# When State Ownership Challenges Creditor Justice in Bankruptcy Asset Execution

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ABSTRACT

The execution of state-owned enterprise assets in bankruptcy presents complex legal challenges concerning regulatory coherence, institutional responsibility, and the protection of creditors' rights. Conflicting interpretations of state ownership and corporate legal personality create uncertainty over asset execution and limit creditors' opportunities to recover outstanding debts. This study investigates the legal and institutional barriers to equitable asset execution and proposes a regulatory framework that strengthens creditor protection in state enterprise bankruptcy. Using empirical legal research with a qualitative approach, the study integrates statutory, conceptual, and comparative analysis with deductive and inductive reasoning. The findings establish two principal conclusions. *First*, inconsistencies among state finance, state treasury, corporate governance, and bankruptcy regulations create uncertainty over the legal status and execution of corporate assets. Overlapping institutional authority and the prevailing tendency to prioritize state ownership further complicate bankruptcy proceedings and weaken creditors' legal remedies. *Second*, effective creditor protection requires regulatory harmonization, clearer institutional responsibilities, stronger oversight of bankruptcy trustees, and the integration of deliberation and consensus into dispute resolution procedures. The proposed model distinguishes corporate ownership from state financial supervision while strengthening legal certainty, proportionality, and equitable treatment among creditors.

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## Introduction

State owned enterprises occupy a distinctive position in modern economic governance because they combine commercial activities with responsibilities arising from public ownership.[1] Governments establish these enterprises to manage strategic economic sectors, provide essential services, support national development, and generate public revenue. Their participation in commercial markets, however, exposes them to financial risks comparable to those confronting privately owned corporations. State enterprises may incur contractual obligations,

[1] Ola Innset, 'State-Owned Enterprises after the Market Turn: Hybridisation and the Historical Development of Nested Paradoxes in the Case of Norway', *Business History*, 67.2 (2025), 496–520 https://doi.org/10.1080/00076791.2024.2353661

obtain financing, experience operational losses, and become unable to satisfy creditors. These circumstances raise fundamental legal questions when bankruptcy proceedings require the liquidation or execution of corporate assets. The central challenge concerns whether public ownership justifies different treatment of corporate property and how bankruptcy law should reconcile legitimate state interests with the enforceable rights of creditors.[2]

Indonesia recognizes state enterprises as important instruments for achieving national economic objectives. Article 33 of the Constitution establishes principles governing the national economy and the state's responsibility for sectors essential to public welfare. These constitutional commitments provide a foundation for state participation in commercial activities through enterprises operating in finance, transportation, energy, infrastructure, telecommunications, manufacturing, and other strategic industries.[3] Nevertheless, the public purposes associated with state ownership do not eliminate the commercial obligations arising from corporate transactions. State enterprises routinely enter contractual relationships with financial institutions, suppliers, employees, and other business partners. Their ability to obtain financing and maintain commercial credibility depends partly on whether creditors can rely on predictable legal remedies when contractual obligations remain unfulfilled.[4]

The relationship between state ownership and corporate independence becomes particularly important when enterprises experience financial distress. Commercial activities inherently involve uncertainty, including declining revenue, operational inefficiency, market disruption, and increasing debt obligations.[5] State enterprises may therefore encounter circumstances in which their financial resources become insufficient to satisfy outstanding liabilities. Bankruptcy law provides a collective mechanism for addressing these circumstances by bringing eligible assets under a legally supervised administration process. This mechanism seeks to prevent individual creditors from pursuing competing enforcement actions that could undermine equitable distribution. However, bankruptcy proceedings involving state enterprises introduce additional complications

[2] Dong Shao, TieZhu Sun and Yechi Ma, 'ESG Performance and CEO Dismissal: Moderating Role of State-Owned Enterprises and Ownership Concentration', *Emerging Markets Finance and Trade*, 61.10 (2025), 3022–35 https://doi.org/10.1080/1540496X.2024.2402930

[3] Sholahuddin Al-Fatih and Bekov Ikhtiyor Rustamovich, 'Proposing Green Constitution, Is It Necessary?', *Journal of Law, Environmental and Justice*, 4.1 (2026), 371–403 https://doi.org/10.62264/jlej.v4i1.261

[4] Farok J. Contractor and others, 'The Shift to a More Turbulent IB Environment, and How MNEs Respond to This Shift', *International Business Review*, 35.2 (2026), 102538 https://doi.org/10.1016/j.ibusrev.2025.102538

[5] Arpita Sharma and Kuldeep Singh, 'Ownership and State-Based Underpinnings of Financial Distress among Successful Entrepreneurial Firms', *Journal of Small Business and Enterprise Development*, 32.2 (2025), 371–87 https://doi.org/10.1108/JSBED-07-2024-0379

because public ownership may influence the legal classification of assets, institutional responsibilities, and the availability of execution procedures.[6]

Indonesian bankruptcy law establishes the general framework for resolving collective debt obligations. Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations recognizes bankruptcy as a general attachment over the debtor's assets, administered by a court appointed curator under judicial supervision.[7] Article 2 paragraph (1) establishes the general requirements for a bankruptcy declaration, including the existence of at least two creditors and an unpaid debt that has become due and payable. Article 21 determines the general scope of the bankruptcy estate, while the relevant provisions governing administration and liquidation regulate the curator's responsibilities. These arrangements seek to protect creditors through collective proceedings, legally recognized priorities, and judicial oversight. Nevertheless, their application to state enterprises requires careful consideration of the relationship between corporate assets and public financial interests.[8]

The legal complexity originates partly from the interaction between bankruptcy legislation and the statutory framework governing state finances. Article 2 letter g of Law Number 17 of 2003 concerning State Finance includes separated state assets invested in state enterprises within the broader scope of state finances. Meanwhile, Article 50 of Law Number 1 of 2004 concerning State Treasury restricts the seizure of specified money and property belonging to or controlled by the state or regional governments. These provisions raise interpretative questions when creditors seek execution against assets held by state enterprises. A broad interpretation of state financial protection may restrict the availability of corporate assets for bankruptcy administration. Conversely, an interpretation emphasizing separate corporate legal personality may support the application of ordinary bankruptcy procedures to property legally owned by the enterprise. The resulting tension concerns the boundaries between public financial supervision and corporate asset ownership.[9]

The distinction between state financial accountability and corporate legal personality is therefore essential. State ownership of shares does not necessarily

[6] Haizheng Zhang and Ziyu Wang, 'Rethinking the Current Reforms of China's Micro and Small Enterprise Bankruptcy Legal Framework: Which Way Forward?', *International Insolvency Review*, 2026 https://doi.org/10.1002/iir.70062

[7] Jairo Stefano Dote Pardo and Pedro Severino-González, 'The Weight of Debt: Unraveling the Psychological Burden of Financial Obligations − a Systematic Review', *Mental Health and Social Inclusion*, 30.1 (2026), 13–23 https://doi.org/10.1108/MHSI-04-2025-0112

[8] Amir Firmansyah, Suparji and Pujiono Suwandi, 'Achieving Efficiency with Justice in the Reform of Anti-Corruption Law Enforcement in State-Owned Enterprises', *Journal of Human Rights, Culture and Legal System*, 6.1 (2026), 84–115 https://doi.org/10.53955/jhcls.v6i1.898

[9] Waluyo Waluyo, Hilaire Tegnan and Noni Oktiana Setiowati, 'Aligning State Finance Regulations with SOE Bankruptcy Policy: Evidence from the United States', *Journal of Human Rights, Culture and Legal System*, 5.1 (2025), 246–78 https://doi.org/10.53955/jhcls.v5i1.470

establish direct state ownership of every asset held by a corporation.[10] A state enterprise operating as a limited liability company possesses a separate legal identity, with rights and obligations determined by applicable corporate legislation. Its assets generally support its commercial operations and contractual liabilities, subject to statutory restrictions and valid security interests. However, the inclusion of separated state assets within the scope of state financial supervision creates an additional public accountability dimension. The legal question is not simply whether state enterprise assets constitute state finances for supervisory purposes, but whether that classification independently prevents their administration or execution under bankruptcy law.[11]

The distinction between enterprises organized as limited liability companies and public corporations further complicates this issue. Indonesian state enterprise legislation has historically recognized Persero and Perum as different organizational forms, reflecting differences in capital structure, commercial objectives, and public service responsibilities. These differences influence how bankruptcy rules interact with the enterprise's legal status and applicable institutional requirements. Article 2 paragraph (5) of Law Number 37 of 2004 establishes a special petition mechanism concerning state enterprises operating in the public interest. Consequently, the legal treatment of bankruptcy petitions and subsequent asset administration cannot be determined solely by the existence of state ownership. A coherent analysis must distinguish the requirements for declaring bankruptcy from the legal consequences of bankruptcy and the classification of assets available for execution.[12]

Judicial interpretation has contributed significantly to the development of this legal relationship.[13] Constitutional Court Decision Number 77/PUU-IX/2011 addressed the treatment of state enterprise receivables and the implications of separate corporate management. Constitutional Court Decisions Number 48/PUU-XI/2013 and Number 62/PUU-XI/2013 subsequently examined the constitutional relationship between separated state assets and public financial accountability.[14] These decisions demonstrate that state financial supervision and corporate

[10] Qianqian Chen and Shilin Liu, 'Internal Control Quality and Leverage Manipulation: Evidence from Chinese State-Owned Listed Companies', *Sustainability*, 17.7 (2025), 2905 https://doi.org/10.3390/su17072905

[11] Nyulistiowati Suryanti, Deviana Yuanitasari and Hazar Kusmayanti, 'The Status of Property Granted in The Provisions of Bankruptcy Law in Indonesia', *Jurnal IUS Kajian Hukum Dan Keadilan*, 13.1 (2025), 38–54 https://doi.org/10.29303/ius.v13i1.1593

[12] Fathudin, Anna Erliyana and Dian Puji N Simatupang, 'From Corporate Logic to Public Welfare: A Siyāsah Shar'iyyah Framework for Understanding Indonesian State-Owned Enterprises', *AHKAM : Jurnal Ilmu Syariah*, 26.1 (2026), 65–80 https://doi.org/10.15408/ajis.v26i1.50058

