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The Business Property Developer Bankcrupty and Human Rights Fails

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ABSTRACT

Economic actors wield unprecedented global influence, profoundly shaping the socio-economic landscapes of the communities in which they operate**.** Recent macroeconomic shifts have triggered a surge in corporate insolvencies, particularly among property developers. Developer bankruptcy constitutes one of the most critical yet underestimated financial risks for real estate buyers, routinely culminating in severe consumer asset losses. Under international law in the Universal Declaration of Human Rights (UDHR) housing is recognized as a fundamental economic rights. This framework dictates that adequate housing must guarantee secure tenure, shielding individuals from the threat of eviction or sudden asset dispossession. This study examines the economic- legal implications of property developer insolvencies on consumer rights, utilizing a case study of PT Bali Seminyak Sejahtera a condotel and hotel developer in Bali, that faced debt restructuring and subsequent bankruptcy proceeding. The objective is to formulate strategies for strengthening consumer legal protection while establishing a balanced equitable framework that reconciles developer commercial interests with the rights of good-faith buyers. The paper utilizes multi-tiered methodology incorporating general scientific methods (systemic, dialectical, and sociological approaches) alongside specific legal research methods (normative-logical, comparative-legal, technical-legal, and legal statistics). The primary data sources comprise domestic and international business law literature. The study concludes that while listed property developers actively adopt economic rights policies, they fundamentally fail to operationalize them. A critical governance gap persists: there is an absolute absence of board-level accountability for human rights breaches when corporate insolvency strips consumers of their secure tenure and financial security.

Keywords:
Business Property; Developer Bankruptcy; Human Rights; Fails

1. Introduction

1.1 Research Background

Ever wondered how Southeast Asia's hottest market, Indonesia, can take your business to the next level while you manage its risks? Indonesia is at the crossroads of global investment attention and deep domestic change. Since 1999, Indonesia has reduced its poverty rate by more than half,

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that's the scale of its progress. From its evolving human rights landscape to its ambitious economic policies, every shift creates ripples that impact investor confidence and operational stability. Most scholars view these issues in isolation – business analysts ignore human rights, while rights watchdogs ignore market realities. This study bridges that gap, combining governance, human rights and economic trends in financial distress into one actionable outlook.

Several foundational studies emphasize the critical urgency of evaluating financial distress as a proactive measure to protect multi-stakeholder interests and maintain corporate and financial system stability. Classic predictive models, such as Altman's Z-Score framework, demonstrate that impending corporate distress can be diagnosed early using microeconomic financial ratios that reflect a firm's liquidity, leverage, profitability, and operational efficiency [1]. Importantly, the degradation of corporate financial health is a progressive trajectory rather than an instantaneous systemic collapse. Historically, severe financial distress, insolvency, and restricted access to market opportunities have been identified as primary drivers of corporate misconduct and strategic deviation. Within this context, the property and real estate sector in Indonesia represents a highly capital-intensive, cyclical market that is exceptionally vulnerable to macroeconomic volatility and financial instability. Consequently, early identification of systemic distress within this sector is essential for corporate sustainability. This study concentrates on corporate wrongdoing and systemic failures within the development of commercial strata properties—specifically condotels and hospitality real estate—where structural business insolvencies directly trigger widespread consumer and human rights infringements. By examining these phenomena, this research aims to redirect the contemporary scholastic debate toward the structural and principal causes of corporate malfeasance during fiscal duress [2].

The empirical focus of this research centres on Indonesian property developers within the hospitality sub-sector during the 2021–2025 period. While literature on corporate bankruptcy is extensive, empirical research isolated to the structural realities of the Indonesian real estate market remains noticeably limited. Extant studies frequently rely on generalized cross-sectoral datasets or focus exclusively on the manufacturing and banking industries. Furthermore, many prior models utilize outdated parameters or constrained timelines that fail to capture recent global macroeconomic shocks and localized regulatory changes.

This research addresses these distinct literary and empirical gaps by analysing the structural implications of the pre-project selling transaction pattern. Under this widespread system, property consumers execute binding financial commitments and preliminary purchase agreements before the physical asset is completed and before proof of clear legal title (*Sertifikat*) is formally registered or conveyed. When a developer encounters severe financial distress or enters formal insolvency proceedings, this purchasing structure plunges consumer rights into extreme legal uncertainty.

The resulting crisis is compounded because the underlying assets remain uncertified, undivided, and legally undistributed to the buyers. While Law No. 8/1999 on Consumer Protection explicitly guarantees the consumer's right to safety, comfort, and legal certainty—aligning with international human rights frameworks that treat housing infrastructure as the fulfilment of a basic right to adequate housing—Indonesia's insolvency framework operates on conflicting paradigms. Specifically, domestic bankruptcy law prioritizes the principle of equal treatment among creditors (*pari passu pro rata parte*), frequently neutralizing the specialized protections promised to consumer buyers. Data extracted from the 2025 update of the *Directory of Tourism Services Business* demonstrates that hotel properties in Indonesia experienced a consistent upward trajectory from 2021 to 2025, signalling macro-expansion within the accommodation sector. In 2021, registered hotel properties total of 27,607, rising to 28,200 in 2022, and reaching 29,005 properties by 2023. This steady growth trajectory reflects a gradual post-pandemic recovery of regional tourism and commercial activity. This expansion also signals robust domestic and international investor confidence in the growth potential of the Indonesian tourism market [3].

