E-ISSN : 2963-4946
Vol. 4 No. 12 September 2026
https://ajosh.org/

Asian Journal of Social and Humanities

Reconstruction of Criminal Asset Regulations in Suspension of Debt Payment Obligations Bankruptcy Proceedings to Prevent the Decline of Bankruptcy Estate Value: A Justice and Legal Certainty Perspective

Bontor Octavianus*, Dhaniswara K. Harjono, Hulman Panjaitan, Tomson Situmeang
Universitas Kristen Indonesia, Indonesia
Email: donbontiviano@gmail.com*

Keywords:
Criminal Seizure; Bankruptcy Estate; Suspension of Debt Payment Obligations (PKPU); Justice; Legal Certainty

ABSTRACT

This research aimed to analyze the normative conflict between criminal seizure and general seizure within the context of Suspension of Debt Payment Obligations (Penundaan Kewajiban Pembayaran Utang [PKPU]) and bankruptcy proceedings, its impact on the decline in the value of the bankruptcy estate (boedel pailit), and the urgency of regulatory reconstruction from the perspectives of justice and legal certainty. This research employed a normative legal method using statutory, conceptual, and case approaches. Data were collected through library research involving legislation, legal literature, and relevant court decisions, and were analyzed qualitatively. The findings revealed that the regulation of criminal seizure and bankruptcy seizure remained characterized by normative disharmony, resulting in jurisdictional conflicts between law enforcement authorities and bankruptcy trustees (kurator) over the same assets. This condition prevented assets that had become part of the bankruptcy estate from being managed optimally due to their status as objects of criminal seizure. Consequently, the economic value of the bankruptcy estate declined due to asset depreciation, maintenance costs, and the loss of economic opportunities during the criminal process. Such circumstances reduced the estate's capacity to satisfy creditor claims and created injustice for good-faith creditors. The absence of clear regulations governing the relationship between criminal seizure and bankruptcy seizure created legal uncertainty. Therefore, regulatory reconstruction was needed to clarify the legal status of seized assets within the bankruptcy estate, strengthen coordination between law enforcement authorities and bankruptcy trustees (kurator), and establish asset management mechanisms to preserve economic value during criminal proceedings. This reconstruction was expected to support the principles of justice and legal certainty by ensuring that criminal enforcement objectives and creditor protection within bankruptcy proceedings could be balanced.

INTRODUCTION

The rapid development of the business sector over the past few decades has resulted in increasingly complex legal relationships arising from economic activities. Various forms of business transactions, investments, financing arrangements, and corporate activities involve not only civil interests but also, in many cases, potential criminal implications. This situation has created intersections between different legal regimes, each with distinct objectives, mechanisms, and characteristics. One issue that frequently arises in practice is the conflict between criminal seizure regulations and the administration and liquidation of debtor assets within the processes of Suspension of Debt Payment Obligations (Penundaan Kewajiban Pembayaran Utang [PKPU]) and bankruptcy. The interaction between these two legal regimes has generated various legal problems, particularly when assets subject to criminal seizure have already become part of the bankruptcy estate (boedel pailit) or constitute assets of a debtor undergoing PKPU proceedings (Germain, 2016; Rosiga & Safirah, 2025).

Fundamentally, the Indonesian legal system provides different legal instruments to regulate distinct interests. On the one hand, bankruptcy law and PKPU mechanisms are designed to address a debtor's inability to fulfill financial obligations to creditors. Through these mechanisms, fair and orderly resolutions are expected while ensuring legal protection for all interested parties. On the other hand, criminal law functions to maintain public order, uphold justice, and impose sanctions on perpetrators of criminal offenses. To achieve these objectives, law enforcement authorities are granted the authority to seize assets related to criminal acts, either as evidence or as objects subject to confiscation based on court decisions (Lipson, 2007; Sari et al., 2023).

Although each legal regime is based on distinct philosophical principles and objectives, in practice, they often involve the same assets. This occurs when a debtor's asset is not only included in bankruptcy or PKPU proceedings but is also suspected of being connected to a criminal offense. Consequently, such assets may simultaneously become objects of criminal seizure and form part of the bankruptcy estate under the control of the bankruptcy trustee (kurator). The issue becomes increasingly complex because each legal regime claims authority over the same asset based on different legal grounds. Under these circumstances, questions arise regarding the priority of authority over the asset, its legal status during proceedings, and the protection of the rights of interested parties (He, 2025; Shekhar, 2025; Sobandi, 2021).

Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations grants bankruptcy trustees (kurator) the authority to administer and liquidate all assets of a debtor declared bankrupt. Following the issuance of a bankruptcy decision, the debtor's assets generally become part of the bankruptcy estate (boedel pailit) and are used to satisfy creditor claims in accordance with applicable legal provisions. This arrangement is based on the principle that creditors should receive balanced protection through the proportional distribution of proceeds from the liquidation of debtor assets. Therefore, the existence and economic value of the bankruptcy estate are crucial determinants of the effectiveness of bankruptcy proceedings in fulfilling creditor rights (Iheme, 2016; Yedija et al., 2024).

Conversely, the Indonesian Criminal Procedure Code (Kitab Undang-Undang Hukum Acara Pidana [KUHAP]) authorizes investigators, public prosecutors, and judges to seize assets suspected of being connected to criminal offenses. Such seizure serves as an important instrument of criminal law enforcement to secure evidence and support the execution of judicial decisions. In certain circumstances, seized assets may be confiscated by the state if proven to constitute proceeds of crime or instruments used in committing criminal offenses. This authority represents an essential component of state efforts to combat unlawful activities that harm society (Jayadi, 2021; Schwarcz, 2025).

Problems arise when criminal seizure authority is exercised over assets that have already become part of the bankruptcy estate or belong to a debtor undergoing PKPU proceedings. In many cases, bankruptcy trustees (kurator) cannot take legal action regarding assets under criminal seizure. Such assets cannot be sold, transferred, or optimally utilized while criminal proceedings remain ongoing. However, asset values are not static in business practice. Market fluctuations, maintenance costs, physical depreciation, technological developments, and economic changes may contribute to reductions in asset value over time. The longer assets remain unmanaged or unproductive, the greater the risk of significant depreciation in their economic value (Nindyo Pramono et al., 2017; Siswanto & Mahfud, 2025; Ulul et al., 2024).

The decline in bankruptcy estate value caused by criminal seizure is not merely an administrative issue but involves substantial economic interests. When asset values decrease significantly, the funds available to satisfy creditor claims also decline. Consequently, creditors who are legally entitled to repayment may suffer adverse effects. The losses experienced by creditors become more significant when criminal proceedings continue for extended periods without certainty regarding the final status of seized assets (Nurhadi et al., 2026; Palwa & Hariri, 2025).

Furthermore, criminal seizure of bankruptcy assets may hinder the primary objective of the PKPU mechanism. PKPU functions as a debt restructuring instrument that enables debtors and creditors to reach settlement agreements. The success of this process depends largely on the debtor’s ability to preserve and maximize asset value. However, when a substantial portion of debtor assets is subject to criminal seizure, the debtor’s ability to conduct restructuring efforts becomes significantly limited. Ultimately, such circumstances may cause business rescue efforts to fail and result in bankruptcy that might otherwise have been avoided (Adipradana, Adi, & Ginting, 2024) and (Sitompul, 2025).

From a legal theory perspective, this issue reflects a lack of regulatory harmony between two legal systems that should ideally operate in coordination. Bankruptcy law is based on the protection of collective creditor interests through the principle of pari passu prorata parte, which requires proportional distribution of bankruptcy proceeds according to creditor priority. Criminal law, by contrast, focuses on protecting public interests through the enforcement of criminal accountability. Although both objectives are equally important, the absence of clear coordination mechanisms when both regimes apply to the same asset inevitably creates legal conflicts.

This issue also raises concerns regarding the realization of justice. In practice, not all creditors are involved in the criminal conduct allegedly committed by the debtor. Many creditors act in good faith and provide financing based on legitimate legal relationships. Nevertheless, they may bear the consequences of criminal seizure proceedings. This condition creates the perception that the rights of good-faith creditors are insufficiently protected because existing legal instruments do not adequately accommodate their interests (Nuryanto & Ahmed, 2026).

In addition to justice considerations, this issue is closely related to the principle of legal certainty. One of the fundamental objectives of law is to provide clear guidance regarding rights, obligations, and legal consequences in specific circumstances. However, within the relationship between criminal seizure and bankruptcy proceedings, significant normative ambiguities remain. The absence of explicit regulations regarding authority priority, inter-agency coordination mechanisms, and procedures for resolving conflicts between criminal seizure and general bankruptcy seizure has resulted in inconsistent law enforcement practices (Harir et al., 2025).

Various court decisions demonstrate the absence of a consistent approach to resolving these conflicts. In certain cases, criminal law enforcement interests are prioritized, resulting in assets remaining under the control of law enforcement authorities. In other cases, greater consideration is given to bankruptcy interests and creditor protection. These differing approaches indicate that the current regulatory framework remains insufficient in providing clear guidance for law enforcement officials and parties involved in bankruptcy proceedings (Handayani et al., 2024).

