

LEGAL ANALYSIS OF ABUSE OF PKPU BY DEBTORS: BETWEEN RESTRUCTURING AND DELAY OF JUSTICE**ANALISIS YURIDIS TERHADAP PENYALAHGUNAAN PKPU OLEH DEBITOR: ANTARA RESTRUKTURISASI DAN DELAY OF JUSTICE****Ryzky Yan Deriza**

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The Debt Payment Suspension (PKPU) Regulation in Indonesia, although intended as a restructuring tool, is often misused by debtors to delay payments, creating delay of justice. This phenomenon is evident in the high number of PKPU (Deferred Payment for Payment) applications compared to bankruptcies, resulting in legal uncertainty, creditor losses, and declining investor confidence. This study aims to formulate an ideal legal framework to prevent PKPU abuse, balance restructuring with creditor protection, and ensure legal certainty. Using a normative juridical approach and comparative analysis with international practices (e.g., good faith filing AS, judicial management in Singapore), the study found that regulatory laxity and inconsistent judicial interpretation were the main causes of abuse. The impacts included financial losses and delays in legal proceedings. Recommendations included the addition of clauses good faith requirement, fit and proper test for debtors, strengthening the role of supervisory judges and independent curators, and harmonizing with international bankruptcy principles. This ideal legal framework is expected to balance the restructuring function of the PKPU with justice and legal certainty for all parties.

Keywords: PKPU, Misuse, Debt Restructuring, Delay of Justice, Good Faith, Legal Certainty, Creditor Protection.

ABSTRAK

Peraturan Penundaan Kewajiban Pembayaran Utang (PKPU) di Indonesia, meskipun dimaksudkan sebagai instrumen restrukturisasi, seringkali disalahgunakan oleh debitur untuk menunda pembayaran sehingga menimbulkan delay of justice. Fenomena ini terlihat dari tingginya jumlah permohonan PKPU dibandingkan dengan perkara pailit, yang berimplikasi pada ketidakpastian hukum, kerugian bagi kreditur, serta menurunnya kepercayaan investor. Penelitian ini bertujuan merumuskan kerangka hukum ideal untuk mencegah penyalahgunaan PKPU, menyeimbangkan fungsi restrukturisasi dengan perlindungan kreditur, serta menjamin kepastian hukum. Dengan menggunakan pendekatan yuridis normatif dan analisis perbandingan dengan praktik internasional (misalnya good faith filing di Amerika Serikat, judicial management di Singapura), penelitian ini menemukan bahwa kelonggaran regulasi dan inkonsistensi interpretasi hakim merupakan penyebab utama terjadinya penyalahgunaan. Dampak yang ditimbulkan meliputi kerugian finansial serta keterlambatan proses hukum. Rekomendasi penelitian mencakup penambahan klausul good faith requirement, penerapan fit and proper test bagi debitur, penguatan peran hakim pengawas serta kurator independen, dan harmonisasi dengan prinsip hukum kepailitan internasional. Kerangka hukum ideal ini diharapkan mampu menyeimbangkan fungsi restrukturisasi PKPU dengan prinsip keadilan serta kepastian hukum bagi seluruh pihak.

Kata kunci: PKPU, Penyalahgunaan, Restrukturisasi Utang, Delay of Justice, Good Faith, Kepastian Hukum, Perlindungan Kreditur.

1. INTRODUCTION

The Debt Suspension of Payment Obligations (PKPU) is a crucial instrument in the Indonesian legal system designed to provide debtors with the opportunity for restructuring. The PKPU is intended as a compromise to allow companies facing financial difficulties to still have room to improve their financial structure while still protecting creditors' rights. However,

in practice, the PKPU is often misused by debtors not for genuine restructuring purposes, but rather as a legal tactic to delay payment obligations, often referred to as delay of justice.

This phenomenon can be seen in data on PKPU (Payable Asset Suspension) and bankruptcy cases in five commercial courts (Central Jakarta, Surabaya, Semarang, Medan, and Makassar). The trend in PKPU and bankruptcy filings over the past five years has shown a significant increase, particularly during the COVID-19 pandemic, before subsequently fluctuating.

