

Global restructuring law: Taking stock and giving back

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Global Restructuring Law: Taking Stock and Giving Back



Inaugural address, spoken by,
Prof. dr. Omar Salah

Professor Omar Salah (born in Kabul, Afghanistan on 14 March 1985) was appointed as Professor of Global Finance and Restructuring Law at Tilburg University on 1 September 2021. He delivers this inaugural address in acceptance of that position as university professor (*gewoon hoogleraar*). In addition to his work in academia, he is a Partner at Norton Rose Fulbright where he heads the Restructuring Group in Amsterdam.

He obtained an LLB in Dutch Law (with distinction) and an LLB in International and European Law (with distinction) at Tilburg University in 2008. In 2009, he obtained an LLM in Dutch Law (cum laude) at Tilburg University. He studied as an exchange student at the North-West University in South Africa in 2008 and at the University of California, Berkeley in the United States in 2009. In 2014, he defended his PhD thesis on Islamic finance titled “Sukuk Structures: Legal Engineering Under Dutch Law” at Tilburg University. He has been a visiting researcher at the University of Oxford, the University of Melbourne and La Trobe University. He was also a visiting professor on Islamic finance at IE University in Madrid, Spain between 2015 and 2019. In 2021, he was appointed as Professor of Global Finance and Restructuring Law at Tilburg University.

Salah has combined academia with private practice throughout his career. In 2010, he worked at the London offices of law firm King & Spalding. Between 2011 and 2021, he worked as a lawyer at the Amsterdam and Singapore offices of De Brauw Blackstone Westbroek. In 2021, he joined Norton Rose Fulbright as a Partner in the the Banking and Finance Practice Group as well as the Head of the Restructuring Group in Amsterdam.

His recent work includes a textbook on the Dutch WHOA, titled ‘*Buiten faillissement en surseance van betaling*’ (meaning “Outside of bankruptcy and suspension of payments”), which he co-authored with Emeritus Professor Bob Wessels.

Global Restructuring Law: Taking Stock and Giving Back

Prof. dr. Omar Salah

Inaugural address,

delivered in adapted form on the occasion of the public acceptance of the position of Professor of Global Finance and Restructuring Law at Tilburg University on 5 September 2025.

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Global Restructuring Law: Taking Stock and Giving Back

I Introduction

*Rector Magnificus,
Members of the board of Tilburg University,
Dean of Tilburg Law School,
Dear family, friends, colleagues, students and other highly valued guests,*

With this inaugural address, I officially accept the appointment of university professor at Tilburg University. I hold the chair in Global Finance and Restructuring Law, and the focus of this address is on global restructuring law. Over the past years, we have seen significant changes in the field of restructuring law across the globe with restructuring and insolvency law reforms taking place in various jurisdictions. In Europe, we have been moving towards a business rescue culture, especially with the implementation of the European Restructuring Directive.¹ At a European level, we are also seeing efforts to harmonize insolvency laws.² In the Netherlands, one of the most profound legislative amendments of the Dutch Bankruptcy Act (*Faillissementswet*) in the last century was the enactment of the Act on Sanctioning of a Restructuring Plan (*Wet homologatie onderhands akkoord*), also known by its acronym the “WHOA”.

On 1 January 2021, the WHOA entered into force. Since then, the WHOA has witnessed a remarkable development in practice and jurisprudence. The WHOA was inspired by the English scheme of arrangement and the US Chapter 11 proceeding. But time has not stopped in those jurisdictions. Over the last years, there have been interesting developments in the UK and the US. I believe that it is valuable to follow those developments and to raise the question: What can we learn from the developments in the jurisdictions that have inspired the codification of the WHOA to further shape the WHOA? Today, it is time to take stock and assess where we stand.

¹ Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency).

² On 1 July 2025, the European Parliament published a report on the proposal for a Directive of the European Parliament and of the Council harmonising certain aspects of insolvency law (https://www.europarl.europa.eu/doceo/document/A-10-2025-0126_EN.html, last visited on 31 July 2025). This followed a Proposal for a Directive of the European Parliament and the Council harmonising certain aspects of insolvency law that the European Commission had published earlier on 7 December 2022.

In Tilburg, we have a tradition of “understanding society”. We have formulated this as our mission as a university. The goal of this university is to actively contribute to society. We wish to embed our education and research in society, guided by key principles such as sustainability and diversity in the context of corporate social responsibility. According to our mission statement as set out on our website, we are committed to a society based on these values to which we give shape jointly with citizens and social organizations, government and business.

Therefore, today, I do not want to take stock only, but I would also like to assess how we can give back. With the introduction of the WHOA, we have an excellent state-of-the-art restructuring tool in the Netherlands. Yet, other parts of the Kingdom of the Netherlands have not amended their insolvency laws in this respect in recent years. Could the WHOA provide inspiration to improve the laws of the other parts of the Kingdom of the Netherlands? What about other countries, such as Indonesia, that share with us the same origin of insolvency law? Could the WHOA provide inspiration to enhance the restructuring and insolvency law framework of Indonesia? I will make an attempt to answer some of these questions today and to spark a debate for the search of better questions and their answers in the time to come at this university.

