

Legal Certainty of Drivers' Status for Travel Entrepreneurs from the Perspective of Law Number 13 Of 2003 Concerning Employment

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Legal certainty in employment relationships is a foundation used by workers (drivers) and employers aimed at preventing arbitrary actions as well as legal violations. Legal certainty is expressed in the form of agreements as a basis for recognition of the status of workers (drivers); however, in reality, the employment relationship between drivers and travel companies is only based on partnership agreements. In fact, these agreements are used by companies to avoid obligations towards workers under labor law. This practice often causes imbalances, because even though an employment relationship exists with elements of work, orders, and wages, workers do not obtain the normative rights as regulated in labor law. Based on the principle of freedom of contract in Article 1338 of the Civil Code, partnership agreements are valid as long as they do not conflict with laws, morality, and public order. However, when the substance of the legal relationship indicates the fulfillment of the elements of an employment relationship, then that relationship should be subject to labor law provisions. The research method used is normative juridical with a statutory approach and a case study of two decisions of the Industrial Relations Court (PHI) involving PT Niaga Handal Cemerlang or Arnes Shuttle. In both decisions, the panel of judges stated that the relationship between the driver and the company met the elements of an employment relationship, and therefore must comply with labor law provisions. The research results show a legal vacuum in the labor legislation system in Indonesia, especially in providing a clear boundary between partnership relations and employment relations. This vacuum has created room for the practice of disguised employment, which is the concealment of standard employment relationships as non-standard relationships to avoid legal obligations to workers. This will impact legal uncertainty for drivers, who ultimately do not receive legal protection, because certainty and legal protection are obtained when the substance of the agreement regulates such matters. Therefore, it is necessary to establish legal norms that explicitly provide clear and firm boundaries between partnership relations and employment relations. In addition, Indonesia also needs to promptly ratify ILO Recommendation No. 198 of 2006 on Determining Employment Relationships in order to strengthen the national legal framework in protecting workers, as well as to provide legal certainty for workers employed as drivers.

Keywords: Legal Certainty, Driver Status, Travel Entrepreneurs, Employment Law

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1. Introduction

Human development is currently experiencing an increase, not only increasing in terms of population, but also there is an increase in meeting the needs of daily activities, namely the human need for land transportation services. Currently the need for transportation has become a primary need in supporting all human activities, such as for work activities, school children, trade and industry, even recently in the 2000s the need for transportation has increased, such as for tourism needs, or simply limited to car rental, so that both the quantity and quality of land transportation service providers have experienced very rapid development, especially in big cities such as Bandung, Jakarta, Yogyakarta and other big cities in Indonesia.

The transportation system is a fundamental element of infrastructure that influences urban development patterns. Transportation development and land use play a crucial role in government policies and programs. Transportation encompasses a wide range of areas, as almost all aspects of human life are inextricably linked to transportation. (Firmandani, Sejarah, and Ilmu 2021)

With the rapid development and dynamics of social life, it certainly has consequences in keeping up with these developments, including in the world of land transportation, with the increasing number of residents in one area certainly having an impact on the increasing need for land transportation services. Transportation literally is the movement of people or goods from one place to another physically within a certain time by using or being driven by humans, meanwhile what is meant by land transportation is a vehicle that is operational and permitted to use roads, either in the form of highways or rail lines. (FATIMAH 2019). Based on the above, the impact of this development is marked by the emergence of various modes of land transportation, such as rail-based transportation, *online*, *travel*, and *shuttle bus* which applies a partnership legal relationship pattern between the company and the driver.

The term partnership in the business world can be found in Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises, hereinafter referred to as the MSME Law. In the provisions of Article 1 number 13 which reads "Partnership is cooperation in business relations, both directly and indirectly, based on the principle of mutual need, trust, strengthening, and benefit involving Micro, Small, and Medium Enterprises with Large Enterprises" from this understanding we can see that the relationship that is built is only limited to mutual trust, mutual need and mutual benefit, meanwhile for drivers the expected relationship is not only limited to mutual need, mutual trust but more than that, because after all a driver in doing work has a risk that is not light, but they are faced with very heavy risks in carrying out the job.

