

Digital Nomads Visa for Remote Workers: Next to Come Solution for Tourism Business Disruption in Indonesia

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ABSTRACT

In his best-selling book, *The 4-Hour Workweek: Escape 9-5, Live Anywhere and Join the New Rich*, Timothy Ferris offered the geo arbitrage, which offers a new way of living at low-cost countries. This way of life has been supported by the Covid-19 Pandemic, which forces many people to work from home—not working from home, but working from anywhere. These people are called digital nomads, workers who travel worldwide, but have their permanent job, performed remotely from any part of the world. Currently, Indonesia has a second home visa, thanks to the Law of Job Creation No. 11 the Year 2020. There are some basic similarities between a digital nomad visa and a second home visa, although the latest regulation will surely need alteration to offer the digital nomad visa. In Kompas on 5 June 2021, Bali was the next to regulate these digital nomads, as many remote workers have stayed in Bali. In the light of economic efficiency, in author's opinion, Bali might not be the sole destination for digital nomads in Indonesia, as living cost in Bali is relatively high. This visa would potentially help more parts of Indonesia, which suffer from this tourism business disruption. However, none of this would be applicable if the internet infrastructure in Indonesia is not improved. A fast and reliable internet connection is something indispensable to support remote workers. This article would use comparative methods to analyze data and regulations gained in the research. To conclude, a proposal on digital nomad visas will also be offered as a solution.

Keywords: *Digital nomads visa, second home visa, remote workers.*

1. INTRODUCTION

For sure, Indonesia is blessed with the extraordinary beauty of its nature and the richness of various cultures. Unique cultures and marvelous sceneries are definite assets and resources for the tourism industry. Bali and Jakarta are the most popular destinations in Indonesia, followed by Lombok, Komodo Island, Raja Ampat, and Yogyakarta. However, the tourism industry in Indonesia is underrated due to some factors: Less decent infrastructure, English illiteracy, and less attention on sustainability development, including hygiene, are the main reasons behind the underdevelopment of Indonesia's tourism industry¹.

Malaysia once has the tourism tagline "Truly Asia," which shares the same root as Indonesia, proven by its Malay language and numerous cultural similarities. Nevertheless, Malaysia was one of the British colonies, inherited its bureaucracy and education system, which has changed the story. As a former Dutch colony, Indonesia inherited different infrastructures from the Dutch. Different history has generated many differences,

including their perception of tourism industries. Nevertheless, Indonesia's nature Indonesia was made of more than 17,000 islands, including Comodo Island. Indonesia is also home to over 100 endangered species, including the orangutan. In short, Indonesia has more assets to be offered, but why Indonesia's tourism is far from smooth sailing?

Comparing these two neighboring countries, a foreign tourist coming to Malaysia reached 26,10 million², while only 16,10 million³ came to Indonesia. In ASEAN, Indonesia's competitor in tourism is not only Malaysia, Singapore, and Thailand are also on the list. Even in the growing halal tourism market, Indonesia has its advantages being the largest Muslim population globally; Indonesia was a bit late behind Malaysia. Malaysia was the first in the region when it established Islamic Tourism Centre in March 2009 to assist its Ministry of Tourism concerning Islamic tourism. After developing halal tourism for five years, Indonesia reached the first global Muslim Travel Index 2019⁴. With no intention to undermine the achievement of the Indonesian Ministry of Tourism, what a significant amount of opportunity loss

was bear because of the delay in noticing the opportunity. A mistake that Indonesian should learn from.

