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# RECONSTRUCTION OF CONCURRENT CREDITOR RIGHTS IN BANKRUPTCY LAW AND SUSPENSION OF DEBT PAYMENT OBLIGATIONS IN THE FRAMEWORK OF LEGAL DEVELOPMENT

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## Abstract

*Debt payment obligation is one of the important aspects of social life. If the debtor cannot fulfill his obligations, legal problems will arise that must be resolved. This research aims to examine and reconstruct the rights of concurrent creditors in the Bankruptcy Law in the context of legal development. This research uses normative legal research methods. Data collection techniques in this research are literature study and law search. The data analysis technique used in this research is qualitative analysis. The results show that the rights of concurrent creditors in the Bankruptcy Law need to be reconstructed in the context of legal development. The reconstruction of concurrent creditor rights can be done by increasing the understanding and awareness of concurrent creditors, improving adequate facilities and infrastructure, and strengthening law enforcement.*

**Keywords:** *Creditors' Rights, Concurrent, Postponement, Debt Payment Obligation*

## INTRODUCTION

The rights of Concurrent Creditors must be guaranteed by obtaining legal protection in the Bankruptcy Law and Suspension of Debt Payment Obligations by the principle of justice or balance of rights as creditors (Soelistyo, 2022). Law Number 37 of 2004, State Gazette of the Republic of Indonesia of 2004 Number 131 and Supplement to the State Gazette of the Republic of Indonesia of 2004 Number 4443 concerning the Law on Bankruptcy and Suspension of Debt Payment Obligations, from now on abbreviated as UUK-PKPU.

The Debtor himself can file a bankruptcy application or a Voluntary Bankruptcy Application. Suppose the Debtor himself submits a Bankruptcy Application. In that case, it must be fulfilled by the provisions of Limited Liability Company Law Number 40 of 2007 concerning Limited Liability Companies, which states that before filing a Bankruptcy Application through the Commercial Court, an Extraordinary General Meeting of Shareholders of the Company must first be held stating that the Company or the Debtor will file a Bankruptcy Application through the Commercial Court (Lubis, 2018).

The emergence of rights and obligations for the parties, namely Creditors and Debtors, is due to the Law and or Agreement, then related to the basis of determination (*determinor*) to become a person or entity as a Creditor because the person concerned makes transactions by giving or delivering goods, money and or services to the Debtor or in other words it can be stated that the Creditor enters into a transaction with the Debtor where the Creditor delivers the goods, money and or services to the Debtor.

The delivery of goods, money, and services from Creditors to Debtors also varies. There is a delivery of goods, money, and or services followed by the provision of guarantees, which are then made a liability, and there are those who hand over goods, money, and or services without collateral. Separatist Creditors are called parties who provide goods, money, and services followed by guarantees and then installed Rights of Dependents in the UUK-PKPU. There is one institution that is also referred to as a Creditor. Still, this Creditor has never conducted a transaction of goods,

money, or services with the Debtor, namely the State or the Directorate General of Taxes or the Creditor of the Tax Office Bill, this institution becomes a Creditor because the Law on Taxation is categorized as public law and compulsory law. Hence, the fiscus complies with the rules of tax law.

Other creditors are parties who provide job services to Debtors, namely Workers/Workers with the status or rating of "Preferred Creditor" on wage bills owed before or after the bankruptcy declaration decision is pronounced. In addition, there is another Creditor called "Concurrent Creditor" who is generally disadvantaged in the occurrence of bankruptcy because Concurrent Creditors make transactions in goods, money, and services with Debtors but are not followed by providing guarantees, in UUK-PKPU called "Concurrent Creditors" or "*Unsecured Creditors*," and these Concurrent Creditors are the main object of research in this Dissertation.

In Singapore, concurrent creditor rights are regulated under the Insolvency, Restructuring, and Dissolution Act. This law stipulates that concurrent creditors are entitled to participate in distributing bankruptcy assets (Chan, 2011). Meanwhile, in the United States, concurrent creditor rights are regulated in the United States Bankruptcy Code (Bankruptcy Code). This law stipulates that concurrent creditors are entitled to participate in distributing bankruptcy assets (Khairunnisa & Nephi, 2023).

