

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 9 | Issue 4

2026

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The Principle of Balance in the Protection of Secured Creditors' Rights and Workers' Wage Rights in the Process of Settlement of Bankruptcy Estate

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ABSTRACT

This research examines the application of the principle of balance in Indonesian bankruptcy law, specifically in the context of protecting separatist creditors' rights and workers' wage rights in the bankruptcy estate settlement process. The normative conflict between Article 55(1) of Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations, which grants independent execution rights to secured creditors, and Article 95(4) of Law No. 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law (the Job Creation Law), which places workers' wages as preferred debts, creates legal uncertainty in practice. The research method employed is normative juridical, with statutory, conceptual and case approaches. The results indicate that the application of the principle of balance requires reconciliation between the commercial interests of separatist creditors and the social interests of workers through fair and proportional mechanisms. Constitutional Court Decision No. 67/PUU-XI/2013 has affirmed that workers' wages hold a strong legal standing, yet its implementation still requires more comprehensive regulatory harmonisation. This research recommends the establishment of a clearer payment priority hierarchy in Indonesian bankruptcy law as a manifestation of the consistent application of the principle of balance.

Keywords: *principle of balance, bankruptcy estate, separatist creditor rights, workers' wage rights, bankruptcy*

I. INTRODUCTION

Bankruptcy is a legal institution designed to create order in the settlement of debts when a debtor is no longer able to meet its obligations to creditors. As a general attachment over all assets of the bankrupt debtor, bankruptcy requires a fair and proportional distribution of the

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remaining assets (the bankruptcy estate) to all parties with a legal interest. In practice, however, the process of settling the bankruptcy estate frequently gives rise to tensions among the various creditor groups, each asserting priority in payment.¹

Among the various creditor groups in bankruptcy, the two that most frequently experience a conflict of interest are secured creditors and workers as holders of wage rights. Secured creditors, that is, creditors holding collateral rights such as a pledge, fiduciary security, mortgage lien or hypothec, enjoy a privileged legal position consisting of the right to execute their collateral independently, without following the general settlement procedure. Workers, on the other hand, as an economically vulnerable group, hold a right to unpaid wages which is legally categorised as a privileged claim to be satisfied with priority.²

Article 1(1) of Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations (hereinafter the Bankruptcy Law) defines bankruptcy as a general attachment of all assets of the bankrupt debtor, the administration and settlement of which is carried out by a curator under the supervision of a supervisory judge. This definition implies that, in principle, all of the debtor's assets constitute a source of repayment for all creditors, subject to the priority levels established by law.³

The rights of secured creditors are regulated under Article 55(1) of the Bankruptcy Law, which affirms that such creditors may execute their rights as if no bankruptcy had occurred. This provision reflects the principle of *pacta sunt servanda*, providing legal certainty for the banking and financial sectors in extending credit. At the same time, however, Article 95(4) of Law No. 6 of 2023 on the Job Creation Law affirms that where a company is declared bankrupt or liquidated, the wages and other entitlements of workers constitute debts whose payment is to be prioritised. This conflict of norms gives rise to a legal problem requiring thorough examination.⁴

The Constitutional Court, through Decision No. 67/PUU-XI/2013, has interpreted the law to mean that workers' wages must take greater priority over the rights of secured creditors. This

¹ SUTAN REMY SJAHDINI, *SEJARAH, ASAS, DAN TEORI HUKUM KEPAILITAN* 15 (rev. ed. 2022).

² MUNIR FUADY, *HUKUM PAILIT DALAM TEORI DAN PRAKTEK* 98–100 (rev. ed. 2022); FREDDY HARRIS & LENY HELENA, *HUKUM KEPAILITAN: PRINSIP, NORMA DAN PRAKTIK DI PENGADILAN* 75 (2021).

³ *Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang* [Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations] art. 1(1) [hereinafter Bankruptcy Law]. See also ZAINAL ASIKIN, *HUKUM KEPAILITAN DAN PENUNDAAN PEMBAYARAN DI INDONESIA* 30 (2021).

