International Journal of Law
ISSN: 2455-2194; Impact Factor: RJIF 5.12
Received: 29-06-2020; Accepted: 14-07-2020; Published: 22-07-2020
www.lawjournals.org
Volume 6; Issue 4; 2020; Page No. 173-178

Reconstruction of the role of advocates in enforcing the bankruptcy law based on justice value

Syafrudin Makmur[1], Mahmutarom[2], Umar Ma'ruf[3]
[1] Doctorate Student of Faculty of Law Sultan Agung Islamic University Semarang, Indonesia
[2] Faculty of Law Wahid Hasyim University Semarang, Indonesia
[3] Faculty of Law Sultan Agung Islamic University Semarang, Indonesia

Abstract
Advocates have played a vital role in realizing a fair and authoritative law enforcement in Indonesia, including in the Bankruptcy Law. However, the Law still does not bring justice to advocates as seen in article 7 paragraph (1) where its role is too monopolistic. Based on this, the writer examined it deeper into this study with the main problem namely : What is the problem contained in article 7 paragraph (1) of Law Number 37 of 2004 concerning Bankruptcy and postponement of debt payment obligations (PKPU) submitted by an Advocate and How to reconstruct it based on the value of justice. The method used is the statute approach method, while the authors approach is a normative juridical approach, because the target is the law / method.
Research result shows that the implementation of the bankruptcy law provides a requirement in filing a bankruptcy application process both for creditors and debtors to advocates to the Commercial Court in article 7 paragraph (1) of the Bankruptcy and PKPU Law which contradicts Article 98 (1) of Law Number 40 of 2007 concerning Limited Liability Company (PT) and this does not yet reflect the values of justice, so it needs to be reconstructed which is carried out in article 7 paragraph (1) of Law Number. 37 of 2004 concerning Bankruptcy and PKPU to: "requests referred to in articles 6, 10, 11, 12, 43, 56, 57, 58, 68, 161, 171, 207 and 212 must be submitted by an Advocate".

Keywords: reconstruction, lawyer, bankruptcy, justice value

Introduction
Profession in essence is a permanent work in the form of service work carried out with the mastery and application of knowledge in certain fields of science whose development is lived out as a vocation and its implementation is bound to a certain value based on the spirit of devotion to fellow human beings for the public interest and rooted in respect and respect efforts to uphold human dignity [1].
In line with the above understanding, the legal profession can be understood as a profession through the mastery and application of the discipline of law in society, carried by people to organize and enforce justice with justice. Based on these thoughts, it is appropriate that expectations may arise in the community that demands for the development and implementation of the legal profession to always be based on the values of general morality, such as the value of justice, human values, honesty, compliance and fairness. The Demand means that the need to have quality expertise and knowledge and awareness to always respect and maintain integrity and respect the profession, and the value of service to the public interest is necessary.
As regulated in Law Number 18 Year 2003. The provisions of Article 5 paragraph (1) of the Advocate Act gives Advocates the status of law enforcement officers who have an equal position with other law enforcement agencies in upholding law and justice.
In addition to it, Advocates also have the right of immunity, namely the right not to be prosecuted both criminal and civil in carrying out their professional duties in good faith and full responsibility (Article 16). Another right that is no less important than that is that an Advocate has the right to confidentiality over his relationship with his client. So that it is free from eavesdropping on electronic communication (Article 19 paragraph 2). Aside from rights, an advocate also has an obligation to be professional in handling cases. Advocates are not allowed to discriminate against clients based on sex, religion, ethnicity, politics, ancestry, social background, and so on (Article 18 paragraph 1). Advocates are also obliged to always keep everything that is known or obtained from their clients (Article 19 paragraph 1).
Historically, Advocates are one of the oldest professions. In its journey, this profession was named as officium nobile, a noble position. The naming happened because of the "trust" aspect of (the authorizer, the client) which was carried out to defend and fight for his rights in the forum that had been determined.
The independence and freedom possessed by the Advocate must be followed by the responsibilities of each of the advocates and professional organizations that shelter it. As mandated by Law No. 18 of 2003 concerning Advocates, the Advocate organization is required to draw up an Advocate's Code of Ethic to maintain the dignity and honor of the Advocate profession as an honorable and noble profession (officium mobile), so that every Advocate is required to submit to and comply with the code of ethics. In its opening, the Indonesian Advocate Code of Ethics stated that the code of ethics is the highest law in carrying out the Advocate profession, which guarantees and protects but also imposes obligations on every Advocate to be honest and responsible in carrying out his profession both to the client,