Separatist Creditors are given by the UUK-PKPU the privileges mentioned above, so it is true that business people say "*Cash is the King*," then Tax Office Bill Creditors who, in substance or ontology "Not Real Creditors," and wages of Workers/Workers with the status or rank of "Preferred Creditor" before or after the bankruptcy declaration decision is pronounced, then according to the normative juridical rules of the UUK-PKPU in force now, Separatist Creditors, Worker/Labor Creditors, and Tax Office Bill Creditors have all eroded or drained the bankrupt's assets so that the rights of Concurrent Creditors are not protected, and generally Concurrent Creditors get the smallest share or even no share of receivables from the Debtor's assets or bankruptcy assets. Legal inequality to protect the rights of Concurrent Creditors occurred in the process of establishing UUK-PKPU because:

1. The DPR invites the Association of Indonesian National Banks (PERBANAS) or Banking Institutions to a Hearing Meeting, then dialogues and expresses its opinion, and the result is that its opinion is fully accepted by the DPR and written in the text of the Law;
2. The DPR also invites the Ministry of Finance or the Directorate General of TaxesPR to a Hearing Meeting, then dialogues and expresses its opinion, and the result is that its opinion is fully accepted by the DPR and written in the text of the Law;
3. The House of Representatives also invites workers to the Hearing Meeting represented by the Labor Organization. Dialogue and express their opinions, and the result is that their opinions are fully accepted by the House and written in the text of the Law.

This means that Banking Institutions, the Ministry of Finance, and Labor Organizations have institutionalized or had a forum at the Hearing Meeting with the DPR. Still, there is one creditor who is not institutionalized, who has no organization or container, and who has never held a Hearing Meeting with the DPR, namely Concurrent Creditors; then, the legal interests of the Concurrent Creditors are not cared about or ignored in the DPR. Concurrent creditors enter into goods, money, and services transactions with Creditors, but the concurrent creditors appear later in the commercial court after a company is terminated and declared bankrupt. The Curator makes an announcement in Mass Media about the company's bankruptcy by notifying, among others, the receivables verification schedule. The Creditors come to fulfill the invitation of the Curator. The Creditors submit their receivables along with the evidence. The Curator classifies the Creditors

who have entered into transactions of goods, money, and services without collateral in the classification/column of Concurrent Creditors.

## RESEARCH METHOD<sup>24</sup>

This study used normative legal research methods. Normative legal research is a type of research that focuses on the analysis and interpretation of legal theories, regulations, and other legal documents. This method aims to understand the existing legal framework and explain or provide arguments related to certain aspects of the law (Rizkia & Fardiansyah, 2023). Data collection techniques in this study include literature studies and tracing laws. The data analysis technique used in this study is qualitative analysis. Qualitative analysis is carried out by analyzing data that has been collected to answer research questions.

## RESULTS AND DISCUSSION

### Definition and terms of Concurrent Creditors

Concurrent creditors are those whose rights are not guaranteed by collateral. So their rights are only guaranteed by a general guarantee, namely the *lex generalis* rule in Article 1131 of the Civil Code (Arman, 2022). The determination or "*determinor*" of one or one business entity to be a Creditor in Bankruptcy is a Civil Code that determines that the terms of a valid agreement are:

1. Agree those who bind themselves;
2. The ability to make an engagement;
3. A certain thing;
4. A lawful cause.

Furthermore, there is an agreement or transaction between the Creditor and the Debtor regarding certain things, namely goods, money, and services. The Creditor is the party providing or delivering goods, money, and services. Concurrent Creditors are commonly referred to as "Competing Creditors". The definition of competing here is to compete with other Concurrent Creditors at the same level to obtain bankruptcy assets proportionally. France, Germany, the Netherlands, the United Kingdom, the United States, Australia, and Singapore are called "*Unsecured Creditors*" or "*Preferential Rights*" translated or interpreted as Unsecured or Unsecured Creditors (Damaswara, 2012).