⁴ Bankruptcy Law, art. 55(1); *Undang-Undang Nomor 6 Tahun 2023 tentang Penetapan Peraturan Pemerintah Pengganti Undang-Undang Nomor 2 Tahun 2022 tentang Cipta Kerja menjadi Undang-Undang* [Law No. 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law] art. 95(4) [hereinafter Job Creation Law]. A similar normative conflict between secured creditors' rights and workers' preferential rights is also a matter of international concern; see UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *Legislative Guide on Insolvency Law*, Parts One and Two, Recommendations 188–192 (2005).

decision has sparked controversy, as it is seen as intervening in contractual rights agreed upon between creditors and debtors prior to the occurrence of bankruptcy. Its implications are far-reaching, affecting not only legal certainty for the banking and financial sector but also the overall investment climate.⁵

This issue is relevant to examine through the lens of the principle of balance (*evenwichtigheidsbeginsel*) in contract law and bankruptcy law. The principle of balance requires equivalence in burdens and benefits among the parties involved in a legal relationship. In the context of bankruptcy estate settlement, this principle demands that the distribution of the bankruptcy assets be conducted equitably, proportionally considering the interests of all parties, including the commercial interests of secured creditors and the social dimension of workers' interests.⁶

II. STATEMENT OF PROBLEMS

Based on the foregoing background, this study focuses on two main problems:

- How is the legal regulation of secured creditors' rights and workers' wage rights structured in the settlement process of the bankruptcy estate under Indonesian bankruptcy law?
- How is the principle of balance applied as a foundation for reconciling the protection of secured creditors' rights and workers' wage rights in the settlement of the bankruptcy estate?

III. RESEARCH METHOD

This study employs a normative legal research method that focuses on the examination of the positive legal norms governing bankruptcy and labour law. Normative legal research is conducted by studying library materials or secondary data comprising primary, secondary and tertiary legal sources.

The approaches used in this study include: (1) the statutory approach, by examining all relevant legislation such as the Bankruptcy Law, the Job Creation Law, the Civil Code and related regulations; (2) the conceptual approach, by examining legal concepts such as the principle of

⁵ Mahkamah Konstitusi Republik Indonesia [Constitutional Court of the Republic of Indonesia], Decision No. 67/PUU-XI/2013 (Sept. 11, 2014). A similar affirmation of the preferential status of workers' wage claims is also found in INTERNATIONAL LABOUR ORGANIZATION, *Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)*, art. 8 (1992).

⁶ HERLIEN BUDIONO, ASAS KESEIMBANGAN BAGI HUKUM PERJANJIAN INDONESIA: HUKUM PERJANJIAN BERLANDASKAN ASAS-ASAS WIGATI INDONESIA 305–07 (2006). The author asserts that the principle of balance also underlies and informs the *UNIDROIT Principles of International Commercial Contracts* and European contract law, making it a principle recognised internationally.

balance, secured creditors' rights and workers' wage rights from the perspective of legal doctrine and theory; and (3) the case approach, by analysing relevant court decisions, particularly Constitutional Court Decision No. 67/PUU-XI/2013.

The primary legal materials used include the 1945 Constitution of the Republic of Indonesia, the Civil Code, Law No. 37 of 2004, Law No. 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law, and various relevant court decisions. The secondary legal materials comprise legal textbooks, scientific journals, dissertations, theses and academic articles related to the research topic. The legal materials were collected through library research and then analysed qualitatively using a descriptive-analytical technique.

