JGSP
Jurnal Greenation Sosial dan Politik
+62 81210467572 https://greenationpublisher.org/JGSP greenation.info@gmail.com
GREENATION PUBLISHER

DOI: https://doi.org/10.38035/jgsp.v3i4

The Absence of a Legal Protection Mechanism for Concurrent Creditors in the Distribution of Bankrupt Assets in Indonesia

Kristofer Oscar[1], Bambang Soesatyo[2]
[1]Universitas Borobudur, Jakarta, Indonesia, Kristoferoscar88@gmail.com
[2]Universitas Borobudur, Jakarta, Indonesia, bambangsoesatyo@borobudur.ac.id

Corresponding Author: Kristoferoscar88@gmail.com[1]

Abstract: Concurrent creditors are the weakest party in the Indonesian bankruptcy system. According to Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, secured and preferred creditors are given priority when it comes to the distribution of bankruptcy assets, or the bankruptcy estate, while concurrent creditors only get the remaining assets after both groups have been satisfied. This condition creates inequality and injustice in the fulfillment of creditors' rights, because there is no legal protection mechanism that specifically guarantees the interests of concurrent creditors. Articles 1131 and 1132 of the Civil Code regulate the principle of paritas creditorum, namely equality among creditors, but its implementation is not reflected in the practice of bankruptcy estate settlement. This study aims to analyze the legal position of concurrent creditors, identify the absence of a protection mechanism in the Indonesian bankruptcy system, and propose a concept for a more equitable legal reformulation. Using a normative legal approach and analyzing laws and regulations and commercial court decisions, the research findings indicate that Law No. 37 of 2004 does not guarantee substantive justice for unsecured creditors. Therefore, legal reforms are needed to regulate preventive and repressive protection mechanisms so that unsecured creditors' rights can be proportionally protected in bankruptcy proceedings.

Keyword: Bankruptcy, Unsecured Creditors, Bankruptcy Boedel, Legal Protection.

INTRODUCTION

According to Law Number 37 of 2004 about Bankruptcy and Suspension of Debt Payment commitments (PKPU), bankruptcy is primarily a legal procedure used to equitably address debt disputes between debtors and creditors when the debtor is no longer able to meet its commitments. (Hutagalung, 2022) According to Article 1, number 1 of the law, bankruptcy is characterized by the general seizure of all of the debtor's assets, which are thereafter managed and settled by a curator under the watchful eye of a supervising judge. The main objective of the bankruptcy system is not merely to punish the debtor, but to create legal certainty, justice for all creditors, and economic efficiency through collective debt

settlement to prevent individual executions that can cause disorder. (Singal, 2022) Articles 1131 and 1132 of the Civil Code, which state that all of a debtor's assets become general collateral for all creditors (the general collateral principle) and that the proceeds from the sale must be allocated proportionately based on the size of each creditor's receivables (the paritas creditorum or pari passu pro rata parte principle), serve as the conceptual foundation for bankruptcy law, except for creditors who have legitimate reasons for priority. (Fhadillah, et al., 2023)

In the practice of bankruptcy in Indonesia, the principle of equality of creditors as stipulated in the Civil Code is not fully realized due to the distinction in legal status between separated, preferred, and concurrent creditors in accordance with PKPU and Bankruptcy Law Number 37 of 2004. According to Article 55, paragraph (1), those that possess material security rights, such as mortgages or fiduciaries, are considered separatist creditors, or pledges who can execute collateral as if bankruptcy had not occurred, (Silalahi & Claudia, 2020) while preferred creditors have privileges based on law, such as the state over taxes (Article 21 paragraph (1) of the KUP Law) and workers over wages (Article 95 paragraph (4) of the Manpower Law), (Murtadho, 2024) so that both receive priority for payment first. On the other hand, concurrent creditors are ordinary creditors without security rights or privileges who are only entitled to receive the remaining proceeds from the settlement of bankruptcy assets after the rights of separatist and preferred creditors are fulfilled. (Disemadi & Gomes, 2021) In many cases, this position means that concurrent creditors do not receive proper repayment and often do not receive any payment at all. This weakness is exacerbated by the absence of a legal protection mechanism specifically guaranteeing fairness and proportionality for concurrent creditors in the distribution of bankruptcy assets, thus creating an imbalance that contradicts the principles of equality and justice in the bankruptcy system.