Table 1
Number of PKPU and Bankruptcy Applications in 5 Commercial Courts (2019–2024)

Year	Number of Cases (PKPU + Bankruptcy)	Trend Notes
2019	435 things	Early period, before the pandemic
2020	635 things	Sharp spike due to the pandemic
2021	726 things	Peak of PKPU & bankruptcy applications
2022	625 things	Starting to decline, but still high compared to 2019
2023	691 things	Stable, PKPU dominates over bankruptcy
2024	630 things	Fluctuations remain high, Central Jakarta District Court dominates

Source: Hukumonline (2024); VOI News (2023)

The data shows that the number of PKPU applications far exceeds the number of bankruptcies. For example, in 2023, 654 PKPU applications compared to just 95 bankruptcy matters (Hukumonline, 2024). This situation indicates that debtors tend to prefer PKPU as a legal route, although it is not always used appropriately for restructuring purposes.

The dominance of PKPU is also evident in the distribution of cases in the courts. In 2024, for example, the Central Jakarta District Court recorded 392 PKPU matters, much higher than other Commercial District Courts, such as Medan (31 cases), Semarang (35 cases), Surabaya (66 cases), and Makassar (14 cases) (Hukumonline, 2024). This concentration demonstrates how large business centers have become the epicenter of debt disputes, while also opening up the potential for abuse of the PKPU mechanism in certain courts.

The increasing use of PKPU (Debt Suspension Orders), which are not always oriented towards genuine restructuring, has negative impacts. First, it creates legal uncertainty because the PKPU mechanism can be used as a tactical tool by debtors to buy time. Second, it disrupts creditors' interests because their rights are delayed. Third, it undermines investor confidence in Indonesia's legal system and business climate. Therefore, the urgency of this research is to find an ideal legal framework to prevent PKPU abuse while maintaining a balance between debt restructuring and protecting creditors' rights within a framework of legal certainty.

The current body of literature on PKPU (Debt Suspension of Payment Obligations) in Indonesia reflects a notable emphasis on its theoretical role as a restructuring tool. However,

as research gaps indicate, there exists a pressing need for empirical investigations into potential abuses of PKPU and their repercussions on creditors. Several studies have documented the functional framework of PKPU within the overarching insolvency regime in Indonesia but have largely overlooked the dimensions of misuse, such as operational delays and tactics that may hinder creditor interests.

Firstly, the absence of empirical studies focusing on PKPU abuse represents a significant gap in understanding the practical implications of this regulation. Most existing research positions PKPU as a viable mechanism for aiding entities experiencing acute liquidity pressures; however, a concerning trend emerges when examining its utilization as a tactic for delaying obligations or manipulating procedural aspects to benefit debtors at the expense of creditors. For example, Wiyono et al. identify the obstacles creditors face in the bankruptcy landscape, highlighting that the legal protections for creditors, such as the *Actio Pauliana*, are insufficient to rectify these imbalances effectively (Wiyono et al., 2024). Similarly, Kautsar and Muhammad emphasize the need for equilibrium between the interests of creditors and debtors during the suspension of debt payment obligations (Kautsar & Muhammad, 2021). This area presents a ripe opportunity for research that documents the frequency and patterns of such abuses within the PKPU framework and assesses their tangible impacts on creditors, including economic losses and extended legal proceedings. While some studies have looked at procedural issues surrounding bankruptcy claims, a comprehensive understanding of creditor experiences remains underexplored (Nadima & Adam, 2023).

Second, there is a pronounced lack of normative models that provide operational legality aimed at curbing the misuse of PKPU while ensuring fairness and clarity within the restructuring process. Although normative studies offer theoretical frameworks outlining ideal regulations, such as mediation or specific restructuring solutions, there remains a gap in formulations that can be pragmatically implemented. The findings of Absi and Utoyo highlight that regulatory frameworks must evolve beyond mere doctrinal discourse to include functional clauses, evidentiary standards, and oversight mechanisms that can dissuade wrongful acts without compromising the underlying restructuring objective (Absi & Utoyo, 2023). Furthermore, scholars, including Sulistianingsih and Pujiono, advocate for a practical evaluation of procedural requirements to better develop robust frameworks that mitigate risks of abuse (Sulistianingsih & Pujiono, 2023).

