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Legal Protection for Creditors Due to Criminal Acts of Embezzlement of Bankrupt Assets by Corporations

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Abstract. *Bankruptcy is a legal mechanism intended to ensure the fair and proportional distribution of a debtor's assets among its creditors in accordance with the principle of pari passu prorata parte. However, in practice, corporate debtors frequently commit the criminal act of embezzlement of bankruptcy assets by concealing, transferring, or reducing the value of assets that should form part of the bankruptcy estate. Such actions not only harm creditors as rightful beneficiaries but also undermine legal certainty and the effectiveness of bankruptcy law enforcement in Indonesia. This research aims to analyze the legal framework governing the criminal act of embezzlement of bankruptcy assets by corporations, examine the extent of legal certainty available to creditors, and formulate an ideal model of legal protection for creditors as victims. This study employs a normative juridical method with statutory, conceptual, and case approaches. The findings indicate a legal vacuum in procedural law concerning the criminal liability of corporations for inclusion of bankruptcy assets. Additionally, there exists regulatory disharmony between the Criminal Code, the Bankruptcy and PKPU Law, and Supreme Court Regulation (PERMA) No. 13 of 2016 regarding the prosecution of corporate crime. Therefore, legal reform is necessary through strengthened regulations, integration of criminal asset forfeiture into the bankruptcy estate process, and the consistent enforcement of corporate criminal liability doctrines to ensure effective legal protection for creditors.*

Keywords: *Bankruptcy; Corporation; Creditors; Embezzlement; Legal.*

1. INTRODUCTION

The 1997 monetary crisis had a significant impact on the legal and economic configuration of Indonesia (Bustanul Arifin; 2002)particularly in the field of bankruptcy. Bankruptcy, as a legal instrument, serves to ensure the fair and proportional distribution of debtor assets to creditors. The increasing phenomenon of bankruptcy in the post-reform era has also been accompanied by an increase in various corporate crimes, including economic crimes committed through increasingly complex modus operandi in line with technological advances.Catur Irianto; 2015).

The development of corporations in the era of globalization is like a double-edged sword, namely on the one hand it contributes to national development, but on the other hand it opens up opportunities for various legal violations to arise.Edi Santoso; 2018)Recognizing corporations as subjects of criminal law is crucial given that the losses caused by corporate crimes are often far greater than those caused by individual crimes. However, the application of criminal liability to corporations in Indonesia remains challenging due to the lack of specific criminal procedure laws to prosecute corporations as defendants.Herry Anto Simanjuntak; 2020)To address this legal gap, the Supreme Court issued Supreme Court Regulation No. 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations. This Regulation provides guidelines for law enforcement officials in determining corporate criminal liability and strengthens the effectiveness of law enforcement against corporate crimes. The urgency of criminalizing corporations becomes increasingly apparent when the profits earned by corporations and the losses suffered by society reach levels disproportionate to those imposed solely on civil sanctions.Sutan Remy Sjahdeini; 2017)

On the other hand, developments in bankruptcy law through Law No. 37 of 2004 have also strengthened the debt-receivable dispute resolution mechanism. The theories of paritas creditorium and pari passu prorate parte, which form the basis of bankruptcy law, emphasize that all of a debtor's assets serve as joint collateral for all creditors.Nazhif Ali Murtadho; 2024)The curator, as the party responsible for managing and settling the bankrupt's assets, plays a crucial role in ensuring the implementation of the principle of justice in bankruptcy. However, in practice, criminal acts often arise during bankruptcy proceedings, including embezzlement of the bankrupt debtor's assets by corporations.Dimitria Pawestri Kusumadewi; 2024)Bankruptcy is a general seizure that covers all of a debtor's assets for the benefit of all of his creditors. The purpose of bankruptcy is for the receiver to distribute the debtor's assets to all creditors, taking into account their respective rights.Moh Harir et al; 2025)Bankruptcy law plays a crucial role in the flow of business activities. Just as law provides protection for every aspect of life and every legal relationship, bankruptcy law plays a role in ensuring the resolution of debt disputes between business actors by regulating the protection of each party's interests. Bankruptcy provides a solution for debtors to escape the debt problems that oppress them, as they no longer have the ability to repay their debts to their creditors.World Bank; 2006).