From there, many land transportation companies in their operations, prefer to implement partnership relationships with drivers compared to the conventional employment relationship model regulated in Law Number 13 of 2003 concerning Manpower, hereinafter referred to as the Manpower Law. Partnership relationships are chosen because partnerships offer flexibility and efficiency for companies, which allow companies to adjust the scale of operations quickly according to market demand. Through partnership relationships, companies are not burdened with the obligation to fulfill workers' rights under the Manpower Law, as conventional employment relationships (based on statutory regulations).

This condition is certainly a dilemma, on the one hand a driver is faced with the need for work, because by working a driver will get wages and can support his family, on the other hand the existence of a driver in carrying out his work does not have a guarantee of occupational safety and health because in carrying out an employment relationship as a driver it is not based on an employment agreement, like someone who works in a company, so this does not provide legal certainty for the driver.

In employment relations, conceptually it reflects relational interactions between legal subjects, both between individuals and between individuals and juridical entities, which are no longer limited to the private sphere but rather integrate state participation within a regulatory framework (Asep Rudi Gunawan 2024)

In the employment law regime, a professional relationship mechanism is constructed between workers and business actors, which is realized through a contractual agreement that binds both parties. Meanwhile, in the context of drivers working in travel companies, it is only built on a partnership relationship. The provisions of Article 1 number 15 of Law (UU) Number 13 of 2003 concerning Employment regulate that the legal relationship in the context of work between individuals and legal entities is known as an employment relationship, where in this employment relationship there is a relationship between workers and employers based on an employment agreement, which has elements of work, wages, and orders. The emergence of an employment relationship is the result of an employment agreement.

In implementing legal relations, whether through partnership agreements or employment agreements, it is necessary to fulfill the requirements for the validity of an agreement as stipulated in the applicable laws and regulations. Partnership agreements based on the provisions of Article 1338 of the Civil Code, need to fulfill the requirements for the validity of an agreement as stipulated in the provisions of Article 1320 of the Civil Code, namely agreement, competence, a certain matter, and a lawful cause. In addition, based on the provisions of Article 1337 of the Civil Code, a cause of agreement is prohibited from violating the provisions of the law, public order, and morality. Likewise, employment agreements based on the Employment Law must fulfill the requirements for the validity of an employment agreement as stipulated in the provisions of Article 52 of the Employment Law. Regulations regarding employment relations in the Employment Law provide more comprehensive legal protection for workers. (KITAB UNDANG-UNDANG HUKUM PERDATA n.d.)

The implications of partnership relations in the context of employment relations in the land transportation sector are less appropriate to apply because they create uncertainty of status. According to Gustaf Radbruch, the law requires legal certainty. The law does not only function as regulations that must be obeyed, of course, not only regarding how the regulations are implemented, but also how the norms or content of the regulations contain basic legal principles. (Halilah and Arif 2021) Thus, with legal certainty, a person will receive guarantees/protection from arbitrariness carried out by the authorities/parties with power.

The current Employment Law does not contain provisions regarding partnership relationships. This is despite the fact that certain partnerships fulfill the cumulative elements of an employment relationship, namely work, wages, and orders, as well as a subordination relationship between the driver and the company. Workers in partnership agreements are in fact vulnerable to violations of their rights due to the lack of employment law protection, a situation that frequently gives rise to problems.

The problem that arises due to the legal vacuum in regulating partnership relationships is the disguise of employment relationships as a way to avoid employment obligations that should be fulfilled by the company. By classifying drivers as partners, companies can avoid the responsibility to provide normative rights guaranteed by the Employment Law. (Jatimulya and Wibowo 2023) This condition creates an imbalance of power (*bargaining position*) between the company and the driver. In addition, the legal vacuum regarding the provisions of the partnership creates uncertainty in the legal relationship for the parties to the agreement. This practice also contradicts the spirit of worker protection as mandated by Pancasila and the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as the 1945 Constitution of the Republic of Indonesia, and various international legal instruments, such as those recommended by the ILO. Through Recommendation Number 198 concerning Employment Relations in 2006, the ILO encourages member countries to take steps to combat the practice of abusing employment agreements aimed at avoiding obligations to workers.