The weakness of the concurrent creditor's position in the bankruptcy system is further apparent when the process of settling the bankruptcy estate is entirely under the control of the curator with limited oversight from the supervising judge, as stipulated in Articles 69 and 70 of Law Number 37 of 2004 concerning Bankruptcy. Although concurrent creditors are granted administrative rights such as submitting claims and attending receivables verification meetings (Articles 113–115 of the Bankruptcy Law), these rights have no real influence on the final outcome of the bankruptcy estate distribution because payment decisions are based primarily on the legal status and availability of collateral for each creditor. (Mantili & Dewi, 2020) As a result, the position of concurrent creditors becomes merely a formality without substantive protection. This demonstrates that the principle of paritas creditorum as stipulated in Article 1132 of the Civil Code, which emphasizes equality among creditors, has lost its meaning in practice. (Idham & Baharuddin, 2020) The bankruptcy system, which should guarantee justice, instead creates structural inequality due to bias toward secured and preferred creditors, while there are no explicit provisions guaranteeing protection for concurrent creditors. This situation creates a legal gap that results in substantive injustice and contradicts the primary objective of bankruptcy law, which is to balance the interests of the debtor and all creditors fairly and proportionally.

One of the fundamental problems in bankruptcy practice in Indonesia is the inequality in the distribution of bankruptcy assets, which places concurrent creditors in a weaker position compared to secured and preferred creditors. (Fratiwi, 2023) Several major bankruptcy cases, such as PT Nyonya Meneer (2017) and PT Merpati Nusantara Airlines (2014), show that concurrent creditors receive almost no repayment of their receivables because all proceeds from the sale of bankruptcy assets are used to fulfill the rights of secured and preferred creditors. (Manurung et al., 2023) This system demonstrates that bankruptcy law favors parties with material collateral or privileges, while unsecured creditors must bear significant losses. In fact, concurrent creditors are often small and medium-sized businesses

that are the debtor's trading partners, so their inability to obtain payment impacts business continuity and economic stability. (Azarine, Gultom, & Sudaryat, 2025) This situation not only reflects legal injustice but also has implications for social and economic justice, as it creates a gap between the powerful (collateral holders) and the weak (small creditors or individuals). Both the principle of paritas creditorum in Article 1132 of the Civil Code, which emphasizes equality among creditors in the distribution of proceeds from bankruptcy assets, and the spirit of Article 33 paragraph 4 of the 1945 Constitution, which emphasizes that the national economy must be organized based on the principles of justice and balance, are obviously at odds with this situation. (Ritonga, 2024)

The lack of a clear legal protection mechanism for concurrent creditors in Law Number 37 of 2004 concerning Bankruptcy and PKPU further exacerbates this imbalance. While this law regulates administrative rights such as submitting claims and objections during a receivable's verification meeting (Articles 113–115 of the Bankruptcy Law), it does not provide a legal instrument to guarantee proportional distribution or provide compensation if the value of the bankruptcy assets is insufficient. The curator, whose role is to manage and settle the bankruptcy estate under the supervision of the supervisory judge, as stipulated in Articles 69–70 and 67 of the Bankruptcy Law, tends to perform only administrative duties without considering substantive justice for concurrent creditors. The supervisory judge also lacks the authority to correct inequalities in distribution, as his or her role is limited to formal oversight. (Alfany, 2024) This situation creates a legal gap that renders the principle of pari passu pro rata parte meaningless, while objections from concurrent creditors rarely yield concrete results because they are not accompanied by clear sanctions or recovery mechanisms. Thus, the bankruptcy system, which should ensure a balance of interests among creditors, instead creates structural injustice and reinforces the dominance of powerful parties in the practice of settling bankruptcy estates in Indonesia.