This legal vacuum creates uncertainty that extends far beyond the technicalities of bankruptcy. World Bank data, which indicates that the recovery rate for bankruptcy assets in Indonesia is only around 11.8%, demonstrates the low effectiveness of bankruptcy mechanisms in protecting creditors. This figure also illustrates that the misuse of PKPU (Deferred Payment for Debt) and bankruptcy mechanisms remains a common occurrence, particularly when corporate debtors exploit regulatory loopholes to retain their assets through covert embezzlement schemes. Under these circumstances, curators face significant challenges because they lack the necessary enforcement tools to trace assets transferred before or during the bankruptcy process.World Bank; 2006).

The phenomenon of corporate misappropriation of bankrupt assets raises significant issues because bankruptcy regulations do not provide for direct criminal sanctions. When the crime falls under the general offense category, the receiver's authority is limited, and seizure cannot be carried out under the Bankruptcy Law. This creates a legal vacuum that can potentially harm creditors, as bankruptcy assets that should be used to settle debts are instead hidden or diverted by the corporation.

Research on the embezzlement of bankrupt assets from the perspective of criminal law and bankruptcy has essentially been conducted by several previous researchers, but still leaves a significant gap in the study. The research by Yanti Tiara Br Siahaan and August P. Silaen, entitled "Juridical Analysis of the Curator's Criminal Liability for the Crime of Embezzlement in the Process of Settling Bankrupt Assets," (Yanti Tiara Br Siahaan and August P Silaen; 2024)and research by Rianto, Hendri Jayadi, and Paltiada Saragi entitled "Criminal Liability of Curators Who Commit Embezzlement in the Management and Settlement of Bankrupt Assets", (Hendri Jayadi and Paltiada Saragi; 2022)Substantially, the analysis focuses on the criminal liability of curators in the management and settlement of bankrupt estates. Both studies position the curator as the primary perpetrator of the crime, with an emphasis on the curator's errors or negligence and their legal implications for the protection of creditors and debtors. Therefore, the focus of the study is still limited to the curator's role within the framework of exercising his authority to settle the bankrupt estate.

Meanwhile, research by Riza Yoga Pramana and Liliana Tedjosaputro entitled "Criminal Legal Protection for Embezzlement of Debtor's Assets (Boedel Bankrupt) which Causes Losses to Creditors" (Riza Yoga Pramana and Liliana Tedjosaputro; 2022) examines the criminal law protection against embezzlement of bankrupt assets by debtors, with an emphasis on the fulfillment of the elements of the crime of embezzlement based on Article 372 of the Criminal Code and the obstacles to law enforcement stemming from the non-compliance of bankrupt debtors. Although this study has linked embezzlement of bankrupt assets with creditor losses, the study is still oriented towards the subject of individual debtors, has not touched on the corporate dimension as the perpetrator of the crime and the complexity of corporate criminal liability.

Unlike previous studies, this study specifically focuses on corporations as perpetrators of the crime of embezzlement of bankrupt assets and its implications for creditor legal protection, by placing the Medan Commercial Court Decision Number 35/Pdt.Sus-PKPU/PN.Niaga.Mdn as the basis for analysis. To date, there has been no research that comprehensively examines embezzlement of bankrupt assets by corporations from the perspective of creditor legal protection, particularly with a prescriptive approach to formulate the concept of ideal legal protection. Based on these problems, this study seeks to analyze legal protection for creditors due to the crime of embezzlement of bankrupt assets by corporations. This study aims to examine corporate criminal liability in the context of bankruptcy and assess the effectiveness of existing legal instruments in providing maximum protection for creditors. Thus, this research is expected to provide academic and practical contributions to the improvement of the criminal law system and bankruptcy law in Indonesia.

