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QUO VADIS OF EXPIRATION CLAIMS IN INDONESIAN LABOR LAW: A CORPORATE PERSPECTIVE

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Abstract

Verdict of Indonesian Constitutional Court No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015 raises the new values in the expiration claims in the field of labor. This study aims to reveal the description of the new values that applicate at the dogmatic level related to the expiration claims after the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015 on the corporate perspective. This study uses normative juridical research, by analyzing secondary data obtained, including related legislation and court Verdicts. The results of this study are: there still found inconsistencies in the level of implementation of the cases which related to the expiration claim in the labor law, that causes legal uncertainty. This inconsistency is influenced by the philosophical basis used by the Indonesian Constitutional Court to decide the Indonesian Constitutional Court's Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015. It is necessary and immediate to change the law related to the regulation of the expiration claims in the field of labor that prioritizing the principle of the good faith to see the interests of all parties in employment.

Keyword: *Labor Law; New Value; Expiration Claims; Corporate Perspective; Indonesian Constitutional Court.*

A. INTRODUCTION

The position of the Constitutional Court in the Indonesian constitutional system is as a state institution that carries out judicial functions with the competence of the object of the constitutional case.[1] The existence of the Indonesian Constitutional Court is as a guardian of the constitution to

[1] Harlina Hamid, "Peran Mahkamah Konstitusi Dalam Penegakan Hukum Tatanegara Di Indonesia: Studi Kasus Putusan-Putusan Penting," *Eksekusi: Jurnal Ilmu Hukum Dan Administrasi Negara* 2, no. 4 (2024): 312–20.

strengthen the foundations of constitutionalism in the 1945 Constitution. Therefore, the Indonesian Constitutional Court has an authority with clear boundaries as a form of respect for constitutionalism.[2]

One of the authorities of the Indonesian Constitutional Court is to examine the law against the 1945 Constitution as stated in Article 24C paragraph (1) and paragraph (2) of the 1945 Constitution which is revealed in Articles 50 to Article 60 of the Indonesian Constitutional Court Regulation. The judicial review here is carried out both materially and formally as regulated in Article 4 of the Indonesian Constitutional Court Regulation Number 6 / PMK / 2005 concerning Guidelines for Procedure in Judicial Review. According to the provisions, what is meant by material review is a review of law relating to the material content in paragraphs, articles, and/or parts of the law deemed contrary to the 1945 Constitution, whereas formal review is a review of law relating to the process the formation of laws and other matters which do not include material review.[3]

Verdict of the Indonesian Constitutional Court No. 100 / PUU-X / 2012 pronounced on September 19, 2013 is one of the authorities of the Constitutional Court to review the law, which in this case is Article 96 of Law No. 13 Of 2003 concerning Manpower. Article 96 of Law No. 13 Of 2003 previously stipulated that workers who would claim the right to wages and payments of employment must not exceed 2 years after the rights arose, and with the existence of the Constitutional Court Verdict, workers who would claim the right to wages and payments of employment could be done anytime. This means that the limit on the expiration claim of rights in the Manpower Act can no longer be applied after the Verdict of the Indonesian Constitutional Court. The consideration given by the Constitutional Court is that the wages and all payments arising from work relationships are a private property and may not be taken arbitrarily by anyone, either by individuals or through statutory provisions, so that the Constitutional Court assesses demanding limitations rights by Article 96 of Law No. 13 of 2003 violated the 1945 Constitution.[4] The above argument builds on the idea that wages and all payments from work relations are the rights as well as the civil rights regulated.

[2] Nanang Sri Darmadi, "Kedudukan Dan Wewenang Mahkamah Konstitusi Dalam Sistem Hukum Ketatanegaraan Indonesia [The Position and the Authority of the Constitutional Court in the Indonesian Constitutional Law System]," *Jurnal Hukum Unissula* 26, no. 2 (2017): 12287.

[3] Maruarar Siahaan, "Integrasi Konstitusional Kewenangan Judicial Review Mahkamah Konstitusi Dan Mahkamah Agung," *Jurnal Konstitusi* 17, no. 4 (2020): 729–52.

[4] Mohammad Fandrian Hadistianto, "Problematika Regulasi Mengenai Daluwarsa Gugatan Perselisihan Hubungan Industrial Di Indonesia," *Refleksi Hukum: Jurnal Ilmu Hukum* 7, no. 1 (2022): 1–18.

In connection with the demise of employment claims, the Indonesian Constitutional Court has also conducted a judicial review of the existence of the Constitutional Court Verdict No. 61 / PUU-VIII / 2010 that examined Article 171 of Law No. 13 of 2003, which ended up with the rejection by the Constitutional Court for not violating the Constitution of 1945. The Indonesian Constitutional Court rejected the 1-year-old phrase in the termination of the employment relationship because the Constitutional Court held that it was a proportional period for the interests of employers and employees and that such a period would create endless time to settle on termination work. This statement also concluded with the removal of the phrase "Article 159" in Article 82 of Law No. 2 Of 2004. All the Verdicts of the Indonesian Constitutional Court are in relation to the termination of the employment relationship claim within the scope of the termination of the employment relationship that is still in effect, and have to apply 1 year within the termination, except in accordance with the provisions of Article 159 of Law No. 13 Of 2003.