Concurrent creditors' legal remedies under the Indonesian bankruptcy system are very limited and passive. Under Article 115 of the Bankruptcy Law, they can only file objections to the list of receivables, but these objections are administrative in nature and do not affect the statutory payment priorities. (Kusmadi, Ismail, & Iryani, 2023) There are no provisions granting concurrent creditors the right to request a review of the curator's decision or to demand a fairer distribution based on the principle of proportionality. This situation indicates that Indonesian bankruptcy law still places greater emphasis on formal legal certainty than on substantive justice. As a result, the rights of concurrent creditors often expire without a proper resolution. (Asri, et al., 2024) The inequality between secured, preferred, and concurrent creditors also has serious implications for the application of the principles of justice and legal certainty in the bankruptcy system. Normatively, the principle of paritas creditorum in Article 1132 of the Civil Code affirms equality among creditors, but in practice, this is distorted by payment priority arrangements that give privileges to certain parties. (Albab & Gultom, 2025) This causes the distribution of bankruptcy assets to no longer be carried out fairly and proportionally but instead strengthens economic inequality and reduces trust in the bankruptcy system itself.

Recognizing these weaknesses, reformulation of bankruptcy law is urgently needed to ensure the existing system better reflects the principle of substantive justice. Legal reform should not only aim to strengthen legal certainty but also provide effective protection mechanisms for unsecured creditors. Some reform measures that could be considered include the implementation of preventive mechanisms, such as limiting the execution rights of secured creditors during the bankruptcy process (as implemented in several civil law countries), as well as repressive mechanisms, such as granting the right to object to disproportionate distributions and more active oversight by the supervisory judge of the curator's actions. Furthermore, consideration should be given to establishing a special

institution or establishing a "minimum portion" for unsecured creditors to ensure their rights are not completely disregarded. With such reformulation, bankruptcy law is expected to return to its primary objective: upholding justice, certainty, and legal benefits for all creditors without discrimination, while creating a more balanced debt resolution system oriented toward equitable distribution of economic justice.

METHOD

In order to investigate positive legal norms governing bankruptcy in Indonesia, specifically with regard to the position and legal protection of concurrent creditors in the division of bankruptcy assets, this study employs a normative juridical method. A conceptual approach and a statutory approach are among the methods employed. Examining several pertinent legislative statutes, such as Law Number 37 of 2004 Governing Bankruptcy and Suspension of Debt Payment Obligations and the Civil Code (Articles 1131 and 1132), is how the statutory approach is implemented, and other regulations relating to creditors' rights and authorities, such as the Manpower Law and the General Provisions and Procedures Law. Meanwhile, The legal concepts that underpin the bankruptcy system's tenets of fairness, legal certainty, and creditor equality are understood through the use of the conceptual method. The study's primary sources of data include statutory rules and commercial court rulings; secondary sources include legal journals, literature, and expert opinions; and tertiary sources include legal dictionaries and encyclopedias. Data collection methods included inventorying and library research, reviewing, and analyzing legal documents and related literature. The data obtained were then processed using normative qualitative analysis techniques, namely by interpreting positive legal provisions, linking them to legal theory and the principles of justice, and drawing argumentative conclusions to find conceptual solutions to the lack of legal protection mechanisms for concurrent creditors in the Indonesian bankruptcy system.