Third, comparative studies examining anti-abuse mechanisms across different jurisdictions are scarce. Literature has touched upon frameworks in the United States, such as Chapter 11, and comparative analyses like the judicial management system in Singapore (Simaremare et al., 2021). However, specific evaluations tailored to the Indonesian context, which appraise the effectiveness of anti-abuse tools such as good-faith filings or standing rules are lacking. Nsubuga's analysis emphasizes the need to review how other legal systems manage creditor protections while fostering debtor rehabilitation, illuminating potential pathways for Indonesia (Nsubuga, 2025). Structured comparative research could identify best practices and redesign PKPU processes by integrating insights from these jurisdictions to enhance the efficiency of the Indonesian framework.

Lastly, much of the research surrounding PKPU maintains a normative and doctrinal focus, often neglecting multidisciplinary approaches particularly those that merge legal analysis with empirical or economic assessments (Marpi et al., 2024). This oversight limits the exploration of the delicate balance between restructuring efficacy and creditor protection. For comprehensive progress in this area, interdisciplinary research investigating the socio-economic implications of PKPU on creditors becomes imperative, as articulated by Silalahi and Tanjung (Silalahi & Tanjung, 2021).

In conclusion, addressing these gaps through extensive empirical studies, normative framing, and comparative analyses could be instrumental in enhancing the effectiveness of

PKPU in Indonesia, ensuring that debtors can access necessary relief while preserving essential protections for creditors.

Practical questions such as whether the requirement for good faith evidence will shorten case duration or reduce misuse practices should be tested through case data and duration analysis, but such approaches are still rare. Overall, these gaps justify the need for research that (a) integrates juridical-normative analysis with empirical evidence from jurisprudence and case data, (b) designs and tests anticipatory legal construction models for PKPU abuse, and (c) develops implementable policy recommendations based on international comparisons.

Taking into account the gaps outlined, this research is formulated with hierarchical objectives: one general objective and several specific operational objectives to ensure a clear link between the methodology and success indicators. The general objective of this research is to analyze and formulate an ideal legal construction to prevent the misuse of PKPU by debtors, so that the PKPU mechanism remains effective as a restructuring instrument but also guarantees the principle of justice for creditors and legal certainty. Operationally, the specific objectives of the research include: (1) mapping patterns and indicators of PKPU misuse through analysis of jurisprudence, case registries, and other empirical evidence such as case duration and comparison of PKPU versus bankruptcy outcomes; (2) identifying normative and procedural weaknesses in PKPU regulations and judicial practices that open up opportunities for misuse; (3) testing the relevance and effectiveness of international legal principles or best practices such as good-faith filing, early case evaluation, and judicial oversight in the context of Indonesian bankruptcy law through comparative studies; (4) formulating an operational normative model in the form of clauses, standards of proof, supervisory procedures, and sanction schemes that can be adopted to prevent abuse without eliminating access to restructuring; and (5) developing policy recommendations and implementation strategies for lawmakers, the Supreme Court, commercial judges, and practitioners (curators or administrators) regarding preventive measures and enforcement against PKPU abuse. Each of these specific objectives will be measured through output indicators such as a validated list of abuse indicators, prototype legal clauses, and a package of policy recommendations; and broader outcome indicators, such as the level of adoption of recommendations by policy makers or stakeholder acceptance.

The main research questions that guide this study are: ***What is the ideal legal construction to prevent misuse of PKPU by debtors so as not to conflict with the principles of justice (justice for creditors) and legal certainty?*** To systematically answer the main question, this study developed a series of investigative sub-questions, namely: (1) what legal and factual indicators can be used to identify PKPU abuse by debtors; (2) how does current Indonesian judicial practice (jurisprudence) respond to alleged PKPU abuse, and are there inconsistent handling patterns or procedural loopholes; (3) what impacts PKPU abuse have on creditors' interests, including economic aspects such as recovery rates and the length of dispute resolution; (4) what anti-abuse practices or rules are effective in other jurisdictions and to what extent can these mechanisms be contextualized for Indonesia; (5) what normative and procedural elements should be included in the ideal legal construction of PKPU to prevent abuse without eliminating its restructuring function; and (6) how can implementation mechanisms and proportionate sanction schemes be designed to effectively prevent abuse without creating over-deterrence against honest debtors. This framework of sub-questions provides clear methodological and operational direction for data collection and analysis.

