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Reconstruction of the Peace System in Voting on the Postponement of Debt Payment Obligations as a Manifestation of Pancasila Cultural Values

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Abstract

Background: The peace mechanism in Suspension of Debt Payment Obligations (*Penundaan Kewajiban Pembayaran Utang* or PKPU) emphasizes a majority voting system based on the number and value of creditors' claims under Article 281 of Law No. 37 of 2004. This mechanism does not fully reflect the Pancasila principles of deliberation, balance of interests, and kinship.
Objective: To reconstruct the PKPU peace system to align it with Pancasila's cultural values as the philosophical foundation of Indonesia's legal system.
Methods: This study employs normative legal research using statutory, conceptual, philosophical, case, and comparative approaches. The analysis draws on theories of deliberative democracy (Habermas), balance of interests (Pound), and proportionality (Alexy).
Results: The peace system requires reconstruction by placing deliberation for consensus, dialogue, and substantive justice at the center of decision-making between debtors and creditors. This approach prevents exclusive reliance on the dominance of majority voting.
Conclusion: Reconstructing the PKPU voting system in accordance with Pancasila values would create a proportional, balanced, and just mechanism for debt settlement.

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INTRODUCTION

The Indonesian legal system has evolved significantly to address complex economic and social challenges (Doing et al., 2024; Ikhsan et al., 2025). Bankruptcy law, as a specialized branch of commercial law, plays a crucial role in managing insolvency situations and protecting all stakeholders facing financial distress. Within this context, the Suspension of Debt Payment Obligations (PKPU—*Penundaan Kewajiban Pembayaran Utang*) represents an important mechanism that provides debtors and creditors with opportunities to reach mutually beneficial settlements without resorting to liquidation.

The bankruptcy legal system is fundamentally designed to provide a fair and orderly mechanism that ensures legal certainty in debt settlement for all parties involved (Prasetyo, 2024). Within this framework, the Suspension of Debt Payment Obligations is a legal instrument designed to provide debtors and their creditors with an opportunity to reach a debt settlement through a reconciliation (composition) mechanism. This mechanism is expected to achieve debt restructuring that allows debtors to maintain business continuity while ensuring the proportional fulfillment of creditors' rights.

The reconciliation mechanism within PKPU still normatively places the voting system as the primary basis for decision-making. Article 281 of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations establishes specific voting requirements for the acceptance of a composition plan. For *kreditor konkuren* (concurrent or unsecured creditors), the composition plan must receive the approval of more than one-half of the number of concurrent creditors whose claims are recognized or provisionally recognized and who are present at the creditors' meeting, with those creditors collectively representing at least two-thirds of the total recognized or provisionally recognized claims of the concurrent creditors present at the meeting. Article 281 also provides a separate voting requirement for *kreditor separatis* (secured creditors), requiring approval by more than one-half of the secured creditors present, representing at least two-thirds of the total claims of those secured creditors present. This dual-threshold mechanism theoretically balances numerical representation with economic substance. However, the system may place substantial decision-making power in the hands of creditors holding large claims. In practice, this mechanism has the potential to lead to the dominance of the interests of majority creditors, thereby undermining the balance of interests between the debtor and other creditors. Three types of problems may arise in particular. First, creditors with large claims may effectively dominate voting outcomes, marginalizing minority creditors' concerns regarding the fairness of the proposed payments. Second, inaccurate or manipulated claim valuations may artificially increase certain creditors' voting weight. Third, creditors affiliated with debtors may vote in their own interests rather than in the collective interest of the creditors. These practical challenges demonstrate that a purely majoritarian voting system may inadequately protect substantive justice and ensure equitable treatment of creditors.

From a legal theory perspective, law essentially functions to create a balance of interests in society. Roscoe Pound stated that law is a means of balancing conflicting interests in social life. According to him, law must be capable of regulating and harmonizing these interests to achieve order and justice in society (Pound, 1992). In the context of PKPU, the principle of balance requires that the settlement mechanism not only protect the interests of majority creditors but also fairly consider the interests of the debtor and other creditors.

In modern legal theory, the principle of proportionality is also recognized, emphasizing the importance of rational balance in legal decision-making (Šušnjar, 2010). Robert Alexy explains that the principle of proportionality requires a balancing process between competing interests so that the resulting legal decision can be rationally and fairly justified (Alexy, 2002). When applied to the voting mechanism in PKPU, the principle of proportionality requires that the strength of a majority vote not necessarily serve as the sole basis for decision-making, but that the interests of all parties involved in the reconciliation process be considered proportionally.

On the other hand, the Indonesian legal system's decision-making process should ideally be based not only on a majority voting mechanism but also on the principle of deliberation for consensus, rooted in the values of Pancasila. Pancasila, as the philosophical foundation of the state, contains fundamental values that serve as guidelines for the formation of the national legal system. Kaelan explains that Pancasila is a philosophical system containing basic values that serve as the foundation for the formulation of national legal norms (Kaelan, 2016). The value of deliberation embodied in the fourth principle of Pancasila reflects the character of the nation's culture, which places dialogue, togetherness, and a spirit of kinship at the center of resolving shared problems.

This principle of deliberation is essentially in line with the concept of deliberation in modern democratic theory, which emphasizes the importance of rational dialogue in forming legitimate decisions. Jürgen Habermas asserts that the legitimacy of a legal decision is largely determined by a rational and participatory discourse process among stakeholders (Habermas, 1996). Therefore, decisions made through deliberation tend to reflect more substantive justice than decisions based solely on majority rule.

The principle of deliberation is essentially in line with the concept of deliberation in modern democratic theory, which emphasizes the importance of rational dialogue in forming legitimate decisions. Jürgen Habermas emphasized that the legitimacy of a legal decision is largely determined by a rational and participatory discourse process among the parties. When applied to the reconciliation mechanism in PKPU, the current majoritarian voting system reveals a discrepancy with the value of deliberation that characterizes Indonesian legal culture. The dominance of majority creditors' votes has the potential to undermine the spirit of dialogue, the balance of interests, and the principle of substantive justice that should form the basis for resolving debt relationships between debtors and creditors. Therefore, an effort is needed to reconstruct the reconciliation system in the Suspension of Debt Payment Obligations so that the decision-making mechanism does not rely solely on the power of majority votes but also internalizes the values of deliberation, balance, and proportionality that are consistent with the cultural values of Pancasila. Thus, decisions made through a deliberative process tend to reflect more substantive justice than decisions made solely on the basis of majority voting power.

Based on this description, examining the reconstruction of the composition plan voting system in Suspension of Debt Payment Obligations (PKPU) proceedings as a manifestation of Pancasila cultural values is essential. This study aims to analyze the deficiencies in the current voting mechanism regulated under Article 281, develop a Pancasila-based deliberative model for PKPU voting, and formulate prescriptive recommendations for legal reform. Theoretically and normatively, this research contributes to the development of bankruptcy law by offering a philosophical framework grounded in Pancasila for the democratic resolution of financial disputes. Practically, it provides guidance for legislators and commercial court judges in implementing fairer debt restructuring procedures that balance creditor protection, debtor business viability, and social welfare. Furthermore, this study demonstrates how constitutional values can be operationalized within specialized commercial law.