IV. RESULTS AND DISCUSSION

A. Legal Regulation of Secured Creditors' Rights and Workers' Wage Rights in the Bankruptcy Estate Settlement Process Under Indonesian Bankruptcy Law

i. Legal Regulation of Secured Creditors in Bankruptcy

Secured creditors in Indonesian bankruptcy law are creditors holding collateral rights over specific assets belonging to the debtor. The term *separatis* derives from the Latin *separare*, meaning to separate, referring to the position of such creditors as distinct from the general (unsecured) creditor group in the bankruptcy asset distribution process. Secured creditors include: (a) holders of pledge rights (*pand*), (b) holders of fiduciary security rights, (c) holders of mortgage lien rights, and (d) holders of hypothec rights.⁷

Article 55(1) of the Bankruptcy Law explicitly states that every creditor holding a pledge, fiduciary security, mortgage lien, hypothec or other collateral right over property may execute such right as if no bankruptcy had occurred. This provision is an implementation of the principles of *droit de suite* and *droit de préférence* inherent in collateral rights.⁸

The grant of an exclusive right to secured creditors to execute their collateral independently is grounded in several fundamental considerations. First, it provides legal certainty and predictability for creditors in assessing credit risk. Second, it promotes ease of access to credit in society, since collateral can function as an effective risk mitigation instrument. Third, it

⁷ MAN S. SASTRAWIDJAJA, HUKUM KEPAILITAN DAN PENUNDAAN KEWAJIBAN PEMBAYARAN UTANG 110–12 (2021); JERRY HOFF, *INDONESIAN BANKRUPTCY LAW* 55 (2021).

⁸ Bankruptcy Law, art. 55(1). See KARTINI MULJADI & GUNAWAN WIDJAJA, *PEDOMAN MENANGANI PERKARA KEPAILITAN* 145 (2022). Compare UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *supra* note 4, pt. 2, ch. V, which affirms similar treatment of secured creditors across various insolvency regimes.

maintains the confidence of investors and financial institutions in the Indonesian collateral legal system.⁹

Nevertheless, the rights of secured creditors are not without limits. Article 56 of the Bankruptcy Law provides for a stay of execution rights for a maximum of 90 days from the date on which the bankruptcy judgment is pronounced. Furthermore, Articles 57 and 58 of the Bankruptcy Law regulate various other limitations that secured creditors must observe when executing their rights.¹⁰

In the practice of bankruptcy estate settlement, secured creditors have the right to take the collateral object from the curator and execute it within two months after the commencement of the state of insolvency, as regulated in Article 59 of the Bankruptcy Law. If within that period the secured creditor does not execute its right, the curator is entitled to compel the surrender of the collateral, and the proceeds are included in the bankruptcy estate after deducting the amount owed to the relevant secured creditor.¹¹

ii. Legal Status of Workers' Wages in Bankruptcy

The protection of workers' wages in the context of bankruptcy has a complex legal dimension, as it intersects two different legal regimes: bankruptcy law and labour law. Article 95(4) of the Job Creation Law affirms that in the event a company is declared bankrupt or liquidated under the applicable laws and regulations, the wages and other entitlements of workers/labourers constitute debts whose payment is to be prioritised.¹²

This provision places workers' wages as *preferente schuld* (privileged debts) within the creditor hierarchy in bankruptcy. Under the Civil Code, Article 1134 stipulates that a privilege is a right that gives a creditor a higher standing than other creditors, based solely on the nature of the debt. Accordingly, workers' wages legally occupy the status of privileged claims that should be prioritised in the distribution of the bankruptcy estate.¹³

⁹ AHMAD YANI & GUNAWAN WIDJAJA, KEPAILITAN 87–89 (2022); Jono, *Analisis Yuridis Kedudukan Kreditur Separatis dalam Kepailitan*, 5 JURNAL HUKUM BISNIS INDONESIA 80 (2022). Compare WORLD BANK, *Principles for Effective Insolvency and Creditor/Debtor Regimes*, Principle C9 (2021), which underscores the importance of the predictability of secured creditors' rights for the stability of credit access.

¹⁰ Bankruptcy Law, arts. 56–58. See IMRAN NATING, PERANAN DAN TANGGUNG JAWAB KURATOR DALAM PENGURUSAN DAN PEMBERESAN HARTA PAILIT 78 (2021).