Such uncertainty affects not only the effectiveness of legal processes but also the broader investment climate and business certainty. The business sector requires a legal system capable of providing protection and predictability against potential risks. When uncertainty exists regarding assets simultaneously involved in criminal and bankruptcy proceedings, confidence in the legal system may decline. In the long term, these conditions may negatively affect the stability and sustainability of economic activities (Dinovan et al., 2025).

Considering these issues, reconstruction of the legal framework governing criminal seizure within PKPU and bankruptcy proceedings is urgently required. Such reconstruction should not only resolve existing normative conflicts but also establish a balance between criminal law enforcement interests and creditor protection. An ideal regulatory framework must ensure that criminal proceedings can proceed effectively without reducing the economic value of bankruptcy assets that serve as sources of creditor recovery. Furthermore, clear mechanisms are required regarding inter-agency coordination, seized asset management, and asset value preservation throughout legal proceedings (Bahri & Patrianto, 2025).

Accordingly, research on the reconstruction of criminal seizure regulations within the context of Suspension of Debt Payment Obligations (Penundaan Kewajiban Pembayaran Utang [PKPU]) and bankruptcy proceedings that contribute to the depreciation of bankruptcy estate (boedel pailit) value is highly relevant. Such research has theoretical significance for the development of bankruptcy and criminal law, as well as practical value in providing solutions to persistent legal issues. Through an approach based on the principles of justice and legal certainty, this research is expected to formulate a more harmonious regulatory model that balances the state’s interest in criminal law enforcement with creditors’ rights to obtain repayment of their claims.

METHOD

This study was a legal research project that focused on a normative analysis of criminal seizure regulations within Suspension of Debt Payment Obligations (Penundaan Kewajiban Pembayaran Utang [PKPU]) and bankruptcy proceedings, particularly regarding their impact on the decline in the value of the bankruptcy estate (boedel pailit). The study employed a normative legal research method by analyzing applicable legal norms contained in legislation, legal doctrines, and relevant court decisions. This approach was used to identify, analyze, and reconstruct ideal legal norms for addressing existing legal issues.

The primary approach applied in this study was the statutory approach, which examined relevant regulations, particularly Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations and the Criminal Procedure Code (Kitab Undang-

Undang Hukum Acara Pidana [KUHAP]). Other related regulations concerning criminal seizure mechanisms and bankruptcy estate management were also examined to identify potential normative disharmony, legal gaps, and inconsistencies between different legal regimes.

In addition to the statutory approach, this study employed a conceptual approach by examining legal concepts, principles, and doctrines related to bankruptcy, criminal seizure, justice, and legal certainty. Concepts such as pari passu prorata parte, lex specialis derogat legi generali, and creditor protection principles were used as analytical foundations to understand the relationship between criminal law and bankruptcy law.

This study also applied a case approach by examining court decisions related to conflicts between criminal seizure and bankruptcy estate management. The analysis of these decisions was conducted to evaluate judicial interpretations of existing legal provisions and the resolution of authority conflicts between law enforcement institutions and bankruptcy trustees (kurator).

The legal materials used in this study consisted of primary, secondary, and tertiary legal materials. Primary legal materials included relevant legislation, such as the Bankruptcy and PKPU Law, the Criminal Procedure Code (KUHAP), and other regulations governing seizure and asset management. Secondary legal materials included legal books, academic journals, scholarly articles, research findings, and expert opinions related to bankruptcy and criminal law. Tertiary legal materials, such as legal dictionaries and encyclopedias, were used to support the clarification of relevant legal concepts and terminology.

Legal materials were collected through library research by reviewing and analyzing relevant legal sources. The collected materials were classified based on their relevance to the research focus and used to examine legal norms, concepts, and practices related to criminal seizure in bankruptcy and PKPU proceedings.

The collected legal materials were analyzed qualitatively through interpretation of legal norms, comparison of related legal provisions, and identification of normative conflicts within existing regulations. The analysis was conducted by constructing legal arguments based on relevant legal principles and theories to formulate a more appropriate regulatory framework for resolving conflicts between criminal seizure and bankruptcy proceedings.

Furthermore, legal reasoning was applied by connecting normative findings from legislation and court decisions with applicable legal concepts and principles. This process aimed to develop systematic legal arguments regarding the appropriate position of criminal seizure regulations within PKPU and bankruptcy proceedings to prevent reductions in the value of the bankruptcy estate.

Through these combined approaches, this study provided a comprehensive analysis of existing legal issues and formulated a regulatory reconstruction model. The proposed reconstruction was directed toward balancing criminal law enforcement interests with creditor protection in bankruptcy and PKPU proceedings while supporting the achievement of justice, legal certainty, and legal utility.

