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The Responsibility of Subsidiaries for The Bankruptcy of Parent Companies: A Comparative Study in Indonesian & Singaporean Laws

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Abstract. *This study is motivated by the ambiguity of regulations regarding the legal status of corporate groups in Indonesia in the event of parent company bankruptcy. Although the principle of separate legal entity is universally recognized, business practices often reveal strong financial interdependence between parent and subsidiary companies. The main issues examined are the legal position of subsidiaries vis-à-vis parent companies that have been declared bankrupt and how this compares in the legal systems of Indonesia and Singapore. This research positions itself as a comparative law study that examines the consistency of the application of principles and doctrines in complex corporate structures. Using a normative juridical method through a legislative approach and comparative study, this article analyzes the regulatory framework of the Limited Liability Company Law and the Bankruptcy Law in Indonesia compared to the Companies Act and the Insolvency, Restructuring, and Dissolution Act (IRDA) 2018 in Singapore. The results of the study show that Indonesia still relies on casuistic judicial interpretations, as seen in the cases of PT Sritex and PT Hanson International Tbk, which create legal uncertainty for subsidiaries. In contrast, Singapore offers greater normative clarity through strict control parameters and mechanisms that protect insolvent subsidiaries. This study concludes that Indonesia needs legal reforms that explicitly regulate corporate group regimes to minimize risks and provide legal certainty.*

Keywords: *Bankruptcy; Comparative; Company Subsidiary.*

1. Introduction

Lex semper dabit remedium, or "the law always provides a remedy," is a fundamental principle requiring legal systems to respond to the increasingly complex dynamics of modern business. One such complexity arises in corporate group structures, where the relationship between parent and subsidiary companies is not only structural but also functional and financial (Is, 2022). In this context, legal issues emerge when a parent company is declared bankrupt, while its subsidiaries remain legally separate entities but are economically interconnected. To date, both Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations (Bankruptcy and PKPU Law) and Law No. 40 of 2007 on Limited Liability Companies (Company Law) in Indonesia do not specifically regulate how bankruptcy mechanisms should be applied within corporate groups, particularly when the parent company becomes insolvent (Dinata et al., 2015).

Doctrinally, parent and subsidiary companies are treated as separate legal entities. However, the tension between the principle of corporate separateness and the reality of economic unity has long been a classic debate in corporate law. As argued by Ballantine (1925), the separation between parent and subsidiary entities often creates artificial boundaries that may be misused to avoid financial liability. In Indonesian law, this separation is affirmed in Article 7 paragraph (4) of Law No. 40 of 2007, whereby a company acquires legal entity status upon approval by the Minister. This status grants the company legal standing (*persona standi in judicio*), meaning it possesses its own assets separate from those of its shareholders or management. Philosophically, Article 3 paragraph (1) of the Company Law establishes that all legal actions, whether resulting in profit or loss, are the sole responsibility of the company as an independent legal subject (Wardhana, 2019).

In Singapore, bankruptcy law has undergone significant reform with the enactment of the Insolvency, Restructuring, and Dissolution Act 2018 (IRDA 2018). Previously, individual bankruptcy was governed by the Bankruptcy Act (Statutes of the Republic of Singapore, Cap. 20), while corporate insolvency was regulated under the Companies Act (Statutes of the Republic of Singapore, Cap. 50) (Sihotang et al., 2023). With the introduction of IRDA 2018, these frameworks have largely been consolidated into a single, more integrated statute aimed at simplifying and improving the efficiency of insolvency and restructuring processes (Gurrea-Martínez, 2020).

Although IRDA 2018 does not explicitly regulate corporate group insolvency, Singapore's legal system provides room for coordinated handling through mechanisms such as procedural consolidation, the appointment of common liquidators, and the strong application of the separate legal entity principle (Wee & Tjio, 2021). This principle is also recognized in Indonesian corporate law, including in the responsibilities of directors, affirming that a company has a legal personality distinct from those who establish it (Hidayat, 2019). Similarly, Singaporean law has long upheld this principle, treating companies as independent legal entities separate from their shareholders or affiliated entities within a corporate group (Seet, 2017).