Some of the above Indonesian Constitutional Court statements provided the new values as well as the impression that the expiration claims on the field of labor are not enforced in the same way. If the claim is related to the rights, then there is no limitation on the claim, and if the claim is related to termination of the employment relationship in the event that the employee resigns or is in criminal proceedings, then there is a limitation on the claim. In practice, there is still an understanding of the Industrial Relations Court judges who had not complied with the Indonesian Constitutional Court Verdict, as in the case No. 09/Pdt.Sus-PHI/2015/PN.Pal in which the judges considered the expiration claim had been nulled by the Constitutional Court, so that any reasons concerning the expiration claim related to the termination of employment could not be accepted. Against this verdict, the Indonesian Supreme Court has overturned the case by Verdict No. 625 K/Pdt-Sus-PHI/2016.

Based on the above mentioned, the writer conducts research by taking the research questions. First, how is the application of the new values related to expiration claims in labor cases after Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015?. Second, What is the direction of the new values formed by the Constitutional Court based on Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015 from a corporate perspective in the future?

In order to achieve a measured goal in this study, the Writer shall put objectives of this research. First, to provide an overview of the application of the new values at the dogmatic level related to the expiration claims after Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015. Second, to provide an overview of the direction of the new

values based on the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015 from a corporate perspective in the future.

This study consists of some parts. The first is introduction of the research, which is the background, the research questions and purpose of the research within. The second is the research method, which becomes the framework how this research was conducted. The third is analysis and discussion, which is divided into two parts: (a) cases of expiration claims related to the Indonesian Constitutional Court Verdict and (b) direction of the new value from the Indonesian Constitutional Court verdict related to the expiration claims in the future. The fourth is conclusion which becomes a final part of the analysis. The fifth is bibliography.

B. RESEARCH METHODS

This research is normative juridical research. The goal of this normative juridical research is to be able to uncover and analyze the new values formed by the Constitutional Court based on Verdict of the Indonesian Constitutional Court No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015, and determine the best direction related to those new values in the future. The writer uses secondary data in this study and obtained it by means of a literature study, in which the writer conducted a literature research in accordance with the legal material related to the object of this study, which consisted of: (1) primary legal material, namely related legislation; (2) secondary legal materials, i.e. related Indonesian Constitutional Court Verdicts, related court verdicts and also related references; and (3) tertiary legal material, in the form of a language dictionary. The data above obtained then processed with a qualitative approach that is supported by analysis using deductive thinking. The initial stages are carried out in conducting descriptive analysis related to labor cases related to the expiration claims, then sorted according to the purpose of this study, which is to uncover the new values in the case and determine the direction of the new values after Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015 from a corporate perspective in the future.

C. RESULTS AND DISCUSSION

1. Cases of Expiration Claims in the field of Labor after Indonesian Constitutional Court Verdicts No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015

After the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015 raises a new value which means there is

no expiration related to claims for the rights based on the concept of Article 96 of Law No. 13 Of 2003. Article 96 contains the concept of expiration related to claims: (1) workers' wages; (2) and payments arising from work relationships. If interpreted from the systematic of Article 96, this provision is placed within the scope of Chapter X, namely Protection, Wages and Welfare, precisely in the second part that concerning wages. The definition of wage according to Article 1 number 30 of Law No. 13 Of 2003, principally, is the right of workers received and expressed in the form of money in return from employment, the workers who are determined and paid through a working contract, agreement or legislation, including benefits for workers and their families for a job that has been or will done. The understanding of all payments arising from employment relationships are all the rights that arise as a result of the employment relationship. Article 1 number 15 of Law No. 13 Of 2003 regulates the employment relationship which principally is the relationship between employers and workers based on work agreements that have the element of work, element of wages and element of orders. The relationship here referred to the relationship in the employment that was formed through an employment agreement until the employment relationship was ended. After employment termination, this will become a matter of dispute of the employment termination.

Law No. 2 Of 2004 as the procedure law of Law No. 13 Of 2003, clearly explain the above mentioned. According to Article 1 number 2 of Law No. 2 Of 2004 which mentions disputes on the rights, namely disputes arising from non-fulfillment of rights, due to differences in implementation or interpretation of the provisions of the legislation, working contracts, company regulations, or collective labor agreements, and then Article 1 number 4 of Law No. 2 Of 2004 stipulating that disputes over termination of employment are disputes arising from the absence of conformity of opinions regarding with the termination of employment by one of the parties. Based on these two provisions, a common thread can be drawn that what is meant by the rights is related to payments in accordance with the law, working contracts, company regulations or collective labor agreements, and then what is meant by termination is related to the termination of employment. Overviewing from the basis of the dispute over the rights presented above, it can be interpreted that the rights that can be disputed by this rights dispute scheme are the rights that are in an employment relationship. The basics of an employment relationship is a working contract that can be disputed in the rights dispute scheme, meaning that it is only related to the rights appear in an ongoing employment relationship, and not related to the after-employment relationship.