[1] Wijaya, Andika. (2019). Implementation of the Doctrine of the Business Judgment Rule on Bankruptcy Law in Indonesia. Yuridika. 35. 1. 10.20473/ydk.v35i1.12436.

court, state, or the public, and especially to himself.

In bankruptcy law, Advocates hold a very central role. Requests for bankruptcy statements, whether submitted by the debtor or the creditor, cannot be submitted by the debtor or creditor himself. Article 7 paragraph (1) of Law Number 37 of 2004 Concerning Bankruptcy and PKPU determines that: "Application referred to in Article 6, Article 10, Article 11, Article 12, Article 43, Article 56, Article 57, Article 58, Article 68, Article 161, Article 171, Article 207 and Article 212 must be submitted by an advocate ".

In accordance to the provisions of Article 7 paragraph (1) it can be said to be excessive due to the necessity of using an advocate in a bankruptcy case that is different from a company that the applicant is free to not use or use an external lawyer. Large companies, including large banks, usually have legal departments or legal divisions with many in-house lawyers. Many of them are used to taking care of civil litigation cases faced by the company concerned. For companies that feel the case they are facing, either as a plaintiff or defendant, or as a petitioner or petitioner for a bankruptcy statement, which they feel is not reliable enough to face or handle it themselves, will naturally appoint and use an external lawyer.

Based on this, the writer feels the need to examine the problem as described above in the study with the main issues as follows

1. What is the problem contained in article 7 paragraph (1) of Law Number 37 of 2004 concerning Bankruptcy and Delaying Obligations of Debt Payment (PKPU) that must be submitted by an Advocate?
2. How is the Reconstruction of Article 7 paragraph (1) of Law Number 37 of 2004 Concerning Bankruptcy and Postponement of Obligations for Debt Payment (PKPU) in the process of filing bankruptcy applications by Advocate based on the value of justice?

Method of Research

The paradigm that is used in the research this is the paradigm of constructivism which is the antithesis of the understanding that lay observation and objectivity in finding a reality or science knowledge [2]. Paradigm also looked at the science of social as an analysis of systematic against *Socially Meaningful Action* through observation directly and in detail to the problem analyzed.

The research type used in writing this paper is a qualitative research. Writing aims to provide a description of a society or a certain group of people or a description of a symptom or between two or more symptoms.

Approach (approach) the research is to use the approach *of Normative-Juridical* [3], which is based on the norms of law and the theory of the existing legal enforceability of a law viewpoint as interpretation.

As for the source of research used in this study are

1. Primary Data, is data obtained from information obtained from literature review derived from the existing regulation, credible news and data obtained from interted parties.
2. Secondary Data, is an indirect source that is able to provide additional and reinforcement of research data. Sources of secondary data in the form of: Primary Legal Material and Secondary Legal Materials and Tertiary Legal Material.

In this study, researchers uses data collection techniques, namely literature study, interviews and documentation. In this study, the researcher is a key instrument that is the researcher himself who plans, collects, and interprets the data [4].

Research Result and Discussion

1. Problem Contained in Article 7 Paragraph (1) of Law Number 37 of 2004 Concerning Bankruptcy and Delaying Obligations of Debt Payment (PKPU) That Must be Submitted by An Advocate

Referring to the provisions contained in The Limited Liability Company Law (UUPT) No. 40 of 2007 which explained that those entitled to represent the company are the only one that has right in transferring assets owned by the company in which is the Director. However, in a company where there are more than 1 (one) Directors, each member of the Board of Directors has the right to represent the company. This is based on the provisions contained in Article 98 paragraph (1) and paragraph (2) of the Company Law, which states that;

a. *Directors represent the Company both inside and outside of the court.*
b. *In the event that a member of the Board of Directors consists of more than 1 (one) person, the person authorized to represent the Company is each member of the Board of Directors, unless otherwise stipulated in the articles of association*.