A notable example is the case of PT Sri Rejeki Isman Tbk (Sritex), one of Indonesia's largest textile manufacturers, which was declared bankrupt by the Semarang Commercial Court in late 2024 (Case No. 1345 K/PDT.SUS-PAILIT/2024). The impact of this bankruptcy extended to its subsidiaries, which failed to meet their financial obligations to creditors (Becky, 2024). Another example is PT Hanson International Tbk (MYRX), declared bankrupt by the Central Jakarta District Court on August 21, 2020, with a cassation decision under Case No. 667 K/Pdt.Sus-

Pailit/2021. MYRX acts as the parent company of several subsidiaries, including PT Binadaya Wiramaju, PT Mandiri Mega Jaya, and PT De Petroleum International.

Following such bankruptcy rulings, curators proceed with managing the debtor's assets in accordance with applicable laws. For subsidiaries of MYRX, no direct legal consequences arise as long as their assets are purely their own and not derived from the parent company (detikcom, 2020). However, the bankruptcy of a parent company often creates operational uncertainty for its subsidiaries. This demonstrates how insolvency at the parent level can directly affect subsidiaries, particularly regarding financial obligations and business continuity.

Under Indonesian law, subsidiaries as separate legal entities are not automatically subject to bankruptcy when their parent company is declared insolvent (Ardyanto & Sendrawan, 2022). Nevertheless, in practice, subsidiaries are still affected due to business and financial interdependencies. This raises legal questions as to whether subsidiaries should bear responsibility or maintain full legal independence when the parent company becomes bankrupt.

Previous studies have attempted to analyze the complexity of corporate group insolvency in Indonesia. Research by Ramadhanti (2022) and Dinata (2015) consistently highlights that the relationship between parent and subsidiary is primarily that of controlling shareholder, where the parent's bankruptcy leads to the seizure of shares in subsidiaries by the curator. Both studies agree that inconsistencies between bankruptcy and corporate law often hinder the settlement of bankruptcy estates. Meanwhile, Purnama (2023) expands the analysis by examining the position of parent companies as creditors when subsidiaries are declared bankrupt, emphasizing the separation of roles between shareholder and creditor. Collectively, these studies confirm that Indonesia's legal regime still heavily relies on a narrow interpretation of corporate separateness in resolving group insolvency disputes.

However, this study differs fundamentally in approach and scope. While Purnama (2023) focuses on subsidiary bankruptcy, and Ramadhanti (2022) and Dinata (2015) remain limited to normative juridical analysis without in-depth comparative perspectives, this research offers a more progressive approach. It examines the real-time operational impact on subsidiaries caused by parent company insolvency while incorporating a comparative study with Singapore. This study not only highlights legal gaps in Indonesia but also proposes a reconstruction of the legal position of subsidiaries through more modern and adaptive coordination mechanisms. Therefore, it contributes novelty to the discourse on bankruptcy law policy in Indonesia through a solution-oriented comparative approach.

Geographically and economically, Singapore is a strategic partner of Indonesia with strong capital market linkages, meaning that parent company insolvency in Indonesia often has direct implications for business interests in Singapore (Coordinating Ministry for Economic Affairs of the Republic of Indonesia, 2025). Juridically, Singapore has transformed its legal framework through IRDA 2018 with the ambition of becoming an international restructuring hub in Asia. Practitioner research indicates that Singapore's legal regime is among the most innovative and adaptive to global standards, particularly in ensuring legal certainty for creditors and protecting viable assets within corporate groups (Tan et al., 2024).

This issue remains unresolved explicitly in Indonesian law, resulting in legal gaps and ambiguity regarding entity separation and liability within corporate groups. Through a comparative study, this research aims to identify clearer regulatory approaches concerning the legal position of subsidiaries when parent companies become insolvent. Accordingly, this study examines the legal standing of subsidiaries in relation to bankrupt parent companies under Indonesian and Singaporean legal systems and analyzes differing approaches to provide insights for the development of Indonesia's legal framework.

2. Research Methods

This study employs a normative juridical research method, which examines legal issues by focusing on document-based analysis of statutory regulations, scholarly literature, and relevant legal doctrines (Efendi & Ibrahim, 2018). This approach is chosen to comprehensively analyze the synchronization of legal norms governing the relationship between parent and subsidiary companies, as well as the juridical implications of bankruptcy within corporate group structures.