In order for the analysis to stand on a solid conceptual footing, this study links its questions to several key theoretical frameworks. First, the doctrine abuse of rights or abuse of process. In the civil and common law traditions, it is useful to formulate standards when formal rights such as the right to file a PKPU (Deferred Payment Order) are misused to the detriment of another party; this framework will help define the elements of abuse and the basis for imposing sanctions. Second, the theory of justice, particularly the Rawlsian perspective on

distributive justice and protection for the weak, serves as a reference for evaluating whether the proposed legal construction maintains fairness among stakeholders, including minority creditors. Third, the principles of legal certainty and the rule of law, as put forward by classical thinkers such as Lon L. Fuller, serve as normative references for how PKPU regulations should be formulated to ensure they are predictable, consistent, and enforceable without excess. Fourth, legal and economic analysis (law & economics) provides instruments for assessing the trade-off between efficiency (e.g., reducing reorganization costs and preventing value destruction) and the costs arising from abuse (delay costs, reduced recovery), thus helping to design rules that minimize the total social cost. Fifth, institutional and comparative law theory supports the identification of institutional mechanisms such as the role of judges, court oversight, or curators/judicial managers, and how institutional design affects actors' incentives. By integrating these frameworks, the research seeks to provide clear evaluation parameters for each proposed alternative legal construction.

This research is expected to contribute in several areas. Academically, this study will enrich the Indonesian bankruptcy literature by presenting evidence-based normative theory on how PKPU regulations can be designed to minimize abuse while maintaining their restructuring function. The interdisciplinary approach combining doctrinal studies, jurisprudence, and empirical analysis also provides a methodological contribution. Practically, the research results are expected to produce prototypes of legal clauses, court procedures, and supervisory mechanisms that can serve as the basis for policy recommendations for the House of Representatives (DPR), the Supreme Court, and related institutions, as well as guidance for commercial judges and legal practitioners on preventive measures and enforcement against abuse. Methodologically, this study offers a comprehensive research example that combines jurisprudential content analysis, case data analysis, and comparative law as a reference model for further bankruptcy research. Thus, this research not only contributes to theory development but also provides practical tools that can be tested and implemented in Indonesian bankruptcy law reform.

By integrating the research questions with the aforementioned theories and analytical frameworks, this study provides a strong conceptual foundation and operational evaluation parameters for assessing each alternative legal construction. An approach combining normative analysis, empirical evidence, and comparative learning is considered essential for formulating legal solutions that are not only theoretically ideal but also feasible and effectively implemented in Indonesian judicial practice.

2. METHODS

This research uses an approach narrative review with a frame normative juridical and conceptual analysis. A narrative review was chosen to integrate and critique various relevant literature, while a normative legal approach allows the research to examine the laws, doctrines, and jurisprudence governing the Suspension of Debt Payment Obligations (PKPU) in Indonesia. Conceptual analysis is used to develop a sharper theoretical framework in formulating a legal model capable of preventing the misuse of PKPU without compromising its restructuring function.

Data source In this study, there are three types of legal literature. First, primary legal literature, namely the Bankruptcy and PKPU Laws and related regulations, as well as relevant court decisions (jurisprudence). Second, secondary legal literature, in the form of international journals, textbooks, legal articles, and academic studies that discuss abuse of process, bankruptcy, and the theory of justice. Third, tertiary legal literature, such as legal dictionaries, legal encyclopedias, and expert commentaries that support conceptual interpretations of research issues.

Method of analysis The methods used include several approaches. First, content analysis, namely to identify patterns, modes, and indicators of PKPU abuse as reflected in

jurisprudential data and literature. Second, comparative legal analysis, by comparing the Indonesian legal system with the mechanisms applicable in other jurisdictions, such as Chapter 11 Bankruptcy in the United States and Judicial Management in Singapore, so that an understanding of best practices and anti-abuse instruments can be obtained. Third, this research is based on a theoretical framework that includes the theory of justice (John Rawls, Amartya Sen), the theory of legal certainty (Lon L. Fuller), and the doctrine of abuse of rights/process. These theories serve as a basis for assessing the balance between legal certainty, justice, and system efficiency in formulating an ideal legal model for PKPU in Indonesia.

3. RESULTS

3.1. Main Causes of PKPU Abuse

The abuse of the PKPU (Penundaan Kewajiban Pembayaran Utang) framework in Indonesia can primarily be attributed to regulatory loopholes and inconsistent judicial interpretations surrounding its application. The current legal structure allows debtors to submit applications for PKPU with relatively lenient evidence requirements, notably by simply demonstrating that their debts are overdue and unpaid (Robert & Sirait, 2023). This has led to the exploitation of the PKPU mechanism by bad-faith debtors, who view it not as a means for genuine restructuring but rather as a tactical tool to delay payments to creditors. Such behavior is consistent with observations that suggest the procedural access intended to aid distressed businesses inadvertently provides opportunities for manipulation and abuse (Zywicki, 2005).