### Concurrent Creditor Rights in UUK-PKPU

It has been a universally accepted principle of law, even since ancient Greece; according to Thalamus, promises must be kept, and debts must be paid. Debt payment guarantees according to the history of civil law, which comes from Roman law, then goes to France, and from France goes to Germany, and from Germany goes to the Netherlands (Ginting, 2018) which then with the Transitional Regulation Article 2 of the Constitution 45, civil law applies to Indonesia as long as there is nothing new. The doctrine of concurrent creditors is specified in the UUK-PKPU: concurrent creditors "MUST" be given a share determined by the supervisory judge." Based on the decision of the Constitutional Court Number 67/PUU-XI/2013, dated September 11, 2014, the order of distribution of bankruptcy assets is:

1. First order: preferred creditors, namely labor wages.
2. Second order: separatist creditors.
3. Third order: workers' preferred creditors for severance pay<sup>[2]</sup>
4. Fourth order: creditors in the form of tax agency bills.
5. Fifth order: concurrent creditors.

From the opinion of the Thalamus Philosopher quoted above, debts to be paid were stated, and then in the UUK-PKPU, it was stated that "Concurrent Creditors "MUST" be given a share determined by the Supervising Judge." Based on the decision of the Constitutional Court quoted above, Concurrent Creditors get the division of bankruptcy assets in the last or fifth order, even though Preferred Creditors, namely Labor Wages, Separatist Creditors, Preferred Creditors of Labor Wages for Severance Payments, Tax Agency Bill Creditors have spent or drained bankruptcy assets first so that Concurrent Creditors get the smallest or even no division of bankruptcy assets get a share of the bankruptcy assets that have harmed Concurrent Creditors in the bankruptcy forum.

### **Discrimination against Concurrent Creditors in the Modern Age and the Age of Digitalization**

In ancient times, debtors or debtors who were enslaved or forced labor, even the enslaved people, could be sold to other parties if the debtor was unable to pay his debt to the debtor or creditor because there might be class differences with the debtor. Now the debtors, in this case, Concurrent Creditors such as being enslaved or discriminated against because of the UUK-PKPU and various other laws related to bankruptcy, declare the rights of certain Creditors to take precedence over payment, and the Constitutional Court, in its decision, places Concurrent Creditors in the last rank to get bankruptcy assets. Therefore, Concurrent Creditors sometimes get a very minimal share of the bankrupt assets from the total amount of receivables, even not getting bankruptcy assets at all or zero.

Now, we have long left the era of slavery, discrimination, class differences, and primordialism because Indonesia has been bound by the principle of statehood "*Bhinneka Tunggal Ika*" and Pancasila, namely the Unity of Indonesia. Then, in Pancasila, it is stated that social justice for all Indonesian people is very basic. It is the philosophy of the Nation, the State of Indonesia, and the people of Indonesia. Pancasila, with the precepts of Social justice for all Indonesian people, has been used as a source of UUK-PKPU law by mentioning one of its principles is the Principle of Justice: "In bankruptcy, the principle of justice contains the understanding that the provisions regarding bankruptcy can fulfill a sense of justice for the interested parties.

This principle of justice is to prevent the occurrence of arbitrariness on the part of collectors who seek payment of their respective bills against the Debtor, regardless of other creditors. With the establishment of Pancasila as the legal source of UUK-PKPU as "*Das Sollen*," Bankruptcy practitioners namely Debtors, Debt Guarantors, Creditors, Severance Judges, Supervisory Judges, and Curators, can apply it in the field consequently, according to "*Das Sein*." But it turns out that this is not the case in practice UUK-PKPU in the field. There has been inequality, irregularity, discrimination in the treatment of UUK-PKPU and other laws related to bankruptcy such as the Civil Code, Law No.9 of 1994 concerning Amendments to Law No.6 of 1983 concerning General Provisions and Tax Procedures, Law No.4 of 1996 concerning Rights of Dependents, Law No.13 of 2003 concerning Manpower as "*Das Sollen*" who do not show equal appreciation and treatment and violate the principles of equal rights as fellow creditors to cause material benefits to certain Creditors but to the detriment of other Creditors with a very large material amount.

Lawmakers such as only giving legal protection to a certain group of creditors but not to other groups of creditors, or there has been discrimination against certain creditors from time immemorial to the present. Discrimination against creditors in bankruptcy law has not been avoided by lawmakers due to various factors, as stated in Chapter I. Therefore, breakthroughs or new, fresh, and scientific thoughts are needed to achieve legal protection for all creditors, especially for Concurrent Creditors who have been disadvantaged in the bankruptcy process.