RESULTS AND DISCUSSION

Normative Conflict between Criminal Seizure and General Seizure in Bankruptcy and Suspension of Debt Payment Obligations (PKPU)

The analysis of prevailing norms in bankruptcy law, PKPU, and criminal procedural law reveals a fundamental issue arising from the intersection of two legal regimes with distinct characteristics and orientations. On the one hand, bankruptcy and PKPU law are designed primarily to regulate the collective settlement of debts when a debtor is unable to fulfill their obligations. Within this framework, Law Number 37 of 2004 provides legal consequences whereby, upon a bankruptcy declaration, all of the debtor's assets automatically become part of the bankruptcy estate (boedel pailit) and fall under the control of the receiver (kurator). The receiver is then mandated to administer and liquidate the assets under the supervision of a supervisory judge, with the ultimate aim of distributing the proceeds to creditors in accordance with the principle of proportional fairness.

Within this system, bankruptcy essentially places all debtor assets into a single legal entity known as general seizure (sita umum). This concept implies that no individual creditor may independently enforce execution; instead, all claims must be resolved through a collective mechanism established by law. Thus, bankruptcy law seeks to create order, prevent individual asset grabs, and ensure fair distribution among creditors with varying legal standings. However, this construction becomes complex when confronted with criminal procedural law, particularly under the Indonesian Criminal Procedure Code (KUHAP). Within the criminal law regime, the state grants broad authority to law enforcement officials investigators, public prosecutors, and judges to seize objects suspected of being connected to criminal acts. Such seizure is not merely administrative in nature but constitutes an essential part of evidentiary procedures, securing evidence, and in certain cases may result in forfeiture to the state upon a final and binding court decision.

Problems arise when these two legal regimes do not operate in separate domains but instead intersect over the same object. In practice, it is not uncommon for an asset belonging to a debtor who has been declared bankrupt and therefore legally part of the bankruptcy estate to simultaneously be designated as an object of criminal seizure due to its alleged connection with a criminal act. This situation creates a legal complexity, as there are two concurrently valid legal bases that potentially negate one another. From the perspective of bankruptcy law, once a bankruptcy decision is issued, the receiver should have full authority to control, manage, and even sell the debtor's assets to optimize the value of the bankruptcy estate. Any obstruction of this authority directly affects the effectiveness of the asset liquidation process. However, when the same asset is subject to criminal seizure, the receiver is practically unable to carry out legal actions involving transfer or economic utilization of the asset. The asset becomes "frozen" in a legal status that is neither fully under bankruptcy control nor purely within civil jurisdiction.

From the perspective of criminal procedural law, the seizure of such assets is considered valid as long as there is a sufficient connection to a criminal offense. Law enforcement authorities maintain that the interests of criminal investigation and justice enforcement must be preserved, including retaining control over evidence until the judicial process is concluded. From this viewpoint, the state's interest in enforcing criminal law is regarded as a public interest and therefore has strong legitimacy to override certain private law interests. The tension between these two regimes becomes unavoidable in the absence of explicit legal norms regulating priority or resolution mechanisms in cases of overlapping authority. Bankruptcy law does not expressly exclude assets under criminal seizure, while KUHAP does not specifically regulate limitations concerning assets that form part of a bankruptcy estate. This regulatory vacuum creates a legal gray area in practice.

In such circumstances, a dualism of control emerges that fails to provide adequate legal certainty. Formally, the receiver holds authority based on the bankruptcy ruling, but in practice cannot exercise this authority due to the existence of criminal proceedings. On the other hand, law enforcement agencies possess seizure authority, yet the seized object is simultaneously part of a collective debt settlement mechanism protected by law. This uncertainty is not merely theoretical but has significant practical implications. In several cases, assets that should have been promptly auctioned for the benefit of creditors are instead held for extended periods due to parallel criminal proceedings. Moreover, differences in interpretation often arise between receivers and law enforcement authorities regarding the legal status of the asset—whether it should be treated as part of the bankruptcy estate or as evidentiary material in a criminal case.

Furthermore, this issue reflects a lack of harmony within the national legal system. Bankruptcy law is designed with an emphasis on economic efficiency and collective creditor protection, while criminal law is oriented toward repressive measures and the enforcement of social norms. When these objectives are not harmonized through clear regulatory provisions, conflicts of interest inevitably arise in practice. From a legal doctrinal perspective, this situation also raises debates regarding the application of the principle of lex specialis derogat legi generali. Some argue that criminal law should be treated as lex specialis in the context of law enforcement, while bankruptcy law is also considered a specialized regime within civil economic law. However, the absence of normative clarification regarding which regime prevails in cases of asset seizure prevents consistent application of this principle.