METHOD

This research employed a normative legal methodology to examine and reconstruct the legal norms governing voting mechanisms in Suspension of Debt Payment Obligations (PKPU) proceedings. It applied statutory, conceptual, philosophical, and comparative legal approaches. The statutory approach examined Law No. 37 of 2004 and relevant constitutional provisions, while the conceptual approach explored the legal concepts of voting, deliberation, and justice. The philosophical approach positioned Pancasila as the normative foundation for reconstructing the voting mechanism. Meanwhile, the comparative legal approach examined bankruptcy and debt restructuring systems in the United States through Chapter 11, the Netherlands through the WHOA, and the United Kingdom through the Scheme of Arrangement.

These jurisdictions were selected because they represented advanced models of creditor protection and business rescue that had moved beyond purely majoritarian voting mechanisms. The analysis employed Habermas's theory of deliberative democracy to assess the legitimacy of collective decision-making, Pound's interest-balancing theory to examine the protection of stakeholders' interests, Alexy's principle of proportionality to evaluate the rationality of voting weights, and Kaelan's framework of Pancasila philosophy to ensure consistency with Indonesian constitutional values. These theories served as analytical tools rather than propositions to be empirically tested, enabling a systematic assessment of whether the voting mechanism stipulated in Article 281 achieved substantive justice.

RESULTS AND DISCUSSION

Results

The analysis of Article 281 reveals that the existing voting mechanism in PKPU proceedings predominantly relies on a quantitative majoritarian approach, requiring approval by a majority of creditors representing at least two-thirds of the total value of recognized or provisionally recognized claims. However, this mechanism lacks adequate safeguards for substantive fairness, resulting in three principal problems: the dominance of majority creditors, the vulnerability of minority creditors, and insufficient protection of the debtor's interest in maintaining business continuity. To examine these deficiencies, this research applies four complementary theoretical frameworks.

Habermas's theory of deliberative democracy provides a normative foundation for legitimate collective decision-making through rational and inclusive discourse rather than mere vote counting. Pound's interest-balancing theory offers an analytical framework for assessing whether the PKPU mechanism fairly accommodates and protects the interests of all stakeholders. Alexy's principle of proportionality enables a systematic evaluation of whether the allocation of voting weight is rational, necessary, and proportionate to the economic significance of creditors' claims. Meanwhile, Kaelan's Pancasila philosophy provides the constitutional and philosophical foundation for developing a distinctly Indonesian model of democratic financial dispute resolution. These theories are employed as analytical instruments for evaluating and reconstructing the PKPU voting mechanism rather than as propositions subjected to empirical testing.

Voting Mechanism in Article 281 of the Bankruptcy Law and Suspension of Debt Payment Obligations

Voting Mechanism in the Suspension of Debt Payment Obligations

The voting mechanism in the Suspension of Debt Payment Obligations (PKPU) is a fundamental legal instrument that determines whether a debtor's restructuring plan will be approved. Under Article 281 of Law No. 37 of 2004, approval requires both a majority of the concurrent creditors present and representation of at least two-thirds of the recognized claims, reflecting a balance between numerical majority and the proportional value of creditors' claims. Consistent with Thomas H. Jackson's theory (1986) of collective insolvency proceedings, PKPU voting is intended to prevent individual creditor actions that could reduce the value of the debtor's assets. In Indonesia, this mechanism also reflects the principles of *musyawarah*, proportionality, and balanced interests. However, practical challenges (including majority creditor dominance, conflicts of interest, manipulated claims, and abuse of voting rights) demonstrate that voting should not rely solely on majority rule but must also satisfy the principles of good faith, fairness, and legal propriety, thereby ensuring substantive protection for all creditors.

Comparison of Debt Payment Suspension Mechanisms with other countries' systems

Table 1
Country Systems Comparison Table

States	Legal Basis and Model	Characteristics of Voting Mechanisms	Role of the Judge/Court	System Orientation	Strength	Weakness
Indonesia	Law No. 37 of 2004 concerning Bankruptcy and PKPU. The voting system is influenced by Dutch legal tradition through *Faillissementsverordening*	Voting is based on: 1) a majority of creditors; 2) a majority of claims. Approval of the settlement agreement depends heavily on the results of the formal vote.	The judge's role is relatively limited and tends to be passive. Homologation is granted when the formal voting requirements have been satisfied.	More oriented towards procedural legitimacy and the power of the majority of creditors	Providing legal certainty through clear and measurable voting measures.	Vulnerable to the dominance of majority creditors, procedural formalism, and weak protection of minority creditors.

United States of America	Chapter 11 of the United States Bankruptcy Code	The reconstruction system is more flexible. The debtor retains control of the company through its debtor-in-possession concept. A cram-down mechanism is used, allowing the restructuring to be approved even if a group of creditors opposes it.	The court has an active role in assessing the fairness, reasonableness, and non-discrimination of restructuring plans.	Oriented towards business rescue (reorganization oriented) and economic sustainability.	Protecting the company's sustainability, maintaining employment, and maintaining business value (going concern value).	The process can be lengthy and costly due to intensive court oversight.
Nether-lands	Wet Homologatie Onderhands Akkoord (WHOA)	Voting is conducted based on creditor class (class voting). Restructuring can be conducted outside of formal bankruptcy proceedings. Protection against dissenting creditors is stronger.	The courts actively test the fairness, proportionality and propriety of the restructuring. .	Shifting from a creditor-oriented system to a restructuring-oriented system.	More modern and flexible, and provides a balance between creditor protection and saving the debtor's business.	Requiring proper classification of creditors and higher complexity of fairness analysis. .
England	*Scheme of Arrangement*	Emphasizing corporate compromise and flexibility in negotiations between parties. Voting is conducted based on creditor class groupings.	Judges have a big role in testing fairness, class composition, and commercial reasonableness before granting approval.	Oriented towards restructuring flexibility and protection of business interests.	Providing ample negotiating space and strong judicial oversight of the fairness of restructuring.	It is highly dependent on court judgment and requires significant restructuring costs.

According to Douglas G. Baird: “Chapter 11 seeks to preserve going concern value rather than merely liquidate assets.” (Baird, 2014). This view demonstrates that modern restructuring systems in various countries are increasingly shifting from a liquidation-oriented approach toward business rescue and the preservation of a company's economic value.

