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Applying the Ultra Vires Doctrine to Directors' Misconduct in Wage Payments Under Indonesian Corporate Law

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ABSTRACT

Methodology: This study employs a normative legal research methodology incorporating the statutory, conceptual, and case approaches. The statutory approach analyzes relevant Indonesian laws, particularly the Limited Liability Company Law (UUPT) and the Manpower Law. The conceptual approach explores the doctrine of ultra vires and fiduciary duty, while the case approach examines two court decisions to evaluate judicial reasoning and the implications for directors' liability in wage payment violations.

Main Findings: The study finds that directors' failure to fulfill wage obligations can be categorized as ultra vires actions when such acts exceed their authority as stipulated in the company's Articles of Association and result in losses to the company due to negligence or lack of good faith. The research identifies three indicators to classify such actions as ultra vires: occurrence of losses, negligence or misconduct by directors, and absence of good faith and responsibility in decision-making.

Application of this Study: The findings of this study can inform corporate governance practices by emphasizing the need for directors to operate within their lawful authority and uphold fiduciary duties, particularly in managing employee-related responsibilities. Legal practitioners and corporate policymakers can use these insights to improve regulatory frameworks and accountability mechanisms in company law and labor protection.

Novelty/Originality of this Study: This study provides a novel legal interpretation by linking the ultra vires doctrine—traditionally used in corporate scope limitations—with directors' unlawful acts in wage management. It highlights an underexplored area in Indonesian corporate law and offers an analytical framework for assessing directors' personal liability in employment-related disputes.

Significance: The research contributes to the development of corporate and labor law discourse in Indonesia by proposing a legal basis for holding directors personally accountable for wage-related violations through the application of the ultra vires doctrine. It emphasizes the importance of enhancing legal clarity and sanctions to protect workers' rights and prevent the misuse of corporate authority.

Keywords: Ultra Vires Doctrine, Directors' Liability, Wage Payment, Fiduciary Duty, Corporate Governance

INTRODUCTION

Within the applicable legislation in Indonesia, there is no official interpretation provided in any article that offers a formal definition of what constitutes a 'Company.' The interpretation of 'Company' began to emerge in the draft of the Wetboek Van Koophandel, where a 'Company' is defined as the entirety of activities conducted openly, continuously, in a specific position, and with the aim of generating profit.

Article 1, paragraph 1 of Law No. 40 of 2007 concerning Limited Liability Companies (hereinafter referred to as UUPT) stipulates that a Limited Liability Company, hereinafter referred to as the 'Company', is a legal entity (*rechtspersoon*). In civil law, a legal entity is defined as a legal subject that can possess rights and obligations similar to those of a natural person.[1]

From the explanation above, it is understood that a Company possesses rights and obligations akin to those of a natural person. Article 1, paragraph 2 of the Limited Liability Company Law (UUPT) stipulates that the organs of the Company, which form its corporate structure, consist of the General Meeting of Shareholders (*Rapat Umum Pemegang Saham* or RUPS), the Board of Directors, and the Board of Commissioners, each of which plays a strategic role.[2] The General Meeting of Shareholders (*Rapat Umum Pemegang Saham* or RUPS) functions as the highest decision-making body, the Board of Directors is responsible for operational management, while the Board of Commissioners supervises the performance of the Board of Directors (Article 1, paragraph 5 of the UUPT). The Board of Directors has full authority to manage the Company in accordance with the aims and objectives outlined in the Articles of Association (hereinafter referred to as *Anggaran Dasar* or AD), as stipulated in Article 92, paragraph (1) of the UUPT. However, the close relationship between the Board of Directors and the Company necessitates the application of the Duty of Care principle, which requires them to perform their duties diligently, carefully, intelligently, and skillfully as an ordinary prudent person would in similar circumstances.[3]

In several cases, it is often encountered that the Board of Directors, in managing the Company, bases its policies or actions on considerations that may negatively impact workers. They may justify this by claiming the need to achieve higher profits or citing limitations in terms of information, time, or finances. As a result, the Board of Directors may evade their obligations as directors in a company regarding the payment of wages to workers.