RESULTS AND DISCUSSION

Inequality of Creditor Position in the Indonesian Bankruptcy System

The main legal framework governing bankruptcy in Indonesia is Law Number 37 of 2004 Governing Bankruptcy and Suspension of Debt Payment Obligations (PKPU). This law serves as a legal instrument governing the procedures for collective debt settlement in the event that a debtor is unable to pay its creditors. The Bankruptcy Law's Article 1, number 1 states that bankruptcy is "a general seizure of all assets of the bankrupt debtor, the management and settlement of which is carried out by a curator under the supervision of a supervising judge." Therefore, the primary objective of the bankruptcy system is not to punish the debtor, but rather to provide a legal framework that guarantees all creditors receive an equitable share of the debtor's assets. This idea is consistent with bankruptcy law's goals, which place a high value on legal clarity, justice, and economic efficiency. It is hoped that all creditors will receive a proportional settlement without unilateral enforcement actions that could harm other parties. Philosophically and legally, the basic principles of bankruptcy in Indonesia are rooted in Articles 1131 and 1132 of the Civil Code (KUHPerdata). Article 1131 states that "all property belonging to the debtor, both movable and immovable, whether existing or future, shall be collateral for all his personal obligations." This indicates that every asset the debtor owns is used as general collateral to pay back his creditors. Additionally, Article 1132 of the Civil Code highlights the concepts of paritas creditorum and pari passu pro rata parte, which stipulate that all assets are used as joint collateral for all creditors and that, absent a valid reason for priority among the creditors, the proceeds from their sale are distributed equally based on the size of each creditor's receivables. These two articles demonstrate that normatively, Indonesian law upholds the principle of equality among creditors without any distinction between them, except for those specifically granted special

privileges by law. However, in practice, the principle of equality stipulated in the Civil Code is distorted by the provisions contained in Law Number 37 of 2004, which explicitly distinguishes between several types of creditors with unequal rights and status. This division creates a hierarchy in the debt repayment structure, with some creditors receiving higher priority than others. As a result, although in theory all creditors have equal rights to the debtor's assets, the implementation in bankruptcy practice shows that not all creditors receive equal treatment. This hierarchy is formed due to the recognition of material security rights and privileges, which give some creditors a stronger position in the bankruptcy estate settlement process. Thus, the Indonesian bankruptcy system normatively maintains structural inequalities that have the potential to cause substantive injustice for some parties, particularly concurrent creditors who do not have collateral rights.

Three primary creditor groups are recognized by Law Number 37 of 2004 in the Indonesian bankruptcy system: secured creditors, favored creditors, and concurrent creditors. Secured creditors are those holding collateral rights, such as mortgages, fiduciary rights, or pledges, as stipulated in Article 55 paragraph (1) of the Bankruptcy Law. This right grants them the right to execute collateral as if the bankruptcy had not occurred. With this right, secured creditors have a privileged position, allowing them to execute outside the bankruptcy estate settlement mechanism, provided they adhere to the time limit stipulated in Article 56 paragraph (1), which is within 90 days of the bankruptcy decision being pronounced. This position places secured creditors in the strongest position, as they have legal guarantees for the repayment of their receivables, supported by the executive power of the collateral.

Meanwhile, preferred creditors have the privilege under the law to be prioritized for payment. This privilege is usually granted to parties with a social or public interest recognized by the state. For example, Article 21 paragraph (1) of the Law on General Provisions and Tax Procedures (UU KUP) gives the state priority in collecting tax payments from the debtor's assets, while Article 95 paragraph (4) of Law Number 13 of 2003 concerning Manpower stipulates that workers' wages and other rights must take precedence over other creditors. This preferred creditor status is based on moral and social considerations, as it concerns the protection of state interests and workers' welfare. However, this privilege often results in the remaining assets of the bankruptcy estate being less available for distribution to other creditors who do not hold a special position.

In the practice of bankruptcy administration in Indonesia, the imbalance in status among creditors, particularly concurrent creditors, is a very real problem. Empirical evidence shows that concurrent creditors often do not receive repayment of their receivables because the majority of the bankrupt debtor's assets have been used to satisfy the rights of secured and preferred creditors. This is evident in several major cases, such as the bankruptcy of PT Nyonya Meneer (2017) and the case of PT Merpati Nusantara Airlines (2014), where, after the settlement of the bankruptcy estate, unsecured creditors received only small amounts of remaining assets or no payment at all. In the case of PT Nyonya Meneer, the curator reported that the proceeds from the sale of the company's assets were only sufficient to cover obligations to workers as preferred creditors and banks as separate creditors, while unsecured creditors, consisting of small business partners and distributors, received no repayment at all. Similarly, in the case of PT Merpati Nusantara Airlines, the distribution of the company's assets was largely given to large financial institutions holding collateral, while unsecured creditors, such as service providers and contractors, received no share. This fact demonstrates that the Indonesian bankruptcy system still favors creditors with greater economic and legal power.

