

Legal Responsibility For Occupational Safety Of Parcel Delivery Courier Partners In Indonesia

Ulil Alfiaturrohmania¹, Dwi Fidhayanti²

Fakultas Syariah UIN Maulana Malik Ibrahim Malang, alfiaturrohmaniaulil@gmail.com

ABSTRACT

The lives of courier partners in the package delivery industry in Indonesia are full of safety-threatening challenges, especially when they use the "Cash On Delivery" (COD) payment system. Courier partners are often intimidated and mistreated by some customers, often buyers do not want to pay for COD packages because they feel the package is not suitable or the delivery is late, they must also be faced with the risk of traffic accidents. Courier partners are also considered informal workers who do not have clear attachments to service provider companies or government agencies, which causes companies to not have clear guidelines for risk management in this matter. This research was conducted to find out how legal responsibility for the work safety of courier partners in Indonesia and to find out the challenges and risks experienced by courier partners when carrying out their work. The research method used in this research is normative juridical using a statutory approach. Primary and secondary legal materials were obtained through literature studies and analyzed using descriptive methods. The results showed that the law enforcement used to protect the work safety of courier partners is Law No. 1 of 1970 concerning work safety.

Keywords	legal responsibility; working safety; courier partners
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Manuscript History: <u>Received:</u> 2023-10-14 <u>Accepted:</u> 2024-03-12 <u>Corresponding Author:</u> Ulil Alfiaturrohmania, alfiaturrohmaniaulil@gmail.com	 Legal Spirit is Licensed under a Creative Commons Attribution-ShareAlike 4.0 International License Indexed:     Layout Version: V8.2024

PRELIMINARY

Based on the results of a survey conducted by We Are Social in April 2021, around 88.1% of people in Indonesia prefer to buy goods online.¹ The covid-19 pandemic that has entered Indonesia since 2020 has made people prefer to buy all their daily needs through the digital marketplace, in addition to making transactions easier and faster, this is also

¹ "Penggunaan-e-Commerce-Indonesia-Tertinggi-Di-Dunia @ Databoks.Katadata.Co.Id," n.d., <https://databoks.katadata.co.id/datapublish/2021/06/04/penggunaan-e-commerce-indonesia-tertinggi-di-dunia>.

supported because of government regulations that advise people not to do activities outside the home aimed at reducing the number of people infected with covid-19.²

Online buying and selling transactions have been regulated in Article 1458 of the Criminal Code, namely "buying and selling is deemed to have occurred between the two parties when they have reached an agreement on goods and prices, even though the goods have not been delivered and have not been paid for". So that the sale and purchase carried out in e-commerce has fulfilled the agreement if the consumer presses the "make an order" or "checkout" button, and is willing to continue to the next stage, namely payment for the goods along with service fees etc. When this has been agreed and done, the consumer just waits to receive the goods.³ The rise of technology and e-commerce has also made the global delivery industry evolve. Courier partners play a crucial role in the efficient and timely delivery of goods, courier partners generally work as independent workers or contract with freight forwarders, they contribute significantly to the supply chain. This has been regulated by concrete provisions in Indonesia regarding courier partners.

Partners themselves are regulated in Law No.20 of 2008 article 1 paragraph 13 which reads "partnership is cooperation in business linkages, both direct and indirect, on the basis of the principles of mutual need, trust, strengthening, and benefit involving micro, small and medium enterprises with large businesses".⁴ Partnership is also interpreted as cooperation in a business, either directly or indirectly, on the basis of mutual benefit, need, mutual trust involving micro, small, and medium enterprises up to large businesses.⁵ The employment status of courier partners is a complex issue. Some companies take the path to avoid legal responsibilities and obligations that should be provided by classifying them as independent workers and not employees. This working status is unclear or there is no binding legal certainty, which prevents courier partners from getting the legal protection they deserve. Courier partners in charge of delivering goods are often faced with risks on the way to delivering packages, one of which is a traffic accident, but they themselves do not have insurance or even social security. Work safety is regulated in Law No. 1 of 1970. Article 2 paragraph 1 states that this law covers the scope of the workplace, whether on land, in the ground, on the surface of the water, in the water or in the air, which is within the jurisdiction of the Republic of Indonesia. Courier is a job that takes place on land and with this legislation can be designated as a field workplace that can endanger the safety and health of workers.⁶

The method that is often used by consumers in online shopping is the COD or pay-on-site method, on the pretext that the package is not misdirected, but in some cases the courier has received safety threats even to the point of injuring the courier. As in the case of a courier being pointed at a gun by a consumer who was reluctant to pay for the package using the COD method on the grounds that he had never made the transaction.⁷ In the same case, a courier was stabbed by a consumer until he was rushed to the hospital, allegedly because the consumer felt that he did not order goods using the COD system and the consumer did

² Anis Khairiyah, "Kebijakan Pemberlakuan Pembatasan Kegiatan Masyarakat (PPKM) Dilihat Dari Perspektif Hukum Internasional Dan Politik Hukum Dalam Pengendalian Penyebaran Covid-19 Di Indonesia," *Jurnal Hukum Lex Generalis* 3, no. 1 (2022): 1–16, <https://doi.org/10.56370/jhlgl.v3i1.172>.