[13] Weikang Yuan and others, 'A Multi-Agent Framework with Legal Event Logic Graph for Multi-Defendant Legal Judgment Prediction', *Information Processing & Management*, 63.1 (2026), 104319 https://doi.org/10.1016/j.ipm.2025.104319

[14] Palak Jagtiani, 'Reshaping Fiscal Federalism: The Constitutional Evolution of Taxing Powers and Its Implications for Economic Governance', *Social Sciences & Humanities Open*, 13 (2026), 102905 https://doi.org/10.1016/j.ssaho.2026.102905

independence operate within an interconnected legal framework. However, their implications for bankruptcy asset execution require careful interpretation. Recognition of public financial accountability does not automatically establish that every corporate asset enjoys immunity from execution. The unresolved issue concerns how courts should reconcile these constitutional considerations with the specific requirements governing bankruptcy administration and creditor remedies.[15]

Practical bankruptcy disputes illustrate the importance of this distinction. The proceedings involving PT Kertas Leces concerned unpaid obligations arising from the company's financial difficulties, including claims associated with former employees. The dispute involved approximately 2.52 billion rupiah in identified employee obligations alongside other outstanding debts. The proceedings demonstrate that bankruptcy involving state enterprises affects not only commercial lenders but also workers whose employment related entitlements depend on the debtor's financial capacity. Difficulties in administering and realizing corporate assets may therefore produce consequences extending beyond ordinary commercial losses. The legal treatment of such claims requires attention to the applicable statutory priorities, the scope of the bankruptcy estate, and the curator's ability to administer assets effectively.[16]

The dispute involving PT Istaka Karya further illustrates the relationship between contractual enforcement and state enterprise obligations. The company's financial dispute with PT Japan Asia Investment Company Indonesia involved unpaid financial instruments and subsequent judicial proceedings concerning debt recovery.[17] The creditor pursued legal remedies after the enterprise allegedly failed to satisfy obligations arising from promissory notes. The proceedings demonstrate how creditors may encounter prolonged enforcement difficulties even after obtaining judicial recognition of their claims. Such circumstances raise concerns regarding the predictability of legal remedies and the practical value of enforceable judgments. A legal system that recognizes creditor claims without providing sufficiently clear execution mechanisms risks weakening confidence in commercial transactions involving state enterprises.[18]

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[15] Anis Mashdurohatun and others, 'Legal Protection of Creditors with Rejected Claims under Debt Payment Suspension Framework', *Journal of Human Rights, Culture and Legal System*, 6.1 (2026) https://doi.org/10.53955/jhcls.v6i1.916

[16] Alfons Manuel P. M. Napitupulu, 'A Juridical Analysis Of Employee Credit Rights In The Bankruptcy Of Pt. Kertas Leces (Persero)', *Journal of Multidisciplinary Research*, 2025, 15–27 https://doi.org/10.56943/jmr.v4i4.853

[17] Francine Hug, 'Do Just Energy Transition Partnerships Collide or Converge with Substantive Investment Law Standards? Case Studies from Indonesia and Vietnam', *Review of European, Comparative & International Environmental Law*, 35.1 (2026), 115–41 https://doi.org/10.1111/reel.70033

[18] Derita Prapti Rahayu and others, 'Legal Effectiveness of Business Contracts in Tin Mining: Socio-Legal and Governance Challenges in Corporate–Community Relations in Indonesia', *Resources Policy*, 111 (2025), 105767 https://doi.org/10.1016/j.resourpol.2025.105767

The bankruptcy proceedings involving PT Dirgantara Indonesia provide another perspective on the interaction between public enterprise status and creditor protection. The dispute arose from employment related claims involving thousands of former workers and substantial outstanding compensation obligations. The Commercial Court's bankruptcy decision was subsequently overturned by the Supreme Court, demonstrating the importance of statutory petition requirements and the legal classification of the debtor. This case highlights the need to distinguish procedural eligibility for bankruptcy from the separate question of asset execution following a valid bankruptcy declaration. It also illustrates the broader social consequences of unresolved corporate liabilities, particularly where workers depend on legal remedies to secure compensation and employment benefits.[19]

These disputes reveal the importance of developing a coherent relationship between state enterprise governance and creditor protection. Bankruptcy law generally seeks to administer the debtor's assets collectively while respecting legally established creditor priorities. Secured creditors, preferential creditors, and unsecured creditors possess different legal positions that influence the distribution of available assets.[20] The principle of proportional distribution therefore operates within a framework that recognizes valid security interests and statutory preferences. Creditor justice cannot be understood as requiring identical treatment regardless of legal status. Instead, it requires consistent application of established priorities, transparent administration, and effective protection against arbitrary interference with legitimate claims.[21]

Previous legal scholarship provides several approaches to understanding these difficulties. Research by Adeyemi Adebayo (2025) concerning state finances emphasizes the constitutional significance of public ownership, financial supervision, and accountability for separated state assets. This perspective contributes to preventing the misuse of public resources and preserving the state's responsibility for economic governance.[22] Corporate law scholarship, by contrast, emphasizes separate legal personality, limited liability, and the distinction between shareholder ownership and corporate property. Bankruptcy scholarship focuses on collective debt settlement, asset administration, creditor priorities, and

[19] Alejandro Castillo, Debra Howcroft and Miguel Martínez-Lucio, 'Trade Unions and Sociotechnical Change: Examining Legal Mobilisation in the Retail Sector in Chile', *New Technology, Work and Employment*, 41.1 (2026), 128–40 https://doi.org/10.1111/ntwe.70011

[20] Shakti Deb and Indrajit Dube, 'Insolvency and Bankruptcy Code 2016: Revisiting with Market Reality', *International Journal of Law and Management*, 63.1 (2021), 125–46 https://doi.org/10.1108/IJLMA-05-2020-0133

[21] Ahmad Dwi Nuryanto and Mohammed AlHadi Ibrahim Bosha Ahmed, 'Does Indonesian Bankruptcy Law Protection for Curators in Bankruptcy?', *Contrarius*, 2.1 (2026), 20–36 https://doi.org/10.53955/contrarius.v2i1.258

[22] Adeyemi Adebayo, 'Managerial and Legal Accountability in State-Owned Enterprises: Exploring Financial Sustainability through Accounting for and Reporting Public Service Obligations', *Accounting Research Journal*, 39.2 (2026), 197–219 https://doi.org/10.1108/ARJ-02-2025-0068

the effectiveness of judicial enforcement. Each approach contributes important principles, but their separate application may produce conflicting interpretations when state enterprises become insolvent.[23]

The principal limitation of these approaches lies in their tendency to examine legal relationships without fully integrating the consequences for bankruptcy execution. An analysis centered exclusively on state financial supervision may insufficiently explain how corporate creditors can enforce valid claims. Conversely, an approach relying solely on corporate independence may overlook legitimate statutory restrictions and public service responsibilities. Bankruptcy analysis that concentrates on general attachment and distribution may also fail to distinguish between different forms of state enterprise and categories of corporate assets. These limitations demonstrate the need for a framework that connects asset classification, corporate legal personality, public accountability, and creditor protection within a coherent legal structure.[24]

In England provides relevant experience concerning corporate insolvency, creditor protection, and the distinction between ordinary commercial enterprises and entities subject to specialized statutory arrangements.[25] The United States offers a framework for examining corporate reorganization, creditor participation, judicial supervision, and the treatment of entities with public ownership or public functions.[26] China provides a different institutional context in which state ownership, enterprise restructuring, and public economic policy interact with corporate insolvency procedures. These jurisdictions do not establish identical bankruptcy rules for all state enterprises. Their comparative significance lies in demonstrating different methods of balancing commercial accountability, institutional supervision, and public interests.[27]

This study develops a creditor justice framework for the enforcement of SOE assets through an integrated approach encompassing three dimensions: legal substance, through the harmonization of state finance, state treasury, corporate governance, and bankruptcy regulations; institutional structure, through

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[23] Luca Manelli and others, 'Beyond Ownership As Usual: The Implications of Steward-Ownership For Management Research', *Journal of Management Inquiry*, 35.3 (2026), 227–52 https://doi.org/10.1177/10564926251357812

[24] Sriono and others, 'Intellectual Property Rights as Credit Guarantee in Banking: A Legal Review in Indonesia', *Social Sciences & Humanities Open*, 14 (2026), 103271 https://doi.org/10.1016/j.ssaho.2026.103271

[25] Ana Maria Fagetan, 'Corporate Insolvency Laws in Selected Jurisdictions: US, England, France, and Germany—A Comparative Perspective', *Laws*, 14.2 (2025), 21 https://doi.org/10.3390/laws14020021

[26] Noora Alkhalifa and Raed Alnimer, 'Balancing Corporate Independence and Accountability: A Critical Analysis of the Separate Legal Entity Principle and Its Implications for Women in Corporate Structures', in *Hamdan, R.K. (Eds) Technological Innovation and Enhancing Decision Processes in Modern Enterprises. Studies in Systems, Decision and Control* (Springer Cham, 2026), pp. 451–59 https://doi.org/10.1007/978-3-032-04378-8_40

[27] Yong Zhou, Siting Liu and Wei Song, 'Can Bankruptcy Court Establishment Drive Enterprise' Entrepreneurial Orientation?', *International Review of Economics & Finance*, 103 (2025), 104540 https://doi.org/10.1016/j.iref.2025.104540

strengthened judicial oversight, the authority and accountability of bankruptcy administrators, and inter-institutional coordination; and legal culture, through the application of good faith, transparency, deliberation, and consensus. This framework emphasizes the distinction between legal certainty and unrestricted asset enforcement, recognizing that not all state-related assets automatically constitute part of the bankruptcy estate or are exempt from enforcement. Accordingly, transparent legal criteria are necessary to determine asset ownership, legitimate security interests, applicable legal restrictions, and enforceable assets while safeguarding public interests and statutory creditor priorities.[28]

This study is motivated by unresolved legal uncertainty in the enforcement of SOE assets, which affects commercial confidence, corporate accountability, and creditor protection. Unclear enforcement procedures may increase financing risks, prolong bankruptcy proceedings, and undermine the effectiveness of creditor recovery. Against this background, the study addresses two central issues: the legal, institutional, and cultural factors that hinder the fair enforcement of SOE assets in bankruptcy proceedings, and the development of a coherent regulatory model that strengthens creditor protection while respecting corporate legal independence, public financial accountability, and legitimate state interests. Accordingly, this study aims to identify regulatory inconsistencies, examine the institutional fragmentation affecting creditor remedies, and formulate an integrated bankruptcy asset enforcement model based on legal certainty, proportionality, institutional accountability, and creditor justice.[29]