From a legal perspective, this imbalance is inseparable from the provisions contained Federal Law Number 37 of 2004 Governing Bankruptcy, Articles 55 and 56, which give secured creditors the right to execute their collateral as though bankruptcy had never

happened. According to paragraph (1) of Article 55, “while still observing the provisions of Articles 56, 57, and 58, every creditor holding a material security right may execute their rights as if bankruptcy had not occurred.” This provision places secured creditors outside the collective mechanism for settling bankrupt assets, because they can directly execute collateral without having to wait for the results of the settlement as a whole. Furthermore, Article 56 paragraph (1) provides a 90-day suspension of execution, but after this deadline has passed, secured creditors are free to execute their collateral. Although this regulation is intended to protect legal certainty for collateral holders, its implementation actually sacrifices the principle of fairness for other creditors, particularly unsecured creditors who do not have similar collateral.

This disparity illustrates how the Civil Code's Articles 1131 and 1132, which state pari passu pro rata parte and paritas creditorum,e, are not fully implemented in practice. In fact, both articles embody the spirit of equality among creditors in the proportional distribution of bankruptcy assets. With the dominant position of secured and preferred creditors, the principle of equality, the foundation of bankruptcy philosophy, has transformed into a hierarchical and discriminatory system. Unsecured creditors, who should have equal rights in the distribution of bankruptcy assets, are instead the most disadvantaged parties due to the lack of legal guarantees to receive a proportional share. As a result, bankruptcy implementation no longer reflects the principle of substantive justice but rather prioritizes formal legal certainty for parties with economic and legal power. This situation demonstrates that the bankruptcy system in Indonesia remains trapped in a paradigm that protects collateral holders, rather than protecting overall economic interests.

This inequality also has significant social and economic impacts. From a legal perspective, the loss of the principle of paritas creditorum has led to a decline in confidence in the bankruptcy system as a means of equitable debt resolution. Small and medium-sized businesses, which generally lack the ability to provide collateral, are reluctant to provide unsecured loans for fear of not receiving repayment if the debtor goes bankrupt. This results in reduced liquidity in the market and a general decline in economic activity. From a social perspective, this inequality widens the gap between large economic actors with access to financial institutions and small businesses that rely on trust in commercial transactions. Inequity in the distribution of bankruptcy assets also contradicts the 1945 Constitution's Article 33, paragraph 4 highlights that the nation's economy is structured according to the values of fairness and unity, and balance. Therefore, inequality in bankruptcy is not only a legal issue, but also a matter of social justice and public welfare.

Normatively, the role of the curator and the supervising judge should be key to ensuring a balance of rights among creditors. However, in practice, supervision of the bankruptcy estate settlement process remains administrative in nature and does not address substantive aspects of justice. The curator, under Articles 69 and 70 of the Bankruptcy Law, is only obligated to manage and settle the bankruptcy estate and report the results to the supervising judge. The supervising judge, as stipulated in Article 67, has only a supervisory function, not a corrective one, regarding unfair distribution decisions. Consequently, when concurrent creditors are disadvantaged in the asset distribution process, they lack effective legal instruments to demand more proportional treatment. Legal remedies, such as objections to the list of receivables under Article 115 of the Bankruptcy Law, are also unable to change the priority structure established by law. This situation highlights a legal gap or lack of protection mechanisms for concurrent creditors, which has implications for the loss of substantive justice in bankruptcy practice.