³ Febronia Juniati Sanjaya and Krisnadi Nasution, "Upaya Perlindungan Hukum Bagi Kurir Mitra Kerja Dalam Proses Layanan Cash On Delivery (COD)," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 3, no. 1 (2023): 452–67, <https://doi.org/10.53363/bureau.v3i1.193>.

⁴ Undang-Undang Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 20 Tahun 2008," 2008.

⁵ Peraturan Pemerintah No. 17 Tahun 2013, "Peraturan Pemerintah RI No 17 Tahun 2013," *Lembaran Negara Republik Indonesia*, no. 243 (2013): 1–5.

⁶ Pemerintah Indonesia, "Undang-Undang No 1 Tahun 1970 Tentang Keselamatan Kerja," *Journal of Chemical Information and Modeling*, 1970.

⁷ "Duduk-Perkara-Kurir-Ditodong-Pistol-Oleh-Pemesan-Barang-Di-Bogor @ Regional.Kompas.Com," n.d., <https://regional.kompas.com/read/2021/05/03/172533178/duduk-perkara-kurir-ditodong-pistol-oleh-pemesan-barang-di-bogor?page=all>.

not want to pay for the package, so there was an argument between the courier and the consumer.⁸

Social phenomena that occur can potentially lead to new legal problems that must receive attention and be seen using several perspectives. In actual practice, the courier is only the party charged with delivering the goods by the seller. If the package is sent using the COD method, the courier must meet directly with the consumer to carry out the transaction, if the package sent is not suitable then it is the responsibility of the seller to the consumer. Based on several cases that are often experienced by couriers in carrying out their work, it can cause material and immaterial losses. The Head of Communication and Education of the National Consumer Protection Agency (BPKN RI), John Efendi, said that buyers still do not understand the mechanism of the COD payment system.⁹

This research describes previous research in order to obtain data regarding the topic to be studied with research that has been conducted by previous researchers and there is no reduplication and different perspectives and approaches. Nurul Hajjan, Rani Apriani, and Luthfi Ramadhan explained that business actors have the right to demand reimbursement of costs for the goods they sell based on the regulations in Book III of the Civil Code, and as a creditor, he can choose the legal consequences that are appropriate to the situation.¹⁰ Marshelia Gloria Narida suggests that the marketplace should make information related to buying and selling with the COD system more interesting so that it is easily understood by the public, not with long sentences that are difficult to understand and cause misunderstanding of the COD system which leads to threatening the expedition courier.¹¹ Based on several previous studies, this research certainly has significant differences where in this study the discussion is more specific to the legal responsibility for the work safety of package delivery courier partners in Indonesia and to find out the obstacles and challenges in enforcing the legal responsibility for the work safety of package delivery courier partners in Indonesia.

METHOD

The type of research that can be used in studying "Legal Responsibility for Work Safety of Package Delivery Courier Partners in Indonesia", namely normative juridical legal research. The statutory approach is used to analyse the applicable legal norm system, including laws and regulations related to work safety cases, as well as relevant legal doctrines. In addition, a conceptual approach was also used to understand the legal concepts underlying the legal responsibility. Primary legal materials and secondary legal materials were obtained through desk research. The desk study involved a review of literature and legal sources such as laws, government regulations, books, journal articles, and legal documents related to work safety, courier partners and legal responsibility for risks incurred when making deliveries by the COD method. The results of the literature study were then analysed by evaluating the contents of the relevant regulations and how the legal responsibility of courier partners so that work safety risks can be avoided.

⁸ "Detik-Detik-Kurir-Paket-Cod-Di-Banyuasin-Ditusuk-Konsumen-Yang-Diduga @ Regional.Kompas.Com," n.d., <https://regional.kompas.com/read/2023/01/30/124826978/detik-detik-kurir-paket-cod-di-banyuasin-ditusuk-konsumen-yang-diduga>.

⁹ "Cod-Banyak-Dikeluhkan-Bpkn-Sebut-e-Commerce-Dan-Pembeli-Sama-Sama-Bermasalah-1w2cnjGxOcd @ Kumparan.Com," n.d., <https://kumparan.com/kumparanbisnis/cod-banyak-dikeluhkan-bpkn-sebut-e-commerce-dan-pembeli-sama-sama-bermasalah-1w2cnjGxOcd>.

¹⁰ Nurul Hajjan, Rani Apriani, and Luthfi Ramadhan, "Penegakan Hukum Atas Tindakan Wanprestasi Konsumen Melalui Sistem Cash on Delivery (Cod)," *Supremasi: Jurnal Pemikiran Dan Penelitian Ilmu-Ilmu Sosial, Hukum, & Pengajarannya* XVI, no. 2 (2021): 318–26.