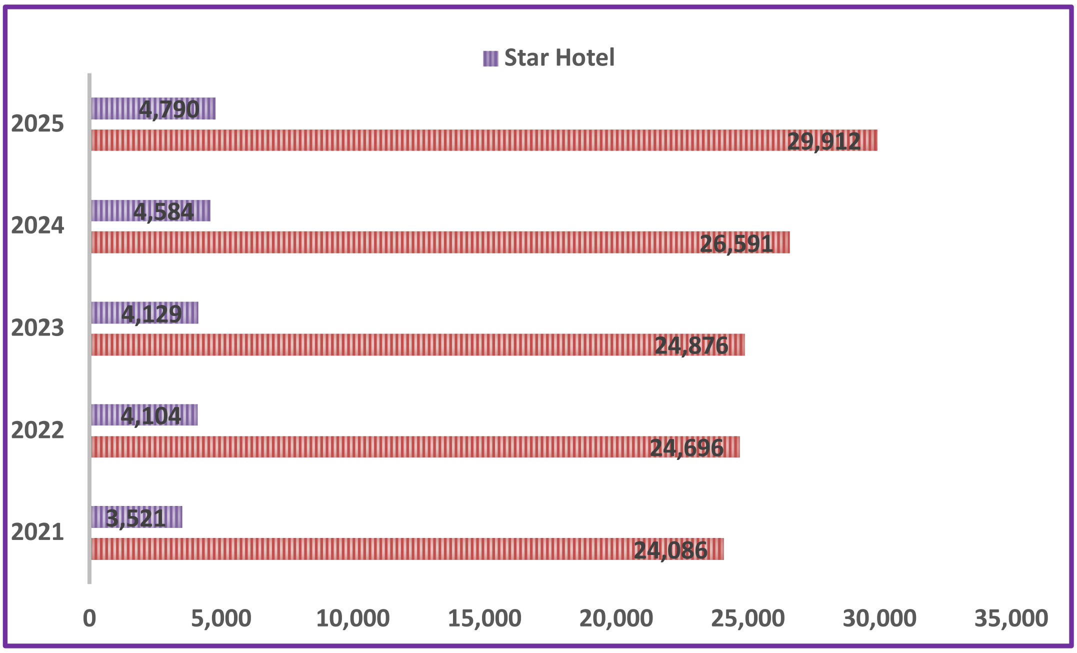

Fig. 1. Hotel and Other Property Businesses Statistics in Indonesia 2021-2025
Sources: Directorate of Finance, Information Technology, and Tourism Statistics,2025

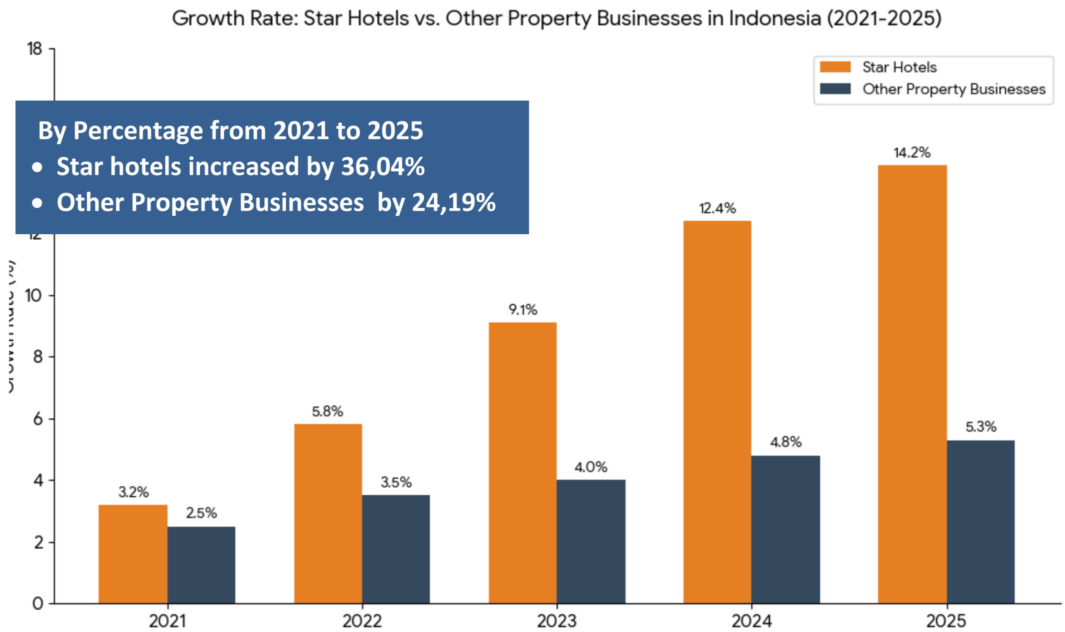

Fig. 2. Growth Rate by Percentage
Sources: Directorate of Finance, Information Technology, and Tourism Statistics,2025

The empirical data in Figure 1 establishes that during the 2021–2025 period, both star hotels and generalized property businesses maintained steady upward trends, though the growth rate of star hotels was notably accelerated. In 2021, the market comprised 3,251 star hotels and 24,086 ancillary property businesses; by 2025, these figures expanded to 4,790 star hotels and 29,912 alternative property entities, respectively. While figure 2 data showed that over five years, the number of star hotels increased by 36,4%, whereas others increased by only 24,19%. The proportion of star hotels to the total also grew from around 12.75 percent to 13.80 percent, indicating a shift toward higher quality and service standards.

This trend was likely driven by increased investment in the hospitality sector, particularly in the mid- to upper-scale segments, in line with the growth of tourists demanding better facilities. However, an alarming narrative unfolds behind these superficial metrics of industry growth. While macroeconomic indices suggest corporate expansion, a severe structural crisis impacts the human stakeholders trapped within corporate insolvencies. As property developers navigate formal bankruptcy, vulnerable workforce segments and consumer blocks bear the brunt of corporate collapse. This reality supports the structural arguments in corporate wrongdoing literature that firms and individuals operating within resource-scarce or hyper-leveraged environments are statistically more prone to engage in misconduct [4], with many historical studies establishing that severe financial strain acts as the primary catalyst for wrongful corporate actions [5]. This suggests that poorly performing or insolvent firms often deploy deceptive or predatory practices to exploit underpriced consumer capital to artificially support their failing operational cash flows and improve performance metrics [6].

While economic rights considerations theoretically extend into commercial insolvency proceedings seeking to balance the debtor's fundamental dignity against the creditor's property claims domestic execution remains deeply flawed. No legal framework permits a corporate debtor to use human rights as an absolute shield to fraudulently obscure assets or defeat legitimate liabilities. Rather, courts must apply a strict principle of proportionality to equitably balance these competing socio-economic and property interests.

