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The Imperative of Social Justice on the Insolvency and Workers' Wage

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Abstract: Several laws and regulations in Indonesia govern the wage rights of workers in insolvent companies. However, there is a lack of coordination among these regulations, which affects their effectiveness. This research examines the impact of bankruptcy on worker protection within the framework of social justice principles. Utilizing normative legal research with a conceptual approach, the study reveals that bankruptcy often disadvantages employees, who are frequently placed at the end of the creditor hierarchy during the distribution of bankrupt assets. Despite the existence of various laws designed to protect laborers' rights, there is considerable overlap and inconsistency among them. Therefore, it is essential to clarify the status of employees in bankrupt companies and harmonize relevant regulations to ensure fair compensation for workers. The research also includes comparative examples from different countries. The prioritization of employee claims in insolvency cases varies according to each country's legal framework and social security system. For instance, Germany, the United Kingdom, and France exhibit significant differences in their approaches to pay priorities. These differences highlight the complex interaction between statutory priorities, social security systems, and cultural attitudes towards labor rights, which collectively influence the respective pay priority frameworks of these countries. The findings underscore the need to ensure equitable treatment of employees within global economic systems while balancing competitiveness with labor rights.

Keywords: Insolvency; Social Justice; Workers Wage

INTRODUCTION

The company's operations are only sometimes characterized by profit growth, and financing, investment, and operational risks are inherent in business operations. This can jeopardize the company's ability to maintain its profit and loss. If the company cannot satisfy its debt obligations, it may be classified as insolvent or defunct. A debtor who cannot meet their creditors is called bankrupt. As a result of this challenge, the company will undoubtedly encounter difficulties in fulfilling its obligations, such as paying employees salaries, and may need help to make the payments. However, workers frequently encounter challenges in obtaining their rights when the company experiences bankruptcy or termination of employment.[1]

The law does not determine termination of employment (PHK) as the sole consequence of bankruptcy. Consequently, in bankruptcy, a company has two viable options. Initially, the declared bankrupt company curator proceeds with its business

[1] Courage Mlambo, 'Worker Rights and Social Justice in Zimbabwe's Mining Sector', *International Journal of Research in Business and Social Science (2147- 4478)*, 11.9 (2022), 394–403 https://doi.org/10.20525/ijrbs.v11i9.2201

activities, covering telephone, utilities, taxes, salaries, and other costs. Secondly, Article 165 of Manpower Law No. 13 of 2003 grants the insolvent company curator the right to terminate their employment. The law considers the company's employees as preferred creditors, entitling them to make payments before other creditors in the administration and settlement of bankrupt assets. Article 95, paragraph (4) of the Manpower Law mandates, "In the event that a company is declared bankrupt or liquidated based on applicable laws and regulations, wages and other rights of workers/labourers are debts whose payment is prioritised."[2]

A commercial court decision declaring a company bankrupt retains its legal status, even though the curator from the board of directors has taken on the responsibility of managing the company's assets. The board of directors' authority is assumed to encompass the interests and welfare of the company's workers and laborers. Despite submitting an appeal or judicial review against the bankruptcy decision, the curator retains the authority to manage and settle the bankrupt assets from the decision date. The curator also gains the authority from the company's management to provide wages and severance pay and to protect the rights of workers and laborers. Furthermore, the curator must ensure the rights of workers and laborers.[3]

In the real world, employees frequently encounter challenges in securing information and asserting their rights when a company experiences insolvency and terminates employment. However, it's crucial to remember that the rights and interests of the workers are of utmost importance, even in the face of the curator's management of the insolvent estate.[4] The curator's representation of the company in disputes with the workers should not overshadow the significance of workers' rights. According to Article 39, paragraph (2), of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, wages that were owed before or after the bankruptcy declaration decision are considered debts of the bankrupt estate from the date of the bankruptcy declaration decision. This implies that if the debtor of the bankrupt company is unable to fulfil the wages, severance pay, and other rights owed to workers or labourers in accordance with the Manpower Law, these obligations are classified as debts of the bankrupt estate, and the workers or labourers subsequently act as bankrupt creditors. The position of workers or labourers as one of the insolvent creditors is not further explained in Article 39, Paragraph, of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. Consequently, the priority order for the fulfillment of workers' receivables has not been clarified, particularly in relation to the payment of workers' rights.[5]

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[2] Thomas Neise, Tatiana López, and Abdul Fikri Angga Reksa, 'Rethinking Labour Risk in Global Production Networks: Resilience Strategies of Cruise Ship Workers in the Wake of the COVID-19 Pandemic', *Geoforum*, 145 (2023), 103842 https://doi.org/10.1016/j.geoforum.2023.103842

[3] Ioannis Katsaroumpas, 'A Right Against Extreme Wage Inequality: A Social Justice Modernisation of International Labour Law?', *King's Law Journal*, 32.2 (2021), 260–86 https://doi.org/10.1080/09615768.2021.1945770

[4] Indar and others, 'Legal Protection of Labor Fatigue in the Production Part of PT. Maruki International Indonesia Makassar', *Gaceta Sanitaria*, 35 (2021), S76–78 https://doi.org/10.1016/j.gaceta.2020.12.021

[5] Aloisio Araujo and others, 'The Labor Effects of Judicial Bias in Bankruptcy', *Journal of Financial Economics*, 150.2 (2023), 103720 https://doi.org/10.1016/j.jfineco.2023.103720

Article 1149 of the Civil Code is a legal opportunity that can serve as the foundation for workers' and laborers' special rights. This article prioritizes the payment of workers' wages, recognizing them as a special privilege. The recognition of workers' wages and other rights of workers and labourers as debts that are prioritised for payment when a company is declared insolvent, according to Article 95, paragraph, of Law Number 13 of 2003 concerning Manpower, is a significant step towards acknowledging the integral role of workers in the insolvency process. It explains that the term "priority for payment" refers to the requirement to pay workers' wages before other obligations. The position of workers/labourers is explicitly prioritised in the fulfilment of their debts, as stated in the provisions. The existence of separatist creditors must still thwart the provisions concerning workers' privileges despite being prioritized. This is evident in Article 55, paragraph 1, of Law Number 37 of 2004 regarding bankruptcy and suspension of debt payment obligations.[6] The existence of separatist creditors and tax costs undermines the position of workers and laborers. Taxes are explicitly stated in Article 21 of the Taxation Law to be higher than those of separatist creditors. It is even more evident that taxes are higher than those of separatists, as regulated by Article 60 of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. In reality, taxes have the ability to request the proceeds from the sale of objects that were pledged to separatists.[7]

Law Number 13 of 2003 concerning workforce regulates the priority rights of workers—Law Number 13 of 2003 grants laborers priority in fulfilling their wages over other creditors. The regulation in Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, which governs separatist creditors, prioritizes their fulfillment. This allows them to execute their guarantees with a suspension period of up to 90 (ninety) days from the date of the bankruptcy declaration decision. In this context, the Constitutional Court rendered a decision regarding the status of laborers' wage rights in Constitutional Court Decision Number 67/PUU-XI/2013 regarding the status of laborers wage rights. The decision considers Article 95 paragraph (4) of Law Number 13 of 2003 concerning Manpower, which stipulates that wages and other rights of workers and laborers are considered debts that are paid first if a company is declared insolvent or liquidated by applicable laws and regulations.[8]

