

## Original Article

### Does Indonesian Bankruptcy Law Protection for Curators in Bankruptcy?

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## Abstract

*A curator is someone who is appointed by the court to manage and organize the bankruptcy assets of the debtor in carrying out his duties must be in accordance with applicable laws and regulations. When carrying out their duties, curators must be independent and have no conflict of interest with either the debtor or creditors as stipulated in the provisions of Article 15 paragraph 3 of Law Number 37 of 2004. For this reason, the following problems can be formulated, why the burden of the curator's performance in carrying out the bankruptcy estate needs legal protection for the curator, what are the inhibiting factors or threats to the curator in the bankruptcy estate and how to reconstruct the regulation of legal protection of the curator in carrying out the bankruptcy estate. The writing of this dissertation aims to analyze and find the burden of the curator's performance in carrying out the administration of bankruptcy property needs legal protection for the curator, to analyze and find inhibiting factors or threats to the curator in the administration of bankruptcy property, to analyze and find the reconstruction of legal protection for the curator in carrying out the administration of bankruptcy property in order to realize justice-based sustainability. This type of research used is normative legal research, namely legal research conducted by breaking down legal issues and at the same time providing prescriptions. The research used is descriptive analytical. Thus, the need for immunity rights implicitly regulated in the law in order to protect curators in carrying out the administration of bankruptcy assets in order to create justice for all parties in bankruptcy. reconstruction of legal protection regulations for curators in carrying out the administration of bankruptcy assets is to add a new norm formulation to Article 69 of the Bankruptcy Law by strengthening the role of curators in the management and administration of bankruptcy assets, adding immunity rights and / or legal assistance by curator professional organizations and state institutions when curators are reported in suspected criminal acts.*

**Keywords:** Curator; Bankruptcy; Legal Protection; Reform;

## Introduction

Indonesian bankruptcy law is primarily regulated under Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. This statute establishes the normative and institutional framework governing insolvency proceedings in Indonesia. Article 1(1) defines bankruptcy as a general attachment imposed upon all assets of a debtor declared bankrupt by a court decision, whereby the administration and liquidation of those assets are entrusted to a court-appointed curator under the supervision of a supervisory judge. Through this formulation, the legislature conceptualizes bankruptcy not merely as a declaration of financial failure but as a legal mechanism that transfers control over the debtor's estate to an independent officer acting under judicial authority.<sup>1</sup>

Article 1(5) further defines the curator as either the state heritage office or an individual appointed by the court to administer and liquidate the bankruptcy estate under the supervision of the supervisory judge. Article 70(2) refines this definition by stipulating that a curator may consist of an individual or a civil partnership domiciled in Indonesia, possessing specific expertise in insolvency administration, and formally registered with the Ministry of Law and Human Rights. These provisions collectively construct the curator as a

<sup>1</sup> Rajeev Kumar Upadhyay, 'Bankruptcy and Insolvency', in *International Encyclopedia of Business Management (First Edition)*, ed. by Vanessa Ratten, First Edition (Oxford: Academic Press, 2026), pp. 410–15 <<https://doi.org/https://doi.org/10.1016/B978-0-443-13701-3.00529-6>>.



professional legal actor whose authority derives directly from statutory mandate and judicial appointment. The curator therefore operates not as a private agent of creditors or debtors but as an officer entrusted with public responsibilities within the insolvency system.<sup>2</sup>

Normatively, the curator exercises functional authority to manage, safeguard, and liquidate the bankruptcy estate in a professional, independent, and accountable manner. Article 15(3) of the Bankruptcy Law explicitly requires the curator to act independently and to avoid any conflict of interest with either the debtor or the creditors. This independence constitutes a foundational principle of insolvency administration.<sup>3</sup> Without institutional independence, the curator cannot perform objective asset verification, evaluate creditor claims impartially, or implement equitable distribution. Independence also safeguards the integrity of judicial supervision, ensuring that bankruptcy proceedings reflect procedural fairness rather than partisan interests. Within the broader framework of Indonesia's constitutional order, which adheres to a Pancasila-based conception of the rule of law, bankruptcy law functions as an instrument of procedural justice. It seeks to ensure legal certainty, economic utility, and distributive fairness.<sup>4</sup> The statutory regime does not solely prioritize creditors' recovery interests; it also protects the bankruptcy estate as a legal object under general attachment and guarantees the debtor's procedural rights through mechanisms such as suspension of debt payment obligations. The law thus balances competing interests while imposing accountability on the curator as the executor of judicial decisions. However, the effectiveness of this framework depends upon the availability of adequate legal protection that enables curators to perform their statutory duties without undue interference.<sup>5</sup>

In practice, curators frequently encounter structural and cultural challenges that undermine the smooth execution of their mandate. Debtors may refuse to provide access to business premises, withhold financial documentation, continue unauthorized transactions after the declaration of bankruptcy, or engage in intimidation strategies designed to obstruct asset management. In some cases, dissatisfied parties initiate criminal complaints against curators in response to asset sales or administrative decisions. Such complaints often allege unlawful entry, document forgery, defamation in connection with bankruptcy announcements, or embezzlement arising from asset liquidation conducted without the debtor's consent. These patterns reveal a recurring tension between the curator's statutory authority under insolvency law and the invocation of general criminal law provisions by parties seeking to challenge or delay enforcement measures.<sup>6</sup>

The enactment of Law Number 1 of 2023 introduces significant doctrinal developments relevant to the curator's legal position. The new Criminal Code reaffirms the principle of legality, which limits criminal liability to conduct explicitly defined by statute. This reaffirmation provides an important safeguard against expansive interpretations that might

<sup>2</sup> Ludek Kolecek, 'Bankruptcy Laws and Debt Renegotiation', *Journal of Financial Stability*, 4.1 (2008), 40–61 <<https://doi.org/https://doi.org/10.1016/j.jfs.2007.09.001>>.

<sup>3</sup> Carlos López Gutiérrez, Myriam García Olalla and Begoña Torre Olmo, 'The Influence of Bankruptcy Law on Equity Value of Financially Distressed Firms: A European Comparative Analysis', *International Review of Law and Economics*, 29.3 (2009), 229–43 <<https://doi.org/https://doi.org/10.1016/j.irl.2009.02.002>>.

<sup>4</sup> Özgür Kıbrıs and Arzu Kıbrıs, 'On the Investment Implications of Bankruptcy Laws', *Games and Economic Behavior*, 80 (2013), 85–99 <<https://doi.org/https://doi.org/10.1016/j.geb.2013.02.007>>.