2 The WHOA

2.1 Introduction

The WHOA is a restructuring proceeding that aims to restructure viable businesses with over-indebtedness, but it may also serve to liquidate companies. In essence, a company in financial distress may petition for the WHOA to bind a dissenting minority of creditors and shareholders to a restructuring plan (*akkoord*), provided that certain statutory requirements for sanctioning (*homologatie*) are met. The proceeding is efficient, effective and expeditious. Here is how it works.

2.2 WHOA restructuring proceeding

A debtor in financial distress will prepare a restructuring plan.³ The WHOA restructuring plan may affect the rights of creditors and shareholders. The debtor will offer the restructuring plan to creditors and shareholders whose rights are affected by the plan – they will be entitled to vote on the restructuring plan. The debtor will divide its creditors and shareholders into separate classes within which they can cast their vote. The WHOA restructuring plan is adopted by a class, if the plan is adopted by creditors or shareholders holding claims or shares that represent two-thirds of the total value of all claims or shares in that class for which a vote was casted. Upon petition by the debtor, the court will sanction the restructuring plan if certain conditions are met. The court will assess whether certain procedural requirements are met (for example, in respect of disclosure of information and due process). Furthermore, the court will assess whether certain additional grounds have been respected. One such ground is the “best-interest-of-creditors test”: if a creditor or shareholder invokes this ground, the court will assess whether such creditor or shareholder is worse off under the plan than in liquidation in bankruptcy. Another such ground is the “absolute priority rule”: if invoked by a creditor or shareholder who voted against the plan and who is part of a class that rejected the plan, the court will assess whether the distribution of the reorganization value under the restructuring plan respects the statutory and contractual ranking of claims. This rule is, however, not entirely “absolute”, as the court has the discretion to sanction the plan if there are reasonable grounds to deviate from the absolute priority rule and the interests of the relevant creditors or shareholders are not materially affected by such deviation.

³ I will refer to the debtor as the party that is in charge of concluding the restructuring plan under the WHOA for purposes of legibility. However, I do acknowledge that this task will rest with the restructuring expert (*herstructureringsdeskundige*), if appointed by the court.

Inspired by the US Chapter 11 proceeding, the WHOA introduced the concept of a “cross-class cram down” for the first time in Dutch insolvency law. Under the WHOA, if at least one “in-the-money” class of creditors adopts the restructuring plan, the debtor may request the court to sanction the restructuring plan. The WHOA also has various other features that make this restructuring instrument highly effective. The debtor may petition for a moratorium for a maximum period of 8 months (including all extensions). It is also possible to petition for other forms of bespoke relief. Furthermore, the debtor may ask the court for interim judgments to clarify certain matters that are relevant for the sanctioning of the plan. Under the WHOA, it is possible to restructure guarantees of group companies of the debtor. *Ipso facto* clauses are deactivated. And it is also possible to terminate onerous contracts and restructure any damages arising therefrom under the WHOA restructuring plan.

Last but not least, two new insolvency professionals were introduced in Dutch insolvency law with the enactment of the WHOA: the restructuring expert (*herstructureringsdeskundige*) and the observer (*observator*). Both are court appointed and are required to act effectively, impartially and independently. Whilst a restructuring expert is in charge of concluding the restructuring plan, the observer has a more passive role to observe the restructuring proceeding. Nonetheless, we have witnessed that in practice courts tend to look at the observer when taking decisions in a WHOA-proceeding and rely on their views.

2.3 Developments in practice

The Netherlands has developed a strong community of restructuring professionals (lawyers, financial advisors, valuers, etc.), but one of the main successes of the WHOA is an excellent judiciary that has built and concentrated its expertise in WHOA cases. Within the Dutch judiciary, there is a pool of expert judges dealing with WHOA cases. I feel honoured that we have some of the judges of the WHOA pool among us during this address.

The WHOA judges publish an annual report on the WHOA to monitor and report on trends. According to their first annual report, in the first two years of the enactment of the WHOA (in 2021 and 2022), 293 start declarations

(*startverklaringen*)⁴ were filed – which mark the commencement of preparations for a WHOA-proceeding – and 314 court orders⁵ were handed down.⁶ A more personal and anecdotal observation from practice was that most of the WHOA-proceedings in those first two years related to small and medium-sized companies (SMEs). I believe this is a good development as it shows the accessibility of the WHOA for SMEs, although I appreciate that there is room for improvement here.

In the subsequent years, we have seen a comparable development. In 2023, 335 start declarations were filed and 157 court orders were issued.⁷ In 2024, 463 start declarations were filed and 164 court orders were issued.⁸ Remarkably, in the last two years, we have seen a rise in the number of large, international WHOA-proceedings. For example, larger Dutch corporates like Vroon and Royal IHC have been filing for WHOA-proceedings since then. Furthermore, foreign debtors like the South African Steinhoff, the American McDermott and the Brazilian InterCement filed for WHOA-proceedings. It is clear that the WHOA is meeting a demand in practice if we take stock of where we stand in 2025. The WHOA has taken a prominent position in the Dutch insolvency landscape. Also internationally, it has been acknowledged as a restructuring force to be reckoned with.

