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The Strategic Role of the Commercial Court in Resolving Digital Company Bankruptcy Disputes

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Abstract

Introduction: *The digital economy has transformed legal structures, especially in insolvency law, where digital companies often treat personal data as a core asset. However, Law Number 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations lacks specific provisions regarding personal data, while Law Number 27 of 2022 on Personal Data Protection does not address how data should be treated in bankruptcy. This regulatory gap risks the exploitation of personal data by creditors or curators, potentially violating constitutional rights.*

Purposes of the Research: *This study aims to examine the legal consequences of the absence of clear regulations on personal data in bankruptcy cases and propose legal solutions to protect data subjects' rights within digital insolvency proceedings.*

Methods of the Research: *The research employs a normative juridical approach, combining statutory and conceptual analyses. It examines relevant Indonesian laws and draws comparisons with the European Union's General Data Protection Regulation (GDPR) to understand international best practices. Legal materials are analyzed qualitatively.*

Results Main Findings of the Research: *The study proposes recognizing personal data as a sui generis legal object in bankruptcy proceedings, requiring distinct legal treatment and safeguards. It highlights the role of the Commercial Court in protecting data subjects' rights and suggests amending the UUK-PKPU, issuing Supreme Court guidelines, and promoting interagency coordination. This research contributes a normative model to integrate personal data protection within Indonesia's digital insolvency framework, ensuring constitutional rights remain upheld in the digital era.*

Keywords: Digital Bankruptcy; Personal Data; Norm Vacuum.

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INTRODUCTION

The evolution of contemporary law, with the transition in economic paradigms from traditional industry to digitization, necessitates the legal system's adaptation to emerging societal and state dynamics.[1] In legal theory, justice encompasses not only the resolution of conflicts but also the preservation of equitable relations between economic entities and the

[1] Irsan Rahman et al., "Harmonization of Digital Laws and Adaptation Strategies in Indonesia Focusing on E-Commerce and Digital Transactions," *Innovative: Journal of Social Science Research* 4, no. 1 (2024): 4314–27, https://doi.org/10.31004/innovative.v4i1.8240.

public interest. John Rawls' theory of distributive justice asserts that social institutions, including the court, must equitably allocate responsibilities and rewards, particularly in a society marked by digital complexity and advancements in information technology.[2] The urgency is in the pivotal role of the legal system, particularly the Commercial Court, in administering justice in insolvency disputes involving digital enterprises, especially after the implementation of Law Number 27 of 2022 about Personal Data Protection.

Hans Kelsen's idea of the rule of law (rechtsstaat) asserts that all facets of human existence, including technological dynamics and the digital economy, must adhere to hierarchical and systematic legal rules. Consequently, the Personal Data Protection Law, as a lex specialis inside the personal data protection framework, should be the primary legal factor in adjudicating all legal matters about data, including those within the bankruptcy process.[3] This legislation asserts that personal data is a private right protected by the state, with infractions potentially resulting in civil and criminal repercussions. When digital enterprises face financial crises and declare bankruptcy, a new issue emerges: How is the safety of customers' data ensured by debtors throughout bankruptcy proceedings? This is the intersection of bankruptcy law and data protection law, which has yet to be systematically integrated.