The obligations of the Board of Directors regarding wage payments are regulated in various laws, one of which is stipulated in Article 1, paragraph 6 of Law Number 13 of 2003 concerning Manpower, which states that a company is defined as "Any legal entity, whether incorporated

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1 Civil Code (Indonesia), art 165B.
2 Law No 40 of 2007 concerning Limited Liability Companies (Indonesia), art 1(2).
3 A J Barnes, T M Dworkin, and E L Richards, *Law for Business* (4th edn, Irwin 1991).

or not, owned by individuals, partnerships, or legal entities, whether privately or state-owned, that employs workers and pays wages or other forms of compensation."[4]

As stated in Court Decision Number 3/Pdt.Sus-PHI/2021/PN Kdi and Court Decision Number 29/Pdt.Sus-PHI/2021/PN Mks, it is evident that certain companies have disregarded limitations and violated wage principles as stipulated in the applicable laws and related regulations, beyond the provisions concerning the distribution of minimum wages.

This resulted in the Company being sentenced to pay compensation in cash. It can be stated that the actions of the Board of Directors were not aligned with the interests of the Company, and there were clear elements of limitation on the authority of the Board of Directors. This limitation is known as the Doctrine of Ultra Vires. Ultra vires refers to actions taken by a company that exceed the powers conferred by its articles of association or applicable law. Such actions are considered invalid and unenforceable against the company.[5]

The ultra vires doctrine in Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) stipulates that actions of a company that exceed the authority outlined in its Articles of Association (AD) are deemed null and void. This doctrine means that every action taken by the company must align with the aims and objectives established in the AD.[6]

Ultra vires refers to actions taken by the Board of Directors that exceed the authority as stipulated in the company's Articles of Association (Article 92 of the UUPT). Meanwhile, unlawful acts are actions that contravene general legal obligations (Article 1365 of the Civil Code), and non-compliance with wage laws refers to violations of the employer's obligation to pay wages in accordance with the provisions (Article 93, paragraph 1 of the Employment Law).

Violations related to wages can be understood in the legal context as actions that potentially infringe upon the ultra vires doctrine, but they may also be more accurately categorized as violations of employment law obligations. Traditionally, ultra vires actions refer to those undertaken by the Board of Directors that exceed the authority established by the company's Articles of Association. In this case, if the Board of Directors implements wage deductions without employee consent, such actions may be considered ultra vires as they violate legal provisions governing wage payments.[7]

This is in line with regulations in Australia, where the Fair Work Act 2009 stipulates that employers who fail to pay the minimum wage may face criminal penalties.[8] In other words, the jurisdiction in Australia indicates that wage violations must be taken seriously as they are closely related to the ultra vires doctrine, which encompasses violations by the Board of Directors of a company.

Based on this, the author will conduct further examination in this research with a focus on the application of the ultra vires doctrine to unlawful acts committed by the Board of Directors in the payment of wages to workers. This study aims to analyze the extent to which the actions of the Board of Directors that violate the law can be classified as ultra vires under Indonesian

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[4] Mustapa Khamal Rokan and Aida Nur Hasanah, *Hukum Perusahaan* (Medan, 2020) 30.
[5] Stephen M Bainbridge, *Corporate Law* (Foundation Press 2020).
[6] Law Number 40 of 2007 concerning Limited Liability Companies (Indonesia), art 92(1).
[7] Dwi Suryahartati, 'Doktrin Ultra Vires: Perspektif Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas' (2022) 34 Jurnal Hukum 118, 124.
[8] Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 (Cth).

corporate law, as well as to contribute to the development of legal understanding regarding the responsibilities of directors and the protection of workers' rights.

RESEARCH METHODOLOGY

The methodology of this research employs a normative approach consisting of three main methods: the statutory approach, the conceptual approach, and the case approach. The statutory approach involves examining relevant regulations, such as Law Number 40 of 2007 concerning Limited Liability Companies and Law Number 13 of 2003 concerning Manpower. The selection of regulations is based on their relevance to the duties and responsibilities of the Board of Directors as well as regulations regarding wage distribution. The analysis will utilize textual and teleological legal interpretation methods to understand the content and objectives of these provisions.