The ILO also recommends that member states pay close attention to national policies to ensure effective protection for workers, especially those suffering from uncertainty regarding the existence of an employment relationship, in this case including workers in the informal sector. [7] The laws and regulations of a country are basically enforced based on a system. This means that a country must have laws and regulations that are not only singular, but multiple, which form a system where each is connected as a whole. (Sugeng Prayitno 1 2024)

Employment regulations are regulated by the Manpower Law, which has been partially amended through Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation, hereinafter referred to as the Job Creation Law, bringing significant changes

to the employment regulatory framework. However, this amendment does not yet include provisions governing legal protection for workers under partnership agreements. Consequently, in its implementation, the boundaries between partnership relationships and conventional employment relationships have given rise to various interpretations and debate. This can open loopholes for companies to shirk employment responsibilities, thus harming drivers who are considered partners in partnership agreements.

For example, in writing this article on the decision of the Industrial Relations Court at the Bandung District Court Class 1A Special Number 150//Pdt.Sus-PHI/2024/PN. Bdg., and the case of the dispute over the rights of 10 (ten) Arnes Shuttle partner drivers based on an online survey by the author via the internet. The lawsuit case Number 150//Pdt.Sus-PHI/2024/PN. Bdg., concerning the unilateral layoffs carried out by PT Niaga Handal Cemerlang or Arnes Shuttle against its drivers due to the drivers attending tripartite mediation with the Industrial Relations Mediator of the Bandung City Manpower Office.

The legal relationship between PT Niaga Handal Cemerlang and its drivers is a partnership relationship. In its decision, the Panel of Judges stated that the plaintiff, who is a driver, is an employee of PT Niaga Handal Cemerlang under an Indefinite Term Employment Agreement (PKWTT), so that the partnership status is null and void. Likewise, the case of the dispute over rights concerns the driver's demands regarding the rights that the driver should receive. Partner drivers work based on a partnership agreement, but in practice the drivers are treated like PKWTT workers with strict controls on working hours, deposit targets, and unilateral sanctions from the company. Therefore, in both cases, the drivers are demanding normative employment rights such as minimum wages, benefits, and social security because the legal relationship that occurs actually fulfills the elements of an employment relationship.[8]

This condition shows a discrepancy between the laws and regulations and the actual conditions in the field, this is due to the legal vacuum that has not regulated the employment relationship with the partnership agreement, thus creating legal uncertainty for drivers in travel companies, because there is no legal certainty, legal protection for drivers is also not obtained. Based on the description above, the author is interested in conducting an in-depth analysis regarding this problem, while the urgency of writing this article is more focused on the problem Legal Certainty of Driver Status for Travel Entrepreneurs in the Perspective of Law Number 13 of 2003 Concerning Manpower.

2. Literature Review

An agreement is an act or legal action that is formed by reaching an agreement which is a statement of free will from two or more parties, where reaching this agreement depends on the parties giving rise to legal consequences for the benefit of one party and at the expense of the other party or reciprocally by paying attention to the provisions of the law (Ayu, Nyi Marwa 2025)

An employment agreement is an agreement between a worker and an employer that outlines the terms of employment, rights, and obligations of the parties. This definition aligns with Article 1, number 14 of Law Number 13 of 2003 concerning Manpower, which states that an employment agreement is an agreement between a worker and an employer (Indonesia 2003).

In an agreement there are legal principles that must be considered, according to Satjipto Raharjo, it can be interpreted as something that is considered by the legal community concerned as truth, because it is through these legal principles that ethical and social considerations of society enter into law (Kosasih 2019), in line with the opinion expressed by Satjipto Rahardjo, Subekti emphasized that, ignoring the principles of an agreement can cause losses that not only impact the relationship between parties, but also damage the sense of trust in business transactions in general. The legal principles in the agreement in question are:

- a. The principle of consensualism is a principle which determines that with an agreement between the parties on the main matters agreed upon, an agreement is born. The principle of consensualism can be found in Article 1320 number (1) of the Civil Code,
- b. Fundamentals of Freedom of Contract, Everyone has the freedom to enter into an agreement for the content of the agreement and with whom the agreement is desired. The principle of freedom of contract is contained in Article 1338 of the Civil Code.
- c. The principle of legal certainty, that an agreement applies as law for the parties who make it, so third parties must respect the contents (substance) of the agreement as is appropriate for law and third parties cannot intervene in the substance of the agreement.
- d. The principle of good faith, based on Article 1338 paragraph (3) of the Civil Code, an agreement must be carried out in good faith. However, the Civil Code does not provide further explanation regarding this good faith. Therefore, according to Muliarta's opinion, good faith is the honest behavior of the parties in carrying out a transaction, so that with good faith it can prevent losses for the parties bound by the agreement.(Noho et al. 2023)

