



Cross-Border Insolvency and Worker Protection: Implementation of Piercing the Corporate Veil in Cross-Country Bankruptcy

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ABSTRACT

The era of globalization has increased the activity of multinational corporations and the risk of cross-border insolvency. In this situation, legal protection for workers as preferred creditors is often hampered by the complexity of corporate structures and jurisdictional boundaries. This normative research with a comparative approach examines the possibilities for implementing the Piercing the Corporate Veil theory in the context of cross-border bankruptcy between Indonesia and Malaysia, as well as the legal standing of employees as preferred creditors. The results show that although both countries recognize workers' preferential rights and have a legal basis for applying the Piercing the Corporate Veil doctrine, its effectiveness in a cross-border context is very limited. The main obstacles stem from Indonesia's inadequate bankruptcy legal framework, the conflict between the principles of universality and territoriality, and the lack of a system for acknowledging and upholding foreign rulings. This research concludes that worker protection and the application of Piercing the Corporate Veil in cross-border insolvency between Indonesia and Malaysia will be ineffective without legal reforms, such as bilateral agreements to remove jurisdictional obstacles or the adoption of international instruments like the UNCITRAL Model Law.

Keywords: bankruptcy law; cross-border insolvency; piercing the corporate veil; preferred creditors; worker protection.

I. INTRODUCTION

The era of globalization and free trade has driven a rapid increase in investment activities and business transactions that transcend national borders (transnational). In line with the government's primary goal of developing infrastructure and increasing employment, foreign investment in Indonesia has also continued to increase. This development has also fueled the expansion of multinational corporate businesses across national borders, creating transnational legal relationships. A consequence of these increasingly close relationships is the increased risk of bankruptcy involving multinational corporations and transnational transactions, known as cross-border insolvency.¹ In a bankruptcy situation where the assets of the debtor are inadequate, creditors, both local and foreign, will face difficulties in enforcing their existing rights.² Considering the ruling of the Supreme Court, the number of cases that have been decided related to bankruptcy in the last few years is 156 decisions in 2023, 200 decisions in 2024, and 127 decisions in 2025 in November.

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¹ Theodora Pritadianing Saputri, "Indonesia's Bankruptcy Law Reform for Stronger Cross-Border Creditors' Protection," *Lex Lectio: Jurnal Kajian Hukum* (Journal of Legal Studies), Vol. 02 No. 02, October 2023, p. 116.

² Arivan Halim, "Prinsip Resiprositas dalam Sengketa Kepailitan Lintas Batas Negara (Cross-Border Insolvency)," *Al Qalam: Jurnal Ilmiah Keagamaan dan Kemasyarakatan*, Vol. 17, No. 4 (2023), hlm 2608.

Table 1. Cases of cross-border insolvency or cross-country bankruptcy

No	Indonesian Company	Other Multinational Companies
1.	Garuda Indonesia	Tupperware
2.	PT Sritex (Sri Rejeki Isman Tbk)	Kodak

Picture 1. Cases of cross-border insolvency or cross-country bankruptcy

Perusahaan Besar yang Bangkrut di Indonesia

Nama Perusahaan	Bidang Usaha	Tahun Didirikan	Tahun Bangkrut
PT Sariwangi Agricultural Estate Agency (SAEA)	Industri Teh	1973	2018
Nyonya Meneer	Industri Jamu	1919	2017
7-Eleven	Ritel (Convenience Store)	1927	2017
Kodak	Industri Fotografi	1892	2012

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Nationally, Law Number 37 of 2004 Governing Bankruptcy and Suspension of Debt Payment Obligations governs bankruptcy matters in Indonesia (Bankruptcy Law).³ However, as the global economy becomes increasingly interconnected and interdependent, Law No. 37/2004 is considered inadequate to address issues arising from cross-border bankruptcy.⁴ These limitations are evident, for example, in the difficulty of accessing debtors' assets located abroad (offshore assets) and the lack of procedural regulations regarding the transfer of bankruptcy assets from other jurisdictions to Indonesia. Furthermore, in general, foreign court judgments are not recognized and cannot be enforced in Indonesia (Article 436 of the Regulation on Rechtsvordering/Rv).⁵