Differences in the treatment of the Law or Discrimination, for example in the Manpower Law regarding Workers' Preferred Creditors, for wage bills which state: "If a company is declared bankrupt or liquidated based on applicable laws and regulations, then wages and other rights of workers/laborers are debts that take precedence in payment." The UUK-PKPU states: "From the date the bankruptcy declaration judgment is pronounced, the wages owed before or after the bankruptcy declaration judgment is pronounced are debts of the bankrupt's assets." So, the wages of labor creditors are debts that take precedence over payment, and wages owed before and after the bankruptcy declaration decision is pronounced by the Panel of Judges are debts of bankruptcy assets.

We can see the same or almost the same provision that receivables take precedence over payment to Separatist Creditors, as the Civil Code specifies the right to precedence among creditors based on privileges, liens, and mortgages. The provision of the right of precedence adopted in the Civil Code is further strengthened by the provision of the Right of Dependents when related to the UUK-PKPU, giving the right of self-execution of Separatist Creditors over the rights of dependents as if bankruptcy had not occurred. Furthermore, we can also see the same or almost the same provision, namely receivables that take precedence in payment to the Creditors of Tax Office Bills, as contained in the Law on General Provisions of Taxation, which states: "The State has the prior right to tax debts on the property of the Tax Insurer." So the Creditor of the Tax Office Bill, on behalf of the State, declares the prior right to tax debt on the property of the Tax Insurer.

This means there are 3 (three) institutions, namely Manpower Institutions, Banking Institutions, and State Institutions. The Tax Office Bill claims strong competition and physical strength from the Manpower. With the strength of written evidence, namely, letters from Separatist Creditors, and then based on power from the State or the Tax Office Bill, both claim they "Must be privileged" or "Must be given Privileges" or take precedence in payment. The doctrine of the Rights of Creditors in insolvency is ununified or uncodified but scattered with the types of creditors, so there is no legal certainty for the Curator to divide the insolvent property. In the Commercial Court, there were many quarrels or quarrels and it could even be said to be riots due to certain creditors asking the Curator to be paid first. However, the chaos and anxiety of practitioners in bankruptcy, namely the Panel of Judgment Judges, Supervisory Judges, Debt<sup>41</sup>, Debt Guarantors, Creditors, and Curators, began to be "resolved temporarily" with the Constitutional Court Decision Number 67/PUU-XI/2013, dated September 11, 2014, which decided on the order of creditor ratings. Still, it should be understood that the Constitutional Court Decision does not determine whether these creditors get a share of the bankruptcy assets.

Other than Concurrent Creditors have been given high legal protection in a juridical normative manner in an unequivocal legal text where such Creditors must be paid in advance by the Curator. But something odd, strange, and very surprising has happened and can be said to be discriminatory because about Concurrent Creditors, no one ignores it, no one cares and is neglected like a biological child but cannot enjoy wealth and facilities in his own home, namely "Bankruptcy House or in the Bankruptcy Forum" even though the important role of Concurrent Creditors in operating a company activity is exemplified such as GIA (In PKPU) very important and very strategic. We can imagine for a moment whether it is true or not if there is no Concurrent Creditor in GIA (In PKPU) whether GIA can "go concerned" and fly high now in the air "flying high" across various continents and various oceans serving its passengers or customers, and benefit in the business of "profit" without Concurrent Creditors?. Despite the current situation, Concurrent

Creditors must not be discouraged. They cannot back down nor run on the spot but must move forward by legally endeavoring to maintain equal rights and legal protection for all creditors.

It turns out that for now, there is only one person, alone, namely the "Supervising Judge," who cares about Concurrent Creditors, as specified in the UUK-PKPU, which states: "*Concurrent Creditors MUST be given the share determined by the Supervising Judge.*" Creditors other than Concurrent Creditors have been given legal protection outlined in the text of the legislation. There is even a normative juridical "*over protection*", but Concurrent Creditors are only protected by themselves, a person namely the Supervising Judge, or in other words the DPR, Government, or State does not care and does not protect Concurrent Creditors, even the State, in this case, Creditors Bill Office large its role to minimize, stunt and negate the rights of Concurrent Creditors in bankruptcy or constructive sentences can be mentioned Tax Office or State Bill Creditors should build and improve the welfare of Concurrent Creditors, and not vice versa.