The Commercial Court's function in adjudicating bankruptcy issues is governed by Law Number 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations. The Commercial Court is empowered to review and adjudicate petitions for bankruptcy and corporate debt restructuring. Nonetheless, Law Number 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations does not specifically address the safeguarding of personal data for debtors or creditors, particularly within the framework of digital enterprises that prioritize data as their principal asset.[4] In the case of bankruptcy, all debtors' assets will be aggregated as bankruptcy bonds to satisfy commitments to creditors. This engenders a possible contradiction between the objective of openness in bankruptcy proceedings and the principle of privacy as outlined in the Personal Data Protection Act, which forbids the processing and transfer of personal data absent a sufficient legal basis or the agreement of the data owner. The observed behavior indicates a rise in digital firm bankruptcies in Indonesia, affecting not just economic stakeholders but also millions of consumers whose data is at risk of unauthorized abuse or sale. A pertinent example is the bankruptcy case of PT TokoCrypto Indonesia, which reportedly faced financial difficulties attributed to fluctuations in the cryptocurrency market.[5] While a formal bankruptcy filing has not yet been filed at the Commercial Court, this matter has elicited public anxiety due to the substantial volume of customer data retained on the company's servers. In a similar scenario, if a digital enterprise declares bankruptcy, the user data previously handled by the organization may be classified as an asset transferable to a curator, third party, or investor, possibly infringing upon the concept of personal data protection.

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[2] Suwito et al., "Contemplating the Morality of Law Enforcement in Indonesia," *Journal of Law and Sustainable Development* 11, no. 10 (2023): e1261–e1261, https://doi.org/10.55908/sdgs.v11i10.1261.

[3] Fenny Bintarawati, "The Influence of The Personal Data Protection Law (Uu Pdp) On Law Enforcement In The Digital Era," *ANASA: Journal of Legal Studies* 1, no. 2 (2024): 135–43, https://doi.org/10.61397/ays.v1i2.92.

[4] Fransman Ricardo Tamba, "Analysis of Bankruptcy Decision Number: 02/Bankruptcy/2009/PN. Niaga.Smg Against Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations," *Journal of Private and Commercial Law* 1 (2017): 29.

[5] Karina Christiani, Arief Wibisono, and Gatut Hendro Tw, "Legal Protection for Cryptocurrency Customers in Indonesia," *Title: Journal of Social and Cultural Studies.* 9, no. 5 (2022): 1541–56, https://doi.org/10.15408/sjsbs.v9i5.27644.

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A significant issue in this context is the absence of judicial rules and methods to reconcile two distinct legal regimes: bankruptcy and personal data protection. Law Number 27 of 2022 about Personal Data Protection includes criminal penalties for data abuse; however, it does not extend to legal liquidation and may influence data breaches. Conversely, Commercial Courts primarily concentrate on financial and debt-receivable matters, without sufficient norms or criteria to assess the danger of personal data breaches in bankruptcy processes. The Commercial Court's progressive and strategic role requires enhancement, namely via the interpretation of Law Number 27 of 2022 about Personal Data Protection as an element of prudence in the bankruptcy proceedings of digital enterprises. This aligns with the progressive ideology of the School of Legal Realism, which asserts that judges are not only "mouthpieces of the law" but rather agents of social transformation who take into account the actual societal situations.

Numerous foreign jurisdictions have foreseen this issue. In the European Union, the General Data Protection Regulation (GDPR) explicitly mandates that data transfers during merger, acquisition, or bankruptcy procedures need the explicit approval of the data owner. This imparts a crucial lesson for Indonesia that the national legislative framework must evolve to include the concepts of fiduciary data inside the digital ecosystem.[6] Unless the judiciary's role in enforcing Law Number 27 of 2022 about Personal Data Protection is reinforced, public confidence in the legal system and justice within the digital domain would diminish. Research conducted by Thiara Octaviani Putri and Muhamad Farudin from Padjadjaran University underscores the presence of legislative gaps concerning personal data security within the bankruptcy proceedings of e-commerce enterprises in Indonesia. They highlighted that despite the enactment of Law Number 27 of 2022 about Personal Data Protection, there exists no explicit rule governing the status and safeguarding of customer data in the case of a company's insolvency.[7] This engenders legal ambiguity over the classification of personal data as a component of a bankruptcy bond eligible for exchange to settle corporate liabilities, or its continued protection as a consumer privacy right. The need to revitalize the function of the Commercial Court pertains not just to the technical assessment of bankruptcy petitions but also encompasses the constitutional obligation to safeguard individuals' digital rights. An interdisciplinary strategy integrating material law, technical law, and bankruptcy law is necessary to tackle these difficulties. In this setting, the Commercial Court's mission should extend beyond only serving as a venue for resolving debt-receivables issues; it must also maintain equilibrium between commercial interests and the privacy concerns of the increasingly vulnerable digital society.