One of the key words in the definition of working relation is the system of relationships, which in this case, if viewed from the meaning of the word

"relationship" by the Indonesian Dictionary is interpreted as "having ties".[5] Similar to the understanding of work relations, this means there is a work relationship in it because of an employment agreement. Thus, what is actually meant by the rights disputes scheme is that all the rights within the term of the employment relationship exist, and therefore outside of employment relations are not included in the category of the rights disputes scheme.

Speaking of the termination of employment disputes scheme, Article 1 number 4 does not emphasize the rights paid related to the termination of employment, but rather the termination of its employment with all its juridical consequences. According to the writer, the rights arising from termination of employment must be distinguished from the rights referred to the rights disputes scheme. The definition of the rights is related to ownership and power to do things according to the law.[6] This understanding is actually the same meaning as the rights referred to in the rights dispute scheme and the rights that appear in the termination dispute scheme. The difference is that the rights in the dispute scheme are the rights that arise when the employment relationship still exists, and the rights in the termination of employment dispute scheme are the rights that arise after the employment relationship has ended with a termination of employment, unilaterally or mutually agreed upon.

Cases that arose in the court which is a territory of the Supreme Court of the Republic of Indonesia related to the expiration claims of the rights and the termination of employment after the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015 according to the writer's research are 29 cases. The writer reclassifies on the basis of Article 96 of Law No. 13 Of 2003 concerning with the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and expired in accordance with Article 82 of Law No. 2 Of 2004 concerning with the Indonesian Constitutional Court Verdicts No. 114 / PUU-XIII / 2015. Of these 29 cases in the period 2013 - 2018, there were 6 related cases in accordance with Article 96 of Law No. 13 Of 2003, and there are 23 cases relating to the dispute under Article 82 of Law No. 2 of 2004.

There are 2 cases which the judge mixed the concept of article 96 of Law No. 13 Of 2003 and article 82 of Law No. 2 Of 2004. In the Case No. 62/PHI.G/2013/PN.JKT.PST. jo No. 188 K/Pdt.Sus-PHI/2014. The second case is in the case No. 44/Pdt.Sus-PHI/2015/PN.Mdn. In this case, the judge had an opinion that expiration claim shall be rejected since it was not a termination as referred to Article 82 of Law No. 2 Of 2004. However, one of many

[5] Em Zul Fajri and Ratu Aprilia Senja, *Kamus Lengkap Bahasa Indonesia [Complete Indonesian Dictionary]* (Semarang: Difa Publisher, 2008).
[6] Ibid.

considerations in this verdict, there is a mixed opinion about article 82 of Law No. 2 Of 2004 and article 96 of Law No. 13 Of 2003. The judge mentioned the implementation of article 96 of Law No. 13 Of 2003 after being revised by the Constitutional Court verdict, in the context to explain the implementation of article 82 of Law No. 2 Of 2004.

The concept in the Indonesian Constitutional Court Verdicts No. 100 / PUU-X / 2012 has filed an amended order under Article 96 of Law No. 13 Of 2003, this became the new value that arose as a result of a Constitutional Court ruling. However, in fact there are still judges who decided on the basis of Article 96 after the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 is in force. This appears in the case of Industrial Relations Court Verdict No. 27/PHI.G/2013/PN.JKT.PST. jo. Supreme Court Verdict No. 519 K/Pdt.Sus-PHI/2013, Industrial Relations Court No. 44/Pdt.Sus-PHI/2015/PN.Mdn. jo. Supreme Court Verdict No. 209 K/PDT.SUS-PHI/2016, and Industrial Relations Court Verdict No. 06/Pdt.Sus-PHI/2015/PN Jkt Pst. jo. Supreme Court Verdict No. 748 K/Pdt.Sus-PHI/2015. The rest of the judges in dismissing the due process claim under Article 96 have adopted a new value, which is to deny the expiration claim because it is no longer legally binding. In the first and second cases above, the claims have been rejected at the first-level court, however, the Supreme Court had ruled that there was a misdemeanor under Article 96 of Law No. 13 Of 2003. In the third case, the Supreme Court had a different view on settling the expiration claim pursuant to the Article 96.

The concept in Indonesian Constitutional Court Verdict No. 114 / PUU-XIII / 2015 amends existing values in accordance with the provisions of Article 82 of Law No. 2 Of 2004 as long as it is related to Article 159 of Law No. 13 Of 2003. This is also the new value that arises as a result of a Constitutional Court Verdict. This Article 159 shall in principle govern the employee having the authority to file a dispute under Article 158 paragraph (1) of Law No. 13 of 2003, while Article 158 paragraph (1) regulates the serious wrongdoing of the employee which may result in termination of the employment. At this time, the provision is not enforceable, so in accordance with Article 82 of Law No. 2 Of 2004 related to the expiration claim under the provisions of Article 171 of the Law No. 13 Of 2003, which stipulates the termination of employment due to workers in criminal process and due to resignation, which remains applied for 1 year.