<sup>5</sup> Seung-Hyun Lee and others, 'How Do Bankruptcy Laws Affect Entrepreneurship Development around the World?', *Journal of Business Venturing*, 26.5 (2011), 505–20 <<https://doi.org/https://doi.org/10.1016/j.jbusvent.2010.05.001>>.

<sup>6</sup> Hamisi Junior Nsubuga, 'The Interpretative Approach to Bankruptcy Law', *International Journal of Law and Management*, 60.3 (2018), 824–41 <<https://doi.org/https://doi.org/10.1108/IJLMA-03-2017-0079>>.



criminalize actions performed pursuant to lawful authority.<sup>7</sup> Furthermore, the Code strengthens doctrines concerning justifications and excuses, including acts undertaken in compliance with statutory mandates or lawful official orders. Where a curator administers or sells bankruptcy assets in accordance with a court order and established insolvency procedures, such conduct should fall within the scope of justified action, provided that the curator acts within statutory limits and without bad faith.<sup>8</sup>

The new Criminal Code also emphasizes culpability as a prerequisite for punishment and incorporates the principle of *ultimum remedium*, which positions criminal law as a measure of last resort. Under this approach, legal systems should prioritize civil, administrative, or disciplinary remedies before resorting to criminal sanctions. In the insolvency context, disputes regarding asset valuation, claim verification, or distribution typically belong to the domain of bankruptcy procedure and judicial supervision. Applying criminal law prematurely risks distorting the functional balance of the insolvency regime and transforming procedural disagreements into penal conflicts. Nevertheless, the Criminal Code does not explicitly grant professional immunity to curators. The absence of an express immunity clause leaves room for the application of general criminal provisions without systematic consideration of the curator's statutory mandate.<sup>9</sup>

Judicial practice illustrates both the vulnerability and resilience of curators within this legal environment. In a notable proceeding before the Bekasi District Court, two court-appointed curators were charged under forgery-related provisions of the Criminal Code for executing a sale of bankruptcy assets. The prosecution alleged that they had inserted false statements into an authentic deed. After examining the evidence, the court acquitted the defendants, concluding that they had acted within the scope of their statutory authority and complied with applicable insolvency procedures. Similarly, in a separate case before the Surabaya District Court, a curator accused of document falsification was declared not guilty, and the court restored his professional rights and status. These decisions demonstrate judicial recognition that curators who operate within their legal mandate should not bear criminal responsibility. However, the process of criminal prosecution itself imposes substantial psychological, reputational, and professional burdens that may discourage decisive action in future cases.<sup>10</sup>

Comparative analysis reveals that several jurisdictions provide more explicit and structured protection for insolvency practitioners. In Australia, the Bankruptcy Act 1966 and the Corporations Act 2001 establish that trustees and liquidators who act honestly and professionally within the scope of their authority receive statutory protection. Regulatory supervision by specialized agencies reinforces both accountability and legitimacy. In Germany, the *Insolvenzordnung* 1999 positions the insolvency administrator as an organ of the court, thereby attaching institutional protection to actions undertaken pursuant to judicial mandate. In Japan, the Bankruptcy Act of Japan and the Civil Rehabilitation Act treat trustees and administrators as officers operating under strict judicial control, providing

<sup>7</sup> Aloisio P Araujo, Rafael V X Ferreira and Bruno Funchal, 'The Brazilian Bankruptcy Law Experience', *Journal of Corporate Finance*, 18.4 (2012), 994–1004 <<https://doi.org/https://doi.org/10.1016/j.jcorpfin.2012.03.001>>.

<sup>8</sup> Régis Blazy, Bruno Deffains, and others, 'Severe or Gentle Bankruptcy Law: Which Impact on Investing and Financing Decisions?', *Economic Modelling*, 34 (2013), 129–44 <<https://doi.org/https://doi.org/10.1016/j.econmod.2013.02.001>>.

<sup>9</sup> Austin Murphy, 'Bond Pricing in the Biggest City Bankruptcy in History: The Effects of State Emergency Management Laws on Default Risk', *International Review of Law and Economics*, 54 (2018), 106–17 <<https://doi.org/https://doi.org/10.1016/j.irl.2017.12.001>>.

<sup>10</sup> Emanuele Tarantino, 'Bankruptcy Law and Corporate Investment Decisions', *Journal of Banking & Finance*, 37.7 (2013), 2490–2500 <<https://doi.org/https://doi.org/10.1016/j.jbankfin.2013.02.007>>.



systemic procedural safeguards that reduce exposure to criminal liability. In the United States, the U.S. Bankruptcy Code recognizes quasi-judicial immunity for trustees who act within the scope of official authority, limiting personal liability unless they exceed their mandate or engage in intentional misconduct.<sup>11</sup>

In contrast, Indonesian legislation does not expressly articulate an immunity framework comparable to those found in these jurisdictions. Although the Bankruptcy Law defines the curator's authority and imposes supervisory mechanisms, it does not clearly delineate the boundaries of criminal liability or establish procedural safeguards that prevent premature prosecution. This regulatory gap generates uncertainty and may undermine the curator's independence. From a legal system perspective, weaknesses in substantive norms and enforcement structures can compromise the coherence of the insolvency regime and hinder its capacity to deliver equitable and efficient outcomes.<sup>12</sup> Accordingly, comprehensive legal reform appears necessary to harmonize bankruptcy law and criminal law within Indonesia's constitutional framework. Legislators may consider codifying explicit provisions that protect curators who act in good faith and within the limits of their judicial mandate. Such provisions should not create absolute immunity but should clarify standards of liability, delineate the scope of justified action, and reinforce the supervisory role of bankruptcy courts as the primary forum for resolving disputes arising from estate administration. By strengthening normative coherence and institutional safeguards, Indonesia can enhance legal certainty, preserve professional independence, and ensure that the insolvency system fulfills its function as an instrument of procedural justice within the Pancasila-based rule of law.<sup>13</sup>

Several prior scholarly studies have critically examined the issue of legal protection for curators within Indonesia's bankruptcy regime and consistently reveal substantive regulatory and practical deficiencies. Irwansyah, Emirzon, and Samawati (2025) demonstrate that Indonesian bankruptcy legislation does not expressly provide immunity rights for curators against civil claims, despite the fact that curators act pursuant to judicial appointment and statutory mandate; they argue that this normative omission weakens legal certainty and potentially disrupts the orderly administration and settlement of bankruptcy estates.<sup>14</sup> Apriyanto and Wulandari (2025) further identify the growing risk of criminalization faced by curators and administrators under Law No. 37 of 2004, observing that law enforcement authorities sometimes apply general criminal provisions to actions undertaken in good faith within the scope of statutory authority, thereby exposing curators to unwarranted investigation and prosecution; they recommend clearer regulatory standards, strengthened professional oversight, and limited immunity for curators acting lawfully and in good faith.<sup>15</sup> Mulia (2019) analyzes the legal remedies available to curators as a means of self-protection but emphasizes that reactive litigation strategies cannot substitute for comprehensive

<sup>11</sup> Amanda E Dawsey, 'State Bankruptcy Laws and the Responsiveness of Credit Card Demand', *Journal of Economics and Business*, 81 (2015), 54–76 <<https://doi.org/https://doi.org/10.1016/j.jeconbus.2015.06.002>>.

