker rights, and fosters a thriving remote work culture. Such a supportive legal environment will contribute to the growth of remote work and enable the realization of its potential benefits for both workers and the economy as a whole.

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