Additionally, inconsistent interpretations of what constitutes "good faith" in PKPU applications among judges add to the ambiguity and uncertainty within the system (Robert & Sirait, 2023). Varying judicial standards regarding the assessment of composition plans integral to a PKPU can lead to situations where applications are either rejected without a fair hearing or allowed to proceed despite apparent bad faith (Robert & Sirait, 2023). This lack of a uniform judicial approach contributes to undermining creditor rights and raises concerns over the efficacy of the PKPU as a restructuring tool.

Moreover, the practice of utilizing PKPU as a delay tactic is pervasive among debtors who wish to exploit legal proceedings to prolong negotiations or obstruct asset executions (Anugrah et al., 2025). Such strategies constitute an abuse of process, wherein legal mechanisms are employed for ends contrary to their intended purpose, thus detracting from their original intent to assist financially troubled entities in genuine recovery (Zywicki, 2005). The implications of observed conduct in various documented cases highlight that the risk of PKPU abuse not only jeopardizes the integrity of the legal framework but also adversely affects the broader economic landscape by challenging creditors' rights and diminishing trust in the bankruptcy system (Robert & Sirait, 2023). In summary, the interplay of regulatory leniency, inconsistent judicial interpretation, and strategic abuse of procedural elements leads to significant challenges in ensuring that the PKPU serves its intended purpose as an effective bankruptcy restructuring tool.

3.2. Impact of PKPU Abuse

The impact of the abuse of the Postponement of Debt Payment Obligations (PKPU) in Indonesia is multifaceted, affecting both economic and legal spheres. Economically, one of the most severe repercussions is the financial distress experienced by creditors, who often encounter significant losses due to delayed payments. Such delays lead to financial instability for creditors as they struggle with cash flow issues, which can be exacerbated by the prolonged legal processes associated with PKPU applications. According to (Bissoon & Outridge, 2020), late payments primarily hinder contractors' cash flow and disrupt entire project timelines, resulting in increased costs due to extended litigation and resource allocation for unresolved claims (Bissoon & Outridge, 2020). This pattern not only diminishes the immediate financial

resources available to creditors but also diminishes the overall value of debtor assets over time, as assets may depreciate while litigation drags on (Amboro, 2021).

Legally, the abuse of PKPU introduces setbacks in the judicial system, where courts may inadvertently become platforms for tactical litigation rather than serving their intended purpose as fair dispute resolution venues. The procedural complexities and potential manipulations often lead to delays in judicial processes, resulting in what has been characterized as a 'delay of justice' (Jaya & Adjie, 2024; , Dahlan et al., 2023). This systemic delay fosters legal uncertainty, which impacts not only the immediate parties involved but also the broader investment climate in Indonesia. Investors become wary if they perceive that legal frameworks can be exploited by debtors, quelling their confidence in the commercial legal system and reducing long-term investment flows (Zulfikar, 2023). Consequently, as fluctuations in legal certainty persist, the risks associated with investing in Indonesia compound, deterring potential capital influx essential for economic growth.

Moreover, the procedural attributes of the PKPU can exacerbate these economic and legal concerns. In the context of bankrupt entities, creditors face significant hurdles in recovering debts due to legal stipulations that may favor debtors during PKPU proceedings (Wiyono et al., 2024). Consequently, the imbalanced distribution of power within these frameworks not only leads to creditor disillusionment but also hinders the necessary restructuring of corporate debt, preventing a return to solvency for distressed businesses (Andani & Pratiwi, 2021). Thus, the dual challenges of economic loss and legal delays from PKPU abuse create a cycle that threatens not only individual creditors but the economic stability of the entire sector.

In summary, the implications of PKPU abuse on economic and legal fronts manifest significantly within Indonesia's financial landscape. Addressing these systemic issues is crucial to revitalizing investor confidence and ensuring equitable treatment of creditors and debtors alike.

3.3. Best Practices from Other Countries

The analysis of bankruptcy systems across various jurisdictions reveals several best practices that can be leveraged to mitigate potential abuse in debt restructuring processes. By examining the legal frameworks and operational structures of the United States, Singapore, and the United Kingdom, valuable insights can be gleaned for enhancing the integrity of bankruptcy proceedings.

