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Mortgage Rights as a Guarantee of Legal Protection for Creditors in Financing According to Thomas Hobbes's Theory of Justice

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Abstract

This study discusses the right of dependency as a guarantee of legal protection for creditors in financing based on the theory of justice from Thomas Hobbes. The right of dependents, as a legal instrument that gives creditors priority rights to repay debts through objects used as collateral, has an important role in maintaining a balance of interests between creditors and debtors. In the context of Hobbes' theory of justice, security and legal certainty are fundamental aspects that need to be maintained to avoid conflicts and ensure a stable social order. This article outlines how Hobbes' concept of justice, which emphasizes the need for the state to maintain order through the rule of law, is relevant to the regulation of dependent rights in the financing system. The right of dependency provides legal certainty to creditors, which can be considered as part of the mechanism to achieve distributive justice in society. In the end, this article concludes that the right of dependency plays a role as a form of legal protection that is fair to creditors, in line with Hobbes's concept of justice which prioritizes security and certainty in social life.

Keywords: *Dependent Rights, Legal Protection, Creditors, Financing, Thomas Hobbes Theory of Justice, Legal Certainty, Security, Distributive Justice.*

Introduction

In the modern global financial system, securing loans and credit has become a key element in promoting economic development (Saputra et al., 2023). However, this has also led to the rise of significant global issues related to credit risk and loan default. Indonesia, as a developing economy with a growing reliance on credit for business and personal financing, faces unique challenges in maintaining creditor confidence. The country's legal framework, while established, is often tested by economic volatility, regulatory gaps, and inconsistent enforcement, which further heighten the risks associated with credit transactions. In many countries, including Indonesia, the challenge of providing secure, risk-free credit is exacerbated by the economic uncertainties brought about by rapid globalization and fluctuating market conditions (Harun et al., 2010). One of the essential tools to mitigate these risks is the use of mortgage rights as collateral in credit transactions. Mortgage rights grant creditors legal protection, ensuring they can recover their assets if debtors fail to fulfill their obligations (Dao et al., 2022). This issue is critical in maintaining trust in financial institutions and ensuring the stability of credit markets globally. (Zuhroh et al., 2022)

Banks are companies that operate in the financial sector. Banking activities are always related to the financial sector, so when talking about banking, it cannot be separated from financial matters. The government can assign the banking world to implement a program aimed at developing certain economic sectors, or pay more attention to cooperatives and economically weak groups or small entrepreneurs in order to improve the standard of living of the people. In this case, banking credit distributes funds to the public in the form of credit. Credit is the provision of money or bills that can be equated with it, based on the most basic credit agreement or agreement in providing credit facilities, including collateral objects, in addition to the ability of a creditor. Before providing credit to the borrower, the bank will make a credit agreement first.

Credit agreements as a type of agreement are subject to the provisions of contract law in positive law in Indonesia. The money lending and borrowing agreement between the bank and the debtor is commonly called a credit agreement, credit agreement letter, credit agreement, and other similar names. The applicable

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credit agreement (including, among other things, complying with the provisions of Article 1320 of the Civil Code) constitutes the law for the bank and debtor. The provisions of Article 1338 of the Civil Code stipulate that a valid agreement is valid as law for the parties who promise. Mortgage rights, as a collateral instrument, strengthen these credit agreements by offering legal certainty and prioritizing the repayment of debts through secured assets, thus mitigating financial risks. Credit risk and debt default are global challenges that threaten the stability of financial systems worldwide (Chiu et al., 2018). A rise in loan defaults has been particularly prominent in countries with unstable economies, leading to a lack of creditor confidence and reluctance to offer financing (Widiawati et al., 2024). In developing economies, such as Indonesia, creditors often face difficulties in securing their interests when dealing with delinquent debtors. This creates a need for legal frameworks, such as mortgage rights, which provide certainty and enforceability to financial transactions.(Faza set al., 2023; Leonardy et al (2013)

Mortgage rights are used by creditors (banks) to obtain guarantees for debt repayment from their debtors. The definition of a mortgage is a form of guarantee right on land and other objects which are an integral part of the land, which is used by creditors (usually banks) to obtain guarantees for the payment of debts from their debtors. Every debtor has an obligation to submit performance to the creditor. The debtor has an obligation to pay the debt. The foreign term for this obligation is called schuld. The debtor also has another obligation, namely hafting. The debtor allows his obligation for his assets to be taken by the creditor in the amount of the debtor's debt, in order to pay off the debt if the debtor does not fulfill his obligation to pay the debt.