¹¹ Bankruptcy Law, art. 59. See Freddy Harris & Leny Helena, *supra* note 2, at 134.

¹² Job Creation Law, art. 95(4). Compare INTERNATIONAL LABOUR ORGANIZATION, *supra* note 5, art. 8, which requires member States to protect workers' claims by a privilege so that they are paid out of the assets of the insolvent employer before non-privileged creditors.

¹³ *Kitab Undang-Undang Hukum Perdata* [Indonesian Civil Code] art. 1134. Compare UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *supra* note 4, Recommendation 188, which places workers' claims as a priority category commonly regulated explicitly in modern insolvency regimes.

The conflict of norms between the provisions on secured creditors' rights (Article 55 of the Bankruptcy Law) and those on the priority of workers' wages (Article 95(4) of the Job Creation Law) raises a fundamental question: which takes precedence in the distribution of the bankruptcy estate?

Under the principle of *lex specialis derogat legi generali*, the Bankruptcy Law, which specifically governs bankruptcy, should take precedence over the Job Creation Law. Conversely, under the principle of *lex posterior derogat legi priori*, the Job Creation Law enacted in 2023 is more recent than the 2004 Bankruptcy Law, requiring careful consideration in applying both the *lex specialis* and *lex posterior* principles.¹⁴

On the other hand, there is a view that the protection of workers' wage rights carries a human rights dimension that cannot simply be overridden by the contractual arrangements made between debtor and creditor. This view is grounded in Article 28D(2) of the 1945 Constitution of the Republic of Indonesia, which guarantees every person's right to work and to receive fair and adequate remuneration and treatment in the employment relationship.¹⁵

iii. Constitutional Court Decision No. 67/PUU-XI/2013 and Its Implications

Constitutional Court Decision No. 67/PUU-XI/2013 represents an important milestone in the development of Indonesian bankruptcy law, particularly concerning the legal status of workers' wage rights *vis-à-vis* secured creditors' rights. In this decision, the Constitutional Court declared that Article 95(4) of Law No. 13 of 2003 on Manpower (the Manpower Law), the provision now carried over into the Job Creation Law, is inconsistent with the 1945 Constitution if construed to mean that workers'/labourers' wages are not prioritised over secured creditors or creditors holding collateral rights.¹⁶

The Constitutional Court issued a conditionally unconstitutional interpretation, holding that the phrase 'prioritised in payment' in Article 95(4) of the Manpower Law, now Article 95(4) of the Job Creation Law, must be construed to mean that workers'/labourers' wages must take greater priority in payment over all types of creditors, including secured creditors, that is, creditors holding collateral rights.¹⁷

¹⁴ Sutan Remy Sjahdeini, *supra* note 1, at 75–78.

¹⁵ *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* [1945 Constitution of the Republic of Indonesia] art. 28D(2).

¹⁶ Mahkamah Konstitusi Republik Indonesia, Decision No. 67/PUU-XI/2013 (Sept. 11, 2014) (reviewing *Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan* [Law No. 13 of 2003 on Manpower] art. 95(4)).

¹⁷ Mahkamah Konstitusi Republik Indonesia, *supra* note 16, ¶ 3.14. See Dedy Tri Hartono, *Perlindungan Hukum Kreditor Berdasarkan Undang-Undang Kepailitan*, 4 JURNAL ILMU HUKUM LEGAL OPINION (Edisi 1) 8 (2016).