Furthermore, the term "paid first" in the explanation above signifies that when the company declares bankruptcy, it is in arrears in wage payments, fulfilling the first of three conditions related to wage payments in bankruptcy. In this scenario, the outstanding debt is paid. Secondly, despite the bankruptcy decision, the company continues to operate. In this scenario, the company continues to pay wages until it

[6] Arisman Arisman and Ratnawati Kusuma Jaya, 'Labour Migration in ASEAN: Indonesian Migrant Workers in Johor Bahru, Malaysia', *Asian Education and Development Studies*, 10.1 (2020), 27–39 https://doi.org/10.1108/AEDS-02-2019-0034

[7] Abdul Kadir Jaelani, Ahmad Dwi Nuryanto, and others, 'Legal Protection of Employee Wage Rights in Bankrupt Companies: Evidence from China', *Legality : Jurnal Ilmiah Hukum*, 31.2 (2023), 202–23 https://doi.org/10.22219/ljih.v31i2.25874

[8] Ahmad Dwi Nuryanto and Abdul Kadir Jaelani, 'The Role of State Official Wealth Report in Realizing the Principles of Maqashid Sharia', *Legality : Jurnal Ilmiah Hukum*, 32.1 (2024), 155–81 https://doi.org/10.22219/ljih.v32i1.32879

renders the bankruptcy decision. Third, the company declares bankruptcy and continues to operate. This suggests that the generation of debts occurs after the publication of the bankruptcy decision. In the initial scenario, where the debtor is in arrears of wages, and the company is no longer in operation at the time of insolvency, Constitutional Court Decision Number 67/PUU-XI/2013 is applicable.[9]

Nevertheless, the second and third conditions generate legal uncertainty regarding determining wages during the bankruptcy settlement process. Compared to the second and third conditions, the first situation is the simplest to determine salaries, as it involves only paying outstanding debts. However, in practice, paying workers' wages in companies declared insolvent by the court remains challenging. As a result, it is critical to investigate the legal safeguards for employees' wage rights in insolvent companies. The fact that the model of legal protection of workers' wage rights in bankrupt companies has failed to provide justice for workers at least partially underscores the urgency of this research.[10] In the initial scenario, where the debtor is in arrears of wages, and the company is no longer in operation at the time of insolvency, Constitutional Court Decision Number 67/PUU-XI/2013 is applicable. Nevertheless, the second and third conditions generate legal uncertainty regarding determining wages during the bankruptcy settlement process. Compared to the second and third conditions, the first situation is the simplest to determine salaries, as it merely pays the outstanding debt. However, in practice, paying workers' wages in companies declared insolvent by the court remains challenging. For instance, on January 30, 2013, a Commercial Court judge declared PT. Metro Batavia Air is insolvent by the Commercial Court Decision at the Central Jakarta District Court Number 77/Pailit/2012/PN.Niaga.Jkt.Pst., dated January 30, 2013, before paying employee wage entitlements, PT. Metro Batavia Air was in arrears of Rp 150 billion for the salaries and severance pay of 3,200 employees before paying employee wage entitlements.[11]

Secondly, PT Pazia Retailindo Indonesia, situated in the Jatake industrial area of Tangerang City, was declared insolvent on August 16, 2016, by the Commercial Court at the Jakarta District Court Number 44, Pdt. Sus-Pailit, 2020, and PN Niaga.Jkt.Pst. In this instance, PT Pazia Retailindo has yet to pay wages to 1450 employees. The delay was caused by Bank BNI 46, the highest billholder of Rp 147,000,000,000 (one hundred and forty-seven billion) to PT. UFU at the Commercial Court of the Central Jakarta District Court. Thirdly, on June 16, 1997, PT. Saripari Pertiwi Abadi came into existence. The company specializes in drilling, workover, and other services such as supporting geophysics, recording wire lines, cementing, and maintenance services. In 2021, the Central Jakarta Commercial Court declared the company bankrupt under Decision Number 35/PPdt.Sus-Pailit/2021/PPN.Niaga.Jkt.Pst. PT. Saripari Pertiwi Abadi is currently in arrears due to wage payment obligations 9,320,000,000 (nine

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[9] Andrew Ellul and Marco Pagano, 'Corporate Leverage and Employees' Rights in Bankruptcy', *Journal of Financial Economics*, 133.3 (2019), 685–707 https://doi.org/10.1016/j.jfineco.2019.05.002

[10] Recca Ayu Hapsari Hapsari and others, 'Bankruptcy Indicator Frameworks Used In Cross-Country Reviews (Indonesia – Russia Bankruptcy Law)', *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat*, 24.1 (2024), 63–76 https://doi.org/10.19109/nurani.v24i1.22023

[11] Kendry Tan, Yudhi Priyo Amboro, and Elza Syarief, 'Strategies for Preventing Bankruptcy: Adopting Insolvency Tests from the United States Perspective to Indonesia', *Journal of Judicial Review*, 25.1 (2023), 139 https://doi.org/10.37253/jjr.v25i1.7765

billion, three hundred and twenty million rupiah) to 252 employees. Employee wage rights remain unpaid.[12]

Fourthly, on April 22, 2015, the Central Jakarta District Court declared PT. Jaba Garmindo went bankrupt with Decision No.04/Pdt.Sus/Pailit/2015/PN.Niaga.Jkt.Pst, citing its debt obligations to banks as credit providers. PT. Jaba Garmindo owes creditors Rp 1,415,569,177 (one billion, four hundred, fifteen million, five hundred, sixty-nine thousand, and one hundred and seventy-seven rupiah) and debt bills of priceless value. PT. Jaba Garmindo is currently in arrears concerning paying 5.5 million euros to 2000 employees. The company still needs to complete the payment of employee wage entitlements. The above decision directly opposes Constitutional Court Decision Number 67/PUU-XI/2013, which prioritizes workers' wages over all creditors, including separatist ones. The decision also stipulated that the government would pay all debts, except those from separatist creditors, before those from state rights, auction offices, and public entities. Furthermore, the government would prioritize the liberties of other workers.[13]

The discord between the Workers Law and the Bankruptcy Law also contributes to the inadequate legal safeguards for employees' wage rights in insolvent companies. The Law of the Republic of Indonesia Number 37 of 2004 concerning bankruptcy frequently justifies the postponement of workers' wages in bankrupt companies, disregarding the Law of the Republic of Indonesia Number 13 of 2003 regarding workforce, which governs workers' rights in the event of a company's bankruptcy. Consequently, the Manpower or the Bankruptcy Law prioritizes fulfilling workers' rights, leading to a conflict. Companies frequently invoke the lex specialis derogat legi generalis principle, which dictates that more specific regulations take precedence over more general ones to postpone payment. Consequently, bankruptcy regulations are frequently implemented.[14] The current legal protection paradigm for workers' wage rights in bankrupt companies violates human rights provisions, as stated in Article 38, paragraph 4, of Law Number 39 of 1999 concerning Human Rights, and negates the constitution. The alignment of employment regulations is crucial in pursuing social justice, as it guarantees equitable treatment and opportunities for all workforce members.[15] Society can endeavor to establish a fairer and more inclusive work environment that benefits individuals and society by aligning employment practices with the principles of justice, equality, and respect for human rights. Protecting workers' wage rights in insolvent companies inextricably links to the principle of social