Meanwhile, when compared with the Indonesian system, the PKPU mechanism remains relatively formalistic, based on quantitative majority rule, and limited in its assessment of substantive fairness. Therefore, various systems in other countries demonstrate progress toward strengthening the role of judges, protecting minority creditors, and monitoring the abuse of voting power. Compared with other countries, the Indonesian PKPU system remains highly formalistic, relying heavily on numerical voting and not optimally protecting substantive fairness. Accordingly, strengthening judicial scrutiny, monitoring voting abuses, and developing principles of fairness review are necessary going forward.

The System of Norms in its Structure on the Suspension of Debt Payment Obligations (Hans Kelsen)

Hans Kelsen's theory of norms positions law as a hierarchical system of norms (Stufenbau Theory). According to Kelsen: "The validity of a norm is determined by another higher norm." (Kelsen, 1967).

The table of the hierarchical structure of norms from the PKPU perspective can be understood as follows:

Table 2
The hierarchical structure of norms from the PKPU perspective

Levels of Norms in PKPU	Norm Form	Functions in the PKPU System	Juridical Consequences
The 1945 Constitution of the Republic of Indonesia	Basic constitutional norms (*grundnorm constitutioneel*)	To be the highest foundation for the entire national legal system, including bankruptcy law and PKPU	All regulations and actions in the PKPU must not conflict with constitutional principles, especially justice, legal certainty, and protection of citizens' rights.
Law No. 37 of 2004 concerning Bankruptcy and PKPU	Formal legal norms	Regulating the procedures, requirements, authorities, rights, and obligations of the parties in the P process KPU	To be the legal basis for courts, administrators, curators, debtors and creditors in carrying out the debt restructuring process
Commercial Court Decision.	Judicial concrete norms	Applying statutory provisions to certain PKPU cases	The court decision becomes the legal legitimacy for the PKPU process, including the determination of temporary and permanent PKPU and voting supervision.
Creditor Voting	Collective norms of the parties	Determining whether the peace plan is accepted or rejected based on the majority mechanism regulated by law.	Voting is only valid if it is carried out in accordance with legal procedures, good faith and the principle of fairness towards all creditors
Peace Homologation	Final approval norms	Providing binding force to the peace that has	The homologated peace agreement has binding

	been approved in the vote	legal force for all creditors and debtors, including parties who previously rejected the peace agreement.

According to Hans Kelsen's *Stufenbau des Rechts* theory, the validity of every legal norm depends on its conformity with higher legal norms (Kelsen, 1967). Accordingly, the PKPU mechanism, including creditor voting and homologation, forms part of a hierarchical legal system that must comply with the Constitution, statutory law, and principles of justice. Voting tainted by manipulated claims, conflicts of interest, or abuse of majority power lacks normative legitimacy because it contradicts higher legal norms. In this framework, commercial judges serve as guardians of normative consistency by ensuring that voting and homologation comply not only with procedural requirements but also with substantive justice, good faith, and the rule of law.

The Discovery of Law by Judges as a System of Distributive and Corrective Justice (Aristotle)

Aristotle distinguishes justice into distributive justice and corrective justice, with distributive justice requiring that rights, benefits, and burdens be allocated proportionally according to each party's legal position (Aristotle, 2009). This concept is highly relevant to the Suspension of Debt Payment Obligations (PKPU), where debt restructuring involves not only procedural compliance but also the fair distribution of creditors' rights. In the PKPU framework, creditors are classified as secured, preferred, and concurrent creditors, each enjoying different levels of legal protection based on the nature of their claims. Accordingly, distributive justice does not require equal treatment but rather proportional treatment consistent with each creditor's legal status, economic risk, and contribution to the debtor's business continuity. Judges therefore play a central role in ensuring that voting and payment distributions reflect substantive justice rather than merely formal legal requirements. Consistent with Satjipto Rahardjo's view that law should serve human welfare and substantive justice, judges must interpret the law to prevent domination by particular creditors and to maintain proportionality, balance of interests, and equal legal protection throughout the PKPU process.

The Legal Objective of Voting in the Suspension of Debt Payment Obligations Is Justice (Three General Teachings of Gustav Radbruch)

Gustav Radbruch's theory of the objectives of law emphasizes three fundamental values: justice (*gerechtigkeit*), legal certainty (*rechtssicherheit*), and utility (*zweckmäßigkeit*), all of which must be realized in a balanced manner (Radbruch, 2006). These values are central to the PKPU voting mechanism, which functions not merely as a procedural means of approving or rejecting a restructuring plan but also as a legal instrument for balancing the interests of debtors and creditors. Legal certainty is reflected in the clear statutory requirements governing voting thresholds, claim verification, creditor meetings, and homologation, thereby providing predictability and procedural order. Utility is achieved by prioritizing debt restructuring over liquidation, enabling business continuity, protecting employment, and preserving economic stability (Radbruch, 2006).

However, Radbruch maintained that justice is the highest legal value, meaning that compliance with procedural voting requirements alone does not guarantee a fair outcome (Radbruch, 2006). In practice, majority creditors may dominate the voting process, potentially disadvantaging minority creditors and transforming PKPU voting into an instrument of economic domination. Therefore, commercial judges must ensure that voting and homologation satisfy not only formal legal requirements but also substantive fairness, good faith, and the absence of abuse of process. Homologation should thus serve as judicial oversight of the legitimacy and fairness of the restructuring process rather than merely administrative validation. This approach is consistent with Satjipto Rahardjo's view that law should protect people and realize substantive justice rather than merely enforce procedural rules (Rahardjo, 2005). Accordingly, the ultimate objective of PKPU voting is to achieve collective justice by balancing the interests of debtors, creditors, and society through the principles of fairness, proportionality, good faith, and equal legal protection (Rahardjo, 2005).

Application of Theory in Understanding Voting in the Suspension of Debt Payment Obligations Process

Deliberative Democracy Theory

The theory of deliberative democracy, as described above, positions collective decision-making as a process based not solely on the strength of a majority vote but rather on rational dialogue that considers the interests of all parties involved. From this perspective, the legitimacy of a decision is determined not only by the voting results but also by the quality of the deliberation process that takes place before the decision is made.

According to Jürgen Habermas, legal legitimacy in a democratic society arises from a rational and participatory communication process in which each party has an equal opportunity to express arguments freely and rationally. This deliberative process allows for decisions that are not only procedurally valid but also substantively just. Jürgen Habermas's theory of deliberation and deliberative democracy explains that the legitimacy of legal decisions arises from a rational deliberation process among interested parties, not simply from majority domination. According to Habermas: "Legitimacy arises from the communicative processes through which participants reach rational agreement." (Habermas, 1996). This theory is used to analyze the voting mechanism in PKPU and compare the majoritarian model with the deliberative model. From an Indonesian legal perspective, this theory can be combined with the Pancasila value of *musyawarah*.

From the perspective of the Suspension of Debt Payment Obligations (PKPU), this theory is relevant to analyzing the voting mechanism for approving a composition plan between debtors and creditors. Voting should not be understood solely as a quantitative mechanism based on majority votes but also as part of a deliberative process that enables the realization of an agreement reflecting the mutual interests of the parties.