Underpinning the concept of Indonesian Constitutional Court Verdict No. 114 / PUU-XIII / 2015 in the process of implementation in court, there are differences of understanding, most of which are in the first-level court. The writer notes that there are at least 11 cases in the first-level court where the judges did not understand the concept of Indonesian Constitutional Court

Verdict No. 114 / PUU-XIII / 2015, which was fortunately later adjusted to the cassation level. For example in Industrial Relations Court Verdict No. 13/PHI.G/2016/PN BJM, which in this case rejected the exceptions to the expiration claim, then based on the Supreme Court Verdict No. 945 K/Pdt.Sus-PHI/2016 stated that the lawsuit complies with the provisions of the expiration claim.

2. The Direction of New Values in the Future after Indonesian Constitutional Court Verdicts No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015 in a Corporate Perspective

Overviewing at the results of the case analysis above, which still creates confusion in understanding the new values introduced by the Constitutional Court based on the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015 in law enforcement within the scope of the Supreme Court, raises a big question, why the new value does not create consistency at the dogmatic level. In the opinion of Gustav Radbruch who formulated the legal goals which consist of justice, expediency and legal certainty, that to complete the formality of justice and relativity of expediency, certainty is included as the third element of the legal objective. Usability demands legal certainty. The law must be certain.[7] Within the scope of this thinking, then the new value created by the Constitutional Court should bring about consistency which has a certainty value at the dogmatic level.

Inconsistencies other than as revealed above, are not only related to the consequences of Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 which affects the provisions of the expiration claim in Article 96 of Law No. 13 Of 2003 and No. 114 / PUU-XIII / 2015 which affects the removal of one of the elements in Article 82 of Law No. 2 Of 2004 which correlates with Article 171 of Law No. 13 Of 2003, but also related to the understanding of the judges in seeing the Verdict of the Constitutional Court itself. This is shown in the Industrial Relations Court Verdict No. 32 / Pdt.Sus-PHI / 2014 / PN Tpg.

Seeing above judges' considerations, it can be concluded that the judges in deciding had an understanding on Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 as all the rights related to payment in the broadest sense. This means that all workers' rights from the creation of an employment relationship until after the end of the employment relationship, and positioning severance pay, service pay and compensation rights as part of the rights referred to in Article 96 of Law No. 13 Of 2003. According to the writer, such understanding should be avoided in view of the conceptions

[7] W Friedmann, *Teori Dan Filsafat Hukum: Idealisme Filosofis Dan Problema Keadilan [Theory and Philosophy of Law-Philosophical Idealism and the Problem of Justice]* (Jakarta: Rajawali, 1990).

formed by Law No. 2 Of 2004 separating the disputes over rights and termination of employment. It means that when it is related to the termination of employment, then it should use the mechanism of the termination of employment dispute scheme that has been determined, and no longer use the rights dispute scheme. Systematically, Law No. 13 Of 2003 has also conveyed this intention, by including Article 96 of Law No. 13 Of 2003 is in the wage section, which means all the rights related to the employment relationship, and not related to the time after the employment relationship end.

Aside from the judges' understanding, the parties' understanding can also play a role in causing inconsistencies. This is shown in Industrial Relations Court Verdict No. 97/G/2013/PHI.Sby, where the judge granted an exception to the expiration claim based on Article 82 of Law No. 2 Of 2004. In this case, the Cassation Appellant had an opinion that Article 96 of Law No. 13 Of 2003 that annulled by Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 has the same meaning and can be applied to Article 171 of Law No. 13 Of 2003 jo. Article 82 of Law No. 2 Of 2004. This is, of course, a misunderstanding and must be corrected.

Seeing the above conditions, the writer is interested in further analyzing the root of the problem over the inconsistency of the new values introduced by the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015. In the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012, Constitutional Judge Hamdan Zoelva expressed a dissenting opinion. According to Hamdan Zoelva, determining the expiration period is needed to provide legal certainty guarantees for those who claim their rights and those who will be required to fulfill their obligations. Labor law was not only protects workers, but also protects both employers and protects the interests of the sustainability of the business itself. Employers and the business are places for workers / labors to work for a living for their survival. The disruption of the growth and development of the business or the death of business will also affect the living conditions of workers or labors who work at the company. The period of 2 (two) years as stipulated in Article 96 of the Manpower Act is a reasonable period of time that is more than enough for workers / labors to make a verdict to demand employers fulfill their rights as workers / labors. The absence of an expiration period in submitting a claim, especially in a working relationship, results in the loss of legal certainty for employers on dealing the demands of workers' rights which can also disrupt the continuity of their business.