METHODS OF THE RESEARCH

This research employs normative legal research methodologies that concentrate on the examination of applicable positive legal norms, legal doctrines, legal principles, and pertinent court rulings.[8] The normative method was used due to the conceptual nature of

[6] The EU General Data Protection Regulation (GDPR). (2020). In *Oxford University Press eBooks*. https://doi.org/10.1093/oso/9780198826491.001.0001

[7] Rahim, N. K. A., Siregar, N. S. N. R., Hutauruk, N. D. M., Berliana, N. S., Sari, N. a. P., Basid, N. S. a. F., Purba, N. H. B., & Mahfudin, N. F. (2023). Legal Protection For Consumers In Online Buying And Selling (E-Commerce) Transactions. *Journal of Law and Socio-Politics*, *1*(3), 178–188. https://doi.org/10.59581/jhsp-widyakarya.v1i3.607

[8] Syarif, M., Ramadhani, R., Graha, M. A. W., Yanuaria, T., Muhtar, M. H., Asmah, N., Syahril, M. A. F., Utami, R. D., Rustan, A., Nasution, H. S., Putera, A., Wilhelmus, K., & Jannah, M. (2024). *Legal research methods*. GET Press Indonesia, p. 68

Batulis Civil Law Rev, 6 (2) July: 116-125
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the questions presented, which seek to thoroughly investigate the function of the Commercial Court in adjudicating digital firm bankruptcy claims after the implementation of Law Number 27 of 2022 about Personal Data Protection. This study seeks to investigate the capacity of current legal standards to address regulatory gaps in personal data protection in the event of digital enterprises' bankruptcy. This research utilizes primary, secondary, and tertiary legal literature as data sources. Primary legal sources include statutes and regulations, including Law Number 37 of 2004 about Bankruptcy and Postponement of Debt Payment Obligations, and Law Number 27 of 2022 about Personal Data Protection. Secondary legal resources include legal literature, scholarly publications, and the perspectives of legal experts addressing bankruptcy theory, privacy rights protection, and judicial accountability in the digital age. Tertiary legal resources include legal dictionaries and legal encyclopedias used to enhance conceptual comprehension. This research employs a legislative and a conceptual approach. The legislative technique is used to assess the congruence of legislation, particularly between the Bankruptcy Law and Law Number 27 of 2022 about Personal Data Protection. The case technique is used to examine the significance and legal gaps in current or hypothetical cases that may illustrate the legal problems being investigated. A conceptual analysis is conducted to examine the legal principles governing personal data protection within the Indonesian legal framework and the proactive role the Commercial Court needs to assume. The used analytical method is normative-qualitative analysis, which involves methodically, historically, and teleologically evaluating legal provisions to derive logically sound legal arguments that are academically justifiable. This study relies only on the interpretation of legal texts and doctrines, eschewing empirical evidence, to formulate proposals for the reformulation of norms and the enhancement of the judiciary's role in addressing contemporary digital legal concerns.

RESULTS AND DISCUSSION

A. The Role of the Commercial Court in Resolving Digital Company Bankruptcy Disputes After the Enactment of Law Number 27 of 2022 concerning Personal Data Protection

The development of the digital economy in Indonesia has established a novel framework within the national economy and introduced unparalleled legal issues. Digital enterprises, which have established technology and data as the cornerstone of their operations, are now a prominent focus in the evolution of bankruptcy legislation. In the context of extensive digital disruption, entities like e-commerce platforms, fintech firms, and cloud service providers are functioning not just as economic participants but also as custodians of vast amounts of personal data.[9] Consequently, when these corporations encounter bankruptcy, essential inquiries emerge about the legal system's response, particularly under the jurisdiction of the Commercial Court, to the issue of personal data protection associated with insolvent entities.