## Research Method

This study employs normative legal research using qualitative doctrinal analysis to examine the legal challenges surrounding the execution of state-owned enterprise assets in bankruptcy and their implications for creditor protection.[30] The research integrates statutory, conceptual, case, and comparative approaches. The statutory approach examines the relationship between state finance, state treasury, corporate governance, and bankruptcy legislation, including relevant amendments, to identify regulatory inconsistencies affecting asset execution. The conceptual approach analyses separate corporate legal personality, legal certainty, proportionality, creditor equality, and distributive justice. The case approach examines judicial decisions involving PT Kertas Leces, PT Istaka Karya, and PT Dirgantara Indonesia to evaluate the application of bankruptcy provisions and the

[28] Yu Wang, 'Constructing a Regulatory Framework for Data Asset Pledge Financing: Lessons from China's Practice', *International Review of Economics & Finance*, 106 (2026), 104961 https://doi.org/10.1016/j.iref.2026.104961

[29] Samuel Biresaw and Mia Rahim, 'Critical Analysis of the Practice of Insolvency in Ethiopia in Protecting Creditors' Interests: A Good Law Buried in Institutional Dysfunction', *International Insolvency Review*, 35.1 (2026), 215–59 https://doi.org/10.1002/iir.70025

[30] Madaliev Yarmuhammat Xudayberganovich, Agil Ahmadov and Karomi Karomi, 'The Governments' Role in Preserving National Identity on Globalization', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.2 (2025), 191–220 https://doi.org/10.53955/jsderi.v3i2.76

legal treatment of creditor claims. The comparative approach considers bankruptcy frameworks in England, the United States, and China to identify relevant principles concerning corporate insolvency, creditor protection, and institutional accountability. The study uses primary legal materials comprising legislation and judicial decisions, supported by secondary legal materials, including scholarly publications and legal commentaries. It applies qualitative legal analysis through systematic interpretation, comparison, and evaluation of relevant legal provisions and judicial reasoning. Deductive reasoning assesses the consistency of existing regulations with established legal principles, while inductive reasoning identifies recurring legal issues across the selected cases. The analysis provides the foundation for developing a proposed bankruptcy asset execution model that integrates regulatory harmonization, institutional accountability, transparent asset classification, and equitable creditor protection.[31]

## Results and Discussion

### *Legal Status of State Enterprise Assets and Their Executability in Bankruptcy*

The legal status of assets belonging to state owned enterprises presents a fundamental challenge in Indonesian bankruptcy law because these enterprises operate within two interconnected legal frameworks. As commercial entities, state enterprises enter contractual relationships, acquire property, obtain financing, and assume liabilities under corporate law.[32] As enterprises established through state participation, they also manage capital originating from public resources and remain subject to public financial accountability. These overlapping characteristics create uncertainty when creditors seek to enforce claims against corporate assets following a bankruptcy declaration. The principal legal question concerns whether the inclusion of separated state assets within the scope of state finances restricts the application of bankruptcy law or whether corporate legal personality permits the execution of assets legally owned by the enterprise. The analysis demonstrates that the answer requires distinguishing public financial supervision from corporate ownership and identifying the legal conditions under which assets enter the bankruptcy estate.[33]

Indonesia's constitutional framework recognizes state participation in economic activities as an instrument for promoting public welfare. Article 33 of the Constitution establishes the principles governing the national economy and provides a constitutional foundation for state control over strategic economic sectors. State enterprises consequently perform commercial and developmental functions, including the provision of essential goods and services, infrastructure

[31] Josua Halomoan Napitupulu and others, 'An Integrated Legal Framework for Digital Investment Fraud Prevention in Indonesia', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.3 (2025), 540–67 https://doi.org/10.53955/jsderi.v3i3.154

[32] David M. Kemme, 'The Sovereign Wealth Fund Paradox: Evolution, Challenges, and Unresolved Issues', *Journal of Risk and Financial Management*, 19.2 (2026), 119 https://doi.org/10.3390/jrfm19020119

[33] R. D. Vriesendorp and J. M. W. Pool, 'A Comparative Study on the Compensation of Bankruptcy Trustees in Insolvent Estates', *International Insolvency Review*, 34.3 (2025), 713–38 https://doi.org/10.1002/iir.70009

development, and management of economically significant industries. However, their constitutional significance does not eliminate their obligations as participants in commercial transactions. State enterprises regularly obtain loans, purchase goods, employ workers, and establish contractual relationships with private creditors. These activities generate legally enforceable obligations that must remain consistent with the principles of legal certainty, contractual responsibility, and creditor protection. State ownership therefore creates a distinctive governance relationship without necessarily exempting the enterprise from the consequences of financial distress.[34]

The legal framework governing state enterprises historically developed around the concept of separated state assets. Law Number 19 of 2003 concerning State Owned Enterprises recognized capital participation originating from state assets separated from the national budget. Under this arrangement, the government allocates public resources to an enterprise as capital rather than administering those resources exclusively through ordinary government expenditure procedures. The separation enables the enterprise to undertake commercial activities under corporate governance principles while maintaining the state's financial interest. Nevertheless, the legal consequences of this separation have generated competing interpretations. One interpretation emphasizes the continuing public character of capital originating from the state budget. Another emphasizes the independent legal personality of the enterprise and its responsibility for managing assets acquired through capital contributions and commercial operations.[35]

The distinction becomes particularly important when examining the legal position of *Persero* and *Perum*. Under the traditional statutory classification, Persero operates as a limited liability company whose capital is divided into shares, while *Perum* has capital wholly owned by the state without division into shares. These organizational differences affect corporate governance, ownership arrangements, and the procedural requirements applicable to bankruptcy petitions. A *Persero* possesses a corporate structure that distinguishes the legal personality of the company from that of its shareholders. Consequently, the state's ownership of shares should not automatically be treated as direct ownership of every asset recorded in the company's accounts. *Perum*, by contrast, operates under a different capital structure and public service orientation, requiring

[34] Rui Wan and Lingbing Feng, 'How Does Local Government Debt Expansion Affect Firm Value in China?', *Borsa Istanbul Review*, 25.6 (2025), 1337–47 https://doi.org/10.1016/j.bir.2025.07.014
[35] Dongsheng He, Jinshuo Wang and Guibo Sun, 'Ambiguity in State-Owned Land Property Rights Increases Transaction Costs in China's Transit-Oriented Development Projects', *Land Use Policy*, 152 (2025), 107501 https://doi.org/10.1016/j.landusepol.2025.107501

particular attention to the statutory provisions governing its administration and dissolution.[36]

The distinction between share ownership and corporate asset ownership constitutes a central finding of this research. When the state contributes capital to a Persero, the state obtains or maintains a legally recognized ownership interest represented by shares. The corporation subsequently manages its own property, enters transactions, and assumes liabilities as a separate legal person. Corporate assets may include land, buildings, machinery, receivables, inventories, contractual rights, and other economic resources acquired through lawful business activities. These assets do not necessarily become the personal or direct property of the shareholder merely because the shareholder exercises controlling influence. Accordingly, state ownership of corporate shares and the company's ownership of assets must be examined as distinct legal relationships.[37]

Law Number 40 of 2007 concerning Limited Liability Companies provides the corporate foundation for this distinction. Article 3 paragraph (1) generally limits shareholder responsibility for corporate obligations to the value of the shares held, subject to statutory exceptions. This principle reflects the separation between the legal personality of a corporation and its shareholders. It also establishes an important relationship between corporate independence and creditor protection. Creditors ordinarily rely on the debtor company's assets, rather than the personal property of shareholders, to satisfy corporate obligations. The same principle should inform the legal analysis of state enterprises organized as limited liability companies. State ownership does not automatically transfer every corporate liability to the national treasury, just as it should not automatically remove corporate assets from the reach of legitimate creditors.[38]

The development of state enterprise legislation further strengthens the need to distinguish corporate ownership from public financial supervision. Law Number 1 of 2025 introduced significant amendments to the state enterprise framework, including provisions concerning the composition of enterprise capital and the legal treatment of corporate assets. Article 4 recognizes capital originating from both the national budget and sources outside that budget. More importantly, Article 4A, as presented in the research material, recognizes capital contributed to state enterprises as property belonging to and becoming the responsibility of the enterprise. This provision provides a significant statutory foundation for

[36] Robert J. Eger III and Judith M. Hermis, 'Capital Structure of Special-Purpose Governments', *Journal of Public Budgeting, Accounting & Financial Management*, 37.3 (2025), 393–414 https://doi.org/10.1108/JPBAFM-09-2023-0164

[37] Andyna Susiawati Achmad and Astrid Athina Indradewi, 'A Legal Review of Share Inheritance in Limited Liability Companies', *Jurnal Ius Constituendum*, 10.3 (2025), 346–62 https://doi.org/10.26623/jic.v10i3.12026

[38] R. Narendra Jatna and others, 'Strengthening the Business Judgment Rule in Indonesia: Lessons from Malaysia', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.3 (2025), 568–89 https://doi.org/10.53955/jsderi.v3i3.157

understanding the relationship between public capital participation and corporate legal personality. Its implications require interpretation alongside the wider legislative framework and subsequent amendments, rather than through the assumption that the historical source of capital determines the ownership of every asset indefinitely.[39]

The continuing relevance of public financial accountability nevertheless prevents a purely private interpretation of state enterprise governance. Article 2 letter g of Law Number 17 of 2003 concerning State Finance includes separated state assets invested in state and regional enterprises within the scope of state finances. This provision reflects the state's continuing responsibility to supervise the use and management of public resources. The classification serves an important constitutional purpose because public capital participation must remain accountable to the institutions responsible for protecting state financial interests. However, the scope of state finances for supervisory purposes does not necessarily establish identical consequences under corporate ownership law. Treating these distinct legal functions as interchangeable creates uncertainty concerning the rights of shareholders, corporate creditors, and bankruptcy administrators.[40]