3. The Direction of New Values in the Future after Indonesian Constitutional Court Verdicts No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015 in a Corporate Perspective

Hamdan Zoelva's thoughts were trying to embrace the interests of all parties, including the workers and the company. Within the scope of the corporation, the actual purpose of a company established is that its business can continue, so that it can benefit all parties. Expiration claim in the field of labor, both claims for the rights and claims for the termination of employment are based on employment relationship. Article 1 number 15 of Law No. 13 Of 2003 defines employment as the relationship between employers and workers / labors based on working contracts, which have element of work, wages and orders. One of the subjects in the employment relationship is the employer. If interpreted in a broader sense, the employers in the scope of work relationships are corporations in all its forms. A civil corporation is interpreted by Sutan Remi Sjahdeini as a legal entity in which a corporation is a legal figure whose existence and authority is able or authorized to do the legal actions recognized by civil law.[8] If seen from the definition of employers in Law No. 13 Of 2003, it can be found that corporate understanding in the scope of work relations is not only related to legal entities but also non-legal entities. Corporations continually develop new strategies to be able to compete with other companies.[9]

According to Karen Kolkey,[10] corporations are businesses. This means that the corporation is a place for business to run so as to provide benefits as expected by the founder of the corporation. When the corporation exists for business purposes, the scope of the corporation is to win the competition in the running business. If the corporation can survive, then it is said that the business is developing, and vice versa. According to deontological thinking, if a corporation does the right thing only when (and for the reason that) it is profitable or it resultantly will enjoy good publicity, its decision is calculating, not moral.[11] Companies that truly want to implement corporate sustainability, which means corporate survival, hence take on responsibility for two goals: (1) The reduction or reversal of detrimental effects that the corporate activities cause and (2) some sort of compensation for the corporate impact on

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[8] Sutan Remy Sjahdeini, *Pertanggungjawaban Pidana Korporasi [Corporate Criminal Liability]* (Jakarta: Grafiti Pers, 2007).

[9] Lu Sudirman et al., "International Laws and The Reality: The Complexity of Corporate Law in Empowering Human Rights," *Jambura Law Review* 6, no. 1 (2024): 1–32.

[10] Karen Kolkey, "Why Do We Need Corporations?," 2019, https://www.quora.com/Why-do-we-need-corporations.

[11] Kyujin Shim and Jeong-nam Kim, "The Impacts of Ethical Philosophy on Corporate Hypocrisy Perception and Communication Intentions Toward CSR," *International Journal of Business Communication* 58, no. 3 (2021): 386–409.

economic, social and natural environments that cannot or would not be reversed.[12] From the corporate perspective, some stakeholders such as employees and customers are critical for corporate survival.[13]

This also affects the stakeholders and is influenced by the corporate stakeholders, namely customers, workers, and suppliers, given the stakeholders who are in the corporate circle.[14] A stakeholder in an organization is any group or individual who can affect or is affected by the achievement of the organization's objectives.[15] In addition to this view, stakeholders are interpreted in a broader scope. The definition of stakeholders can be explained based on their classification. Kasali classifies stakeholders into several types, namely: (1) Internal stakeholders are stakeholders who are in the organizational permises, for example employees, managers and shareholders; (2) External stakeholders, namely stakeholders who are outside the organizational permises, for example suppliers, consumers or customers, the community and the government.[16] These elements together with the corporate have the business decisions. When stakeholders are involved in an operational of the corporation, this allows exchange of information, confronting each other with informations.[17]

This is also in accordance with the Stakeholder Theory, where principally outlines a strategic management concept, the purpose of which is to help corporations strengthen relationships with certain groups and develops competitive advantages. The basic premise of the stakeholder theory is the stronger relationship of the corporation, the better business of the corporation.[18] This line of reasoning is usually referred to as instrumental stakeholder theory and provides a basic rationale for the question of why stakeholder concerns should be considered in the way in which an organization is directed and controlled. Instrumental stakeholder theory holds that the

[12] Jan Thomas Frecè and Deane L Harder, "Organisations Beyond Brundtland: A Definition of Corporate Sustainability Based on Corporate Values," *Journal of Sustainable Development* 11, no. 5 (2018): 184–93.
[13] Josep M Lozano, "Towards the Relational Corporation: From Managing Stakeholder Relationships to Building Stakeholder Relationships (Waiting for Copernicus)," *Corporate Governance: The International Journal of Business in Society* 5, no. 2 (2005): 60–77.
[14] Alfred A Marcus and Robert S Goodman, "Victims and Shareholders: The Dilemmas of Presenting Corporate Policy During a Crisis," *Academy of Management Journal* 34, no. 2 (1991): 281–305.
[15] R Edward Freeman, *Strategic Management: A Stakeholder Approach* (Boston: Pitman, 1984).
[16] Nor Hadi, *Corporate Social Responsibility* (Yogyakarta: Graha Ilmu, 2014).
[17] Etienne Rouwette, Inge Bleijenbergh, and Jac Vennix, "Group Model-Building to Support Public Policy: Addressing a Conflicted Situation in a Problem Neighbourhood," *Systems Research and Behavioral Science* 33, no. 1 (2016): 64–78.
[18] Totok Mardikanto, *CSR: Corporate Social Responsibility (Tanggungjawab Sosial Korporasi)* (Bandung: Alfabeta, 2014).