<sup>12</sup> Mevliyar Er, 'The German Consumer Bankruptcy Law and Moral Hazard – the Case of Indebted Immigrants', *Journal of Financial Regulation and Compliance*, 28.2 (2020), 161–81 <<https://doi.org/https://doi.org/10.1108/JFRC-04-2018-0064>>.

<sup>13</sup> Mürüvvet Büyükbayacı and others, 'An Experimental Study of the Investment Implications of Bankruptcy Laws', *Journal of Economic Behavior & Organization*, 158 (2019), 607–29 <<https://doi.org/https://doi.org/10.1016/j.jebo.2019.01.001>>.

<sup>14</sup> Dedi Irwansyah, Joni Emirzon and Putu Samawati, 'Curator's Immunity Right Against Civil Claims In The Management Of Bankruptcy Boedel', *Dialogia Iuridica*, 17.1 (2025), 041–060 <<https://doi.org/10.28932/di.v17i1.10080>>.

<sup>15</sup> Hendra Apriyanto and Mona Wulandari, 'PERLINDUNGAN HUKUM TERHADAP KRIMINALISASI BAGI PROFESI KURATOR DAN PENGURUS BERDASARKAN UNDANG-UNDANG NOMOR 37 TAHUN 2004 TENTANG KEPAILITAN DAN PKPU', *Collegium Studiosum Journal*, 8.2 (2026) <<https://doi.org/10.56301/csj.v8i2.2063>>.



statutory safeguards.<sup>16</sup> Similarly, Sapari (2021), through case-based analysis of pretrial proceedings, illustrates how criminal procedural challenges may arise even when curators act within their legal mandate, thereby reinforcing the persistence of legal uncertainty.<sup>17</sup> These studies confirm a structural regulatory gap characterized by the absence of explicit immunity, the risk of criminalization, and procedural vulnerabilities, thereby establishing a compelling foundation for strengthening legal protection mechanisms to ensure curator independence, legal certainty, and effective bankruptcy administration.

This research aims to critically examine and evaluate the legal protection framework afforded to curators within Indonesia's bankruptcy policy, particularly under Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations and its interaction with general criminal law. The study seeks to identify normative gaps, structural weaknesses, and practical challenges that expose curators to civil liability, criminalization, and procedural interference while performing their statutory duties under judicial mandate. Furthermore, the research intends to analyze the extent to which existing legal provisions ensure curator independence, legal certainty, and professional accountability within the insolvency system. By employing doctrinal and case-based analysis, this study also aims to assess how courts and law enforcement authorities interpret and apply bankruptcy and criminal law in cases involving curators. Ultimately, the research endeavors to formulate a comprehensive legal reconstruction model that strengthens statutory protection for curators, harmonizes bankruptcy law with criminal law principles, and ensures the effective, fair, and secure administration of bankruptcy estates in Indonesia.

## Method

This study applies a descriptive methodological framework to provide a systematic and transparent account of the research design used to examine the legal protection of curators in administering bankruptcy estates. The research adopts a normative legal research model, which aims to identify, interpret, and systematize legal rules, principles, and doctrines in order to resolve specific legal issues and formulate prescriptive conclusions. Rather than merely describing positive law, this approach critically evaluates the coherence between statutory provisions, legal principles, and the underlying values of justice. Accordingly, the study characterizes itself as descriptive-analytical and prescriptive. It describes and examines relevant statutory regulations governing bankruptcy, general confiscation, and criminal seizure, and then analyzes them to detect normative inconsistencies, conflicts of authority, or gaps in legal protection. On that basis, it advances normative arguments to reconstruct legal provisions concerning general attachment and criminal seizure in bankruptcy law to ensure fair legal protection for curators.

The research employs three complementary approaches: the statute approach, the historical approach, and the case approach. Through the statute approach, the study systematically reviews relevant legislation to assess both vertical and horizontal consistency within the legal framework. Through the historical approach, it traces the philosophical, sociological, and historical foundations of bankruptcy regulation and the concept of legal protection in order to clarify the rationale underlying existing norms. Through the case approach, it analyzes selected court decisions concerning curator liability in bankruptcy

<sup>16</sup> Johannes Joshua Mulia, 'Legal Steps by Curators as a Form of Legal Protection for Curators Who Carry Out the Task of Settling Bankruptcy Assets', *International Journal of Science and Society*, 2.4 (2020), 584–96 <<https://doi.org/10.54783/ijssoc.v2i4.241>>.

<sup>17</sup> Papang Sapari, 'PRETRIAL BY CURATOR IN BANKRUPTCY PROCESS (A REVIEW OF THE CASE OF DECISION NO. 89 /PID.PRAP/2016/PN.JAKSEL)', *JILPR Journal Indonesia Law and Policy Review*, 2.2 (2021), 117–30 <<https://doi.org/10.56371/jirpl.v2i2.48>>.



proceedings, focusing on the ratio decidendi and judicial reasoning to identify interpretative patterns and structural weaknesses in legal protection. The study relies exclusively on secondary data. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, bankruptcy legislation, the Civil Code, the Penal Code, and relevant court decisions. Secondary legal materials consist of scholarly books, peer-reviewed journal articles, and expert commentaries, while tertiary materials include legal dictionaries and encyclopedias. The research collects legal materials through comprehensive library research and analyzes them qualitatively by interpreting, classifying, and systematizing legal norms to construct coherent legal arguments and formulate prescriptive recommendations grounded in justice.