The relationship between state financial accountability and corporate ownership requires particular attention to Constitutional Court jurisprudence. Decision Number 77/PUU-IX/2011 addressed the legal treatment of receivables belonging to state owned banks and the authority responsible for their settlement. The Court recognized the significance of separate corporate management in determining whether such receivables should be administered through mechanisms governing state claims.[41] This reasoning supports the principle that state enterprises may exercise independent commercial authority over rights and obligations arising from their business activities. Its relevance to bankruptcy lies in the recognition that public ownership does not necessarily eliminate the application of corporate legal mechanisms. Nevertheless, the decision concerned the settlement of receivables and should not be interpreted as establishing unrestricted immunity from public financial supervision.[42]

Constitutional Court Decision Number 48/PUU-XI/2013 addressed the constitutional scope of state finances and upheld the inclusion of separated state assets within the relevant statutory framework. The Court recognized that state

[39] A.C. Belcher and others, 'Aviation Sector Decarbonisation as a Case of Deep Uncertainty: The Need for an Integrative, Exploratory, and Interdisciplinary Approach', *Energy Research & Social Science*, 127 (2025), 104158 https://doi.org/10.1016/j.erss.2025.104158

[40] Jennifer L. L. Gant, 'Power, Choice, Exposure and Fragility: Reframing Fairness in Equity for the Corporate and Insolvency Sphere', *International Insolvency Review*, 34.2 (2025), 302–36 https://doi.org/10.1002/iir.70006

[41] Petrus S. de Rozari and Elfrida Ratnawati, 'Legal Protection for Third Parties Acquiring Rights in the Management of State Receivables', *Media Iuris*, 8.1 (2025), 137–68 https://doi.org/10.20473/mi.v8i1.65756

[42] Hüseyin Bilgin and Yasin Atalan, 'The Structure and Functioning of the Turkish Court of Accounts as the Body Responsible for the Financial Audit of State-Owned (Public) Companies Under Turkish Law', *Laws*, 15.4 (2026), 92 https://doi.org/10.3390/laws15040092

financial responsibility extends beyond the annual national budget and encompasses resources managed through institutions performing public economic functions. The decision reinforces the constitutional basis for accountability over public resources invested in state enterprises. However, its principal concern involved the scope of state finances rather than a comprehensive determination of bankruptcy asset execution. Consequently, the decision should not be interpreted as automatically prohibiting the liquidation of every asset belonging to a state enterprise.[43]

Constitutional Court Decision Number 62/PUU-XI/2013 further examined the relationship between separated state assets and the authority of the Audit Board to supervise state financial management. The Court maintained that the separation of state assets into corporate capital does not eliminate the state's constitutional supervisory interest. At the same time, the decision recognized the importance of applying corporate governance principles to enterprises operating through commercial mechanisms. This distinction is particularly significant because it demonstrates that public accountability and business independence can coexist within the same legal structure. The continued authority to audit corporate financial management does not necessarily determine the ownership status of every individual asset or establish an absolute prohibition against bankruptcy execution.[44]

These judicial developments reveal the limitations of interpreting the legal status of state enterprise assets through a single regulatory perspective. Public financial law concerns the accountability of resources connected to state ownership, while corporate law determines the rights and obligations of legally independent enterprises. Bankruptcy law governs collective enforcement against assets belonging to an insolvent debtor. Each legal framework addresses a different dimension of the same economic relationship. Legal uncertainty arises when courts or administrative authorities treat the broad classification of state finances as sufficient proof that corporate assets cannot be administered under bankruptcy law. A coherent interpretation must instead establish the precise legal function of each provision and determine whether a specific statutory restriction applies to the property concerned.[45]

Article 50 of Law Number 1 of 2004 concerning State Treasury represents the most significant source of controversy regarding asset execution. The provision

[43] Anak Agung Gede Duwira Hadi Santosa SantosaAnak Agung Gede Duwira Hadi Santosa and others, 'Separated State Assets in BPI Danantara and Its Relevance with Business Judgment Rules', *Jurnal IUS Kajian Hukum Dan Keadilan*, 13.3 (2025), 559–79 https://doi.org/10.29303/ius.v13i3.1805

[44] Anisha Desiliana Resti and others, 'Reconstructing Indonesian State-Owned Enterprise Governance under the Welfare State Paradigm: Lessons from Malaysia and Norway', *Jambura Law Review*, 1.1 (2026) https://doi.org/10.33756/jlr.v1i1.35180

[45] Manotar Tampubolon, 'Decoding Legal Ambiguity: The Interplay between Law and Legal Semiotics in Modern Jurisprudence', *International Journal for the Semiotics of Law - Revue Internationale de Sémiotique Juridique*, 39.5 (2026), 1437–65 https://doi.org/10.1007/s11196-025-10271-2

prohibits the seizure of specified money, securities, movable property, immovable property, and other rights belonging to or controlled by the state or regional governments under the conditions established by law. Its protective function seeks to prevent unauthorized interference with public property and the performance of governmental responsibilities. However, the application of this prohibition to state enterprises requires a determination of whether the particular property legally belongs to the state or to a separate corporate entity. The inclusion of separated state assets within the scope of public financial supervision cannot independently resolve this ownership question.[46]

An interpretation extending Article 50 to every asset held by a state enterprise would create substantial difficulties for bankruptcy law. It could prevent creditors from obtaining satisfaction from assets acquired through ordinary commercial transactions, even where the enterprise itself possesses legal title and assumes contractual liabilities. Such an interpretation would also create uncertainty regarding secured lending, corporate financing, and the enforceability of commercial obligations. Conversely, disregarding Article 50 entirely could expose property directly owned by the state or subject to specific public restrictions to unauthorized execution. The appropriate legal approach therefore requires an examination of title, corporate status, statutory restrictions, and the legal purpose for which assets are held.[47]

Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations establishes the general legal consequences of bankruptcy. Article 1 paragraph (1) defines bankruptcy as a general attachment over the debtor's assets, administered and liquidated by a curator under the supervision of a supervisory judge. Article 21 generally includes the debtor's assets at the time of the bankruptcy declaration and property acquired during bankruptcy within the bankruptcy estate, subject to applicable exceptions. Article 24 restricts the debtor's authority to administer and dispose of property included in that estate. These provisions establish collective administration as the foundation of bankruptcy proceedings and prevent competing individual enforcement actions from undermining the legally regulated distribution of available assets.[48]

The concept of general attachment does not mean that every asset associated with a bankrupt enterprise automatically becomes executable property. The curator must establish that the debtor possesses a legally recognized ownership

[46] Sara Poli, 'The EU's Response to Russia's Aggression Through Restrictive Measures: Limits Imposed by International Law and Opportunities for Its Development', in *The EU's Response to the War in Ukraine and Its Impact on the EU Legal Order. Global Europe: Legal and Policy Issues of the EU's External Action* (Springer Cham, 2026), pp. 127–90 https://doi.org/10.1007/978-94-6265-767-0_6

[47] Daniel Franchini, 'When Finance Becomes a Weapon: The Challenge of Central Bank Sanctions under International Law', *Journal of International Trade Law and Policy*, 24.1 (2025), 28–56 https://doi.org/10.1108/JITLP-07-2024-0041

[48] Alvin Velazquez, 'Bargaining for the Common Good in Bankruptcy', *Labor Studies Journal*, 50.4 (2025), 314–36 https://doi.org/10.1177/0160449X251324433

interest or another right capable of administration under bankruptcy law. Property belonging to third parties cannot ordinarily be treated as corporate property merely because the debtor possesses or uses it. Likewise, assets subject to security interests, contractual restrictions, or sector specific regulations require appropriate legal treatment. The scope of the bankruptcy estate must therefore be determined through an examination of ownership and applicable legal rights rather than through the physical location or operational use of assets.[49]

The legal position of the curator is central to this determination. Bankruptcy law assigns the curator responsibility for administering and liquidating the bankruptcy estate under judicial supervision. These responsibilities include identifying assets, examining corporate records, securing property, verifying claims, evaluating available rights, and undertaking lawful realization procedures. The curator must also determine whether assets are subject to valid security interests or statutory restrictions. Article 72 of Law Number 37 of 2004 establishes liability for errors or negligence in administering or liquidating the estate that cause losses to the bankruptcy estate. This responsibility requires the curator to exercise independent professional judgment and protect the collective interests recognized by bankruptcy law.[50]

In proceedings involving state enterprises, the curator's responsibilities become more complex because corporate property may be connected to public investment, strategic infrastructure, government contracts, and regulated commercial activities. These connections do not necessarily remove the property from the bankruptcy estate, but they may affect its legal classification, transferability, and economic value. A curator administering an aviation enterprise, for example, must distinguish aircraft legally owned by the debtor from aircraft held under leasing arrangements. Operating permits and route authorizations may also be subject to regulatory restrictions that prevent their unrestricted sale. Similarly, assets associated with defense production or essential public services may require compliance with specialized legislation before transfer or disposal.[51]

The bankruptcy proceedings involving PT Kertas Leces demonstrate the practical consequences of these legal complexities. The company entered debt restructuring proceedings in 2014 and subsequently obtained judicial approval of a settlement arrangement in 2015. According to the research material, the restructuring involved claims totaling approximately 2.12 trillion rupiah and

[49] Kai Zhang and Jingchen Zhao, 'Artificial Intelligence and Liquidation: Reality, Destiny and Fantasy', *International Insolvency Review*, 2026 https://doi.org/10.1002/iir.70053
[50] Muhammad Rafi Maulana, 'When Polluters Go Bankrupt: Reconstructing the Status of Environmental Restoration Claims and Curator Responsibility under Indonesian Insolvency Law', *International Insolvency Review*, 2026 https://doi.org/10.1002/iir.70067
[51] Johnson Sahat Maruli Tua Maruli and others, 'From Failure to Future Reconstructing Intellectual Property in Bankruptcy Law', *Journal of Human Rights, Culture and Legal System*, 5.1 (2025), 279–318 https://doi.org/10.53955/jhcls.v5i1.569

hundreds of creditors. The settlement sought to provide the enterprise with an opportunity to reorganize its obligations while protecting creditor expectations. However, the company failed to fulfill the agreed payment arrangements, prompting creditors, including former employees, to seek cancellation of the settlement. The Surabaya Commercial Court subsequently declared the enterprise bankrupt in September 2018. The Supreme Court's consideration of the subsequent review application confirmed the importance of the statutory provisions governing cancellation of an approved settlement. The proceedings demonstrate that state ownership does not necessarily prevent a Persero from becoming subject to bankruptcy following failure to perform legally binding restructuring obligations. However, the declaration of bankruptcy did not automatically ensure complete creditor recovery. The subsequent administration required the identification, valuation, and realization of corporate assets, followed by distribution according to legally established priorities. The distinction between obtaining a bankruptcy declaration and achieving effective recovery therefore constitutes an essential aspect of creditor justice. An auction of PT Kertas Leces assets conducted in October 2021 generated approximately 226 billion rupiah. It also reports that former employees continued to experience difficulties obtaining full payment of outstanding wages and other employment entitlements. These figures illustrate the difference between the nominal value of recognized claims and the economic resources available for distribution. The presence of executable assets does not necessarily guarantee complete satisfaction of creditors when liabilities substantially exceed realizable property values. Accordingly, the effectiveness of bankruptcy execution must be evaluated through the accuracy of asset classification, transparency of liquidation, application of creditor priorities, and actual distribution of proceeds.[52]