¹¹ Marshelia Gloria Narida, "Persepsi Pengguna E-Commerce Terhadap Kualitas Informasi Pembelian Barang Dengan Metode Pembayaran Cash on Delivery (Cod) Berdampak Pada Terjadinya Pengancaman Kepada Kurir Jasa Expedisi," *Kinesik* 8, no. 2 (2021): 176–88, <https://doi.org/10.22487/ejk.v8i2.165>.

RESULT AND DISCUSSION

Legal responsibility for the occupational safety of parcel delivery courier partners in Indonesia introduction to legal responsibility for the occupational safety of courier partners

Raise awareness among workers of the importance of protecting their safety and health at work to reduce the risk of accidents and injuries.¹² Identifying flaws in regulations, research can help reveal aspects that need to be improved or refined in laws and regulations related to worker protection. By finding these weaknesses, it aims to provide more effective protection to workers.¹³ By providing clear facts about the problems experienced by employees/workers, this research can certainly help governments and organisations to come up with strategies that can help improve employee/worker safety.¹⁴ Courier partners as workers between packages have their own characteristics and challenges in carrying out their work. Recognising the potential hazards and risks faced by courier workers covers a wide range of risks, including physical and psychosocial aspects.

Harassment of couriers includes physical aspects and can have psychosocial effects on those who experience it. It is based on physical violence that harms them, even threatening their safety.¹⁵ Couriers operating on the road are vulnerable to the risk of traffic accidents. The pressure to make deliveries quickly can also encourage courier partners to drive or work in a hurry, which can increase traffic accidents. These risks can result in serious injuries, even death, as well as significant financial impact.¹⁶ Secretary of the Directorate General of Land Transportation Amirulloh explained that road accidents can occur every hour and as many as 3 to 4 people die.¹⁷ Couriers are also often given the task of delivering goods to areas that are less secure, so they have the potential to become victims of crime. As happened in Bekasi district, a victim named Eko Suryono suffered a laceration on his right hand caused by a sharp object slashed by a group of begals, this was done because the victim did not want to give his mobile phone and bag. As a result of the injuries suffered, the victim was unable to resist and suffered losses of up to Rp.11,400,000.¹⁸ Apart from the risks experienced by couriers when delivering goods, couriers also often get unfavourable treatment by consumers. As happened in Klojen, Malang City, a courier became a victim of persecution committed by a consumer who was reluctant to pay for a COD package of Rp.200,000. Persecution was carried out on the leg causing bruises. The refusal by consumers was due to the goods received not being suitable, so they did not want to pay and

¹² Stefany Febiola dan Tundjung Herning Sitabuana, "ANALISIS PERLINDUNGAN HUKUM KETENAGAKERJAAN TERHADAP PEKERJA / BURUH DI INDONESIA," *SERINA IV UNTAR*, n.d., file:///C:/Users/hp/Downloads/59+013P++REVISI+-+STEFANY+FEBIOLA+edited+535-542.pdf.

¹³ Suhartoyo Suhartoyo, "Perlindungan Hukum Bagi Buruh Dalam Sistem Hukum Ketenagakerjaan Nasional," *Administrative Law and Governance Journal* 2, no. 2 (2019): 326–36, <https://doi.org/10.14710/alj.v2i2.326-336>.

¹⁴ anita sinaga niru dan zeluchu Tiberius, "Perlindungan Hukum Hak-Hak Pekerja Dalam Hubungan Ketenagakerjaan Di Indonesia," n.d., file:///C:/Users/hp/Downloads/754-1447-1-SM (2).pdf.

¹⁵ Aini Safitri, "Analisis Manajemen Risiko Terhadap Pengiriman Barang Pada Jasa JNE Cabang Duri Ditinjau Dari Perspektif Ekonomi Syariah" (Universitas Islam Negeri Sultan Syarif Kasim Riau, 2022), http://repository.uin-suska.ac.id/62555/2/SKRIPSI_AINI_SAFITRI.pdf.

¹⁶ "Ketentuan Layanan Dan Kebijakan Grab Indonesia," n.d., <https://www.grab.com/id/terms-policies/transport-delivery-logistics/>.

¹⁷ Biro Komunikasi dan Informasi Publik, "Gelar Pekan Nasional Keselamatan Jalan Kemenhub Ajak Masyarakat Beralih Ke Transportasi Aktif, Tekan Angka Kecelakaan Lalu Lintas" (Jakarta: KEMENTERIAN PERHUBUNGAN REPUBLIK INDONESIA, n.d.).