As a result, inconsistent practices emerge in the field. In some cases, law enforcement authorities maintain criminal seizure even though the asset has become part of the bankruptcy estate. In other cases, a more accommodative approach is taken, allowing the receiver limited authority to manage certain assets under supervision. These differing approaches indicate that the legal system lacks clear operational standards for resolving such jurisdictional conflicts. Moreover, this normative conflict also affects procedural efficiency. When assets cannot be promptly utilized within bankruptcy proceedings, creditor repayment is delayed. At this point, bankruptcy loses part of its function as a fast and effective debt settlement mechanism. Conversely, criminal proceedings conducted independently do not always consider the economic impact on asset value, meaning potential depreciation is not a primary concern in law enforcement processes.

Thus, it can be understood that the core issue does not merely lie in the formal differences of authority between receivers and law enforcement officials, but also in the lack of integration between two legal systems with different objectives within a coherent framework. When bankruptcy law and criminal law lack a clear normative bridge, the result is uncertainty, inefficiency, and potential economic losses that could otherwise be avoided through more integrated regulation.

Impact of Criminal Seizure on the Decline in Bankruptcy Estate Value and Injustice toward Creditors

The analysis shows that the existence of criminal seizure over assets that have entered the bankruptcy estate (boedel pailit) not only raises normative legal issues but also has a real impact on the economic value of the bankruptcy estate itself. In bankruptcy practice, the value of the bankruptcy estate is a determining factor in the extent to which the debtor's obligations to creditors can be fulfilled. The more optimally the assets are managed, the greater the likelihood that creditors will receive proportional repayment of their claims. However, this condition becomes suboptimal when part or all of the assets are subject to criminal seizure, thereby preventing the curator from freely managing them.

In principle, assets in bankruptcy have a dynamic characteristic, meaning their economic value is not fixed but can change over time. Such changes are influenced by various factors such as market conditions, demand levels, maintenance costs, and technological developments that may render an asset obsolete. Under normal circumstances, the curator has room to ensure that asset values remain optimal, for example through timely sales, leasing, or other lawful forms of utilization. However, when assets are under criminal seizure, these management mechanisms are practically hindered or entirely impossible to implement.

This restriction causes assets to remain in a passive condition without any economic activity capable of maintaining or increasing their value. Over time, this situation leads to what can be described as time-related depreciation. The longer the criminal process continues without clarity regarding the final status of the assets, the greater the likelihood of value erosion. This becomes even more complex when the seized assets require significant maintenance costs, such as machinery, real estate, or certain movable assets that need regular upkeep to retain their market value.

In addition to natural depreciation factors, there is also the loss of economic opportunities that could otherwise be utilized by the curator to maximize the value of the bankruptcy estate. In fluctuating market conditions, there are certain moments when an asset reaches its optimal selling value. However, due to its criminal seizure status, the opportunity to capitalize on such market momentum is lost. Assets that could have been sold at optimal prices are instead held for an undetermined period, resulting in significantly reduced value by the time they are eventually released.

This situation not only affects the technical aspects of asset management but also creates additional economic burdens in the bankruptcy process. The curator remains responsible for ensuring that the assets are properly maintained, even though they do not contribute to value enhancement. Maintenance, security, and administrative costs continue to accrue, thereby indirectly reducing the net value of the bankruptcy estate. In other words, the longer an asset remains unproductive, the greater the potential reduction in its value borne by the estate.

The downstream impact of this condition is strongly felt by creditors as the primary beneficiaries of the bankruptcy mechanism. In the bankruptcy system, creditors essentially expect a fair and proportional distribution of the liquidation proceeds according to their respective legal standings. However, when the value of the bankruptcy estate decreases due to constraints on asset management caused by criminal seizure, the funds available for distribution to creditors are automatically reduced. In many cases, this reduction can be significant, resulting in creditors receiving only a minimal portion of their claims.

This condition becomes more problematic when creditors have no connection to the criminal acts allegedly committed by the debtor. Legally, creditors are bona fide parties because their legal relationship with the debtor is based on valid contractual agreements. They provide financing with the expectation of repayment in accordance with the agreed terms. However, in practice, they end up bearing the negative consequences of criminal law enforcement processes that are not directly related to their civil legal relationship. From a justice perspective, this situation raises serious concerns. The principle of justice in bankruptcy law emphasizes balanced protection of all creditors without unjustified discrimination. However, when the value of the bankruptcy estate declines due to external factors such as criminal proceedings, this balance is disrupted. Creditors not only face the risk of debtor default but also additional risk in the form of reduced asset value due to legal constraints beyond their control.