Furthermore, in Article 102 paragraph (1) letter a, regarding legal actions to sell company assets, it is explained that in transferring company assets of more than 50% (five percent of the total) total net assets of the company in 1 (one) or more transactions, both concerned to each other or not, must get the company's General Meeting of Shareholders (RUPS) approval. However, in the event that the transfer of company assets is less than 50% (five percent), the Board of Directors may directly sell the assets and the legal actions remain binding on the company.

Based on the above article, it is clear that advocates play a large role in the bankruptcy law and postponement of debt repayment obligations by referring to the said must submit an application.

Among the policies related to ease of doing business, including the settlement of bankruptcy, which is regulated in Act Number 37 of 2004 concerning Bankruptcy and Delaying Obligations of Debt Payment (UU K-PKPU).

The UUK-PKPU explained that Indonesian bankruptcy law is based on the principle of being fair, fast, open and effective however, in its implementation this law is considered vulnerable to abuse. There are some cases where a company considered to be healthy and has the ability to pay and settle its debts proven by its assets or wealth that far exceeds the amount of its debts (still solvent) becomes bankrupt or bankrupt because there are several norms that are multiple interpretations and do not comply with

[2] Faisal, (2010), "Menerobos Positivisme Hukum", Rangkang Education, Yogyakarta.
[3] Johnny Ibrahim, (2005), "Teori dan Metodologi Penelitian Hukum Normatif", Bayumedia, Surabaya.
[4] L. Moleong, (2002), "Metode Penelitian Kualitatif", PT Remaja Rosdakarya, Bandung.

standards bankruptcy that applies internationally.

This is mainly due to the provisions of Article 2 paragraph (1) of the UUK-PKPU Law. Article 2 paragraph (1) is one of the most fundamental weaknesses of the UUK-PKPU is the provision of Article 2 paragraph (1) which requires the filing of bankruptcy with only two Creditors and one debt that is due and there is no minimum limit on the amount of debt. The requirements for filing for bankruptcy constitute negligence of the lawmakers in formulating Article 2 paragraph (1), in the absence of "unable to pay" requirements, the creditor can easily submit a request for bankruptcy statements without having to prove that the company is in a state of incapacity or insolvency (insolvent). This is clearly not in accordance with the needs of the community because the provisions of bankruptcy can be submitted if you have two creditors with one debt due.

As time goes by, it is expected that bankruptcy provisions will be tightened with the determination of the minimum debt limit. There are some examples of cases that are controversial and attract wide public attention in Indonesia such as [5]

a. Case of PT. Prudential Life Insurance, which is decided by Central Jakarta Commercial Court Decision Number 13 / Pailit / 2004 / PN Niaga Jkt. PST and Decision Number 25 /Pailit/ 2004 / PN Niaga Jkt. Pst. (Mrs. Ng Sok Hia al v. PT. Prudential Life Insurance).
b. Case of PT. Manulife Indonesia Life Insurance (Manulife), which is terminated by Decision Number 10 /Pailit/ 2002 / PN Niaga Jkt. Pst (Paul Sukran, S.H PT. Asuransi Jiwa Manulife Indonesia).
c. Case of PT. Telekomunikasi Seluler Indonesia (Telkomsel), which was decided by Decision Number 48 /Pailit/ 2012 / PN.Niaga.Jkt.Pst.

Weaknesses of the Indonesian bankruptcy law is a scourge for justice seekers, especially debtors as defendants and creditors as bankrupt applicants. Judging from the controversial history of its presence, it can be understood that the current Bankruptcy Law is the result of a process of "grafting" between the old regulation and new thinking in a special procedural law, so that in its application there are things that are unclear in its regulation and give rise to various interpretations, even the legal vacuum for its solution. In addition, article 2 paragraph (1) of Law No. 37 of 2004 only authorizes the commercial court to examine and decide bankruptcy cases, among others:

a. The procedural problem in the application of the bankruptcy law that is for example in relation to the provisions of article 91 of the bankruptcy law which stipulates that the implementation of bankrupt assets remains in force and has legal force, even though there are legal remedies which then invalidate the decision regarding the statement of bankruptcy. As a result, it raises the problem of who will be sued in relation to the losses that have occurred, as well as what forms of legal protection to the retailers whose decisions are canceled, while assets have been properly executed and controlled by third parties.
b. Distrust in the Commercial Court; that is, the decisions of the commercial court often cannot be implemented because there are no clear legal rules in responding to them. As a result of bankruptcy, debtors' assets are placed in general confiscation or transfer of management rights and bankruptcy assets to the curator, immediately after the debtor is declared bankrupt (article 16, paragraph 2) of the Bankruptcy Act. But many debtors don't care and supervisor judges don't run. This is exacerbated by the unwillingness of the commercial court to use enforcement institutions.

The principle of debt is still blurred in the process of bankruptcy is very decisive, because without a debt it is not possible bankruptcy cases will be able to be examined. Without the debt, then the essence of bankruptcy becomes non-existent because bankruptcy is a legal institution to liquidate debtor assets to repay debts to its creditors.

Likewise, with the concept of debt in the Dutch bankruptcy law which is also enforced in Indonesia with the principle of concordance in bankruptcy regulations, that debt is a form of obligation to fulfill achievements in an engagement. Fred B.G Tambunan [6] said that in the case of someone due to their actions or not doing something resulted that he had the obligation to pay compensation, give something or not give something, then at that time also had a debt, had the obligation to do their obligation. this means that debt are equals to obligation. Jerry Hoff also believes that debt refers to obligations in civil law as Obligations or debts, can arise either from the agreement or from the law.

Furthermore, the PKPU mechanism has not provided extensive opportunities for debtors to improve company performance. In this case, it can be seen in the provision of a relatively short time for the debtor to make improvements to the company. The dominance of creditors in determining peace, and the limitation of the authority owned by the debtor to continue to manage the company that must be done together with the management. In addition, the Bankruptcy and PKPU Law has not separated bankruptcy on companies and individuals, in terms of the objectives and benefits of the two are different.

Therefore, the application of several bankruptcy provisions that have been developed in other countries may need to be done by Indonesia. Siti Anisah [7] in accordance to this, states that

a. The objectives in bankruptcy law should include increasing the value of the company or at least maintaining it, and not liquidating companies that still have the ability to pay their obligations,
b. The aim of bankruptcy is to protect those who cannot protect themselves, by giving debtors the freedom to improve company performance. Third, providing an opportunity for debtors who cannot pay their debts to make a fresh start free of all burdensome debts, as long as the debtor does not commit dishonest or other improper conduct related to their financial matters.

Furthermore, According to Siti Anisah the bankruptcy law in the future requires insolvency test. The reasons are: First, to prevent debtors whose assets are more than the debts

[5] Prabaningsih, Luh & Nurmawati, Made. (2019). PENGATURAN INSOLVENCY TEST DALAM PENJATUHAN PUTUSAN PAILIT TERHADAP PERUSAHAAN. Kertha Semaya: Journal Ilmu Hukum. 7. 1. 10.24843/KM.2019.v07. i08.p14.

[6] Fred.B.G.Tambunan in, Shubhan, M. Hadi(2008),” Hukum Kepailitan, Prinsip, Norma, dan Praktik di Peradilan”, Kencana Prenada Media Group, Jakarta.

[7] Siti Anisah. (2009), “Studi Komperatif Terhadap Perlindungan Kepentingan Kreditor dan Debitor dan Debitor dalam Hukum kepailitan”, Jurnal Hukum Special Edition No.1 Vol. 16 October 2009.

declared bankrupt by the court. A person is considered to be solvent if and only if that person can pay off debts that are past due and collectible. The debtor is also considered solvent if the debtor's assets do not exceed his debt. Conversely, someone who cannot repay debts that have fallen due and can be billed is called insolvent.

Broadly speaking there are three financial "tests" usually used to determine insolvency. "Balance-sheet test". "Cash flow test" or also called the equity test and "transactional analysis" [8].

Although there are three financial tests, in general two more tests are used, namely the balance sheet test and the equity or cash flow test However, among them Transactional analysis is quite special as it applies when a company enters into transactions that result in the company's capital being reduced irrationally, and the company faces the risk of insolvency that cannot be accepted by common sense. When that happens, based on transactional analysis the company has entered the insolvency zone.