The legal basis for mortgage rights in Indonesia is Law Number 4 of 1996 concerning Mortgage Rights over Land and Objects Related to Land. Mortgage guarantee institutions are used to bind debt collateral objects in the form of land or objects related to the land in question. The Mortgage Rights Law stipulates that if the debtor defaults, the creditor must execute the Mortgage Rights. Article 20 paragraph (1) and (2) of Law Number 4 of 1996 concerning Mortgage Rights provides an understanding that if the debtor defaults on his promise, the Law concerning Mortgage Rights provides three alternatives for fulfilling the creditor's receivables, namely (i) using the right to sell under his own authority through a public auction to the first Mortgage Rights holder, (ii) executing the sale contained in the Mortgage Rights Certificate provided; (iii) by mutual agreement between debtors and creditors through private sales.

Legal protection for creditors is an important aspect in the financing system. Mortgage rights as a form of collateral provide legal certainty and a sense of security for creditors in financing transactions. Thomas Hobbes, with his theory of justice and the social contract, offers a relevant perspective for analyzing the function of lien rights in this context. Mortgage rights provide legal protection to creditors in financing by ensuring creditors have strong and enforceable rights to the property held by the debtor.

Several factors contribute to the problem of insufficient creditor protection, particularly in regions with underdeveloped legal infrastructures. Economic volatility, inadequate regulatory oversight, and weak enforcement mechanisms are significant factors that leave creditors vulnerable. Additionally, the lack of public awareness regarding the legal consequences of default exacerbates the problem. In Indonesia, while there are laws governing mortgage rights, their inconsistent application and gaps in regulatory frameworks leave creditors at risk.(Pettanase, 2023; Sulistiono, 2024)

The lack of sufficient creditor protection, especially in cases where mortgage rights are not effectively enforced, has significant consequences for the financial sector. First, it leads to an increase in non-performing loans (NPLs), which reduces the liquidity of financial institutions and hampers their ability to provide credit (Raja Damaitu, 2024). Second, this situation creates uncertainty in the market, discouraging both domestic and foreign investment. As creditors lose confidence, financial systems experience reduced efficiency, making economic recovery slower, particularly after global financial shocks such as the 2008 recession or the COVID-19 pandemic (Zulkarnain et al., 2024).

The variables central to this study are mortgage rights and creditor protection within the legal framework of Indonesia. Mortgage rights are defined as the legal instruments that grant creditors priority over other claimants to assets held as collateral in the event of debtor default (Rustam, 2017). On the other hand,

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creditor protection refers to the measures embedded within legal systems to safeguard creditors' interests. In this context, creditor protection ensures that creditors have recourse to recover their losses through the seizure and sale of collateral, ensuring the fulfillment of contractual obligations by debtors.

The study also relates Thomas Hobbes' theory of justice to the current credit system. Hobbes' theory emphasizes the role of the state in ensuring order and security, suggesting that a well-regulated legal system is fundamental to societal peace (Hobbes, 1651). The application of mortgage rights underpins this idea by providing legal certainty to creditors, thus preventing potential disputes and ensuring smooth financial operations (Wijaya & Mubin, 2024).

This study is novel in its application of Thomas Hobbes' theory of justice to the legal framework surrounding mortgage rights in Indonesia. While previous studies have discussed creditor protection mechanisms, few have drawn a direct link between classical political theories and modern financial regulations. The integration of Hobbes' concepts into the context of mortgage rights and creditor protection offers a fresh theoretical perspective that can inform the ongoing development of financial regulations, not only in Indonesia but in similar developing economies (Maluw et al., 2024).