This research adopts two primary approaches. First, the Statute Approach is used to examine the regulatory frameworks, including the Indonesian Company Law (UUPT) and the Bankruptcy and Suspension of Debt Payment Obligations Law (UU Kepailitan dan PKPU), as well as the Singapore Companies Act and the Insolvency, Restructuring and Dissolution Act (IRDA) 2018. Second, the Comparative Approach is applied to identify and analyze differences in normative clarity and legal protection practices for subsidiary entities between the Indonesian and Singaporean legal systems. The data used in this study consist of secondary data, including primary legal materials (statutory regulations), secondary legal materials (books, legal journals, and prior research), and tertiary legal materials (legal dictionaries and encyclopedias). Data collection is conducted through library research by identifying, classifying, and recording legal materials relevant to corporate liability and the doctrine of piercing the corporate veil.

The collected data are then subjected to a data reduction process, where the researcher selects and focuses on materials specifically addressing the legal relationship between parent and subsidiary companies, as well as cases of corporate group insolvency in Indonesia and Singapore. After being reduced and organized, the data are analyzed using a prescriptive analytical method. This method goes beyond merely describing existing legal conditions (*das Sein*) and aims to provide normative recommendations (*das Sollen*) to achieve legal certainty.

The analysis is utilized to assess whether current legal practices align with the principle of separate legal entity and to propose regulatory reforms for corporate group governance in Indonesia to better align with international standards. The results of the analysis are then systematically organized to produce logical and well-argued conclusions in accordance with the research objectives.

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3. Results And Discussion

3.1 Regulation of the Relationship Between Subsidiaries and Parent Companies in Indonesia and Singapore

A holding company is essentially a central entity that leads a group of enterprises. As the main controlling body, a holding company not only owns shares but also performs strategic functions such as planning, coordination, and supervision of its subsidiaries. These mechanisms aim to ensure that the overall direction and objectives of the business group are consistently achieved across all lines of business. Such structures are commonly found in the form of corporate groups or conglomerates, which generally consist of several limited liability companies that are legally independent but economically integrated (Harjono, 2021).

Black's Law Dictionary defines a holding company as a company that typically limits its activities to owning shares and supervising the management of other companies. A holding company usually holds a majority ownership in the companies whose shares it owns. To obtain tax consolidation benefits, including tax-free dividends and the ability to offset operational losses, a holding company must own at least 80% of the voting shares of the corporation. Thus, a parent company is not merely a shareholder but also a controlling entity that determines policy direction and strategic decisions for all entities within the corporate group.

Conceptually, a subsidiary company is an entity that is owned and controlled, either directly or indirectly, by a parent company (Tan, 2025). This definition was previously reflected in Article 29 of Law No. 1 of 1995 on Limited Liability Companies, prior to the 2007 Company Law, which categorized a company as a subsidiary if the parent company owned more than 50% of its shares, controlled the majority of voting rights in the General Meeting of Shareholders, or exercised significant control over the appointment and dismissal of directors and commissioners.

In Indonesian legal practice, the establishment of a holding company remains subject to the general provisions governing limited liability companies as stipulated in the Company Law (UUPT). The establishment procedures refer to Articles 7 to 14 of the UUPT and are further clarified in Minister of Law and Human Rights Regulation No. 21 of 2021 concerning the Requirements and Procedures for Establishing a Limited Liability Company. Therefore, a holding company does not receive special legal treatment but is treated as an ordinary limited liability company that establishes control through share ownership in other companies (Benhur, 2023).

The legal relationship between a parent company and its subsidiary is based on two fundamental principles: separate legal entity and limited liability. These principles are affirmed in Article 3 paragraph (1) of the UUPT, which states that shareholders are not personally liable for the company's obligations and are not responsible for losses beyond the value of their shares. However, Article 3 paragraph (2) provides an exception through the doctrine of *piercing the corporate veil*, which applies when shareholders misuse the company for unlawful purposes, act in bad faith, or unlawfully commingle corporate and personal assets.

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M. Yahya Harahap explains that in many cases, subsidiaries are fully capitalized by the parent company, placing them in an under-capitalized position and limiting their true independence. In such situations, subsidiaries often function merely as agents conducting business activities on behalf of the parent company (Harahap, 2021). A similar view is expressed by Dhaniswara, who emphasizes that the principle of limited liability may be disregarded when the parent company signs agreements on behalf of the subsidiary, acts as a corporate guarantor, or engages in unlawful acts causing harm to third parties.

Thus, although Indonesian law normatively adheres to the principles of entity separation and limited liability, in practice, parent companies may still be held liable when their involvement exceeds that of a passive shareholder.

In contrast, Singapore has a legal framework that explicitly regulates the relationship between subsidiaries, holding companies, and related corporations through the Singapore Companies Act. Sections 5, 5A, 5B, and 6 serve as the primary legal basis for determining the status of each entity.