Malaysia has launched Malaysia My Second Home Visa as early as 20025. At the same time, Indonesia introduced its second home visa in 2020, with the new Omnibus Law No. 11 the Year 2020 as its legal basis. Malaysia My Second Home Visa (MM2H) divides its applicant into two categories, the first category for under 50 years of age and the second for below 50 years of age. At first, the program was intended for non-Malaysian retired people who wanted to make Malaysia a second home during their retirement. However, the concept is evolving from time to time. For example, until February 2009, a foreign spouse of a Malaysian resident was excluded from applying for MM2H Visa, but then this exclusion was removed⁶. MM2H Visa is also available for people under 50 who are in their productive years and have sufficient financial resources to live in Malaysia without seeking employment or the government's assistant. This category includes digital nomads. MM2H is never called a digital nomad visa, but in practice, it applies to digital nomad.

This Covid-19 pandemic situation triggers the digital nomad lifestyle. People are getting used to being remote workers, a condition predicted before by Tsugio Makimoto⁷ in 1997 and Timothy Ferris⁸ in 2007 but was never expected to be this fast. Ferris conveyed that the money would flow to lower living cost countries. Although considered a high-income country in ASEAN, Malaysia has low living cost countries in some areas. Indonesia relatively shows the same benefit with popular destinations such as Bali and Jakarta, although some other areas can be deemed tourist traps. In addition, Indonesia has many low-living cost regions, as Yogyakarta and Solo, for instance. These facts will support Indonesia more to have regulations on digital nomad visas.

2. METHODS

The normative legal approach and comparative legal approach are two main approaches used in this article. Descriptive content analysis will examine the trends of digital nomad visas and their differences with second home visas, which will lead to analysing proper solutions for regulation on digital nomad visas in Indonesia. Legal materials and journals will be observed to analyse these research objectives.

3. RESULT AND DISCUSSION

3.1 Trends of Digital Nomad Visa

According to Reichenberger⁹, digital nomads are defined as location-independent, predominantly young professionals, entrepreneurs, freelancers, and remote employees who can unite travel and virtual knowledge work.

Formica¹⁰ defines knowledge nomads as young talents and pioneers in the digital age who freely travel across the Pacific Ocean to create global businesses driven by discoveries and applications. Usually, digital nomads are in their 20s and early 30s, as this age depends on the absence of family commitments, and the generation has developed an affinity to ICT¹¹.

In her research, Julia Haking mentioned that there are three most desirable incentives as the freedom factor in several contexts : (1) Professional freedom – the motivation to work autonomously, select and structure work that is related to one's passion, and increase feelings of purpose, (2) spatial freedom or location independence – the motivation to perform virtual work while learning about other lifestyles, cultures, norms, and opinions, (3) personal freedom – the motivation to become more productive, creative and most importantly self-development and increased happiness. Digital nomads usually join a hub in a remote area, resulting in a positive outcome, namely cultural intelligence (CQ). CQ will consist of a skillset of the intercultural set of skills of (1) relational skills, (2) tolerance of uncertainty, (3) adaptability, (4) empathy, (5) perceptual acuity¹².

Digital Nomad Visa is an exciting trend globally, but not necessarily named literally as digital nomad visa. Some elements of visa to be deemed as digital nomad visa are : (1) allows remote workers to work within the country for at least one year (2) there might be cost of the program and/or tax waiver (3) Minimum income to be proven. In nomad girl.co, Tracey Johnson compiled all countries and their programs which currently has digital nomad visa (and similar), namely (1) Georgia – Remotely from Georgia, (2) Barbados – Barbados Welcome Stamp, (3) Antigua and Barbuda – Antigua Nomad Digital Residence, (4) Bermuda – Work from Bermuda, (5) Cayman Islands – Global Citizen Concierge Program, (6) Anguilla, (7) Montserrat – Montserrat Remote Work Stamp, (8) Dominica – Work in Nature, (9) The Bahamas – Bahamas Extended Access Travels Stay, (10) Curacao -Home in Curacao, (11) Costa Rica - Rentista, (12) Croatia – Croatia Digital Nomad Visa, (13) Czech Republic - Zivno, (14) Estonia – Digital Nomad and Freelancer Visa, (15) Iceland – Long term Visa for Remote Workers, (16) Germany - Aufenthaltserlaubnis für selbständige Tätigkeit, (17) Norway – Independent Contractor Visa, (18) Portugal – Independent workers and entrepreneurs Visa, (19) Spain – Non Lucrative Visa (not allowed to work), (20) Malta – Nomad Residency Permit, (21) Dubai (UAE) – One year virtual Working Program, (22) Mauritius – Premium Visa, (23) Mexico – Temporary Residence Visa, (24) Cabo Verde – Remote Working Cabo Verde, (25) Seychelles- Seychelles Workcation Program, (26) Taiwan – Gold Card 13. She also mentioned that some countries are in the pipeline to allow these digital nomad visas, like North Macedonia, Thailand, Belize, Greece, Romania. Matthew Karsten completes this list on his web that Bali will release a digital nomad visa this year, which will apply up to 5-