Property developer insolvency generates severe social externalities that extend far beyond simple balance-sheet adjustments. These include the indefinite suspension of property distribution, the inequitable liquidation of bankruptcy estates, and profound psychological distress inflicted upon good-faith buyers. A formal report by the United Nations High Commissioner for Human Rights reinforces that the *UN Guiding Principles on Business and Human Rights (UNGPs)*bind sovereign states to protect citizens against human rights abuses perpetrated by third-party commercial entities. This "State's Duty to Protect" mandates that sovereigns take proactive, systemic steps to prevent, investigate, punish, and redress such corporate abuses through targeted legislation, robust regulatory enforcement, and transparent judicial adjudication [7].

Despite these normative frameworks, contemporary legal and structural arrangements intended to detect, prevent, and remedy corporate involvement in human rights violations remain largely dysfunctional. While egregious corporate actions theoretically trigger criminal sanctions, corporate insolvency is still viewed almost exclusively through a restrictive financial lens. This traditional approach focuses narrowly on liquidators, asset recovery, and secured debt restructuring. Consequently, traditional legal processing overlooks a critical dimension of corporate failure: the profound human toll on non-traditional stakeholders. By examining the socio-legal dynamics of corporate insolvency within Indonesia, this research investigates how domestic bankruptcy laws address—or fail to protect—the fundamental rights of buyers, consumers, and employees caught in corporate collapse.

This study builds upon existing legal scholarship by analysing the human and financial costs borne by good-faith property buyers whose lifework and investments are compromised by developer insolvencies. These human stories are routinely obscured by corporate metrics and densified legal jargon. To contextualize this systemic crisis, this paper examines the landmark insolvency case of PT Bali Seminyak Sejahtera (BSS), a 4-star international resort developer in Seminyak, Bali, which was declared bankrupt by the Jakarta Commercial Court in 2019. In practice, the court-appointed curators encountered severe operational gridlock, errors, and conflicts of interest during asset liquidation.

This failure left the statutory rights of individual buyers and displaced employees unresolved, sparking widespread human rights controversies and structural legal challenges.

Corporate insolvency directly degrades economic rights protections, leaving vulnerable stakeholders legally stranded when a heavily leveraged enterprise collapses. Because traditional bankruptcy doctrine prioritizes rapid asset liquidation and institutional creditor repayment, it directly clashes with international standards like the UNGPs [8]. This systemic friction produces structural human rights challenges that disrupt the relationship between developers, state regulators, and consumers.

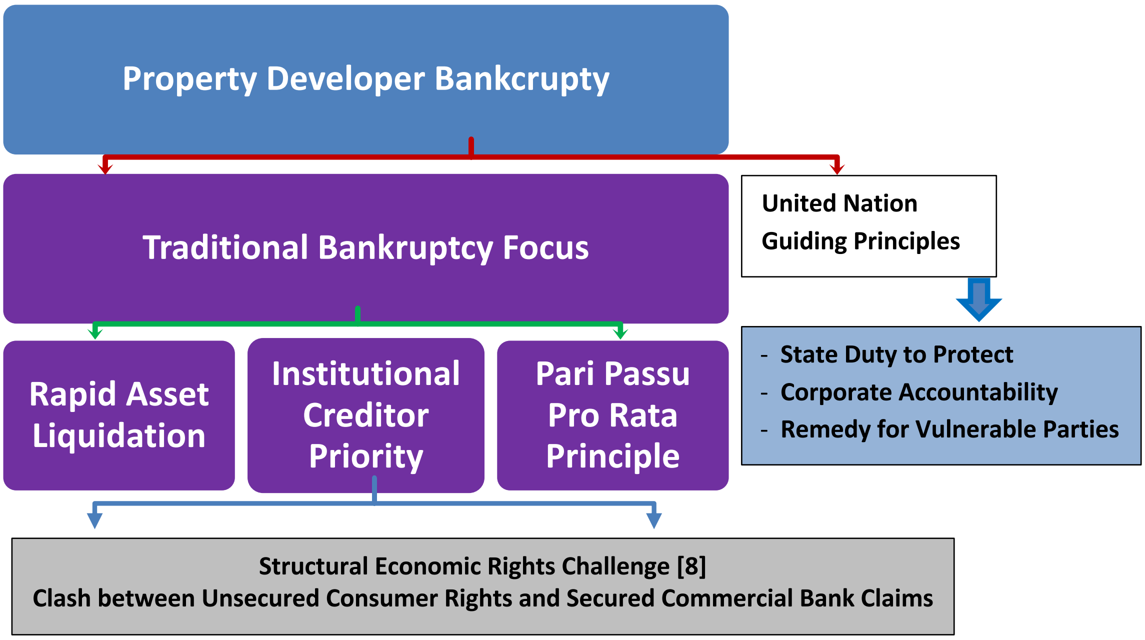

Fig. 3. Economic Rights Challenges in Property Developer Bankruptcy

As a result of the rapid modernization of market-driven economic structures and the corresponding evolution of insolvency legislation in Indonesia, this research addresses two primary questions:

1. Why does corporate and business bankruptcy matter from a socio-legal and human rights perspective? (RQ-1)
2. What systematic value is realized when Indonesian insolvency procedures actively uphold and integrate the principles of fundamental human rights? (RQ-2)

1.2 Literature Review

Theory of Bankruptcy Law

Bankruptcy law is historically built upon two primary analytical frameworks: the balance sheet test and the cash flow test. The balance sheet test assesses insolvency based on total liabilities exceeding aggregate assets, while the cash flow test measures a debtor's inability to service matured, collectible debts. In the evolution of modern economic jurisprudence, this binary approach has transitioned into a utility-based justice system that must balance equity, economic efficiency, and the welfare of all connected stakeholders. As noted by Finch and Milman [9], modern bankruptcy systems must look beyond the mechanical liquidation of assets; they must preserve viable businesses through structural rehabilitation. This aligns with the "fresh start" principle, which views business rescue not merely as a commercial mechanism, but as a socio-legal tool that offers debtors relief from past financial failures while preserving jobs and economic networks.