However, there are international legal tools that address procedural concerns in cross-border insolvency, such as the UNCITRAL Model Law on Cross-Border Insolvency (UNCITRAL Model Law). The UNCITRAL Model Law aligns with the concept of Modified Universalism, which requires a central insolvency process to manage debtors' assets worldwide, but still permits local governments to carry out independent procedures to evaluate the main process's fairness and conformity to local public policy. The goal of this model law is to increase investment and trade legal clarity.⁶

An important issue in this context is Worker Protection. Based on Article 86 paragraph (1) of the Manpower Act, workers are a group of debtors who must receive protection related to occupational safety and health, morals and ethics, as well as treatment in accordance with human dignity and religious beliefs. In Bankruptcy Law, workers' rights, especially those arising from employment relationships (for example, wages and severance pay), often have special status. However, cross-border bankruptcies,

³ Lia Nopiharni Puspitasari, "Problematisasi Eksekusi Harta Pailit dalam Cross Border Insolvency," *USM Law Review* Volume 4, Number 2 (2021): 743–744.

⁴ Dicky Asnil, "UNCITRAL Model Law on Cross Border Insolvency sebagai Model Pengaturan Kepailitan Lintas Batas Indonesia dalam Integrasi Ekonomi ASEAN," *Undang: Jurnal Hukum* Volume 1, Number 2 (2018): 325

⁵ Theodora Pritadianing Saputri, op.cit., pp. 117-118.

⁶ *Ibid.*, pp. 119-120.

especially those involving complex corporate structures (parent and subsidiary companies), can obscure responsibilities and make it difficult for workers to claim their rights, especially if assets have been transferred abroad.⁷

Previous research on cross-border bankruptcy in Indonesia has examined the legal framework, creditor rights, jurisdiction, and assessed that Indonesia is not yet ready to adopt the UNCITRAL legal model due to unresolved fundamental issues.⁸In addition, in corporate law, the Piercing the Corporate Veil (PCV) concept has been examined independently, this doctrine allows the court to ignore the separation of corporate legal entities and impose liability on shareholders (such as the parent company).⁹

The main challenge of Law Number 37 of 2004 is its limited ability to address the complexities of cross-border bankruptcy (multi-jurisdictional assets and creditors), compounded by the difficulty of penetrating multinational corporate structures to prevent asset transfers and ensure accountability for workers' rights in triangular employment schemes. The opportunities and urgency of these obstacles urge reform of Indonesian bankruptcy law to strengthen foreign creditor protection, adopt international principles, utilize the piercing of the corporate veil doctrine as a mechanism to ensure the accountability of parent companies, and ensure workers' rights are maintained despite manipulation of corporate entities.¹⁰This research is highly urgent given the dynamics of transnational investment and the need to strengthen worker protection as vulnerable parties and privileged creditors. The legal vacuum regarding a comparative analysis was spurred by the use of PVC in international bankruptcy. The primary contribution is to provide suggestions for a legislative framework and efficient PVC doctrine implementation to ensure the protection of workers' rights in Indonesia in the context of cross-border bankruptcy.

II. RESEARCH METHOD

This study is useful for examining the legal status of workers as preferred creditors and the opportunities for implementing The concept of piercing the corporate veil in the context of cross-border bankruptcy based on the Malaysian Limited Liability Companies Act and Indonesian bankruptcy law. This study employs a comparative approach and normative study methodology. Legal sources used are primary legal sources including statutory regulations, Scientific works and literature relevant to this study are secondary sources of law, while legal dictionaries are tertiary sources of law. Data analysis was conducted using qualitative methods.

III. DISCUSSION AND RESULTS

3.1 The Legal Status of Workers as Preferred Creditors and the Opportunity for Applying the Piercing the Corporate Veil Doctrine Regulated in the Legal Framework of Cross-Border Insolvency Based on the Indonesian Bankruptcy Law and the Malaysian Companies Act

An worker is defined as an individual who works in exchange for a salary or other form of compensation in accordance with Law Number 13 of 2003 concerning Manpower, Article 1 paragraph (4). This article explains that every person who performs work, whether as an individual, a partnership, or a legal entity, receives wages. The phrase "any form" is used because wages are always in the form

⁷ Peer Zumbansen, "Corporate Groups and Regulatory Arbitrage," *Transnational Legal Theory* Volume 2, Number 1 (2011): 154.