¹⁸ Suhardi Ade, "Jadi Korban Begal Di Kabupaten Bekasi, Kurir Paket Disabet Golok," *sindonews.com*, n.d., <https://metro.sindonews.com/read/1048453/170/jadi-korban-begal-di-kabupaten-bekasi-kurir-paket-disabet-golok-1678953804#:~:text=JAKARTA - Seorang kurir paket menjadi korban begal,di bagian tangan kanan akibat sabetan senjata tajam.>

led to disputes and persecution. The courier immediately reported this to the Malang City Police and conducted a post mortem to confirm the injuries he had suffered.¹⁹

The actions of consumers who do not want to pay for transactions that have been carried out can harm the courier, because some package delivery service companies impose this responsibility on the courier. The losses experienced by couriers certainly arise from a lack of understanding of the responsibilities of each party and the lack of literacy and education required in the current digital era regarding e-commerce.²⁰ Apart from some of the challenges faced by courier partner workers, there are also characteristics possessed by package delivery partners, namely as follows²¹:

- a. Variable working hours.
- b. Courier partners are often self-employed or act as independent contractors.
- c. The ability to serve customers must be possessed by parcel delivery courier partners.
- d. Timeliness and reliability.

Couriers are workers at goods delivery service companies who normatively have the right to be protected in accordance with Law No. 13 of 2003 which has the principles of protection of occupational safety and health, morals and decency, treatment in accordance with human dignity and religious values, which is further updated by Law No. 11 of 2020 concerning Job Creation. This is reinforced through the COD system, that couriers in carrying out their work are obliged as workers of the delivery service company that cooperates with the marketplace. Then each in the marketplace on its platform has been directly regulated about the mechanism of the online shopping transaction process which indirectly shows the rights and obligations of the couriers.²² However, when viewed from the side of the agreement, package delivery courier partners have a different legal status, unlike casual or contract workers, this can result in inequality in legal rights and protection when compared to permanent workers.²³ In preventing accidents, contracting diseases while performing work, health improvement, treatment and recovery, workers also have the right to be protected.²⁴ The basic principles of work safety are regulated in Law No. 1 Year 1970 on Work Safety. This law is the main regulation governing the responsibilities of companies and workers in maintaining work safety. The basic concepts of occupational safety are as follows²⁵:

- 1) Every worker is entitled to protection for safety in doing work for the welfare of life and health.
- 2) Employers are obliged to provide protection, safety and occupational health for their workforce.
- 3) Employers are obliged to identify hazards and assess occupational risks and control occupational risks.
- 4) Employers are obliged to provide training and supervision of their workforce in terms of occupational safety and health.

¹⁹ MG 3, "Kurir Jadi Korban Penganiayaan Saat Antar Paket COD" (Kota Malang: MalangVoice, n.d.), <https://malangvoice.com/kurir-jadi-korban-penganiayaan-saat-antar-paket-cod/>.

²⁰ Michael Agustinus, "Mengenal Sistem COD Di E-Commerce Yang Bikin Kurir Kerap Jadi Korban Ancaman" (kumparanBISNIS, n.d.), <https://kumparan.com/channel/bisnis>.

²¹ Opa Jermias Matara and Benny Djaja, "DALAM PERJANJIAN KERJA SAMA ANTARA PERUSAHAAN PENYEDIA APLIKASI MARKETPLACE (SHOPEE) DENGAN MITRA" 5, no. 4 (2023): 3458–70.

²² I Wayan Gede Wiryawan, "Urgensi Perlindungan Kurir Dalam Transaksi E-Commerce Dengan Sistem COD (Cash On Delivery)," *Jurnal Analisis Hukum (JAH)* 4, no. 2 (2021): 188–202, <http://www.apjii.or.od>.

²³ Halilintarsyah Oka, "Ojek Online, Pekerja Atau Mitra," *Jurnal Persaingan Usaha* vo. 02 (2021), [file:///C:/Users/hp/Downloads/19 \(1\).pdf](file:///C:/Users/hp/Downloads/19%20(1).pdf).

²⁴ Endah Pujiastuti, *Pengantar Hukum Ketenagakerjaan*, pertama (Semarang: Semarang University Press, 2008), <https://repository.usm.ac.id/files/bookusm/A008/20171110024751-Pengantar-Hukum-Ketenagakerjaan.pdf>.

²⁵ Undang-Undang Republik Indonesia, "Undang Undang Nomor 1 Tahun 1970 Tentang Keselamatan Kerja," 1970.

- 5) Employers are obliged to report work accidents that occur to their workforce to the authorised agency.
- 6) Workers are obliged to comply with work safety rules and procedures set by the employer.
- 7) Occupational safety experts are authorised to supervise the observance of this Law.