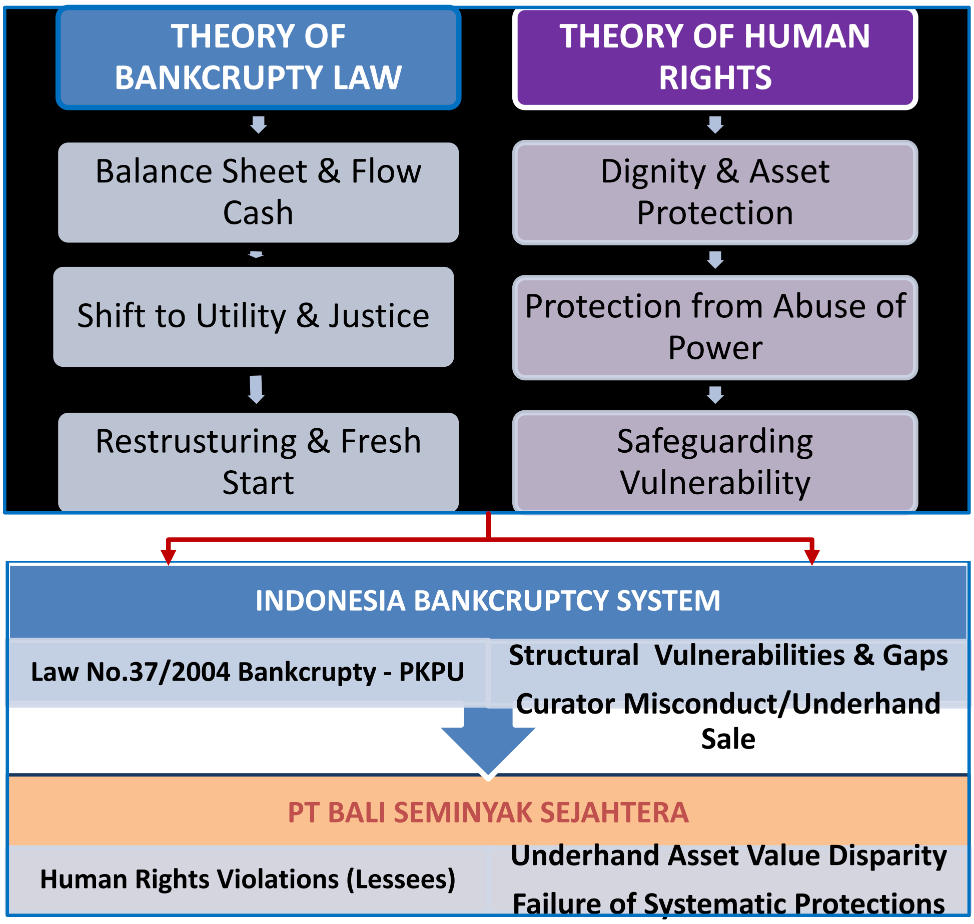

Fig. 4. Conceptional Framework

Theory of Human Rights

Human rights represent the foundational legal, moral, and political framework of modern international jurisprudence. As established by Donnelly et al., rights operate on both objective standards of fairness and intrinsic entitlements possessed simply by virtue of being human.[10]

When domestic legal regimes fail to internalize these human rights principles, the protections remain vulnerable to legislative expedience and lack the critical mass needed to develop progressive jurisprudence. In Indonesia, the integration of international standards—such as the transposition of the United Nations Convention Against Corruption (UNCAC) via Law No. 7/2006—demonstrates how global rights frameworks can shape national laws.

Human rights exist to protect individuals from systemic neglect and institutional abuse, placing binding obligations on state and quasi-state actors. In commercial law, this requires a defense of the basic values underpinning economic rights, housing security, and consumer protection against predatory or unregulated market mechanisms.

Indonesian Bankruptcy Law and Structural Vulnerabilities

To protect creditors from debtor misconduct, the Indonesian government enacted Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (PKPU), replacing the colonial-era *Faillissementsverordening* (Staatblad 1905 No. 207). [11]

Despite this modernization, the current framework under Law No. 37/2004 fails to accommodate the socioeconomic dynamics of the modern economy. Empirical data from the World

Bank Doing Business Report (2020) highlights that Indonesia consistently lags behind regional peers like Malaysia regarding bankruptcy resolution times, costs, and overall asset recovery rates.[12]

The systemic issues within the Indonesian framework include:

- **Procedural Inefficiencies:** Convoluted judicial steps and extended turnaround times that erode asset values.
- **Asymmetrical Power Dynamics:** The broad, sometimes unchecked authority granted to Trustees (Curators) under Articles 16 and 69 of Law No. 37/2004 often creates opportunities for misconduct, damaging debtors, creditors, and employees alike.
- **PKPU Restructuring Abuse:** The strategic manipulation of PKPU delays to stall obligations without a bona fide intent to restructure.
- **Neglect of Vulnerable Stakeholders:** A lack of legal protection for consumer-creditors, small-scale suppliers, and employees.

Corporate Background and Contractual Breach of PT Bali Seminyak Sejahtera

PT Bali Seminyak Sejahtera (PT BSS) was established via Deed of Establishment No. 58 on May 23, 2012, to develop and operate the Meritus Bali Seminyak Resort & Spa condotel project. Between 2013 and 2015, PT BSS marketed individual condotel units priced between IDR 1.5 billion and IDR 6 billion under a management agreement with Meritus Hotels and Resorts. Through this scheme, PT BSS secured permanent lease agreements with 27 individual consumers and 3 sharing-unit consumers, collecting an aggregate sum of IDR 36,959,691,370.

By 2018, PT BSS defaulted on its obligations, failing to complete construction by the contractually mandated management effective date of December 1, 2016. Consequently, the developer entered PKPU restructuring and was subsequently declared bankrupt between 2018 and 2019, leaving consumer-lessees without their paid properties or financial restitution.