An employment agreement is different from agreements in general, because in an employment agreement there is government intervention in it. Government intervention in an employment agreement is basically caused by the imbalance in the position of the parties involved in the employment agreement, in this case the worker has a lower position compared to the employer. According to Broto Suwiryo, when compared to the employer (businessman), the laborer (worker) is subordinate to the employer. A subordinate or vertical relationship means an unequal position between the employer and the worker, this is what then becomes the difference between an employment relationship (which is subordinate) and other legal relationships (which are coordinated)(Ayu, Nyi Marwa 2025)

An agreement is the basis of a legal relationship between parties. Based on Article 1313 of the Civil Code, an agreement is an act of binding one or more people to one or more people. The validity of an agreement is if the agreement meets the legal requirements as stipulated in Article 1320 of the Civil Code, namely the agreement of the parties, the capacity of the parties to make an agreement, a certain matter and a lawful cause. Normatively, labor law provides legal protection to workers. Because logically, workers have a lower position compared to entrepreneurs. The reasons behind this are economic and psychological reasons(Ayu, Nyi Marwa 2025), employment agreements in the employment context as a basis and as a guarantee of legal protection for workers, because through an employment agreement it will provide legal certainty for workers (drivers), so that in a broad sense legal certainty is useful to guarantee the consequences of an action.

Normative legal certainty is a regulation that is created and enacted with certainty, clearly and logically regulating, without giving rise to doubt or multiple interpretations. Legal certainty is a condition in which human behavior, whether individual, group, or organization, is bound and within the corridors outlined by legal regulations.

Legal certainty guarantees that a law will be implemented correctly and appropriately, as certainty is the primary purpose of law. Without certainty, the identity and meaning of the law will be unclear. If this occurs, the law will no longer be used by everyone as a guide for behavior. The goal of legal certainty is to ensure that society always maintains a good attitude, complies with, and adheres to established laws and regulations.

The working relationship established between drivers and travel operators is essentially based on a partnership agreement, which then gives rise to a partnership relationship, currently regulated by the MSME Law, which grants equal status to the parties entering into the partnership agreement. Furthermore, the

partnership relationship is fundamentally built on mutual trust, need, strengthening, and benefit among the business actors entering into the partnership agreement. Therefore, in a partnership agreement, the parties are considered equal.

Based on the provisions of Article 117 paragraph (4) of Government Regulation Number 7 of 2021 concerning the Facilitation, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises, a partnership agreement must at least contain the identities of the parties, business activities, rights and obligations of the parties, form of development, partnership period, payment period and mechanism, and dispute resolution. The partnership agreement must then be reported to the authorized party in accordance with the provisions of laws and regulations.

Furthermore, in the provisions of Article 34 paragraph (2) of the MSME Law, partnership agreements that have been made must be reported to the authorized party in accordance with the provisions of statutory regulations. The authorized party in this case is the Minister of Micro, Small, and Medium Enterprises (MSMEs).

However, in practice, partnership agreements, as a manifestation of the principle of freedom of contract, cannot be enforced absolutely. The application of partnership agreements in employment practices raises issues when their content and implementation actually demonstrate the characteristics of conventional employment relationships as regulated by the Manpower Law.

Normatively, the presence of the employment law provides legal certainty for workers/laborers, including drivers, while also providing legal protection. Legal protection in the broad sense includes economic, social and technical aspects.(Nurchahyo 2021) As stated by Yopi Gunawan, the concept of a state based on the rule of law is basically based on the basic idea that the legal system can guarantee legal certainty (*legal certainty*) but still provides protection for human rights(Prayitno, Hasan, and Subarsyah 2022)

Although the agreement formally uses the terminology of "partnership" and uses the term "partner", the legal relationship that is established often indicates the presence of three elements of an employment relationship as regulated in Article 1 number 15 of Law Number 13 of 2003 concerning Manpower, namely the elements of work, orders, and wages. If these elements are fulfilled, then the relationship is legally an employment relationship that is subject to the provisions of employment law, and is no longer a contractual relationship in general regulated by civil law. The MSME Law does not explicitly regulate partnership relationships that contain elements of wages, work, and orders between individuals and legal entities. The mismatch between the legal form and substance of this employment relationship creates a legal loophole that can be detrimental to the parties, especially workers, in terms of fulfilling normative employment rights.