The conceptual approach examines legal doctrines related to ultra vires, with the selection of doctrines based on their direct relevance and significance for the legal protection of workers. Interpretation is conducted using purposive interpretation methods.

The case approach analyzes two court decisions, namely Court Decision Number 3/Pdt.Sus-PHI/2021/PN Kdi and Court Decision Number 29/Pdt.Sus-PHI/2021/PN Mks, with criteria relevant to the ultra vires issue and the legal impact on wage distribution. This analysis aims to evaluate the ratio decidendi of the judges concerning the responsibilities of directors in unlawful actions.

The scope of this research focuses on the normative analysis of the ultra vires doctrine within the context of corporate law in Indonesia, encompassing applicable regulations, relevant legal doctrines, and related court cases. Through this methodology, the research aims to contribute to the discourse on corporate law in Indonesia as well as provide recommendations for legal reforms concerning the responsibilities of directors.

RESULTS AND DISCUSSION

Application of the Ultra Vires Doctrine to Directors' Unlawful Wage Payment Practices

In the Indonesian legal system, the ultra vires doctrine is not explicitly regulated in Law Number 40 of 2007 concerning Limited Liability Companies (UUPT). However, the substance of this doctrine can be found in Article 92, paragraph (1) of the UUPT, which states that the Board of Directors is responsible for managing the company in the best interests of the company and in accordance with the company's aims and objectives.[9] If the Board of Directors engages in actions that are contrary to the aims and objectives of the company or do not comply with applicable regulations, such actions may be classified as ultra vires and result in legal consequences for the directors personally.[10]

Based on the above explanation, it is clear that there is significant authority vested in a director. The substantial powers held by a director within a company carry the risk of arbitrary management. Therefore, it is essential to establish limitations on authority to ensure that the actions of the directors remain within appropriate boundaries and do not harm the company. These limitations aim to prevent the potential abuse of power in the execution of their duties.

[9] Yahya Harahap, *Hukum Perseroan Terbatas* (Sinar Grafika 2019) 346.

[10] Law Number 40 of 2007 concerning Limited Liability Companies (Indonesia), art 2.

The limitations on the authority of a director can be found in the provisions contained in Article 92, paragraph (1) of the Limited Liability Company Law, which states that a director is responsible for managing the interests of the company in accordance with the aims and objectives of the company.[11] This provision emphasizes that each director has the responsibility to manage the company in good faith and with a focus on the interests and objectives of the company as established. The limitation lies in the requirement for a director to conduct the day-to-day management of the Company in accordance with the interests of the Company and also in alignment with the aims and objectives of the Company.

The limitations on the authority of the Board of Directors in managing the company aim to ensure that the actions of the directors are always aligned with the interests and objectives of the company, as stipulated in Article 97, paragraph (2) of the UUPT, which emphasizes the importance of good faith and responsibility in management.

The good faith of a director in managing the performance of the Company is related to a principle known as fiduciary duty, which is inseparable from the relationship between the Company and its directors. Fiduciary duty is defined as a relationship that arises when one person delegates authority to another based on trust to perform certain legal acts for and on behalf of, as well as in the interests of, the party granting the authority.[12] A director is an individual who is granted authority by the shareholders based on trust.[13] This trust is symbolized as hope and confidence that obligates the directors to manage the Company in good faith. A director can be said to act in good faith in the management of the Company by applying this principle of fiduciary duty.

Therefore, the management of the company by the directors must be conducted in good faith and with responsibility for the interests and objectives of the company. Based on the regulations governing companies in Indonesia, we can determine that the actions of directors in overseeing the Company may be classified as ultra vires if they meet the following indicators:

a) The occurrence of losses to the Company due to the actions of the directors in managing the Company;

b) The losses to the Company arise from the mistakes or negligence of the directors themselves in managing the Company;

c) The actions that harm the Company are carried out without good faith and a sense of responsibility by the directors.