On the other hand, criminal seizure serves a legitimate purpose within the framework of law enforcement, namely to ensure that the evidentiary process in criminal cases runs properly and that proceeds of crime are not concealed or transferred. However, in the context of bankruptcy, the implementation of criminal seizure without considering its economic impact on the bankruptcy estate may produce unintended consequences. When assets cannot be managed productively for an extended period, the primary objective of bankruptcy as an effective debt resolution mechanism becomes obstructed. In some situations, bankruptcy may no longer function as an instrument for economic value recovery but merely as a formal procedure that does not produce optimal outcomes for stakeholders. This occurs because assets that could have been maximized instead experience value deterioration due to restrictions arising from unclear or prolonged criminal proceedings.

Furthermore, this uncertainty also affects the perception of business actors and investors regarding the bankruptcy legal system itself. When there is a possibility that bankruptcy assets may be subject to sudden criminal seizure without a clear coordination mechanism, confidence in the certainty of debt settlement through bankruptcy may decline. In the long term, this may negatively affect the investment climate and economic stability, as business actors will take into account more complex legal risks in every transaction.

Thus, it can be concluded that the impact of criminal seizure on the bankruptcy estate is not merely technical in terms of asset management but also has broader implications for economic aspects, justice, and legal certainty. The decline in asset value, loss of economic opportunities, and limitations on the curator's authority indicate an imbalance that requires serious attention within the current legal system. This condition reinforces the urgency of establishing a more harmonized regulatory framework so that the interests of criminal law enforcement and creditor protection can be balanced without harming each other.

Legal Uncertainty and the Need for Reconstruction of Criminal Seizure Regulations in Bankruptcy

The results of the analysis of applicable norms and their practical implementation indicate that the relationship between criminal seizure and bankruptcy seizure still leaves serious problems in terms of legal certainty. To date, there has been no clear and explicit regulation that precisely defines the position of assets within the bankruptcy estate (boedel pailit) when they are simultaneously subject to seizure in a criminal case. This regulatory vacuum creates a wide space for interpretation by law enforcement officers and receivers (curators), resulting in inconsistent legal application from one case to another.

In several cases, law enforcement authorities have been found to maintain the status of criminal seizure even though the seized assets have been declared part of the bankruptcy estate based on a commercial court ruling. This approach is generally based on the argument that criminal law enforcement serves a broader public interest dimension and must therefore take precedence for evidentiary purposes and the criminal justice process. From this perspective, assets allegedly linked to criminal acts are considered unable to be transferred or managed until the criminal proceedings reach final and binding legal certainty through a final court decision.

However, another approach has also emerged in judicial practice and bankruptcy administration, which places greater emphasis on the function of bankruptcy as a collective debt settlement mechanism. In this approach, the continuity of managing the bankruptcy estate is considered important to preserve the economic value of assets so that they do not experience significant depreciation. Therefore, in certain circumstances, curators are still granted limited authority to manage such assets even though the criminal status has not been fully resolved, usually under supervision or coordination with law enforcement authorities.

These differing approaches ultimately demonstrate that there is no standardized framework that can be used as a uniform guideline in resolving conflicts between criminal seizure and bankruptcy seizure. As a result, legal certainty becomes difficult to achieve, as outcomes heavily depend on the interpretation of each institution or even the discretion of judges in individual cases. This situation reflects a fundamental lack of synchronization within the legal system governing these two regimes.

Furthermore, this uncertainty not only affects procedural aspects but also has direct implications for the effectiveness of each legal system's objectives. In the context of bankruptcy, unclear asset status hampers the process of liquidation and distribution to creditors. Meanwhile, in the criminal law context, unclear boundaries of authority between criminal proceedings and bankruptcy administration may create potential institutional conflicts between law enforcement agencies and curators, both of whom possess legitimate legal authority in carrying out their respective duties.

This situation indicates that the current legal system has not yet established an effective coordination mechanism between criminal law enforcement interests and debt settlement in bankruptcy. The absence of clear rules governing priorities, limitations, and inter-agency cooperation mechanisms causes each party to act independently based on its own interpretation of authority. In the long run, this condition may prolong legal proceedings, increase administrative costs, and reduce the effectiveness of case resolution in both criminal and economic civil law domains.

In addition, another important aspect is its impact on the economic value certainty of the bankruptcy estate. When the legal status of assets is unclear, curators are unable to make strategic economic decisions, such as determining the timing of asset sales or optimizing asset value. At the same time, law enforcement authorities tend to maintain seizure status for the purposes of criminal proceedings, without directly considering the long-term economic impact on asset value. As a result, assets remain in a stagnant condition that is potentially subject to continuous depreciation.

This condition demonstrates that the problem is not merely a conflict of authority, but also reflects the lack of systemic integration of legal objectives. Criminal law, which is oriented toward proof and punishment, is not always aligned with bankruptcy law, which is oriented toward economic efficiency and creditor protection. Without a normative bridge connecting these interests, conflicts will continue to arise in practice.