Interest-Balancing Theory

The theory of balancing interests emphasizes that the law must be able to create a balance among the various conflicting interests within a legal relationship. In bankruptcy and debt restructuring law, this balance is primarily concerned with protecting the interests of debtors and creditors.

The theory of balancing interests essentially positions the law as an instrument for maintaining harmony among conflicting interests within a legal relationship. In the context of bankruptcy and debt restructuring law, this balance primarily relates to protecting the debtor's interest in maintaining business continuity and the creditors' interests in obtaining fair and proportional satisfaction of their claims.

The development of modern insolvency law demonstrates that bankruptcy law is no longer viewed solely as a debt-collection instrument intended to maximize creditor satisfaction but has evolved into a mechanism for maintaining economic stability, preserving business continuity, and protecting various parties affected by the restructuring process. Thus, modern restructuring law fundamentally requires a balance of interests among debtors, majority creditors, minority creditors, workers, investors, and the broader economic interests of society.

This view is emphasized in an international article written by Carsten Schirrmacher in the journal *Studia Iuridica* in 2023, which states that the development of modern insolvency law has undergone a paradigm shift from being solely oriented toward creditor satisfaction to regulating a more balanced legal relationship between debtors and creditors in order to minimize widespread economic losses. According to Schirrmacher, insolvency law must properly structure the legal relationship between debtors and creditors in the public interest (Schirrmacher, 2023). This view demonstrates that modern debt restructuring law must not be oriented solely toward the interests of particular creditors but must create a fair distribution of legal protection for all parties involved.

J. Gant's similar view in the *International Insolvency Review* emphasizes the importance of fairness and protection for vulnerable stakeholders in the restructuring and insolvency process.

According to Gant, a modern restructuring system must optimize fairness by protecting economically weaker parties to prevent the dominance of interests by financially stronger groups (Gant, 2022).

This perspective is highly relevant to the voting mechanism in the Suspension of Debt Payment Obligations (PKPU), as majority creditor dominance often occurs in practice, potentially neglecting the interests of minority creditors and the debtor's business continuity. Therefore, a theory of balancing interests is necessary to ensure that debt restructuring is not merely an instrument of the economic power of the majority but also guarantees fairness and legal protection for all parties.

The development of modern restructuring law also demonstrates the importance of maintaining a balance between saving the debtor's business and protecting creditors' rights. Aurelio Gurrea-Martínez, in the 2023 *European Business Organization Law Review*, explained that a modern restructuring system must take into account the interests of debtors, creditors, workers, suppliers, and the community in a balanced manner, as restructuring failure can lead to broader economic losses (Gurrea-Martinez, 2023). This view indicates that corporate restructuring should be regarded as an effort to maintain going-concern value. Accordingly, the law should not focus solely on short-term debt repayment interests but also on business continuity and economic stability.

Paul Scholten's legal theory states that the application of law cannot be carried out mechanically based solely on the text of the law but must consider the values of justice and the balance of interests in society. Scholten emphasized that judges, in determining the law, must consider social values, a sense of justice, and the interests of the parties in a proportional manner (Scholten, 1974).

Paul Scholten's thinking demonstrates that in bankruptcy law and PKPU, judges should not simply act as formal implementers of voting provisions but must also maintain a balance of interests among the creditor's right to receive payment, the debtor's right to maintain its business, and the broader economic interests of society. Thus, the theory of balancing interests in modern bankruptcy law essentially positions debt restructuring as a legal process that must be implemented proportionally, fairly, and equitably, with attention to the balance of legal protection for all parties involved in the debt restructuring process.

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Balancing interests from a PKPU perspective is crucial because a voting mechanism that relies solely on the dominance of majority creditors has the potential to neglect the interests of minority creditors and the debtor's business continuity. Therefore, the PKPU settlement system must be designed in such a way as to strike a balance between creditors' interests in obtaining repayment of their claims and the debtor's interests in maintaining business continuity.

The Theory of Proportionality in Law

The theory of proportionality is a principle that emphasizes that every legal decision must consider a reasonable balance between the desired objective and the impact on the parties affected by the decision. According to Robert Alexy, "*The principle of proportionality requires balancing competing principles in order to reach a justified legal decision*" (Alexy, 2002). In this context, Alexy explained that the principle of proportionality is used to balance competing norms or interests rationally.

The principle of proportionality comprises three main elements: *suitability*, *necessity*, and *proportionality stricto sensu*. These three elements are used to assess whether a policy or legal decision appropriately balances the interests of the various parties. In the PKPU voting mechanism, the principle of proportionality is crucial to ensure that the approval system for a composition plan not only prioritizes the strength of most creditors but also proportionately considers the interests of all parties involved in the debt restructuring process.

The principle of proportionality is regarded as a crucial tool for balancing conflicting legal interests. Pavel Ondřejek and Filip Horák explain that proportionality analysis is a mechanism for ensuring an appropriate balance between the protection of rights and the effectiveness of legal policies (Ondřejek, 2024). This view emphasizes that proportionality testing is conducted through suitability, necessity, and proportionality *stricto sensu* to ensure that an action is not excessive.

From the perspective of the PKPU voting mechanism, the principle of proportionality is highly important because voting is essentially a process of balancing interests among debtors who seek to maintain business continuity, majority creditors who seek certainty of payment, and minority creditors who require protection from the dominance of economic power. The principle of suitability in PKPU voting means that the voting system must be genuinely designed to achieve the objectives of debt restructuring, namely fair debt settlement and the continuity of the debtor's business. Therefore, the voting mechanism should not merely serve as a tool to legitimize the power of majority creditors but must be consistent with the principal objective of restructuring law, namely creating a balance of interests among all parties.

The principle of necessity implies that voting arrangements must be implemented using measures that are necessary and do not unduly restrict the rights of other parties. In this context, absolute dominance by majority creditors cannot be justified if other mechanisms exist that are more balanced and better protect minority creditors. Therefore, modern voting systems in various countries have begun to develop class voting, cram-down mechanisms, and fairness review to reduce the potential for unfairness in debt restructuring.

The principle of proportionality *stricto sensu* requires a balance between the benefits of restructuring and the burdens borne by the parties. This means that voting decisions must not result in excessive losses for a particular group of creditors solely for the benefit of the majority. In this regard, the courts have a crucial role in ensuring that restructuring remains within the bounds of fairness and does not lead to an abuse of voting power.

This view aligns with an international article written by J. Gant in the 2022 *International Insolvency Review*, which emphasized the importance of fairness in restructuring and insolvency, particularly for vulnerable stakeholders. According to the article, a modern restructuring system must optimize fairness by protecting economically weaker groups during the corporate restructuring process (Gant, 2022).

