

Accountability for Error in Procedendo in Bankruptcy Proceedings in Indonesia

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Abstract

This study aims to comprehensively analyze the forms of maladministration that give rise to error in procedendo in the adjudication of bankruptcy cases in Indonesia, and to evaluate the extent to which the principles of accountability and procedural justice are implemented by commercial court judges. Employing a normative legal research method through statutory, case-based, and conceptual approaches, this study examines the Central Jakarta Commercial Court Decision No. 226/Pdt.Sus-PKPU/2023 and the Supreme Court Decision No. 1103 K/Pdt.Sus-Pailit/2024 as the primary bases of analysis. The findings reveal various forms of maladministration, including delays in the cassation process, violations of statutory deadlines, inaccuracies in determining the legal standing of creditors and debtors, and irregularities in the creditor-verification process. These procedural deviations significantly undermine the effectiveness of the principles of expeditious, simple, and low-cost proceedings as mandated by Law No. 37 of 2004. Based on Romzek and Dubnick's theory of accountability, the study finds that legal and bureaucratic accountability tend to predominate, while professional and political accountability remain suboptimal. Through the lens of Tom R. Tyler's theory of procedural justice, the research asserts that judicial non-compliance with procedural requirements adversely affects public trust and the perception of fairness in commercial court proceedings. Accordingly, this study recommends strengthening internal oversight mechanisms, enhancing the professional capacity of judges, and ensuring consistent adherence to procedural standards to promote legal certainty and justice in Indonesian bankruptcy proceedings.



KEYWORDS: *Maladministration; Error in Procedendo; Bankruptcy; Accountability*

Introduction

Bankruptcy law in Indonesia is designed as a legal instrument to ensure the prompt, fair, and efficient settlement of debts through the mechanisms of Suspension of Debt Payment Obligations (PKPU) and bankruptcy declaration. Bankruptcy constitutes a legal condition in which a debtor is unable to fulfill payment obligations owed to its creditors.¹ It is regulated under Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations, which provides a comprehensive legal framework for the resolution of debt-related disputes.

Bankruptcy and PKPU in Indonesian Law

Based on Article 1(1) of Law No. 37 of 2004, bankruptcy is defined as “a general attachment over all assets of the bankrupt debtor, the administration and liquidation of which are carried out by a curator under the supervision of a supervisory judge.” This provision not only addresses the debtor’s financial inability to satisfy outstanding debts, but also establishes a structured legal procedure designed to protect the interests of both creditors and debtors.² Thus, debt constitutes the *raison d’être* of a bankruptcy proceeding, in addition to the requirement of having two or more creditors as stipulated in Article 2(1) of the Bankruptcy Law.³ While not explicitly defined in the statute, PKPU may be understood as a

¹ M. Hadi Subhan, *Hukum Kepailitan: Prinsip, Norma, dan Praktik di Peradilan* (Jakarta: Kencana, 2008), 1.

² Brenda Sundah, “Pembatalan Putusan Pailit Pengadilan Niaga Oleh Mahkamah Agung (Putusan Nomor 555K/PDT.SUS-PAILIT/2021),” *Jurnal Education and Development* 10, no. 3 (2022): 353.

³ Tira Safira Frederica, “Konsekuensi Yuridis Penambahan Ketentuan Tentang Batas Minimum Utang Pada Syarat Kepailitan Terhadap Kreditor” (PhD diss., Universitas Atma Jaya Yogyakarta, 2022), 34.

mechanism aimed at achieving a mutual agreement between the debtor and the creditors concerning the settlement of outstanding debts.⁴

The term *jatuh tempo* is the Indonesian translation of the concept of date of maturity. The maturity date refers to the specific date designated as the final deadline for fulfilling a debt payment obligation. When an agreement stipulates the precise date on which a debt becomes due and payable, the debtor is legally required to satisfy the debt on that designated date.⁵ A debt agreement, as a contractual arrangement, creates reciprocal rights and obligations for both the creditor and the debtor. The essence of such an agreement lies in the creditor extending a loan to the debtor, and the debtor being legally obliged to repay it within the stipulated period, including the agreed-upon interest.⁶

Theoretical Foundations

According to Jerry Hoff, the purpose of Bankruptcy Law is to maximize the recovery of assets and property, to provide predictable and equitable treatment for creditors, and to afford debtors the opportunity to reorganize a financially distressed company when such reorganization is likely to yield greater benefits for creditors and the public, particularly when the continuation of the debtor's business operations is deemed more advantageous.⁷

Theoretically, the Indonesian bankruptcy law system upholds the principles of simplicity, expediency, and cost-efficiency.⁸ This principle is

⁴ Rai Mantili and Putu Eka Trisna Dewi, "Penundaan Kewajiban Pembayaran Utang (PKPU) Terkait Penyelesaian Utang Piutang dalam Kepailitan," *Aktual Justice* 6, no. 1 (2021).

⁵ Endang S Ramadhanny, "Doktrin Exceptio Non Adimpleti Contractus Sebagai Pembelaan Debitor Untuk Tidak Dinyatakan Pailit (Studi Kasus Telkomsel)" (Thesis, Universitas Islam Indonesia, 2016), 66.

⁶ Lia Amaliya, "Kekuatan Hukum Perjanjian Utang Piutang yang Dibuat dalam Bentuk Akta di Bawah Tangan," *Jurnal Justisi Hukum* 7, no. 1 (2022): 4.