⁸ I rham Rahman, Gentur Cahyo Setiono, and Hery Sulistyono, "Analisis Yuridis Prinsip Teritorial pada Cross Border Insolvency Perspektif Hukum Kepailitan di Indonesia," *Morality: Jurnal Ilmu Hukum* Volume 9, Number 1 (2023): 56.

⁹ Paul Davies and Sarah Worthington, *Gower and Davies: Principles of Modern Company Law*, Tenth Edition (London: Sweet & Maxwell, 2016), 211.

¹⁰ Abdurrahman and Pujijono, "Politik Hukum Doktrin Piercing the Corporate Veil pada Pengelolaan Perseroan Terbatas di Indonesia," *Jurnal Hukum dan Pembangunan Ekonomi* Volume 7, Number 2 (2019): 430.

of money.¹¹ In this case, workers have obligations and rights that have been explicitly regulated, workers' obligations include doing work, following company regulations and work agreements as well as superiors' directions, fines or compensation for a problem. Then, workers' rights include the right to be a member of a workers' union, the right to social security and occupational health and safety (K3), the right to receive good and decent wages, the right to draw up work agreements or collective work agreements, the right to be protected from layoffs that violate provisions, rights for female workers such as menstrual or maternity leave and the right to a good time schedule for workers.

In the event of layoffs, this can usually be seen from a bankruptcy case involving the company. Article 1 paragraph (1) of the Bankruptcy and PKPU Law states that bankruptcy is a general seizure of all assets of the bankrupt debtor, which are managed and settled by a curator under the supervision of a supervisory judge.¹²

Economic globalization has increased cross-border business transactions involving multiple legal jurisdictions. This phenomenon also impacts bankruptcy cases, where debtors, creditors, and cross-border bankruptcy occurs when assets are dispersed over many nations. Law No. 37 of 2004 Governing Bankruptcy and Suspension of Debt Payment Obligations is one example of a national bankruptcy legal framework (Indonesian Bankruptcy Law), are often considered inadequate to effectively address transnational issues.

3.2 Legal Position of Workers as Preferred Creditors

Creditors with particular rights to receivables are known as preferred creditors, where the preferred creditor does not hold a guarantee like a concurrent creditor, but in repayment is given priority like a creditor holding a guarantee, even more than the creditor holding the guarantee itself. This is then strengthened by referring to "The right granted by law to a person who has debts such that the level of debt is higher than the debt of other individuals who have pure debt based on the nature of the debt" is regulated in Article 1134 paragraphs (1) and (2) of the Civil Code. The Civil Code stipulates that "pawn and mortgage guarantees have higher priority than special rights, except in circumstances where the law specifically stipulates otherwise" in paragraph 1134. Thus, it can be concluded that a preferred creditor is a creditor who does not hold any material guarantee, but in terms of paying off his debts, he is treated with special treatment, namely receiving payment first when compared to concurrent creditors and even separatist creditors at certain times where this privilege arises from a statutory regulation.¹³

a. In Indonesian Bankruptcy Law

Workers are specifically given a particular status under the Indonesian Bankruptcy Law. In Law Number 37 of 2004's Explanation of Article 39 paragraph (1), it is emphasized that regarding termination of employment due to bankruptcy, laws and rules pertaining to employment must be followed by the curator.¹⁴ Furthermore, Wages due before to or during the declaration of bankruptcy are considered debts of the bankrupt estate, according to Article 39 paragraph (2).¹⁵ Status as a debt of the bankrupt estate places workers' wages at a higher priority for payment. Workers' earnings are regarded as a protected receivable under Article 1149 of the Civil Code (KUH Perdata), thus placing workers as preferred creditors.¹⁶

¹¹Andi Fariana, *Aspek Legal Sumber Daya Manusia Menurut Hukum Ketenagakerjaan*, Jakarta, Mitra Wacana Media, hlm 6.