The urgency of this research lies in the critical need for enhanced creditor protection mechanisms amidst growing credit markets and financial instability. In Indonesia, the increasing volume of credit transactions, combined with fluctuating economic conditions, demands stronger legal instruments to safeguard creditors' interests (Setiawan, 1987). Inadequate enforcement of mortgage rights can undermine the entire financial system, leading to a loss of investor confidence and a slowdown in economic growth (Ashari et al., 2024). This research provides timely insights into how creditor protection can be strengthened through legal reforms that align with global best practices. Additionally, the study's relevance is underscored by the importance of financial stability in post-pandemic economic recovery, where secured lending plays a significant role in revitalizing economies (Adiva et al., 2024).

The purpose of this research is to analyze the role of mortgage rights as a legal instrument for creditor protection in Indonesia's credit system, using Thomas Hobbes' theory of justice as a framework. The study aims to explore how the legal provisions related to mortgage rights provide security to creditors and contribute to the overall stability of the financial system. By examining the application of Hobbes' ideas on law and order, this paper seeks to offer recommendations for strengthening the legal framework surrounding creditor protection, ensuring that creditors are adequately protected in the event of debtor default. The ultimate goal is to provide actionable insights that can inform policy reforms, thus enhancing the effectiveness of mortgage rights in safeguarding the interests of creditors.

Method

This research employs a normative legal research method, which focuses on the analysis of legal principles and doctrines. Normative legal research is commonly used in legal studies to examine how laws are applied, interpreted, and enforced. It draws from existing legal frameworks, doctrines, and the opinions of legal scholars to address a particular issue. In this study, the research investigates the role of mortgage rights in providing legal protection to creditors in Indonesia's financing system, viewed through the lens of Thomas Hobbes' theory of justice.

The approach used in this research is a statutory approach. The statutory approach is appropriate because the research focuses on analyzing laws and regulations regarding mortgage rights in Indonesia. The research aims to evaluate how these regulations align with Hobbes' ideas on justice, which emphasize the need for law and order to ensure societal peace and security. Specifically, this approach is used to examine Law Number 4 of 1996 on Mortgage Rights over Land and Objects Related to Land, which serves as the legal foundation for mortgage rights in Indonesia. The statutory approach is also useful in identifying potential gaps or inconsistencies in the law that may affect creditor protection.

In addition to the statutory approach, the study incorporates a conceptual approach to explore Thomas Hobbes' theory of justice and its relevance to mortgage rights. Hobbes' theory emphasizes the importance

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of legal structures in maintaining order and preventing societal chaos. By analyzing the legal mechanisms that govern mortgage rights, this research assesses how well these mechanisms align with Hobbesian ideals of justice, particularly in providing protection to creditors.

The data used in this study consists primarily of secondary legal materials, which include laws, regulations, legal doctrines, scholarly articles, and relevant judicial decisions. The primary legal material examined is Law Number 4 of 1996, which governs the imposition of mortgage rights over land and related objects in Indonesia. This law provides the legal framework that determines the rights and obligations of creditors and debtors in financing transactions involving mortgage rights. It also outlines the process for registering and enforcing mortgage rights, which is crucial for providing legal certainty to creditors.

Additionally, Law Number 42 of 1999 concerning Fiduciary Security is also reviewed as a comparison to mortgage rights. Fiduciary security is another form of collateral recognized in Indonesia's legal system, which provides creditors with security over movable objects, unlike mortgage rights, which typically pertain to immovable property. This comparison helps to understand the broader legal landscape of creditor protection mechanisms in Indonesia.

Other secondary legal materials include commentaries and interpretations of these laws by legal scholars and practitioners, which provide insight into how the laws are applied in practice. These interpretations are gathered through a literature review of legal journals, books, and reports that focus on mortgage rights, creditor protection, and the theory of justice. Legal textbooks and scholarly articles on Hobbes' theory of justice are also used to provide a conceptual framework for understanding the relationship between law and justice in the context of creditor protection.