In the United States, Chapter 11 bankruptcy incorporates a good faith filing requirement that serves as a crucial protective mechanism against abuse. This provision allows courts to dismiss petitions filed with ulterior motives, thereby ensuring that only genuine requests for restructuring are entertained. The principle of good faith emphasizes the need for transparency and accountability during the bankruptcy process, preventing debtors from misusing the system to delay their financial obligations (Albanesi & Nosal, 2018). Scholars argue that the good faith requirement significantly impacts the behavior of debtors, deterring fraudulent filings and promoting a more credible restructuring environment (Jaggia & Thosar, 2018; Denis & Rodgers, 2007).

In contrast, Singapore employs a robust system of judicial management where the courts actively supervise the restructuring process through appointed judicial managers. This hands-on approach ensures continuous oversight that diminishes the potential for manipulation by debtors, thereby reinforcing stakeholder confidence. By having independent overseers, the interests of creditors are safeguarded, and the opportunity for debtors to exploit legal loopholes is minimized (Faiez, 2022). The effectiveness of this model is supported by studies which show that structured oversight significantly enhances the operational integrity of bankruptcy proceedings, allowing proceedings to be more transparent and equitable (Precourt & Oppenheimer, 2017).

The United Kingdom, on the other hand, has implemented moratorium rules that grant temporary protection to debtors while simultaneously imposing strict eligibility criteria to mitigate the risk of opportunistic filings. This balance between debtor protection and creditor safeguarding plays a pivotal role in ensuring that the moratorium serves its intended purpose facilitating genuine restructuring efforts without undermining creditors' rights (White, 2008). The moratorium creates a controlled environment in which debtors can seek recovery while ensuring that not all debtors are granted the same rights, thus promoting fairness within the insolvency framework (Chang & Schoar, 2007; Coelho, 2024). In summary, examining the practices from the U.S. with its good faith requirement, Singapore's judicial management system, and the UK's moratorium criteria presents a composite view of how effective legal instruments can safeguard against debt restructuring abuse. Each jurisdiction offers lessons that, if strategically implemented, could enhance the functional integrity of bankruptcy systems globally.

Based on literature findings, it appears that the fundamental problem with PKPU (Commission for General Elections) in Indonesia lies not only in the normative substance that imposes loose requirements, but also in weak oversight mechanisms and inconsistent judicial practices. When compared with best practices in other countries, the need for integration of principles is clear: *good faith*, stricter judicial oversight, and stronger filtering procedures. Thus, the results of this study emphasize the urgency of updating PKPU regulations to achieve a better balance between restructuring and legal certainty for creditors.

4. DISCUSSION

In analyzing the challenges of the PKPU (Postponement of Debt Payment Obligations) system in Indonesia, it is evident that the shortcomings stem from inadequate legal frameworks that fail to distinguish adequately between genuine restructuring efforts and those designed merely to delay obligations. Primary among these issues is the ambiguous evidentiary standard termed "simple evidence," which provides insufficient guidance for judges in assessing the good faith of debtors. This lack of clarity can lead to cases being resolved more on procedural technicalities than on substantive assessments of the debtor's intentions (Andani & Pratiwi, 2021; . Notably, the Indonesian Bankruptcy Law establishes lenient filing requirements, complicating the enforcement of stricter scrutiny against potentially abusive practices due to relaxed evidentiary standards (Robert & Sirait, 2023; Shubhan, 2020).

The comparison with more robust systems across different jurisdictions highlights the deficiencies in Indonesia's approach. For instance, under the United States Chapter 11 Bankruptcy Code, a stringent requirement for showing good faith, where applications can be dismissed if they lack a genuine intention to restructure, serves as a significant deterrent against abusive filings (Robert & Sirait, 2023; . Similarly, Singapore has instituted a rigorous oversight mechanism via judicial managers, assisting the process in adhering to its original goals of restructuring and thereby reducing opportunities for exploitation (Shubhan, 2020). The UK's moratorium rules also emphasize strict eligibility requirements, helping to ensure that only entities with legitimate restructuring intentions can access these protections (Robert & Sirait, 2023; Manurung et al., 2022).