Based on this situation, the need for regulatory reconstruction becomes increasingly urgent. Such reconstruction should not be limited to technical legal refinement but must also include the restructuring of institutional relations between criminal law enforcement authorities and curators in bankruptcy proceedings. One possible direction is the establishment of a clearer and binding coordination mechanism, so that when the same asset becomes subject to both criminal seizure and bankruptcy estate inclusion, there is a standardized procedure that can serve as a common reference.

In addition, it is also necessary to explicitly define the boundaries of criminal seizure authority within the context of bankruptcy, including the possibility of introducing priority arrangements or limited suspension mechanisms that still take into account the interests of criminal evidence without neglecting the economic value of the assets. In this way, no party is disproportionately disadvantaged, either in terms of criminal law enforcement or creditor protection in bankruptcy.

Ultimately, this regulatory reconstruction is aimed at achieving a balance between legal certainty, justice, and utility. Legal certainty is required to prevent recurring differences in interpretation, justice is necessary to protect the rights of good-faith creditors, and utility is essential to ensure that the bankruptcy system functions effectively as a debt settlement mechanism. Without more harmonious regulatory reform, the conflict between criminal seizure and bankruptcy seizure will continue to be a source of legal uncertainty that harms many parties in legal practice in Indonesia.

CONCLUSION

Based on the results of the research and discussion, it can be concluded that the regulation of criminal seizure within the framework of Suspension of Debt Payment Obligations (Penundaan Kewajiban Pembayaran Utang [PKPU]) and bankruptcy proceedings still presents normative issues in the form of disharmony between the criminal law regime and bankruptcy law. The lack of clarity regarding the relationship between the authority of law enforcement agencies in executing criminal seizures and the authority of bankruptcy trustees (kurator) in managing the bankruptcy estate (boedel pailit) has resulted in jurisdictional conflicts over the same assets, thereby creating legal uncertainty in practice. Consequently, assets that have become part of the bankruptcy estate cannot be managed optimally due to restrictions arising from their status as objects of criminal seizure.

This study also found that criminal seizure of assets included in the bankruptcy estate affected the decline in the economic value of bankruptcy assets due to limited asset management, increased maintenance costs, and the loss of economic opportunities that could have been utilized to maximize asset value. Such conditions ultimately reduced the capacity of the bankruptcy estate to satisfy creditor claims, particularly those of good-faith creditors who had no involvement in the debtor’s criminal acts. Therefore, the implementation of criminal seizure without a mechanism to protect the value of the bankruptcy estate had the potential to undermine the principles of justice and legal certainty in bankruptcy proceedings.

Based on these findings, regulatory reconstruction of criminal seizure within bankruptcy and PKPU proceedings was required to harmonize the interests of criminal law enforcement with the protection of creditor rights. Such reconstruction should involve clearer legal provisions regarding the status of assets subject to criminal seizure within the bankruptcy estate, strengthened coordination mechanisms between law enforcement authorities and bankruptcy trustees (kurator), and asset management arrangements that preserve economic value during ongoing criminal proceedings. In this manner, the objectives of law, namely justice, legal certainty, and utility, could be more effectively balanced in resolving cases involving criminal seizure and bankruptcy proceedings.

REFERENCES

Adipradana, Nugroho, Adi, Rianto, & Ginting, Jamin. (2024). Legal Certainty of the Status of Affiliated Insolvency Assets as Evidence of Criminal Offense. *GLOBAL LEGAL REVIEW Учредители: Universitas Pelita Harapan*, *4*(2), 150.

Bahri, M. S., & Patrianto, B. (2025). Implementation of the Restorative Justice Concept Based on Police Regulation No. 8 of 2021 in Criminal Offenses. IUS POSITUM: Journal of Law Theory and Law Enforcement, 1–16. https://doi.org/10.56943/jlte.v4i2.798

Dinovan, D. R., SH, M., Kn, M., Edy Lisdiyono, S. H., & Siti Mariyam, S. H. (2025). Reconstruction of Disparities in the Interpretation of Simple Evidence Law Resulting in Judges' Decisions in Bankruptcy Cases. Penerbit Lawwana.

Germain, G. (2016). Bankruptcy law and practice. CALI's eLangdell® Press.

Handayani, S. H., Sambas, N., & Jamila, L. (2024). The Concept of Resolving the Conflict of Norms Between Criminal Confiscation and General Bankruptcy Confiscation of Bankruptcy Assets Viewed from the Perspective of Justice. Journal La Sociale, 5(4), 1091–1100.