2. RESEARCH METHODS

This research is a normative juridical legal study that positions law as a norm or rule applicable within a positive legal system. This research was conducted by examining and analyzing statutory regulations, legal doctrine, and court decisions related to legal protection for creditors resulting from the crime of embezzlement of bankrupt assets by corporations. The approaches used include a statute approach,Soerjono Soekanto and Sri Mamudji; 2010)by examining the legal norms governing bankruptcy, embezzlement, and corporate criminal liability, as well as a case approach through analysis of Medan Commercial Court Decision Number 35/Pdt.Sus-PKPU/PN.Niaga.Mdn to understand the application of the law in practice and the limitations of legal protection for creditors.

This research is descriptive-analytical and takes the form of prescriptive legal research. The descriptive-analytical nature is used to systematically describe and analyze legal regulations and practices of bankrupt asset management misused by corporations, while the prescriptive character aims to formulate normative arguments and recommendations regarding the concept of ideal legal protection for creditors. The legal materials used consist of primary legal materials in the form of relevant laws and regulations, including the Bankruptcy and PKPU Laws, the Criminal Code, the Civil Code, regulations related to corporate crimes, and other related regulations; secondary legal materials in the form of books, scientific journals, and relevant scientific works; and tertiary legal materials in the form of legal dictionaries and other supporting sources.

The legal materials were collected through literature review, while the data were analyzed qualitatively, emphasizing the relevance and depth of legal arguments. This analysis aimed to identify normative weaknesses in the existing legal system and to develop legal prescriptions to strengthen legal protection for creditors in cases of corporate embezzlement of bankrupt assets.

3. RESULTS AND DISCUSSION

3.1. Legal Protection for Creditors Regarding Criminal Acts of Embezzlement of Bankrupt Assets Committed by Corporations

Embezzlement of bankruptcy assets is one of the most crucial issues in bankruptcy practice in Indonesia. This action is typically carried out by corporate debtors through various methods, including asset concealment, fictitious transactions, asset transfers to affiliated parties, financial statement manipulation, and even clandestine asset sales both before and after a bankruptcy decision is issued. This practice undermines transparency and violates the principle of pari passu prorata parte, which is the basis for distributing bankruptcy assets to all creditors.

Normatively, the legal instruments available to prosecute embezzlers still rely on the provisions of the Criminal Code, particularly Articles 372 and 374 concerning embezzlement and Article 378 concerning fraud. Furthermore, the actio pauliana mechanism in the Bankruptcy Law can be used to annul a debtor's legal actions that are detrimental to creditors.Albertus Hansen Setyabudi, Sylvia Janisriwati, and Irta Windra Syahrial; 2026)However, this instrument is often considered inadequate because the Bankruptcy Law does not provide specific criminal provisions, resulting in a normative vacuum that has implications for weak legal protection for creditors.

At the theoretical level, studies of legal protection show that the act of embezzlement is a violation of the principles of justice and legal certainty as stated by Satjipto Rahardjo and Gustav Radbruch. (Calvin Calvin and Noor Azizah; 2024)From the perspective of modern criminal doctrine, corporations can be held accountable through the vicarious liability or corporate fault approaches.Nur Aripkah; 2020) Thus, the blame is not only directed at the individual perpetrator, but also at the legal entity that benefits from the action. Corporate administrators (directors/commissioners) can even be held personally liable if proven to have acted in bad faith, in accordance with the doctrine of piercing the corporate veil. (Bimo Aryo Alvi Syahrin; 2025).

Embezzlement of bankruptcy assets directly reduces the value of the bankruptcy estate, preventing creditors from receiving optimal repayment. This loss is not only material but also creates legal uncertainty, weakens trust in bankruptcy procedures, and has the potential to trigger further disputes. The greatest challenge in proving the case is the nature of corporations as fictitious entities with multi-layered organizational structures, making it difficult to trace who actually makes decisions or benefits from the embezzlement.