A broad understanding in Law Number 37 Year 2004 requires simple verification. In the practice of simple understanding in Law No. 37 of 2004 concerning Bankruptcy and PKPU, it is used as an excuse to reject a request for a statement of bankruptcy by a commercial court judge on the grounds that the request for an declared bankruptcy statement requires proof that is not simple. This further confirms that the request for bankruptcy statements requiring that in a broad sense cannot be resolved through a simple verification mechanism. Likewise, with other provisions such as *actio paulana*, proof of fictitious creditors, and lawsuits against directors which caused the company to go bankrupt due to negligence or mistakes, as well as or abuse of authority by shareholders are hard to prove.

2. Reconstruction of Article 7 Paragraph (1) of Law Number 37 of 2004 Concerning Bankruptcy and Postponement of Obligations for Debt Payment (PKPU) in the Process of Filing Bankruptcy Applications by Advocate Based on the Value of Justice

In bankruptcy law, advocates have a very central role. Requests for bankruptcy statements, whether submitted by debtors or creditors, cannot be submitted by the debtor or creditor himself. Article 7 paragraph (1) UUK-PKPU specifies that the application must be submitted by an advocate.

The provisions of Article 7 paragraph (1) can be said to be excessive, because it is better if the request for bankruptcy statements be given freedom to the applicant not to use or use an external lawyer. With regard to the dissolution, Article 142 paragraph (2) provides that the liquidation must be followed by liquidation carried out by the liquidator or curator. Article 149 paragraph (2) of the Limited Liability Company Law stipulates that:

"*In the event that the liquidator estimates that the Company's debt is greater than the Company's assets, the liquidator is required to submit a request for the bankruptcy of the Company, unless the statutory regulations specify otherwise, and all creditors whose identities and addresses are known, approve the issuance done outside bankruptcy*."

With the provision of Article 149 paragraph (2) concerning Limited Liability Company Law, shows that there are additional provisions regarding parties who can submit bankrupt statements in addition to those stipulated in the Law-PKPU. In connection with the provisions of Article 7 paragraph (1) of the UUK-PKPU, in Article 7 paragraph (2), that the Establishment of the Law explicitly eliminates the need to use the services of a lawyer, if the party requesting bankruptcy is: Prosecutor, Bank Indonesia, Supervisory Agency Capital Market (*Bapepam*), and Minister of Finance.

An Advocate is required in article 7 paragraph (1) of Law Number: 37 of 2004 concerning Bankruptcy and PKPU to submit bankruptcy documents to the Commercial Court, it requires the quality of knowledge possessed by an Advocate not only to know the bankruptcy law but also to know other knowledge such as civil law, company law, commercial law and more importantly is procedural law which is highly controlled.

The inclusion of the word must be in article 7 paragraph (1) which contains a very broad understanding and is the state's appreciation of an advocate profession for carrying out its duties, but on the other hand the requirement shows the monopolistic authority of a profession that is specific and not general in nature, and in the opinion The author is a weakness besides there are still other weaknesses that need to be observed namely as follows

a. The Time of the formation of the law did not refer to the foundation of the Academic Manuscript, as the the law itself (law no 12 of 2011), established much later. it can be said that the law is full of interests and other weaknesses can also be explained: bankrupt companies that are experiencing financial difficulties and healthy companies (solvent), basically companies that are experiencing financial difficulties should be given the opportunity in their efforts to improve their finances but Law Number 37 of 2004 concerning Bankruptcy and PKPU actually makes these companies unable to pay by applying for bankruptcy, the provisions are marked easily by bankruptcy on the basis of article 2 or (1) which determines that: "*The Debtors who have two or more creditors and do not pay off at least one debt that is due and collectible, are declared bankrupt by a Court Decision, both top his own request or at the request of one or more of his creditors* "
b. Law Number 37 of 2004 Concerning Bankruptcy and Delaying Obligations for Debt Payment (PKPU) is not in line with the philosophy of bankruptcy law because the philosophy of the bankruptcy law is to overcome the problem if the debtor's assets that are not enough to pay debts to his creditors, but because of this law, a company that is still very healthy (solvent) can still be declared as bankrupt. Thus there are differences in bankruptcy from economic and legal aspects. Bankruptcy should only be intended for companies that are indeed unable to pay their debts. Contextually, diachronically, the request for bankruptcy is only filed against insolvent Respondents. For solvent debtors not filed based on bankruptcy law, but based on breach of claims in the District Court based on Book III of the Civil Code (KUHPerd / BW).
c. Law Number 37 of 2004 concerning Bankruptcy and PKPU does not regulate insolvency testing.