⁷ Jerry Hoff, *New Bankruptcy Law In Indonesia* (paper presented at Seminar Perpu Nomor 1 Tahun 1998 Tentang Perubahan Atas Undang-Undang Kepailitan, April 29, 1998), as cited in Chatamarasyid, *Menyikap Tabir Perseroan (Piercing The Corporate Veil)*, Kapita Selekta Hukum Perusahaan (Bandung: PT. Citra Aditya Bakti, 2000), 77.

⁸ Indonesia, Law Number 48 of 2009 on Judicial Power, Article 4.

closely linked to the effort to realize one of the essential elements of the rule of law, namely equality before the law. To ensure that the interests of both debtors and creditors are protected in a balanced manner ensuring balanced protection of debtor and creditor interest. This principle serves not only as a normative foundation but also as a reflection of the principle of *due process of law*, which underscores the importance of fair, transparent, and consistent legal procedures.

Error in procedendo may render a judicial decision null and void when the procedural violation has affected the substantive justice that ought to be upheld. This view positions procedural compliance as the foundation of legal legitimacy in the pursuit of justice—indeed, as something even more fundamental than justice itself.⁹ Therefore, procedural violations do not constitute mere administrative errors, but rather a failure to provide the legal protection guaranteed by procedural law. The rigid enforcement of law through such procedural barriers becomes an impediment to the pursuit of truth and justice.¹⁰

The percentage of cassation decisions granted (kabul) by the Supreme Court (MA) in Special Civil Cases—which include Bankruptcy/PKPU matters—amounting to approximately 14.69% (204 out of 1,389 cases) in 2023 and 229 granted decisions in 2024¹¹ serves as strong statistical evidence of the occurrence of procedural errors (error in procedendo) or fundamental misapplication of the law at the lower courts. Each granted decision legally affirms the Supreme Court's recognition of a legal defect (such as violations of mandatory time limits, error in persona, or ultra petitum) in the prior proceedings, indicating a structural failure in upholding accountability and the principles of procedural justice within

⁹ FX. Adji Somekto, *Justice Not For All, Kritik Terhadap Hukum Modern Dalam Prespektif Hukum Kritis* (Yogyakarta: Genta Press, 2008), 33.

¹⁰ *Ibid.*, 34.

¹¹ Mahkamah Agung Republik Indonesia, *Laporan Tahunan 2024* (Jakarta: Mahkamah Agung RI, 2024), accessed December 4, 2025, <https://mahkamahagung.go.id/cms/media/13641>.

commercial courts, thereby necessitating the annulment, correction, or modification of the previous judgment. This condition constitutes the primary urgency of the present study, which aims to identify the forms of procedural errors occurring in bankruptcy cases, analyze their implications for legal certainty and procedural effectiveness, and assess the mechanisms of judicial accountability in overseeing case resolution processes. This research offers an academic contribution by integrating two principal theoretical frameworks. Public Accountability (Romzek and Dubnick) and Procedural Justice (Tyler) to evaluate the quality of commercial court proceedings. Moreover, this study fills an academic gap, as no prior scholarship has comprehensively linked error in *procedendo* with judicial accountability in Indonesian bankruptcy cases through a combined theoretical lens, nor has previous research systematically mapped specific procedural violations to accountability dimensions within the commercial court context.

In practice, adherence to these principles frequently encounters obstacles, particularly in administrative and procedural aspects. Violations such as non-compliance with statutory deadlines, errors in determining legal standing, and delays in delivering judgments have been recurrently reported in bankruptcy proceedings. These issues reveal a significant disparity between the *ius constitutum* and its implementation within the judicial system.

Accountability and Procedural Justice

In this research, Romzek and Dubnick's theory of public accountability serves as the primary analytical foundation. The theory categorizes accountability into four dimensions: legal, bureaucratic, political, and professional accountability.¹² In the context of the judiciary, legal accountability requires judges to adhere to procedural law; bureaucratic

¹² B. S. Romzek and M. J. Dubnick, "Accountability in the Public Sector: Lessons from the Challenger Tragedy," *Public Administration Review* 47, no. 3 (1987): 227.

accountability obliges them to comply with the internal administrative standards of the court; professional accountability concerns compliance with ethical codes; whereas political accountability refers to the judiciary's responsibility to the state system and the broader public. By employing this framework, the study is able to systematically assess which forms of accountability are most susceptible to violation in the bankruptcy cases under examination.

According to Tom R. Tyler, such legitimacy is primarily grounded in procedural justice, namely the manner in which authorities treat individuals throughout the processes of law-making and law-application.¹³ Tom R. Tyler explains that a procedurally just process must encompass several key elements, namely the opportunity for individuals to express their views during the proceedings (voice), decision-making grounded in neutrality, respectful treatment, and the belief that authorities act in good faith and with honesty (trust). When individuals perceive the process as fair, they are more likely to comply with the law, even when the outcome is not in their favor. In addition to procedural justice, distributive justice—which concerns perceptions that legal outcomes or decisions are allocated fairly—and interactional justice—which pertains to the quality of personal treatment individuals receive from legal authorities—also play significant roles in shaping perceptions of legitimacy and legal compliance.¹⁴ In the Indonesian bankruptcy context, these elements take on particular significance: voice manifests in creditor verification hearings and debtor responses to petitions; neutrality relates to judges' independence from business or political pressures; respect concerns adherence to statutory deadlines that acknowledge parties' time and resources; and trust depends on consistent, transparent judicial reasoning.

¹³ Tom R. Tyler, *Why People Obey the Law* (Princeton, NJ: Princeton University Press, 2006), 20.