It is necessary to prove that all three formulated indicators above are fulfilled. The application of the ultra vires doctrine indicators in the case presented by the author can be seen in Table 1 below:

Table 1: Indicators for the Application of the Ultra Vires Doctrine

Court Decision	(a)	(b)	(c)
Court Decision Number	a loss of IDR 76,413,139.00	As a result of the directors' failure to pay the workers'	The lack of good faith on the part of the directors is evident

[11] Law Number 40 of 2007 concerning Limited Liability Companies (Indonesia), art 92(1).

[12] Budi Santoso, *Keagenan (Agency) Prinsip-Prinsip Dasar, Teori, dan Problematika Hukum Keagenan [Agency: Fundamental Principles, Theory, and Legal Problems of Agency]* (Ghalia Indonesia 2015) 21.

[13] John Doe, 'Pengaruh Direksi terhadap Kinerja Perusahaan [The Influence of Directors on Company Performance]' (2021) IX Lex Administratum 15, 70.

3/Pdt.Sus-PHI/2021/PN Kdi		pension rights and their exclusion of workers from the pension program during their period of employment.	from their avoidance of paying pension funds to workers who meet the requirements under Government Regulation No. 45 of 2015. The irresponsibility of the directors is reflected in their negligence in registering workers for the pension program.[14]
Court Decision Number 29/Pdt.Sus-PHI/2021/PN Mks	a loss of IDR 70,072,709.00	As a result of the directors' unresponsiveness to the workers' bipartite requests	The lack of good faith on the part of the directors is evident from their disregard for bipartite requests related to workers' normative rights, including overtime pay. The irresponsibility of the directors is reflected in the issuance of Warning Letters (SP I, II, III) leading to unilateral Termination of Employment (PHK) against workers who advocated for their rights, which was subsequently declared invalid by the court.[15]

From both cases, it is clear that the financial losses suffered by the Company are caused by the mistakes and negligence of the directors in fulfilling their obligations to the workers. This is inconsistent with Article 93, paragraph (1) of Law No. 13 of 2003, which states that employers are obligated to pay wages in accordance with the agreed-upon time and applicable regulations.[16] Furthermore, Article 96 of the same law states that any changes in wage provisions must be based on an agreement between the employer and the workers.[17] This provision reflects the importance of dialogue or negotiation in matters related to workers' rights.

Based on the above presentation, from the author's research, both cases discussed can be said to have met the three indicators necessary to categorize the actions of the directors in these matters as ultra vires. This is because these actions exceeded the authority granted to the directors under the company's articles of association and applicable regulations. Consequently, all consequences arising from these unlawful actions can be attributed to the directors, including their limited liability as directors of the Company.

Directors' Liability for Unlawful Acts in the Payment of Employee/Worker Wages

Despite the existence of clear legal provisions regarding the directors' obligations in managing workers' rights, the persistent negligence indicates weaknesses in the existing oversight and law enforcement systems. One reason why directors continue to be negligent, despite the presence of

[14] Decision Number 3/Pdt.Sus-PHI/2021/PN Kdi (District Court of Kendari, 2021).
[15] Decision Number 29/Pdt.Sus-PHI/2021/PN Makassar (District Court of Makassar, 2021).
[16] Law Number 13 of 2003 concerning Manpower (Indonesia), art 93(1).
[17] Law Number 13 of 2003 concerning Manpower (Indonesia), art 96.

regulations, is the lack of understanding of their responsibilities, as well as the limited legal training received by company executives.[18]

Legal gaps in labour regulations can be observed from the ambiguity within the regulations regarding sanctions for directors who violate the provisions, thereby creating room for irresponsible actions.[19]

Several legal experts argue that the application of the fiduciary duty doctrine, as previously explained, must be considered carefully, especially in the context of worker welfare, which is often overlooked in business decisions. Although there is a legal obligation for directors to act in the interests of the company, external factors such as market pressures and shareholder demands can influence their decisions. Therefore, it is essential to balance business interests with the welfare of workers.[20]

In Indonesian Limited Liability Company law, no provision explicitly outlines the liability of directors when they engage in ultra vires actions. However, there are regulations regarding ultra vires acts in the Company Law.