¹² Muhammad Raihan Nugraha, *Perbedaan Kepailitan dan PKPU*, <https://www.hukumonline.com/klinik/a/perbedaan-kepailitan-dan-pkpu-lt50c3529a6061f/>. accessed on November 24, 2025, at 11:55 WIB

¹³ R. Subekti, *Pokok-Pokok Hukum Perdata*, PT Intermedia, Jakarta, 2008, hlm. 123.

¹⁴ Undang-Undang Republik Indonesia Nomor 37 Tahun 2004, *Penjelasan Pasal 39 ayat (1)*.

¹⁵ *Ibid.*, *Pasal 39 Ayat (2)*.

¹⁶ *Kitab Undang-Undang Hukum Perdata*, *Pasal 1149*.

b. In the Malaysian Bankruptcy Law (Companies Act 2016)

Malaysian law also provides protections consistent with the principle of employee wage preference as applied in many modern jurisdictions. The Companies Act 2016, particularly Part IV (Cessation of Companies), contains explicit provisions regarding the priority of debt repayment in the event of insolvency. One of the most important provisions is Section 527 (Priorities), which details the order and classification of creditors' claims entitled to payment from the company's assets before distribution to other creditors. This provision is designed to ensure that those deemed most vulnerable, such as employees, receive adequate legal protection when a company ceases operations.

Specifically, according to Section 527(1)(b), the payments that are second in priority after liquidation costs are:

"secondly, all wages or salary, whether or not earned wholly or in part by way of commission, including any amount payable by way of allowance or reimbursement under any contract of employment or award or agreement regulating conditions of employment, of any employee not exceeding fifteen thousand ringgit or such other amount as may be prescribed whether for time or piecework in respect of services rendered by him to the company within a period of four months before the commencement of the winding up."¹⁷

The Malaysian Constitution states that payments that receive second priority after liquidation costs are workers' wages or salaries, with a very broad scope. These wages include basic salary, commissions, allowances, and all other payments arising from employment contracts or agreements regarding employment conditions. This provision demonstrates that Malaysian law recognizes that workers contribute directly to a company's operations, yet they often have a weak bargaining position in insolvency proceedings. Therefore, they are placed in the category of creditors entitled to receive payments before other creditors such as suppliers, financial institutions, or bondholders.

However, this protection is still provided within certain limits. The provisions stipulate that the maximum amount each employee can claim is RM15,000, and the preferential right applies only to wages due within the four-month period preceding the commencement of the winding-up process. These limitations are intended to maintain a balance between worker protection and fairness to all creditors, while preventing the abuse of preferential rights that could potentially reduce the value of assets for other creditors. Thus, the Malaysian legal system ensures that workers remain relatively protected while simultaneously maintaining the integrity of the company's asset distribution framework.

This provision confirms that Malaysia has adopted a modern and structured approach to protecting workers in bankruptcy situations. The existence of a nominal limit and a specific time period demonstrates that, despite significant protection for workers, the system still strives to strike a balance between each party's interests. This is especially important when comparing different jurisdictions, particularly when analyzed in conjunction with Indonesia's worker priority system, which grants full preferential status without a nominal limit. This difference in approach further complicates cross-border bankruptcy scenarios between Indonesia and Malaysia, particularly when the process of collecting workers' rights is subject to the priority system of the country where the execution takes place.

¹⁷ Companies Act 2016 (Malaysia), Section 527(1)(b).

3.3 Opportunities for Implementing the Piercing the Corporate Veil (PVC) Doctrine

The basic principle of corporate law is separate legal personality, when the business is a distinct legal entity from its owners or founders.¹⁸ However, under certain circumstances, courts can pierce this veil of separation and impose personal liability for corporate debts on shareholders or directors. Piercing the Corporate Veil (PVC) is the name given to this theory.¹⁹ Literally, the term Piercing the Corporate Veil means lifting the corporate veil. It is a concept in corporation law that is described as a method of assigning blame to others by means of a legal action taken by the offender, regardless of the fact that the act was actually carried out by the perpetrator.²⁰ Likewise, The doctrine of “piercing the corporate veil” is also recognized in Law No. 40 of 2007 concerning Limited Liability Companies, which stipulates related responsibilities to parties by transferring the duty of accountability to the Board of Directors, Commissioners, and Shareholders. From the description, it can be seen that limited liability can be removed and possibly penetrated due to The application of the “Piercing the Corporate Veil” doctrine, includes the Board of Directors and Commissioners in addition to shareholders, as well as other corporate organs.