## Results and Discussions

### *Legal Protection for Curators under Indonesia's Bankruptcy Law*

The curator assumes primary legal responsibility for administering and liquidating the bankruptcy estate following a declaration of bankruptcy. Bankruptcy law mandates that the curator manage, control, and settle the debtor's assets for the collective benefit of creditors. In performing these duties, the curator exercises independent authority and does not require prior approval from, nor notification to, the debtor or any corporate organ of the debtor, even if such approval would ordinarily be required outside judicial proceedings.<sup>18</sup> This independence reflects the curator's legal status as a court-appointed officer who represents the interests of the bankruptcy estate under judicial supervision. Articles 65 and 69 of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations authorize the curator to conduct the administration and liquidation of the bankruptcy estate under the supervision of a supervisory judge. The Commercial Court appoints both the curator and the supervisory judge upon issuing a bankruptcy decision. If the debtor or petitioning creditor fails to propose a curator, the court appoints the Heritage Hall (*Balai Harta Peninggalan*) to perform the function. This mechanism ensures continuity, legality, and institutional accountability in bankruptcy proceedings.<sup>19</sup>

The supervisory judge oversees the curator's actions to prevent abuse of authority and to ensure compliance with statutory provisions. The supervisory judge may grant permits, issue determinations, provide approvals, submit recommendations, and issue binding orders. These supervisory instruments structure the curator's discretion and maintain procedural integrity. Immediately after appointment, the curator must secure and administer the bankruptcy estate. The curator organizes creditor meetings and facilitates the formation of a permanent creditors' committee pursuant to Article 80 of the Bankruptcy Law. The curator may request the court to order the detention of the bankrupt debtor when statutory conditions are fulfilled, particularly if the debtor intentionally fails to comply with obligations stipulated in Articles 98, 110, and 121. To safeguard the estate, the curator may request the sealing of assets through the supervisory judge in accordance with Article 99. The curator must also conduct a comprehensive inventory, register the assets with supervisory approval under Article 100, and, where necessary to preserve value, continue the debtor's business activities under Article 104.<sup>20</sup>

<sup>18</sup> Jochen Mankart and Giacomo Rodano, 'Personal Bankruptcy Law, Debt Portfolios, and Entrepreneurship', *Journal of Monetary Economics*, 76 (2015), 157–72 <<https://doi.org/https://doi.org/10.1016/j.jmoneco.2015.09.001>>.

<sup>19</sup> Inmaculada Aguiar-Díaz and María Victoria Ruiz-Mallorquí, 'Causes and Resolution of Bankruptcy: The Efficiency of the Law', *The Spanish Review of Financial Economics*, 13.2 (2015), 71–80 <<https://doi.org/https://doi.org/10.1016/j.srfe.2015.04.001>>.

<sup>20</sup> Giacomo Rodano, Nicolas Serrano-Velarde and Emanuele Tarantino, 'Bankruptcy Law and Bank Financing', *Journal of Financial Economics*, 120.2 (2016), 363–82 <<https://doi.org/https://doi.org/10.1016/j.jfineco.2016.01.016>>.



The curator may open correspondence related to the bankruptcy estate under Article 105, transfer assets to cover bankruptcy costs or prevent depreciation, summon creditors through official notices, verify and classify claims under Article 117, and participate in verification meetings chaired by the supervisory judge. During these meetings, the curator determines the legal status of preferred, secured, and concurrent creditors. If no settlement is proposed or approved, the estate enters a state of insolvency by operation of law, and the curator proceeds with liquidation and proportional distribution.<sup>21</sup> The legal framework entitles the curator to remuneration for performing statutory duties. Minister of Law and Human Rights Regulation Number 20 of 2025 concerning Guidelines for Remuneration of Curators and Administrators regulates the calculation of such remuneration by considering professional expertise, case complexity, and the effective working hours expended. When bankruptcy proceedings conclude with a court-approved settlement, the regulation determines remuneration based on a percentage of the liquidation value of assets. If appellate or review proceedings overturn the bankruptcy declaration, the panel of judges determines the remuneration based on documented hourly rates, subject to a statutory maximum and proportional limitations relative to the estate's value. This regulatory structure establishes a balanced framework that ensures fair compensation for curators while maintaining judicial oversight and protecting the collective interests of creditors within bankruptcy administration.<sup>22</sup>

The concept of the Pancasila rule of law positions bankruptcy as a legal mechanism designed to realize procedural justice through a structured and legally regulated process. Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations establishes a normative framework that aims to protect creditors in enforcing their claims against debtors, safeguard the integrity of the bankruptcy estate, and ensure legal protection for debtors through fair procedures in suspension of debt payment obligations and bankruptcy proceedings.<sup>23</sup> The statute simultaneously imposes responsibility upon the curator as the party authorized to administer and liquidate the bankruptcy estate under judicial supervision. Consequently, the legal system must also guarantee adequate protection for curators in performing their statutory duties. The theoretical foundation of justice articulated by Gustav Radbruch clarifies that legal justice encompasses both subjective and objective dimensions. Subjective justice reflects individual moral conviction, whereas objective justice manifests in the institutional structure of a fair social order. Therefore, the implementation of bankruptcy law must not only ensure procedural compliance but also uphold substantive fairness in regulating the legal relationship among creditors, debtors, and curators.<sup>24</sup>

Empirical practice demonstrates that curators frequently encounter criminal allegations initiated by debtors who object to bankruptcy administration measures. These reports commonly rely on provisions of the Indonesian Penal Code, including Article 167 of the Indonesian Penal Code concerning unlawful entry, Article 263 of the Indonesian Penal Code concerning document falsification, and Article 266 of the Indonesian Penal Code in conjunction with Article 55 of the Indonesian Penal Code concerning criminal participation.

<sup>21</sup> Phyllis L L Mo, Oliver M Rui and Xi Wu, 'Auditors' Going Concern Reporting in the Pre- and Post-Bankruptcy Law Eras: Chinese Affiliates of Big 4 versus Local Auditors', *The International Journal of Accounting*, 50.1 (2015), 1–30 <<https://doi.org/https://doi.org/10.1016/j.intacc.2014.12.005>>.

<sup>22</sup> Udichibarna Bose, Stefano Filomeni and Sushanta Mallick, 'Does Bankruptcy Law Improve the Fate of Distressed Firms? The Role of Credit Channels', *Journal of Corporate Finance*, 68 (2021), 101836 <<https://doi.org/https://doi.org/10.1016/j.jcorpfin.2020.101836>>.

<sup>23</sup> Nemiraja Jadyappa and Santosh Shrivastav, 'Bankruptcy Law, Creditors' Rights, and Cash Holdings: Evidence from a Quasi-Natural Experiment in India', *Finance Research Letters*, 46 (2022), 102261 <<https://doi.org/https://doi.org/10.1016/j.fl.2021.102261>>.

<sup>24</sup> Li Gan, Manuel A Hernandez and Shuoxun Zhang, 'Insurance or Deliberate Use of the Bankruptcy Law for Financial Gain? Testing for Heterogeneous Filing Behaviors in the United States', *Economic Modelling*, 105 (2021), 105673 <<https://doi.org/https://doi.org/10.1016/j.econmod.2021.105673>>.