Comparisons with other countries show that Indonesia's criminal provisions for embezzlement of bankrupt assets lag far behind. Germany strictly regulates this through Article 283 of the StGB, which carries significant criminal penalties, while the Netherlands regulates it through Articles 341–344 of the WvSr. (Muhammad Afghan Ababil and Johan Tri Noval Hendrian Tombi; 2025)This experience proves that bankruptcy is not only related to private law, but must also be strengthened through criminal law instruments to suppress corporate fraud practices.

From an Islamic legal perspective, asset embezzlement is viewed as a form of fraud that violates the principles of justice and fairness. Surah Al-Muthaffifin, verses 1–3, explicitly condemns behavior that diminishes the rights of others, making embezzlement of bankrupt assets not only a violation of positive law but also a violation of ethics and morality.

Thus, embezzlement of bankrupt assets by corporations constitutes an economic crime with systemic impacts on creditors and the integrity of the bankruptcy mechanism. Bankruptcy Law reform is needed through lex specialis criminal regulations, increased oversight of receivers, and strengthening corporate criminal liability mechanisms to ensure effective creditor protection instruments and provide legal certainty.

Furthermore, problems related to bankruptcy and deferred debt payments generally arise from the debt-to-credit relationship between the debtor and creditor. This legal relationship arises from a loan agreement or other form of obligation, which obligates the debtor to fulfill the debt repayment obligations. If the debt is repaid in accordance with the agreement, no legal issues arise. However, if the debtor is negligent or unable to pay, the creditor can take legal action through the bankruptcy mechanism or PKPU. This, as stated by Man Suparman Sastrawidjaja, is that new problems arise when the debtor cannot fulfill its debt repayment obligations according to the agreement.Susanti Adi Nugroho; 2018)

The definition of debt in the Bankruptcy Law is explained explicitly in Article 1 Paragraph 6 which states that:

> *"Debt is an obligation expressed in monetary terms, either in rupiah or foreign currency, arising from an agreement or statutory provisions, and which the debtor must fulfill. If this is not fulfilled, the creditor has the right to demand repayment from the debtor's assets."*

This definition emphasizes that any obligation that can be quantitatively assessed and gives rise to a creditor's right to collect is considered debt. Kartini Muljadi even adds that debt encompasses all forms of debtor obligations to their creditors, whether in the form of an obligation to provide something or to perform something.Kartini Muljadi and Gunawan Widjaja; 2003)Legal protection for creditors in the Bankruptcy Law mechanism, namely:

1. Suspension of Debt Payment Obligations (PKPU): PKPU is a form of preventive legal protection for debtors to prevent them from being declared bankrupt immediately.

Article 222 Paragraph 2 of the Bankruptcy Law states that debtors who have or anticipate having difficulty in fulfilling their debt payment obligations that have matured and are payable may submit a PKPU application to prepare a reconciliation plan in the form of an offer to pay off some or all of their debts to their creditors. Paragraph 3 also provides creditors with the right to submit a similar application if they believe the debtor is unable to pay their debts. This mechanism aims to provide debtors with the opportunity to resolve their debts without having to go through the bankruptcy process.

2. Peacemaking Efforts in Bankruptcy Proceedings: The existence of a PKPU (Commitment to Settlement) and the Bankruptcy Law also provide debtors with the option to offer a peacemaking arrangement to their creditors. Article 265 stipulates that a peacemaking arrangement may be proposed during or after a PKPU application is submitted. This peacemaking offer is part of the debtor's debt settlement, aimed at maintaining a balance of rights and obligations between the parties.

Legally,A creditor is not merely a party who feels entitled to collect, but must be able to prove the existence of the receivable, both formally and materially. This means that only receivables that are due and collectible can be used as the basis for a bankruptcy petition, in accordance with the principle of legal standing.