[12] Siti Badriyah and others, 'Conflict of Legal Norms Regarding Regulation of Creditors of Encumbrance Rights Holders in the Debtor's Bankruptcy in Indonesia', in *Proceedings of the The First International Conference On Islamic Development Studies 2019, ICIDS 2019, 10 September 2019, Bandar Lampung, Indonesia* (EAI, 2019) https://doi.org/10.4108/eai.10-9-2019.2289383

[13] Francisco González, 'Creditor Rights, Financial Health, and Corporate Investment Efficiency', *The North American Journal of Economics and Finance*, 51 (2020), 100873 https://doi.org/10.1016/j.najef.2018.11.002

[14] Pavel Chakraborty, Devashish Mitra, and Asha Sundaram, 'Import Competition, Labor Market Regulations, and Firm Outsourcing', *Journal of Development Economics*, 168 (2024), 103272 https://doi.org/10.1016/j.jdeveco.2024.103272

[15] Rebecca Strating, Sunil Rao, and Sallie Yea, 'Human Rights at Sea: The Limits of Inter-State Cooperation in Addressing Forced Labour on Fishing Vessels', *Marine Policy*, 159 (2024), 105934 https://doi.org/10.1016/j.marpol.2023.105934

justice.[16] This regulation guarantees that workers receive proper compensation, regardless of bankruptcy, thereby averting economic hardship and injustice. Society's commitment to upholding these rights, consistent with the fundamental principles of social justice, reflects its dedication to ensuring the well-being and security of its workforce. By guaranteeing the punctual payment of wages and establishing accountability between employers and employees, this legal framework fosters a fair and equitable work environment, fostering economic stability and social well-being for all parties.[17]

It is essential to compare the wage protection of workers with that of insolvent companies in Germany, France, and the UK to comprehend the changing landscape of employment relations and legal frameworks in these countries. These comparisons demonstrate the diverse methods of protecting employees' rights in insolvency, emphasizing the presence or absence of statutory priorities and social security schemes. Examining these protections elucidates the cultural shifts in the labor position within firms and other stakeholders, thereby illustrating the significance of legal origins and the various forms of capitalism in developing employment protection strategies.[18] Furthermore, quantitative methodologies indicate that shareholder protection is consistent, whereas worker protection is inconsistent. This underscores the necessity of continuous evaluations to guarantee that workers impacted by insolvency decisions in these countries are adequately protected. The preservation of worker wages in the event of employer insolvency is inconsistentdifferent across Germany, France, and the United Kingdom. The Assurance Garantie des Salaires (AGS) insures wage claims up to 74,064 EUR, and employees in France benefit from statutory priorities and social security schemes that provide significant protection for unpaid wages and contributions. In contrast, the German Bankruptcy Code does not prioritize pension claims, and there are no specific safeguards for workers' earnings. The hierarchy of creditors is flattened.[19] Over the past four decades, the United Kingdom has experienced a decline in employment protection, as there are no specific statutory priorities for worker wage protection in insolvency. This suggests that the level of security is lower than in France. Consequently, France is distinguished from Germany and the United Kingdom in that it offers more robust mechanisms for protecting the wages of its workers.[20]

Prior research by Sarbini on labor protection in insolvent companies, particularly in Indonesia, provides valuable insights for policymaking. Research has underscored the

[16] María José Ibáñez and Joana Huamán, 'Corporate Social Responsibility and Justice in the Salary Structure: Practice or Symbolism?', *International Business & Economics Studies*, 3.2 (2021), p94 https://doi.org/10.22158/ibes.v3n2p94

[17] Endeh Suhartini, 'Legal Political Perspective Wage System to Realize Social Justice', *Journal of Morality and Legal Culture*, 1.2 (2020), 122 https://doi.org/10.20961/jmail.v1i2.46898

[18] Federico M. Mucciarelli, 'Employee Insolvency Priorities and Employment Protection in France, Germany, and the United Kingdom', *Journal of Law and Society*, 44.2 (2017), 255–82 https://doi.org/10.1111/jols.12025

[19] Frédéric Closset and Daniel Urban, 'The Balance of Power between Creditors and the Firm: Evidence from German Insolvency Law', *Journal of Corporate Finance*, 58 (2019), 454–77 https://doi.org/10.1016/j.jcorpfin.2019.06.004

[20] Samuel B.H. Faure, 'Policy Styles in Germany, France, and the UK', in *Elgar Encyclopedia of European Union Public Policy* (Edward Elgar Publishing, 2022), pp. 322–31 https://doi.org/10.4337/9781800881112.ch34

necessity of regulations to safeguard employees' rights and compensation, highlighting the importance of legal certainty and protection for workers during bankruptcy.[21] Furthermore, Zakaria's research has also examined the consequences of unilateral termination of employment by companies, emphasizing the importance of clear legal frameworks and regulations to prevent negative consequences for employees.[22] Previous research by Andrew and Marco shows that corporate leverage responds differently to employee rights in bankruptcy, depending on whether strategic interests in wage bargaining or credit constraints drive it.[23] Previous research by Donald showed that bankruptcy allows an insolvent company to reorganize while being protected from its creditors or cease operations by selling its assets to pay off all or part of the company's debts.[24] Whereas, this research focuses on protecting workers' wage rights in the context of insolvent companies, an area that has yet to achieve social justice. Hopefully, this research will enable Indonesian policymakers to establish robust policies prioritizing labor protection and guarantee equitable treatment, compensation, and legal protection for employees of insolvent companies. Ultimately, this will foster a safer and fairer work environment.

As a result, to achieve social justice, it is critical to research the extent of workers' wage rights in insolvent companies. Examining the legal politics of the wage system and the implementation obstacles can lead to a deeper understanding of the barriers to social equity for employees in bankrupt companies. This investigation safeguards workers' welfare and promotes the sustainability of employment relations, fostering a balance between companies' and workers' interests to create a more equitable and fair society.

METHOD

This research employs a normative legal methodology from a comprehensive literature review. Conceptual, legislative, and comparative methods are implemented. Primary relevant legal sources include the 1945 Constitution of the Republic of Indonesia, as well as a variety of laws and government regulations. Conversely, secondary legal materials encompass pertinent literature, articles, and papers.[25] Tertiary legal sources, including the Legal Dictionary and the General Dictionary of the Indonesian Language, are employed to elucidate and direct primary legal materials, in addition to primary and secondary legal materials. This research also

[21] Sarbini Sarbini, 'Legal Protection Of Labor Based On Positive Law In Indonesia', *NOTARIIL Jurnal Kenotariatan*, 9.1 (2024), 47–52 https://doi.org/10.22225/jn.9.1.2024.47-52

[22] Zakaria Adjie Pangestu Pangestu and Latifatul Islamiyyah, 'Perlindungan Hukum Pemegang Polis Asuransi Berdasarkan Sistem Hukum Indonesia', *Ma'mal: Jurnal Laboratorium Syariah Dan Hukum*, 4.6 (2023), 545–64 https://doi.org/10.15642/mal.v4i6.302

[23] Ellul and Pagano.