¹⁴ *Ibid.*, 48.

The principle of *pacta sunt servanda*, as stipulated in Article 1338(1) of the Indonesian Civil Code, affirms that every lawfully executed agreement possesses binding legal force equivalent to that of statute, thereby requiring that the obligations arising from such agreement be honored by the heirs as successors to the legal relations of the decedent.¹⁵

The frequency of bankruptcy cases increased from 135 cases ($\approx 9.7\%$ of total registered cases in 2023) to 150 cases ($\approx 11.1\%$ of total registered cases in 2024), indicating a rising proportion of bankruptcy matters at the cassation level.¹⁶ This increase indicates a growing burden of bankruptcy cases at the cassation level over the past year. In addition, the high number of cassation petitions is largely driven by procedural errors occurring during the first-instance proceedings, which necessitate further judicial review at the cassation stage.

When legal procedures are not implemented consistently, neither of these aspects can be fulfilled. In bankruptcy cases, the uncertainty arising from delayed decisions or procedural errors not only disadvantages creditors and debtors but also creates systemic impacts on the stability of the business sector. The commercial community requires legal certainty to make rational economic decisions, whereas procedural uncertainty generates substantial legal risks. The consistency of judicial decisions and the uniform application of the law have an indirect impact on limiting the filing of cassation petitions. Consistent decisions serve as a consideration for parties when determining whether to pursue cassation.

The analytical approach of this research is further reinforced by Soerjono Soekanto's theory of legal effectiveness. Soekanto explains that, in

¹⁵ Syafrudin Makmur, "Kepastian Hukum Kepailitan Bagi Kreditur dan Debitur Pada Pengadilan Niaga Indonesia," *Mizan: Jurnal Ilmu Syariah* 4, no. 2 (2016): 352–53.

¹⁶ Mahkamah Agung Republik Indonesia, *Laporan Tahunan 2024* (Jakarta: Mahkamah Agung RI, 2024), accessed December 4, 2025, <https://mahkamahagung.go.id/cms/media/13641>.

essence, the theory of effectiveness concerns the extent to which a legal rule is complied with and applied among members of an institutional system.¹⁷

In the context of bankruptcy, failures attributable to legal enforcers particularly judges constitute the most dominant factor triggering error in *procedendo*. When judges fail to comply with statutory deadlines for issuing decisions or when administrators do not conduct creditor verification objectively, the implementation of the law becomes ineffective, even if the legal norms themselves are well-formulated.

Relevance of the Case Concerning Error in Procedendo

The selection of Jakarta Commercial Court Decision No. 226/Pdt.Sus-PKPU/2023 in conjunction with Supreme Court Decision No. 1103 K/Pdt.Sus-Pailit/2024 as the primary object of analysis is based on the following three criteria: (1) the case contains multiple forms of procedural errors identified in both commercial court and Supreme Court decisions, making it representative of broader systemic issues; (2) the presence of several procedural violations within a single case demonstrates the layered nature of accountability failures; and (3) the availability of accessible case files, including both first-instance and cassation decisions, provides comprehensive documentation for analysis.

The case revealed errors in determining legal standing, PKPU deadlines that were exceeded, non-objective verification of claims, and a cassation process that violated imperative time limits, accompanied by a ruling deemed *ultra petitum*. These deviations reflect weaknesses in the supervisory functions of the supervising judge, PKPU administrators, and the judicial panel itself, thereby raising concerns regarding the implementation of judicial accountability. Furthermore, inconsistencies between the first-instance judgment and the cassation ruling exacerbate the

¹⁷ Soerjono Soekanto, *Efektivitas Hukum Dan Peranan Sanksi*, 2nd ed., edited by Tjun Surjaman (Bandung: Remadja Karya, 1988), 80.

problem, demonstrating a disharmony in legal reasoning that should adhere to the principle of legal certainty.

Institutional responsibility requires sound judicial administration to support sustainable development.¹⁸ Accordingly, this research is essential for strengthening both the academic and practical foundations for reforming Indonesia's bankruptcy system. Through the integration of accountability theory, procedural justice theory, legal certainty theory, and legal effectiveness theory, this study seeks to broaden the understanding of how legal procedures must be carried out consistently and what implications arise when such procedures are violated. Additionally, the research provides concrete recommendations for improving the internal oversight mechanisms of the Supreme Court, enhancing the professional capacity of commercial judges, and revising the regulatory framework governing PKPU and bankruptcy proceedings so that they align with the principles of legal certainty and judicial accountability.

Method

A study cannot be regarded as research in the absence of a research methodology, as the very purpose of research is to reveal the truth in a systematic, methodological, and consistent manner.¹⁹ This study employs a doctrinal legal research methodology, as the analytical focus is directed toward examining positive legal norms, legal principles, doctrines, and the consistency of their application by commercial court judges in adjudicating bankruptcy cases. Doctrinal legal research, as distinguished from socio-legal research, involves the systematic exposition, analysis, and critical evaluation of legal rules and principles through examination of primary

¹⁸ Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan* (Jakarta: Kencana, 2007), 41.