Law No. 1 Year 1970 aims to promote and protect the health and safety of all workers in Indonesia. Workers must still adhere to the prescribed protections and maintain their own safety and health when already in the workplace. Apart from Law No. 1 of 1970 on Occupational Safety, which provides the legal basis for occupational safety in Indonesia. The following are regulations relating to occupational safety and health in Indonesia. Government Regulation of the Republic of Indonesia Number 50 Year 2012 also regulates the implementation of Occupational Safety and Health management systems in companies.²⁶ Meanwhile, Government Regulation of Labour No. 4 of 1987 regulates the Committee for the Supervision of Occupational Safety and Health (P2K3) in the Company. All these regulations provide a legal basis for occupational safety and health issues in Indonesia, including the implementation of occupational safety and health management systems, as well as the obligations and authorities of occupational safety and health experts. In the Government Regulation of the Republic of Indonesia No. 50 of 2012 concerning the Implementation of Occupational Safety and Health Management Systems (SMK3), it is explained that companies are obliged to implement SMK3 in each of their companies and employers must comply with all applicable regulations in this PP including international conventions or standards in implementing SMK3. Law No. 1 Year 1970 on occupational safety contains requirements and procedures for occupational safety, in which case employers must endeavour to comply with the provisions set out in this Law within one year after this Law comes into force. The public transport company or in this case, the goods delivery service provider company is responsible for losses caused by all acts of people employed in the transport operation.²⁷ In transport using public vehicles, transport operators have responsibility for losses suffered by passengers, freight forwarders, or third parties as a result of negligence or errors in the provision of transport services. The amount of compensation will be in accordance with the losses suffered by passengers, freight forwarders, or third parties.²⁸ Apart from this, freight forwarders have the same rights and obligations as other workers.

Article 12 of Law No. 1 of 1970 regulates the obligations and rights of workers to;

1. Provide correct information when requested by supervisory employees and or work safety experts;
2. Wear the required personal protective equipment;
3. Fulfil and comply with all required occupational safety and health requirements;
4. Requesting the management to implement all required occupational safety and health requirements;
5. Expressing objections to work on jobs where the conditions of occupational safety and health and the required personal protective equipment are doubted by him, except in special cases determined otherwise by supervisory employees within the limits that can still be accounted for.

²⁶ Peraturan Pemerintah RI, "Peraturan Pemerintah Republik Indonesia Tentang Penerapan Sistem Manajemen Keselamatan Dan Kesehatan Kerja (PP Nomor 50 Pasal 5 Ayat 1 Tahun 2012)" (Jakarta, 2012).

²⁷ Undang-Undang Republik Indonesia, "Undang-Undang Republik Indonesia Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan," 2009, file:///C:/Users/hp/OneDrive/Documents/jurnal/uu/UU Nomor 22 Tahun 2009.pdf.

²⁸ S Daming and T A Wibowo, "Tanggung Jawab Perusahaan Jasa Pengangkutan Dalam Pengiriman Barang," *Yustisi* 8, no. 2 (2022): 152–72, <http://ejournal.uika-bogor.ac.id/index.php/YUSTISI/article/view/6669%0Ahttp://ejournal.uika-bogor.ac.id/index.php/YUSTISI/article/viewFile/6669/3369>.

The legal basis used in work safety in Indonesia still uses Law No. 1 of 1970 which of course at this time is considered to have a fairly old age. The progress experienced at this time is certainly very broad when compared to the regulations stipulated in Law No. 1 of 1970.

Based on BPJS Employment data, from January to September 2021 there have been approximately 82 thousand cases of work accidents. The importance of occupational health and safety (OHS) is closely related to sustainable development, with investment in OHS potentially making a positive contribution to the achievement of sustainable development.²⁹ Sanctions stipulated in legislation for violations and work safety are considered to be relatively light sanctions. As stipulated in Article 15 of Law No. 1 of 1970 concerning occupational safety, the sanctions that can be applied are imprisonment for a maximum of three months or a maximum fine of Rp. 100,000.00, - this certainly cannot provide a deterrent effect for companies or workers who violate the provisions of norms in OHS. The application of these regulations can also be said to be not effective enough in terms of inspection for workers in the Company.³⁰

The government in this case should be more assertive in ensuring the safety and safety of workers. To protect and reduce the occurrence of work accidents in Indonesia and create safe work for every worker. The government should clarify and take action to protect courier partners who in this case work individually. Partnership relationships that still lack a legal umbrella certainly make it difficult for courier partners to get legal protection in carrying out their work. Courier partners who work in the field or on the road will often encounter the threat of accidents and so on, so if this still does not have legal certainty, courier partners will continue to feel less cared for as a workforce that should have the same position as other workers or companies that become a place of cooperation. The concept of mutual benefit in a partnership relationship will also be difficult for courier partners to obtain due to inadequate and protective legal regulations.

Obstacles and Challenges in Enforcing Legal Responsibility for Occupational Safety of Package Delivery Courier Partners in Indonesia

Legal relationship is a relationship regarding 2 or more parties that bind between individuals, individuals and society, or society and other societies. The relationship has 3 elements, namely the first, people whose rights and obligations are the same, the second is the existence of objects that apply based on their rights and obligations, the third is the relationship between the owner of the right and the person responsible for the obligation, or the object concerned is interrelated.³¹

Courier can be referred to as Outsourcing, which is the use of labor services that are chosen to be a third party to deal directly with other companies and are not directly related to the core business of the company where they work.³² It can also be said as freelance, which

²⁹ Gita Lingga, "ILO Dan Kementerian Ketenagakerjaan Sambut Hari Keselamatan Dan Kesehatan Kerja (K3) Sedunia 2022 Dengan Mendorong Kolaborasi Multi-Pihak," *International Labour Organization* (Jakarta: ILO, n.d.), <https://www.ilo.org/safework/countries/africa/algeria/lang--en/index.htm>.