This research will have a change towards a new paradigm in bankruptcy, especially to Concurrent to change the position and legal protection and raise the position or rating of Concurrent Creditors with clear parameters and measures that are not forced and are not like beggars or beggars on the roadside asking for mercy from passers-by, but taking refuge in written and fair laws. Thus, it can be realized what the wise men stated: "Many efforts do not succeed, but without efforts, nothing succeeds." Because it has been manifest that various laws including UUK-PKPU have discriminated against Concurrent Creditors, the rights of Concurrent Creditors need to be repositioned, need to be given an honorable position like a <sup>42</sup> editor or the rights of a legitimate child in one household, need to be defended and restored, it is necessary to restore the rights of Concurrent Creditors by following the parameters of applicable law, namely the determination of a person or entity as a Creditor called "*Determinor*" and by comparing and following the provisions of various countries that have provided legal protection to Concurrent Creditors.

#### **Equal rights should be given to creditors.**

Since man was born by his mother to this earth is the same, naked, crying, and at first growing up who then may get property or even <sup>43</sup> et property in a family that is treated equally by the law called equal rights or the principle of "*equality before the law*". Generally, the principle of "*equality before the law*" is one by which everyone is subject to the same judicial laws. Equality before the law means that all humans are equal and equal before the law. Long before it was implemented in the country's constitution, the concept of *equality before the law* already had a long history (Nadya, 2022).

Several hundred years later, the concept of equality was heard in Greece, in 431 BC, precisely in Pericles <sup>16</sup> neral speech. *Thucydides* in his History of the Peloponnesian <sup>16</sup> ars wrote that the speech said the law provides equal justice to all people in their differences: "If we look at the law, they give equal justice to all people in their differences; if there is no social status, progress in public life will depend on reputation capacity, class considerations should not interfere with achievement; Poverty is also no longer a way, if a person can serve the country, the obscurity of his condition does not hinder him."

In America, the principle of *equality before the law* was developed and adopted by the state of Nebraska, in 1867. The principle of *equality before the law* was later applied to the flag and seal of Nebraska. Then, in 1948, the United Nations General Assembly in Paris declared The Universal Declaration <sup>44</sup> of Human Rights (UDHR). This document discusses human rights provisions, including *equality before the law*. Article 7 of the UDHR declares all persons equal before the law

and entitled to equal protection of the law without discrimination. The formulation of equality before the law in Indonesia is contained in several laws and regulations<sup>[23]</sup> namely:

1. Equality before the law in the 1945 Constitution states that "all citizens are equal in the law and the government is obliged to uphold the law without exception."<sup>[18]</sup>
2. Equality before the law is contained in the Law on Judicial Power, which explains that "the court must adjudicate according to the law without discriminating against people."<sup>[19]</sup>
3. Equality before the law, contained in the **Code of Criminal Procedure**, explained that "the Republic of Indonesia is a state of law based on Pancasila and the 1945 Constitution that upholds human rights and guarantees all citizens equal standing in law and government and is obliged to uphold that law and government with no exception."<sup>[20]</sup>
4. Equality before the law, contained in the Human Rights Law, explains that "everyone has the right to recognition, guarantee, protection, and fair legal treatment as well as legal certainty and equal treatment before the law."<sup>[21]</sup>

**The Human Rights Law** adds that "everyone is recognized as a natural person who has the right to demand and receive equal treatment and protection by his or her human dignity before the law." Equality of rights is necessary and cannot be usurped by anyone, including the state. Regarding equal rights for fellow creditors in bankruptcy, especially for concurrent creditors, the understanding, terms, and rights of concurrent creditors are first conveyed. Concurrent creditors are those whose rights are not secured by collateral. So, the rights of Concurrent Creditors are only guaranteed by a general guarantee, namely the lex general rule in Article 1131 of the Civil Code. Regarding the determination or "determinor" of a person as a creditor in bankruptcy must be based on the existence of an agreement, Sudargo Gautama stated: "To establish a contract four elements are required:

1. The consent of the parties;
2. A capacity to contract;
3. A subject certain;
4. A lawful purpose."

Or policy or determination or "determinor" a person or one legal entity becomes a Creditor in Bankruptcy is the Civil Code that determines the terms of a valid agreement:

1. Agree those who bind themselves;
2. The ability to make an engagement;
3. A certain thing;
4. A lawful cause.

Furthermore, after there is an agreement or trade transaction between the Creditor and the Debtor regarding certain things, namely goods, money, and services, the party who provides or delivers both goods, money, and services in fulfilling the conditions specified by Article 1320 of the Civil Code is called the Creditor.