¹⁹ Iwan Koto et al., "Islamic Holy Days: The Contention of Rukyatul Hillal and Hisab Hakiki Wujudul Hilal Disputes for Muslims in Indonesia," *Pharos Journal of Theology* 105, no. 2 (2024).

legal sources (statutes, regulations, judicial decisions) and secondary sources (scholarly commentaries, doctrines). Soerjono Soekanto asserts that legal research encompasses five domains: research on legal principles, legal systematics, the degree of legal synchronization, legal history, and comparative law.²⁰ In terms of its nature, this study is descriptive-analytical, meaning that it outlines the various phenomena and legal facts while analyzing the existing legal issues.²¹ Analysis, in this context, refers to interpreting, construing, and comparing the data obtained during the research process.²²

This study employs three complementary research approaches to ensure a comprehensive and methodologically valid analysis. First, the Statutory Approach is used to examine the positive legal norms governing bankruptcy procedures, including Law No. 37 of 2004, the Law on Judicial Power, and Supreme Court regulations on commercial procedural law. This approach is essential for identifying the mandatory procedural requirements that judges are obligated to follow at each stage of adjudication.

Second, the Conceptual Approach applies Romzek and Dubnick's public accountability theory and Tom R. Tyler's procedural justice theory as analytical frameworks for assessing the quality of judicial processes. This approach provides the normative standards required to evaluate the extent to which procedural violations in the decisions result from institutional or professional accountability failures.

Third, the Case Study Approach is implemented through in-depth analysis of Jakarta Commercial Court Decision No. 226/Pdt.Sus-PKPU/2023 and Supreme Court Decision No. 1103 K/Pdt.Sus-Pailit/2024.

²⁰ Zainuddin and Iwan Koto, "Legal Protection for Mubaligh Muhammadiyah in Conveying Da'wah Through Social Media Perspective of Freedom of Opinion," *DE LEGA LATA: Jurnal Ilmu Hukum* 8, no. 1 (2023): 142–47.

²¹ Ria Sari Artha Simatupang, "Pelaksanaan Sistem Peradilan Pidana Anak Di Indonesia Perspektif Nilai Keadilan," *Jurnal Yuridis* 11, no. 1 (2024): 54–63.

²² Marinu Wawuru, "Pendekatan Penelitian Pendidikan: Metode Penelitian Kualitatif, Metode Penelitian Kuantitatif Dan Metode Penelitian Kombinasi (Mixed Method)," *Jurnal Pendidikan Tambusai* 7, no. 1 (2023): 2898.

This approach enables detailed tracing of specific forms of error in *procedendo* as they manifest in practice and allows for testing the coherence between legal norms, doctrinal principles, and their judicial application. The case study method is employed because these decisions reflect repetitive and systemic patterns of procedural violations in bankruptcy adjudication.

The combination of these three approaches strengthens the validity of the analysis, ensuring that the study is not only normative in orientation but also contextual and directed toward improving the accountability and effectiveness of commercial court procedures.

This study acknowledges several methodological limitations. First, reliance on two judicial decisions, although providing analytical depth, limits the breadth of empirical generalization. The findings in this research illustrate patterns of procedural errors rather than the statistical frequency of such errors across all commercial court proceedings. Second, the use of court decisions without accompanying interviews restricts the ability to identify institutional, administrative, or contextual factors that may contribute to procedural deviations. Third, the normative juridical methodology employed in this study allows only descriptive and normative assessments of the forms of errors that occurred and their relevance to accountability standards.

The legal materials employed in this study consist of three categories: (1) primary legal materials, including Law Number 37 of 2004, the Law on Judicial Power, Supreme Court regulations, and the commercial court decisions that constitute the object of analysis, (2) secondary legal materials, in the form of books, journals, and scholarly literature; and (3) tertiary legal materials, such as legal dictionaries and encyclopedias. This approach enables the researcher to identify procedural irregularities and to assess the extent to which the principle of accountability is fulfilled in the commercial court's bankruptcy adjudication process.

Result and Discussions

Debt and Bankruptcy Requirements

Henry Campbell Black defines debt as a sum of money for which a person is obligated and to which that person has assented. It refers to a specific amount of money lent by one party to another, whereby the debtor is not only under a duty to repay, but the creditor also possesses the corresponding right to recover the money and to compel the debtor to satisfy the debt.²³ The findings of this research indicate that the case of the Central Jakarta Commercial Court Decision Number 226/Pdt.Sus-PKPU/2023 in conjunction with the Supreme Court Decision Number 1103 K/Pdt.Sus-Pailit/2024 encountered issues in the application of procedural law principles, resulting in an error in procedendo. The following analysis systematically maps each form of procedural error to its corresponding legal basis, identifies responsible actors, categorizes the type of accountability violated according to Romzek and Dubnick's framework, and assesses which elements of Tyler's procedural justice were breached.

Theoretical Application

Table 1: Analysis of Non-Compliance with the Statutory Provisions

No	Form of Maladministration	Violated Legal Basis	Relevant Actors	Type of Accountability Violated	Breached Principles of Procedural Justice
1	<i>Error in Persona</i> (Creditor and Debtor are heirs without proof of inheritance acceptance)	Article 2(1) of Law No. 37/2004 and Article 1100 of the Indonesian Civil Code	Commercial Court Judges	Legal, Bureaucratic	Neutrality, Trust
2	<i>Error in Objecto</i> (Unclear object of debt / Deed 78)	Article 2(1) of Law No. 37/2004	Judges and Creditors	Legal, Professional	Voice, Respect

²³ J. Satrio, *Perikatan Tentang Hapusnya Perikatan*, Bagian II (Bandung: Citra Aditya Bakti, 1996), 69.