[8] Koenig, Johannes & Fossen, Frank. (2016). Personal Bankruptcy Law and Entrepreneurship. CESifo DICE Report. 13. 28-34.

According to the Business Term Dictionary, Insolvency, is interpreted as:"*Inability to fulfill financial obligations when they fall due as in the business, or excess liabilities compared to their assets within a certain time*".

As Comparison, In the Bankruptcy Law in the United States as stated in Title II of the United States Bankruptcy Code there is an "insolvet" clause which is interpreted as the financial situation of the Debtor which is larger than its assets and can be proven by an insolvent test.

In Article 2 paragraph (1) which regulates the requirements for being declared bankrupt, there is no condition for an unhealthy financial condition on the debtor who is being requested for bankruptcy. Thus, even though the debtor's financial condition is in a solvency state, the debtor can still be made bankrupt if there is a condition for the debt that has not been paid off, for which there are two or more creditors.

In this case, rational considerations are needed for judges in dealing with bankruptcy requests against corporate debtors who are still solvent. A Solvent companies and prospects need to be protected from the threat of bankruptcy law which is more emphasized as a debt collection tool or a tool for debt collection and a tool to bankrupt a limited liability company. This needs to be done considering the bankruptcy decision has an influence on company stakeholders and Indonesia's economic growth broadly.

Based on the above, the authors feel that reconstruction is very necessary for these rules because these rules still cannot realize the value of justice.

Legal reconstruction as intended by the author is an attempt to re-create or update existing and existing legal rules. The updated legal rules or regulations are due to a clear reason and reasons. Apart from being seen as no longer appropriate to the development of the era and society, legal reconstruction is intended as an effort to answer the problems in society that are always changing and developing. The life of society which is always changing and developing, the law must also always live to adjust and balance the changes and developments that exist in society because the law was created to regulate people's lives.

Pancasila as the view of life of the Indonesian nation, its principles are a unified whole and cannot be divided. The Godhead is the first precept which is then followed by the precepts of a just and civilized Humanity. According to Philipus M. Hadjon [9], the logical consequence of acknowledging the existence of God, which means that at the same time acknowledging the dignity and human dignity of God's most noble creations. Likewise the precepts of the Unity of Indonesia, means recognizing humans as social beings who wish to live together in a society, namely the Republic of Indonesia. Arrangement of living together is based on deliberation that is guided by wisdom in consultation / representation. The purpose of living together in an independent country is, to achieve mutual prosperity, such as the formulation of the fifth precepts, namely social justice for all the people of Indonesia. Thus this is an acknowledgment of the dignity of human beings in the Indonesian State of Law, intrinsically inherent in Pancasila and sourced in Pancasila. So dignity is God's gift.

State-based law must be based on good and fair law. A good law is a democratic law that is based on the will of the people in accordance with the awareness of the people's law, while a fair law is a law that is suitable and fulfills the aims and objectives of each law, namely justice. Good and fair law needs to be prioritized, especially in order to avoid the possibility of law being used as a tool by the authorities to legitimize certain interests, both those of the authorities themselves and those of certain groups that can harm the interests of the people. The law is sometimes used as a mask of legality to protect the interests of the authorities or the interests of certain groups, so that on the basis of legality arbitrariness can be done freely.

In an effort to avoid bad and unjust laws, the rule of law and the sovereignty of the people must be balanced and in harmony with those which must support one another. Sovereignty of the law and sovereignty of the people which is a monodualistic power which means supervision of the use of power that is not based on law, abused power, arbitrary power can be controlled with judicial power in the form of judicial bodies. The judiciary can be in the form of general court or special court such as administrative court.