Concurrent Creditors are commonly referred to as "Competing Creditors". The definition of competing here is to compete with other Concurrent Creditors at the same level to obtain bankruptcy assets proportionally. In France, Germany, the Netherlands, the United Kingdom, the United States, Australia, and Singapore, it is called "Unsecured Creditor" or "Preferential Right" translated or interpreted as Unsecured or Unsecured Creditor.

It should be noted that it has been a principle of law that applies universally, even since ancient Greece; according to Thalamus, promises must be kept, and debts must be paid. The doctrine of the right to know the share of bankruptcy assets for concurrent creditors is specified in the UUK-PKPU, which states: "Concurrent creditors "MUST" be given a share determined by the



supervisory judge." Based on <sup>13</sup> the decision of the Constitutional Court Number 67/PUU-XI/2013, dated September 11, 2014, the order of distribution of bankruptcy assets is:

1. First order: preferred creditors, that is, labor wages.
2. Second order: separatist creditors.
3. Third order: workers' preferred creditors for severance pay
4. Fourth order: creditors in the form of tax agency bills.
5. Fifth order: concurrent creditors.

The opinion of the Thalamus Philosopher quoted above states that debt must be paid, meaning that the Debtor must pay the debtor's debt to the Concurrent Creditor. The UUK-PKPU states that "Concurrent Creditors "MUST" be given a share determined by the Supervising Judge". Based on the decision of the Constitutional Court quoted above, Concurrent Creditors get the division of bankruptcy assets in the last or fifth order after Preferred Creditors, namely Labor Wages, Separatist Creditors, Preferred Creditors of Labor Wages, Separatist Creditors, Creditors of Tax Office Bills have drained, eroded and even spent bankruptcy assets first, so that Concurrent Creditors get a division of bankruptcy assets with the smallest amount of their receivables or even got no share of the bankruptcy assets that have harmed Concurrent Creditors in the bankruptcy forum but have benefited other Creditors.

### Legal <sup>2</sup> protection for Concurrent Creditors

Concurrent creditors are creditors who do not hold material guarantees and are not prioritized by laws and regulations so that when the debtor goes bankrupt, the creditor is the one who is harmed (Kale & Dhasmakusuma, 2005). If we dig into the nature or substance of insolvency from its principles connected with the prevailing positive law where the substance of bankruptcy is to collect bankruptcy assets, sell or auction so that in the form of cash to be further divided by the Curator to the Creditors determined by the Supervising Judge in the Register of Distribution of Bankruptcy Assets. However, the Most Deposed Creditors are *the most damaged creditors*. They are restored very strongly and argumentatively, according to facts, principles, juridical normative, legal theory, and philosophy. Furthermore, the basis for the determination is explained as a Creditor (*Determinor*) or fact, where Concurrent Creditors in bankruptcy are by the principle of balance, which is mutually consistent with the conditions determined juridically normatively, namely Article 1320 of the Civil Code, therefore Concurrent Creditors are Creditors in bankruptcy. Theoretically, creditors in bankruptcy should get legal protection to get a share of bankruptcy assets, and in obtaining bankruptcy property, they must fulfill the philosophy of justice. According to Philipus M. H<sup>12</sup>an, there are two kinds of legal protection, namely:

1. Means of Preventive Legal Protection.

<sup>25</sup> In this preventive legal protection, legal subjects can raise objections or opinions before a <sup>34</sup> government decision gets a definitive form. The goal is to prevent disputes from occurring. In Indonesia, there is no specific regulation regarding preventive legal protection.

2. Means of R<sup>11</sup>epressive Legal Protection

Repressive legal protection aims to resolve dispu<sup>11</sup>s. The handling of legal protection by the General Court and the Administrative Court in Indonesia is included in this category of legal protection.

The second principle underlying legal protection against government actions is the principle of the rule of law (Hadjon, 1987).