3	Violation of the Simple Evidence Principle	Article 8(4) of Law No. 37/2004	Commercial Court Judges	Legal, Professional	Voice, Neutrality
4	Violation of the Principles of Audi et Alteram Partem and Equality Before the Law	Article 234 of Law No. 37/2004	Administrator	Legal, Professional	Voice, Neutrality
5	Exceeding the statutory deadline for filing a PKPU petition	Article 210 of Law No. 37/2004	Petitioner and Judges	Legal, Bereaucratic	Trust, Respect
6	Delayed PKPU decision (52 days)	Article 225(3) of Law No. 37/2004	Judges	Bereaucratic, Legal	Respect, Trust
7	Delayed and non-transparent verification of claims	Articles 113–133 of Law No. 37/2004	Administrator and Judges	Legal, Professional	Voice, Neutrality, Respect
8	Late cassation filing deadline and late notification	Articles 12–13 of Law No. 37/2004; Supreme Court Regulation (SK KMA) No. 109/2020	Clerk and Supreme Court Panel	Bereaucratic, Legal, Professional	Respect, Trust
9	Ultra Petitum and contradictory holdings	Article 178 HIR / Article 189 RBg	Supreme Court Panel	Legal, Professional	Neutrality, Trust

The responsibilities of the heirs include settling debts that are not directly connected to the decedent's estate, such as vows (*nazar*) or promises made by the decedent.²⁴ Under Islamic inheritance law, the debts of the decedent are not inherited, and the heirs are not required to satisfy such debts using their personal assets.²⁵ Acceptance with privilege means that the heirs are liable only to the extent of the estate they receive and are not obligated to cover any deficiency with their

²⁴ Lena Nova, "Hukum Waris Adat Di Minangkabau Ditinjau Dari Kompilasi Hukum Islam Dan Hukum Perdata," *AKADEMIK Jurnal Mahasiswa Humanis* 1, no. 1 (2021): 34–41.

²⁵ Ratih Mustika Dewi, Untari Hesti Ningsih, and Tarisa Damayanti, "Analisis terhadap Sengketa Pembagian Hak Waris karena Adanya Hutang Ditinjau dari Hukum Waris Islam," *Jurnal Hukum, Politik Dan Ilmu Sosial* 1, no. 3 (2022): 194–203.

personal property.²⁶ In Case No. 226/Pdt.Sus-PKPU/2023, the commercial court failed to examine whether the heirs had accepted the inheritance in accordance with Article 1100 of the Civil Code (either purely or with the benefit of inventory). Without this verification, the heirs have no legal standing, as heirs who have not accepted the inheritance cannot be sued for the decedent's debts. This omission constitutes a violation of legal accountability (disregarding Civil Code requirements), bureaucratic accountability (inadequate case file screening), and breaches Tyler's neutrality principle because a legally defective petition was still adjudicated.

This issue becomes increasingly significant when heirs encounter complex legal and administrative challenges that may impede the realization of their rights.²⁷ This underscores the need for harmonization between inheritance law and bankruptcy law to provide legal certainty and justice for the heirs.²⁸ Such harmonization is essential to ensure that no third parties are prejudiced and that the rights of creditors are adequately protected.²⁹ An analysis of these legal provisions demonstrates how the rights of heirs are affected by the applicable legal framework in bankruptcy cases.³⁰

When a bankruptcy ruling is annulled or revoked, legal issues arise regarding the status of the bankrupt estate that has already been sold by the curator, the validity of agreements entered into during the bankruptcy period, and the position of creditors who have received partial repayment. Such situations often create legal uncertainty and may lead to new disputes if not clearly regulated.³¹

²⁶ Hamdani and Ilyas Yunus, "Perbandingan Tanggung Jawab Ahli Waris Terhadap Utang Pewaris Menurut Hukum Islam Dan Kitab Undang-Undang Hukum Perdata," *Jurnal Ilmiah Mahasiswa* 3, no. 2 (May 2019): 290.

²⁷ Imanuel Rahmani, "Perlindungan Hukum Kepada Pembeli dalam Kepailitan Pengembang (Developer) Rumah Susun," *Jurnal Hukum Bisnis Bonum Commune* 1, no. 1 (2018): 73–88.

²⁸ Nelson Kapoyos, "Konsep Pembuktian Sederhana dalam Perkara Kepailitan," *Jurnal Yudisial* 10, no. 3 (2017): 331–46.

²⁹ Ni Luh Gede Suwarni, I Nyoman Putu Budiarta, and Desak Gde Dwi Arini, "Pembagian Harta Warisan Ditinjau dari Kitab Undang-Undang Hukum Perdata," *Jurnal Interpretasi Hukum* 1, no. 2 (2020): 148–52.

³⁰ Brata Yoga Lumbanraja et al., "Analisis Yuridis Kepailitan Harta yang Ditinggalkan," *Notarius* 14, no. 1 (2021): 147–61.

³¹ Rini Kusumawati, "Analisis Yuridis Terhadap Pembatalan Putusan Pailit dalam Praktik Peradilan Niaga di Indonesia," *Jurnal Hukum dan Pembangunan Ekonomi* (2021): 112–14.

The annulment of bankruptcy (cancellation of a bankruptcy declaration) results from a legal defect in the process or in the grounds for issuing the bankruptcy ruling itself. This typically occurs due to errors or misapplications of the law by the commercial court in declaring bankruptcy, for example, when the conditions for bankruptcy as stipulated in Article 2(1) of Law No. 37 of 2004 are not satisfied, the existence of two or more creditors and the failure to pay debts that are due and collectible.