Munir Fuady argues that the definition of creditor in bankruptcy law is more specific than in general civil law. Creditors in bankruptcy not only have receivables but also have legal rights to be protected through collective mechanisms, namely debt settlement through the bankruptcy process. He states (Munir Fuady; 2004).

> *"Creditors in bankruptcy law are those who have a direct interest in the assets of the bankrupt debtor and whose rights must be protected through a collective mechanism in the process of managing and settling the bankrupt debtor's assets."*

Normatively, bankruptcy law is formed asA collective system to protect the interests of creditors, not just a single creditor. Bankruptcy overrides individual execution rights and replaces them with a joint execution mechanism under court supervision, in order to achieve the principle of distributive justice. This view is supported by Loebby Loqman's opinion, which states that:

> *"Bankruptcy law is a collective forum for creditors to claim their rights against debtors who are unable to pay, with the aim of avoiding unfair competition in debt collection."*

This means that the bankruptcy system also functions asbalancing the interests of debtors and creditors, and preventing the possibility of unilateral execution that could harm other creditors.

Because conceptually, the act of embezzling bankrupt assets by a corporation is part of*white collar crime*or white-collar crimes committed by business entities by exploiting loopholes in the legal system and weaknesses in oversight. These actions not only disrupt the economic order but also give rise toThis results in significant collective losses, especially for creditors whose rights are neglected. Furthermore, this practice indicates a moral hazard within Indonesia's business climate and law enforcement, where corporate actors with capital and legal access can avoid debt responsibility through structured and manipulative legal techniques.

Moral hazard is a term used to describe a situation where an individual or party (including a corporation) is willing to take greater risks or even commit harmful acts because they do not directly bear the consequences of their actions, or because they feel protected by the system. When a corporation hides or diverts assets in bankruptcy, and its management feels they will not be held personally liable because of their legal status, that is called moral hazard. This is especially true if the act is carried out consciously, relying on the negligence of the legal system, or in collaboration with professionals (accountants, notaries, legal consultants) who are supposed to ensure compliance.

The Indonesian bankruptcy legal system essentially provides protection for creditors, both in the form of prevention through the PKPU mechanism and through the granting of certain rights during the bankruptcy process, including the implementation of actio pauliana to cancel detrimental debtor actions. The primary objective of these regulations is to ensure legal certainty, justice, and a balance between debtor rights and creditor interests.

3.2. Legal Certainty for Creditors in the Settlement of Bankrupt Assets Embezzled by Corporations

Legal protection for creditors in bankruptcy proceedings plays a crucial role in maintaining the integrity of the legal system and preventing injustice in the settlement of bankruptcy assets. In practice, embezzlement of bankruptcy assets by corporations poses a significant challenge, as it directly harms creditors and defeats the purpose of bankruptcy itself. This study will explain various aspects of legal protection for creditors, both preventive and repressive, while also outlining the legal mechanisms that can be pursued in the event of embezzlement or concealment of assets by corporate debtors.

Creditors have the right to obtain debt repayment from the assets of debtors who have been declared bankrupt. However, this right is often hampered by various embezzlement methods carried out by corporations, such as hiding assets, unauthorized sales, transfers to affiliated parties, or removing assets from financial statements. Such actions are a form of serious violation because they reduce the value of the bankruptcy estate that should be distributed to creditors according to the principle of pari passu prorata parte which functions as a collective guarantee for all creditors and the results must be distributed fairly among them, unless there are creditors who, in accordance with the regulations, must be prioritized in payment. This principle highlights the distribution of debtor assets to fulfill their debts to creditors in a fairer manner, based on proportions (pond-pond gewijs), and not evenly. (Gabriel Adam Harahap; 2025)This chapter emphasizes that asset embezzlement is not only a matter of corporate morality, but also a violation that has legal implications.