Conceptually, personal data constitutes a legal entity that cannot be regarded merely as an asset within the context of bankruptcy. In the discourse on basic rights, personal data is seen as integral to human dignity and freedom, as articulated by Fernanda Nicola, who

[9] Wahid, N. S. H. (2023). Formulation of a Risk-Based Online Dispute Resolution Model for E-Commerce in Indonesia: Legal Framework and its Application. *International Journal of Arts and Humanities Studies*, *3*(2), 09–23. https://doi.org/10.32996/ijahs.2023.3.2.2

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asserts that data has evolved from simple information to a manifestation of personal identity.[10] Consequently, the normative framework governing personal data may no longer be relegated to simplistic financial considerations. Under Indonesian law, Law Number 27 of 2022 about Personal Data Protection represents a significant milestone, asserting that data processing must adhere to the values of fairness, openness, and legal validity, even in severe situations such as bankruptcy.

Nonetheless, Indonesia's statutory law has not completely incorporated data privacy concepts into the bankruptcy legal framework. Law Number 37 of 2004 regarding Bankruptcy and Postponement of Debt Payment Obligations remains conventional, as it perceives bankruptcy solely through the lens of tangible or financial assets, neglecting to specify the treatment of personal data when the managing entity is insolvent. This engenders a legal void that may infringe upon the constitutional rights of data proprietors, as guaranteed in Article 28G paragraph (1) of the 1945 Constitution of the Unitary State of the Republic of Indonesia on the right to personal protection and personal data. The evident contradiction is that personal data, as an intangible asset, has significant economic value and often constitutes the most important component in the assessment of digital enterprises. Nevertheless, if the data is regarded as ordinary assets and transacted during the liquidation process, the standards of data protection and secrecy outlined in Articles 58 to 61 of Law Number 27 of 2022 about Personal Data Protection shall be disregarded. In such circumstances, the Commercial Court's involvement is vital as a judicial entity capable of gradually interpreting the intersection of bankruptcy law and data protection legislation.

According to the School of Legal Realism, legislation should not be seen as a static book, but should instead be evaluated through the lens of current social dynamics and the demands of justice.[11] Judges, as legal practitioners, must transcend the merely positivistic paradigm and cultivate legal interpretations aimed at public safety. In the bankruptcy proceedings involving digital enterprises, the Commercial Court must extend its interpretation beyond the provisions of Law Number 37 of 2004 regarding Bankruptcy and Suspension of Debt Payment Obligations to incorporate the principle of prudence in data management. This includes the necessity to consult with the Personal Data Protection Commission (if established) or an independent expert body to evaluate the risk of privacy violations. An illustrative instance is seen in the bankruptcy proceedings of a fintech firm in Southeast Asia, when the liquidation process engenders contention over client data among investors, asset purchasers, and creditors. In several countries, like Germany and France, courts have determined that personal data can not be transferred or sold without the express authorization of the data owner, even in cases of corporate bankruptcy. This aligns with the European Union's General Data Protection Regulation (GDPR), which regards personal data as an autonomous legal entity governed by the principles of permission and purpose restriction. Indonesia could draw inspiration from this methodology to ensure that its national legal system remains adept at addressing global digital issues.[12] Consequently, the

[10] Passalacqua, V. (2023). Book Review: Researching the European Court of Justice: Methodological shifts and Law's Embeddedness, edited by Mikael Rask Madsen, Fernanda Nicola and Antoine Vauchez. (Cambridge: Cambridge University Press, 2022). *Common Market Law Review*, *60*(Issue 6), 1807–1808. https://doi.org/10.54648/cola2023126

[11] Bagenda, C. (2022). The philosophy of legal realism in the perspectives of ontology, axiology, and epistemology. *Journal of the Ius Constituendum*, *7*(1), 115. https://doi.org/10.26623/jic.v7i1.4777