The Supreme Court Decision No. 1103 K/Pdt.Sus-Pailit/2024 exceeded the scope of the cassation petition (*ultra petitem*), thereby violating Articles 178 HIR/189 RBg. Cassation review should be limited to examining errors in the application of law, not expanding or adding new matters to the petition. This action breaches legal and professional accountability, as well as Tyler's principles of neutrality and trust, because it creates uncertainty and inconsistency with the *judex facti*'s reasoning.

Accountability Analysis

These findings are significant as they reveal a gap between the principles of accountability that commercial court judges are expected to uphold and the actual judicial practices, thereby providing new insights into how procedural errors arise not merely due to deficiencies in legal regulations, but also as a result of weak enforcement of judicial accountability standards.³²

The application of Romzek and Dubnick's public accountability theory provides a deeper analytical perspective on these issues. In the dimension of legal accountability, the study finds that judges do not always fulfill their obligation to ensure that bankruptcy petitions meet all normative requirements, particularly regarding the proof of the existence of two creditors and debts that are due. This non-compliance indicates that legal accountability has not been enforced consistently.

³² Sudikno Mertokusumo, *Hukum Perdata dan Kepailitan Indonesia* (Yogyakarta: Liberty, 2021), 156.

There is a deviation in bureaucratic accountability because the court exceeded the statutory deadlines for case examination and decision-making. One example is the issuance of the PKPU decision beyond the 45-day limit, indicating weak administrative compliance. In addition to violating Article 225(3), this delay imposes financial burdens on the parties and undermines confidence in judicial efficiency. These findings indicate internal bureaucratic problems that affect the quality of bankruptcy case handling.

Furthermore, within the scope of professional accountability, studies indicate that judges' legal reasoning does not consistently adhere to professional standards. This is particularly evident when analyses concerning the validity of debts (error in objecto) reveal that judges have not thoroughly examined the evidentiary foundation of Act 78, thereby rendering their decisions less substantiated. Professional accountability entails not only formal compliance with the law but also rigorous and substantive legal analysis.

As for political accountability, although external influence is not explicitly identified in the rulings, this study provides new insights suggesting that the lack of transparency in judicial processes particularly in creditor verification and delayed cassation notification creates opportunities for influences that are difficult to detect normatively. While this study cannot definitively determine failures in political accountability, the identified structural opacity generates vulnerabilities that erode public trust in the independence of the judiciary.

The interpretation of these findings indicates that error in procedendo in bankruptcy cases cannot be understood solely as a technical error; rather, it represents a structural failure in upholding the principles of accountability. The nine identified errors constitute interrelated failures spanning multiple stages (petition filing, case examination, creditor verification, decision issuance, cassation) and involving various actors (petitioners, respondents, judges, administrators, court clerks, Supreme

Court panels). This pattern indicates institutional deficiencies rather than merely individual ones.

Negligence refers to situations in which individuals or legal actors are careless and fail to fulfill their obligations or forget to discharge their duties.³³ The development of consistent jurisprudence can also help reduce legal uncertainty related to disputes between heirs and creditors in bankruptcy cases.³⁴

Procedural Justice Analysis

According to Tyler's theory, the legitimacy of the judiciary is largely determined by four key elements of procedural justice: voice, neutrality, respect, and trust. The findings of this study indicate that judges did not provide debtors with adequate opportunities to present evidence regarding the debts. Specifically, in the creditor verification process, the lack of transparency and delayed notification prevented creditors from effectively challenging claim determinations, directly violating the *audi et alteram partem* principle. This denial of voice contributes to perceptions of injustice, which in turn reinforces the relationship between error in *procedendo* and the diminished legitimacy of judicial decisions.

Regarding neutrality, judges appeared biased by disregarding the principle of caution, accepting the petitioner's claims without adequately examining the evidence, thus prioritizing the interests of the bankruptcy over those of the debtor. Neutrality should be assessed not only based on the outcome of the decision but also on the manner in which it was reached.

The element of respect was also violated due to delays and the sluggish resolution of cases, contrary to the principles of simple, swift, and low-cost justice. Cumulatively, trust—or public confidence in the integrity and legitimacy of the judiciary—diminished as a result of inconsistent and non-

³³ Pricillia, Luh Mas Putri, *Akibat Hukum Pengungkapan Karya Cipta Film Tanpa Izin Pencipta Di Media Social*. Bali: Universitas Udayana, 2018.

³⁴ Hapi Aprianto, "Perlindungan Hukum terhadap Ahli Waris Atas Jaminan Hak Tanggungan," *Jurnal Hukum Indonesia* 2, no. 2 (2023): 75–92.

transparent rulings. In Tyler's framework, this indicates that the judicial institution exhibits inadequate communication, which negatively affects the respect and confidence of the parties involved.

Meanwhile, the element of trust is closely correlated with the dimension of professional accountability. Consequently, these decisions reflect a low level of implementation of procedural justice values, which should serve as the fundamental basis for fair and accountable judicial practice in Indonesia. The findings demonstrate that public perceptions of the benevolence of legal authorities are critical in assessing the legitimacy of the judiciary.

The element of respect is violated through delays in case resolution, which run contrary to the principles of simple, swift, and low-cost justice. Such delays demonstrate a lack of respect for the time and interests of the parties, potentially harming both creditors' recovery prospects and debtors' opportunities for rehabilitation. As a result, public confidence in the integrity of the judiciary declines. Within Tyler's framework, this negatively affects parties' perceptions of respect and trust.

Meanwhile, the element of trust is closely linked to professional accountability, as the *ultra petitum* ruling reflects a low level of adherence to procedural justice values. These findings underscore that public perceptions of the prudence of legal authorities are a crucial factor in assessing judicial legitimacy.