A legal analysis of this situation indicates that the Indonesian bankruptcy system emphasizes formal legal certainty over substantive justice. Although protection for holders of collateral rights is intended to maintain trust in the banking and investment world, this policy

indirectly creates inequality in legal protection for unsecured creditors. The 1945 Constitution's Article 28D, paragraph (1), which guarantees everyone the right to fair treatment under the law, mandates the principle of justice, has not been concretely realized in bankruptcy practice. As a result, bankruptcy law, which should be an instrument to balance the interests of debtors and all their creditors, actually strengthens the dominance of certain parties. Therefore, an evaluation of the structure of bankruptcy law is necessary so that the principles of equality and justice can be truly implemented in the distribution of bankruptcy assets.

The Urgency of Reformulating Bankruptcy Law to Protect Concurrent Creditors

It is clear that Law Number 37 of 2004 about Bankruptcy and Suspension of Debt Payment Obligations (PKPU) has normative flaws in the protection of concurrent creditors. This law substantially contains no explicit provisions providing special legal protection for concurrent creditors, even though they are the most vulnerable group of creditors in the bankruptcy process. The articles in the Bankruptcy Law primarily regulate the rights of separatist and preferential creditors, such as Articles 55 and 56, which grant privileges to holders of material security rights to independently execute their collateral. Meanwhile, concurrent creditors only have administrative rights to submit claims and attend receivables verification meetings, as stipulated in Articles 113–115, without any guarantee of proportional distribution of settlement proceeds. This condition indicates that the bankruptcy legal system in Indonesia is still oriented towards formal legal certainty, rather than substantive justice that guarantees equality for all creditors. The absence of a mechanism to limit the execution rights of secured creditors or provide compensation for concurrent creditors when bankruptcy assets are insufficient creates structural inequalities that are inconsistent with the basic principles of civil law as stipulated in Articles 1131 and 1132 of the Civil Code.

In the context of economic law, the principle of substantive justice should be the primary foundation for the formulation and implementation of bankruptcy law. Substantive justice prioritizes not only compliance with formal procedures but also considers the balance of interests between the parties involved. The primary objective of bankruptcy is not merely to repay the debtor's debts to creditors, but also to create conditions for a just and proportional settlement for all interested parties. This principle aligns with the constitutional mandate of the 1945 Constitution's Article 28D, paragraph (1), ensures that everyone has the right to be treated fairly by the law, and Article 33 paragraph (4), which emphasizes the importance of the principles of justice and balance in national economic activities. Thus, reformulation of bankruptcy law needs to be directed toward the application of the principle of distributive justice, namely ensuring that each creditor receives a fair share according to the capacity of the bankruptcy estate, rather than merely guaranteeing formal certainty that benefits the economically powerful.

One concrete step toward realizing this substantive justice is through the implementation of preventive protection mechanisms for concurrent creditors. This reform can be implemented by limiting the execution rights of secured creditors during the bankruptcy process, for example, by extending the stay period from 90 days to a more flexible period depending on the settlement conditions. Furthermore, a collective proceeding system needs to be implemented comprehensively so that all creditors, including those with material collateral, are subject to the joint settlement mechanism. Practices in several civil law countries, such as the Netherlands and Germany, can serve as a reference, where all creditors are required to participate in the proportional distribution of bankruptcy assets without extreme exceptions. In this context, strengthening the role of curators and

supervisory judges is crucial to ensure that the settlement process is transparent and takes into account the balance of rights among creditors from the outset of the bankruptcy process.

In addition to preventive mechanisms, reformulation must also include repressive safeguards that guarantee fairness after the settlement process has taken place. This protection can be realized through the right to appeal or object to distributions deemed disproportionate. Furthermore, the concept of minimum dividend rights can be implemented, a provision that guarantees that concurrent creditors continue to receive a minimum portion of the proceeds from the settlement of bankruptcy assets. Furthermore, curators who fail to uphold the principle of fairness in asset distribution should be subject to administrative or civil sanctions as a form of accountability. To strengthen the effectiveness of supervision, the establishment of a special supervisory institution or unit under the commercial court is also necessary to ensure transparency in the bankruptcy process and to prevent potential abuse of authority by parties with a higher legal standing.