a. In Indonesian Law

While piercing the corporation veil (PVC) is not specifically regulated by Indonesian bankruptcy law, the concept of personal liability for company directors actually has a strong normative under the UU PT, or Limited Liability Company Law. The PVC doctrine essentially provides a legal basis for "piercing" the separation between a company's legal personality and the individuals who control it, so that responsibilities that were originally attached to the legal entity can be transferred to directors, commissioners, or even shareholders. This mechanism becomes important when the legal entity is misused for unlawful purposes, such as committing fraud, asset manipulation, fictitious transactions, or other actions that harm third parties, including creditors in bankruptcy cases. In this context, the PVC serves as a corrective tool to prevent the abuse of the idea of distinct legal personhood for the personal gain of parties behind the company.

In Indonesian judicial practice, this doctrine has been accommodated through Supreme Court decisions, which emphasize that protection for legal entities is not absolute. One notable example is MARI Decision No. 1916 K/Pdt/1991, in which the Supreme Court pierced the veil of legal entity and imposed personal liability on the commissioners and directors of the firm. The panel of judges concluded that they used the company as an instrument for fraudulent acts, including embezzlement and fraud, thereby significantly harming other parties. This legal reasoning demonstrates that when management is proven to have misused the company as a vehicle for unlawful acts, the principle of separation of responsibilities no longer applies. Thus, Indonesian jurisprudence demonstrates the application of the PVC doctrine as a protection mechanism for creditors and third parties, as well as a tool to ensure that the company is not used as a shield to avoid legal responsibility.²¹

b. In Malaysian Law (Companies Act 2016)

Malaysian bankruptcy and corporate law clearly outlines a number of situations in which directors or other corporate stakeholders may be held personally accountable for the debts of the firm, particularly when the company is insolvent. These regulations essentially

¹⁸ Salomon v. A. Salomon & Co Ltd [1897] AC 22.

¹⁹ Hans Kelsen, *General Theory of Law and State*, Harvard University Press, Cambridge, 1945, hlm 112

²⁰ Munir Fuady, *Doktrin-doktrin Modern dalam Corporate Law dan Eksistensinya Dalam Hukum Indonesia*, Cetakan Ketiga, PT Citra Aditya Bakti, Bandung, 2014, hlm. 7.

²¹ Putusan Mahkamah Agung Republik Indonesia No. 1916 K/Pdt/1991.

codify the piercing the corporate veil (PVC) doctrine, applying it to specific scenarios, particularly when there is abuse of legal personality or negligent corporate management that results in losses for creditors. In other words, Malaysian law provides a clear normative basis for "piercing" the protection of corporate personality. If it is demonstrated that directors have acted dishonestly, negligently, or breached their fiduciary duties.

One important provision is Fraudulent Trading, which is regulated in Section 540(1). This article authorizes the court to state that anybody who intentionally participates in the running of a company's business with the intention of defrauding creditors can be held unlimitedly accountable for all or a portion of the company's debts. This norm not only targets completed fraudulent acts, but also includes acts committed with the intention or awareness that the business activity will harm creditors. Thus, this provision functions as a preventive and repressive mechanism against business activities carried out dishonestly.

In addition, Malaysia also regulates Wrongful Trading in Section 539(3), which provides for personal liability for directors or officers of a company who knowingly participate in the incurrence of new debt when they know or should objectively know that the company has no reasonable grounds to believe that it will be able to repay the debt. In other words, a director cannot hide behind a legal entity when he continues the operation of a company in an insolvent state without taking steps to minimize potential losses to creditors. This article emphasizes the obligation of directors to act prudently, especially when the company is financially unstable.

These two provisions provide a very strong legal basis for Malaysian courts to penetrate the legal entity veil when fraudulent practices, abuse of power, or gross negligence occur that result in losses for creditors, including workers with preferential rights to wages. Therefore, the Malaysian legal system is more progressive in providing accountability mechanisms for corporate directors than some other jurisdictions, explicitly establishing the circumstances under which personal liability can be imposed to protect the integrity of the insolvency system and ensure that creditors are not harmed by abuse of the corporate structure.