This Constitutional Court decision has elicited various responses from academics, legal practitioners and business actors. The banking and financial institution sector has criticised the decision as being seen to weaken legal certainty in collateral law, which, they argue, will ultimately lead to higher credit interest rates and make it more difficult for the public to access financing.¹⁸

Meanwhile, trade unions and labour rights activists have welcomed the decision as a form of genuine protection for the economically vulnerable. They argue that workers who depend on wages for their livelihood should not be treated in the same way as commercial creditors who have already factored the risk of loss into their business decisions.¹⁹

From an academic perspective, the decision has more broadly highlighted the need for a reform of Indonesian bankruptcy law that explicitly and comprehensively regulates the payment priority hierarchy in a manner consistent with the constitutional values of the welfare state embodied in the 1945 Constitution.²⁰

B. Application of the Principle of Balance as a Foundation for Reconciling the Protection of Secured Creditors' Rights and Workers' Wage Rights in Bankruptcy Estate Settlement

i. The Principle of Balance from the Perspective of Legal Theory

The principle of balance (*evenwichtigheidsbeginsel*, or the principle of proportionality and balance) is a fundamental principle in both contract law and property law, requiring an equilibrium between rights and obligations, between burdens and benefits, and between individual and social interests. In the continental legal tradition embraced by Indonesia, this principle has developed from the Aristotelian concepts of *iustitia commutativa* (commutative justice) and *iustitia distributiva* (distributive justice).²¹

Herlien Budiono defines the principle of balance as a principle that requires both parties to fulfil and perform their agreement in a balanced manner. In the context of bankruptcy law, this principle signifies that the process of settling the bankruptcy estate must be carried out with

¹⁸ RICARDO SIMANJUNTAK, HUKUM KONTRAK: TEKNIK PERANCANGAN KONTRAK BISNIS 212–14 (2022). Compare Paul M. Secunda, *An Analysis of the Treatment of Employee Pension and Wage Claims in Insolvency and Under Guarantee Schemes in OECD Countries: Comparative Law Lessons for Detroit and the United States*, 41 FORDHAM URB. L.J. 867, 880–85 (2014), which notes similar concerns among commercial creditors in various OECD countries that have expanded the priority of workers' claims.

¹⁹ INTERNATIONAL LABOUR ORGANIZATION, *supra* note 5, pmbl., which affirms the importance of protecting workers' claims as an economically vulnerable group in the event of an employer's insolvency.

²⁰ Zainal Asikin, *supra* note 3, at 45–47.

²¹ HERLIEN BUDIONO, ASAS KESEIMBANGAN BAGI HUKUM PERJANJIAN INDONESIA 89–91 (2d ed. 2022).

proportional regard to the interests of all parties, based on the nature and weight of each respective interest.²²

The principle of balance in bankruptcy law operates on two main dimensions. First, the horizontal dimension: balance among creditors of equal standing (*inter pares*). Second, the vertical dimension: balance among creditors with different standings under statute, including secured creditors, preferred creditors and unsecured creditors.²³

In its application to bankruptcy estate settlement, the principle of balance requires that: (1) each creditor receives a share commensurate with its legal rights; (2) no creditor group is excessively protected (overprotection) to the detriment of others; and (3) substantive justice guides the interpretation and application of conflicting bankruptcy law norms.²⁴

ii. Reconciliation of Secured Creditors' Rights and Workers' Wage Rights through the Principle of Balance

The application of the principle of balance in resolving the conflict between secured creditors' rights and workers' wage rights in bankruptcy estate settlement requires a comprehensive approach that considers various factors. At least three approaches may be developed to reconcile these two competing interests.²⁵

First, the limited priority hierarchy approach. Under this approach, workers' wage rights are placed as super-preference claims taking priority over all other creditors, including secured creditors, but limited only to a minimum wage amount or to wages for a specified period. This model has been adopted in several countries, such as the United Kingdom and the United States (through Title 11 U.S.C. § 507), which cap the priority of workers' wages at a certain amount per worker.²⁶

Second, the indemnity fund approach. Under this approach, the state or an employers' association establishes a special fund that serves as a guarantor for the payment of workers' wages when a company becomes bankrupt. This model is known as the Wage Guarantee Fund and has been implemented in various continental European countries such as Germany, France

²² Herlien Budiono, *supra* note 21, at 305.

²³ Herlien Budiono, *supra* note 6, at 330–34.