The PT Istaka Karya proceedings further demonstrate how differences in judicial interpretation can affect the application of bankruptcy law to state enterprises. The dispute arose from financial obligations associated with promissory notes and subsequent debt enforcement proceedings. The Jakarta Commercial Court initially rejected the bankruptcy petition, partly because it interpreted the enterprise's state ownership as relevant to the special petition requirements applicable to enterprises operating in the public interest. The Supreme Court subsequently reversed that decision at the cassation stage, recognizing the significance of the company's Persero structure and the distinction between share ownership and capital not divided into shares. A later judicial review reversed the bankruptcy declaration on grounds involving the legal status of the underlying debt.[53]

[52] Waluyo, Tegnan and Setiowati.
[53] Linda Elida, Afrizal Afrizal and Eka Vidya Putra, 'Recognition without Resolution: Institutional Power and Environmental Governance in Indonesia's Oil Palm Land Conflicts', *Environmental Sociology*, 2026, 1–17 https://doi.org/10.1080/23251042.2026.2741184

The sequence of decisions illustrates that the classification of the debtor and the existence of an enforceable debt constitute separate legal questions. A Persero may possess the corporate characteristics necessary for the general bankruptcy petition mechanism, but the applicant must still establish the statutory requirements concerning creditors and due debts. Conversely, a dispute over the underlying debt should not automatically determine whether corporate assets enjoy protection as state property. The case demonstrates the importance of separating bankruptcy eligibility, petition standing, and the legal consequences of bankruptcy. Failure to maintain these distinctions may produce inconsistent judicial reasoning and undermine predictability for creditors and state enterprises alike.[54]

The proceedings involving PT Dirgantara Indonesia reveal another dimension of this problem. Former employees sought bankruptcy remedies in connection with outstanding employment related obligations. The Commercial Court initially accepted the petition, recognizing the enterprise's corporate structure and the existence of relevant creditor claims. The Supreme Court subsequently reversed the decision, emphasizing the company's public significance, state ownership, and relationship to strategic industrial activities. The judicial reasoning demonstrates how public interest considerations can influence the interpretation of bankruptcy eligibility even when the debtor operates through a corporate structure. Nevertheless, the legal significance of strategic industrial status should be distinguished from the question of whether every corporate asset is directly owned by the state.[55]

The distinction is particularly important for enterprises operating in sectors connected to national security, transportation, and essential infrastructure. Such enterprises may hold assets whose transfer requires administrative authorization or compliance with specialized regulations. However, restrictions on transferability do not necessarily establish that the assets fall outside the bankruptcy estate. A company may retain ownership of an asset while its sale remains subject to regulatory approval. Similarly, public service obligations may affect the manner of liquidation without eliminating creditor claims. A legally coherent execution model must therefore distinguish ownership restrictions from regulatory conditions governing the disposal or continued operation of assets.[56]

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[54] Aimi Anuar and Muhamad Yohaniz Atan, 'Judicial Interpretation and Employee Compensation in Corporate Insolvency: A Comparative Analysis of Malaysia and Australia', *Laws*, 15.5 (2026), 126 https://doi.org/10.3390/laws15050126

[55] Anak Agung Ngurah Adhi Wibisana and Anak Agung Sagung Laksmi Dewi, 'Challenges in Law Enforcement Against Online Gambling Promotion by Social Media Influencers: Protecting Indonesia's Digital Generation', *LEGAL BRIEF*, 15.3 (2026), 223–41 https://doi.org/10.35335/legal.v15i3.1684

[56] Kweku Ainuson, 'Residual Liability in Oil and Gas Decommissioning. A Comparative Analysis of Legal and Regulatory Frameworks in Ghana and Nigeria', *Resources Policy*, 120 (2026), 105997 https://doi.org/10.1016/j.resourpol.2026.105997

The PT Merpati Nusantara Airlines proceedings illustrate the relevance of sector specific regulation. The company's financial difficulties generated substantial obligations to employees, government institutions, and commercial creditors. Following earlier unsuccessful bankruptcy proceedings, the Surabaya Commercial Court declared the company bankrupt in June 2022 after the cancellation of an approved restructuring settlement. The case demonstrates that bankruptcy administration in the aviation sector requires careful differentiation between corporate property, leased equipment, operational permits, and rights subject to regulatory authorization. The curator cannot treat every resource used in aviation operations as freely transferable corporate property. Effective liquidation depends on establishing legal ownership and identifying restrictions that affect realization.[57]

The experience of PT IGLAS adds a further institutional dimension. The company experienced bankruptcy proceedings, judicial reversals, and settlement arrangements before the state pursued corporate dissolution through Government Regulation Number 18 of 2023. This development demonstrates that bankruptcy and corporate liquidation constitute distinct legal mechanisms, although both may involve the settlement of outstanding liabilities. Bankruptcy administration proceeds under the collective framework established by insolvency legislation, while corporate liquidation follows the applicable corporate and state enterprise provisions. The selection of a particular mechanism should not eliminate legally established creditor rights or permit the distribution of residual assets to shareholders before outstanding liabilities receive the treatment required by law.[58]

Taken together, these cases demonstrate that the legal difficulties surrounding state enterprise bankruptcy cannot be attributed exclusively to the classification of separated state assets.[59] They also arise from differences in corporate structure, judicial interpretation, debt verification, creditor priorities, sector specific restrictions, and the practical realization of property. The cases do not establish that every state enterprise asset is immune from execution or that all assets may be sold without restriction. Instead, they reveal the need for a consistent legal method capable of determining which assets belong to the debtor, which rights remain subject to public restrictions, and which claims receive priority in the distribution process. A coherent legal interpretation should begin by identifying the debtor's corporate form and determining the applicable bankruptcy petition requirements. It should then distinguish the state's shareholder interest from property legally owned by the enterprise. The curator must examine the legal title and economic

[57] Yuli Indrawati, 'Implications of State Position Dualism on the Financial Settlement of PT Garuda Indonesia (Persero) Tbk.', *Jurnal Ius Constituendum*, 10.1 (2025), 121–36 https://doi.org/10.26623/jic.v10i1.11395

[58] Engelbertus Nggalu Bali and others, 'Resilience of Early Childhood Educators: Navigating the Implementation of the Merdeka Curriculum in Indonesia's Border with Timor Leste', *Educational Studies*, 52.5 (2026), 946–62 https://doi.org/10.1080/03055698.2026.2629907

[59] Alex Zhicheng Huang, 'Bankruptcy Law's Doctrinal Evolution: An Empirical Study', *American Business Law Journal*, 62.4 (2025), 289–312 https://doi.org/10.1111/ablj.70005

character of each asset, including whether it constitutes corporate property, third party property, collateral, or property subject to specific statutory restrictions. This assessment should precede liquidation and provide a transparent basis for determining which assets may enter the bankruptcy estate. Judicial supervision remains essential where ownership disputes or conflicting legal claims arise.[60]

The relationship between bankruptcy execution and creditor priorities also requires careful consideration. Articles 1131 and 1132 of the Indonesian Civil Code establish general principles concerning the debtor's property as security for obligations and proportional distribution among creditors, subject to legally recognized priorities. Bankruptcy law develops these principles through collective administration. Secured creditors, preferential creditors, and unsecured creditors possess different rights that must be respected during liquidation. Consequently, creditor justice does not require identical payments to every claimant. It requires legally justified differences in treatment, transparent verification of claims, and distribution according to applicable priorities. Employment claims require particular attention because state enterprise insolvency can affect large numbers of workers. The legal treatment of unpaid wages and other employment entitlements must account for the relevant labor legislation and Constitutional Court jurisprudence concerning creditor priorities. Curators must distinguish unpaid wages from other employment rights because their payment positions may differ under applicable law. The existence of a state shareholder does not justify disregarding legally protected employee claims. Equally, the priority accorded to creditors must remain consistent with the applicable statutory framework rather than depending on administrative preferences or the negotiating influence of individual claimants.[61]

The public financial supervision and bankruptcy administration should operate through coordinated rather than competing legal responsibilities. The Audit Board may retain authority to examine the management of state financial interests, while the curator exercises statutory authority over property included in the bankruptcy estate. These functions address different legal purposes. Public auditing evaluates accountability in the management of resources connected to the state, whereas bankruptcy administration concerns the collective realization and distribution of the debtor's property. Neither function should automatically displace the other. Effective coordination requires clearly defined institutional responsibilities and

[60] Sara K. Phillips, 'The Legal Construct of Mining Conflicts', *Resources Policy*, 109 (2025), 105706 https://doi.org/10.1016/j.resourpol.2025.105706

[61] Erick Erick and Mardani Mardani, 'Execution by Fiduciary Right Holder Against Bankrupt Debtor Based on Law Number 37 of 2004 Concerning Bankruptcy', *Journal of Mujaddid Nusantara*, 2.4 (2025), 236–52 https://doi.org/10.62568/jomn.v2i4.572

mechanisms for resolving disputes over ownership, valuation, and transfer restrictions.[62]

The legal uncertainty surrounding state enterprise assets therefore reflects a broader problem of regulatory interpretation rather than an unavoidable conflict between public ownership and private creditor rights. State financial law, corporate law, and bankruptcy law can operate coherently when their respective functions are distinguished. Public financial legislation preserves accountability for state investment. Corporate legislation establishes the enterprise's legal personality and responsibility for its assets and liabilities. Bankruptcy legislation governs collective enforcement against property legally belonging to the debtor. Sector specific legislation determines whether assets require special treatment. Integrating these functions allows courts and curators to protect public interests without granting an automatic exemption from commercial obligations.[63]