3.4 Analysis within the Cross-Border Insolvency Framework

Cross-border insolvency is a term used for every bankruptcy case in which there are foreign elements or cases that cross national borders. Insolvency across borders is possible if the bankruptcy problem contains foreign elements in it. In essence, cross-border bankruptcy happens when a debtor is subject to the authority of courts in two or more nations, or when the debtor's assets or obligations are spread over many nations. Applying the two aforementioned concerns (workers' rights and PVC) to the situation of cross-border bankruptcy between Indonesia and Malaysia is the most obstacle.

a. Indonesian Legal Problems in Cross-Border Insolvency

Indonesian bankruptcy law is considered woefully insufficient to handle cross-border cases. There is a fundamental conflict between two principles it adheres to simultaneously:

The Principle of Universality (Claims): The Indonesian Bankruptcy Law adopts a universal claim. Article 21 states that bankruptcy encompasses every asset owned by the debtor, including those acquired during the bankruptcy. Articles 212-214 even implicitly attempt to repatriate assets held abroad into the Indonesian bankruptcy estate. **Territoriality Principle (Execution):** In practice, Indonesia adheres to a strict territoriality principle regarding execution. Article 436 of the Regulation on Civil Procedure (Rv) states that Indonesia cannot accept or uphold verdicts made by foreign courts. As a result, a legal void exists. Bankruptcy decisions from Indonesian courts (including the appointment of a receiver)

are not automatically recognized in Malaysia, and conversely, Malaysian court decisions are not recognized in Indonesia.

b. Implications for Workers' Rights as Preferred Creditors

The preferred status of workers recognized in both countries becomes difficult to execute in cross-border scenarios.

Scenario: A Malaysian company (parent) has significant operations and employees in Indonesia (subsidiary or branch). The company is declared bankrupt in Malaysia (as the main proceeding). The obstacle is that workers in Indonesia have a preferential right to their wages under Indonesian law. However, the curator appointed in Malaysia does not have automatic enforcement authority over assets in Indonesia. Indonesian workers must file their claims in bankruptcy proceedings in Malaysia (which can be complex and expensive) or expect the Malaysian curator to initiate secondary bankruptcy proceedings in Indonesia. Even if they successfully obtain a judgment from the Indonesian Commercial Court, the judgment cannot be enforced against the assets of the business in Malaysia due to the principle of territoriality.

This situation shows that legal protection of workers' preferential rights in the context of cross-border bankruptcy still faces structural obstacles. While both countries recognize the privileged status of workers as preferred creditors, the effectiveness of such protection depends on the ability of national laws to transcend jurisdictional boundaries, something that is impossible without a comprehensive cross-border insolvency mechanism. The asynchronous legal systems of Indonesia and Malaysia pose a real risk that Indonesian workers' rights will be diminished or even denied, as their claims will have to compete in Malaysian bankruptcy proceedings that may have a different order of creditor preference. Furthermore, the lack of automatic recognition of Indonesian Commercial Court judgments in Malaysia worsens workers' bargaining position, as any national judgment remains bound by the principle of territoriality and cannot be enforced against foreign assets without a formal recognition process. The absence of regional instruments such as the UNCITRAL Cross-Border Insolvency Law or a bilateral Indonesia–Malaysia bankruptcy agreement makes coordination between receivers almost entirely voluntary. In practice, Malaysian receivers may prioritize the interests of domestic creditors, potentially further marginalizing Indonesian workers. Thus, this case underscores the urgency of establishing a cross-border framework capable of consistently guaranteeing the protection of workers' preferential rights, whether through the adoption of international instruments, harmonization of ASEAN legislation, or bilateral agreements between Indonesia and Malaysia. Without such measures, workers' preferential rights remain theoretical and lack effective enforcement power regarding international insolvency.