The fundamental difference between partnership and employment relationships is seen from the position of the parties, in an employment agreement there is a superior and subordinate or subordination relationship, whereas based on the partnership principle in the MSME Law, the Parties in a partnership relationship have an equal position, no one controls or is controlled. There is a fundamental difference between an employment relationship and a partnership relationship, where workers in an employment relationship are individuals who work for a company based on an employment agreement or work contract who receive rights and obligations protected by employment law, whereas in a partnership relationship, individuals who work with other companies within a more flexible business agreement framework but do not receive the same protection as workers under employment law.(Aryaputri et al. 2023)

If the partnership relationship is only used as an instrument to avoid labor law obligations, then the freedom of contract in this context becomes limited and must be adjusted to the principle of worker protection as stipulated in labor law. So in this case, legal protection is needed for workers (in this case drivers) and

shuttle bus companies if the partnership agreement based on Article 1338 of the Civil Code violates the provisions of the valid conditions of the agreement in Article 1320 of the Civil Code because the conditions of a lawful cause are violated due to the fulfillment of the elements of labor law in the partnership agreement made by the parties.

Partnership agreements containing employment relationships currently in place lack a clear legal basis. The term "partnership" can be found in the MSME Law. Under this law, the legal subject of a partnership agreement is a business entity with certain criteria based on capital and income, not an individual and a business entity. Therefore, the MSME Law cannot be used as a basis for implementing partnership agreements containing elements of an employment relationship between an individual and a business entity. This legal vacuum prevents workers bound by partnership agreements from receiving the protections they deserve under labor law.

The phenomenon of employment relationships through partnership agreements that occurs in Indonesia has been emphasized by the ILO through ILO Recommendation Number 198 of 2006, which states that employment relationships must be determined based on substantial facts, not only on the form of agreement used. The ILO further divides employment relationships into two forms, namely standard employment relationships (*Standard employment relationship*) and non-standard employment relationships (*Non-Standard Employment*). A standard employment relationship is a work relationship that is recognized in Article 1 number 15 of the Employment Law, namely "the relationship between employers and workers/laborers based on an employment agreement, which has elements of work, wages, and orders." According to the ILO, a standard employment relationship is a type of work that is continuous, full-time, and is in an employment relationship that *subordinate* and directly between employers and workers (International Labour Organization 2016), furthermore, the ILO recommendations regulate non-standard employment relationships, including: *Temporary Work or Temporary Employment*, *Part Time Job or Part-Time and On-Call Work*, *Multi-Party Work or Multi-Party Employment Relationship*, *Undercover Work or Disguised Employment/Dependent Self-Employment*. Based on the four types of non-standard employment relationships put forward by the ILO, partnership relationships fall into the category of disguised employment. (Izzati 2020)

Undercover employment is a situation that involves concealing a worker's legal status and treating them as if they were not actually employed. This is done to avoid employment obligations that provide legal protection for workers. Although the ILO has issued recommendations regarding undercover employment relationships, accompanied by the phenomenon of undercover agreements, Indonesian law does not yet provide clear regulations for partnerships that contain elements of employment. This, in turn, impacts the protection of the parties in partnership agreements.

Although the partnership relationship between drivers and companies has not been regulated in Indonesian positive law, through SEMA Number 7 of 2012 Concerning the Legal Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Court, it is stated that the legal relationship between drivers in a company is an employment relationship which is the authority to adjudicate the Industrial Relations Court (PHI). This means that the legal relationship between drivers and companies is considered an employment relationship, not a partnership relationship. Therefore, based on SEMA Number 7 of 2012 Concerning the Legal Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Court, disputes in partnership relationships based on the principle of freedom of contract in the Civil Code between drivers and companies are the authority of the Industrial Relations Court (PHI). The occurrence of a legal vacuum in partnership relationships that fulfill the elements of an employment relationship results in the lack of certainty of legal protection for workers in partnership relationships.

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A partnership relationship that in its context disguises an employment relationship *disguised employment*, then the state is obliged to be present to uphold the principle of justice and guarantee legal protection for workers. This is in line with the mandate of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that "The State of Indonesia is a state of law." A state of law means a state that guarantees protection for the rights of its citizens, including the rights of workers to decent work and fair treatment in employment relations. The concept of a state of law is basically based on the basic idea that the legal system can guarantee legal certainty (*legal certainty*) but still provides protection for human rights.