³⁰ Ridwan Ridwan Ridwan, Najmi Kamariah, and Alam Tauhid Syukur, "Ridwan EVALUASI PENERAPAN PEMERIKSAAN KESEHATAN TENAGA KERJA DI BALAI BESAR PENGEMBANGAN KESELAMATAN DAN KESEHATAN KERJA KOTA MAKASSAR," *Jurnal Administrasi Negara* 25, no. 3 (2019): 246–62, <https://doi.org/10.33509/jan.v25i3.976>.

³¹ Ratna Hartanto and Juliyani Purnama Ramli, "Hubungan Hukum Para Pihak Dalam Peer To Peer Lending," *Jurnal Hukum Ius Quia Iustum* 25, no. 2 (2018): 320–38, <https://doi.org/10.20885/iustum.vol25.iss2.art6>.

³² I Nyoman Putu Budiarta, *Hukum Outsourcing Konsep Alih Daya, Bentuk Perlindungan, Dan Kepastian Hukum*, Setara Press Kelompok Intrans Publishing, vol. 11, 2013.

is a workforce that is not bound by a long contract but still has close working ties.³³ Both systems definitely have advantages and disadvantages but both have the same goal which can provide better efficiency to the cooperative relationship between companies such as Shopee and couriers whose status is either partners or workers. A partnership agreement is a general form of legal relationship between one party and another based on a partnership MoU. The general provisions of a partnership agreement refer to Article 1338 to Article 1320 of the Civil Code. While the specific provisions refer to Article 1618 of the Civil Code up to Article 1641 of the Civil Code, namely the legal relationship between the partner parties and others including such as capital or contribution.³⁴ The Civil Code is the legal source of an agreement. In Article 1338 paragraph 1 of the Civil Code, namely, "all agreements made legally shall apply as laws for those who make them" the parties must ensure that the agreement is made by mutual consent with the agreed contract terms so that the agreement has legal guarantees and certainty.³⁵

In Shopee's driver partner service policy explains that Shopee is a technology ordering service provider, shopee includes online platform services that provide places and opportunities for couriers to deliver shopee products. Shopee does not have a role as a transport service provider, courier, postal, delivery service, or act as a representative for other individuals or companies, the contract for shopee delivery services is actually established directly between the courier and the customer. Shopee is not involved in that contract nor in any other contract formed between the courier, the merchant, and the customer. As such, shopee is not responsible for any liabilities associated with these contracts. Couriers operate as independent third parties and do not represent themselves as agents, employees, or staff of shopee. The services provided cannot be considered as services provided by shopee.³⁶

In the terms of service of shopee driver partners in section 3 regarding statements, guarantees and abilities paragraph 3.1.5 it is explained that the courier fully assumes all claims, judgments, and responsibilities arising from accidents, losses due to loss, or losses due to damage, including but not limited to personal injury, death, total loss, property damage, and/or products that the courier sends as a result of the delivery service provided. In connection with this, it is also explained in the final point that if the courier has read, understood and agreed to the existing terms and conditions even though he has not physically signed the agreement and has delivered the goods on the Shopee platform, the agreement is considered valid as a delivery partner. In this case, of course, courier partners get obstacles and challenges in obtaining legal protection. Because in the agreement and conditions above if the courier partner agrees and accepts then the agreement is valid. Apart from the lack of legal protection for partners, the company's responsibility for partner welfare is still unclear.

In the terms of service of shopee driver partners in section 3 regarding statements, guarantees and abilities, paragraph 3.1.5, it is explained that couriers fully assume all claims, decisions, and responsibilities arising from accidents, losses due to loss, or losses due to damage, including but not limited to personal injury, death, total loss, property damage, and/or products that couriers send as a result of the delivery service provided. In connection with this, courier partners lack legal protection, the company's responsibility for partner welfare is still unclear.

³³ Fitria Savira and Yudi Suharsono, "Tinjauan Yuridis Pekera Freelance Berdasarkan Prinsip Keadilan," *Journal of Chemical Information and Modeling* 03, no. 01 (2018): 1689–99.

³⁴ thee kian wie, "Dialog Kemitraan Dan Keterkaitan Antara Usaha Besar Dan Kecil Dalam Sektor Industri Pengolahan" (Jakarta: Pt Gramedia Pustaka Utama, 1992).

³⁵ Tiberius, "Perlindungan Hukum Hak-Hak Pekerja Dalam Hubungan Ketenagakerjaan Di Indonesia."