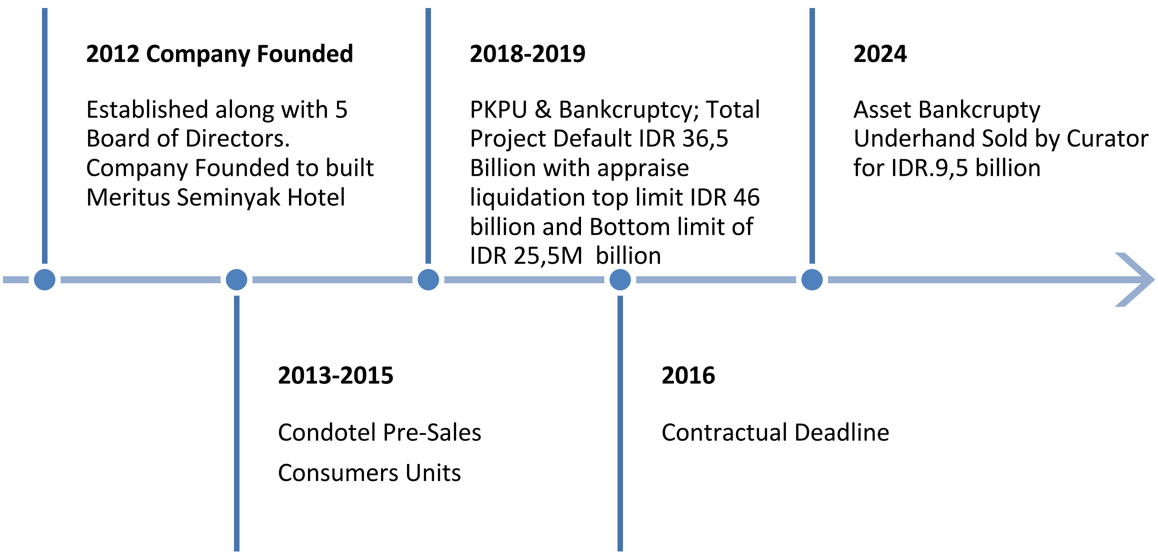

Fig. 5. The Time line of Property Developer Bankruptcy PT Bali Seminyak Sejahtera

The mechanism of Underhand Sales

Upon the adjudication of bankruptcy, a debtor loses the capacity to perform legal actions, transferring all management and disposal rights over the estate to a court-appointed Curator. Under Law No. 37/2004, the Curator is tasked with liquidating the estate's assets *pari passu* and *pro-rata* *parte* under the oversight of a Supervisory Judge. Article 16 and Article 69 grant the Curator the authority to conduct private, underhand sales instead of a public auction, provided that:

1. At least two consecutive public auctions have failed to attract viable buyers.
2. The private transaction secures a higher valuation than the failed auctions.
3. The Supervisory Judge grants explicit, formal permission based on an assessment by an independent appraiser.

While legally valid and exempt from public auction requirements when properly executed, this mechanism reveals deep structural flaws when applied to complex corporate failures like PT BSS.

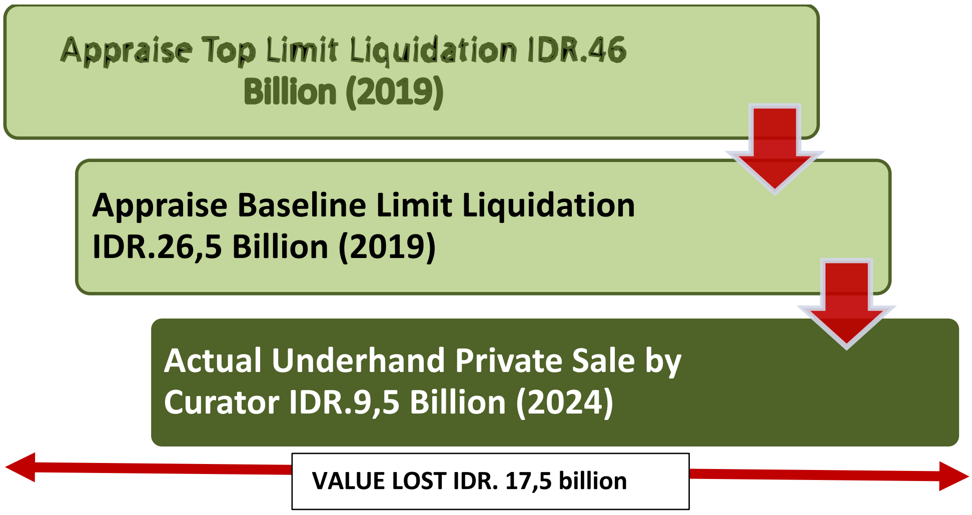

Fig. 5. PT Bali Seminyak Sejahtera (PT BSS) Valuation Disparity Gap

Financial Disparity and Creditor Disadvantage

In practice, the implementation of this private sale (underhand sale) mechanism by the Curator resulted in systemic unfairness to all classes of creditors. The structural flaws of the systems are clearly demonstrated by the liquidation of PT BSS's core underlying asset: a 6 story hotel building construction. An independent, certified appraiser evaluated the property and established a Strick baseline liquidation Top to Bottom limit value of IDR.46 billion to IDR.26,5 billion that approved by the Supervisor Judge of Commercial Court Jakarta in 2019. However, bypassing competitive public market pricing, the Curator executed an underhand sale of the asset PT BSS 6 story building construction for a mere of IDR.9,5 billion.

This severe underhand transaction created an immediate, unrecovered asset deficit of IDR.17.0 billion. This massive gap between the independent liquidation floor and the finalized private transaction price directly harmed the bankruptcy estate (*boedel pailit).* It systematically drained the capital pool availability to reimburse both secured lenders and vulnerable concurrent consumer creditors.