3. Method

The research method used is normative juridical, with a statutory regulatory approach and a case study of two Industrial Relations Court (PHI) decisions involving PT Niaga Handal Cemerlang, also known as Arnes Shuttle. In both decisions, the panel of judges stated that the relationship between the driver and the company met the requirements of an employment relationship and therefore must comply with labor law.

4. Results and Discussion

Legal certainty in employment relations as the basis for building a mutually beneficial relationship, in relation to the partnership relationship between drivers in travel companies, both the Employment Law and the MSME Law must be based on an agreement, so that the partnership relationship based on a Partnership Agreement or Work Partner Letter as the term used by the Parties as an agreement in general, to be declared legally valid, the provisions regarding the valid conditions of the agreement in Article 1230 of the Civil Code need to be fulfilled, including the existence of an agreement, skill, a certain thing, and a lawful cause or cause.

These valid requirements are divided into subjective and objective requirements. The following is a description of the analysis of the fulfillment of subjective requirements in the Work Partnership Letter between the Driver and the Travel Company, which can be described as follows:

1. Agreement

Based on the Partner Letter, the Parties, namely the Driver and the Company, have affixed their respective signatures as a form of agreement, this shows that the agreement has been fulfilled in the Partner Letter.

2. Skills

The driver in the Partner Letter is a person who is of adult age based on the provisions of Article 330 of the Civil Code and is competent in carrying out his/her work for driving as stated in the Partner Letter. Meanwhile, PT Niaga Handal Cemerlang or Arnes Shuttle is represented by its Director, based on the provisions of Article 98 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies which states: "The Board of Directors represents the Company both inside and outside the court", based on these provisions, the Director in this case is authorized to represent the Company in the Partner Letter. Based on these two things, the Parties in the Partner Letter meet the requirements of being competent in making an agreement.

The provisions regarding the conditions for agreement and capacity, which are subjective requirements, have been met by the Parties. Furthermore, the following is an analysis of the objective requirements:

1. A Certain Thing

Based on the agreement made by the Parties, the Agreement is intended to perform a specified task, namely driving. Certain conditions for carrying out the agreement have been met, so the Partner Letter has fulfilled certain provisions.

2. A Halal Cause or Cause

A lawful cause or cause means that the agreement made does not violate laws and regulations, public order, and morality. In the Partnership Letter made by the Parties, there is a clause stating that the Driver is able and capable of "working" well. In addition, there is a clause that the Company will conduct a "work period evaluation" before extending the contract. Working in this case implies that the driver is performing a job. Furthermore, in the Partnership Letter, there is a clause that the driver is obliged to fulfill the provisions on each route determined by the Company and if they are not fulfilled, the Company will conduct a performance evaluation of the Driver.

The company orders the Driver to fulfill the requirements of his work, accompanied by control carried out by the Employer over the Driver's performance. However, there is no clause that the Driver can conduct an evaluation of the company, considering that in principle, based on the provisions of Article 104 paragraph (2) of PP Number 7 of 2021 concerning the Facilitation, Protection, and Empowerment of Cooperatives and Micro, Small, and Medium Enterprises, partnerships have the principles of mutual need, trust, strengthening, and benefit. Therefore, based on this principle, ideally the evaluation is not only carried out by the Employer, but also by the Driver.

Based on these matters, the partnership relationship carried out by the Parties fulfills the elements of work and orders, as well as the existence of a subordinate relationship between the Company and the Driver as recognized in employment law. With the fulfillment of the elements of an employment relationship in a partnership relationship, the Partnership Letter made by the Parties violates statutory provisions, namely containing elements of an employment relationship. Therefore, the requirement for a lawful cause or causa in this case is not fulfilled.

Failure to fulfill one of the objective requirements, namely a lawful cause or cause, renders the Partnership Letter or Partnership Agreement between the Parties null and void. Declaring the Partnership Letter made by the Parties null and void does not merely negate the fact that the Drivers were working on the orders of the Employer. Therefore, in this case, an employment relationship based on an oral agreement between the Parties applies.

The laws and regulations that form the basis for regulating partnership relationships are the MSME Law and its implementing regulations. Partnerships, as stipulated in Article 1, number 13 of the MSME Law, are implemented based on the principles of mutual need, trust, strengthening, and benefit.

