

# Legal Protection of Creditors in the Insolvency Process of Savings and Loan Cooperatives

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## ABSTRACT

*Legal protection of creditors in the insolvency process of savings and loan cooperatives is an important issue in the Indonesian legal system. Law Number 37 Year 2004 concerning insolvency regulates the insolvency process and the rights of creditors in this situation. While clear provisions exist, their implementation often faces challenges related to transparency, asset management, and creditor ignorance. Legal protection of creditors should involve fair procedures, close supervision of receivers, and provision of clear information to creditors. It is important for creditors to know their rights throughout the process. Increased supervision and improvements in the management of insolvency assets are key to ensuring fairness in debt settlement. This research aims to explore how legal protection can be applied more effectively and provide recommendations for system improvement.*

## INTRODUCTION

Savings and loan cooperatives play an important role in the Indonesian economy, especially in supporting the small and medium enterprise sector. As financial institutions that serve members, savings and loan cooperatives provide access to credit at relatively lower interest rates compared to other financial institutions. While savings and loan cooperatives have a positive impact on economic empowerment, there are risks that cannot be ignored. One such risk is the cooperative facing financial distress, potentially resulting in insolvency proceedings. This certainly poses a challenge for creditors who must deal with a situation where they can no longer obtain debt repayment in accordance with the applicable provisions.

In the insolvency process of savings and loan cooperatives, the rights of creditors need special attention. Insolvency processes that are not transparent and unfair can harm parties who have receivables (Chairanie & Afriana, 2021). In many cases, the assets owned by the cooperative are not enough to cover all debts, so there are often injustices in the distribution of assets that benefit some parties, while other creditors suffer huge losses (Aprilita, 2018). Legal protection of creditors is very important so that their rights are respected and not simply lost during the insolvency process.

While there are already regulations governing insolvency in Indonesia, especially in terms of granting rights to creditors, the reality is that there are still many legal loopholes that allow for injustice in the process of asset distribution. Law Number 37 Year 2004 concerning Insolvency and Postponement of Debt Payment Obligations (PKPU) generally regulates insolvency procedures, but does not in-depth regulate specific protections for creditors of savings and loan cooperatives. There is an urgent need to review how existing regulations can strengthen the protection of creditors involved in the insolvency of savings and loan cooperatives.

Many creditors may not fully understand their rights in the insolvency procedure, so they tend not to take advantage of the opportunities available to protect their interests. Education on creditor rights and transparent insolvency processes is crucial, so that every party involved can obtain adequate legal protection. With a better understanding, creditors are expected to be able to obtain their rights fairly, which in turn will create legal certainty in every financial transaction involving savings and loan cooperatives.

The insolvency process of savings and loan cooperatives in Indonesia currently still faces many problems in providing maximum legal protection for creditors (Hana, 2018). While there are insolvency laws,

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there are no regulations that explicitly regulate how the rights of creditors of savings and loan cooperatives should be treated in the insolvency procedure. This leads to legal uncertainty, which can add to losses for creditors seeking to collect their debts (Andraini, 2017). This imbalance in the protection of creditors and debtors is a major problem that needs to be studied further, especially in providing fairer access to the applicable legal process.

One of the problems that arise in the insolvency of savings and loan cooperatives is the limited transparency in the asset distribution process. Some cases show that in the distribution of assets, creditors often do not get a share in accordance with their rights, even though they have larger claims (Aprilita, 2018). Existing regulations do not provide clear guidelines regarding the priority of creditors in the distribution of assets that have been seized by the court. In many cases, parties with large debts or more influence may receive higher priority, while other creditors continue to suffer significant losses.

Equally important, supervision of the insolvency process of savings and loan cooperatives is often not optimal. The lack of strict supervision from the authorities in implementing insolvency often leads to abuse in the distribution of assets. This is especially true for cooperatives that have less transparent or unprofessional management of their assets and finances. As a result, legitimate creditors often feel disadvantaged because they do not get a share of the liquidation proceeds as they should.