In a broader context, state involvement is a crucial factor in ensuring legal protection for economically disadvantaged parties, such as unsecured creditors. The state plays a role not only as a regulator but also as a supervisor and protector against potential inequalities in bankruptcy practices. The role of supervisory judges, curators, and the Ministry of Law and Human Rights needs to be strengthened within a substantive oversight framework that ensures the principle of justice is truly implemented. The establishment of institutions such as the Unsecured Creditor Protection Agency (LPKK) or a transparency-based oversight system (creditor oversight system) could be institutional innovations that ensure the protection of small creditors' rights. Synergy between legal, economic, and public policy aspects is absolutely necessary so that the bankruptcy system functions not only as a legal mechanism but also as an instrument for economic equality.

The direction of reforming Indonesian bankruptcy law must emphasize the urgency of revising Law No. 37 of 2004 to make it more responsive to the need for substantive justice. This revision should integrate the principle of balanced justice, namely the balance between legal certainty, justice, and benefit for all parties. The principle of paritas creditorum as stipulated in Article 1132 of the Civil Code must be revived, not merely as a symbolic norm, but also as an operational principle in commercial justice practice. This reform will provide equitable legal certainty, increase business confidence in the bankruptcy system, and strengthen national economic stability. Therefore, reformulating bankruptcy law is not merely a legal necessity, but a strategic step towards creating a more humane, just, and adaptive legal system to the challenges of the modern Indonesian economy.

CONCLUSION

Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (PKPU) has not fully realized the principle of substantive justice as required by Article 28D paragraph (1) and Article 33 paragraph (4) of the 1945 Constitution, according to the findings of the analysis of the status and legal protection for concurrent creditors in the Indonesian bankruptcy system. Although Article 1132 of the Civil Code's paritas creditorum concept theoretically preserves the equality of creditors, in reality, the bankruptcy system actually creates a hierarchy that prioritizes separatist and preferred creditors. This inequality causes concurrent creditors, who generally do not have material collateral, too often not receive receivables or only receive a small portion of the bankruptcy estate. The absence of an explicit legal protection mechanism, the weak role of curators and supervisory judges, therefore there is a legal vacuum in the application of the concepts of justice and legal clarity due to the restricted legal remedies available to concurrent creditors. As a result, the bankruptcy system in Indonesia prioritizes formal legal certainty over substantive justice,

thus preventing its primary goal of providing a fair, collective, and proportional debt settlement.

As a strategic step toward a more equitable bankruptcy system, a comprehensive reform of bankruptcy regulations is needed, particularly in terms of protection for concurrent creditors. The government and lawmakers need to revise Law No. 37 of 2004 by adding provisions regarding preventive and repressive protection mechanisms. Preventive mechanisms could include limiting the execution rights of secured creditors during the bankruptcy process and implementing a collective proceeding system that requires all creditors to comply with the joint settlement mechanism. Repressive mechanisms could include regulating the right to object to disproportionate distribution of settlement proceeds, implementing a minimum dividend right, and strengthening oversight by supervisory judges and independent institutions such as the Concurrent Creditor Protection Agency (LPKK). This legal reform must be oriented towards the principle of balanced justice, namely a balance between legal certainty, justice, and expediency, so that bankruptcy law functions not only as a means of debt settlement but also as an instrument for economic equality and protection for structurally disadvantaged parties. Thus, Indonesia's future bankruptcy system is expected to reflect the values of social justice, increase business confidence, and strengthen the foundation of national economic law.

REFERENCE

Albab, U., & Gultom, S. E. (2025). PARADOKS PERLINDUNGAN KREDITOR KONKUREN DALAM SKEMA KEPAILITAN DAN PKPU DI INDONESIA: ANALISIS KOMPARATIF DAN PERSPEKTIF KEADILAN DISTRIBUSI. *Integrative Perspectives of Social and Science Journal, 2*(3), 3717-3725.