2. Methodology

Method of this paper based on normative juridical research, as Mc Leod wrote "overview of the legal basis of the constitution as the foundation of any real understanding".[13] This paper, therefore consider the legal framework of Indonesian law and global context. The object of Normative Law Research Study includes research on legal principles, research on systematic law, research on vertical and horizontal synchronization levels, and legal history.[14] The approaches taken are statute, conceptual and case approach. Reviewing the literature to provide a theoretical background and to establish the links between economics rights and the use of traditional insolvency proceeding.

As a method, it focuses on collecting analyzing and mixing both quantitative and qualitative data in a single study. Tashakkori and Tedllie define "mixed methods as a combining of quantitative and qualitative approaches in the methodology of a study".[15] This paper, therefore, consider the legal framework of International and National law. The idea is to find legal understanding, concept and principles relevant to the issues, we look beyond the law in the books to the law in action.

The objective of this paper to examines the challenges and problems of Business or Corporate Bankruptcy in the lens of human rights with theory underlying of the rights to access justice and fair trial. Research proceeds by sketching a particular model of Bankruptcy Indonesian Law, designed to replace conventional or traditional commercial court, more modestly within the broader framework of rights that governs insolvency process. Thus, the impacts of globalized factors and outcomes are examined in this study, to bridge gap between *law in the book* and *law in action*.

3. Results

Business bankruptcy matters because it directly affects the financial survival of a company while creating widespread ripple effects across the entire economy. It is not just an isolated legal event; it serve as a critical mechanism for resolving unsustainable debt, protecting jobs, and restructuring modern. Business bankruptcy matters to different parts of society as shown in Figure 6:

Fig. 6. Bankruptcy Frameworks to Different Parts of Society

This research views bankruptcy through the lens of human rights. Evidence of business related infringements of human rights has been growing attention being paid to it by analysts and the general public. One of the most vexing human rights issues of our time has been how to protect the rights of individuals and communities worldwide in an age of globalization and multinational business. Indeed, from Indonesian sweatshops to China the business property development were delayed due to developer defaults have eroded buyer confidence. Many potential buyers delay purchases in anticipation of further price cuts, which exacerbates the slowdown in sales. Malaysia face similar issues with high unsold inventories and/or delayed projects. Structural factors such as aging populations also are gradually weakening long-term property demand across the region.

The challenges or regulating harmful corporate practices in some of the world most difficult regions long seemed insurmountable. Human rights groups and businesses were locked in a stalemate. [16] Its eradication has been at the top of the agendas of international organizations such as certain United Nation (UN) agencies and the Organisation for Economic Co-operation and Development (O.E.C.D), for some time demonstrating the salience of this largely unresolved and contentious issue. [17] Formal corporate bankruptcy began with the recognition that a bankruptcy system sometimes is necessary to solve a collective action problem among the creditors of insolvent firm. Insolvency may be a function of economic distress, financial distress or both. Economic distress occurs when the firm cannot earn revenues sufficient to cover its cost exclusive of financing costs.

Such a firm has a negative economic value due to high performing firms enact wrongful conduct. While underperformance has been one of the main explanations for organizational wrongdoing.

There is a positive relationship between performance and misconduct in the firms.[18] Focus in three processes that could explain why with high relative performance may be more to engage in illegal actions such as : loss aversion, the house money effect, and executive hubris. Although these process have been used to examine individual decision making more generally, but they can be applied specifically to the decision making of CEOs and TMTs. And these processes to understand how the firm's internal aspirations and investors' expectations can shape aspiration managers framing and perceptions of the riskiness of illegal practices that caused financial distress or business bankruptcy which occurs through a legal process initiated when a business can no longer fulfil its contractual financial obligations to its creditors.

The core challenge is that globally operating firms are not regulated globally. Instead, each of their component entities is subject to the individual jurisdiction in which it operates. Even where national laws exist prohibiting abusive conduct, which cannot always be taken for granted, state in many cases fail to implement them including Indonesia, because lack the capacity, fear competitive consequences of doing so, or because their leaders subordinate the public good for private good due to conflict of interest. To deal with these global gaps, this research overarching binding legal instrument, in other words, an international treaty imposing obligation on business directly under international law. Although local business argued that compliance with national does not always end a deadlock, but it cannot take immediate force due to different goals of national laws set legal boundaries but they do not fix the core disagreement between groups or business partners. The National law potential to break rather than Entrench.

a. Why Corporate Bankruptcy Matters from Economic Rights and Socio-Legal Perspective (RQ1)

Corporate insolvency directly affects economic rights when mechanical liquidation strips vulnerable stakeholders of their economic security. As established by Donnelly et al., human rights are inherent protections against institutional neglect. In the case of PT Bali Seminyak Sejahtera, the developer's failure to complete the Meritus Bali Seminyak Resort & Spa project weaponized commercial law against 30 consumer-lessees who had invested IDR 36,959,691,370.

When a court adjudicates a company bankrupt, the immediate freezing and liquidation of assets under Law No. 37/2004 shifts the focus entirely to financial mathematics. The socio-legal hazard occurs because the law categorizes these consumer-purchasers as mere unsecured (*concurrent*) creditors. This ranking strips them of their property rights, leaving them behind secured financial institutions during distribution. Under traditional bankruptcy frameworks, the human rights to economic well-being and fair shelter are reduced to unprotected financial balances, demonstrating that unaligned insolvency laws cause direct social and economic harm.

b. Systemic Value Realized by Integrating Fundamental Human Rights Principles (RQ2)

Integrating human rights into Indonesian insolvency procedures creates measurable systemic value by fixing structural flaws in the liquidation process. Finch and Milman state that modern bankruptcy law must balance efficiency with utility-based justice for all affected parties. In the PT BSS liquidation, this systemic gap is clear in how the Curator handled private, underhand sales protected by Articles 16 and 69 of Law No. 37/2004. When a Curator executes a private sale of a core asset, such as a 6-story building, at IDR 9.5 billion—far below the IDR 26.5 billion independent liquidation limit—the lack of transparency creates an artificial asset discount. This severe value gap leaves almost nothing for the concurrent creditor pool. Actively integrating human rights principles produces clear systemic improvements:

- **Enforced Valuation Security:** Elevates the independent appraisal limit from an optional baseline to a strict legal boundary, preventing the underhanded depreciation of the debtor's estate.
- **Judicial Accountability:** Counteracts the broad discretion given to Curators and Supervisory Judges by requiring transparent, rights-compliant reviews of private sales.
- **Balanced Distribution:** Realigns the *pari passu pro-rata parte* rule, ensuring that consumer-creditors are not marginalized by secured lenders.