The issue of legal protection of creditors in the insolvency process of savings and loan cooperatives is very important to note because it can have a direct impact on economic stability and public confidence in financial institutions, especially cooperatives. Without adequate protection, creditors who are at risk of losing their rights could suffer large financial losses, which could further affect the credibility and attractiveness of cooperatives in the eyes of the public (Avisena & Liestara, 2022). This lack of clarity in regulation could affect local economies that rely on cooperatives as economic empowerment institutions. For this reason, strengthening regulations regarding creditor rights in insolvency is needed to create a fairer and more efficient system.

The purpose of this research is to analyze the legal protection provided to creditors in the insolvency process of savings and loan cooperatives in Indonesia. This research aims to explore the extent to which existing regulations provide legal certainty and fairness for creditors in asset distribution, as well as to find shortcomings in the existing arrangements.

The results of this research are expected to contribute to efforts to develop better regulations in the insolvency process of savings and loan cooperatives, which can strengthen creditor rights and increase transparency in every insolvency transaction that occurs.

## RESEARCH METHOD

The research method used in this research is a literature research and normative juridical approach, which aims to explore and analyze various relevant legal sources related to legal protection of creditors in the insolvency process of savings and loan cooperatives. This approach prioritizes the research of applicable laws and regulations, jurisprudence, and literature related to insolvency law that can provide insight into the problems faced by creditors in insolvency situations. According to Soekanto (2006), literature research in legal research allows researchers to explore various written sources that can provide views on the validity of existing laws, as well as map gaps in their application. With this approach, the research will focus more on analyzing existing provisions, both those contained in Law Number 37 Year 2004 concerning Insolvency and PKPU, as well as other legal documents relating to the rights of creditors in the insolvency process.

This literature research will also include an analysis of legal doctrines and expert views that provide a deeper perspective on the protection of creditor rights, both from a normative and applicative perspective. This is important to understand the extent to which the current legal regime provides effective protection for creditors, as well as the challenges faced in practice. As stated by Arief (2004), the research of legal literature allows researchers to map the various theories and views that have developed in legal studies, so as to obtain a more comprehensive picture of the legal issues being studied. Thus, this approach will result in a better and systematic understanding of the legal protection of creditors in the insolvency process of savings and loan cooperatives in Indonesia.

## RESULT AND DISCUSSION

Legal protection of creditors in the insolvency process of savings and loan cooperatives in Indonesia plays a very vital role in maintaining a balance between the interests of creditors and debtors who are experiencing financial difficulties. As an institution that functions to provide loans to its members, savings and loan cooperatives sometimes face difficulties in meeting their financial obligations. Under these conditions, filing insolvency petition is one of the steps that can be taken to resolve debt disputes.

This process not only involves the debtor and the court, but also the creditors who have certain rights to be protected so that their interests are guaranteed during the process.

In Indonesia itself, the problem of insolvency savings and loan cooperatives is an issue that requires immediate resolution. This is because almost all small communities are very dependent in terms of accessing finance obtained from savings and loan cooperatives. The existence of savings and loan cooperatives, which should provide solutions for savings and loan needs based on the rules of mutual cooperation, is faced with various challenges such as the risk of insolvency to insolvency, which has a tremendous impact on members. The problem that is often encountered from insolvent savings and loan cooperatives is weak financial management. The governance is not carried out professionally so that the funds managed are not objective and careful. This condition results in the liquidity of the savings and loan cooperative being difficult, especially against the obligations that must be fulfilled to pay its members. The conditions that occur are exacerbated by high bad credit rates because they do not pay attention to risk analysis when loans are given to their members (Aprilita, 2018). Loans that cannot be paid in full by their members also make it difficult for savings and loan cooperatives to maintain their financial stability. The condition of savings and loan cooperatives is also getting worse due to the minimal effectiveness of their supervision, while there is a regulation on the operation of savings and loan cooperatives through Law Number 25 Year 1992 related to Cooperatives. This is due to the inadequate implementation of its implementation. Failure to comply with financial reporting based on the provisions of operational standards has also failed to be carried out by many savings and loan cooperatives and the potential for insolvency has also not been sufficiently thoroughly monitored. Savings and loan cooperatives that are faced with insolvency, the disputes that must be resolved require a long legal process (Indarta, 2021).