³⁶ shopee, "Ketentuan Layanan Mitra Pengemudi Shopee Dan SPX Non-Standard" (Shopee, n.d.), <https://help.shopee.co.id/portal/article/71206?seo=1>.

Based on Article 16 of Law No. 1 of 1970, it is explained that companies are obliged to strive to fulfil the conditions of occupational safety that are stipulated in this law. However, the lack of assertiveness carried out by the government in this matter certainly causes negligence for companies to implement it. Courier partners who in this case fulfil the criteria as workers should be able to feel protection like other workers. However, not a few companies take the name of the partner agreement to release responsibility for the rights that should be given. Weak government supervision of the implementation of work safety systems that have actually been regulated in this law. Of course, in this case the government must also be more assertive in providing sanctions for companies that do not comply with the safety of workers.

Courier partners can also be said to be informal workers where legal and social protection is still inadequate. Informal workers in this case include the following characteristics³⁷:

- a. Not bound by an official employment contract with a company or government agency.
- b. Do not receive social benefits such as insurance, pension funds, or sick leave.
- c. Do not receive a stable and appropriate salary.
- d. Do not have adequate legal protection.

Based on the above characteristics, it certainly poses a considerable challenge in ensuring the protection of courier partners to obtain occupational safety protection. The lack of regulations governing the protection of informal workers makes it difficult for informal workers to ensure adequate protection.³⁸

The prioritisation of profitability and high business performance can result in pressure on workers to work harder, without regard to safe working conditions and their welfare. Many companies, including freight forwarders in general, have a primary focus on achieving high profitability and business performance, which sometimes results in companies being more oriented towards increasing revenue and operational efficiency rather than prioritising workers' welfare.³⁹ The impact of this lack of concern for workers' welfare can create poor working conditions, increase the risk of accidents, and reduce workers' access to the rights they should enjoy.⁴⁰

Education plays a crucial role in raising workers' awareness.⁴¹ Education can also help informal workers to develop the skills and knowledge needed to improve their social and economic mobility.⁴² In order to improve compliance with legal obligations, strengthen legal and social protection mechanisms, expedition companies should take responsibility for the agreements that have been made between companies and courier partners, and ensure

³⁷ Edwin Nur Febrianto, "Hubungan Sektor Informal Dan Pertumbuhan Ekonomi Di Indonesia," *JURNAL PENDIDIKAN EKONOMI: Jurnal Ilmiah Ilmu Pendidikan, Ilmu Ekonomi Dan Ilmu Sosial* 14, no. 1 (2020): 151, <https://doi.org/10.19184/jpe.v14i1.16620>.

³⁸ Raditia Wahyu Supriyanto, Elsa Ryan Ramdhani, and Eldi Rahmadan, *Perlindungan Sosial Di Indonesia: Tantangan Dan Arah Ke Depan*, ed. Utin dan D. Kharisma Kiswanti, *Bappenas* (Jakarta: Direktorat Perlindungan dan Kesejahteraan Masyarakat Kementerian PPN/Bappenas, 2014).

³⁹ Dian Islamiati, "ANALISIS HUKUM PERTANGGUNGJAWABAN PERUSAHAAN PENGIRIMAN BARANG APABILA TERJADI KERUGIAN DALAM PERJANJIAN PENGIRIMAN BARANG" (Universitas Bosowa Makassar, 2019), [https://repository.unibos.ac.id/xmlui/bitstream/handle/123456789/4485/2019 DIAN ISLAMIATI 4515060014.pdf?isAllowed=y&sequence=1](https://repository.unibos.ac.id/xmlui/bitstream/handle/123456789/4485/2019%20DIAN%20ISLAMIATI%204515060014.pdf?isAllowed=y&sequence=1).

⁴⁰ United Nations Children's Fund : Globalizing and Organizing (WIEGO) and (UNICEF) dan International Labour Organization (ILO)., "Kebijakan Ramah Keluarga Bagi Pekerja Di Sektor Ekonomi Informal," n.d., [https://www.unicef.org/indonesia/media/13036/file/Kebijakan Ramah Keluarga bagi Pekerja di Sektor Ekonomi Informal.pdf](https://www.unicef.org/indonesia/media/13036/file/Kebijakan%20Ramah%20Keluarga%20bagi%20Pekerja%20di%20Sektor%20Ekonomi%20Informal.pdf).

⁴¹ Gustia Hendri, "Pengaruh Pendidikan Dan Pelatihan Kepemimpinan Terhadap Kinerja Aparatur Di Lingkungan Pemerintah Kabupaten Rokan Hulu" (Universitas Islam Riau Pekanbaru, 2019), <https://repository.uir.ac.id/1709/1/187121025.pdf>.