Upholding economic rights changes the Indonesian bankruptcy system. It shifts from a mechanical asset-grabbing tool into a balanced legal process that honours the core statutory principles of balance, business continuity, justice, and social integration. This study also reveals conflict of norms on the principle of balance for the protection of stakeholders rights in the settlement of bankruptcy between stakeholders rights. The Implication of the Supreme Court Circular Letter (SEMA) No. 3 of 2023 on the application of the *paritas creditorium* principle in bankruptcy cases involving apartment/condotel developers in Indonesia. The regulation has created a normative tension between the universal nature of bankruptcy law under Law No. 37 of 2004 and Suspension of Debt Payment Obligation and the judicial restriction imposed by SEMA, which states that bankruptcy petitions against apartment/condotel developers do not fulfil the requirement of simple proof. This decision has sparked controversy, as it is seen as intervening in contractual rights agreed upon between creditors and debtors prior to the occurrence of bankruptcy. Its implications are far-reaching, affecting not only legal certainty for the banking and financial sector but also the overall investment climate. This issue is relevant to examine through the lens of the principle balance in contract law and bankruptcy law. In the context of bankruptcy estate settlement, this principle demands that the distribution for the bankruptcy assets be conducted proportionalities considering the interest of all parties.

4. Conclusions and Strategic Recommendations

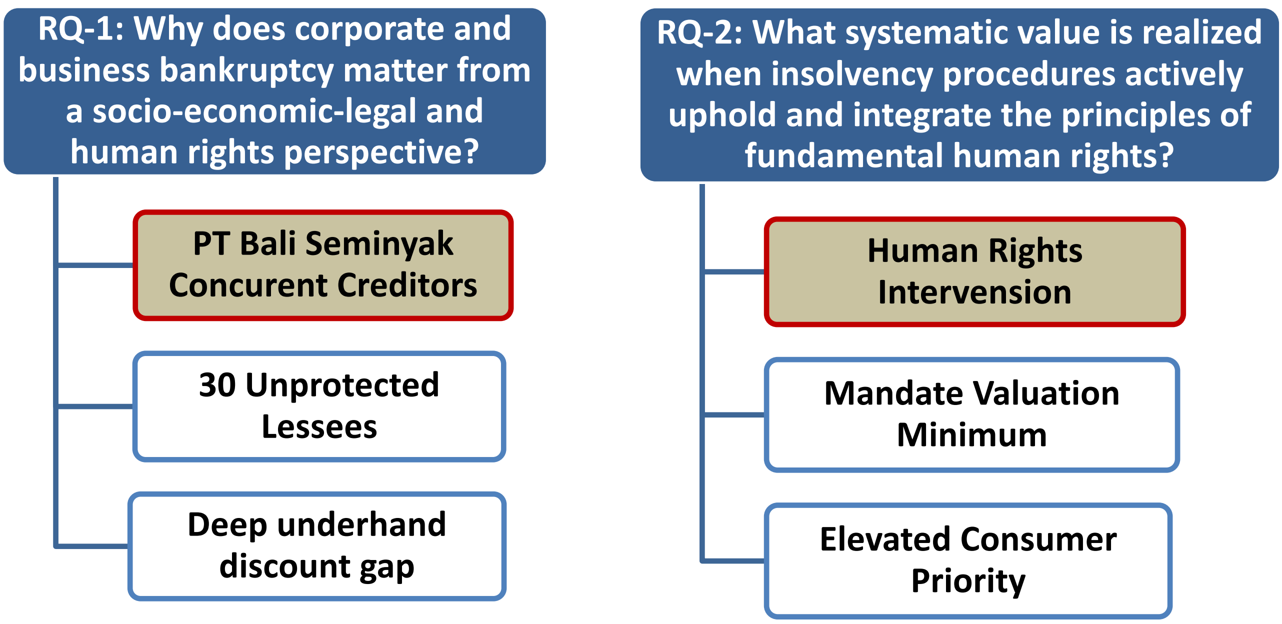

Fig. 7. Questions (RQ) Framework

4.1. Conclusion

This study reviews empirical evidence on the impacts of insolvency regimes on entrepreneurship, access to credit, preservation of viable businesses and jobs, and other variables contributing to economic development. Its objective is to provide policy makers with evidence to guide insolvency reforms that foster positive economic outcomes. The intersections of insolvency administration and human rights jurisprudence under the Indonesian legal framework are not merely academic problems; they directly impact socioeconomic survival. This research confirms that corporate bankruptcy is a socio-legal event with deep human rights implications. When PT Bali Seminyak Sejahtera defaulted on the Meritus Bali Seminyak Resort & Spa project, the mechanical application of Law No. 37/2004 transformed IDR 36,959,691,370 in consumer-lessee capital into unrecoverable concurrent claims.

This case study demonstrates how traditional insolvency law protects secured institutional lenders while stripping vulnerable consumers of their property and economic security. Furthermore, the structural vulnerability of the system is worsened by the wide discretion granted to Curators and Supervisory Judges under Articles 16 and 69. When private, “underhand sales” are executed at an artificial discount below the independent appraiser’s liquidation limit, the asset value collapses. This hurts the recovery pool for unsecured stakeholders. Integrating economic rights under human rights principles into insolvency administration creates clear systemic value. It changes the legal process from a raw, asset-grabbing tool into a balanced system. This approach enforces valuation minimums, increases judicial transparency, and upholds the statutory principles of equity, justice, and social integration.