Harmed members of savings and loan cooperatives are stuck with their funds with uncertain returns due to the slow process of liquidating the assets used towards the repayment of liabilities. This reality exacerbates the psychological and financial burden. Insolvent savings and loan cooperatives indicate that their member groups have low financial literacy. There is also a lack of understanding of the risks, so that when savings and loan cooperatives are faced with difficult problems and not prepared for the losses that will be incurred (Hana, 2018).

In some areas, the development of the savings and loan cooperative system has not been maximized so that the management of funds is not efficient. The impact is felt not only for its members but also on their social and economic because access to services that are considered important to facilitate them can actually exacerbate their economy. This is also a trigger for the community not to have trust in the savings and loan cooperative. With the existing difficulties, it requires a more thorough revision of both the regulations and the supervision provided by savings and loan cooperatives. From the government itself to a better protection system should also be considered for members of savings and loan cooperatives who experience insolvency based on guaranteed deposits or the speed and efficiency of disputes resolved (Andraini, 2017).

The insolvency process involving savings and loan cooperatives requires very careful regulation, especially in relation to the obligations that must be fulfilled by debtors to creditors. Law Number 37 Year 2004 concerning Insolvency and PKPU provides a clear legal basis for carrying out insolvency procedures, and includes provisions governing the protection of creditors' rights. The implementation of this regulation in practice often faces various challenges, such as the ignorance of creditors regarding their rights or the lack of supervision over the management of assets owned by cooperatives in insolvency. It is important to evaluate the extent to which these regulations are effectively implemented to provide maximum protection to creditors.

The insolvency legal system in Indonesia, despite having a clear legal framework, often faces problems in its implementation. Non-transparent management of insolvency assets, as well as a lack of effective communication between receivers and creditors, can lead to injustice in the distribution of assets. This has the potential to harm creditors who have contributed funds to the cooperative. It is important to review more deeply the existing legal protection mechanisms, so that creditors' rights are truly protected, both in terms of process, transparency, and fair distribution of insolvency proceeds and in accordance with applicable legal provisions.

One of the first forms of legal protection provided to creditors in the insolvency process of savings and loan cooperatives is their right to obtain clear and timely notification of the insolvency status. The Insolvency Law stipulates that within a certain time after the insolvency verdict is rendered, creditors must be informed of the date of the creditors' meeting, which serves to convey the situation and progress of the insolvency process.

Creditors' rights can be safeguarded, including their right to attend and give opinions on the debt settlement to be carried out by the insolvency administrator.

The existence of a curator as a party appointed by the court also has an important role in providing protection to creditors. The curator has the obligation to manage the insolvency estate and distribute the proceeds fairly amongst creditors. This duty of the creditor is regulated in great detail in the Insolvency Law, which ensures that all actions taken by the creditor are carried out with the aim of maximally fulfilling the rights of creditors. One important provision is that the creditor must prioritize the payment of overdue debts in accordance with the priorities stipulated in the law, while taking into account the rights of higher-level creditors (Hana, 2018).

While the laws have provided fairly detailed arrangements on procedures and creditor rights, the reality is that there are still some challenges in their implementation. One of them is the potential for injustice arising from a lack of transparency in the management of insolvency assets or abuse of authority by the curator. In some cases, creditors may not get enough information about the progress of insolvency asset management, which can further harm their position in obtaining debt repayment.