Debtors have alleged trespass when curators access property to secure assets, defamation following public bankruptcy announcements, embezzlement in connection with asset sales, and falsification when curators reject certain creditor claims. The criminal prosecution of Iskandar Zulkarnaen and Ali Sumali Nugroho, who served as curators in the bankruptcy of PT Kymco Lippo Motor Indonesia, illustrates this legal tension. The public prosecutor charged both curators under Article 266 paragraph (1) in conjunction with Article 55 paragraph (1) of the Penal Code for allegedly inserting false information into an authentic deed relating to the sale of bankruptcy assets. However, the District Court of Bekasi acquitted the defendants after concluding that they had acted within the scope of their authority under the Bankruptcy Law. The court determined that their conduct fulfilled statutory requirements and therefore did not constitute a criminal offense.<sup>25</sup>

From a doctrinal perspective, applying Article 263 of the Penal Code to documents produced within bankruptcy proceedings raises significant interpretative concerns. Article 117 of the Bankruptcy Law obliges the curator to record approved claims in a temporary list of recognized receivables and to place disputed claims in a separate list with stated reasons. Because the curator prepares these documents pursuant to statutory authority and under the supervision of the supervisory judge, classifying them as falsified documents requires a rigorous legal assessment of intent, authority, and evidentiary standards.<sup>26</sup>

The principle of *lex specialis derogat legi generalis* further supports this analysis. The Bankruptcy Law constitutes a special legal regime governing the curator's authority and procedural actions. Therefore, law enforcement authorities must interpret and apply general criminal provisions in a manner that respects the specificity of bankruptcy regulation. Nevertheless, the absence of explicit statutory immunity for curators generates legal uncertainty. Even when curators comply strictly with procedural requirements and judicial supervision, dissatisfied parties may initiate criminal complaints, thereby exposing curators to investigative processes that potentially undermine the effectiveness, independence, and integrity of bankruptcy administration. The Indonesian legal system conceptualizes bankruptcy as a judicial mechanism that redistributes a debtor's assets in an orderly and equitable manner under court supervision. Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations authorizes the Commercial Court to declare a debtor bankrupt and to appoint a curator who assumes legal control over the bankruptcy estate. Once the court renders the bankruptcy decision, the debtor loses the authority to manage and dispose of assets included in the estate, and the curator exercises that authority on behalf of the court and in the interest of creditors.<sup>27</sup>

The statute defines the curator as either the Heritage Hall or an individual professional appointed by judicial decision to administer and liquidate the bankruptcy estate under the supervision of a supervisory judge. This delegation of authority establishes the curator as a court-appointed legal officer who performs public functions within insolvency proceedings. The curator must secure, inventory, preserve, and, when necessary, sell the debtor's assets to satisfy creditors' claims in accordance with statutory ranking and procedural requirements. Through these duties, bankruptcy law institutionalizes distributive justice by ensuring proportional repayment based on verified claims.<sup>28</sup>

<sup>25</sup> Ali Sadeghi and Ewald Kibler, 'Do Bankruptcy Laws Matter for Entrepreneurship? A Synthetic Control Method Analysis of a Bankruptcy Reform in Finland', *Journal of Business Venturing Insights*, 18 (2022), e00346 <<https://doi.org/https://doi.org/10.1016/j.jbvi.2022.e00346>>.

<sup>26</sup> Satish Kumar, 'Bankruptcy Law and the Leverage Speed of Adjustment', *Finance Research Letters*, 66 (2024), 105673 <<https://doi.org/https://doi.org/10.1016/j.frl.2024.105673>>.

<sup>27</sup> Geeta Singh, 'Dividend Policy Adjustments under Bankruptcy Law: Insights from Distressed Firms', *Finance Research Letters*, 70 (2024), 106253 <<https://doi.org/https://doi.org/10.1016/j.frl.2024.106253>>.

<sup>28</sup> Pranshu Tripathi and Anil K Sharma, 'Bankruptcy Law and Capital Structure Choices in Economically vs. Financially Distressed Firms: Evidence from an Emerging Market', *Managerial Finance*, 52.1 (2025), 36–54 <<https://doi.org/https://doi.org/10.1108/MF-02-2025-0078>>.



The legal system theory developed by Lawrence M. Friedman provides an analytical framework for evaluating legal protection for curators. Friedman identifies three interdependent components of a legal system: legal structure, legal substance, and legal culture. The legal structure comprises courts, supervisory judges, law enforcement agencies, and professional institutions that support insolvency administration. Within this structure, the curator occupies a central position because the court's appointment confers formal authority and responsibility. Article 15 paragraph (3) of the Bankruptcy Law requires the curator to maintain independence, avoid conflicts of interest, and limit concurrent case management. These requirements aim to preserve impartiality and professional integrity.<sup>29</sup>

Legal substance refers to the normative framework governing the curator's conduct. Although the Bankruptcy Law specifies the curator's powers and obligations, it does not expressly regulate comprehensive professional immunity. Article 50 of the Indonesian Penal Code stipulates that a person who performs an act to implement statutory provisions shall not incur criminal liability. In principle, this provision should protect curators who execute duties within the limits of bankruptcy legislation. However, practical experience demonstrates that debtors frequently file criminal complaints against curators, invoking provisions such as Article 167 of the Indonesian Penal Code concerning unlawful entry, Article 263 of the Indonesian Penal Code concerning falsification of documents, and Article 372 of the Indonesian Penal Code concerning misappropriation. These allegations commonly arise when curators access property to secure assets, reject disputed claims, or conduct asset sales pursuant to statutory authority.<sup>30</sup>

Legal culture significantly influences the effectiveness of curator protection. Debtors who resist bankruptcy proceedings may obstruct access to business premises, withhold documentation, or threaten criminal reports to delay administration. Such conduct impedes the curator's compliance with Article 98 of the Bankruptcy Law, which obliges the curator to safeguard and document all bankruptcy assets. Weak enforcement against obstruction and the absence of explicit statutory immunity create legal uncertainty and expose curators to investigative processes, even when they act in good faith and within their delegated authority. Supervisory mechanisms also require reinforcement. Article 74 of the Bankruptcy Law obliges the curator to submit periodic reports to the supervisory judge. In practice, however, informal extensions and non-standardized reporting reduce procedural transparency and weaken institutional accountability. These deficiencies reveal structural and substantive gaps that undermine the effectiveness of bankruptcy administration.<sup>31</sup>

The legislature and relevant institutions should strengthen legal protection for curators through regulatory clarification and procedural reform. Lawmakers should define the scope of professional immunity for actions performed in good faith under judicial appointment, establish enforceable sanctions against parties who obstruct insolvency administration, and standardize reporting and supervision mechanisms. By integrating coherent legal structure, clear substantive norms, and supportive legal culture, the Indonesian bankruptcy system can ensure that curators perform their functions effectively, independently, and in accordance with the principles of justice and legal certainty.<sup>32</sup>

<sup>29</sup> Bitan Chakraborty and others, 'Bankruptcy Law and Equity Capital: Evidence from India', *Accounting Theory and Practice*, 2 (2025), 100007 <<https://doi.org/https://doi.org/10.1016/j.accoth.2025.100007>>.