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Developments in restructuring law in Europe also demonstrate a paradigm shift from a system focused solely on creditor interests to one that places greater emphasis on balancing interests and restructuring. This is evident in discussions regarding the European Union's Preventive Restructuring Directive, which emphasizes the importance of class-based voting, protection of dissenting creditors, and priority rules in maintaining a balance of interests among the parties involved in debt restructuring.

From an Indonesian legal perspective, the application of the proportionality principle to PKPU voting is relevant because the voting system stipulated in Article 281 of the Bankruptcy and PKPU Law still relies heavily on most creditors and most claims. This model does provide legal certainty, but on the other hand, it has the potential to create dominance by majority creditors over minority creditors. Therefore, the proportionality principle is needed as an analytical tool to test whether the voting mechanism truly aligns with the objectives of restructuring, remains proportionate, and maintains a balance of interests among all parties.

The principle of proportionality in PKPU voting thus functions not only as a tool for testing formal legality but also as an instrument of justice to ensure that debt restructuring is implemented fairly, in a balanced manner, and without causing substantive injustice to particular parties in the PKPU composition process.

Philosophical Basis of the Value of Deliberation for Consensus in Pancasila

Pancasila, as the philosophical foundation of the state, embodies values that serve as the foundation for the formation and implementation of the national legal system. One of the key values in Pancasila is the principle of deliberation for consensus, reflected in the fourth principle. According to Notonagoro, as cited by Herowati Poesoko et al., Pancasila is a philosophical value system that serves as the foundation for the organization of national and state life, including the formation of national law. The principle of *musyawarah* in Pancasila positions the decision-making process as the result of collective deliberation aimed at reaching a fair agreement for all parties (Poesoko et al., 2024).

Kaelan explains that Pancasila is not merely a state ideology in the formal constitutional sense but rather a philosophical system that serves as the fundamental foundation for the formation of Indonesia's national legal system. According to Kaelan, Pancasila has ontological, epistemological, and axiological dimensions, which shape the distinctive character of Indonesian law as one oriented toward balance, humanity, deliberation, and social justice (Kaelan, 2016).

In the ontological dimension, Kaelan explained that the fundamental essence of Pancasila rests on human beings as both individual and social beings. Therefore, Indonesian national law should not be built solely on extreme individualism or collectivism but must be able to create a balance between personal and collective interests. Meanwhile, in the epistemological dimension, Pancasila serves as a source of values and legal knowledge in the formation of national legal norms. This means that all Indonesian legal products must be derived from and aligned with the values of Pancasila as the legal ideals of the Indonesian nation.

In the axiological dimension, Pancasila contains moral goals and practical values that must be realized in the implementation of law, namely justice, humanity, deliberation, and social welfare. According to Kaelan: "Pancasila as a philosophical system is a source of fundamental values that serve as the basis for the formation of national legal norms." (Kaelan, 2016). Thus, law should not be understood merely as a set of formal rules but also as a means of realizing the moral values of the Indonesian nation.

Notonagoro's view is reinforced by his positioning of Pancasila as a philosophical paradigm in the formation of national law. One such argument was put forward by M. Heru Prayitno in his 2022 article in *Jurnal Cita Hukum*, which stated that Pancasila is the source of all sources of state law (*staatsfundamentalnorm*), containing fundamental values for the formation, interpretation, and application of national law. According to the journal, all Indonesian legal norms must be tested for their compliance with the values of social justice, deliberative democracy, and balance of interests embodied in Pancasila (Prayitno, 2022).

Developments in modern law and various academic studies affirm that Pancasila is the philosophical foundation of Indonesia's national legal system. Muhammad Ishar Helmi stated that Pancasila serves as the foundation and paradigm of the national legal system, which must serve as the basis for the formation and implementation of law in Indonesia (Helmi, 2022). A similar view was expressed by Vincentius Setyawan, who explained that Pancasila is the philosophical basis of law formation in Indonesia, and thus all national legal norms must reflect the values of justice, deliberation, and balance of interests (Setyawan, 2023).

Furthermore, Andy Usmina Wijaya et al. also emphasized that the basic values of Pancasila contain the principles of deliberation, social justice, and balance between individual rights and social functions in the development of national law (Wijaya et al., 2021). Based on this thinking, the voting mechanism in the Suspension of Debt Payment Obligations (PKPU) must also be tested for its conformity with the values of Pancasila as a national legal ideal. This is important because the PKPU voting system regulated in Article 281 of the Bankruptcy and PKPU Law currently emphasizes most creditors and most claims.

This model suggests that the legitimacy of decisions is largely determined by the quantitative parties of the majority creditor. However, when analyzed from the perspective of Pancasila philosophy, particularly the fourth principle, "Democracy guided by the wisdom of deliberation/representation," the legal decision-making mechanism should not be based solely on victory by majority vote but should also reflect deliberation, wisdom, a balance of interests, and proportional protection for all parties.

This perspective, as outlined in Article 281 of the Bankruptcy Law, requires examination to determine whether the voting mechanism, which relies heavily on numerical legitimacy, still aligns with the values of deliberative *musyawarah* in the fourth principle of Pancasila. This is because *musyawarah* in Pancasila is not synonymous with majoritarian democracy alone but rather emphasizes a process of dialogue and the search for a fair agreement among all parties. This view is also reinforced by Jürgen Habermas's theory of deliberative democracy, which states that legal legitimacy arises not only from formal voting results but also from a process of rational communication and fair deliberation among the parties (Habermas, 1996).

The use of Pancasila as the ontological, epistemological, and axiological basis in the analysis of the PKPU voting system is important for assessing whether the current voting mechanism truly reflects the values of justice and deliberation or whether it still places the dominance of the economic majority as the primary determinant of legal legitimacy. Therefore, a reconstruction of the PKPU voting mechanism based on Pancasila values is necessary so that the debt restructuring process is not only formally legitimate but also substantively fair, deliberative in its process, and balanced in protecting the interests of all parties.

According to Kaelan: "Pancasila as a philosophical system is a source of fundamental values that form the basis for the formation of national legal norms." (Kaelan, 2016).

The value of deliberation for consensus in the voting mechanism for the Suspension of Debt Payment Obligations implies that the debt settlement process should not be based solely on majority-vote dominance but must also prioritize dialogue, mutual consideration, and a balance of interests between debtors and creditors. Therefore, the reconstruction of the settlement system in the Suspension of Debt Payment Obligations needs to be directed toward internalizing the values of *musyawarah* and deliberation in line with the character of Indonesian law, which is rooted in the values of Pancasila.

The value of deliberation for consensus in the voting mechanism for the Suspension of Debt Payment Obligations implies that the debt settlement process should not be based solely on majority-vote dominance but must also prioritize dialogue, mutual consideration, and a balance of interests between debtors and creditors. Therefore, the reconstruction of the settlement system in the Suspension of Debt Payment Obligations needs to be directed toward internalizing the values of *musyawarah* and deliberation in line with the character of Indonesian law, which is rooted in the values of Pancasila.