Alfany, U. S. (2024). PENERAPAN ASAS PARITAS CREDITORIUM TERHADAP KREDITOR KONKUREN DITINJAU DARI PERLINDUNGAN HAK KREDITOR DALAM HUKUM KEPAILITAN. *PAUGERAN LAW REVIEW, 1*(1), 1245.

Asri, I. A., Budiartha, I. N., & Pritayanti, I. G. (2024). Perlindungan Hukum Bagi Pihak Ketiga (Natuurlijke Persoon) Berkaitan Dengan Adanya Actio Pauliana Dalam Hukum Kepailitan. *Jurnal Analogi Hukum, 6*(2), 197-202.

Azarine, C. E., Gultom, E., & Sudaryat. (2025). Perlindungan Hukum atas Kepastian Pembayaran Kepada Kreditur Konkuren dalam Kepailitan. *Solusi Bersama: Jurnal Pengabdian dan Kesejahteraan Masyarakat, 2*(2), 80-92.

Disemadi, H. S., & Gomes, D. (2021). Perlindungan Hukum Kreditur Konkuren Dalam Perspektif Hukum Kepailitan Di Indonesia. *Jurnal Pendidikan Kewarganegaraan Undiksha, 9*(1), 123-134.

Fhadillah, Z., Astiti, N. M., Cholil, M., Alfan, M. A., & Aliefia, M. (2023). Problematika Kepailitan Transnasional Terhadap Pengurusan dan Pemberesan Aset Debitur Pailit. *Notaire, 6*(2), 122.

Fratiwi, a. R. (2023). Dampak Kepailitan Bagi Kreditur Konkuren di Indonesia. *BULLET: Jurnal Multidisiplin Ilmu, 2*(3), 524-529.

Hutagalung, S. M. (2022). *Praktik Peradilan Perdata, Kepailitan dan Alternatif Penyelesaian Sengketa.* Jakarta: Sinar Grafika.

Idham, I. N., & Baharuddin, H. (2020). Perlindungan Hukum Kreditor Konkuren Dalam Kepailitan: Studi Putusan Nomor. 04/Pdt. Sus-Pkpu. Pailit/2018/Pn. Niaga Mks. *Journal of Lex Generalis (JLG), 1*(5), 747-760.

Kusmadi, B., Ismail, & Iryani, D. (2023). Proteksi Hukum Terhadap Kreditor Konkuren dalam Proses Kepailitan Terhadap Peninggalan Debitor yang Disita Kejaksaan. *JURNAL HUKUM BISNIS Учредители: Information Technology and Science (ITScience), 12*(3), 117-129.

Mantili, R., & Dewi, P. E. (2020). Perlindungan Kreditor Konkuren Dalam Hukum Kepailitan. *Jurnal Akses, 12*(2), 97-108.

Manurung, K. H., Antasia, P., Nurfajriana, S., Rosuli, Z. C., Rosiana, S., & Nugroho, A. A. (2023). Perlindungan Konsumen Terhadap Kerugian Akibat Kepailitan Perusahaan Properti. *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial, 1*(4), 233.

Murtadho, N. A. (2024). Perlindungan Hukum Terhadap Kreditor Preferen Dalam Pemberesan Proses Kepailitan. *Journal of Contemporary Law Studies, 1*(4), 207-226.

Ritonga, F. G. (2024). KEPASTIAN HUKUM BAGI KREDITOR KONKUREN DALAM PENYELESAIAN DAN PEMBERESAN BOEDEL KEPAILITAN. *Jurnal Hukum to-ra: Hukum Untuk Mengatur dan Melindungi Masyarakat, 10*(3), 521-528.

Silalahi, U., & Claudia. (2020). Kedudukan kreditor separatis atas hak jaminan dalam proses kepailitan. *Masalah-Masalah Hukum, 49*(1), 35-47.

Singal, N. Y. (2022). Kajian Hukum Tanggung Jawab Kurator Dalam Penyelesaian Perkara Kepailitan Pasca Putusan Pengadilan Niaga. *Lex Privatum, 10*(1), 112.