The executability of state enterprise assets must depend on legally established ownership and applicable restrictions rather than on state participation alone. Separated state assets may remain relevant to public financial accountability while corporate property continues to support enforceable commercial liabilities. This distinction provides a foundation for reconciling constitutional economic objectives with the principles of corporate independence and creditor justice. A coherent execution framework must therefore establish transparent asset classification, consistent judicial interpretation, effective curator authority, and respect for statutory creditor priorities. Such an approach would reduce uncertainty, strengthen institutional accountability, and ensure that bankruptcy proceedings involving state enterprises provide meaningful legal protection without disregarding legitimate public interests.[64]

### *Regulatory Frameworks Governing the Execution of State-Owned Enterprise Assets in Bankruptcy Across Different Jurisdictions*

The execution of state-owned enterprise assets in bankruptcy raises fundamental legal questions concerning the relationship between public ownership, corporate independence, and creditor protection. Although state enterprises undertake commercial activities and assume contractual obligations, their public responsibilities often influence the legal treatment of corporate property when financial difficulties arise. This situation creates uncertainty regarding whether creditors can initiate bankruptcy proceedings, which assets form part of the bankruptcy estate, and whether insolvency administrators can execute those assets

[62] Elsi Kartika Sari and Ahmad Sabirin, 'Ownership Dualism of Condominiums: Between Unitary Ownership of Flats and Jointland Rights', *Journal of Property, Planning and Environmental Law*, 18.1 (2026), 41–53 https://doi.org/10.1108/JPPEL-07-2025-0048

[63] Rebecca Parry and Hakan Sahin, 'Nationalisation as a Response to Failing Public Service Providers: Challenges and Alternatives', *Laws*, 15.2 (2026), 25 https://doi.org/10.3390/laws15020025

[64] Juan L. Goldenberg-Serrano, 'Protecting Vulnerable Stakeholders in Insolvency Proceedings: A Latin American Perspective', *International Insolvency Review*, 34.2 (2025), 448–74 https://doi.org/10.1002/iir.70001

to satisfy outstanding obligations. Different jurisdictions address these questions through legal frameworks that reflect their constitutional structures, economic policies, and institutional arrangements. A comparative examination of England, the United States, and China provides important insights into how legal systems reconcile state ownership with corporate accountability and enforceable creditor rights.[65]

This research employs contextual and functional comparative analysis to examine the legal treatment of state enterprises in bankruptcy. The comparison focuses on three principal questions: whether state enterprises can be declared bankrupt, whether their assets legally belong to the government or the corporate entity, and whether creditors can enforce their claims through asset execution. It also examines the institutional responsibilities of insolvency administrators, the protection of strategic assets, and the availability of restructuring mechanisms. These dimensions provide a framework for evaluating Indonesian bankruptcy law, particularly the regulatory tensions between state finance legislation, state enterprise governance, and the collective enforcement of corporate liabilities.[66]

England regulates corporate insolvency primarily through the Insolvency Act 1986 and the Enterprise Act 2002. These instruments establish procedures for administration, voluntary arrangements, receivership, and liquidation. Their application to enterprises involving government ownership depends on the legal status of the entity and any specialized legislation governing its establishment. Government owned companies incorporated under ordinary corporate law generally possess independent legal personality, allowing them to own property, enter contracts, obtain financing, and assume liabilities separately from their shareholders. By contrast, statutory corporations may operate under specific legislation that determines their powers, financial responsibilities, and dissolution procedures. Consequently, public ownership does not automatically establish immunity from insolvency proceedings.[67]

The distinction between government owned companies and statutory corporations provides an important foundation for determining asset ownership. Where the government contributes capital to an incorporated company, its ownership interest ordinarily takes the form of shares rather than direct ownership of every corporate asset. The company independently manages its property and assumes responsibility for obligations arising from commercial transactions.

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[65] Xingquan Yang and Lingli Wang, 'Bankruptcy Trial Reform and Corporate Labour Employment', *Economic Analysis and Policy*, 92 (2026), 177–91 https://doi.org/10.1016/j.eap.2026.06.013

[66] Sherly Nelsa Fitri, Emmy Latifah and Kukuh Tejomurti, 'Reformulating the Fresh Start Principle in Indonesian Bankruptcy Law for Small and Medium Enterprises (SMEs) to Ensure Business Continuity', in *Proceedings of the 3rd International Conference on Law, Economics & Good Governance (ICLAW 2025)* (Atlantis Press, 2025), pp. 93–116 https://doi.org/10.2991/978-2-38476-519-5_9

[67] Ahmed Moustafa Aldabousi, 'Special Purpose Vehicles (SPV) and the Architecture of Bankruptcy Remoteness: A Comparative Insolvency-Law Study of the UAE, the United States and Luxembourg', *Laws*, 15.5 (2026), 144 https://doi.org/10.3390/laws15050144

Creditors may therefore pursue available corporate assets through applicable insolvency procedures, subject to security interests and statutory restrictions. Statutory corporations, however, may require specialized arrangements because their governing instruments establish public responsibilities. The relevant legal distinction concerns corporate personality and statutory authority rather than government ownership percentages alone.[68]

English insolvency law also emphasizes restructuring before liquidation where continued operations may preserve greater economic value. Company voluntary arrangements enable eligible enterprises to negotiate repayment terms with creditors, while administration allows an appointed administrator to manage corporate affairs and pursue financial recovery. The statutory moratorium generally restricts individual enforcement actions during administration, preventing competing claims from undermining collective restructuring. These mechanisms seek to protect creditors while preserving viable business operations. Where restructuring fails, liquidation permits an authorized insolvency practitioner to realize corporate assets and distribute the proceeds according to legally established priorities. The government, when acting solely as shareholder, ordinarily receives residual value only after the company satisfies its liabilities.[69]

The Enterprise Act 2002 strengthened collective insolvency administration by reforming administration procedures and restricting the circumstances in which creditors could appoint administrative receivers.[70] These reforms reduced reliance on enforcement mechanisms dominated by individual secured creditors and encouraged procedures that consider the interests of creditors collectively. Licensed insolvency practitioners and the Official Receiver perform important functions within this framework, depending on the nature of the proceedings. Their responsibilities demonstrate the importance of professional independence, judicial supervision, and transparent asset administration. For Indonesia, the English approach offers a useful example of how corporate insolvency can operate alongside specialized public regulation without automatically excluding commercially owned assets from creditor enforcement.[71]

The United States provides a different perspective through its federal bankruptcy framework. The United States Bankruptcy Code distinguishes ordinary corporate insolvency from municipal debt adjustment and specialized intervention mechanisms applicable to certain government related entities. Federal government

[68] Christopher M. Bruner, 'Corporate Personhood, Corporate Rights, and the Contingency of Corporate Law', *Transnational Legal Theory*, 16.1–2 (2025), 9–21 https://doi.org/10.1080/20414005.2025.2471178
[69] Abdullah Nasser A. Aldahmash, 'The Petition for a Liquidation Procedure and the Administrative Liquidation Procedure: A Comparative Analysis Study in Saudi and UK Insolvency Law', *International Journal of Law and Management*, 68.4 (2026), 628–52 https://doi.org/10.1108/IJLMA-10-2024-0384
[70] Virginia Torrie, 'Designing Insolvency Systems for Small Farm Enterprises: Beyond Micro and Small Enterprise Insolvency Frameworks', *International Insolvency Review*, 2026 https://doi.org/10.1002/iir.70065
[71] Chunhui Liu, 'The Ecology of Insolvency: Why the Same Legal Framework Produces Different Outcomes in China's Cross-border Restructurings', *International Insolvency Review*, 2026 https://doi.org/10.1002/iir.70052

corporations, government sponsored enterprises, and municipalities possess different legal characteristics that influence their eligibility for bankruptcy proceedings. Government corporations may operate under specific federal legislation, while government sponsored enterprises may face specialized conservatorship or regulatory intervention. Eligible municipalities may seek debt adjustment under Chapter 9. These distinctions demonstrate that the legal treatment of financial distress depends on institutional classification and statutory eligibility rather than public ownership alone.[72]

Chapter 11 establishes an important mechanism for corporate reorganization. Under the debtor in possession arrangement, existing management generally retains operational authority while developing a restructuring plan under judicial supervision. The automatic stay restricts many individual enforcement actions and provides an opportunity to negotiate collective debt settlement. Creditors may examine financial information; challenge proposed transactions and participate in restructuring decisions through procedures established by bankruptcy law. In appropriate cases, creditor committees represent the collective interests of unsecured creditors. These mechanisms strengthen transparency and accountability by allowing creditors to participate in decisions affecting the value and enforceability of their claims.[73]

The American framework also permits eligible debtors to obtain financing during reorganization under specified statutory conditions.[74] Such financing may support continued operations and preserve corporate value, although courts must consider its implications for existing creditor rights. Where reorganization cannot provide a viable solution, Chapter 7 establishes a liquidation procedure administered by a bankruptcy trustee. The trustee identifies available property, realizes assets, and distributes proceeds according to statutory priorities. This distinction between reorganization and liquidation enables the legal system to consider whether preserving business operations offers greater value than immediate asset disposal. It also demonstrates that creditor protection requires effective participation and enforceable distribution rules rather than unrestricted liquidation.[75]

Chapter 9 provides a contrasting approach because municipal bankruptcy must respect governmental powers and the constitutional relationship between federal

[72] Ali Shahbazi and others, 'Enhancing Corporate Bankruptcy Prediction and Customer Relationship Sustainability through CNN-Based Financial Feature Transformation', *Scientific Reports*, 16.1 (2026), 20404 https://doi.org/10.1038/s41598-026-51162-1

[73] Tariq Kamal Alhasan, Mohammed Alqaisi and Faisal Alabdallat, 'Governing Automated Credit after Explainability: From Transparency to Contestability', *Social Sciences & Humanities Open*, 14 (2026), 103577 https://doi.org/10.1016/j.ssaho.2026.103577