The principle of debt collection is a principle that emphasizes that debts from debtors must be paid with assets owned by the debtor as soon as possible to avoid bad faith from the debtor by hiding or misappropriating all of his assets which are actually general collateral for his creditors. As a tool to recover debts from debtors by liquidating assets, bankruptcy is more focused on settling debtor assets by liquidating debtor assets.

The Bankruptcy Law defines bankruptcy as a general seizure of all the assets of a bankrupt debtor, the management and settlement of which is carried out by a curator under the supervision of a supervising judge. (Adriel Michael Tirayo and Yoefanca Halim; 2019)A debtor can be declared bankrupt if he has two or more creditors and fails to pay at least one debt that is due and payable. This bankruptcy decision can be filed by the debtor alone or by one or more of his creditors. This creates legal certainty because there are clear and measurable procedures for determining bankruptcy status.Ilham Rizki Hutabarat, Marsella Marsella, and Sri Hidayani; 2022).

Furthermore, protection also means the protection provided by one person to a weaker person. Thus, legal protection can be interpreted as protection by law or protection using legal institutions and means.Revelation of Simon Tampubolon; 2016)Furthermore, in law, the definition of legal protection is all efforts made consciously by every person or government or private institution aimed at securing, controlling and fulfilling the welfare of life in accordance with existing human rights as regulated in Law Number 39 of 1999 concerning Human Rights.

Preventive legal protection is provided through the debtor's obligation to be honest and cooperative with the curator and the supervising judge. In this regard, the Bankruptcy Law authorizes the curator to take over and control all of the debtor's assets from the date the bankruptcy decision is pronounced. The curator is also authorized to examine the debtor's financial transactions to ensure no actions are detrimental to creditors. Furthermore, preventive measures include the debtor's obligation to submit all company records and documents relevant to the settlement process. Non-compliance by the debtor can be considered an indication of an attempt to conceal assets and could result in further legal consequences.

In addition to preventive protection, there are also repressive legal safeguards that can be used when asset embezzlement is proven to have occurred. One of the most important instruments is the actio pauliana, which allows a creditor or curator to request the annulment of a debtor's legal actions taken before or during the bankruptcy process if those actions are intended to harm the creditor.Zulfirman Abdullah, Marsudin Nainggolan, and Mohamad Ismed; 2025).This provides an opportunity to return assets that have been unfairly transferred to the bankrupt estate. The cancellation aims to ensure that assets that should have been available to creditors are not lost due to manipulation by the corporate debtor.

Another repressive instrument is criminal liability. Although the Bankruptcy Law does not specifically regulate criminal sanctions for embezzlement of bankrupt assets, this study explains that such actions can still be prosecuted under provisions of the Criminal Code, such as Article 372 concerning embezzlement and Article 378 concerning fraud. In the corporate context, criminal liability can be imposed based on the doctrine of vicarious liability or strict liability, so that the company and its management can be held accountable for actions that harm creditors.Rodliyah Rodliyah, Any Suryani, and Lalu Husni; 2020).This approach is in line with the development of modern Criminal Law which recognizes corporations as subjects of criminal law.

In addition to criminal proceedings and actio pauliana, creditors also receive protection through the Curator's authority to conduct inventories, seizures, and asset sales. The Curator functions as the executor of the settlement of the bankrupt estate, so the presence of a professional curator is crucial to the effectiveness of legal protection. In cases where assets have been transferred to a Third Party, the Curator can file a Civil Lawsuit to return the assets to the Bankruptcy Chamber, also emphasizing the important role of the supervising judge in monitoring the curator's performance and ensuring the settlement process runs according to legal provisions.

Legal protection for creditors is increasingly urgent given that embezzlement of bankrupt assets is often systematic and involves multiple layers of corporate management. Therefore, transparency, accountability, and integrity are key pillars in encouraging corporate debtors' compliance with the bankruptcy process. Furthermore, creditors are also expected to actively monitor the settlement process, including attending creditor meetings, filing objections to the curator's report, and utilizing legal channels if irregularities are discovered.