[12] Suharbi, M. A., & Margono, H. (2022). The need for the transformation of Indonesian digital banks in the era of the industrial revolution 4.0. *Fair Value Scientific Journal of Accounting and Finance*, *4*(10), 4749–4759. https://doi.org/10.32670/fairvalue.v4i10.1758

Batulis Civil Law Rev, 6 (2) July: 116-125
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Commercial Court's function should focus on establishing a new jurisprudence that regards personal data as a protected entity, impermissible for seizure or sale absent compelling legal and ethical grounds.

Furthermore, from a social standpoint, data protection in bankruptcy transcends mere legal considerations and pertains to public confidence in digital systems. In the extensive use of internet-based services, individuals deposit personal information on digital platforms with the expectation that the government can safeguard the data, especially during exceptional situations like bankruptcy. If the state, via judicial entities like the Commercial Court, does not provide such protection, faith in the legal system and the national digital ecosystem would significantly diminish. Consequently, the legal framework for digital firm insolvency issues must be executed comprehensively, including not only legal-formal elements but also ethical and societal dimensions.

Given the rising prevalence of digital cases that may enter bankruptcy proceedings, it is imperative for the Supreme Court to promptly issue technical guidelines or Supreme Court Circular Letters (SEMA) to guide commercial judges in the management of digital assets and personal data. This guideline must conform to Law Number 27 of 2022 about the Protection of Personal Data and Law Number 37 of 2004 about Bankruptcy and Postponement of Debt Payment Obligations, while also adhering to worldwide best practices. It is feasible to amend Law Number 37 of 2004 about Bankruptcy and Suspension of Debt Payment Obligations to include clear rules on data privacy in the insolvency process, as a systematic measure to address the current legal gap. It is essential to highlight that the Commercial Court's function in adjudicating bankruptcy disputes involving digital companies under Law Number 27 of 2022 on Personal Data Protection transcends mere legal application; it also represents the realization of constitutional justice principles in the digital domain. The amalgamation of data protection principles with bankruptcy principles must occur via incremental decisions that prioritize individual rights and the public interest. Should the Commercial Court regularly fulfill this duty, Indonesia would possess a bankruptcy legal system that is attuned to contemporary demands, therefore reinforcing its legal standing in an increasingly intricate and complicated landscape of digital rights protection.

B. Legal Implications of the Absence of Explicit Norms Related to Personal Data Protection in the Bankruptcy Process of Digital Companies in Indonesia

The lack of clear regulations for personal data protection in the bankruptcy proceedings of digital enterprises presents a complex legal dilemma that affects both legal certainty and essential human rights safeguards in the digital era. In contemporary legal frameworks, particularly following the implementation of Law Number 27 of 2022 regarding Personal Data Protection, personal data is no longer regarded as mere information subject to unrestricted processing or transfer; rather, it must be understood as a legal manifestation of an individual's constitutionally safeguarded identity.[13] When digital enterprises, as custodians of personal data, encounter bankruptcy, the absence of legislative clarity about the status and safeguarding of personal data throughout this process engenders a gap in

[13] Jonathan Matthew Pakpahan, "Awareness of the Urgency of the Role of Controllers and Processors of Personal Data in the Context of Individual Personal Data Protection Based on Law Number 27 of 2022 concerning Personal Data Protection," *To-Ra Law Journal: Laws to Regulate and Protect Society* 10, no. 1 (April 26, 2024): 119–37, https://doi.org/10.55809/tora.v10i1.331.

Batulis Civil Law Rev, 6 (2) July: 116-125
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Indonesia's normative framework, which may lead to structural unfairness. This phenomenon represents a fundamental change in the value of data inside the digital economy. Historically, data may not have been seen as a significant asset on a company's balance sheet. In the current platform and algorithm-driven economy, personal data is the most valuable asset and the primary capital in assessing the worth of a digital enterprise. E-commerce, fintech, health-tech, and edutech enterprises develop their business models on the processing and use of user data. Consequently, when the corporation declares bankruptcy, a fundamental issue emerges: may the personal data of users managed by the firm be classified as bankrupt assets and auctioned to satisfy debts?