The Concept of Reconstruction in Deliberation According to Pancasila Values

The concept of reconstruction in the deliberations concerning the PKPU voting mechanism is essentially an effort to rebuild the legal orientation of debt restructuring so that it does not rely solely on quantitative majority dominance but is instead directed toward achieving substantive justice based on the values of Pancasila. This reconstruction is important because the practice of PKPU voting has tended to place the economic power of majority creditors as the dominant factor in determining whether a restructuring plan is accepted or rejected.

From the perspective of a Pancasila-based state, the legal decision-making process should not be based solely on majority vote counts but should also reflect deliberation, a balance of interests, social justice, and proportional protection for all parties. In this context, *musyawarah* becomes relevant because it places dialogue, rational consideration, and the search for joint solutions at the core of the legitimacy of legal decisions. Therefore, the PKPU voting mechanism needs to be reconstructed so that it is not only procedurally valid but also morally legitimate and consistent with the values of Pancasila.

According to Kaelan, Pancasila is essentially a philosophical system that embodies the values of balance, togetherness, and social harmony in national and state life (Kaelan, 2016). This view suggests that the Indonesian legal system, including bankruptcy law and PKPU law, should be built on a balance of interests and deliberation rather than solely on the dominance of economic power. Several points regarding the legal objectives of the voting process in a PKPU composition agreement are as follows:

The Purpose of Law in the PKPU Voting Process Is Justice (Three Teachings of Gustav Radbruch)

To understand the legal objectives of the PKPU voting mechanism, Gustav Radbruch's theory is highly relevant. Radbruch stated that law has three basic values that must be realized in a balanced manner: justice (*gerechtigkeit*), legal certainty (*rechtssicherheit*), and utility (*zweckmäßigkeit*) (Radbruch, 2006).

In the PKPU voting mechanism, legal certainty is reflected through formal regulations regarding voting requirements, creditor meeting procedures, claim verification, and homologation by the Commercial Court. These regulations provide legal predictability, procedural certainty, and a clear measure of the validity of a composition agreement. However, the law should not be limited to mere formalities. From a utility perspective, PKPU is established to save the debtor's business, maintain business continuity, protect jobs, and maintain economic stability. Therefore, debt restructuring through a composition agreement is preferred over total liquidation, which has the potential to cause broader economic losses.

According to Gustav Radbruch, justice remains the highest goal of law. Therefore, majority voting on a debt restructuring agreement in PKPU cannot automatically be deemed fair simply because it satisfies the numerical requirements stipulated by law. In practice, majority creditors may dominate the process by using their economic power to determine voting results without adequately considering the interests of minority creditors or the debtor's business continuity. This situation demonstrates that the legitimacy of voting cannot be tested solely on the basis of procedural formalities but must also be assessed on the basis of fairness and substantive justice. In this context, the supervising judge plays a crucial role in assessing the substance of the composition plan, testing the good faith of the parties, and ensuring that there is no abuse of process.

This view aligns with J. Gant's 2022 article in the *International Insolvency Review*, which emphasized that modern restructuring must optimize fairness by protecting vulnerable stakeholders to prevent domination by stronger economic groups (Gant, 2022). Therefore, the ultimate goal of the PKPU vote is not simply to reach agreement on the composition proposal but rather to create collective justice in debt restructuring.

Value Change in Voting Models That Do Not Focus on Quantitative Majority

The current PKPU voting mechanism still relies on quantitative majority legitimacy, namely most creditors and most claims. While this model provides legal certainty, in practice it often results in large creditors dominating minority creditors. Consequently, voting becomes an arena of economic power, prioritizing the victory of the majority over the pursuit of collective justice.

From the perspective of Pancasila, particularly the fourth principle, "*Democracy guided by the wisdom of deliberation/representation*," legal decision-making should be based on deliberation, wisdom, and a balance of interests, rather than simply on the calculation of majority votes. According to Kaelan, deliberation in Pancasila implies that joint decisions must be reached through rational consideration and respect for the interests of all parties, rather than through absolute majority domination (Kaelan, 2016).

This view aligns with Jürgen Habermas's theory of deliberative democracy, which states that the legitimacy of a legal decision arises through a process of rational communication among equal parties (Habermas, 1996). In the context of PKPU, this means that voting legitimacy should not be measured solely by the number of votes cast but also by the quality of the deliberations that take place before the vote. Therefore, a paradigm shift in PKPU voting is needed, from a quantitative majoritarian model to a deliberative model based on *musyawarah* and substantive justice.

This change in values is crucial to prevent the debt restructuring process from becoming an instrument of economic domination by certain creditors and instead transform it into a forum for equitable collective resolution. Therefore, a change in values within the voting model, in line with Pancasila cultural values, is necessary because legal decision-making should be based on deliberation, wisdom, and a balance of interests rather than simply on the calculation of majority votes.

Harmonization of Values Between Proportionality and Deliberation in Voting Implementation in the PKPU

In the practice of voting on debt restructuring agreements in PKPU, two important principles may come into tension: the principle of proportionality and the principle of deliberation. The principle of proportionality emphasizes that creditors with larger claims rationally have a greater economic interest in the restructuring outcome. Therefore, the voting system assigns greater influence based on the size of claims. However, if this principle is applied absolutely, voting has the potential to transform into an economic oligarchy, placing capital as the primary determinant of legal decisions.

The principle of proportionality must be harmonized with the principle of deliberation, which emphasizes dialogue, deliberation, balancing interests, and protection of weaker parties. According to Pavel Ondřejek and Filip Horák in the 2024 *European Constitutional Law Review*, the principle of proportionality is used to maintain a balance among various legal interests so that a decision does not impose excessive burdens on a particular party (Ondřejek, 2024).

Harmonizing proportionality and deliberation in the context of PKPU means that the value of a claim remains relevant but must not eliminate the principles of fairness and protection for minority creditors. Therefore, voting must not only be mathematically valid but also morally and substantively just. This harmonization can be realized through stronger judicial oversight of minority creditor protection, transparency regarding affiliated relationships, fairness review during homologation, and an obligation to conduct deliberations before formal voting. Through this reconstruction, the PKPU voting mechanism will be more closely aligned with the values of Pancasila, which place deliberation, social justice, and a balance of interests at the foundation of legitimacy in legal decision-making.

Prescriptive Value in the Reconstruction of the Voting System for the Suspension of Debt Payment Obligations Through Deliberation in Accordance with Pancasila Values

The reconstruction of the voting system in the Suspension of Debt Payment Obligations (PKPU) is essentially aimed not only at changing procedural aspects but also at rebuilding the value orientation of the debt restructuring system so that it is more closely aligned with the principles of justice, balance, and deliberation embodied in the values of Pancasila. In this context, legal reconstruction is not simply understood as a textual change to legal norms but must be interpreted as an effort to reform the legal system so that it can address issues of substantive injustice in PKPU voting practices.