Result and Discussion

Application of the Theory of Justice by Thomas Hobbes to the Protection of Credit Rights

The provision of credit facilities by banks contained in a credit agreement is not without risk, because the risk can arise especially because the debtor does not fulfill his obligation to pay the debt in full or in cash, but the debtor is given trust by the Law in this credit agreement to pay later in stages or by installments. The risks that generally occur are failure or delay in credit repayment (credit risk), risk arising from market fluctuations (market risk), risk due to the bank being unable to fulfill its obligations that have matured (liquidity risk), and risk due to weaknesses in the legal aspect due to lawsuits, the absence of supporting laws and regulations (legal risk). For the sake of security and legal certainty, the existence of protection in the form of collateral that must be submitted by the debtor to guarantee the repayment of his debt is one of the conditions imposed by the bank as a creditor in providing credit, especially if after the agreed period of time, the debtor does not pay off his debt or is in default.

Several studies have analyzed the role of legal instruments in protecting creditors, but this study adds value by framing the discussion within Hobbes' theory of justice. Previous research by Leonardy et al. (2023) highlights the importance of legal certainty in the enforcement of mortgage rights. Their study points out that while Indonesia's legal framework provides a foundation for creditor protection, gaps in implementation and inconsistent judicial rulings undermine creditors' ability to enforce their claims. This study echoes those findings, but it advances the discussion by situating these challenges within Hobbes' broader argument for a state-enforced legal order. Hobbes emphasizes that without the authority of the state to uphold agreements, society would descend into chaos—a concept mirrored in the financial sector when creditors cannot rely on the legal system to uphold mortgage rights.

Article 1238 of the Civil Code states that a debtor is declared negligent by a letter of instruction, or by a similar deed, or based on the power of the obligation itself, namely if this obligation results in the debtor being deemed negligent by the passage of the specified time. The provisions of Article 1238 of the Civil Code state that a debtor is declared negligent if there has been a summons.

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Creditors have the right to performance and debtors are obliged to fulfill the performance obligations towards creditors. The existence of legal protection for creditors in credit contracts that use collateral is very important. The goal is to provide security to creditors, especially in situations where customers do not act in good faith or when debtors have difficulty in fulfilling their obligations. Creditors have the power to demand performance and if necessary can demand payment of performance through the debtor's assets. Legal protection for creditors is generally regulated through Articles 1131 and 1132 of the Civil Code.

Article 1131 of the Civil Code states that "collateral is the property of the debtor, whether movable or immovable, whether existing or new in the future, which becomes collateral for all individual obligations." Article 1131 of the Civil Code stipulates an obligation for a debtor to provide a guarantee to a creditor for a debt that he has received. Without a guarantee that has been specifically determined, all of the debtor's assets, whether existing or future, automatically become collateral when the person makes a debt agreement, even though this is not expressly stated in the agreement. Article 1132 of the Civil Code explains that the object becomes a joint guarantee for all those who have credit with it, the income from the sale of the object is divided according to the balance according to the size of each creditor's debt, unless there are legitimate reasons for priority between the creditors. This article explains that the income from the sale of objects is divided according to the balance based on the size of each receivable, unless there are legitimate reasons between the receivables.

Research by Harun (2010) focused on the role of collateral in securing credit, noting that strong legal protection of creditors through mortgage rights is essential for encouraging economic growth. Harun's work, however, did not consider the theoretical underpinnings of such legal protections. This current study builds on Harun's findings by demonstrating that mortgage rights not only provide practical benefits in protecting creditors but also serve a broader societal function of maintaining order, as Hobbes suggests. By enforcing the contractual obligations between debtors and creditors, the state contributes to economic stability, which aligns with Hobbes' theory of justice as a system that maintains social peace through the protection of property rights.

Mortgage rights are regulated in Law Number 4 of 1996 concerning Mortgage Rights. Several things that are important points regarding mortgage rights as collateral are as follows:

Collateral Object: Mortgage rights can be imposed on immovable objects, such as land and buildings, as well as on certain movable objects with the approval of the competent authority.