c. Implications for Opportunities to Piercing the Corporate Veil

The application of the piercing the corporate veil (PVC) doctrine in a cross-border context presents far greater complexities than in domestic cases. This complexity arises from differences in jurisdiction, sovereignty principles, and territoriality adopted by each country, making it impossible to automatically enforce judgments across countries. This situation becomes even more problematic when fraudulent actions or poor corporate management by company directors in one country directly harm creditors or employees in another country. For example, a scenario where the executives of a parent company in Malaysia (the parent company) are found to have engaged in fraudulent trading as stipulated in the Companies Act's Section 540, resulting in the bankruptcy of its Indonesian subsidiary and its inability to meet its obligations, including the payment of wages to employees who should have had

preferential rights. In this situation, the Indonesian curator, representing the creditors' interests, attempted to implicate the directors in Malaysia in personal liability, basing their claim on the PVC doctrine, as recognized the Law of Limited Liability Companies and Indonesian jurisprudence. The curator subsequently obtained a ruling from the Indonesian Commercial Court holding the directors of the parent corporation that bears personal responsibility for the damages sustained.

However, this is where cross-border legal hurdles arise. The Indonesian Commercial Court's decision will be classified as a foreign judgment by the Malaysian legal system, thus automatically lacking enforceable power in Malaysia. Under the Malaysian legal framework, foreign judgments are not directly enforceable and are not self-executing. Consequently, the Indonesian receiver cannot immediately seize or execute the personal assets of directors located in Malaysia. The receiver must initiate a new lawsuit before the Malaysian court and re-prove the entire chain of fraudulent trading acts from scratch, this time in accordance with Malaysian evidentiary standards and legal requirements, as stipulated in Section 540 of the Companies Act. This process is not only time-consuming and costly, but also risks a different decision from the Indonesian court due to differences in concepts, burden of proof, and legal interpretation.

A similar situation applies in reverse. If a director in Indonesia commits fraud, abuse of authority, or negligent corporate management resulting in losses and his personal assets are in Malaysia, the Malaysian receiver will face significant obstacles in attempting to enforce the Malaysian judgment in Indonesia. This is because of the clauses of Article 436 of the Regulation on Foreign Court Decisions (Rv), which explicitly states that rulings from foreign courts are not enforceable in Indonesia. Therefore, the Malaysian receiver must also file a new lawsuit in the Indonesian District Court to re-prove the violation under Indonesian law, rather than relying solely on the Malaysian court decision.

An efficient legal framework for cross-border insolvency is becoming more and more necessary, particularly when it involves workers' rights and the international applicability of the penetrating the corporation veil theory. The lack of a system for acknowledging and upholding foreign rulings between Indonesia and Malaysia severely weakens worker protection when companies operate in both countries. Without regulations adopting The Cross-Border Insolvency Model Law of the United Nations, a receiver from one country lacks the authority to secure or seize control of assets located in another country, potentially leading workers as preferred creditors to lose priority for payment even if national laws provide special protection. This situation becomes even more complex when piercing to hold directors or shareholders personally accountable across international borders, the corporate veil is required, as courts in other countries are not obligated to recognize such judgments. Therefore, without legal harmonization or bilateral agreements, cross-border bankruptcy disputes between Indonesia and Malaysia tend to create legal uncertainty that harms the most vulnerable creditors: workers.

The lack of this cooperative framework either in the form of a bilateral agreement (such as that between Singapore and Malaysia or the adoption of the UNCITRAL Model Law on Cross-Border Insolvency makes the protection of workers and the application of PVC in cross-border disputes between Indonesia and Malaysia very limited and ineffective.²²

²² UNCITRAL, *Model Law on Cross-Border Insolvency with Guide to Enactment and Interpretation*, United Nations Publication, New York, 2014.

IV. CONCLUSION

While both Indonesian and Malaysian laws recognize the privileged position of workers as preferred creditors and provide a Piercing the Corporate Veil (PCV) mechanism to impose liability on parties who abuse legal entities, the application of these two protections regarding international insolvency is very limited and ineffective. This is due to the inability of the Indonesian bankruptcy legal framework to address the complexity of assets and creditors across jurisdictions, the conflict between universal asset claims and the refusal to enforce foreign judgments (the Territoriality Principle), and the absence of a bilateral cooperation framework or the acceptance of global agreements like the UNCITRAL Model Law, which simultaneously hinder the exercise of workers' preferred rights and the curator's efforts to apply the PCV to demand full liability from parent companies or directors whose assets are located outside the jurisdiction.

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