[24] Donald M. DePamphilis, 'Alternative Exit and Restructuring Strategies', in *Mergers, Acquisitions, and Other Restructuring Activities* (Elsevier, 2022), pp. 485–505 https://doi.org/10.1016/B978-0-12-819782-0.00018-6

[25] Abdul Kadir Jaelani, Resti Dian Luthviati, and others, 'Artificial Intelligence Policy in Promoting Indonesian Tourism', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2024, 109–37 https://doi.org/10.24090/volksgeist.v7i1.10623

compares employment regulations in various countries to find references for more effective and socially just regulations.[26]

RESULT AND DISCUSSION

The Protection of Workers' Wage Rights in Bankrupt Companies Based on Social Justice

The UN's "Declaration of Human Rights" is a historic document that acknowledges human dignity and calls for their respect and esteem. An individual's existence implies that they hold a privilege, enabling them to receive treatment consistent with that privilege. An obligation in an individual signifies the expectation of an attitude or action that aligns with the privileges of others. Rather than being a collection of regulations or rules, rights and obligations represent a balance of power, reflected in the obligations of the opposing party, which are individual rights on one side. If rights exist, then obligations exist. The law grants these rights and obligations to an individual. Obligations are burdens or restrictions, while rights are privileges. As a result, rights are the active component of the two. However, there are instances where a legal relationship fails to regulate the rights and obligations of the parties in a balanced manner, leading to an imbalance. This imbalance underscores the need for a balanced legal framework, as it has repercussions for inadequately fulfilling obligations. The capacity of the law to promote human welfare is a significant factor in determining its quality.[27]

Employment Law Number 13 of 2003 currently serves as the primary regulatory framework for employment. This law governs many topics, including the premise, principles, objectives, workforce planning, information, rights and obligations of workers, laborers, employers, workforce placement, prohibitions, administrative and criminal sanctions, and many others. The existence of Law No. 13/2003 invalidates Law No. 14/1969, which pertains to Basic Provisions Concerning Employment; Law No. 25/1997, which relates to Employment; Law No. 11/1998, which refers to Amendments to Law No. 25/1997; and Law No. 28/2000, which relates to Perppu No. 2/2000.[28]

There are numerous rights of workers and labourers that are presently problematic and the subject of complaints from both workers and labour unions, despite the fact that they are regulated. The problematic rights encompass the regulation of wage amounts, the rights of workers in outsourcing companies, the rights of workers impacted by bankrupt companies' termination of employment, issues affecting female workers like menstrual leave, maternity leave, or paternity leave, the social security rights of workers, and the transition from contract to permanent worker/laborer

[26] Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas, and Asron Orsantinutsakul, 'The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals', *Legality : Jurnal Ilmiah Hukum*, 30.1 (2022), 131–46 https://doi.org/10.22219/ljih.v30i1.20764

[27] Bing Li and Kai Tang, 'Green Credit Policy and Bankruptcy Risk of Heavily Polluting Enterprises', *Finance Research Letters*, 67 (2024), 105897 https://doi.org/10.1016/j.frl.2024.105897

[28] Asianto Nugroho and others, 'Implementation of Worker Rights Protection for Government Employees with Employment Agreements', 2021 https://doi.org/10.2991/assehr.k.211014.023

status.[29] At present, the numerous issues associated with workers' rights and laborers are primarily attributable to the inadequate legal protection provided by Law No. 13/2003. The stakeholders, particularly workers and labor unions, then make numerous demands as a result of this inadequate legal protection. They urgently demand that the government advocate for modifications to Law No. 13/2003. The Constitution actually provides sufficient protection for workers. Article 27 paragraph (2) of the 1945 Constitution guarantees each citizen a reasonable standard of living and employment. Meanwhile, Article 28 paragraph (2) of the 1945 Constitution asserts the entitlement of all individuals to work and to receive equitable and appropriate compensation and treatment in employment relationships.

The employment relationship in question is defined as the contractual arrangement between the company and the employee, which includes work, wages, and orders. In the interim, a worker is defined as an individual who is employed and receives wages or other forms of compensation. Companies and employees are on an equal footing. The same applies to their entitlements in the event of a company's bankruptcy. The right to a fair wage is a fundamental human right. Therefore, despite the fact that laws and regulations consider it a privileged (preferential) right, it is imperative to uphold employees' right to wages even in the event of bankruptcy. However, in practice, workers often face difficulties in asserting their rights, especially when the court declares the company insolvent. This is the case in a variety of locations.[30]

In the event of bankruptcy, employers may face difficulties in meeting their obligations to workers, such as paying salaries and settling debts to creditors after termination of employment (PHK). It is essential to acknowledge that not all companies fulfill their obligations to pay employees' wages on time; however, numerous instances of neglect result from arrears. As a result, the company's financial difficulties result in partial or complete nonpayment of workers' wage rights. It is not impossible to believe that bankruptcy is not always due to the inability to pay debts but rather to not wanting to pay mature debts, which can motivate the cynicism of insolvent companies. NY's asset depletion compels workers to fight for their wage rights. Since a company's insolvency diminishes workers' bargaining power, it is only fair that the law safeguards their rights in both substance and legal structure. The Constitutional Court's decision Number 67/PUU-XI/2013 provides legal protection for the non-wage rights of workers and laborers. However, this protection is not 100% effective, as separatist creditors exclude non-wage rights from payment status. In other words, decision Number 67/PUU-XI/2013 does not fully safeguard the non-wage rights of workers or laborers, as it explicitly prioritizes their funding about the

[29] Obaid Ur Rehman and others, 'From Courtrooms to Corporations: The Effect of Bankruptcy Court Establishment on Firm Acquisitions', *Finance Research Letters*, 61 (2024), 105037 https://doi.org/10.1016/j.frl.2024.105037

[30] Anurag K. Agarwal and others, 'Introduction to the Special Issue on "Financial Distress, Bankruptcy, and Corporate Finance"', *Vikalpa: The Journal for Decision Makers*, 45.2 (2020), 61–68 https://doi.org/10.1177/0256090920953995

different types of creditors before proceeding.[31] Law Number 37 of 2004 pertains to the Bankruptcy and Suspension of Debt Payment Obligations.