Section 5(1) stipulates that a corporation is considered a subsidiary if another corporation controls the composition of its board of directors, holds more than half of the voting power, owns more than half of the issued share capital, or if it is a subsidiary of another subsidiary. Section 5(2) clarifies that control over the composition of the board refers to the power to appoint or remove the majority of directors, while Section 5(3) excludes fiduciary or nominee ownership. Therefore, Singaporean law emphasizes that subsidiary status is determined not merely by share ownership but by effective control.

A holding company is defined reciprocally under Section 5(4) as a corporation that has another corporation as its subsidiary. Section 5A introduces the concept of an ultimate holding company, while Section 5B defines a wholly-owned subsidiary as one whose shareholders consist entirely of the holding company or its nominees. Corporate group structures (group of companies or related corporations) are regulated under Section 209A and Section 6, which provide that two corporations are considered related if one is the holding company or subsidiary of the other, or if both are subsidiaries of the same holding company.

This regulatory framework reflects Singapore's strategic vision in addressing future economic challenges. With its mature legal regime, Singapore demonstrates strong potential to achieve its aspiration as a leading regional and international hub for debt restructuring.

Practically, Singapore is known as a highly pro-business jurisdiction with a flexible corporate legal system, allowing up to 100% foreign ownership, enabling subsidiaries to be fully controlled by foreign parent companies. As an investment hub, Singapore also offers competitive tax treatment and various incentives for resident companies, including the free repatriation of profits (Kollmann, 2018). As separate legal entities, subsidiaries in Singapore possess full legal capacity to sue and be sued in their own name, reflecting the strong application of the separate legal entity principle (Lin, 2019).

From this comparison, it is evident that Singapore provides stronger normative clarity in defining and managing relationships between holding companies and subsidiaries compared to Indonesia, which relies more on general principles within the Company Law without a specific regime for corporate groups (Alim, 2025). In conclusion, Indonesia and Singapore adopt different approaches in structuring parent-subsidiary relationships. Indonesia does not provide explicit normative definitions and instead relies on corporate practice and doctrine, whereas Singapore establishes clear control parameters through its Companies Act. This more developed approach offers greater legal certainty for stakeholders compared to Indonesia's more general framework (Ramli et al., 2022).

These differences in normative approaches have significant implications for legal liability, particularly when corporate group structures are tested under insolvency conditions. In Singapore, clearly defined control parameters within the Companies Act support more integrated restructuring mechanisms under the Insolvency, Restructuring and Dissolution Act (IRDA) 2018. Conversely, the lack of specific regulations on corporate groups in Indonesia often leads to ambiguity in determining the scope of bankruptcy estates (Ramadhanti, 2022). Therefore, the next section will critically examine whether the principle of separate legal entity remains a strong protective shield for subsidiaries, or whether economic realities allow for doctrinal deviations that may draw subsidiaries into the bankruptcy of their parent companies.

3.2 The Liability of Subsidiaries When the Parent Company Is Bankrupt in Indonesia and Singapore

Although doctrinally a parent company and its subsidiaries are treated as separate legal entities, business reality shows that their relationship is often interdependent. This raises a key legal issue when a parent company is declared bankrupt: is the bankruptcy strictly individual and thus does not affect the subsidiary, or can strong economic ties and control justify extending the bankruptcy estate to include the subsidiary? This section addresses that question through a comparative analysis of Indonesia and Singapore.

From a practical standpoint, corporate groups are sometimes viewed as structures prone to misuse. However, their formation is not solely intended to evade liability. Under real entity theory, corporate groups serve legitimate organizational and economic functions. Establishing separate entities allows each unit to operate with a degree of autonomy, while still being strategically directed by the parent company. In many cases, groups are formed through acquisitions, where each entity retains its historical and operational identity, justifying its continued recognition as an independent legal entity. This separation also supports efficient management structures and facilitates independent access to financing (Witting, 2018).

The principle of **separate legal entity**—a cornerstone of modern corporate law—ensures that a company has its own legal personality, distinct from its shareholders, directors, and employees. This gives rise to **limited liability**, meaning shareholders are only liable up to their capital contribution (Waqas & Rehman, 2016). However, this principle is not absolute. The doctrine of

piercing the corporate veil allows courts to disregard this separation in cases of abuse, such as fraud, commingling of assets, or bad faith conduct.