Regrettably, neither Law Number 27 of 2022 about the Protection of Personal Data nor Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations specifically delineates the treatment of personal data within the context of bankruptcy. The Personal Data Protection Act safeguards the rights of data subjects, delineates processing standards, and governs penalties for data breaches, although it does not address insolvency or the transfer of rights to digital firm assets during bankruptcy.[14] Conversely, the Bankruptcy Law adheres to the traditional paradigm whereby all debtor assets are treated as a singular entity for liquidation, neglecting the fact that some assets may include third-party civil rights that cannot be indiscriminately transferred, such as personal data. The first consequence of this normative void is a breach of the concept of informed consent as articulated in Articles 20 to 26 of Law Number 27 of 2022 about Personal Data Protection. In the event of a company's bankruptcy, when its data is transferred to a new entity, there is no legal need for the curator or purchaser to get specific authorization from the data owner. This contravenes national law and contradicts international principles, including those outlined in the European Union's General Data Protection Regulation (GDPR), which mandates that data processing and transfer must occur solely with consent or a legitimate legal foundation.

The second consequence poses a risk to the governance of personal data rights. Upon the inclusion of data in a bankruptcy account, the data subject relinquishes all control over the use of their personal information. Data initially supplied within the framework of trust between the user and the firm may be conveyed to an entity lacking a legal connection with the data owner. This engenders a very difficult scenario, since the safeguarding of personal data encompasses not just its keeping, but also the regulation of its use and dissemination. In the absence of stringent legislation, data subjects lack the authority to obstruct the transmission of their data to other parties throughout the liquidation process.

The third implication is to the function of curators and creditors under the bankruptcy framework. The curator, as the entity authorized to administer and liquidate the debtor's assets, has a quandary about the potential use of user data as a means to enhance the assets' worth. Ignorance or error in undertaking this legal action may result in a counterclaim from the data subject who believes their rights have been infringed. Similarly, creditors may exert pressure on curators to liquidate all assets, including consumer datasets, to optimize debt recovery. In the absence of defined rules, divergent interpretations between the parties would result in prolonged disputes and legal ambiguities.

[14] J. B. Budhisatrio, Dhaniswara K. Harjono, and Binoto Nadapdap, "Bankruptcy Application by Consultant to PT. Prudential Life Assurance," *Syntax Admiration Journal* 2, no. 11 (23 November 2021): 2105–22, https://doi.org/10.46799/jsa.v2i11.337.

The fourth conclusion is on the integrity and autonomy of the Commercial Court. In reality, commercial courts encounter constraints regarding referral standards while adjudicating digital firm bankruptcy proceedings. In the absence of clear regulations, courts may rely on traditional reasoning that emphasizes the efficiency of debt resolution while neglecting data privacy considerations. This contradicts the law-in-context perspective advocated by Roscoe Pound, as well as Nonet and Selznick, which asserts that law should be understood within the framework of social transformation and societal calls for justice. In this context, the judges' function as agents of legal reform is crucial to guarantee that the final decisions are not only legally correct but also equitable and of significant dignity.[15]

The final implication is the erosion of public confidence in the national digital ecosystem. In the age of the digital economy, trust is an essential element. When consumers discover that their data may be exchanged during the company's bankruptcy proceedings, without robust legal protections, a decline in confidence will ensue. Users will hesitate to share their data with local digital platforms and will eventually choose to use services from foreign entities governed by more stringent data privacy laws. This circumstance directly affects the expansion of the national digital economy, constricts the innovation landscape, and fosters a new reliance on foreign platforms. The sixth consequence is the inadequate coordination mechanism between data protection agencies and commercial justice entities. Law Number 27 of 2022 about Personal Data Protection has not delineated processes for entities such as the Ministry of Communication and Informatics or independent regulatory bodies to provide legal opinions in bankruptcy proceedings about personal data. The lack of participation by data regulatory bodies in the bankruptcy process creates an authority vacuum that may be used by economically motivated entities to get user data. This lack of engagement also indicates the inadequacy of the inter-agency coordination strategy required for the handling of contemporary cross-sectoral legal matters.