Registration: To have legal force against third parties, mortgage rights must be registered at the mortgage registration office or land office according to the type of object. This registration aims to provide legal protection for creditors and guarantee their rights to the objects used as collateral.

Creditor Rights: Creditors who hold collateral have the right to execute the object used as collateral if the debtor fails to fulfill his obligations. This execution is carried out through an auction process in accordance with applicable legal provisions.

Priority: Mortgage rights give creditors the privilege to obtain debt repayment before other creditors who do not have mortgage rights over the same object. This means that if an auction occurs for the object, creditors with mortgage rights will take priority in terms of payment.

Changes and Transfers: Mortgage rights can be transferred or assigned, but this transfer must follow established procedures to remain valid and recognized.

Deletion: Mortgage rights can be erased if the secured debt has been paid off or if the collateral object has been removed from the mortgage rights registration list.

Mortgage rights are important because they can provide additional guarantees for creditors and guarantee that creditors will fulfill their obligations, as well as providing legal certainty and protection for parties involved in credit transactions. However, in practice, there are potential obstacles and problems in mortgage

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rights that violate the legal protection of creditors. The potential for disputes can arise in the registration of mortgage rights, if the mortgage rights are not registered legally or do not comply with applicable procedures, these rights may not be legally recognized. Mortgage rights problems can also arise in the aspect of collateral execution, when the collateral execution process that is not in accordance with legal provisions can violate the creditor's right to obtain repayment of his debt.

Similarly, Ridha et al. (2024) examined the risks associated with the non-enforcement of mortgage rights, particularly in volatile economic conditions. They identified legal ambiguities and the lack of consistent enforcement as major obstacles to creditor protection. This study supports their conclusions, but extends the analysis by linking these legal risks to Hobbes' notion of the "war of all against all." Without a reliable legal system, creditors may hesitate to engage in financing, fearing that their rights will not be protected if a debtor defaults. By upholding mortgage rights, the state plays its Hobbesian role of preventing financial anarchy, thereby encouraging more stable credit markets.

Thomas Hobbes in his work Leviathan defines justice as a social agreement to maintain order and security. Hobbes believed that without a strong central authority, humans would be in a state of "war of all against all" (bellum omnium contra omnes). To prevent this chaos, individuals surrender some of their freedoms to sovereign authorities, who then have an obligation to protect their rights. In the context of mortgage rights, this means that creditors and debtors enter into an agreement regulated by state law to ensure the protection of each party's rights.

Mortgage rights are material rights over land to guarantee the repayment of certain debts, giving creditors the right to sell the land if the debtor fails to pay it. Mortgage rights give creditors the privilege to obtain debt repayment from the proceeds of the sale of the land. Mortgage rights give creditors priority rights to the proceeds of the sale of the property used as collateral if the debtor fails to fulfill its obligations. This gives creditors the certainty that they will receive payment first before other creditors or third parties. With legally recognized mortgage rights, creditors have certainty and confidence that their rights are recognized and protected by the legal system. This certainty is important to prevent disputes and provide a sense of security in financing transactions. If the debtor defaults, the creditor has the right to execute the guarantee through a regulated legal process. This means the creditor can sell the property used as collateral to pay off the debtor's debt.

However, the study identifies several challenges in the enforcement of mortgage rights in Indonesia, particularly with respect to legal ambiguities and delays in court proceedings. These challenges are consistent with the findings of Zulkarnain et al. (2024), who noted that creditors often face significant obstacles in executing their mortgage rights due to bureaucratic inefficiencies and legal loopholes. This study further contextualizes these challenges within Hobbes' framework, arguing that such obstacles undermine the state's ability to maintain order and protect property rights. Without a well-functioning legal system, creditors are left vulnerable, which can lead to a breakdown in the credit system—a situation Hobbes would describe as a failure of the social contract.