Harir, M., Soegianto, S., Arifin, Z., Sudarmanto, K., & Arifin, M. (2025). Konflik Norma (Antinomy Normen) Sita Umum Dengan Sita Pidana Dalam Pemberesan Harta Pailit. Jurnal USM Law Review, 8(2), 1107–1125. https://doi.org/10.26623/julr.v8i2.11384

He, H. (2025). Punitive Bankruptcy Approach or Rehabilitative Bankruptcy Approach: A Legislative Choice. Law Sci., 4, 59.

Iheme, C. W. (2016). Secured Transactions: Intersections with Bankruptcy and Consumer Protection Laws. In Towards Reforming the Legal Framework for Secured Transactions in Nigeria: Perspectives from the United States and Canada (pp. 243–279). Springer. https://doi.org/10.1007/978-3-319-41836-0_5

Jayadi, H. (2021). Buku ajar hukum kepailitan dan penundaan kewajiban pembayaran utang. Publika Global Media.

Lipson, J. C. (2007). Debt and democracy: Towards a constitutional theory of bankruptcy. Notre Dame L. Rev., 83, 605.

Nindyo Pramono, S. H., Sularto, S. H., & CN, M. (2017). Hukum Kepailitan dan Keadilan Pancasila-Kajian Filsafat Hukum atas Kepailitan Badan Hukum Perseroan Terbatas di Indonesia. Penerbit Andi.

Nurhadi, I., Al-Anshori, H., & Hasibuan, A. H. H. (2026). Fairness for Creditors in Bankruptcy Proceedings: Between Certainty and Economic Interests. Journal of Law, Politic and Humanities, 6(4), 2577–2585. https://doi.org/10.38035/jlph.v6i4.3259

Nuryanto, A. D., & Ahmed, M. A. I. B. (2026). Does Indonesian Bankruptcy Law Protection for Curators in Bankruptcy? Contrarius, 2(1), 20–36. https://doi.org/10.53955/contrarius.v2i1.258

Palwa, R. C., & Hariri, A. (2025). Analisis Hukum Tanggung Gugat pada Perseroan Terbuka yang Mengalami Kepailitan. Pagaruyuang Law Journal, 81–102. https://doi.org/10.31869/plj.v0i0.6202

Rosiga, F. L., & Safirah, A. S. (2025). Penyalahgunaan Akta Notaris dalam Skema Pailit Rekayasa. WELFARE STATE Jurnal Hukum, 4(2), 288–306. https://doi.org/10.56013/welfarestate.v4i2.4620

Sari, R. A. W., Oktalia, S., Elmer, E., Sigit, K. M. L., & Siregar, J. M. (2023). Pertimbangan Hakim Pada Putusan Nomor 458/Pdt. Sus-Pkpu/2021/Pn. Niaga. Jkt. Pst Terhadap Proses Terjadinya Penundaan Kewajiban Pembayaran Utang. Lex Stricta: Jurnal Ilmu Hukum, 2(2), 45–58.

Schwarcz, S. L. (2025). Bankruptcy’s Redistributive Policies: Net Value or a. Duke Law School Public Law & Legal Theory Series, (2025–01). https://doi.org/10.2139/ssrn.5079149

Shekhar, H. (2025). Ashes to Assets: The Art of Liquidation and Business Revival. HIMANSHU SHEKHAR.

Siswanto, H., & Mahfud, M. A. (2025). Legal Protection Of Separated Creditors In Executing Mortgage Rights On Bankrupt Assembled As Seen In The Face Of Dignified Justice. KRTHA BHAYANGKARA, 19(1), 48–61. https://doi.org/10.31599/krtha.v19i1.3763

Sitompul, L. P. (2025). Synchronization of the Regulation on the Status of Bankruptcy Estate (Boedel Pailit) as Evidence in the Bankruptcy and Criminal Law Systems in Indonesia. JURNAL ILMIAH ADVOKASI, 13(3), 1192–1203. https://doi.org/10.36987/jiad.v13i3.8025

Sobandi, H. (2021). Limitasi Hakim Gagasan Rekonstruksi Kewenangan Pengadilan Niaga. PT. Rayyana Komunikasindo.

Ulul, A. A., Made, W., & Herlin, S. E. (2024). Criminal Offenses Against Bankruptcy Debtors Acting in Bad Faith in the Management and Administration of the Bankruptcy Estate to Ensure Legal Certainty. Russian Journal of Agricultural and Socio-Economic Sciences, 151(7), 20–24.

Yedija, I. T., Yuhelson, Y., & Nurhakim, N. (2024). Eksistensi Perdamaian Dalam Kepailitan Terkait Akibat Pembatalan Perdamaian Dalam Penundaan Kewajiban Dan Pembayaran Utang. Innovative: Journal Of Social Science Research, 4(4), 12347–12358. https://doi.org/10.31004/innovative.v4i4.14444