In connection with the discrepancy between the partnership relationship pattern between the Parties and the partnership relationship pattern in the provisions of statutory regulations, in this case the MSME Law, the Partner Letter made by the Parties has violated the provisions of lawful causes or causes because it is in conflict with statutory regulations.

The partnership agreement violates the provisions of the cause or *cause* which is halal, so that the partnership agreement is legally void with the violation of the objective conditions of the agreement. However, even if the agreement is declared legally void, it is considered that it never existed, but it does not simply eliminate the fact that there was work that had been done by the Parties. Based on the fact that there was work, with the agreement considered that it never existed, then the legal relationship that occurred between the Parties is an employment relationship based on an oral agreement.

The discrepancy between the partnership referred to in the MSME Law and the practice of partnership between Drivers and Travel Companies that contain elements of an employment relationship, but are not regulated in the Manpower Law and are not regulated in its amendments to the Job Creation Law, makes the partnership relationship between Drivers and Companies a non-standard employment relationship.

Non-standard employment relationships are not a new phenomenon, because the ILO through Recommendation Number 198 of 2006 concerning Employment Relations, has emphasized that non-standard employment relationships are employment relationships that are not regulated normatively in the Manpower Law. (International Labour Organization 2016) Therefore, based on this, the ILO recommends that the government, in this case the Indonesian government, create regulations that include rules to avoid disguising employment relationships through forms of contracts that hide the true legal status of the employment relationship which is done to avoid the employer's obligation to provide legal protection. This needs to be followed up so that workers (drivers) get legal certainty in carrying out their work activities. Based on this, if a dispute arises between the parties, then this is included in an industrial relations dispute, as stipulated in SEMA Number 7 of 2012 concerning the Legal Formulation Concerning the Results of the Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Court, as well as the provisions of Article 79 of Law Number 14 of 1985 concerning the Supreme Court which states, "The Supreme Court may further regulate matters necessary for the smooth running of the judiciary if there are matters that are not sufficiently regulated in this Law." This means that if an industrial relations dispute arises, the Industrial Relations Court has the authority to handle and decide the dispute between the driver and the travel company. This is done to provide legal certainty and protection for both the driver and the travel company.

Legal protection is one form or manifestation of legal certainty obtained by the parties, especially with the aim of preventing arbitrary actions carried out by authorities/people who have power and also to prevent actions that are contrary to statutory regulations. If we refer to the theory of legal protection, there are 2 (two) forms of legal protection provided by the Employment Law, namely Preventive and Repressive. *Preventive* aims to prevent violations of workers' rights before disputes arise. In this context, the existence of labor laws and regulations plays a crucial role as the basis for establishing binding legal norms in employment relations. Repressive refers to the form of protection provided after a violation of applicable rights or norms occurs.

So as the author has explained above that the work agreement is a legal basis for the parties to bind themselves to each other in an agreement, so that it will provide legal certainty for the parties and there is a guarantee of legal protection for the parties, especially the driver, because the driver is directly faced with the risks he faces in carrying out the work, so it is not wrong if in an agreement there is a principle of certainty, because the principle of legal certainty in an agreement applies as a law for the party who made it, then the third party must respect the contents (substance) of the agreement as befits the law and the third party cannot intervene in the substance of the agreement.

This means that the principle of legal certainty contained in an employment agreement is not only related to certainty in implementing a statutory regulation, but more than that, the principle of legal certainty demands understanding and mutual respect in building an employment relationship, because each party is expected to be able to understand and respect the things contained in the contents of the agreement.

5. Conclusion

Legal certainty is a principle that must be obeyed, implemented and respected, in an employment relationship, legal certainty that is ignored will give rise to legal uncertainty for legal subjects, such as what happened to drivers who have an employment relationship with a partnership agreement. Meanwhile, partnership agreements in the employment law have not been regulated, partnership agreements are only regulated in the MSME Law, which both the content or legal substance regulated in the two provisions

require the existence of a valid condition in establishing a legal relationship, which refers to the provisions of 1320 *Because* 1338 KUHPperdata.

The absence of legal norms governing partnership agreements creates legal uncertainty for drivers, as legal certainty is expected to provide legal protection in carrying out work activities for drivers. Legal certainty in the context of legal protection is not only limited to the fulfillment of working hours or wages received after carrying out work, but far more than that, legal certainty is a form of recognition of human rights, where human rights demand equal treatment before the law, as well as legal protection for more vulnerable parties.

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