[74] Fabio Rizzato and others, 'Climate Change Mitigation Takes the Lead: EU Taxonomy-Aligned and Eligible Activities in Relation to Debt Financing', *Business Strategy and the Environment*, 35.5 (2026), 6941–59 https://doi.org/10.1002/bse.70493

[75] Kenneth N.O. Ghartey, 'The Debt Priority Scheme in Insolvent Liquidation in Ghana: An Evaluative Analysis', *International Insolvency Review*, 35.1 (2026), 61–81 https://doi.org/10.1002/iir.70034

and state authorities. Eligible municipalities generally retain substantial control over their operations and public responsibilities during debt adjustment. The procedure does not authorize unrestricted liquidation of public property or apply automatically to every company owned by a state or local government. This distinction is particularly relevant to Indonesia because it illustrates how legislation can establish specific insolvency procedures for entities performing governmental functions while maintaining ordinary corporate mechanisms for eligible commercial enterprises. Government financial intervention represents another significant feature of the American experience. Public authorities may provide financial assistance or implement specialized restructuring arrangements when the failure of an enterprise threatens broader economic interests. However, government support does not necessarily extinguish corporate liabilities or guarantee that creditors will receive full repayment. Effective intervention requires clear statutory authority, financial accountability, and transparent restructuring conditions. This experience suggests that Indonesia should distinguish legitimate public assistance from measures that merely postpone corporate obligations. Government intervention should preserve essential services where necessary while maintaining credible mechanisms for protecting creditors.[76]

China offers a contrasting model because state investment occupies a central position in its economic governance. The Enterprise Bankruptcy Law of 2006 establishes procedures for bankruptcy liquidation, reorganization, and compromise, while the Law on the State-Owned Assets of Enterprises of 2008 regulates important aspects of state investment and public asset supervision.[77] Chinese enterprises may operate through wholly state-owned structures, state-controlled companies, or corporations involving public and private shareholders. Their organizational differences influence governance arrangements and institutional supervision. Nevertheless, state ownership does not necessarily create a universal exemption from enterprise bankruptcy.[78]

The Chinese bankruptcy framework recognizes judicial reorganization as a mechanism for addressing financial distress while preserving enterprise value. Eligible parties may seek reorganization under the statutory conditions, allowing the debtor or administrator to develop arrangements concerning outstanding liabilities and future operations. Courts supervise the proceedings, while creditors exercise their legally recognized rights. Where restructuring proves unsuccessful, liquidation permits the realization of property belonging to the debtor and

[76] Oluwafemi Akanfe, Paras Bhatt and Diane A. Lawong, 'Technology Advancements Shaping the Financial Inclusion Landscape: Present Interventions, Emergence of Artificial Intelligence and Future Directions', *Information Systems Frontiers*, 27.5 (2025), 2189–2212 https://doi.org/10.1007/s10796-025-10597-z
[77] Ruijing Wu and others, 'The Impact of Bankruptcy Court Establishment on Corporate Investment Efficiency', *Economic Analysis and Policy*, 90 (2026), 1238–51 https://doi.org/10.1016/j.eap.2026.01.055
[78] Miao Miao, Xuanzi Zeng and Yan Chen, 'From Courts to Capital: How Bankruptcy Judicial Reform Affects Corporate Investment Efficiency', *Humanities and Social Sciences Communications*, 2026 https://doi.org/10.1057/s41599-026-08435-x

distribution according to statutory priorities. These procedures demonstrate that extensive state participation in the economy can coexist with collective insolvency administration, although specialized public restrictions may influence transactions.[79] China also maintains substantial institutional supervision over state investment. The State-Owned Assets Supervision and Administration Commission performs important functions concerning the management and protection of state ownership interests. This arrangement reflects the government's responsibility to preserve public investment and ensure accountability in corporate transactions. However, the state's investment interests must be distinguished from property legally owned by an incorporated enterprise. The relevant legal framework determines whether assets may be transferred, liquidated, or subjected to additional approval requirements. Public supervision therefore does not automatically establish absolute immunity from creditor enforcement.[80]

The Chinese experience highlights the importance of asset classification in bankruptcy proceedings. Enterprises operating in strategic industries may possess assets subject to specialized regulatory requirements, while other corporate property may remain available for lawful realization. Insolvency administrators must therefore examine ownership, transfer restrictions, and the economic function of assets before liquidation. This approach offers a useful lesson for Indonesia, where uncertainty concerning separated state assets can complicate the curator's authority. Clearer asset classification could protect legitimate public interests while preventing unnecessary restrictions on the enforcement of commercial obligations.[81]

The comparison reveals that the three jurisdictions employ different institutional mechanisms but confront a common legal challenge: reconciling public ownership with corporate responsibility. England emphasizes corporate legal personality and professional insolvency administration. The United States differentiates bankruptcy procedures according to the debtor's legal status and provides substantial opportunities for creditor participation. China combines enterprise bankruptcy with extensive supervision of state investment. These differences demonstrate that neither complete public ownership nor strategic economic significance independently determines whether an enterprise may enter bankruptcy or whether its assets can be executed. The applicable legal framework must establish the relevant rights and restrictions. These findings have direct

[79] Yi Chen, 'Judicial Review of Corporate Bankruptcy Reorganization Value in China: A Critical Analysis Based on 590 Judicial Judgments', *Humanities and Social Sciences Communications*, 13.1 (2026), 396 https://doi.org/10.1057/s41599-026-06652-y

[80] Yujun Zhou, Yanjian Zhu and Yifeng Shi, 'Which Is Better for Distressed Firms: Comparison between Bankruptcy Reorganization and Major Asset Restructuring', *International Review of Law and Economics*, 86 (2026), 106335 https://doi.org/10.1016/j.irle.2026.106335

[81] Chuanliang Wang and Tianqi Liu, 'The Regime Regarding Suspension of Security Interests during Bankruptcy Reorganization: From the Perspective of Small and Medium-sized Enterprises in China', *International Insolvency Review*, 34.3 (2025), 739–58 https://doi.org/10.1002/iir.70011

implications for Indonesia. The interaction between the State Finance Law, State Treasury Law, State Enterprise Law, and Bankruptcy Law has generated competing interpretations concerning the legal status of separated state assets. Public financial legislation recognizes the state's continuing supervisory interest, while corporate legislation establishes the independent legal personality of enterprises organized as limited liability companies. Bankruptcy legislation provides collective procedures for administering property legally belonging to the debtor. Legal uncertainty arises when these different functions are treated as interchangeable, particularly when public financial supervision becomes the basis for if every corporate asset enjoys immunity from execution.[82]

The comparative analysis indicates that Indonesia should establish clearer legal criteria for distinguishing state investment interests from corporate property and assets subject to specific public restrictions. Regulatory reform should also clarify the responsibilities of curators and supervisory institutions, strengthen creditor participation, and improve transparency in asset valuation and liquidation. Where state enterprises provide essential public services, legislation should establish proportionate safeguards that protect those functions without automatically extinguishing enforceable creditor claims.[83] Restructuring mechanisms should remain available where continued operations offer a realistic prospect of satisfying creditors more effectively than liquidation. Ultimately, the effective bankruptcy regulation requires legal certainty, institutional accountability, and substantive creditor protection. State ownership should not automatically eliminate commercial responsibility, while asset execution must respect legally established public interests and ownership restrictions.[84] Indonesia can draw on the English emphasis on corporate independence, the American framework for restructuring and creditor participation, and the Chinese approach to supervising state investment. Integrating these principles would provide a stronger foundation for a bankruptcy asset execution model that reconciles public accountability with corporate legal personality and ensures that creditors can pursue legitimate claims through transparent, proportionate, and legally enforceable procedures.[85]

***Bankruptcy Asset Execution Through Creditor Justice and Corporate Accountability***

[82] János Kálmán, 'Regulatory Learning or Regulatory Privilege? How Sandbox Design Shapes the Governance Value of Experimental Regulation', *Regulation & Governance*, 2026 https://doi.org/10.1111/rego.70213
[83] Lego Karjoko, Nabila Rahma Safitri and Ravi Danendra, 'Unprotected Land Ownership Rights in Corporate Land Acquisition', *Contrarius*, 2.1 (2026), 37–53 https://doi.org/10.53955/contrarius.v2i1.261
[84] R. Hendral R. Hendral and others, 'Regulatory Reform of Evidence Confiscation in Forestry Crimes for Sustainable Environmental Governance', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 4.2 (2026), 833–76 https://doi.org/10.53955/jsderi.v4i2.397
[85] Nurumov Dilshodbek Djumabaevich and others, 'Rethinking State Sovereignty for Sustainable Digital Asset Governance', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 4.3 (2026), 983–1011 https://doi.org/10.68247/jsderi.v4i3.250

The achieving creditor justice in the bankruptcy of state-owned enterprises requires more than clarifying the legal status of corporate assets. An effective regulatory framework must reconcile state financial accountability, corporate independence, and the enforceability of creditors' rights. The existing legal difficulties arise from three interconnected problems: inconsistencies among statutory provisions, overlapping institutional responsibilities, and a legal culture that frequently treats state ownership as justification for protecting corporate assets from execution. These conditions weaken legal certainty and complicate the administration of bankruptcy estates. This study therefore proposes an integrated model of bankruptcy asset execution that combines regulatory harmonization, institutional accountability, and deliberative justice within Indonesia's constitutional and corporate legal framework.[86]

The proposed model begins by distinguishing property directly owned by the state from assets legally belonging to state enterprises. This distinction is particularly important for enterprises organized as Persero, which possess separate corporate legal personality and undertake commercial obligations independently of their shareholders. State capital contributions establish ownership interests in the enterprise but do not automatically confer direct state ownership over every corporate asset. Accordingly, the model recognizes that assets legally owned by a bankrupt Persero should generally enter the bankruptcy estate, subject to valid security interests, third party ownership, and specific statutory restrictions. Public financial supervision remains relevant to accountability but should not independently establish immunity from bankruptcy execution.[87]

Regulatory harmonization provides the legal foundation for implementing this distinction. The study proposes aligning the State Finance Law, State Treasury Law, State Enterprise Law, and Bankruptcy Law to clarify the consequences of separated state assets. Such reform should distinguish public financial supervision from corporate property ownership and expressly identify the circumstances in which statutory restrictions prevent asset execution. The framework must also recognize differences between Persero and Perum. While Persero generally operates through a commercial corporate structure, Perum carries distinctive public service responsibilities that may require specialized insolvency arrangements. Nevertheless, public service obligations should not automatically eliminate legitimate creditor claims or justify unrestricted protection of corporate property.[88]

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[86] Tuo Ji and Dong Cai, 'How Does Creditor Protection Improve Access to Corporate Credit?', *International Review of Economics & Finance*, 104 (2025), 104759 https://doi.org/10.1016/j.iref.2025.104759

[87] Arash Beidollahkhani, 'Who Owns the Land after Regime Collapse? Shifting Land Claims and Tenure Governance in Post-2021 Afghanistan', *Land Use Policy*, 173 (2027), 108405 https://doi.org/10.1016/j.landusepol.2026.108405

[88] Firmansyah, Suparji and Suwandi.