Article 1, number 2 defines a creditor as an individual possessing receivables subject to court collection due to an agreement or legal mandate. As is well known, the Constitutional Court Decision Number 67/PUU-XI/2013 about "Payment of workers' wages owed is prioritized over all types of creditors, including claims from separatist creditors, claims from state rights, auction officesThe Constitutional Court Decision Number 67/PUU-XI/2013, widely recognized, prioritizes the Payment of workers' wages over all other creditors, including separatist creditors, state rights, auction offices, and government-formed public bodies. Meanwhile, it prioritizes the Payment of different workers' rights over all other claims, including those from state rights, auction offices, and government-formed published author agrees that the Constitutional Court Decision Number 67/PUU-XI/2013 is a refreshing change for workers and laborers in terms of the clarity of wage status, which is a worker's right. However, the decision also introduces uncertainty by prioritizing only workers' wages and excluding other rights from separatist creditors' claims.[32]

Even though Article 95, paragraph 4, of the Manpower Law, regulates workers' rights, they are still at risk of bankruptcy. The intertwining of laborers' rights with those of other creditors, who also enjoy privileges under the Bankruptcy Law and the suspension of debt payment obligations, is inherent. Debt does not explicitly regulate the priority of workers' wages over other creditors. Thus, this does not guarantee workers' rights to have wage debts paid before other creditors.[33] The Manpower Law and BankruptcyThe Manpower and Bankruptcy Law are examples of Lex Specialis laws. Therefore, the two laws occupy the same position, making applying the principle of priority impossible. However, in the bankruptcy context, there could be a conflict between the two laws, specifically regarding the priority of debts that require payment. The Employment Law mandates the payment of debts owed to workers first, but it prohibits workers from selling assets independently; they must do so through a curator. Workers do not possess any other collateral rights that separatist creditors could assign.[34]

In the case of a bankrupt company, the implementing curator must be involved in the repayment of debts by bankrupt debtors against workers' wages. This guarantees the return of the funds to the curator, who proceeds to sell the existing bankrupt assets, dividing them by the list he has created based on the results of the debt verification meeting. This is because other creditors will only receive the insolvent

[31] DANIEL COOPER, MARÍA JOSÉ LUENGO-PRADO, and JONATHAN A. PARKER, 'The Local Aggregate Effects of Minimum Wage Increases', *Journal of Money, Credit and Banking*, 52.1 (2020), 5–35 https://doi.org/10.1111/jmcb.12684

[32] Le Duc Hoang and others, 'Creditor Rights, Corruption and Capital Structure: Evidence from Emerging Markets', *Corporate Governance and Organizational Behavior Review*, 8.1 (2024), 213–21 https://doi.org/10.22495/cgobrv8i1p18

[33] Xue Dong Dai and Lisi Niu, 'The Impact of Judicial Prejudice in Bankruptcy on Creditors and Local Financial Development', *Finance Research Letters*, 67 (2024), 105778 https://doi.org/10.1016/j.frl.2024.105778

[34] Balagopal Gopalakrishnan and Sanket Mohapatra, 'Insolvency Regimes and Firms' Default Risk under Economic Uncertainty and Shocks', *Economic Modelling*, 91 (2020), 180–97 https://doi.org/10.1016/j.econmod.2020.06.005

company's wage debts if the bankrupt assets sufficiently cover them. In reality, this will result in an unbalanced justice system. Applying this principle of balance, which involves the curator implementing a percentage-based distribution to achieve justice, will impact separatist creditors. This practice violates the bankruptcy law and the guarantee. The potential for legal uncertainty in Indonesia: Sacrificing the rights of separatist creditors for the benefit of workers could lead to legal uncertainty regarding the implementation in Indonesia. This has had a significant negative impact on Indonesian business operations.[35]

Unpaid wages will be considered the company's debt under the Manpower Law. In the event of the company's bankruptcy, the debt takes precedence over other debts from other creditors and requires payment. They govern workers' wages and other rights if a company is inconsistent with the company's bankruptcy. There may be inconsistent provisions in question resulting from differences in the hierarchy of priorities. The Bankruptcy and PKPU Laws prioritize creditors who hold collateral rights or separatist creditors, whereas the Law on General Provisions on Tax Implementation Procedures prioritizes state bills, specifically taxes. The Manpower Law classifies workers' wage entitlements as a priority debt. The Constitutional Court decision No. 67/PUU-XI/2013 establishes that laborers' wage rights are a priority debt, without exception. From a legal standpoint, this Constitutional Court decision is binding and final. The issue arises when a company declares bankruptcy, and the curator responsible for the insolvent estate's settlement prioritizes the distribution of the estate after paying taxes to separatist creditors, paying bankruptcy costs, and paying fees for himself. Therefore, when the insolvent estate shrinks, the curator must adequately address the workers' rights. In such situations, workers become casualties of the company's collapse.

Curatories, in their role as law enforcement officers, play a critical role in the normative execution of corporate debt payments, including debts to workers, in the context of bankrupt companies. Their primary concern is workers' compensation rights. However, they occasionally encounter uncooperative insolvent debtors when paying workers' wage rights. The involvement of curators in the settlement of insolvent assets is considered to be susceptible to deviations and carries a significant amount of risk. This underscores the need for comprehensive regulations. In this context, curators are responsible for ensuring social justice in accordance with the principles of Pancasila. The doctrine of Pancasila, the foundation of the state, essentially forms the perspective of justice in labor law. Pancasila, the Indonesian state's foundation or philosophy, remains significant to this day.[36]

Employment development must be regulated to ensure the fundamental rights and protections of workers are met while also fostering conditions conducive to the development of the business world. Employment development encompasses numerous dimensions and interconnections. The relationship includes the interests of not only the laborers during, before, and after the work period but also the

[35] Diego Legal and Eric R. Young, 'The Effect of Minimum Wages on Consumer Bankruptcy', *Journal of Economics and Business*, 129 (2024), 106171 https://doi.org/10.1016/j.jeconbus.2024.106171
[36] Bin Ni and Kyosuke Kurita, 'The Minimum Wage, Exports, and Firm Performance: Evidence from Indonesia', *Journal of Asian Economics*, 69 (2020), 101218 https://doi.org/10.1016/j.asieco.2020.101218

government, employers, and society. Consequently, it is imperative to establish comprehensive regulations encompassing human resource development, enhancing productivity and competitiveness among Indonesian workers, promoting industrial relations, expanding employment opportunities, and providing labor placement services.

Protection of Workers' Wage Rights in Bankrupt Companies in Several Countries in Realizing Social Justice

In addressing excessive wage inequality, internationally regulated workers' wage rights have been the subject of significant debate and attention. The International Labour Organisation (ILO) has been instrumental in establishing employee remuneration and benefits standards, as evidenced by its International Financial Reporting Standards and International Accounting Standards. Nevertheless, enforcing these standards is a significant challenge, particularly in multinational enterprises (MNEs) that frequently violate labor rights due to the absence of direct and effective international law to enforce them. The international workers' rights debate underscores the significance of negotiating and enforcing fundamental labor rights globally, as developing countries may view strict adherence to these rights as a competitive disadvantage. The discourse on international labor rights emphasizes the importance of innovative regulatory models and global mechanisms to safeguard workers' rights and combat wage inequality globally.[37]

The significance of employee benefits in the current global economic crisis is a testament to the impact of wages on the efficacy of financial entities and employee behavior. Wages influence the motivation and engagement of employees in their work, which in turn influences employee behavior within an entity. Wage levels can affect the efficiency of economic entities, as fair and competitive wages can attract and retain competent employees, leading to increased productivity and performance. Entities can accurately reflect their financial health and maintain regulatory conformance by ensuring that their financial reporting is transparent and accountable due to proper wage regulation based on international accounting standards.[38]

Essential components of international workers' wage rights include the necessity of global negotiations to guarantee equitable treatment, the impact of economic development on living standards, and compliance with basic labor standards. The debate surrounding enforcing these standards in developing countries underscores the challenges of balancing competitiveness with labor rights. The significant role of International Accounting Standards and International Financial Reporting Standards in regulating wages and related rights underscores the significance of employee benefits in the context of economic entities and the living standards of populations.[39]