years, and holders of the visa would not have to pay taxes on any income earned outside Bali¹⁴. This is a confirmation for an article by Luki Aulia in Kompas¹⁵, on 5 June 2021. The insight here is that Bali's digital nomad visa is being highly anticipated. This is even supported by the fact that 5G internet has already been in Indonesia, as Telkomes first introduced it on 27 May 2021.

However, the next question to this plan is whether the digital nomad visa will only be applicable in Bali? In general, the visa is applicable within the territory of the Republic of Indonesia. According to Law No. 6 the Year 2011 concerning Immigration, the visa is a written statement given by an authorized official at the Representative of the Republic of Indonesia or in another place determined by the Government of the Republic of Indonesia, which contains approval for foreigners to travel to Indonesian territory and becomes the basis for granting a Stay Permit. There are several types of visa according to the Ministry of Foreign Affairs, comprising (1) Diplomatic Visa, (2) Official Public Service Visa, (3) Visiting visa, (4) Limited Stay Visa, (5) Transit Visa, (6) Single Entry Visa, (7) Multiple Entry Visa (8) Calling visa. As mentioned beforehand, the category was added recently with second home visa, in Law No. 11 the Year 2020 concerning Job Creation (Omnibus Law). Therefore, digital nomad visa and second home visa will be applicable in all Indonesian territory, which creates another opportunity for other tourist destinations, such as Jakarta, Lombok, Raja Ampat, Yogyakarta, Solo in Indonesia, to apply for the same program. This must be a relief to some persons, as this digital nomad has been practiced in Bali, although there are no underlying regulations. By the time the nomad visa is regulated, they will be legally working remotely from Indonesia. Digital Nomad Visa and Second Home Visa will open an opportunity for Indonesia's Ministry of Tourism and Creative Economy to remedy the tourism sector hit by the Covid 19 pandemic. The following section will elaborate on this Second Home Visa more.

3.2 Second Home Visa of Malaysia and Indonesia

As mentioned above, the second Home Visa in Malaysia was launched in 2002 for Non-Malaysian elderly who wants to enjoy their old age in Malaysia as his/her second home. According to Kompas, this program was even started in 1996, labeled the "grey hair" program¹⁶. From 2002, the program objective was enlarged to be applied for executives. The businessman wants to visit Malaysia as long as possible. This visa is a multiple entry visa for ten years and maybe prolonged as long as the requirements are fulfilled. Non-Malaysians qualified to join these programs are Indonesia, Bangladesh, China, Inggris, India, Iran, Japan, Pakistan, Taiwan, and Singapore. So this regulation does not apply to most digital nomads, which mostly come from Europe

and American. This is why this MM2H was never introduced as a digital nomad visa, although its essence applies to limited digital nomads.

There are several requirements for this MM2H visa. The applicants are required to have a letter of good conduct issued by their country of origin. However, currently on this Covid 19 pandemic, the Government of Malaysia has suspended all MM2H applications, although they promised to open it again somewhere in 2021¹⁷. Applicants are required to show they have sufficient financial resources to live in Malaysia without seeking employment or other assistance from the government. Applicants under 50 must show liquid assets above RM500,000 and a monthly income of over RM10,000 (equivalent). Applicants over 50 have to show liquid assets over RM350,000 and a monthly income over RM10,000¹⁸.