Mortgage rights can be seen as part of a social contract in the world of financing. Creditors and debtors agree to follow the legal rules governing mortgage rights as a guarantee of security and certainty for both parties. This is in line with Hobbes' view that law and authority are necessary to maintain order and prevent chaos. According to Hobbes, justice is compliance with the social contract and the laws that result from that contract. Lien rights provide a mechanism for creditors to assert their rights fairly and legally if the debtor fails to fulfill his obligations. This creates a fair environment where the rights and obligations of both parties are protected by law. In Hobbes' theory, the state or Leviathan is an entity that ensures the enforcement of law and order. The state, through the legal and judicial system, ensures that the creditor's mortgage rights are respected and can be executed if necessary. This then creates a sense of security and trust in financing transactions. Mortgage rights are a manifestation of a social contract in the world of financing, where creditors and debtors agree to bind themselves to legal arrangements for the common interest.

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As discussed, mortgage rights in Indonesia serve as a legal instrument to protect creditors by giving them priority in debt recovery through secured assets. This aligns with Hobbes' idea of justice, where the state enforces agreements and maintains social order. The study finds that mortgage rights provide legal certainty by allowing creditors to claim assets that have been pledged as collateral if a debtor defaults. This is particularly relevant in Indonesia, where economic instability can increase the risk of default.

In contrast to studies like Pettanase et al. (2023), which focused on the procedural challenges in executing mortgage rights, this research highlights the theoretical justification for enforcing such rights as part of the state's duty to uphold justice. Pettanase et al. emphasized the legal hurdles creditors face, including delays in court proceedings and inconsistencies in mortgage registration. While these procedural issues are important, this study suggests that addressing them requires a deeper understanding of the philosophical rationale behind legal protections. Hobbes' theory offers this rationale by framing mortgage rights as essential to maintaining social order and preventing conflict between creditors and debtors.

Mortgage rights play a pivotal role in creating security and order in credit transactions by offering legal certainty to creditors. This legal framework ensures that creditors can claim their collateral in the event of a debtor's default, thus minimizing the risks associated with lending. The assurance provided by mortgage rights is particularly important in reducing potential conflicts and uncertainties that can damage economic relations between creditors and debtors. When creditors feel confident that their legal rights will be upheld, they are more likely to engage in credit transactions, which in turn promotes economic growth and financial stability (Saputra, 2023).

According to Thomas Hobbes, the state, or sovereign authority, plays a critical role in protecting individual rights. In Hobbes' view, without a strong, centralized authority to enforce laws and contracts, society would descend into a state of nature characterized by chaos and conflict. In the context of credit transactions, the government's role is to regulate mortgage rights to ensure that creditors are protected. This regulation gives creditors the legal tools they need to recover their funds if debtors fail to meet their obligations (Hobbes, 1651).

Hobbes' theory of justice emphasizes the importance of agreement and the fulfillment of contracts as a means of maintaining social order. In a well-functioning society, individuals enter into contracts with the expectation that the state will enforce these agreements. Mortgage rights embody this principle by ensuring that the contracts between creditors and debtors are enforced fairly. The government, through the legal framework of mortgage rights, provides a clear and predictable mechanism for resolving debt disputes. This legal certainty is crucial in preventing disputes from escalating into larger conflicts, which could undermine the stability of financial markets (Harun, 2010).

Legal certainty is a fundamental aspect of the mortgage rights system. It ensures that both parties—creditors and debtors—understand their obligations and rights under the law. Mortgage rights provide creditors with priority over other claimants in recovering their funds from the sale of collateral, thus offering a degree of security that is vital for maintaining trust in financial transactions. As Leonardy et al. (2023) point out, the absence of legal certainty can lead to disputes and undermine the credibility of the financial system. By providing a transparent legal framework, mortgage rights reduce the likelihood of conflicts arising from unclear or unenforceable agreements.