[37] Xinyi Wang, 'The Regulation of International Treaties on MNEs' Labor Rights Obligations', *Highlights in Business, Economics and Management*, 7 (2023), 101–7 https://doi.org/10.54097/hbem.v7i.6839

[38] Joseph T. Halford, Rachel M. Hayes, and Valeriy Sibilkov, 'Personal Bankruptcy Costs, Union Bargaining Power, and Capital Structure', *Journal of Banking & Finance*, 2024, 107271 https://doi.org/10.1016/j.jbankfin.2024.107271

[39] Jieji Lai and Shiyang Hu, 'Bankruptcy Judicial System Reform and Corporate Financial Litigation Risk: A Quasi-Natural Experiment in China', *Finance Research Letters*, 62 (2024), 105182 https://doi.org/10.1016/j.frl.2024.105182

Moreover, discussions regarding the globalization of social standards emphasize the necessity for transnational corporations to maintain fundamental labor rights and support cross-border mechanisms for regulatory compliance. Internationally recognized, regulating workers' compensation rights involves a complex interplay between economic development, competitiveness, and global cooperation. The purpose of these regulations is to guarantee that all workers globally receive fair and equal treatment.[40]

In the context of an insolvent company, workers' wage rights are a critical aspect that necessitates protection and regulation. In the event of corporate bankruptcy, the mechanisms in place to safeguard employee rights vary across countries.[41] For instance, Latvia has established a guarantee system to cover employee claims using the country's entrepreneurial risk charge. In contrast, Indonesia has established a procedure through the Commercial Court to manage and distribute assets to creditors, including workers' wages owed. Insolvency law is characterized by the termination or modification of employment contracts to achieve the objectives of insolvency, with workers' rights and payment priorities being critical factors. The study also emphasizes the importance of providing legal certainty and security to employees affected by insolvency decisions, enabling them to enforce their rights effectively. This research shows how hard it is to protect workers' wage credits in international insolvency cases by simultaneously comparing wage guarantees in insolvency law and non-insolvency situations.[42]

A debtor who cannot pay due and collectible debts is subject to bankruptcy, a general seizure of all assets. If the Commercial Court declares the company that employs laborers bankrupt, complications will ensue. In such situations, the repayment of compensation or remuneration to workers becomes an intriguing research subject. The government and companies are responsible for enforcing laborers' wage rights. Failure to meet this obligation results in violating human rights, a heresy, and a transgression of workers' welfare rights. In reality, the company where workers are employed may fail to pay their wages due to bankruptcy or a refusal to do so, despite a ruling from the Industrial Relations Court mandating that employers (companies) provide salaries or severance pay. It is evident in France that other nations prioritize workers' positions in bankruptcy differently. According to the French regime, a super priority safeguards all claims originating from employment contracts when an employer enters bankruptcy proceedings, thereby restricting the claims of secured creditors. Due to its broad scope, the employee's super-priority safeguards employees' claims against their employers, including claims for paid leave. The priority is restricted to a monthly threshold twice the amount used to compute

[40] Savchuk Sergiy, 'International Legal Regulation of Non-Standard Forms of Employment', *Yearly Journal of Scientific Articles "Pravova Derzhava"*, 31, 2020, 522–32 https://doi.org/10.33663/0000-0002-3162-2369

[41] Laila Kelmere, 'Protection of Employees in Insolvency Proceedings', 2020, pp. 88–96 https://doi.org/10.22616/ESRD.2020.53.010

[42] Sonhaji Sonhaji, 'The Position Of The Workers' Or Laborers' Severance Pay And Other Rights In The Bankruptcy Of A Company', *Diponegoro Law Review*, 3.2 (2018), 165 https://doi.org/10.14710/dilrev.3.2.2018.165-181

social and pension contributions. Government regulations can increase and renew this threshold.[43]

Implemented in 1999, the German Insolvency Act of 1994 effectively eliminated all creditor priorities in Germany, including the priority of protecting employee claims for overdue wages. The only exceptions were a restricted list of statutory liens and a few other cases. Germany is renowned for its robust social security mechanisms and worker protection. However, Germany has overcome this challenge by instituting a system of social funds, which German employers collectively fund. The German insolvency regime's policy objective is to integrate employee protection into a strategy that distributes costs among employers. The UK observes that creditor priorities are essentially unknown, and the insolvency rules respect pre-bankruptcy rights and private bargaining between the debtor and his creditors. This pertains to workers' positions.[44]

In 2002, the Crown also abolished its preference for levies. The only exception is employees' preferential treatment concerning claims for overdue compensation and contributions. While unsecured creditor fees persist, insolvency practitioners receive priority over other unsecured creditors, including employees. Employee clThe priority of employee claims surpasses that of other unsecured. However, the payment quantity restricts this priority. Currently, this sum is decreasing. These comparisons indicate that Indonesia has significant work to do in bankruptcy management. A new definition of protecting workers' rights, including wages and other rights, is necessary in the event of bankruptcy. In bankruptcy law, a detailed explanation of the priority order of relative creditors is required. Indonesia, one of the significant creditors in the bankruptcy process, has experienced a convoluted and unsynchronized process regarding the location of its workers. Workers: It is inappropriate to assign workers to a particular category or arrange them unfavorably.[45]

To satisfy employees' wage claims, jurisdictions in other countries have even implemented wage guarantee funds, compensation, or bankruptcy insurance schemes. These funds, which ensure payments to employees during their most vulnerable periods and significantly outperform recovery after the liquidation of defunct or insolvent assets and the payment of creditors, justify the policy. Certain countries have implemented a hybrid approach to mitigate employee losses due to corporate failure. This approach entails the creation of a wage guarantee fund or insurance scheme and implementing a preferred claims system or a priority claims system during bankruptcy or insolvency. In these instances, it is imperative to establish appropriate

[43] Yiyuan Chen, 'The International Regulatory Framework for Labor Protection of Multinational Enterprises', *Highlights in Business, Economics and Management*, 16 (2023), 492–99 https://doi.org/10.54097/hbem.v16i.10618

[44] Jinxian Zhao, Jamal Ouenniche, and Johannes De Smedt, 'A Complex Network Analysis Approach to Bankruptcy Prediction Using Company Relational Information-Based Drivers', *Knowledge-Based Systems*, 300 (2024), 112234 https://doi.org/10.1016/j.knosys.2024.112234

[45] Lara Cathcart and others, 'Corporate Bankruptcy and Banking Deregulation: The Effect of Financial Leverage', *Journal of Banking & Finance*, 166 (2024), 107219 https://doi.org/10.1016/j.jbankfin.2024.107219

incentives for the conduct of directors and officers in the period preceding the company's entry into bankruptcy proceedings, in addition to protecting employees.[46]