To date, the voting mechanism for debt restructuring through PKPU has tended to place the legitimacy of decisions on quantitative majority dominance based on the number of votes and the value of claims. While this model provides procedural legal certainty, in practice it often creates an imbalance of economic power, resulting in inadequate protection of the interests of minority creditors, the sustainability of the debtor's business, and even social justice. Consequently, voting in PKPU proceedings has the potential to shift from a means of deliberating on debt resolution into an instrument of domination by particular economic groups.

Therefore, prescriptive values are needed as a normative basis for reconstructing the PKPU voting mechanism. These prescriptive values serve to provide direction on how the law should be formulated, implemented, and developed so that it not only produces procedural certainty but also provides substantive justice and balances the interests of the parties.

From this perspective, the values of Pancasila serve as a crucial philosophical foundation, embodying the principles of deliberation, kinship, balance, proportionality, and social justice. According to Kaelan, Pancasila, as the Indonesian nation's philosophical system, embodies fundamental values that place harmony, togetherness, and balance as guiding principles in legal and state life (Kaelan, 2016). In this context, the PKPU voting mechanism should not be viewed merely as a decision-making process based on majority votes but also as a legal deliberation forum aimed at achieving a fair and balanced debt resolution for all parties.

Gustav Radbruch's thoughts on the purpose of law also provide an important basis for reconstructing the PKPU voting system. Radbruch emphasized that the law must be able to achieve justice, legal certainty, and utility in a balanced manner (Radbruch, 2006). Therefore, reconstructing PKPU voting is not sufficient merely to maintain formal legal certainty through numerical voting requirements but must also be directed toward creating fairness and proportional protection for all parties involved in debt restructuring.

Developments in modern restructuring law have also strengthened the trend toward a deliberative and fairness-oriented model. This is evident in various modern insolvency systems, which have begun to prioritize judicial oversight, minority creditor protection, and fairness review as key components of the debt restructuring process. Therefore, reconstructing the PKPU voting mechanism based on Pancasila values is essentially an effort to build a debt restructuring system that is not merely formally legal but also morally legitimate, substantively just, and balanced in protecting the interests of all parties.

The results of the analysis in this study identify four steps for reconstructing the voting system in a composition agreement under the Suspension of Debt Payment Obligations, namely as follows:

Deliberative Creditors' Meeting

Deliberative Creditors: The results of the initial voting process at the creditors' meeting must serve as a substantive deliberation forum in which the debtor openly explains the composition proposal, including its strengths and weaknesses, in relation to the debtor's asset position and total outstanding debt. Creditors can then assess the rationality of the proposal and the debtor's ability to implement the composition plan following homologation. The administrator facilitates the discussion under the supervision of the supervising judge, who chairs the creditors' meeting, with the aim of ensuring that the vote is conducted only after joint and rational deliberation.

Balance Test by the Supervising Judge

In the PKPU mechanism, the voting process is essentially a means of determining whether a composition plan between the debtor and creditors will be accepted or rejected. However, a vote that formally satisfies the majority requirements stipulated by law does not necessarily produce substantive justice. Therefore, the role of the supervising judge is necessary to assess the balance and fairness of the voting results and to prevent the abuse of majority power in the debt restructuring process.

The balancing test conducted by the supervising judge is essentially a form of judicial oversight of the legitimacy and fairness of the collective decision made by creditors. In this context, the judge serves not only as an administrative supervisor of the PKPU process but also as a guardian of the balance of interests among the debtor, majority creditors, minority creditors, and broader economic interests.

Through this fairness test, the supervising judge can assess whether the voting results truly reflect justice and good faith or whether they serve as an instrument of economic domination by a particular group of creditors. In the practice of debt restructuring through PKPU, situations may arise in which majority creditors use their substantial claims to determine the voting results without proportionately considering the interests of other creditors. As a result, a formally accepted composition proposal may disadvantage minority creditors, create an imbalance in payment distributions, or even constitute an abuse of process. If such conditions are allowed to persist, the voting mechanism will provide only formal legitimacy without substantive justice.

The supervising judge therefore needs to examine several important aspects, including whether the voting was conducted in good faith, whether there was a conflict of interest or undisclosed affiliation, whether the composition proposal provided proportional protection for all creditors, and whether the voting results caused excessive losses to particular parties.

In this context, the supervising judge serves as a guardian of the principle of balance, preventing debt restructuring from becoming a tool of economic oppression by the majority against the minority. This view aligns with Gustav Radbruch's theory of justice, which states that law must not only provide procedural certainty but also guarantee substantive justice. According to Radbruch, law loses its meaning when formality legitimizes injustice (Radbruch, 2006).

In the context of PKPU, this theory suggests that judges should not focus solely on satisfying numerical voting requirements but must also assess the substantive justice of the proposed composition. Furthermore, the concept of judicial control is strongly developed in various modern restructuring systems. In Chapter 11 of the United States Bankruptcy Code, for example, the court has broad authority to test the fairness and feasibility of a restructuring plan through a cram-down mechanism. Under this mechanism, the judge may approve the restructuring even if a class of creditors opposes it, provided that the statutory requirements for cram-down approval are satisfied and the proposal is deemed fair and nondiscriminatory.

This demonstrates that in modern insolvency systems, voting legitimacy is based not only on a majority vote but also on judicial oversight of the balance of interests among the parties. A similar view has emerged in recent international literature. J. Gant, in the 2022 *International Insolvency Review*, emphasized that modern restructuring must provide protection for vulnerable stakeholders so that the restructuring process does not solely benefit more powerful economic groups (Gant, 2022). This view demonstrates that fairness review by the supervising judge is a crucial instrument for maintaining a balance between restructuring efficiency and the protection of parties who may be disproportionately disadvantaged.

From an Indonesian legal perspective, judicial oversight of voting results is also consistent with the values of deliberation and social justice enshrined in Pancasila. Deliberation in the Pancasila legal system is not merely interpreted as a mechanism for obtaining a majority vote but also as a process of seeking balance and collective wisdom. Therefore, formally valid voting results must still be tested to determine whether they reflect justice, proportionality, and equal protection for all parties. This view aligns with Kaelan's thinking, which states that the value of deliberation in Pancasila embodies the principle of balance and respect for the common interest, rather than the dominance of the majority group (Kaelan, 2016). Therefore, the balance test by the supervising judge in PKPU is essentially a form of legal protection against potential imbalances in economic power during the voting process.

Through this oversight, the supervising judge can ensure that debt restructuring is not only procedurally valid but also substantively fair, proportionate to all parties, and consistent with the principles of justice under the Pancasila legal system. In this context, the supervising judge's role is not merely to oversee the administrative implementation of PKPU but also to be positioned as a guardian of the balance of interests, a guardian of legal morality, and a corrective against the abuse of majority power in the debt restructuring process.