The ultra vires doctrine itself in Limited Liability Companies can be found in the articles of regulation within Law No. 40 of 2007. Article 2 of the Company Law emphasizes that a company must have objectives and purposes as well as business activities that do not conflict with statutory provisions, public order, and/or morality.[21]

The provisions of Article 2 of the Company Law indicate the existence of the ultra vires doctrine, as it states that a company must have objectives and purposes, and subsequently mentions that the company must not violate those objectives and purposes.

Essentially, every decision made by the directors must align with the stipulations outlined in the articles of association. If the directors engage in actions that deviate from the objectives and purposes outlined in the articles of association, such actions can be considered as exceeding their authority.

Within the legal framework governing the management of Limited Liability Companies, the responsibilities and powers of directors are detailed to ensure that every action taken is in accordance with the interests of the company. Therefore, it is important to refer to the provisions in Article 92 of the Company Law, which states that directors must manage the company in the interests of the company and accordance with its objectives and purposes.[22]

In Article 97 of the Company Law, it is emphasized that the board of directors has full authority and responsibility in managing the company, where each member of the board must manage the

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[18] SIP Law Firm, ‘Tugas Direksi Perusahaan [The Duties of Company Directors]’ https://siplawfirm.id/tugas-direksi-perusahaan/?lang=id accessed 18 March 2025.

[19] Khamid Istakhori, ‘Dua Hal Hukum Ketenagakerjaan yang Belum Berjalan Optimal [Two Aspects of Labor Law That Have Not Been Running Optimally]’ (Hukumonline, 18 March 2025) https://www.hukumonline.com/berita/a/dua-hal-hukum-ketenagakerjaan-yang-belum-berjalan-optimal-lt5cbe09e5f2b91/ accessed 18 March 2025.

[20] Yafet Yosafet Wilben Rissy, *‘Analisis Yuridis Terkini terhadap Kewajiban Berhati-hati (Duty of Care) dan Fidusia Direktur di Inggris, Amerika, Kanada dan Indonesia* [Contemporary Legal Analysis of Duty of Care and Directors’ Fiduciary Duties in England, America, Canada, and Indonesia]’ (2022) 34 Mimbar Hukum 654.

[21] Law Number 40 of 2007 concerning Limited Liability Companies (Indonesia), art 2.

[22] Law Number 40 of 2007 concerning Limited Liability Companies (Indonesia), art 92.

company in good faith and with full responsibility, in accordance with the provisions of Article 92, paragraph (1). Furthermore, if losses occur to the company, each member of the board is personally liable if proven guilty or negligent in carrying out their duties, as stipulated in Article 97, paragraph (3).[23] This indicates that the directors' responsibilities are fiduciary, requiring them to act in the interests of the company and to prevent losses, as well as to demonstrate that they have performed their duties with care and without conflicts of interest.

However, based on Article 97, paragraph (3), members of the Board of Directors cannot be held liable for losses that occur if they can prove that such losses were not caused by their fault or negligence and that they have managed the company in good faith and with due care in the interests of and in accordance with the objectives and purposes of the company.[24]

Before delving deeper into the context of the legal accountability of directors, it is important to analyze how their actions in specific cases can impact their legal responsibilities. Referring to Court Decision Number 3/Pdt.Sus-PHI/2021/PN Kdi,[25] where the directors refused to pay pension funds to workers, we can see that such actions not only violate applicable legal provisions but also reflect a lack of good faith in fulfilling their responsibilities as company managers. In this context, the directors' refusal to pay pension funds can be categorized as negligence that results in losses for the workers, which can qualify as ultra vires actions by the directors, thus providing grounds for legal accountability.

In Court Decision Number 29/Pdt.Sus-PHI/2021/PN Mks,[26] where the directors refused to pay overtime wages and terminated employment (PHK) without clear justification, based on the previous case analysis, these actions can also be classified as ultra vires act. The judges in this decision emphasized that the termination was not based on strong evidence and did not meet legal requirements, indicating that the directors not only violated legal provisions but also the principles of justice in industrial relations.