A protection can be said to be legal protection if it contains the following elements: (Gerardus Gegen and Aris Prio Agus Santoso; 2021).

1. There is protection from the government for its citizens.
2. Guarantee of legal certainty.
3. Relating to citizens' rights.
4. There are sanctions for those who violate it.

The essence of legal protection for investors is a protection that provides a guarantee for an investor, that he will be able to invest his capital in a fair situation for parties related to the law, society, and other parties, especially in terms of getting access to information regarding market situations, political and social situations, assets managed by investors, laws and regulations, and so on. (Rokilah Rokilah; 2020).

Legal certainty is also necessary to realize the principles of equality before the law without discrimination. The word "certainty" is closely related to the principle of truth. This means that the word "certainty" in legal certainty is something that can be strictly syllogistically interpreted using formal legal means. This legal certainty is a principle found in both civil and common law systems. Today, the principle of legal certainty is considered a key element in the concept of the rule of law. Normatively, legal certainty can be defined as a statutory regulation that is created and enacted with certainty.

This section also emphasizes the urgent need for bankruptcy law reform to improve the effectiveness of creditor protection. The absence of specific criminal provisions in the Bankruptcy Law is one of the causes of weak law enforcement against embezzlement of bankruptcy assets by corporations. Therefore, regulatory reform is needed to explicitly stipulate criminal sanctions for debtors or corporate managers who embezzle assets. Furthermore, curator capacity must be strengthened, oversight mechanisms improved, and legal processes simplified to provide creditors with greater legal certainty.

Overall, this provides a comprehensive overview that legal protection for creditors in cases of corporate misappropriation of bankrupt assets encompasses not only civil aspects but also administrative and criminal approaches. The primary objective is to ensure that creditors' rights are not violated and that the settlement process is conducted fairly, transparently, and accountably.

3.3. Implications of Embezzlement of Bankrupt Assets by Corporations for Creditor Protection and the Bankruptcy Process

Embezzlement of bankrupt assets by corporations is one of the most crucial problems in the Indonesian bankruptcy system. This practice not only creates obstacles in the process of settling bankruptcy estates but also has far-reaching legal, economic, and administrative consequences, thus affecting the effectiveness of legal protection for creditors. Within the national legal context, corporations have been recognized as subjects of criminal law that can be held accountable as regulated in various laws and regulations outside the Criminal Code, including the Corruption Law and the Money Laundering Law. This demonstrates that corporate crimes, including embezzlement of bankrupt assets, can be prosecuted even if the perpetrator is a non-physical entity.

One fundamental issue that has emerged is the fragmented regulations regarding corporate criminal liability in bankruptcy. The Bankruptcy Law itself does not explicitly stipulate criminal sanctions for bankrupt debtors who intentionally conceal or transfer bankruptcy assets. This legal vacuum forces law enforcement officials to refer to general criminal provisions such as Article 372 of the Criminal Code or other sectoral regulations, leading to inconsistencies in law enforcement. Yet, the practice of asset embezzlement is often carried out in a planned and systematic manner, involving corporate organs such as directors, commissioners, and beneficial owners. Therefore, the principles of vicarious liability and corporate fault are crucial in proving corporate involvement as perpetrators of criminal acts.

In practice, various forms of embezzlement in bankruptcy estates are carried out through asset concealment, transfer of wealth to affiliates, fictitious records, or covert transfers abroad. These crimes are committed to avoid seizure and to keep certain assets in the control of the debtor and the corporation. This situation directly harms creditors because the value of the bankruptcy estate, which should be used to repay debts, is reduced. Furthermore, these actions often create moral hazard in the form of financial statement manipulation and abuse of office by company management.