<sup>30</sup> Xincheng Xu and Buguo Xu, 'The Inhibitory Effect of Personal Bankruptcy Laws on Household Debt: Evidence from a Pilot Program', *Finance Research Letters*, 81 (2025), 107533 <<https://doi.org/https://doi.org/10.1016/j.frl.2025.107533>>.

<sup>31</sup> Yudong Yu and Shanshan Wang, 'Bankruptcy Law Reform and Financing Costs for Small and Medium Enterprises', *Finance Research Letters*, 84 (2025), 107794 <<https://doi.org/https://doi.org/10.1016/j.frl.2025.107794>>.

<sup>32</sup> Yong Zhou, Siting Liu and Wei Song, 'Bankruptcy Court Establishment and Corporate Financial Fraud', *International Review of Economics & Finance*, 100 (2025), 104108 <<https://doi.org/https://doi.org/10.1016/j.iref.2025.104108>>.



## Reform Policy for Indonesian Protection Curators in Bankruptcy

The bankruptcy law develops differently in each jurisdiction, yet consistently pursues fundamental objectives of debtor rehabilitation and equitable creditor satisfaction. Legislatures design insolvency regimes to balance economic efficiency, legal certainty, and social justice within their respective constitutional and commercial frameworks. Although procedural models vary, most systems institutionalize collective debt resolution, prevent preferential treatment among creditors, and provide structured mechanisms for either liquidation or reorganization.<sup>33</sup> In the United States, Congress regulates bankruptcy through Title 11 of the United States Code and implements procedural governance under the Federal Rules of Bankruptcy Procedure. The statutory framework establishes liquidation under Chapter 7, corporate reorganization under Chapter 11, and individual repayment adjustment under Chapter 13. Legal scholarship, particularly the Creditors' Bargain Theory advanced by Thomas H. Jackson and Douglas G. Baird, conceptualizes bankruptcy as a collective enforcement mechanism that maximizes aggregate creditor value by replicating a hypothetical ex ante agreement among creditors. United States courts strengthen institutional effectiveness by granting trustees qualified immunity when they act within statutory authority and pursuant to judicial orders, as affirmed in *Bennett v. Williams*. Statutory provisions further authorize trustees to represent the bankruptcy estate, initiate or defend legal proceedings, and obtain court-approved compensation, thereby limiting personal exposure when they perform duties in good faith.<sup>34</sup>

Germany regulates insolvency proceedings under the *Insolvenzordnung*, which integrates liquidation and restructuring within a unified procedural system. The statute obliges directors of insolvent companies to file for insolvency without undue delay and recognizes inability to pay debts and over-indebtedness as principal grounds. The *Insolvenzplan* mechanism enables negotiated restructuring agreements subject to creditor approval and judicial confirmation. Section 60 *InsO* imposes liability on insolvency administrators who breach statutory duties; however, German courts refrain from imposing personal liability when administrators act diligently, in good faith, and within professional standards. This approach ensures accountability while preserving administrative independence under judicial supervision.<sup>35</sup> Australia structures insolvency law through the Bankruptcy Act 1966 for personal bankruptcy and the Corporations Act 2001 for corporate insolvency. The system defines insolvency primarily by the debtor's inability to pay debts as they fall due and provides flexible mechanisms, including bankruptcy, debt agreements, and personal insolvency agreements. Trustees and liquidators exercise authority to control, realize, and distribute assets under statutory mandates. The law protects these officers from personal liability when they act in good faith and within the scope of their powers, and it grants them indemnification from the estate for properly incurred expenses. Regulatory supervision by competent authorities reinforces compliance and professional standards.<sup>36</sup>

Japan governs insolvency through the Bankruptcy Act of Japan, complemented by the Civil Rehabilitation Act and the Corporate Reorganization Act. The legal framework distinguishes liquidation proceedings from corporate and civil rehabilitation processes. Courts appoint trustees to administer assets, investigate financial conditions, and distribute proceeds according to statutory priorities. Japanese law obliges debtors and related parties to cooperate fully with trustees and authorizes courts to issue asset turnover orders and avoidance measures when necessary. Although the legislation does not codify a comprehensive immunity clause, judicial supervision and clearly defined statutory authority

<sup>33</sup> Irwansyah, Emirzon and Samawati.

<sup>34</sup> Apriyanto and Wulandari.

<sup>35</sup> Xiang Dai, Jin Roc Lv and Chen Yang, 'Bankruptcy Courts and Capital Structures', *Economic Analysis and Policy*, 89 (2026), 57–72 <<https://doi.org/https://doi.org/10.1016/j.eap.2025.11.030>>.

<sup>36</sup> Zijun Cheng and others, 'Bankruptcy Resolution and Corporate Debt Maturity', *China Economic Review*, 95 (2026), 102636 <<https://doi.org/https://doi.org/10.1016/j.chieco.2025.102636>>.



effectively shield trustees who execute their duties lawfully and in good faith.<sup>37</sup> The insolvency regimes of the United States, Germany, Australia, and Japan reflect distinct doctrinal orientations but converge in their structural commitment to fairness, efficiency, and supervised administration. Each system conditions legal protection for trustees or administrators upon statutory compliance, professional diligence, and good faith conduct. This comparative pattern confirms that effective bankruptcy governance depends on a coherent synthesis of authority, accountability, and judicial oversight to safeguard both creditor rights and debtor rehabilitation.<sup>38</sup>

The reform of legal protection for curators in administering and liquidating bankruptcy estates constitutes a normative initiative designed to resolve inconsistencies within the existing regulatory framework. Legislators enacted bankruptcy law to ensure orderly asset management, equitable creditor satisfaction, and legal certainty in insolvency proceedings. However, judicial practice has revealed a structural discrepancy: law enforcement authorities have subjected curators to criminal prosecution for actions undertaken within the scope of their statutory authority. This development has generated normative tension between bankruptcy law and criminal law, particularly where the latter intervenes without clear doctrinal limits. Therefore, a systematic reconstruction of regulatory provisions becomes necessary to clarify the boundaries of liability and to secure coherent legal protection for curators who perform their duties in good faith.<sup>39</sup>