²⁴ Freddy Harris & Leny Helena, *supra* note 2, at 210–12.

²⁵ AKSET LAW, *Constitutional Court Decides Employee Wages Get Priority over Secured Creditors in Bankruptcy/Liquidation*, <https://aksetlaw.com/news-event/newsflash/constitutional-court-decides-employee-wages-get-priority-over-secured-creditors-in-bankruptcyliquidation/> (last visited July 10, 2026).

²⁶ Jerry Hoff, *supra* note 7, at 90–92. Compare Insolvency Act 1986, c. 45, sch. 6, ¶ 9 (UK) (capping preferential employee remuneration at £800 per person in respect of the four months before the relevant date), as amended by the Enterprise Act 2002, c. 40 (UK); and 11 U.S.C. § 507(a)(4) (capping the wage priority at a fixed amount per employee for wages earned within 180 days before the filing); as analysed in UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *supra* note 4, Recommendations 188–192.

and the Netherlands. With the existence of such a fund, the conflict between secured creditors' rights and workers' wage rights can be minimised, as workers receive payment from a separate source.²⁷

Third, the collateral-based proportionality approach. Under this approach, the value of the collateral held by secured creditors is calculated proportionally against the total outstanding workers' wage debt. If the collateral value significantly exceeds the secured creditor's claim, the surplus value may be prioritised for the payment of workers' wages before entering the general bankruptcy estate. This approach attempts to balance the protection of the secured creditor's contractual rights against workers' urgent need for their wages.²⁸

Of these three approaches, the indemnity fund approach is considered the most consistent with the principle of balance, because it does not directly intervene in the contractual rights of secured creditors while still ensuring the protection of workers' wage rights. However, its implementation in Indonesia requires strong political will from the government and a comprehensive regulatory framework.

iii. Case Analysis and Problems in Practice

In the practice of bankruptcy estate settlement in Indonesia, the conflict between secured creditors' rights and workers' wage rights has produced inconsistent court decisions. This inconsistency reflects the legal uncertainty that still surrounds the application of these conflicting provisions.²⁹

Several relevant cases illustrate varying patterns of resolution. In the bankruptcy of PT Nyonya Meneer, for example, the issue arose of how to prioritise the payment of workers' wages, which were very large in amount, in the face of claims from secured creditors holding collateral over the company's principal assets. The curator in that case faced a significant legal dilemma, as both groups had strong legal grounds for claiming priority.

The bankruptcy of PT Dirgantara Indonesia (PT DI) is another example illustrating the complexity of this issue in the context of a state-owned enterprise. Thousands of former PT DI employees struggled to obtain their entitlements, including unpaid wages and severance pay, in the face of claims from various creditors holding collateral over the company's strategic assets.

²⁷ HUKUMONLINE, *Urutan Prioritas Pelunasan Utang dalam Kepailitan*, <https://www.hukumonline.com/klinik/a/urutan-prioritas-pelunasan-utang-dalam-kepailitan-lt5dca8aad69118/> (last visited July 10, 2026), citing Sutan Remy Sjahdeini, *supra* note 1, at 14–15.

²⁸ Man S. Sastrawidjaja, *supra* note 7, at 178–80.

²⁹ Imran Nating, *supra* note 10, at 125.

The resolution of this case took many years and involved government intervention that ultimately provided legal certainty for the workers.³⁰

From the various existing cases, several systemic problems in Indonesian bankruptcy law can be identified: (1) the absence of an explicit provision in the Bankruptcy Law comprehensively regulating the payment priority hierarchy; (2) inconsistency in interpretation among commercial court judges; (3) the limited capacity of curators in managing conflicts of interest among the various creditor groups; and (4) the absence of alternative mechanisms, such as wage guarantee funds, that can protect workers without sacrificing legal certainty for commercial creditors.³¹

iv. Recommendations for Indonesian Bankruptcy Law Reform

Based on the analysis conducted, this study identifies several fundamental weaknesses in the Indonesian bankruptcy legal framework that need to be addressed urgently through comprehensive legislative reform. The consistent application of the principle of balance in Indonesian bankruptcy law calls for the following reform steps.