The model introduces a systematic asset classification mechanism to determine the scope of executable property. Bankruptcy administrators should identify each asset according to legal ownership, existing security interests, contractual restrictions, and its relationship to essential public services.[89] Corporate property without specific legal restrictions should remain available for lawful administration and realization. Assets belonging to third parties must remain outside the bankruptcy estate, while secured property requires treatment consistent with the rights of secured creditors. Where assets support essential public functions, the competent authorities should establish proportionate safeguards through clear statutory provisions. Strategic importance alone should not provide an unlimited exemption from execution.[90] The uncertainty concerning asset ownership and overlapping administrative authority can prevent curators from exercising their statutory responsibilities effectively. Interviews described in the research material identify administrative intervention, concerns regarding personal liability, and inconsistent institutional interpretations as obstacles to bankruptcy administration. The model therefore strengthens the curator's authority to identify, preserve, value, manage, and realize corporate assets under judicial supervision. It also establishes a coordination framework in which relevant government institutions provide necessary information and perform their statutory responsibilities without assuming control over the curator's independent bankruptcy functions.[91]

Strengthening curator authority must accompany enforceable professional accountability. The proposed framework recognizes limited functional protection for curators who act lawfully, professionally, and in good faith while performing court authorized responsibilities.[92] Such protection aims to prevent unfounded legal proceedings or administrative pressure from obstructing bankruptcy administration. However, it does not excuse fraud, intentional misconduct, negligence, or actions exceeding statutory authority. Courts must retain the power to examine objections and impose appropriate consequences for unlawful conduct. This balance protects professional independence while ensuring that creditors, debtors, and public institutions can challenge improper decisions through established legal procedures.[93] The strengthens judicial supervision over asset valuation and liquidation. Curators should prepare verifiable asset inventories, obtain appropriate independent valuations, disclose material information to

[89] Mika Lehtimäki, 'Legal Structures and Contractual Frameworks in Hybrid Real Estate Development: A Finnish Perspective', *Journal of Property, Planning and Environmental Law*, 18.1 (2026), 1–19 https://doi.org/10.1108/JPPEL-03-2025-0029

[90] Heru Yudi Kurniawan and others, 'The Principles of Welfare and Justice in Land Registration Regulations', *Journal of Human Rights, Culture and Legal System*, 6.2 (2026), 236–68 https://doi.org/10.53955/jhcls.v6i2.1024

[91] Ayup Suran Ningsih, 'Creditor Of Fiduciary Facing Bankruptcy, What Should They Do?', *Diponegoro Law Review*, 10.1 (2025), 29–41 Https://Doi.Org/10.14710/Dilrev.10.1.2025.29-41

[92] Zhou, Zhu and Shi.

[93] Shuang Xue and Wenshuai Xu, 'The Establishment of Bankruptcy Courts and Companies' Leverage Manipulation: A Quasi-Natural Experiment from China', *Pacific-Basin Finance Journal*, 100 (2026), 103345 https://doi.org/10.1016/j.pacfin.2026.103345

creditors, and document the legal justification for significant transactions.[94] Commercial Courts and supervisory judges should examine contested ownership claims, potential conflicts of interest, and proposed asset disposals that may substantially affect creditor recovery. Transparent auction procedures and periodic reporting would reduce opportunities for undervaluation, preferential transactions, and administrative interference. These safeguards would also protect legitimate state interests by ensuring that bankruptcy administration preserves corporate value rather than permitting unnecessary financial losses.[95]

Creditor justice constitutes the substantive objective of the proposed framework. The model recognizes the different legal positions of secured, preferential, and unsecured creditors while rejecting discriminatory treatment based solely on whether a creditor belongs to a public or private institution. Distribution must respect valid security rights, statutory preferences, and the applicable rules governing proportional recovery. Particular attention should be given to employees and smaller unsecured creditors, who may face significant financial consequences when corporate assets prove insufficient. However, protecting vulnerable creditors must not involve arbitrarily disregarding legally established priorities. Instead, the framework should improve access to information, claim verification, procedural participation, and the timely distribution of available proceeds.[96]

The third component introduces deliberation and consensus, known in Indonesian legal culture as *musyawarah mufakat*, as a complementary principle of creditor justice. Unlike debt restructuring procedures undertaken before bankruptcy, this principle operates within the administration and distribution of assets following a bankruptcy declaration. It encourages curators, creditors, and authorized state representatives to discuss disputed valuations, distribution arrangements, and practical solutions to conflicting interests. The mechanism does not replace statutory creditor priorities, judicial supervision, or mandatory voting requirements. Rather, it promotes informed participation and voluntary agreements within the boundaries of bankruptcy law, thereby strengthening procedural legitimacy and substantive fairness.[97]

The proposed model also addresses the continuity of essential public services. Where liquidation threatens activities necessary for public welfare, the government

[94] Yichen Song, 'Reform of Liquidation and Bankruptcy Court, Financing Constraints, and Corporate Long-Term Investment', *International Review of Financial Analysis*, 98 (2025), 103915 https://doi.org/10.1016/j.irfa.2025.103915

[95] Ramesh K.S. Rao, 'Public Financial Infrastructure, Systemic Loss Amplification, and Asset Prices', *Journal of Financial Stability*, 87 (2026), 101604 https://doi.org/10.1016/j.jfs.2026.101604

[96] Ashwini Agrawal, Juanita González-Uribe and Jimmy Martínez-Correa, 'Measuring the Ex-Ante Incentive Effects of Creditor Control Rights during Bankruptcy Reorganization', *Journal of Financial Economics*, 143.1 (2022), 381–408 https://doi.org/10.1016/j.jfineco.2021.09.020

[97] Miao Miao and others, 'Bankruptcy Judicial Reform and Corporate Fraud: Evidence from China', *International Review of Economics & Finance*, 103 (2025), 104514 https://doi.org/10.1016/j.iref.2025.104514

should consider lawful alternatives, including operational transfers, restructuring arrangements, or the preservation of specific service functions.[98] Any intervention must identify its statutory basis, disclose its financial implications, and protect creditors against unjustified reductions in recoverable assets. Public service continuity should therefore influence the method of execution without automatically extinguishing corporate liabilities. This approach allows the state to fulfill its constitutional responsibilities while preserving the commercial accountability of enterprises operating in competitive markets.[99]

The integrating legal substance, institutional structure, and legal culture into a single operational framework for bankruptcy asset execution. Previous approaches often address state asset classification, curator authority, or creditor protection separately. The proposed model connects these dimensions through legally defined asset ownership, independent bankruptcy administration, judicial accountability, and deliberative creditor participation. Its contribution extends beyond recommending statutory amendments by establishing a coherent relationship between corporate autonomy and public responsibility. Ultimately, the model seeks to ensure that state ownership does not become an unjustified barrier to creditor recovery while preserving legitimate public interests through proportionate and legally enforceable safeguards.[100]

## Conclusion

Based on the analysis and discussion, this study concludes that, *first,* the inadequate protection of creditors' rights in the enforcement of State-Owned Enterprise (SOE) assets during bankruptcy proceedings in Indonesia is attributable to three interrelated factors, namely inconsistencies among the legal frameworks governing state finance, state treasury, SOEs, and bankruptcy, which create legal uncertainty regarding asset ownership status and the nature of SOE assets subject to enforcement; overlapping institutional authorities, inconsistent judicial interpretations, and inadequate inter-institutional coordination, which undermine the effectiveness of bankruptcy administrators in carrying out their duties; and a prevailing legal culture that tends to regard state ownership as a basis for exempting SOE assets from enforcement without considering SOEs' status as independent legal entities with commercial obligations. *Second,* an integrated regulatory model based on legal harmonization, institutional accountability, and deliberative creditor justice is necessary to strengthen legal

[98] I Wayan Gde Wiryawan and others, 'Integrated Spatial Governance for Sustainable Tourims in Bali', *Journal of Sustainable Development and Regulatory Issues (JSDERI),* 4.1 (2026) https://doi.org/https://doi.org/10.53955/jsderi.v4i1.135

[99] Yun Zhong and others, 'Coordinating Bankruptcy Reform: Government–Court Collaboration and Firm Innovation through Financial and Human Capital Channels', *Economic Analysis and Policy*, 91 (2026), 372–91 https://doi.org/10.1016/j.eap.2026.03.028

[100] Xiaotian Liu, Yaxuan Qi and Wai Yee Wan, 'Bankruptcy Reforms and Corporate Debt Structure', *Journal of International Financial Markets, Institutions and Money*, 95 (2024), 102044 https://doi.org/10.1016/j.intfin.2024.102044

certainty and the effectiveness of SOE asset enforcement in bankruptcy proceedings. This model involves clarifying the distinction between state assets and corporate assets, establishing legal criteria for determining enforceable assets, and harmonizing the relevant legislation governing SOE bankruptcy. It also entails strengthening the authority, independence, and accountability of bankruptcy administrators through improved institutional coordination and judicial oversight of asset identification, valuation, liquidation, and distribution. Furthermore, the principle of *musyawarah mufakat* (deliberation to reach consensus) is incorporated as a complementary mechanism to promote meaningful creditor participation, transparent decision-making, and equitable debt resolution while maintaining statutory creditor priority. Accordingly, the academic contribution of this study lies in developing a regulatory model that integrates the substantive, institutional, and legal-cultural dimensions to balance state interests, SOE corporate independence, and the protection of enforceable creditor rights, thereby providing a foundation for bankruptcy law reform in Indonesia aimed at strengthening legal certainty, corporate accountability, the protection of essential public services, and substantive justice for creditors.

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