

INTERNATIONAL BUSINESS

An Advocate for Indonesia's Debtors

By WAYNE ARNOLD

JAKARTA, Indonesia, June 30 — Bankruptcy has been very, very good to Hotman Paris Hutapea.

Since last August, when Indonesia inaugurated a new bankruptcy law and a new commercial court to enforce it, the outspoken 39-year-old lawyer has become the man to go to for companies trying to elude creditors. He claims to have handled roughly half of the 50-odd bankruptcy cases filed so far with the court, including one of his rare defeats, which came only after Indonesia's Supreme Court reversed its own ruling on behalf of creditors from the World Bank. Last week, a leading Indonesian business magazine put Mr. Hutapea's face on its cover as one of the "most expensive" people of 1999. In a nation where judges earn less than \$3,000 a year, clients pay Mr. Hutapea on average \$50,000 up front to take cases that will last only a month, he says.

"Too many big debtors like me," he says, his hands folded in front of him to reveal a diamond-encrusted gold watch, a gold bracelet and a heavy opal ring.

Many lawyers here say Mr. Hutapea has an uncanny ability to persuade Jakarta's judges to rule in his clients' favor. "The judge doesn't control the proceedings; Hotman does," says P. D. D. Dermawan, a Jakarta lawyer, who has faced Mr. Hutapea several times in court, though not in bankruptcy cases. "You have to see it to believe it."

Mr. Hutapea has been so successful that frustrated bankers are criticizing the new bankruptcy law as inadequate and the court as inept, anti-foreigner or just plain corrupt.

Unlike bankruptcy laws in the West, which typically aim to protect debtors, Indonesia's new bankruptcy law was designed by the International Monetary Fund to give creditors a legal cudgel to force Indonesia's deeply indebted, but well-connected, corporate elite to pay up.

Mr. Hutapea says his clients deserve the best lawyer money can buy, but his zeal in defending Indonesian debtors reflects his own conviction that the I.M.F.-sponsored law represents an unfair foreign dictate, even if Indonesia's legislature approved it. Besides helping clients skirt foreclosure, he is helping them counterattack by suing prominent foreign banks, accusing them of selling derivatives that ended up deepening borrowers' troubles. He has

also sued some foreign businesses that he contends have operated illegally in Indonesia.

Indonesian companies owe at least \$98 billion to banks, bondholders and other creditors, \$65 billion of it to foreigners. Some analysts estimate that four of every five Indonesian companies are in technical default, so much of their debts are in default. But under Indonesia's previous bankruptcy law, adopted nearly a century ago under Dutch rule, cases could drag on indefinitely. So when the I.M.F. came in with a \$40 billion bailout package in late 1997, it demanded a new law to strengthen the rights of creditors.

Economists and consultants say the court's bankruptcy rulings are damaging confidence among potential foreign investors and delaying Indonesia's recovery. When the auto maker PT Astra International stopped paying its creditors last Au-

Critics say the bankruptcy rulings hinder Indonesia's recovery.

gust, for example, bankers waited 11 months for a deal rather than go to court. "We didn't trust Indonesian bankruptcy law," said Shingo Ota, senior vice president at the Industrial Bank of Japan Ltd., Astra's largest foreign creditor. "We didn't know how long it would take or how much it would cost."

Some lawyers say the disappointment over the bankruptcy court highlights the inadequacy of any bankruptcy court to solve problems on the scale of Indonesia's. Bankruptcy laws are not meant to deal with an entire national meltdown, said James Redway, a lawyer with the Philadelphia-based law firm of Morgan, Lewis & Bockius. "What we have here," Mr. Redway says, "is the entire economy walking into the hospital at the same time and saying, 'I'm dying, help me,' and there aren't enough operating rooms to deal with them all."

Mr. Hutapea, who concedes that he wins most of his cases on technicalities, agrees, adding that it is not the law that is inadequate, it is the lawyers.

"They don't know what they're

doing," he says of his opponents. "They don't know how to read the mind of the judge."

Mr. Hutapea was born in northern Sumatra to a family descended from the Batak, a famously argumentative tribe.

He earned his law degree from a small Catholic university on the main island of Java when he was 21. Two years later, he joined a law firm in Jakarta, where he remained until May, when he formed his own practice.

While Mr. Hutapea's career was developing, Indonesia's legal system remained stunted. Poorly paid judges succumbed to politics and patronage. Mr. Hutapea declined to comment on the corruptibility of judges, other than to say, "I'm only asking you: are other officials in this society corruptible?"

Bankers with long-time experience in Indonesia must surely be experiencing déjà vu.

Adam Schwarz, in his 1994 book, "A Nation in Waiting," about Indonesia under former President Suharto, offers as a case study of the frustrations the story of Bentoel, an Indonesian cigarette maker that in 1991 told creditors it was insolvent and owed \$350 million. Bentoel's bankers, including Citibank and the Bank of Tokyo, eventually filed a bankruptcy petition against one Bentoel shareholder who had personally guaranteed the company's loans. A court in Bentoel's hometown ruled that the banks could not enforce a personal guarantee unless the company was in liquidation, which it was not. Successfully defending the guarantor was Mr. Hutapea.

"Even the murderer is entitled to a lawyer," Mr. Hutapea said. And in the style of the American lawyers Alan Dershowitz and Johnnie Cochran, Mr. Hutapea took on notorious clients. In late 1997, he represented Suharto's second-eldest son, Bambang Trihatmodjo, in a short-lived case against the Government's decision to liquidate Mr. Bambang's Bank Andromeda. (He said he dropped the suit because it was too sensitive politically.) And when two riot policemen went on trial in June for the shooting deaths of four university students during a demonstration, Mr. Hutapea was on the defense team. (Each received a sentence of less than a year in jail.)

When the new bankruptcy law was adopted in April, Mr. Hutapea called it the end of the deadbeat era and a great opportunity for lawyers, whose own fortunes were sagging with



Kemal Jufri for The New York Times

Hotman Paris Hutapea, a lawyer, has had a string of victories under Indonesia's new bankruptcy law.

those of their corporate clients. The best part about the new law was how it expedited cases. Instead of taking months or years, the court must reach a verdict within 30 days.

It is in the decrepit Central Jakarta District Court building, littered with flattened cigarette butts, that Mr. Hutapea argued the new bankruptcy law's first case. His client was a Japanese-Indonesian construction company that had not been paid for a golf course it had built. He won a court-supervised restructuring. He also won a case on behalf of 11 foreign banks.

Then he began a string of victories for debtors. He thwarted a bid by American Express Bank to force a cocoa producer into bankruptcy proceedings. He saved the owner of a Sheraton hotel. He convinced the Supreme Court to overturn the victory over a builder by two would-be tenants who had made down payments for unbuilt apartments.

Mr. Hutapea is also known for a blistering attack on Jerry Hoff, a Dutch lawyer who helped the International Monetary Fund draft the bankruptcy law and who was the winning lawyer in one of Mr. Hutapea's courtroom defeats.

After Mr. Hoff criticized Indonesian judges in the press, Mr. Hutapea responded with an open letter to judges and the news media calling Mr. Hoff's comments insulting. Not long afterward, Mr. Hoff left Indonesia.

"I don't want a foreign lawyer to mess around in my country," Mr. Hutapea said. "I welcome them but they have to behave. They treat Indonesia like a jungle."