Development, according to Mochtar Kusumaatmadja [10] is essentially a changes by using this meaning in which denotatively-speaking, a development rather than its political connotative meaning. In the political context at that time, development was a New Order political jargon intended to be an anti-thesis of the Old Order's political orientation which was too ideological and poorly executed.

Regarding the role of law in development, Mochtar stressed that the law must ensure that changes are carried out regularly. Mochtar's emphasis on the phrase "running regularly" shows that the achievement of "order" as one of the classic functions of the law of urgency was reaffirmed by Mochtar in guarding development. Change which is the essence of development and order or order which is one of the important functions of law is a twin goal of a developing society.

In the rule of law, the principle of legality is known as its main pillar and is one of the main principles that is used as the basis in every administration and state in every state of law, especially for the rule of law and the continental system.

The Reconstruction that the author proposed are

a. Reconstruction of article 7 paragraph (1) of Law No. 37/2004 in the process of filing a bankruptcy application based on the value of justice are divided into 2 namely:

1. Value Reconstruction

1. The moral values and national values are based on the teachings of the Islamic Religion seen on the Al-Qur'an Surah An Nisa verse 58 which states that : "*Indeed, God told you to deliver the message to those who are entitled to receive it, and if you establish a law between humans you should set it fairly. Indeed, Allah is the best to teach you. Truly, Allah is All-Hearing and All-Seeing*".
2. Moral values and values embodied in the philosophy of the state of Pancasila as the basis of the Indonesian state.

2. Law Reconstruction

1. there must be a reconstruction on article 7 paragraph (1) of Law Number. 37 of 2004 concerning Bankruptcy and PKPU, which should be read as : "*Requests*

[9] Philipus M. Hadjon,(1978), "Perlindungan Hukum Bagi Rakyat di Indonesia", Bina Ilmu, Surabaya, p. 77.

[10] Mochtar Kusumaatmadja,(2002), "Konsep-komsep hukum dalam pembangunan", Alumni, Bandung, p.22.

Referred To In Articles 6, 10, 11, 12, 43, 56, 57, 58, 68, 161, 171, 207 And 212 Must Be Submitted By An Advocate".

2. The reason for the reconstruction is that by using the word "must" in the law is not general in nature and that the role of Advocates in Law Number. 37 of 2004 concerning Bankruptcy and PKPU is very dominant as there are 13 articles using advocates while the formation of Law Number 37 of 2004 is not through Law No.12 of 2011 concerning Formation of Laws and Regulations (Academic Paper).

The result of reconstruction is that the word must be used if it represents and / or acts as a proxy, that the planned bankruptcy law and PKPU can use the Law on the Formation of Law No.12 of 2011. That the word should be viewed in terms of justice, welfare and changes in development that are better replaced with the word "may".

Conclusion

1. There is a conflict between Law Number 37 of 2004, article 7 paragraph (1) concerning Bankruptcy and PKPU with Law Number 40 of 2007 article 98 paragraph (1) concerning Limited Liability Companies, Legal Uncertainty in Settlement of Bankruptcy Cases in determining whether or not bankruptcy a company is only based on Debtors who have two or more Creditors and do not pay off at least one debt that has fallen due and can be billed, is declared bankrupt by a court decision, lack of clarity as an Advocate as an Institution and / or Legal Counsel.
2. Reconstruction of article 7 paragraph (1) of Law No. 37/2004 in the process of filing a request for bankruptcy based on the value of justice is the reconstruction that consists of two things. first is of moral and national values that are based on the teachings of the Islamic Religion that is owned, based on the Al-Qur'an Letter An Nisa verse 58 : "Indeed, God told you to deliver the message to those who are entitled to receive it, and if you establish a law between humans you should set it fairly. Indeed, Allah is the best to teach you. Indeed, Allah is All-Hearing and All-Seeing. Second is Legal Reconstruction in Article 7 paragraph (1) of Law Number. 37 of 2004 concerning Bankruptcy and PKPU, which changed in to: "requests referred to in articles 6, 10, 11, 12, 43, 56, 57, 58, 68, 161, 171, 207 and 212 must be submitted by an Advocate ".

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