This reconstruction process adopts a dialectical and doctrinal approach. It examines statutory provisions, judicial interpretation, and legal principles in order to identify inconsistencies and formulate corrective norms. The need for reconstruction arises from the fact that existing provisions define the duties and powers of curators but fail to articulate explicit safeguards against unwarranted criminalization. As a result, curators may experience legal uncertainty when performing estate administration, asset liquidation, and creditor distribution. Legal uncertainty undermines professional independence and threatens the effectiveness of bankruptcy administration. Accordingly, reconstruction aims to restore balance by aligning positive law with fundamental legal values and systemic coherence.<sup>40</sup>

The theoretical foundation of this reconstruction draws upon legal system theory developed by Lawrence M. Friedman in *American Law: An Introduction*. Friedman conceptualizes the legal system as a dynamic interaction among three components: legal structure, legal substance, and legal culture. Legal structure comprises institutions responsible for implementing and enforcing law. Legal substance includes normative rules and doctrines governing behavior. Legal culture reflects societal attitudes, values, and expectations toward law.<sup>41</sup> According to Friedman, these elements interact continuously, shaping how law operates in practice. He further distinguishes between primary rules, which regulate conduct, and secondary rules, which determine the validity and enforcement of

<sup>37</sup> Ajay Kumar Samariya and others, 'Bankruptcy Reforms, Distressed Firms and Ownership: The Design of Complementary Policies during Structural Transition', *Journal of Policy Modeling*, 2026 <<https://doi.org/https://doi.org/10.1016/j.jpjpolmod.2026.02.003>>.

<sup>38</sup> Miao Miao and others, 'Bankruptcy Judicial Reform and Corporate Fraud: Evidence from China', *International Review of Economics & Finance*, 103 (2025), 104514 <<https://doi.org/https://doi.org/10.1016/j.iref.2025.104514>>.

<sup>39</sup> Sumit Agarwal, Chunlin Liu and Lawrence Mielnicki, 'Exemption Laws and Consumer Delinquency and Bankruptcy Behavior: An Empirical Analysis of Credit Card Data', *The Quarterly Review of Economics and Finance*, 43.2 (2003), 273–89 <[https://doi.org/https://doi.org/10.1016/S1062-9769\(02\)00156-4](https://doi.org/https://doi.org/10.1016/S1062-9769(02)00156-4)>.

<sup>40</sup> Wolfgang Breuer, Simon Haas and Katharina Mersmann, 'Post-Bankruptcy Performance: A Systematic Literature Review on the Performance of U.S. Firms after Emerging from Chapter 11 Bankruptcy', *Journal of Economics and Business*, 138 (2026), 106290 <<https://doi.org/https://doi.org/10.1016/j.jeconbus.2025.106290>>.

<sup>41</sup> Wasiaturrahma and others, 'Financial Performance of Rural Banks in Indonesia: A Two-Stage DEA Approach', *Heliyon*, 6.7 (2020), e04390 <<https://doi.org/https://doi.org/10.1016/j.heliyon.2020.e04390>>.



primary norms. This theoretical framework demonstrates that effective legal reform must address not only statutory text but also institutional practice and normative interpretation.<sup>42</sup>

While Friedman emphasizes legal culture as a decisive factor in legal effectiveness, the reconstruction of curator protection also relies upon the philosophical framework advanced by Gustav Radbruch. Radbruch formulates three foundational values of law: justice, expediency, and legal certainty. Justice requires fair treatment and proportional responsibility. Expediency demands that law serve social utility and practical effectiveness. Legal certainty requires clarity, predictability, and stability in normative application.<sup>43</sup> These three values provide evaluative criteria for assessing the adequacy of existing bankruptcy provisions. When criminal prosecution targets curators who act within statutory authority and under judicial supervision, the legal system risks violating all three values simultaneously. It compromises justice by imposing disproportionate liability, undermines expediency by discouraging professional diligence, and erodes legal certainty by failing to define the limits of criminal accountability.<sup>44</sup>

The curator occupies a central institutional role in bankruptcy proceedings. Bankruptcy courts appoint curators to administer debtor assets, verify claims, manage estate property, and distribute proceeds according to statutory priorities. In Indonesia, professional governance operates through associations such as the *Asosiasi Kurator dan Pengurus Indonesia* and the *Himpunan Kurator dan Pengurus Indonesia*. These organizations establish codes of ethics and supervise professional conduct. The ethical framework distinguishes between unprofessional conduct, which concerns competence and technical performance, and maladministration, which involves improper or unethical behavior. When violations occur, the organizations impose disciplinary sanctions ranging from warnings and suspension to dismissal and revocation of license by the competent ministerial authority. This disciplinary regime demonstrates that the legal system already contains mechanisms for professional accountability outside the criminal sphere.<sup>45</sup>

Criminal law performs two principal functions within the legal system. First, it operates autonomously by imposing penal sanctions as *primum remedium* against conduct classified as inherently wrongful. Second, it functions as a guardian of norms by acting as *ultimum remedium* when other regulatory mechanisms fail to ensure compliance. In the context of curator liability, proportionality requires that criminal law operate as a last resort. Professional errors, administrative negligence, or interpretative disputes should primarily trigger civil liability or disciplinary measures rather than immediate criminal prosecution. Only when evidence establishes intentional misconduct, fraud, corruption, or abuse of authority should criminal law intervene. This functional differentiation preserves systemic balance and prevents overcriminalization.<sup>46</sup>

Article 69 of Law Number 37 of 2004 concerning Bankruptcy dan PKPU assigns curators responsibility for administering and liquidating bankruptcy estates. The provision defines duties and powers but does not expressly articulate immunity or procedural safeguards. The

<sup>42</sup> Byoung Hee Hong, Kyoung Eun Lee and Jae Woo Lee, 'Power Law in Firms Bankruptcy', *Physics Letters A*, 361.1 (2007), 6–8 <<https://doi.org/https://doi.org/10.1016/j.physleta.2006.09.034>>.

<sup>43</sup> Nur Ainna Ramli, Hengky Latan and Grace T Solovida, 'Determinants of Capital Structure and Firm Financial Performance—A PLS-SEM Approach: Evidence from Malaysia and Indonesia', *The Quarterly Review of Economics and Finance*, 71 (2019), 148–60 <<https://doi.org/https://doi.org/10.1016/j.qref.2018.07.001>>.