corporation needs to pay attention to only those stakeholders who can affect the value of the firm.[19]

There are two other perspectives on stakeholder theory: a descriptive and normative view. The descriptive stakeholder approach identifies and classifies the different constituents of an organization without assigning any value statements regarding the legitimacy of their claims or their power.[20] Normative stakeholder theory goes further and grants stakeholder claims intrinsic value due to the moral rights of any individual affected by corporate conduct.[21] Central questions of normative stakeholder theory consider rights and duties of the actors involved and how a just balance of concerns of different stakeholders can be achieved.[22]

Referring to the above thought, workers as the stakeholders of the corporation, then more or less can affect the corporation itself. Limitation on the time period for filing a claim regulated in Article 96 and Article 171 of Law No. 13 Of 2003 and Article 82 of Law No. 2 Of 2004, in the corporate perspective actually aims to ensure the ongoing concern of the corporation. So in the absence of a limitation on the time period for filing a claim, according to the Stakeholder Theory concept can affect the performance of the corporation itself. It simply means that the claims of workers without indefinite submission period will affect the concentration of the corporation that actually wants optimal business achievement.

Based on the Stakeholder Theory which also creates the concept of Corporate Social Responsibility (CSR), it becomes natural if the company goes hand in hand with its stakeholders, one of which is the workers, so that the company owner gets a profit and the employees get a reward according to the wage concept. The writer agrees if Law No. 13 Of 2003 provides protection for workers, given that sociologically workers have a position that is not the same as employers, but should also be considered regarding the common interests of stakeholders and does not rule out the corporate perspective. As also stated in Article 4 of Law No. 13 Of 2003 which in principle conveys employment development goals that the objectives of the law were created at the same time, namely the empowerment of workers, equitable employment opportunities, labor protection, and labor welfare. The problem emphasized by

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[19] Michael C Jensen, "Value Maximization, Stakeholder Theory, and the Corporate Objective Function," *Business Ethics Quarterly*, 2002, 235–56.

[20] Lozano, "Towards the Relational Corporation: From Managing Stakeholder Relationships to Building Stakeholder Relationships (Waiting for Copernicus)."

[21] Thomas Donaldson and Lee E Preston, "The Stakeholder Theory of the Corporation: Concepts, Evidence, and Implications," *Academy of Management Review* 20, no. 1 (1995): 65–91.

[22] Joan Fontrodona and Alejo José G Sison, "The Nature of the Firm, Agency Theory and Shareholder Theory: A Critique From Philosophical Anthropology," *Journal of Business Ethics* 66 (2006): 33–42.

Hamdan Zoelva is that if the occurrence of a claim for rights without expiration will be able to disrupt the company's performance going forward, especially if the claim is carried out jointly and in large numbers. From this basic premise, a premise can be taken that if a company is plagued with rights claims and cannot handle it properly, then the closing of the company is what happens. Furthermore, the employment development goals as stated above will not be achieved.[23]

Comparing with Indonesian Constitutional Court Verdict No. 114 / PUU-XIII / 2015 in which the consideration refers to the consideration in the Indonesian Constitutional Court Verdict No. 61 / PUU-VIII / 2010 to reject a request for judicial review related to Article 171 of Law No. 13 Of 2003 concerning the expiration claims based on these provisions. Within this scope, the Constitutional Court considers that the maximum period of 1 year is a proportional time period to balance the interests of employers and workers / labors and does not contradict Article 28D Paragraph (1) of the 1945 Constitution. Such limitations are important for the sake of fair legal certainty so that the problem is not protracted and can be resolved in a not too long period of time. If seen from these considerations, it can be analyzed that the Constitutional Court within the scope of the rights is opening the limits on the expiration claims and in the scope of termination of employment related to resigned workers and workers involved in criminal proceedings, the Constitutional Court considers that it must be limited by the expiration claims. If the Indonesian Constitutional Court has the same philosophical basis related to claims for the rights under Article 96 of Law No. 13 Of 2003 and claims for termination of employment related to workers who resign and who are involved in criminal proceedings under Article 171 of Law No. 13 Of 2003, there should be no difference between the two. Precisely, on the basis of the same philosophy, the Indonesian Constitutional Court should be able to see that industrial relations disputes are principally consist of the rights and obligations between companies and workers, and when talking about the rights and obligations it will not be separated from the meaning in its lex generalis, i.e. the Civil Code, because the relationship between the company and workers is bound by a civil engagement. Civil Code Systematic in addition to regulating the engagement also regulates expiration claims. Article 1946 of the Civil Code stipulates that an expiration claim is a tool to obtain something or to be released from an agreement with a certain time passing and on the conditions determined by law.[24] This means that expiration is used as a means

[23] M Saputri, H K C Abigail, and M Livana, "Penerapan Teori Stakeholder Pada Praktik Corporate Social Responsibility (Csr)," *Jurnal Manajemen Dan Akuntansi* 1, no. 4 (2024): 461.