In both cases, it is evident that the actions of the directors demonstrate violations of their obligations to act in good faith and with full responsibility, as stipulated in Article 92 of Law No. 40 of 2007 on Limited Liability Companies (UUPT). Therefore, the directors can be held personally and collectively accountable for the losses suffered by workers as a result of their actions. Upon closer examination, the directors' actions in unlawfully withholding workers' wages cannot be justified as exempt from liability based on Article 97, paragraph (3) of the UUPT, as previously explained.

Meanwhile, Article 155 emphasizes that the duties and responsibilities of directors and commissioners for errors and negligence outlined in this law do not diminish the provisions regulated in the Criminal Code. This provision intends to clarify that the legal responsibilities faced by directors and the Board of Commissioners are not limited to civil aspects regulated under Law No. 40 of 2007 (UUPT), but may also involve criminal aspects if their actions are deemed unlawful. Thus, although the UUPT provides a clear framework regarding the responsibilities and obligations of directors and the Board of Commissioners, it does not preclude the possibility of criminal sanctions being imposed if they engage in unlawful conduct.

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[23] Law Number 40 of 2007 concerning Limited Liability Companies (Indonesia), art 97.
[24] Law Number 40 of 2007 concerning Limited Liability Companies (Indonesia), art 97(5)
[25] Decision Number 3/Pdt.Sus-PHI/2021/PN Kdi (District Court of Kendari, 2021).
[26] Decision Number 29/Pdt.Sus-PHI/2021/PN Makassar (District Court of Makassar, 2021).

Therefore, after examining Law No. 40 of 2007 concerning Limited Liability Companies, which represents the corporate framework in Indonesia, it is clear that there are no specific provisions in this law that explicitly address ultra vires actions, particularly regarding its concepts or terminology. Nevertheless, this does not imply that Indonesia does not accept the ultra vires doctrine, as there are no specific rules or norms within the legal framework that explicitly discuss directors' liability for ultra vires actions related to workers' wage distribution. The limits of directors' liability, as outlined in relevant regulations, can be observed in Articles 1, paragraph (2), Article 1, paragraph (5), Article 97, paragraph (2), Article 97 in conjunction with Article 98, and Article 97, paragraph (2) of the UUPT.

Thus, based on an analysis of the relationship between Law No. 40 UUPT and ultra vires director accountability, it is found that aggrieved parties can claim their rights against directors who engage in ultra vires actions based on the provisions in Article 97. This article states that each member of the board of directors is fully personally responsible for losses suffered by the company if they are found guilty or negligent in carrying out their duties. In this situation, if the directors operate outside their established authority and cause losses, they may face personal liability.

Although the current Limited Liability Company Law does not explicitly regulate sanctions for ultra vires actions, revising this law to include provisions for sanctions and clearer interpretations regarding directors' responsibilities would be highly beneficial. This would not only clarify the legal position of directors but also provide greater protection for all stakeholders within Indonesia's corporate ecosystem. With a clear and firm legal mechanism in place, losses experienced by a company can be minimized, justice for aggrieved parties can be upheld, and education and training for company executives regarding their authority limits will also become essential to prevent future violations.

CONCLUSION

The analysis of unlawful acts committed by directors in the payment of workers' wages can be classified as ultra vires actions. This is due to the fulfilment of three indicators that qualify the actions of the directors as ultra vires: first, the unlawful actions taken by the directors have been proven to cause losses to the company; second, these losses are a result of the directors' mistakes or negligence in managing the company; third, the unlawful actions that harm the company were carried out by the directors without good faith and full responsibility.

The accountability of directors in this regard is regulated under Law No. 40 of 2007 concerning Limited Liability Companies (UUPT), which, although it does not explicitly regulate liability for unlawful actions in wage payments, still recognizes the ultra vires doctrine. Directors are required to perform their duties in good faith and are responsible for the interests of the company. If they exceed their authority and cause losses, they may be held personally liable. Although there are no specific sanctions outlined for ultra vires actions, the principle of personal liability still provides a legal basis for aggrieved parties to seek compensation. Thus, this mechanism serves to protect the interests of those who suffer losses due to unlawful acts committed by directors.

It is important to develop clearer regulations regarding sanctions for ultra vires actions to enhance director accountability and protect workers' rights in the future.

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