First, the Bankruptcy Law needs to be revised to include provisions that explicitly regulate the payment priority hierarchy in bankruptcy estate settlement. Such a hierarchy should proportionally consider the interests of secured creditors as commercial creditors alongside the interests of workers as a vulnerable group whose wage rights carry a human rights dimension.

Second, a Wage Guarantee Institution should be established, financed by periodic contributions from employers. This institution would be tasked with paying workers' outstanding wages when a company becomes bankrupt, so that workers' rights can be fulfilled without directly conflicting with the rights of secured creditors. This model has been successfully implemented in various European countries and has proven effective in providing social protection for workers amid the dynamics of corporate bankruptcy.³²

Third, the capacity and standardisation of procedures for curators in managing conflicts of interest among the various creditor groups should be developed. Curators need to be provided with clear guidelines on how to prioritise payments to the various creditor groups, including how to implement Constitutional Court Decision No. 67/PUU-XI/2013 in the practice of bankruptcy estate settlement.

³⁰ WORLD BANK, *supra* note 9, Principles C13–C14, which emphasise the importance of the capacity and independence of insolvency administrators/receivers consistently across jurisdictions.

³¹ HABIB ADJIE, STATUS BADAN HUKUM, PRINSIP-PRINSIP DAN TANGGUNG JAWAB SOSIAL PERSEROAN TERBATAS 195–98 (2022); Ahmad Yani & Gunawan Widjaja, *supra* note 9, at 112.

³² EUROPEAN UNION, *Directive 2008/94/EC of the European Parliament and of the Council on the Protection of Employees in the Event of the Insolvency of their Employer*, arts. 3–4 (2008), which requires European Union Member States to establish an institution guaranteeing the payment of workers' wage claims. See also Paul M. Secunda, *supra* note 18, at 900–15.

Fourth, the supervisory mechanism of the supervisory judge (*rechter-commissaris*) in the bankruptcy estate settlement process should be strengthened to ensure the application of the principle of balance in every decision on the distribution of the bankruptcy estate. The supervisory judge needs to be granted clearer authority to resolve priority disputes among the various creditor groups swiftly and equitably.

V. CONCLUSION

Based on the results of the research and discussion presented, this study draws the following conclusions.

The legal regulation of secured creditors' rights and workers' wage rights in the bankruptcy estate settlement process in Indonesia still contains normative inconsistencies that give rise to legal uncertainty in practice. Article 55(1) of the Bankruptcy Law, which grants secured creditors the right to execute their collateral independently, is not yet in harmony with Article 95(4) of the Job Creation Law, which places workers' wages as priority debts. Although Constitutional Court Decision No. 67/PUU-XI/2013 has provided an interpretation favouring workers' wage rights over secured creditors' rights, its implementation in practice still faces various legal challenges.

The application of the principle of balance as a foundation for reconciling the protection of secured creditors' rights and workers' wage rights in bankruptcy estate settlement requires an approach that proportionally and equitably considers the interests of both parties. This principle does not merely demand that the interests of one party take priority over the other; rather, it calls for a mechanism capable of protecting workers' wage rights without excessively intervening in the contractual rights of secured creditors. In this context, the establishment of a Wage Guarantee Institution and a comprehensive reform of the Bankruptcy Law represent the steps most consistent with the demands of the principle of balance.

An urgent reform of Indonesian bankruptcy law is needed to overcome the existing weaknesses and to build a bankruptcy legal system that genuinely reflects the values of balance, justice, legal certainty and utility. This reform must be conducted holistically, involving all stakeholders, including the banking sector, trade unions, academics and bankruptcy law practitioners, in order to produce regulations that can be accepted and effectively implemented by all parties.