[24] Nizar Yudhistira and Yuli Indrawati, "Hapusnya Hak Tagih Pemegang Obligasi Lama Terhadap Negara Ditinjau Dari UU Perbendaharaan Indonesia/Indische Comptabiliteitswet (ICW)," *UNES Law Review* 6, no. 1 (2023): 2859–68.

of limiting the acquisition of rights or to be freed from certain engagements.[25] Therefore, expiration according to the writer is a means to provide legal certainty and in accordance with the concept introduced by Gustav Radbruch, i.e. certainty to achieve justice and certainty to achieve expediency. He reckons in addition to the values of justice and expediency, namely the value of legal certainty (Rechtssicherheit). He point out that we need legal certainty, because there is no non-relativistic answer to the question "justice or expediency". Radbruch holds that the concept of law is a necessary general concept that is oriented toward the idea of law, which is justice. On this analysis, law is "the reality the meaning of which is to serve the legal value, the idea of law." He is, however, careful to point out that justice determines only the form, not the content of law. The reason is that justice, which on Radbruch's analysis requires that equals be treated equally, leaves it an open question whom to consider equal and how they should be treated. To get the content of law, we must add the value of expediency to the value of justice.[26] According to Radbruch and Dabin,[27] justice forms a legal substance, but the substance is heterogeneous consisting of three elements, i.e: (1) the individual element; (2) social element; and (3) political element. This what Radbruch meant by expediency which depends on the purpose of law.

The thoughts of the relationship between law and justice are actually very close. Because justice existed before the law, the law was created to lead to justice. Therefore, laws are created based on fair moral values or principles, which have existed before and that have lived in society. The task of forming a law is only to formulate what already exists. While on the other hand, there is a possibility that the formulation of the law itself is only interpretative, or provides new norms including norms of justice.[28] Within this scope, the Constitutional Court is a part of forming the new values in the law itself and has the role of creating justice facilities for all parties. Because of its significant role in the law and its implementation, each new verdict and the understanding inside must be rooted in justice itself. According to the writer, the justice which has been created by legal certainty will further be useful for all parties, and so Gustav Radbruch believes that certainty reaches expediency, which means achieving the expediency of legal certainty that were previously reviewed by

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[25] Eunice Primsa Munthe, "Penetapan Daluwarsa Dalam Pertanggungjawaban Notaris Terhadap Akta Yang Dibuatnya," *Doktrina: Journal of Law* 3, no. 2 (2020): 140–50.

[26] Torben Spaak, "Meta-Ethics and Legal Theory: The Case of Gustav Radbruch," *Law and Philosophy* 28, no. 3 (2009): 261–90.

[27] Kurt Wilk, *The Legal Philosophies of Lask, Radbruch, and Dabin* (Harvard University Press, 1950).

[28] Bahder Johan Nasution, "Kajian Filosofis Tentang Konsep Keadilan Dari Pemikiran Klasik Sampai Pemikiran Modern [Philosophical Study of the Concept of Justice from Classical to Modern Thinking]," *Yustisia* 3, no. 2 (2014).

the justice. The writer does not see the benefit that can be achieved based on a corporate perspective by the existence of philosophical inequalities in reviewing the expiration claims in the field of labor.

The problem of injustice which was experienced by the petitioner in these cases is not related to the expiration period of the claim, but rather on the good faith of the parties, both workers and employers. So when it is being judged, the thing that must be focused in providing justice at least in substance is related to how to express the good faith. This good faith is an intention that underlies every agreement, including for working contracts. This applies to employment relationships created by employment agreements under Article 50 of Law No. 13 Of 2003. According to Wirjono Prodjodikoro,[29] the good faith is honesty, which can appear at the time of starting a legal relationship and implementing a legal relationship. In this case, the writer agrees with the solution offered by Hamdan Zoelva, that the Court simply grants the Applicant's application by stipulating the terms of enforceability of Article 96 of the Labor Law, which is contrary to the constitution as long as it is not exempt for the employers who do not pay their full rights due to the bad faith. Under such conditions, the workers who file a claim after the expiration of 2 (two) years remain allowed to sue for all proceeds beyond that time due to the bad faith from the employer who deliberately buys a time and refuses to pay his workers' rights.

The problem of expressing the good faith does not enter the scope of the duties of the Indonesian Constitutional Court, however, it is in the hands of the judiciary within the Indonesian Supreme Court, because it relates to the implementation of a statutory regulation. As explained above, the nature of good faith is very abstract,[30] but that does not mean it can not be proven. In the law of proof there are methods to answer this problem of the good faith, as well as measuring the good intentions and bad intentions.[31] Either it is in the form of proof as a concept in general, which principally states that the burden of proof is in the hands of the proof carrier, as well as the proof in the reverse proof concept states that the burden of proof is in the hands of the opponent carrier. This means that the legal procedure system has made it possible to uncover the evidentiary issues related to the good faith, leaving only the legal substance to be addressed. When a case of injustice arises and

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[29] Wirjono Prodjodikoro, *Azas-Azas Hukum Perjanjian [The Basics of the Law of Contract]* (Bandung: Bandar Maju, 2000).