Furthermore, issues of judicial oversight are significant in the discussion of PKPU's practical application in Indonesia. Weak oversight mechanisms create an environment where courts may rely heavily on formal proceduralism. While ensuring legal compliance, this reliance arguably fails to address whether the restructuring efforts are in good faith (Andani & Pratiwi, 2021; (Robert & Sirait, 2023; . This proceduralism can lead to creditor positions being unnecessarily weakened, fostering scenarios where debtors exploit the system without facing sufficient checks (Robert & Sirait, 2023; .

Ultimately, the absence of stringent requirements for good faith, a principle essential to ensuring ethical conduct in bankruptcy proceedings combined with inadequate judicial

oversight, illustrates the broader systemic issues within Indonesia's handling of bankruptcy. This presents an urgent need for reforms that would integrate a comprehensive mechanism for assessing good faith and enhancing judicial scrutiny to protect creditors effectively from potential abuses (Robert & Sirait, 2023; Shubhan, 2020).

4.1. Theoretical Implications

Theoretically, the phenomenon of PKPU abuse can be understood through the framework theory distributive justice (Rawls, 1971). This theory emphasizes the importance of a fair distribution of legal benefits and burdens. In the context of PKPU (Commercial Debt Payment Orders), misuse of legal instruments by debtors tends to disadvantage creditors, especially minority creditors who lack bargaining power in the negotiation process. Therefore, reform of PKPU law must be directed at ensuring effective protection for this vulnerable group to maintain the principle of distributive justice.

In addition, the concept legal certainty as stated by Lon L. Fuller (1964), it also provides an important normative foundation. Fuller emphasized that a good legal system must be consistent, predictable, and free from abuse. If the PKPU procedure is exploited as a litigation tactic, the principle of legal certainty is lost, which in turn undermines the legitimacy of the Indonesian bankruptcy legal system as a whole. Therefore, the reconstruction of PKPU law must consider the predictability of the rules as well as oversight mechanisms that prevent abuse.

4.2. Ideal Legal Construction Recommendations

Based on the findings and comparative analysis, this study proposes several recommendations for legal construction that can strengthen the effectiveness of PKPU while protecting creditors' rights:

1. Adding a clause/good faith requirement in the requirements for submitting a PKPU (Debt Recovery Plan) application. This principle can be operationalized through objective indicators, such as a realistic restructuring plan, evidence of the debtor's efforts to restructure before submitting the application, and transparency of financial data.
2. Applying the fit and proper test to debtors who apply for a PKPU. This test aims to assess the debtor's eligibility and integrity in utilizing the PKPU, ensuring that only those with genuine restructuring prospects can access this mechanism.
3. Strengthening the role of supervisory judges and independent curators. The supervisory judge must have greater authority in assessing the debtor's good faith and overseeing the progress of the peace plan, while the independent curator functions as a neutral party who protects the interests of creditors.
4. Harmonization with the principle of creditor protection in international bankruptcy law. Indonesia can adopt the principles UNCITRAL Legislative Guide on Insolvency Law which emphasizes the balance between business restructuring and the protection of creditors' rights.

With these recommendations, it is hoped that Indonesia's PKPU law will be able to balance its function as a restructuring instrument and guarantee legal certainty for creditors. This reform can also strengthen the competitiveness of Indonesia's legal system in the context of global investment.

5. CONCLUSION

This study concludes that although the Suspension of Debt Payment Obligations (PKPU) is designed as an effective restructuring instrument under the Indonesian legal system, in practice, this mechanism is vulnerable to abuse by debtors. This abuse often results in a "delay

of justice" and creates legal uncertainty that is detrimental to creditors and the investment climate. Through a comparative analysis with best practices in other jurisdictions, such as the "good faith filing" requirement in the United States, the judicial management system in Singapore, and the strict moratorium rules in the United Kingdom, this study emphasizes the urgency of strengthening the PKPU legal framework in Indonesia.

To address these issues, the proposed ideal legal construction is a PKPU model that integrates the principle of "good faith" in every application, supported by a stricter court oversight mechanism, and ensures a balance of protection between debtors and creditors. Academically, this study contributes to the Indonesian bankruptcy literature by offering an evidence-based normative model and filling the research gap regarding PKPU abuse and the principle of creditor fairness. Practically, these findings are expected to form the basis for recommendations for reforming Indonesian bankruptcy law, providing clear guidance for policymakers, commercial judges, and legal practitioners in preventing and prosecuting PKPU abuse, towards the creation of a fairer and more predictive legal system.

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