Later, upon approval of MM2H Visa, the applicants have to fulfill fixed deposit requirements based on their age. M2H Applicants below 50 years old must place a Fixed Deposit in a bank account in Malaysia of RM300,000. However, RM150,000 of those can be withdrawn to purchase a house, medical insurance, or children's education expenses after the deposit has been placed for one year. Their car purchase grant may be used to withdraw part of their Fixed Deposit after two years. A minimum balance of RM150,000 must be maintained from the second year onwards and stay in Malaysia under this MM2H program¹⁹.

For applicant aged 50 years and above, they must fulfill requirements of a Fixed Deposit in a bank account in Malaysia of RM150,000, of which RM50,000 can be withdrawn after one year to purchase the house, medical insurance, or children's education expenses. Their car purchase grant may be used to withdraw part of their Fixed Deposit after two years. However, a minimum balance of RM100,000 must be maintained throughout their stay in Malaysia. MM2H visa holders aged 50 years old and above can work for up to 20 hours a week. This applies to visa holders who have specialized skills in specifically approved sectors. However, they are not allowed to involve in day to day running of the business²⁰.

All applicants require a Malaysian sponsor to support their application. Moreover, they will be required to place a Personal Bond of up to RM2000 before issuing the visa. If the applicant uses an agent, then the agent will become the sponsor, and the agent is also required to place the Personal Bond for the applicant²¹.

By Looking through all the regulations, these MM2H regulations are more complicated than usual digital nomad visas. No relaxation on taxation also, which makes no incentives for digital nomads to use this MM2H visa. However, from Malaysia's interest, this regulation is in favor of Malaysia's economy and security. These points are to be considered while formulating an

Indonesian digital nomad visa and a second-home visa. In Indonesia, the second home visa is introduced in Law No. 11, the Year 2020, concerning Job Creation. Not much information can be gained in this Law, as it is a.

Compilation of most economic laws of Indonesia. Government Regulation No. 48 the Year 2021 concerning Immigration was promulgated as implementation regulation of Law No. 11 the Year 2020. In the Elucidation of Government Regulation, Article 102, paragraph 3 (f), second home (visa) is immigration facilities in the form of a residence visa limited granted to the foreigner and/or their families who live permanently in Indonesia for 5 (five) years or 10 (ten) years after fulfilling specific requirements. Furthermore, in Article 102 paragraph 3 (f), it is so clear that this second home visa facility is given in condition of not working. This definitely will make a second home visa in Indonesia is not applicable for remote workers. The non-working visa condition is reiterated in Article 253C, stating that When this Government Regulation comes into force, Issued non-working limited stay visas for foreign elderly tourists are declared to remain valid as a non-working limited stay visa in the framework of a second home (visa). Alternatively, in other words, this second home visa is merely perceived as a replacement of a non-working limited stay visa for foreign elderly tourists, which applied longer and more conditions attached.

Nevertheless, there is one thing that remained unclear in this Government Regulation. Except for the rules that there shall be sponsorship for the applicant of this second home visa (Article 142 para 2 (j)), there are no other specific requirements on this second home visa, which would make this visa application would still not be applicable shortly, even though the general regulation has been regulated in the Law No. 11 the Year 2020. This awaited implementation regulation will be another homework for the Directorate General of Immigration Ministry of Law and Human Rights.

Before researching, the researchers hypothesized that Digital Nomad Visa regulation might be linked and merged with this Second Home Visa Regulation of Indonesia. However, in light of the previous points in this section, such a merger would be improper and incorrect due to the non-working visa characteristic of Indonesia's second home visa. Indeed, this is far from what the current Minister of Tourism and Creative Economy, Sandiaga Uno, has expected on the Working from Bali program.