Savings and loan cooperatives that experience insolvency, the legal consequences will change the structure and operations of the savings and loan cooperative as a whole. In this process, a significant step is faced by savings and loan cooperatives which will affect all members and their environment. Insolvency of a savings and loan cooperative halts its operations, with deposits and loan services transferred to a court-appointed curator. The responsibility of the curator is that the cooperative's assets are managed and its debt obligations are objectively resolved. This includes the sale of cooperative assets to pay off debts to creditors who are prioritized during the insolvency process. The impact on members is also quite severe as the accessibility of their savings cannot be fully and timely as it depends on the remaining assets and the debt repayment ranking. Although members aren't liable for the cooperative's debts, their access to funds remains uncertain. From the management part, the curator will also change who leads the cooperative who will later take over all cooperative governance operations (Nurindra, 2019). If malpractice is proven to be carried out by the management even against the law, then they must be prepared to be responsible for the law faced. They will be prosecuted by the court if the cooperative is managed in a fraudulent manner. The court in enforcing the law must also be ensured to be carried out during the insolvency settlement.

The Insolvency Law also establishes the right of creditors to submit their debt claims to the receivers. In practice, this often creates tension between creditors due to the different debt claims that must be resolved. In the case of savings and loan cooperatives, where there are many members who may also function as debtors, the arrangements regarding who is entitled to file claims and how such claims are evaluated are often complicated and require rigorous examination by the court (Khasanah, 2016).

The curator's duties must be carried out based on transparency and equity for the sake of fairness of distributed assets that can be felt by all creditors including its members. Insolvent savings and loan cooperatives when viewed based on social and economic impacts certainly cannot be ignored. This condition is because most of the daily needs of members only rely on savings from savings and loan cooperatives to continue a more prosperous life. The local economy is also affected, especially in savings and loan cooperatives that have a crucial role in a particular community or sector. In the case of savings and loan cooperatives, the insolvency decision does not only change their administration but its effects extend to all members of the community. Fair debt settlement obligations throughout the process take time and have significant consequences. The primary concern given to protecting its members is indeed important in the event of savings and loan cooperative insolvency. The process is not only a debt settlement mechanism of the savings and loan cooperative but also how to protect the rights of its members. There is an important role for the court to provide oversight of all insolvency process and ensure that the duties and responsibilities of the receivers are properly carried out. Courts can also take action if a mistake is identified. On the policy side, the legal framework is governed by rules and laws to provide protection to members. Both are created with the intention that insolvency issues can be resolved in a way that ensures members are protected (Irhamsah, 2022). Attention is also needed due to the social impact of insolvency as members need more support when faced with the financial and emotional consequences of an insolvent savings and loan cooperative (Avisena & Liestiara, 2022). The form of support is to provide financial assistance and counseling. Overall, then, providing legal protection to members of an insolvent savings and loan cooperative focuses on the rights of members being protected as well as paying attention to deposit access, claims management and legal maintenance (Afreetamara, 2019).

While the Insolvency Law provides protection, there are potential problems with PKPU, which is often used by savings and loan cooperatives as a way to avoid insolvency. In such a situation,



creditors may find it difficult to ensure certainty of payment from the cooperative. In PKPU process, while creditors are given the right to attend meetings, they are often unable to ensure that the decisions made are favorable to their position as parties with receivables.

The regulation of creditors' rights in debt settlement also involves the issue of determining whether or not the debt is repayable. In some cases, savings and loan cooperatives may have insufficient assets to pay all their debts (Hana, 2018). In this case, the court and curator will prioritize debt repayment according to the order of priority set out in the Insolvency Law, in which case some creditors may only get a fraction of the value of the debt to be paid.

It is important to underline that the legal protection of creditors also depends on the legal awareness and knowledge of the creditors themselves. Many creditors, especially those without an understanding of the insolvency legal process, are unable to optimize their rights throughout the process (Simbolon, 2022). For example, they may not know how to file a claim or not realize the importance of following the progress of the case through creditor meetings organized by the court or curator (Nurindra, 2019).