This research presents repressive legal protection to treat the disease of bankruptcy law that has been acute and chronic and long ago which harms Concurrent Creditors worldwide. In the UUK-PKPU, it is stated that Concurrent Creditors "must" be given a portion determined by the

Supervisory Judge, so because the Supervisory Judge alone pivots, rests, leans, and is given confidence in the rights of Concurrent Creditors, in law, it is called "Discretion" or Discretion or discretion. Wisdom is (1) prudence in saying and acting; (2) freedom of choice and decision-making; freedom to act according to one's judgment). The term authority or authority is equated with "authority" in English and "bevoegdheid" in Dutch (Abdul, 2016).

### **Regulation of Concurrent Creditor Rights in Other Countries**

The regulation of concurrent creditor rights in two other countries, namely the United States and Singapore, can be reviewed as follows:

#### **1. United States**

In the United States, concurrent creditor rights are regulated in the United States Bankruptcy Code (Bankruptcy Code). This law stipulates that concurrent creditors are entitled to participate in distributing bankruptcy assets. The rights of concurrent creditors in the United States can be divided into two, namely (Fatahilah, 2023):

- a. The right to participate in the distribution of insolvent assets. This right allows concurrent creditors to file their bills with the insolvency receiver. The insolvency receivership will consider concurrent creditors' bills for inclusion in the bill list.
- b. The right to precedence. This right gives concurrent creditors precedence in the division of bankruptcy assets. Creditors with the right to precedence will get priority in distributing bankruptcy assets.

The rights of concurrent creditors in the United States can be limited by several factors, including:

- a. Lack of bankruptcy property. If the bankrupt's assets are insufficient to pay all creditors' bills, the concurrent creditor will receive payment proportional to the bill amount.
- b. Selection by debtor. The debtor may pay part or all of the debt to concurrent creditors before filing for bankruptcy.
- c. Payment by third parties. Third parties, such as the debtor's family, may pay the debtor's debts before or after the bankruptcy application is filed.

#### **2. Singapore**

In Singapore, concurrent creditor rights are regulated under the Insolvency, Restructuring, and Dissolution Act. This law stipulates that concurrent creditors are entitled to participate in distributing bankruptcy assets. The rights of concurrent creditors in Singapore can be divided into two, namely (Gurrea & Luck, 2021):

- a. The right to participate in the distribution of insolvent assets. This right allows concurrent creditors to file their bills with the insolvency receiver. The insolvency receivership will consider concurrent creditors' bills for inclusion in the bill list.
- b. The right to precedence. This right gives concurrent creditors precedence in the division of bankruptcy assets. Creditors with the right to precedence will get priority in distributing bankruptcy assets.

The rights of concurrent creditors in Singapore may be limited by several factors, including:

- a. Lack of bankruptcy property. If the bankrupt's assets are insufficient to pay all creditors' bills, the concurrent creditor will receive payment proportional to the bill amount.
- b. Selection by debtor. The debtor may pay part or all of the debt to concurrent creditors before filing for bankruptcy.
- c. Payment by third parties. Third parties, such as the debtor's family, may pay the debtor's debts before or after the bankruptcy application is filed.

In general, the regulations on the rights of concurrent creditors in the United States and Singapore have something in common: both stipulate that concurrent creditors are entitled to participate in the distribution of bankruptcy assets. In addition, both also stipulate that concurrent creditors can have the privilege of taking precedence in the division of bankruptcy assets. However, there are also some differences, namely that in the United States, the rights of concurrent creditors can be limited by other factors, such as selection by the debtor and payment by third parties. In Singapore, the rights of concurrent creditors cannot be limited by other factors except the lack of insolvent assets.

## CONCLUSION

The results showed that in the context of bankruptcy law, the rights of concurrent creditors require a reconstruction to advance the legal system. In this context, steps must be taken to increase concurrent creditors' understanding and awareness of their rights. In addition, the importance of providing adequate facilities and infrastructure is a key factor in supporting the process. Finally, to effectively enforce the rights of concurrent creditors, strengthening law enforcement is needed so that this reconstruction process can be carried out properly in the context of bankruptcy law. These measures are expected to improve and improve fairness and efficiency in the existing bankruptcy law system.

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