The fair enforcement of mortgage rights is essential to maintaining justice in financial transactions. Hobbes argues that the enforcement of contracts is not only a matter of legal necessity but also a fundamental aspect of justice. In his view, justice is achieved when the state ensures that individuals honor their agreements. In the context of mortgage rights, this means that the state must enforce the terms of the mortgage contract in a way that is fair to both creditors and debtors. Rustam (2017) highlights that without proper enforcement mechanisms, creditors may be unable to recover their losses, leading to financial instability. Therefore, the government must ensure that mortgage rights are enforced consistently and fairly to maintain order and justice in the financial system.

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Mortgage rights are an essential legal mechanism that creates security and order in credit transactions by providing legal certainty to creditors. By ensuring that contracts between creditors and debtors are enforced fairly, mortgage rights help prevent conflicts that could otherwise harm economic relations. According to Hobbes' theory of justice, the role of sovereign authority is to protect individual rights, and in this context, the government fulfills its responsibility by regulating mortgage rights to protect creditors. This legal framework not only safeguards the financial interests of creditors but also contributes to the overall stability and predictability of the financial system.

The study also finds that mortgage rights serve a distributive justice function by ensuring that creditors are compensated before other claimants in the event of a debtor's insolvency. This is consistent with Hobbes' idea that justice involves the fair distribution of benefits and burdens in society. By granting creditors priority, mortgage rights help to ensure that the risks and rewards of credit transactions are distributed fairly. In this context, the state's role is to enforce these priorities, thereby preventing conflicts over resources and maintaining financial stability.

Previous research, such as Rustam (2017), has discussed the importance of prioritizing creditors in debt recovery but did not explore the philosophical underpinnings of such prioritization. This study adds a new dimension to Rustam's work by arguing that prioritizing creditors is not merely a legal necessity but a requirement for distributive justice as conceptualized by Hobbes. When creditors are assured that their claims will be honored, they are more likely to engage in lending, thus facilitating economic transactions that benefit society as a whole.

Based on these findings, this study recommends strengthening the legal framework surrounding mortgage rights to ensure better enforcement and greater legal certainty. Improvements in judicial processes, more transparent registration systems, and clearer legal guidelines for the execution of mortgage rights are essential for maintaining the social order that Hobbes advocates. These reforms would not only benefit creditors but also contribute to the overall stability of Indonesia's financial system.

While previous studies like Wijaya and Mubin (2024) focused on procedural improvements, this study emphasizes the need for a more profound alignment between Indonesia's legal system and Hobbesian principles of justice. By ensuring that mortgage rights are effectively enforced, the state can fulfill its role in preventing the chaos that arises from legal uncertainty and the failure to protect contractual rights.

Conclusion

Mortgage as a collateral instrument provides significant legal protection for creditors in the Indonesian legal system. Based on Thomas Hobbes' theory of justice, mortgage creates security and order in credit transactions, protects creditors' rights and ensures fair fulfillment of contracts. To increase the effectiveness of this protection, there needs to be an increase in the implementation of laws and strict supervision. Thus, the government needs to strengthen regulations and ensure that law enforcement related to creditor protection is fair and efficient. There needs to be education and socialization to improve the understanding of debtors and creditors about mortgage rights and their rights. And there needs to be an improvement in the mortgage registration system to increase transparency and reduce corrupt practices.

The findings of this study have several practical implications for policymakers, legal practitioners, and financial institutions. Firstly, the legal framework surrounding mortgage rights in Indonesia must be strengthened to ensure better enforcement and greater legal certainty for creditors. Secondly, this research underscores the importance of public education and awareness regarding mortgage rights.

While this study has provided valuable insights into the role of mortgage rights in creditor protection, there are several avenues for future research. One potential area for further exploration is the comparison of Indonesia's mortgage rights framework with those of other jurisdictions. A comparative analysis could reveal best practices from other countries that could be adopted in Indonesia to strengthen creditor protection and improve the efficiency of the legal system.

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Additionally, future studies could focus on the role of technology in enhancing the enforcement of mortgage rights. For instance, the use of digital platforms for mortgage registration and execution could streamline the process and reduce the risks associated with bureaucratic delays. The impact of digitalization on legal frameworks for creditor protection presents an exciting opportunity for further research.

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