The recognition that business and human rights challenges cannot be met by the States, corporations and civil society acting on their own. Although that the corporate responsibility to respect human rights is widely acknowledgment by business itself, respecting rights is means not to infringe on the rights of others (in bankruptcy case debtors and creditors). However, my question to companies, how do you know that your respect human rights? Do you have systems in place that enable the company to demonstrate that you do, let alone to anyone else? In fact most companies did not and still do not have such systems

This research assessed the effectiveness of Indonesian Corporate Bankruptcy Framework safeguarding human rights to stakeholders, using bankruptcy law theory, human rights theory and legal analysis as guiding lenses. The findings reveal a consistency disparity between statuary and assurances and practical outcomes. Persistent procedural delays, unlawful abuse of power by the Curator, the absence of institutional safeguards collectively expose workers to severe financial insecurity and social vulnerability when companies enter bankruptcy. This study show that Business and Insolvency framework fails significantly, short of fairness standards. These weaknesses reduce public confidence in the justice system. Moreover uncertainty of business transformation due to no legal certainty, and equal treatment under the bankruptcy law.

Based on the findings of this research, the author highlights the keys importance improvement: amendments of bankruptcy law aligned to the Guidelines of Human Rights. To avoid any conflict of interpretation or abuse of procedures or unlawful abuse of authority by the administrator (trustee). Strengthening of debtor rehabilitation mechanism and set a clear limit authority policy on the immunity and unconditional authority of the trustee (Curator). Despite amendments and new laws, the practical application of bankruptcy procedures faces challenges due to ambiguity and multiple interpretations, requiring further refinement for better implementation and effectiveness. In this regard, the state and the parliament is expected to have a more responsible perspective in drafting amendment and to include certain pro-human rights provision.

4.2 Strategic Recommendations (Non-Policy)

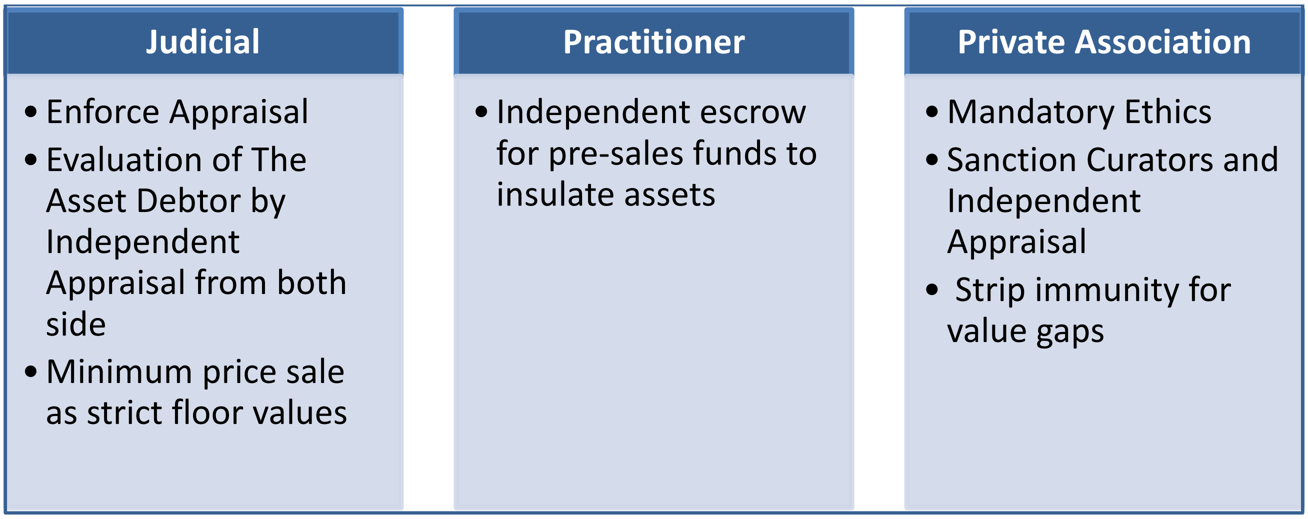

Fig. 8. Non-Policy Strategic Implementation

A. Judicial Enforcement Standards (Commercial Court Level)

- **Mandate Appraisal Floors:** Commercial Court Supervisory Judges must treat independent appraisal limits (such as the IDR.26,5 billion baseline in the PT BSS case) as a strict minimum floor value. The Judges must reject any private underhand sale requests that fall below the baseline evaluation.
- **Evaluation the Asset of Debtor by Certificate on Independent Appraisal of the Asset No Longer Optional:** Insolvency frameworks now demand human rights due diligence, especially in high risk sectors like palm oil and mining, or tourism hospitality, so integrated analysis is essential
- Integrating **Human Rights Due Diligence (HRDD)** and Environmental, Social, and Governance (ESG) factors into independent asset appraisals is no longer a niche preference—it is a regulatory and financial necessity.

B. Operational Assets Safeguards (Practitioner Level)

- **Insulate Pre-Sale Consumer Capital**: Real Estate developers and hospitality projects must place pre-sale consumer into independent, project-specific escrow bank accounts. This insulates the funds from the general corporate liquidation pool if bankruptcy occurs. Appoint independent Bank Trustee; require commercial banks acting as escrow agents to monitor cash flows. They must ensure funds are disbursed strictly based on verified construction milestones, not general corporate expenses.

c. Private Organizations and Professional Associations

- **Strip professional Immunity for valuations gaps:** Professional curator and Independent Appraisal associations such must strip members of their professional indemnity and liability protections if they are found to have liquidated core assets (like the 6-story building of PT BSS) far below the certified appraisal limit.
- **Enforce Strict Association Sanctions:** Establish independent ethics tribunals within the curator associations to issue severe sanctions, including the permanent suspension of licenses and registry removal for curators who engage in unfair underhand sales that harm the concurrent creditor pool.

- **Mandatory Rights and Valuation Training:** Incorporate mandatory human rights, ethical evaluation and social responsibility training into the regular licensing and continuing education program managed by these private practitioner associations.

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