Voting as the Ultimum Remedy

The voting system in PKPU composition proceedings must still be used to achieve the principles established in bankruptcy law, but this system should be positioned as a final mechanism after a thorough deliberation process. Therefore, the composition decision should reflect a balance of interests, proportionality, and the Pancasila values of deliberation. Accordingly, the researcher provides several points relating to the comparative value of the voting mechanism under Article 281 of the Bankruptcy and PKPU Law and the Pancasila-based deliberative model, as follows:

Comparison Table of the Value of the Voting Mechanism of Article 281 of the Bankruptcy Law and PKPU with the Pancasila-Based Deliberation Model

Aspect	Voting Mechanism of Article 281 of the Bankruptcy and PKPU Law	Reconstructed Values as a result of research in the Article	Strength	Weakness
Basis for Decision Making	The decision is based on the majority of the number of creditors and the majority of the	The decision is based on deliberation that takes into account the balance of interests of debtors and creditors.	Providing procedural certainty and efficiency in decision	Potential to result in dominant decisions by large creditors

	value of receivables.		making	
Voting System Orientation	Creditors with large claims have a dominant influence in determining the voting results.	Oriented towards deliberation and rational consideration of the parties	The process is simpler and easier to implement	Lack of attention to substantive justice
Creditor's Role	Creditors with large claims have a dominant influence in determining the voting results.	Each creditor has an equal opportunity to convey their considerations in the deliberation forum.	Providing creditor protection for those with significant economic interests.	Small creditors often do not have a strong bargaining position.
Debtor's Role	The debtor is relatively passive and only offers a peace proposal.	Debtors become part of the dialogue process to reach a fair agreement.	Faster process towards decisions	The debtor's interests may be neglected if the majority of creditors reject the proposal.
Role of the Supervising Judge	The judge plays a greater role as a certifier of voting results in accordance with formal provisions.	Judges can assess the fairness and balance of the voting results.	Maintaining legal certainty in the Peace process in postponing debt payment obligations	The space for testing substantive justice is limited
Philosophical Values	Majority democracy in economic decision-making.	*Musyawarah* and balance of interests as values consistent with Pancasila.	Efficient in resolving debt disputes.	Does not fully reflect the value of *musyawarah* within the Indonesian legal system.

Based on the table above, the voting mechanism under Article 281 of the Bankruptcy and PKPU Law essentially reflects a majoritarian voting approach, namely decision-making based on the dominant vote of the majority of creditors. This model provides procedural certainty but in practice often gives rise to issues involving an imbalance of interests, particularly when creditors with large claims exercise dominant influence in determining the outcome.

The research findings in this article offer a reconstruction of the decision-making mechanism in PKPU through a deliberative approach that emphasizes deliberation, balancing of interests, and proportionality. This approach aligns with the idea of deliberative democracy developed by Jürgen Habermas, the principle of proportionality in legal theory proposed by Robert Alexy, and the concept of legal discovery in judicial practice as explained by Paul Scholten. Thus, the voting mechanism is not merely understood as a mathematical procedure but as part of a deliberative process aimed at achieving a just and balanced composition decision.

Internalization of Values in PKPU Composition Practices

The reconstruction of the settlement mechanism in PKPU is essentially intended not only to change formal decision-making procedures but also to internalize certain values into the mindset of bankruptcy actors. Until now, the voting mechanism in PKPU settlements has tended to be understood procedurally as a mathematical calculation based on the majority of creditors and the majority of claims, as stipulated in Article 281 of the Bankruptcy and PKPU Law. This perspective places greater emphasis on the dominant interests of majority creditors.

Such an approach has the potential to ignore the substantive dimension of justice, as the resulting decisions do not always reflect a balance of interests between debtors and creditors. Therefore, a shift in the understanding of the settlement mechanism for debt repayment disputes through PKPU is needed, moving away from a purely quantitative voting mechanism toward a decision-making process that also considers the values of balance, proportionality, and deliberation as part of Indonesian legal culture.

The concept of deliberation is important because it provides space for the parties to present rational arguments before a collective decision is made. The idea of legitimizing decisions through a process of rational discourse, as proposed by Jürgen Habermas, demonstrates that the quality of a decision is determined not only by the voting results but also by the deliberation process underlying them.

The principle of proportionality in law, as formulated by Robert Alexy, emphasizes that every legal decision must consider a reasonable balance among competing interests. In the context of PKPU, this principle can be used as a basis for assessing whether the voting results truly reflect a balance between creditors' interests and the debtor's business continuity.

Paul Scholten's perspective on legal discovery emphasizes that the application of law cannot be understood mechanically based solely on the text of the law but must consider the values of justice existing in society. Therefore, judges in the homologation process have a crucial role in assessing whether the voting results achieved truly reflect the principles of justice and balance. Accordingly, the reconstruction of the settlement system in PKPU is not intended merely to improve voting procedures but also to instill the values of deliberation, balance, and proportionality as part of the legal culture of bankruptcy actors. If these values become guiding principles in practice, the PKPU settlement mechanism will no longer be understood solely as a calculation of the majority of votes but as a process of debt settlement that reflects justice, a balance of interests, and the cultural values of Pancasila.

CONCLUSION

This study concludes that the voting mechanism under Article 281 of Law No. 37 of 2004, although providing procedural certainty through a dual threshold based on the number of creditors and the value of claims, lacks adequate substantive safeguards against domination by majority creditors, marginalization of minority creditors, and decisions that disregard the debtor's viable business continuity and broader social interests. To address these deficiencies, this research formulates the Pancasila-based Deliberative Insolvency Model, in which creditor voting remains the final decision-making mechanism but must be preceded by mandatory, transparent, and inclusive deliberation facilitated by the administrator and supervised by the supervisory judge. This model requires verification of claims, disclosure of affiliated relationships, equal opportunities for creditors to examine and respond to the restructuring proposal, and a balance or fairness test based on good faith, proportional treatment, nondiscrimination, minority-creditor protection, feasibility, and business continuity. Under this framework, the supervisory judge evaluates the deliberative process and communicates the assessment to the Commercial Court. If a voting outcome fails the fairness test, the restructuring plan must be revised and deliberated again or may be denied homologation by the Court.

Accordingly, the PKPU settlement process should shift from a predominantly quantitative majoritarian system toward a deliberative model grounded in the Pancasila values of deliberation, balance, and social justice. Administrators should facilitate meaningful deliberation and ensure transparency throughout the restructuring process, while supervisory judges should assess the fairness, proportionality, and balance of creditors' decisions within the limits of their legal authority. The legislature should therefore amend Article 281 and its related procedural provisions by incorporating mandatory pre-voting deliberation, transparent claim and affiliation review, substantive judicial scrutiny, minority-creditor protection, and clear legal consequences for unfair voting outcomes. These reforms are expected to establish a fairer debt-restructuring mechanism that balances creditor protection, debtor viability, legal certainty, and broader social welfare.

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