[30] Cindawati, "Prinsip Good Faith (Itikad Baik) Dalam Hukum Kontrak Bisnis Internasional," *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada* 26, no. 2 (2014): 181–93.

[31] Satya Lejar Wijaya, Budi Santoso, and Edy Sismarwoto, "Pembuktian Asas Itikad Baik Dan Itikad Tidak Baik Dalam Sengketa Merek Terkenal 'Superman' Antara Dc Comics Melawan Pt Marxing Fam Makmur (Studi Kasus Putusan Nomor 29/Pdt. Sus/Merek/2019/PN NIAGA JKT. PST)," *Diponegoro Law Journal* 11, no. 2 (2022).

there are claims that arise but are hampered by the issue of expiration claims, then first what must be seen is the issue of the good faith, not the time period of the expiration claims. So that lifting the restrictions on expiration claims would cause new problems at the dogmatic level.

Based on these conditions, the writer is pessimistic about the new values created in the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015 relating to expiration claims in the field of labor, and it can not realize consistency at the dogmatic level, in fact it will even lead to disharmony. Overviewing the cases from 2013 to 2018 has shown this picture. A disharmony might threat the existence of corporation. Corporations are fragile based on chaos theory that according to Henri Poincare´ originately from the mathematical analysis of non-linear dynamic systems, because corporations are non-linear dynamic systems, in that many of their elements are linked by non-linear relationships and are interconnected with one another.[32]

So that it should take a right and immediate action, which makes legal changes in the basic Theory of Development Law. According to Mochtar Kusumaatmadja,[33] all people who are developing are always characterized by changes and the law could be functioned to ensure that changes occurred in an orderly manner. Regular changes can be helped by legislation or court verdicts or a combination of both. The function of law in this society is to maintain the order through legal certainty and also the law must be able to regulate the process of change in society. In this concept of thinking, the legal changes will continue to embrace all conceptions that are built in the expiration claims and all existing judicial body verdicts, including the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015. The priority scale becomes a bridge over the gap of inconsistency, by prioritizing the assessment of the good faith as a decisive form in the new concept of expiration claims, and afterwards a time period component. The creation of the new paradigms to weaken concepts that were inappropriate in the past becomes the task of this new law in the future.

D. CONCLUSION

In the writer's research there were 29 cases related to the expiration claims in 2013 to 2018. Based on these cases, there were 6 cases relating to the expiration claims based on the new values in the Indonesian Constitutional

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[32] Raymond-alain Thietart and Bernard Forgues, "Chaos Theory and Organization," *Organization Science* 6, no. 1 (1995): 19–31.

[33] Romli Atmasasmita, *Teori Hukum Integratif : Rekonstruksi Terhadap Teori Hukum Pembangunan Dan Teori Hukum Progresif [Integrative Legal Theory: Reconstruction of Development Law Theory and Progressive Legal Theory]* (Yogyakarta: Genta Pubishing, 2012).

Court Verdict No. 100 / PUU-X / 2012 and there are 23 cases relating to the expiration claims based on the new values in Indonesian Constitutional Court Verdict No. 114 / PUU-XIII / 2015. In fact, there are still the judges at the first-level court who decide by ignoring the new value in Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and there are 11 cases at the first-level court where the judges do not understand the concept of Indonesian Constitutional Court Verdict No. 114 / PUU-XIII / 2015. The inconsistency at the level of implementation still creates uncertainty for justice seekers. This inconsistency according to the writer is influenced by the philosophical basis used by the Constitutional Court to decide the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015, which impacts on the understanding that if a expiration claim for the rights does not have an expiry of its claim and if it is related to the termination of employment due to the resignation of workers and workers in the criminal process, then the expiration claim will arise.

The difference philosophy basis used in the Indonesian Constitutional Court Verdict No. 100 / PUU-X / 2012 and No. 114 / PUU-XIII / 2015 enforced the different understanding in the expiration claim, and that makes uncertainty in the corporate perspective. Those verdicts made a confusing result on the practice, in fact, it is a disruption for the going concern of the company. The Constitutional Court should judge on the basis of the same philosophy, that is a justice, in which means looking at aspects of relevant interests, so that the results of the judicial review will also have the same effect. The achievement of legal certainty for justice will also achieve expediency. The expiration claim is a tool to make legal certainty with the right event, and it is called the good faith. On that reason, it should be repaired and put it to the better track with the same philosophy basis on applying the expiration claim. Therefore, it is necessary to immediately change the law related to the regulation of the expiration claims in the field of labor that embraces the concept of the expiration claims and verdicts of the relevant Constitutional Court, with prioritizing the principle of the good faith to see the interests of all parties in employment, both the companies and workers.

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