The Relationship Between Accountability and Procedural Justice

Integrating Tyler's procedural justice theory with Romzek and Dubnick's accountability theory offers a new understanding that procedural errors are not merely violations of administrative standards, but also have a direct impact on perceptions of judicial legitimacy. Specifically, this integration demonstrates that:

Failures of legal and bureaucratic accountability (errors in complying with norms and administrative deadlines) directly undermine the elements

of respect and trust according to Tyler, because the parties suffer concrete harm as a result of delayed processes and legal defects.

Failures of professional accountability (inadequate legal reasoning and insufficient evaluation of evidence) directly violate the elements of neutrality and voice, because the parties cannot trust that their submissions have been considered fairly and competently.

The absence of strong mechanisms of political accountability (transparency and public oversight) creates structural conditions in which failures of legal, bureaucratic, and professional accountability can persist without correction.

This framework shows that procedural justice is a lived experience of the parties, whose rights depend on the fulfillment of accountability obligations by judges. Thus, this study expands the literature that has thus far focused primarily on the formal aspects of procedural law. Its central finding is that a judge's success in handling bankruptcy cases is measured not only by the accuracy of legal norm application, but also by the ability to administer proceedings in a fair, transparent, and rights-respecting manner, as required by Tyler's principles of procedural justice. Through collaboration among legal stakeholders, it is expected that a more just and balanced system for all parties can be established.

Conclusion

This study demonstrates that error in *procedendo* in bankruptcy cases is not merely a technical weakness in the application of procedural law, but rather a reflection of failures to uphold the principles of accountability and procedural justice by judges. Through a doctrinal analysis of legislation, legal doctrine, and judicial decisions, the study identifies several procedural errors that directly affect the quality of judgments, such as inaccuracies in assessing the creditor's legal standing, inconsistent application of the principle of simple evidence, and violations of statutory deadlines. Using Romzek and Dubnick's accountability theory, the study shows that non-compliance with legal norms reflects weak legal accountability; administrative deviations indicate inadequate bureaucratic accountability; limited transparency signifies underdeveloped political accountability; while weak legal reasoning points to suboptimal professional accountability. Through Tyler's procedural justice perspective, this study adds a new analytical layer by demonstrating that the legitimacy of judicial decisions is determined not only by the correct application of the law but also by the fulfillment of the elements of voice, neutrality, respect, and trust. When parties are not provided equal opportunities to be heard, when judicial reasoning does not reflect neutrality, when administrative procedures disregard the parties' rights, and when judicial arguments fail to demonstrate adequate professional commitment, the legitimacy of the judgment is weakened. These findings indicate that administrative accountability is not merely a formal obligation but is directly connected to the protection of citizens' rights through decisions free from abuse of authority. Administrative violations that harm parties in a case may give rise to legal consequences and state liability.

This research is expected to serve as a foundation for further studies analyzing the relationship between accountability, procedural justice, and the quality of judicial decisions across broader areas of the judiciary. Future research directions include: (1) quantitative studies examining correlation between procedural compliance and case outcomes across larger samples of bankruptcy decisions; (2) comparative studies analyzing how other civil law jurisdictions address similar accountability challenges in specialized commercial courts; (3) empirical studies investigating institutional constraints (workload, resources, training) that contribute to procedural errors; and (4) longitudinal studies assessing whether recommended reforms effectively reduce error rates and enhance procedural justice.

References

- Abadi Manangin, Muhamad Syaifullah, et al. "Pengalihan atas Harta Warisan di Indonesia." *Jurnal Ilmu Hukum* 16, no. 2 (2020): 178.
- Adji Somekto, FX. *Justice Not For All, Kritik Terhadap Hukum Modern Dalam Prespektif Hukum Kritis*. Yogyakarta: Genta Press, 2008.
- Amaliya, Lia. "Kekuatan Hukum Perjanjian Utang Piutang yang Dibuat dalam Bentuk Akta di Bawah Tangan." *Jurnal Justisi Hukum* 7, no. 1 (2022): 4.
- Angelia, Novita Mayasari, et al. "Analisis Tanggung Jawab Hukum Administrasi Negara Dalam Penanganan Korupsi Di Sektor Public." *Jurnal Hukum Dan Social Politi* 2, no. 3 (2024): 95.
- Arief, Barda Nawawi. *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan*. Jakarta: Kencana, 2007.
- Dewi, Ratih Mustika, Untari Hesti Ningsih, and Tarisa Damayanti. "Analisis terhadap Sengketa Pembagian Hak Waris karena Adanya Hutang Ditinjau dari Hukum Waris Islam." *Jurnal Hukum, Politik Dan Ilmu Sosial* 1, no. 3 (2022): 194–203.
- Frederica, Tira Safira. "Konsekuensi Yuridis Penambahan Ketentuan Tentang Batas Minimum Utang Pada Syarat Kepailitan Terhadap Kreditor." PhD diss., Universitas Atma Jaya Yogyakarta, 2022.
- Hamdani, and Ilyas Yunus. "Perbandingan Tanggung Jawab Ahli Waris Terhadap Utang Pewaris Menurut Hukum Islam Dan Kitab Undang-Undang Hukum Perdata." *Jurnal Ilmiah Mahasiswa* 3, no. 2 (May 2019): 290.
- Hoff, Jerry. *New Bankruptcy Law in Indonesia*. Paper presented at Seminar Perpu Nomor 1 Tahun 1998 Tentang Perubahan Atas Undang-Undang Kepailitan, April 29, 1998. As cited in Chatamarasyid, *Menyikap Tabir Perseroan (Piercing the Corporate Veil)*, *Kapita Selektta Hukum Perusahaan*. Bandung: PT. Citra Aditya Bakti, 2000.