Fairness in employment arrangements is a critical factor that varies among countries. Recent court decisions in the United Kingdom have underscored the emergence of obligations to be fair in employment contracts, emphasizing both procedural and substantive fairness for employees. Additionally, the significance of fostering fairness in the workplace has been acknowledged to enhance employee productivity and well-being. Various factors, including supervisory treatment, work intensity, job security, and employee voice, significantly influence the perception of fairness within organizations. It is imperative to comprehend and resolve the issue of equity in employment arrangements to cultivate positive work environments and employee satisfaction on a global scale.[47] The United Kingdom's strategy for safeguarding employees during insolvency is indicative of a more extensive cultural transformation in the way it views the position of labour within organisations and in relation to other stakeholders.[48] Statutory priorities and social security programs influence the UK's system, which aims to balance the interests of the company, creditors, and workers. This underscores the significance of identifying a socially equitable solution to the challenges presented by corporate insolvency.[49]

The German Labour Law, which seeks to balance the power dynamics between employers and employees, ensures that the protection of workers' wage rights in insolvent companies is socially equitable. This law elevates employees to a nearly equal level of rights and responsibilities as employers. The unique feature of "bankruptcy money" in Germany further reinforces this, ensuring the payment of three months' salaries during the preliminary stage of bankruptcy proceedings. Furthermore, the German legal system prioritizes employee receivables, which include rights to the social plan, over other creditors, thereby strengthening the protection of workers' rights in insolvency situations. These measures are consistent with social justice and equity principles in protecting workers' compensation rights even in the event of company bankruptcy, thereby fostering a fair and equitable work environment.[50]

Legislation and social security systems influence the protection of workers' wage rights in insolvent companies, as they are based on fairness in various countries. Various legal frameworks prioritize the payment of workers' wages over the payment

[46] Sumit Agarwal, Tien Foo Sing, and Xiaoyu Zhang, 'Intergenerational Bankruptcy Risks: Learning from Parents' Mistakes', *Journal of Financial Intermediation*, 59 (2024), 101087 https://doi.org/10.1016/j.jfi.2024.101087

[47] Duncan Gallie and others, 'Inequality at Work and Employees' Perceptions of Organisational Fairness', *Industrial Relations Journal*, 52.6 (2021), 550–68 https://doi.org/10.1111/irj.12346

[48] Yue Zhang and Kai Wu, 'Bankruptcy Court Establishment and Corporate Risk-Taking', *Finance Research Letters*, 58 (2023), 104490 https://doi.org/10.1016/j.frl.2023.104490

[49] Yury Yu. Karaleu, 'Interaction between Institutional Technologies, Wage Guarantee Schemes and Corporate Social Responsibility in Respect of the Protection of Workers' Benefits in Case of Company Insolvency', *RUDN Journal of Economics*, 28.2 (2020), 225–38 https://doi.org/10.22363/2313-2329-2020-28-2-225-238

[50] Putri Ariqah and Siti Anisah, 'Arrangement Of Bankruptcy Debt Repayment Toward Employees In Indonesia And GermanY', *Indonesia Private Law Review*, 3.1 (2022), 53–68 https://doi.org/10.25041/iplr.v3i1.2598

of other creditors in case of a company's insolvency. For instance, certain nations have implemented guarantee systems to ensure the coverage of employee claims up to a specific amount.[51] The country's entrepreneurial risk fee funds these systems, proving to be financially successful and beneficial for employers and employees. Furthermore, it is imperative to ensure that insolvency laws are based on international best practices and labor laws to enhance the protection of employees' rights during insolvency proceedings. This entails advocating for an approach that prioritizes workers' interests and establishing priority insolvency guarantee funds.[52]

Wage Priority in Indonesia and Various Countries

Germany's public budgets are in excellent condition and are expected to remain so for this year and the following. The government's budget balance will exceed 0.5 percent of nominal GDP in both years, and the cyclically adjusted budget will also demonstrate a surplus. Nevertheless, it is expected to be lower than the previous year. Structural surpluses provide a more extensive opportunity to implement fiscal policy and should no longer be discarded, as they have been with the pension system extensions.[53] Given the significant obstacles, it offers a fantastic opportunity to implement fiscal policies that are more productive.[54] German public finance is presently experiencing an interim high due to demographic factors. However, if current circumstances remain unchanged, a decrease in the medium-term potential labor force and weak investment will obstruct potential development. In light of this, fiscal policy should enhance work incentives by alleviating the burden of taxes and duties. Income taxation is one of many areas where there is a significant need for reform. The genuine obstacle is the relatively sizeable social security contributions in Germany. This is because tax-financed grants for social security need to be increased to fund non-insurance benefits, in addition to the exceptionally high benefit levels. Instead of primarily reducing taxes, we should use the increased scope for fiscal policy to increase grants to the social security system and reduce social security contributions. The prospective burden on economic growth differs from the level of public revenue per se but rather the combination.[55]

In German companies, a variety of factors influence pay prioritization. Qualified labor shortages significantly influence wage levels, particularly in occupations with intricate responsibilities. Furthermore, the German corporate governance system, characterized by employee representation on supervisory boards and concentrated ownership structures, influences the sensitivity of managerial pay to firm profitability. This is due to the potential for large owners to serve as substitutes for performance-

[51] Shaopeng Wei and others, 'Combining Intra-Risk and Contagion Risk for Enterprise Bankruptcy Prediction Using Graph Neural Networks', *Information Sciences*, 659 (2024), 120081 https://doi.org/10.1016/j.ins.2023.120081
[52] Karaleu.
[53] Stephan G.H. Meyerding and Anja Seidemann, 'Influence of Packaging, Husbandry, Feeding Practices, and Price Transparency on Consumer Segments Preferences for Milk in Germany: A Conjoint and Latent Class Analysis', *Future Foods*, 10 (2024), 100414 https://doi.org/10.1016/j.fufo.2024.100414
[54] Stephanie Natho and Paul Hudson, 'Accounting for the Value of Ecosystem Services of Floodplains in Germany – National Studies Matter', *Ecosystem Services*, 67 (2024), 101615 https://doi.org/10.1016/j.ecoser.2024.101615
[55] Yuliia Horiashchenko, 'Crowdsourcing as a Priority of the Research Space of the State', in *First International Conference 'Open Science and Innovation in Ukraine 2022'* (State Scientific and Technical Library of Ukraine, 2022), pp. 128–30 https://doi.org/10.35668/978-966-479-129-5-7-6

related pay. The potential for German companies to adopt more Anglo-American governance patterns may lead to an increase in executive compensation, partially contingent upon corporate performance, as a globalized market for executive talent drives this trend. Additionally, agency issues arising from ownership dispersion and adverse effects from bank involvement influence compensation practices in German firms.[56]

Pay priorities in state-owned enterprises (SOEs) significantly influence the efficacy and sustainable delivery of public services in Germany. A variety of factors, including gender, profitability, and the company's size, significantly affect the compensation of senior managers in SOEs, according to research. Despite the law establishing financial objectives for SOEs, there appears to be no direct correlation between economic performance ratios and compensation levels, underscoring the complex relationship between pay and performance in the public sector. Additionally, the German public budget is currently in a favorable state, which would enable the implementation of prospective fiscal policy adjustments to enhance work incentives and alleviate the relatively high tax burden and social security contributions in the respective country. These results emphasize the significance of balancing financial sustainability and equitable compensation practices in the German state sector. The scarcity of qualified labor, particularly in occupations that involve intricate responsibilities, determines pay levels in Germany. While collective agreements are essential, ensuring wages are based on skill availability is critical to achieving market equilibrium.[57]