The lack of clear regulation constitutes regulatory incompleteness, leading to legal indeterminacy within the Indonesian legal system. This situation engenders a gray area that jeopardizes the legal subject who ought to be the most safeguarded, namely, the proprietor of personal data.[16] Consequently, systemic legal reform is necessary, encompassing the amendment of Law Number 37 of 2004 regarding Bankruptcy and Suspension of Debt Payment Obligations to incorporate a dedicated chapter on personal data protection in bankruptcy, as well as the formulation of a Supreme Court Regulation (Perma) that offers technical guidelines for commercial judges in evaluating and adjudicating bankruptcy cases involving user data.

Moreover, a reconstructive strategy may be implemented by designating personal data as a sui generis asset, characterized by unique attributes that exclude its classification as a conventional economic asset. This method permits the processing, transfer, or sale of personal data only when certain legal criteria are satisfied, including the agreement of the data owner, the involvement of regulatory bodies, and the establishment of an equitable benefit-sharing concept for the data owner. Such models have begun adoption in several industrialized jurisdictions, like Canada and the European Union, and may serve as a source of inspiration for national legislators. The lack of concrete regulations for the safeguarding

[15] E. Allan Tiller, "Personal Liability of Trustees and Receivers in Bankruptcy," *American Bankruptcy Law Journal* 53 (1979): 75.

[16] Andreas Neueder et al., "Regulatory Mechanisms of Incomplete Huntingtin mRNA Splicing," *Nature Communications* 9, no. 1 (27 September 2018): 3955, https://doi.org/10.1038/s41467-018-06281-3.

Batulis Civil Law Rev, 6 (2) July: 116-125
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of personal data in bankruptcy proceedings is not just a legislative deficiency but also signifies the state's inability to address significant social and technological changes. This vacuum jeopardizes the safeguarding of people's digital rights, engenders legal ambiguity, and undermines public confidence in legal and judicial institutions. Consequently, a comprehensive, flexible, and substantive justice-oriented legal framework is essential to ensure that Indonesian law serves not just as a tool of authority but acts as a guardian of human dignity in the digital age.

CONCLUSION

The lack of clear regulations concerning the safeguarding of personal data during the bankruptcy proceedings of digital enterprises in Indonesia indicates a significant legal void amidst the fast advancement of the digital economy. Under these circumstances, personal data, which ought to be safeguarded as a fundamental human right, is susceptible to being commodified and exchanged to settle the debts of insolvent corporations. This has several legal ramifications, including breaches of the informed consent principle, erosion of data ownership by subjects, role conflicts between curators and creditors, and ambiguity for commercial courts in rendering equitable and constitutional rulings. The disparity between the data protection regulatory framework and bankruptcy law may diminish public confidence in the court system and the national digital economy overall. Consequently, a comprehensive and cross-sectoral reformulation of legal policy is required. The state must intervene via regulatory revisions, court technical instructions, and enhanced institutional cooperation to safeguard personal data, even throughout bankruptcy proceedings. The Commercial Court, as an adjudicator of bankruptcy proceedings, must adopt a proactive and progressive stance by prioritizing Law Number 27 of 2022 on Personal Data Protection as a basic normative framework in evaluating all transfers of digital assets. Indonesia can establish a robust digital legal system that is both legally sound and equitable, safeguarding the digital rights of its people, only via an adaptable legal framework grounded in substantive justice.

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