Law Number 8 Year 1999 concerning Consumer Protection is also relevant because savings and loan cooperatives that fail to pay debts to creditors may involve consumer rights. Protection of consumers as creditors in savings and loan cooperatives requires the cooperative to fulfill its obligations in a timely and fair manner. Indarta (2021) explain that failure to do so harms the creditor party, and can create uncertainty in financial markets and undermine public confidence in cooperatives.

Efforts to ensure the legal protection of creditors must also involve a stricter supervisory system. One important oversight is that of the receivers who manage the insolvency assets. This supervision should be conducted in a transparent manner, involving relevant parties, such as the court and creditors, to ensure that the insolvency assets are used properly in accordance with applicable regulations. The curator must also report regularly to the court and creditors on the progress of the insolvency process, including how creditors' debts will be settled.

This requires the participation of government agencies, such as the Financial Services Authority (OJK) and the Ministry of Cooperatives and SMEs Indonesia, in providing stricter regulation and supervision of savings and loan cooperatives, so that the potential for greater losses to creditors can be prevented. Despite the existing regulations in the Insolvency Law, it is not uncommon for savings and loan cooperatives to involve in practices that harm

creditors without any decisive action from authorized supervisors. Stricter supervision from the regulator is very important in providing guaranteed protection for creditors.

Legal protection of creditors is not only limited to material aspects or debt repayment, but also includes procedural justice. In the insolvency process, creditors must be given the opportunity to express their opinions and ensure that decisions taken during the process are through legitimate procedures. If these procedures are not properly implemented, creditors' rights may be overlooked, and they may be harmed by unfair decisions.

The insolvency process of savings and loan cooperatives in Indonesia faces a number of challenges, especially related to the protection of creditors' rights (Chairanie & Afriana, 2021). As institutions that function to provide financial services to their members, cooperatives are often caught in financial difficulties that impact their operational continuity. In this situation, it is crucial to ensure that creditors' rights remain protected during the insolvency process. Strengthening clearer and more detailed regulations, as well as strict supervision of savings and loan cooperatives' practices, will create a more transparent and accountable system.

The aspect of educating creditors about their rights is also an important element, in addition to strengthening regulations. Many creditors, especially those with no experience in handling insolvency process, often do not fully understand the rights they can claim. With increased awareness and understanding of the applicable legal process, creditors will be better equipped to involve in fair dispute resolution. This clearer process will also reduce the uncertainty that often arises during insolvency, thus providing a sense of security for the parties involved.

Finally, if these measures can be properly implemented, the savings and loan cooperative system in Indonesia has the potential to grow healthier and more transparent. The legal certainty created will minimize potential losses for creditors and reduce the potential for fraud during the insolvency process. This will protect the rights of creditors, and will create a more stable business environment, so that savings and loan cooperatives can continue to function as financial institutions that support the economic welfare of the community.

## **CONCLUSION**

The conclusion of this paper is that the legal protection of creditors in the insolvency process of savings and loan cooperatives in Indonesia has been regulated in various regulations, such as the Insolvency Law and the Consumer Protection Law.

While there are clear regulations, the implementation still faces challenges, especially regarding the transparency of insolvency asset management, the obligations of the curator, and the ignorance of creditors regarding their rights in the insolvency process. The existence of these arrangements is crucial to ensure creditors' rights are fairly protected, but better implementation and strict supervision are still needed to strengthen these legal protections.

The implication of these findings is that while existing regulations provide a sufficient legal framework to protect creditors, there is room for improvement in terms of transparency and oversight of the savings and loan cooperative insolvency process. This is important to create trust among creditors and ensure fairness for the parties involved in the insolvency. With stricter supervision and clearer procedures, the insolvency process can run more efficiently and fairly, and provide legal certainty for creditors.

Suggestions are to strengthen existing regulations, especially in terms of supervision of curators and transparency in the management of insolvency assets. Educating creditors about their rights in the insolvency process is essential to increase their awareness and understanding. Increased supervision from government agencies and the implementation of more transparent procedures will provide better protection for creditors and strengthen the insolvency legal system in Indonesia.

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