3.3 Proposal for Future Digital Nomad Visa

In Croatia, digital nomads are required to prove that they work remotely, already have a place to live in Croatia, health insurance, and a minimum salary of 2700 US dollars per month²². According to Steve King from Emergence Research, nothing to be worried about these

tech pants (remote technology workers) or previously called digital nomads, as they already have high-paid jobs.

In the Indonesian context, Croatian provisions on digital nomads requiring proof of their high-income remote jobs and their monthly income, health insurance, and accommodation are minimum requirements to comply. As these are minimum standards to makes sure that the techpats will not become homeless vagrants in Indonesia.

In its Digital Nomad program, Anguilla includes PCR testing and surveillance while the applicant is on the island. In the Indonesian context, PCR testing in this Covid 19 Pandemic is irrefutable, seeing how the outbreak is increasing these days.

Duration of visa is also diverse, as there are countries who applied for six months stay, one year stay, two years stay, three years, and even five years consecutive stay. For Indonesian national security, it is advised that the duration is not given too long in the first application to be evaluated from time to time. Two years would be enough for the first instance.

Provision of the requirement of good conduct letter issued by applicant's country of origin, which is applied in MM2H application, will also be helpful for Indonesian Second Home Visa and Digital Nomad Visa, as applicants are proven not to be criminals, the fact that no country in this world would like to face with, national security.

There must be further study concerning the hearsay that Bali will apply no tax for digital nomad visas. If there is no tax applied to the digital nomad, what would be the point of letting them enjoy Indonesia? There must undoubtedly be income on Indonesia's side by tax, visa application, or local government income. There is a potential conflict of interest when we speak about numbers, so these things are left to be settled by central and local government authorities.

Furthermore, a provision in the MM2H Visa Application shall also be noted for long-term stay as it is regulated in Second home Visa. Malaysia prohibits successful applicants from participating in activities that can be considered sensitive to the local people. In the Indonesian context, this shall also apply to activities of disseminating any ideology against Pancasila and UUD 1945, as one factor to tourism degradation in Indonesia was the Bali and Jakarta bombing. Therefore, there is no room for an impostor to the unity of the Republic of Indonesia.

In addition, this Digital Nomad Visa, like Second Home Visa, will potentially change the habitual residence of a person or a family, leading to different jurisdictions or different applicable laws in private international law cases in the future. Currently, Indonesia still based its private international law in *lex patriae* (Article 16 *Algemene Bepalingen*), *lex rei sitae* and

mobilia sequuntur personam (Article 17 Algemene Bepalingen) and *lex loci actus* (Article 18 Algemene Bepalingen). However, the new Private International Law of Indonesia is already in the pipeline. Therefore, the future provisions of Indonesia Private International Law are something to be anticipated by the applicants of Digital Nomad Visa and Second Home Visa.

4. CONCLUSION

Digital Nomad Visa, as the current hype is already regulated in more than 25 countries of this world, which means Indonesia has to take advantage of this situation as soon as possible. Digital Nomad Visa for Working in Bali Program of the current Minister of Tourism and Creative Economy is highly anticipated by many people. However, considering this Covid -19 pandemic, the Directorate General of Immigration has to tighten the antigen test in any arrival airport, as this would be the only filter for Indonesia to stop the rising outbreak.

Indonesian second home visa requirement still shows no specific requirements on the application of this visa, which would make the provision inapplicable in practice. Malaysia's Second Home Visa Provision may be a good inspiration for Indonesia, as we can learn from their MM2H gradual development since 1996. However, never forget to put all the provisions in the context of the Indonesian legal system and Indonesian legal culture, as discussed in the conclusion part.

Concerning Digital Nomad Visa, there are some points to be considered, such as duration of stay, requirements and terms and conditions, support to the national economy, and support for national security. These points are essential points to let a foreigner stay in Indonesia. Central and local governments shall collaborate to make decisions on this regulation as soon as possible.

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