<sup>44</sup> Yuxiang Zhong, Xinyue Zhang and Lulin Huang, 'The Effect of Bankruptcy Enforcement on Debt Structure Concentration – Evidence from the Establishment of Specialized Bankruptcy Courts in China', *Emerging Markets Review*, 72 (2026), 101454 <<https://doi.org/https://doi.org/10.1016/j.ememar.2026.101454>>.

<sup>45</sup> Michelle J White, 'Chapter 14 Bankruptcy Law', ed. by A M Polinsky and S Shavell, *Handbook of Law and Economics* (Elsevier, 2007), II, 1013–72 <[https://doi.org/https://doi.org/10.1016/S1574-0730\(07\)02014-2](https://doi.org/https://doi.org/10.1016/S1574-0730(07)02014-2)>.

<sup>46</sup> Régis Blazy, Bertrand Chopard, and others, 'Employment Preservation vs. Creditors' Repayment under Bankruptcy Law: The French Dilemma?', *International Review of Law and Economics*, 31.2 (2011), 126–41 <<https://doi.org/https://doi.org/10.1016/j.irle.2011.03.002>>.



absence of explicit protection creates interpretative ambiguity. Law enforcement authorities may construe administrative decisions or asset management actions as criminal offenses under general provisions of the penal code. Such interpretation disregards the unique institutional context of bankruptcy proceedings, where curators act under judicial supervision and within a statutory mandate. Therefore, legislative clarification becomes necessary to delineate the boundary between lawful execution of authority and criminal wrongdoing.<sup>47</sup> The proposed reconstruction of Article 69 introduces an additional clause affirming that a curator who performs statutory duties in good faith, within judicial supervision, and in accordance with professional standards shall not incur criminal or civil liability unless clear evidence demonstrates intentional misconduct, bad faith, or abuse of authority. This clause does not eliminate accountability. Instead, it establishes conditional immunity grounded in lawful performance. It preserves the possibility of criminal prosecution when curators commit fraud, embezzlement, or deliberate violations of law. At the same time, it protects professional independence and ensures that curators can execute complex financial decisions without fear of arbitrary criminalization.<sup>48</sup>

The reconstruction also strengthens procedural safeguards. Before initiating criminal investigation against a curator for actions related to estate administration, law enforcement authorities should consult the supervising bankruptcy court or obtain an expert assessment regarding the professional context of the disputed act. This mechanism integrates structural coordination between judicial and prosecutorial institutions, thereby reducing normative conflict. It aligns enforcement practice with the principles of justice, expediency, and legal certainty articulated.<sup>49</sup> The reconstruction of legal protection for curators responds to systemic discrepancies between bankruptcy law and criminal law. By integrating legal system theory and philosophical principles, the reform clarifies normative boundaries, reinforces professional accountability mechanisms, and affirms criminal law as a measure of last resort. The proposed amendment to Article 69 establishes conditional immunity grounded in good faith, statutory authority, and judicial supervision. Through this reconstruction, the legal system can secure equitable administration of bankruptcy estates, protect professional independence, and uphold the fundamental values of justice, utility, and legal certainty within insolvency governance.<sup>50</sup>

## Conclusion

The curators hold a central and mandatory function in bankruptcy proceedings, encompassing the administration and liquidation of the bankrupt estate. Bankruptcy law is designed to provide comprehensive legal protection to debtors, creditors, the bankruptcy estate, and curators. Nevertheless, empirical evidence indicates that curators frequently encounter legal challenges, including allegations of criminal conduct initiated by debtors, creditors, or other stakeholders associated with the estate. These challenges arise despite curators acting within their judicially authorized mandate and performing estate administration in good faith. Consequently, it becomes imperative to establish explicit statutory immunity and legal safeguards for curators to ensure that they can execute their responsibilities without the threat of arbitrary criminal prosecution. This protection not only preserves professional independence but also upholds fairness and legal certainty for all

<sup>47</sup> Sidik Budiono and John Tampil Purba, 'Factors of Foreign Direct Investment Flows to Indonesia in the Era of COVID-19 Pandemic', *Heliyon*, 9.4 (2023), e15429 <<https://doi.org/https://doi.org/10.1016/j.heliyon.2023.e15429>>.

<sup>48</sup> Theresa J Holt, 'International Bankruptcy and the Spirit of Comity: New U.S. Law Encourages Cooperation among Nations', *Business Horizons*, 50.2 (2007), 105–12 <<https://doi.org/https://doi.org/10.1016/j.bushor.2006.06.008>>.

<sup>49</sup> Nur Imamah and others, 'Islamic Law, Corporate Governance, Growth Opportunities and Dividend Policy in Indonesia Stock Market', *Pacific-Basin Finance Journal*, 55 (2019), 110–26 <<https://doi.org/https://doi.org/10.1016/j.pacfin.2019.03.008>>.

<sup>50</sup> Seng Hansen, 'Legal Case Study on Indent House Purchasing in Indonesia', *Journal of Property, Planning and Environmental Law*, 18.1 (2025), 20–40 <<https://doi.org/https://doi.org/10.1108/JPPPEL-03-2025-0026>>.



parties engaged in bankruptcy proceedings. Further analysis reveals that curators face operational and structural obstacles, including the non-cooperation of debtors in disclosing or surrendering assets, even after final court rulings. In addition, curators are at risk of being reported for alleged unlawful entry under Article 167 of the Penal Code, alleged embezzlement of estate assets, or alleged document forgery under Article 263 of the Penal Code. These recurring issues highlight the limitations of current legal frameworks, which insufficiently differentiate between curators acting in accordance with legal authority and potential malfeasance. The absence of normative clarity increases the probability of criminalization, impedes effective estate management, and compromises the overarching objectives of bankruptcy law.

To address these challenges, the study proposes a reconstruction of regulatory provisions under Article 69 of Law Number 37 of 2004 concerning Bankruptcy dan PKPU. The reconstructed provision should explicitly reinforce the curator's authority in estate administration, establish statutory immunity for actions executed in good faith, and provide formal mechanisms for legal support from professional curator organizations or state institutions when curators face allegations of criminal misconduct. This regulatory reconstruction aims to balance accountability with protection, ensuring that curators can fulfill their duties effectively while mitigating risks of unwarranted legal exposure. By integrating clear immunity rights, supervisory oversight, and access to legal support, the proposed framework strengthens justice, reinforces the rule of law, and enhances the efficiency and integrity of bankruptcy administration in Indonesia.

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