In Indonesia, this exception is codified in **Article 3(2) of the Company Law (UUPT)**, while in Singapore it has developed through case law within the common law tradition. This doctrine becomes particularly relevant when assessing liability within corporate groups during bankruptcy.

Under Indonesian law, bankruptcy is governed by Law No. 37 of 2004 (Bankruptcy and PKPU Law). According to Article 21, bankruptcy includes all assets of the debtor at the time of the declaration, including shares owned by the parent company in its subsidiaries. These shares may be seized and sold by the curator to satisfy creditors. As a result, subsidiaries may experience forced changes in ownership, potentially affecting their operations.

However, subsidiaries are generally not directly liable for the debts of the parent company due to the principle of limited liability. Exceptions arise only where there is evidence of abuse, such as asset commingling or improper control. In such cases, liability may be extended through the piercing doctrine.

Two Indonesian cases illustrate this dynamic:

a. In PT Hanson International Tbk, the parent company's bankruptcy did not automatically extend to its subsidiaries. However, alleged irregular intercompany transactions raised the possibility of veil piercing.

b. In contrast, in PT Sri Rejeki Isman Tbk (Sritex), bankruptcy extended to several subsidiaries due to strong financial and operational integration, including intercompany debt and managerial overlap.

These cases demonstrate that, in Indonesia, the application of separate legal entity depends heavily on judicial interpretation, leading to legal uncertainty.

In Singapore, bankruptcy is governed by the Insolvency, Restructuring and Dissolution Act 2018 (IRDA) and the Companies Act. The principle of separate legal personality is strongly upheld, as reflected in the landmark case *Salomon v. Salomon & Co Ltd*. A parent company's insolvency does not automatically affect its subsidiaries, which remain independent entities.

When a parent company becomes insolvent, its shares in subsidiaries form part of the bankruptcy estate and may be sold by a liquidator. However, subsidiaries are not liable for the parent's debts unless they have provided explicit guarantees or indemnities.

Singapore applies veil piercing very strictly, only in clear cases of abuse, such as when the parent acts as a shadow director or engages in wrongful trading. Under Sections 239–240 IRDA, liability may arise if directors (including shadow directors) allow a company to incur debts without reasonable prospects of repayment.

A notable example is Re Zipmex Pte Ltd [2022] SGHC 196, where the Singapore High Court extended a restructuring moratorium to related entities across jurisdictions, including an Indonesian subsidiary. This demonstrates Singapore's more advanced and coordinated approach to handling group insolvency.

In conclusion, both Indonesia and Singapore uphold the principle of separate legal entity. However, Indonesia relies more on case-by-case judicial interpretation, which can create uncertainty. Singapore, by contrast, provides a clearer and more structured legal framework, enabling better coordination and greater legal certainty in handling corporate group insolvency.

This comparison highlights the need for Indonesia to develop a more explicit regulatory framework for corporate groups, particularly in bankruptcy situations, to reduce ambiguity and align with international standards.

4. Conclusion

In conclusion, the comparative analysis demonstrates that while both Indonesia and Singapore uphold the principle of separate legal entity, they diverge significantly in regulatory clarity and adaptability in governing corporate group relationships and insolvency. Indonesia's reliance on general provisions under the Company Law and Bankruptcy Law, without a specific legal regime for corporate groups, results in legal uncertainty and inconsistent application, particularly when addressing the impact of a parent company's bankruptcy on its subsidiaries. In contrast, Singapore provides a more structured and coherent framework through the Companies Act and IRDA 2018, enabling clearer determination of control, coordinated restructuring mechanisms, and greater legal certainty without undermining limited liability. These differences position Singapore as a more predictable and investor-friendly jurisdiction, while Indonesia's current framework remains fragmented and heavily dependent on judicial interpretation. Based on these findings, it is recommended that Indonesia develop a comprehensive and explicit regulatory framework governing corporate groups and group insolvency, incorporating clearer definitions of control, coordination mechanisms in restructuring, and alignment with international standards such as the UNCITRAL Model Law. Policymakers, particularly legislators and regulatory authorities, should prioritize legal reform to reduce ambiguity, prevent the risk of uncontrolled liability expansion, and ensure stronger protection for subsidiary independence. At the practical level, corporate actors are advised to strengthen corporate governance, maintain strict separation of assets, and implement transparent financial structures within group entities to mitigate legal risks arising from insolvency situations.

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