- Kapoyos, Nelson. "Konsep Pembuktian Sederhana dalam Perkara Kepailitan." *Jurnal Yudisial* 10, no. 3 (2017): 331–46.
- Koto, Iwan, et al. "Islamic Holy Days: The Contention of Rukyatul Hillal and Hisab Hakiki Wujudul Hilal Disputes for Muslims in Indonesia." *Pharos Journal of Theology* 105, no. 2 (2024).
- Kusumawati, Rini. "Analisis Yuridis Terhadap Pembatalan Putusan Pailit dalam Praktik Peradilan Niaga di Indonesia." *Jurnal Hukum dan Pembangunan Ekonomi* (2021): 112–14.
- Laia, Feberman, et al. "Akibat Hukum Kepailitan Terhadap Harta Warisan Ditinjau Dari UU No. 37/2004 Tentang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang." *Jurnal Rectum: Tinjauan Yuridis Penanganan Tindak Pidana* 6, no. 1 (2024): 74.
- Lumbanraja, Brata Yoga, et al. "Analisis Yuridis Kepailitan Harta yang Ditinggalkan." *Notarius* 14, no. 1 (2021): 147–61.
- Marinu Wawuru. "Pendekatan Penelitian Pendidikan: Metode Penelitian Kualitatif, Metode Penelitian Kuantitatif Dan Metode Penelitian Kombinasi (Mixed Method)." *Jurnal Pendidikan Tambusai* 7, no. 1 (2023): 2898.
- Mayasari Angelia, Novita, et al. "Analisis Tanggung Jawab Hukum Administrasi Negara Dalam Penanganan Korupsi Di Sektor Public." *Jurnal Hukum Dan Social Politi* 2, no. 3 (2024): 95.
- Nelson Kapoyos. "Konsep Pembuktian Sederhana dalam Perkara Kepailitan." *Jurnal Yudisial* 10, no. 3 (2017): 331–46.
- Nedia Martha Resmadiktia, et al. "Pertanggungjawaban Pemerintah Dalam Mewujudkan Good Governance Sesuai Hukum Administrasi Negara." *Jurnal Ilmiah Wahana Pendidikan* 11 (2023): 689.
- Ni Luh Gede Suwarni, I Nyoman Putu Budiarta, and Desak Gde Dwi Arini. "Pembagian Harta Warisan Ditinjau dari Kitab Undang-Undang Hukum Perdata." *Jurnal Interpretasi Hukum* 1, no. 2 (2020): 148–52.

- Nova, Lena. "Hukum Waris Adat Di Minangkabau Ditinjau Dari Kompilasi Hukum Islam Dan Hukum Perdata." *AKADEMIK Jurnal Mahasiswa Humanis* 1, no. 1 (2021): 34–41.
- Pricillia, Luh Mas Putri. *Akibat Hukum Pengungkahan Karya Cipta Film Tanpa Izin Pencipta Di Media Social*. Bali: Universitas Udayana, 2018.
- Rahmani, Imanuel. "Perlindungan Hukum Kepada Pembeli dalam Kepailitan Pengembang (Developer) Rumah Susun." *Jurnal Hukum Bisnis Bonum Commune* 1, no. 1 (2018): 73–88.
- Romzek, B. S., and M. J. Dubnick. "Accountability in the Public Sector: Lessons from the Challenger Tragedy." *Public Administration Review* 47, no. 3 (1987): 227.
- Simatupang, Ria Sari Artha. "Pelaksanaan Sistem Peradilan Pidana Anak Di Indonesia Perspektif Nilai Keadilan." *Jurnal Yuridis* 11, no. 1 (2024): 54–63.
- Soekanto, Soerjono. *Efektivitas Hukum Dan Peranan Sanksi*. 2nd ed., edited by Tjun Surjaman. Bandung: Remadja Karya, 1988.
- Sudikno Mertokusumo. *Hukum Perdata dan Kepailitan Indonesia*. Yogyakarta: Liberty, 2021.
- Sundah, Brenda. "Pembatalan Putusan Pailit Pengadilan Niaga Oleh Mahkamah Agung (Putusan Nomor 555K/PDT.SUS-PAILIT/2021)." *Jurnal Education and Development* 10, no. 3 (2022): 353.
- Tyler, Tom R. *Why People Obey the Law*. Princeton, NJ: Princeton University Press, 2006.
- Wawuru, Marinu. "Pendekatan Penelitian Pendidikan: Metode Penelitian Kualitatif, Metode Penelitian Kuantitatif Dan Metode Penelitian Kombinasi (Mixed Method)." *Jurnal Pendidikan Tambusai* 7, no. 1 (2023): 2898.
- Vallencia Semboeng, Jessica, et al. "Jaminan Perorangan (Personal Guarantee) dalam Perkara Kepailitan Perseroan Terbatas."

Innovative: Journal Of Social Science Research 4, no. 5 (2024): 1222–43.

Zainuddin, and Iwan Koto. “Legal Protection for Mubaligh Muhammadiyah in Conveying Da'wah Through Social Media Perspective of Freedom of Opinion.” *DE LEGA LATA: Jurnal Ilmu Hukum* 8, no. 1 (2023): 142–47.

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