⁴² Badan Pusat Statistik, "Tujuan Pembangunan Berkelanjutan" (Jakarta: BPS-Statistics Indonesia, 2020), https://www.bps.go.id/indikator/indikator/list/_sdgs_1.

that courier partners can work in safe and decent conditions.⁴³ Improved regulation and oversight can help ensure adequate protection for courier partners. This can be achieved through improved coordination between relevant agencies, increased human and financial resources, and improved levels of enforcement.⁴⁴

Communities and the media also have an important role to play in driving such change. Communities and the media can champion the rights of courier partners, by strengthening monitoring and enforcement mechanisms as well as providing information and reporting violations of workers' rights.⁴⁵

To meet these challenges, close cooperation between the government, businesses, and civil society organisations is needed. Some steps that can be taken include raising awareness and understanding of the rights of informal workers or courier partners, designing policies that support the protection of informal workers, and strengthening legal and social protection systems.⁴⁶ For the government, it is important to understand the elements that influence people to have insurance, especially those who work in the informal sector, which is quite large in Indonesia. This information can serve as a basis for evaluating and designing strategies to expand coverage within the National Insurance (JKN) framework.⁴⁷

CLOSING

this research sheds light on the legal responsibility for the occupational safety of parcel delivery courier partners in Indonesia. It emphasizes the critical role of research in protecting workers, highlighting the unique challenges faced by courier partners in their line of work. These challenges range from time constraints and the risk of traffic accidents to potential harm from consumers and even criminal acts. Despite the legal framework in place, there is a clear disparity in the legal rights and protection afforded to courier partners compared to permanent workers. The existing sanctions for violations of work safety regulations are considered inadequate, and the lack of assertiveness in government supervision further exacerbates the issue. Courier partners, categorized as informal workers, lack the social benefits and protections enjoyed by formal employees. To address these challenges, there is a pressing need for stronger collaboration between the government, companies, and civil society organizations. Additionally, educational initiatives and improved regulation and oversight are crucial steps towards ensuring the safety and welfare of courier partners.

In light of the research findings, a comprehensive set of recommendations emerges to bolster the legal responsibility for the occupational safety of parcel delivery courier partners in Indonesia. First and foremost, it is imperative that the government takes immediate action

⁴³ International Labour Organization, "Pekerjaan Layak : Katalisator Untuk Agenda Perubahan" (International Labour Organization, n.d.), https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_346723.pdf.

⁴⁴ ILO, *Menanggulangi Pekerja Anak : Panduan Untuk Pengawas Ketenagakerjaan* (Jakarta, 2002), https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/instructionalmaterial/wcms_150636.pdf.

⁴⁵ Sofyan Muhammad Lubis, "Tanggung Jawab Penegak Hukum Indonesia" (Pengadilan Agama Sengeti, 2019), <http://www.pa-sengeti.go.id/cara-memperoleh-informasi/1885-tanggung-jawab-penegakan-hukum-indonesia>.

⁴⁶ Nelien Haspels, Aya Matsuura, and International Labour Organization, *Pekerja Berbasis Rumahan : Kerja Layak Dan Perlindungan Sosial Melalui Organisasi Dan Pemberdayaan : Pengalaman, Praktik Baik Dan Pelajaran Dari Pekerja Berbasis Rumahan Dan Organisasi Mereka* (Jakarta: International Labour Organization, 2015), https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_436852.pdf.

⁴⁷ Dodi Satriawan, Agus Joko Pitoyo, and Sri Rum Giyarsih, "Faktor-Faktor Yang Memengaruhi Kepemilikan Jaminan Kesehatan Pekerja Sektor Informal Di Indonesia," *Tataloka* 23, no. 2 (2021): 263–80, <https://doi.org/10.14710/tataloka.23.2.263-280>.

to enhance legal protections for courier partners, ensuring that their rights and entitlements are unequivocally aligned with those of permanent workers. This entails a thorough review and modernization of existing labor laws to eliminate disparities and ambiguities regarding their legal status. Concurrently, a pivotal step is the implementation of more stringent sanctions against companies that flout work safety regulations, thereby instilling a strong deterrent against negligence. To foster a culture of safety and awareness among courier partners, comprehensive education and training programs should be instituted, covering their rights, occupational safety measures, and the significance of their welfare, including protocols for accident prevention and response. Simultaneously, regulatory bodies should intensify their efforts to improve oversight and enforcement, ensuring that companies adhere to safety standards through regular inspections and audits. Additionally, community and media engagement should be harnessed to champion the rights of courier partners and create mechanisms for reporting violations. Companies involved, like Shopee, must embrace partnership responsibility by clearly delineating their obligations towards courier partners in their terms and conditions, prioritizing their welfare and safety. Policy design should encompass tailor-made measures that address the distinct challenges faced by informal workers, including courier partners. Lastly, forging a robust collaborative partnership between the government, businesses, and civil society organizations is pivotal, serving as a fulcrum to address the multifaceted challenges confronting courier partners and fostering an environment that facilitates the expansion of insurance coverage for these essential contributors to the Indonesian economy.

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