Pay priority is a significant concern in the United Kingdom, particularly in the healthcare sector, where the relationship between patients and clinicians is essential. Furthermore, gender pay disparities persist, with women earning less than men in the majority of developed countries, including the United Kingdom.[58] As a result, pay transparency policies have been implemented as a potential cure. Furthermore, the emphasis on increasing UK incomes as a priority demonstrates the inextricable link between the issue of pay and more general societal challenges like income inequality. It is imperative to address pay concerns toto ensure that employees receive equitable compensation and preserve the quality of healthcare services, particularly during the post-COVID recovery phase. The United Kingdom can strive to establish a more sustainable and equitable pay system across various sectors by instituting transparency measures and considering broader rewards for staff.[59]

Company size, profitability, human capital characteristics, industry differences, and political decisions regarding tax and benefit systems are all factors that influence pay priority in the United Kingdom. Research indicates that the company's scale

[56] Sigrid Denver and others, 'Willingness-to-Pay for Reduced Carbon Footprint and Other Sustainability Concerns Relating to Pork Production – A Comparison of Consumers in China, Denmark, Germany and the UK', *Livestock Science*, 276 (2023), 105337 https://doi.org/10.1016/j.livsci.2023.105337

[57] Ouwen Lin and Jianbo Guan, 'The Impact of Media Attention, Board Independence on CEO Power, and ESG in State-Owned Enterprises', *Finance Research Letters*, 62 (2024), 105180 https://doi.org/10.1016/j.frl.2024.105180

[58] Eleanor Eaton and Alistair Hunt, 'Does Willingness to Pay Differ for Mental and Physical Health?', *Value in Health*, 2024 https://doi.org/10.1016/j.jval.2024.06.009

[59] Xu Wu and Xiaowei Lu, 'Can Employment Salvage Payments Be Entitled to a Maritime Lien and Allowed in the General Average? A Comparative Analysis of the UK, US, and China', *Marine Policy*, 167 (2024), 106240 https://doi.org/10.1016/j.marpol.2024.106240

significantly influences executive compensation, with profitability being a weak determinant. Human capital characteristics also influence pay, but industry distinctions reduce their influence. Political decisions concerning income maintenance systems, such as the National Minimum Wage, Living Wage, and Basic Income, significantly influence the UK's pay priorities. Furthermore, the varying pay and performance management systems of foreign multinational companies in the United Kingdom underscore the significance of international HR structural mechanisms and collective bargaining coverage in shaping pay priorities.[60]

In France, the issue of pay priority is intricately linked to the country's wage-establishing institutions and policies. Since the 1970s, the minimum wage, or SMIC, has experienced a substantial increase, which has been instrumental in preserving wage equality and preventing wage inequalities. Furthermore, the state's support and the legal extension of collective agreements have played a critical role in establishing equitable pay practices and structuring industrial relations. The intricate interplay between social partners, such as unions and employers, and the state influences the country's labor market policies and regulations, impacting income distribution and employment outcomes during economic crises. Additionally, the government has recently designed initiatives to enhance the international competitiveness of research centers and universities by attracting global talent and increasing pay scales. This suggests a shift towards prioritizing competitive salaries and funding.[61]

In France, pay prioritization is influenced by a variety of factors, such as the regulatory framework that governs wage-setting, the presence of incentive systems and segmented pay structures in establishments, and the role of the state in collective bargaining, as well as the principle of "equal pay for equal work" and the Legal Minimum Wage. Furthermore, welfare programs such as the Revenu Minimum Insertion (RMI) have an impact on pay prioritization by producing high marginal tax rates on labor income, which in turn affects the monetary gains to employment for welfare recipients. The intricate landscape of pay systems in France is influenced by a combination of institutional, organizational, and market constraints that affect how employers prioritize and structure employee compensation. These factors collectively shape the landscape.[62]

Germany, the United Kingdom, and France exhibit substantial disparities in their pay priorities. France distinguishes itself by ensuring the protection of employees through both statutory priorities and social security schemes, thereby demonstrating a dual approach to safeguarding workers' claims for unpaid wages and contributions. In contrast, Germany and the United Kingdom have experienced a decline in employment protection over the past four decades, which is indicative of significant

[60] Yutong Shu, 'The Influencing Factors of Income in the UK under the COVID-19 Epidemic', *BCP Business & Management*, 28 (2022), 19–25 https://doi.org/10.54691/bcpbm.v28i.2211

[61] Sami Ben Larbi, Ali Dardour, and Adam Elage, 'CEO Incentive Pay and Corporate Social Performance: Evidence from French Companies', *European Management Journal*, 2024 https://doi.org/10.1016/j.emj.2024.06.003

[62] Iker Alvarez-Mora and others, 'Prioritization Based on Risk Assessment to Study the Bioconcentration and Biotransformation of Pharmaceuticals in Glass Eels (Anguilla Anguilla) from the Adour Estuary (Basque Country, France)', *Environmental Pollution*, 311 (2022), 120016 https://doi.org/10.1016/j.envpol.2022.120016

cultural changes in labor relations within firms and toward other stakeholders. Furthermore, examining executive compensation regulation in France and Germany underscores the disparities in approaches, with self-regulation being the more prevalent trend and the efficacy of legislatively restricting executive pay being questioned. These variations emphasize the intricate interplay between statutory priorities, social security schemes, and cultural attitudes towards labor rights in these countries, which influence their respective pay priority frameworks.

CONCLUSION

Based on the analysis and discussion, a conclusion is drawn: *First*, numerous creditors who possess mortgage rights and are in a more advantageous position than the company's employees are prioritized by the Bankruptcy Law, the Mortgage Law, and the Civil Code. The existence of these diverse laws does not produce legal certainty that is advantageous to laborers; instead, it establishes an ambiguous hierarchy of interests. Legal protection for the non-wage rights of workers and laborers has yet to be fully implemented due to Constitutional Court Decision Number 67/PUU-XI/2013. As a result, it is imperative to re-establish the status of employees in insolvent companies and to harmonize the corresponding regulations to ensure that workers are guaranteed socially just compensation. *Second*, the context of employee motivation and economic efficiency underscores the importance of equitable remuneration. The discussion also encompasses safeguarding workers' rights during corporate bankruptcy, with examples from various countries, including the United Kingdom, France, Germany, Indonesia, and Latvia. The prioritization of employee claims in insolvency situations varies depending on each country's legal frameworks and social security systems. Pay priorities differ significantly in Germany, the UK, and France. France uniquely protects workers' claims for unpaid pay and contributions through statutory priorities and social security plans. Over the past four decades, employment protection in Germany and the UK has declined, indicating cultural changes in labor relations within enterprises and toward other stakeholders. Examining executive compensation regulation in France and Germany shows that self-regulation is more common and legislatively capping CEO pay is questionable. Differences show how statutory priorities, social security plans, and cultural attitudes toward labor rights affect countries' pay priority frameworks. Overall, the findings emphasize the significance of maintaining a balance between labor rights and competitiveness and guaranteeing equitable treatment of employees in global economic systems.

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