From a recovery process perspective, asset embezzlement creates significant obstacles for curators. Curators often face limitations in asset tracing, including limited access to internal corporate documents, weak coordination between institutions, and technical obstacles such as differences in jurisdictions when assets are transferred overseas. Asset tracing is costly, including the use of asset tracing tools, forensic auditors, valuation experts, and cross-border consultations, all of which are borne by the bankruptcy estate, as stipulated in Article 16 of the Bankruptcy Law. The phenomenon of a "self-consuming estate" often occurs, whereby the costs of recovery actually consume a significant portion of the recovered assets.Tobias William Reuven Sibarani; 2025).

Another consequence is the increase in subsequent disputes that must be handled by the curator. In many cases, the curator must resort to the actio pauliana process to cancel legal actions detrimental to creditors, file criminal reports with the police or prosecutor's office, and file additional civil lawsuits with the district court. This situation not only prolongs the duration of the bankruptcy process but also delays the fulfillment of creditors' rights that should be protected by law. The legal uncertainty arising from delays in the settlement process also impacts the decline in public trust in the bankruptcy system.

A more serious impact of asset embezzlement in bankruptcy is the potential for macroeconomic losses. When creditors feel they lack legal certainty and adequate protection, they tend to be reluctant to provide financing or credit to businesses in the future. This has the potential to hinder the flow of financing and investment needed for national economic growth. Furthermore, asset embezzlement demonstrates a failure in good corporate governance, which could undermine the quality of Indonesia's business climate.

From a theoretical perspective, this phenomenon underscores the need for harmonization between bankruptcy law and criminal law. Regulatory reform efforts are crucial to clarify the mechanisms for corporate criminal liability in bankruptcy. Legal protection for creditors cannot rely solely on civil mechanisms such as actio pauliana, but must be strengthened with strict criminal provisions for debtors or corporations that embezzle bankrupt assets.Rachmadi Usman; 2016).In this way, the bankruptcy system can optimally function as a fair, effective, and equitable debt settlement instrument.

In addition to regulatory reform, enhancing the professionalism of curators, strengthening oversight mechanisms by supervisory judges, and enhancing coordination between commercial courts, prosecutors, police, and international institutions are crucial elements in preventing and addressing corporate crime in bankruptcy. The application of cross-border asset tracing technology must also be strengthened to ensure the settlement process is not hampered by limited access to information.

Overall, corporate misappropriation of bankrupt assets is a form of economic crime that threatens the integrity of the bankruptcy system. Its impact not only harms creditors but also erodes the principles of justice, legal certainty, and transparency, which are fundamental principles of bankruptcy resolution. Therefore, a more comprehensive legal mechanism is needed to ensure that corporations committing unlawful acts can be held firmly accountable and that creditors receive appropriate and proportionate legal protection.

4. CONCLUSION

Legal protection for creditors in bankruptcy cases remains weak because Law Number 37 of 2004 does not yet regulate specific criminal provisions for corporations that transfer, conceal, or embezzle assets of bankrupt corporations. Therefore, prosecution relies solely on general articles of the Criminal Code and civil remedies such as actio pauliana. This condition is reflected in the PKPU case No. 35/Pdt.Sus-PKPU/2021/PN.Niaga.Medan, where the transfer of assets before the bankruptcy decision cannot be directly prosecuted and complicates asset recovery for curators. The absence of comprehensive criminal regulations weakens legal certainty and contributes to the low rate of bankruptcy asset recovery in Indonesia, which is only around 11.8%. It also impacts investor confidence and injustice for creditors. Although PERMA No. Although Law No. 13 of 2016 has provided guidelines for corporate criminal liability, the regulation has not yet functioned as a lex specialis in the field of bankruptcy, so reform is needed through a revision of the Bankruptcy Law to include special criminal norms, synchronization with the Criminal Code and PERMA, strengthening the curator's authority, and increasing coordination and professionalism of law enforcement officers to ensure optimal protection and legal certainty for creditors.

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