⁴ In 2021, there were 182 start declarations and in 2022 there were 111 start declarations. If one would correct these numbers for companies that filed combined start declarations (e.g. group companies), there were 132 start declarations in 2021 and 71 start declarations in 2022. The amount of actual proceedings was lower, i.e. 69 proceedings in 2021 and 39 proceedings in 2022. See F. Damsteegt and M.J.P. Vink, *Jaarverslag rechters WHOA-pool 2021-2022*, de Rechtspraak 2022 (<https://www.rechtspraak.nl/SiteCollectionDocuments/jaarverslag-rechters-whoa-pool-2021-2022.pdf>, last visited on 31 July 2025), p. 4-5.

⁵ There were 180 court orders in 2021 and 134 court orders in 2022. The amount of court orders, however, do not reflect the amount of actual WHOA-proceedings, as it is possible – and often the case in practice – that multiple court orders are granted in a single WHOA-proceeding (e.g. a court order for a moratorium and a court order to sanction a restructuring plan). See F. Damsteegt and M.J.P. Vink, *Jaarverslag rechters WHOA-pool 2021-2022*, de Rechtspraak 2022 (<https://www.rechtspraak.nl/SiteCollectionDocuments/jaarverslag-rechters-whoa-pool-2021-2022.pdf>, last visited on 31 July 2025), p. 4-5.

⁶ F. Damsteegt and M.J.P. Vink, *Jaarverslag rechters WHOA-pool 2021-2022*, de Rechtspraak 2022 (<https://www.rechtspraak.nl/SiteCollectionDocuments/jaarverslag-rechters-whoa-pool-2021-2022.pdf>, last visited on 31 July 2025), p. 5.

⁷ F. Damsteegt and M.J.P. Vink, *Jaarverslag WHOA-pool 2023*, de Rechtspraak 2023 (<https://www.rechtspraak.nl/SiteCollectionDocuments/Jaaverslag-rechters-WHOA-pool-2023.pdf>, last visited on 31 July 2025), p. 5.

⁸ P.J. Neijt, M.J.P. Vink and J.F.N. Andreae, *Jaarverslag WHOA-pool 2024*, de Rechtspraak 2024 (<https://www.rechtspraak.nl/SiteCollectionDocuments/Jaaverslag-rechters-WHOA-pool-2024.pdf>, last visited on 31 July 2025), p. 3.

2.4 Developments in law

On the legislative front, the WHOA was amended on 1 January 2023 in order to align it with, and ensure the implementation of, the EU Restructuring Directive. Furthermore, the government had announced a government evaluation of the WHOA after three years from the enactment of the law. This evaluation report, conducted by a group of academics from the University of Groningen and Leiden University on behalf of the Academic Research and Data Centre (*Wetenschappelijk Onderzoek- en Datacentrum*, WODC), was published in December 2023.⁹ According to the evaluation report, the WHOA achieves its core objective of improving the reorganization capacity of viable businesses. The evaluation did highlight certain topics that would require legislative amendments with recommendations being divided into three categories: (i) amendments that can be easily accommodated, (ii) amendments that require further consideration, and (iii) amendments that can be accommodated after further development in practice.

With more than 635 court orders and counting, many interesting questions on the law have been answered by now under the WHOA. To name a few examples, based on jurisprudence we have learned that (i) voting rights of shareholders can be suspended, (ii) a moratorium under the WHOA also halts the exercise of voting rights by a pledgee of a right of pledge over shares, and (iii) for purposes of determining the reorganization value of the company, letters of credit facilities should be considered as operational expenses rather than debt (except for letters of credit that have been issued to the relevant beneficiaries and are drawn by them or are most likely to be drawn by them).¹⁰ Under the WHOA, we have also learned that in competing proceedings before the WHOA courts and the Dutch Enterprise Chamber,¹¹ the Dutch Enterprise Chamber will respect the authority and jurisdiction of the WHOA courts and not unnecessarily interfere with a restructuring that is before the WHOA courts.¹²

⁹ F.M.J. Verstijlen, R.D. Vriesendorp *et al.*, *Evaluatie Wet homologatie onderhands akkoord* (WODC Report 3387), WODC 2023 (<https://repository.wodc.nl/handle/20.500.12832/3338>, last visited on 31 July 2025).

¹⁰ Rb. Amsterdam 25 March 2021, ECLI:NL:RBAMS:2021:1876; Rb. Zeeland-West-Brabant 23 December 2023, ECLI:NL:RBZWB:2022:8628; Rb. Amsterdam 12 February 2024, ECLI:NL:RBAMS:2024:1057.

¹¹ The Dutch Enterprise Chamber is part of the Amsterdam Court of Appeal.

¹² Hof Amsterdam (OK) 31 March 2023, ECLI:NL:GHAMS:2023:3639.

One of the most impactful judgments on the WHOA since its enactment has undoubtedly been the ruling of the Dutch Supreme Court in the WHOA-proceeding of Royal IHC.¹³ As most of you present here know, I am biased as I advocated the position on behalf of the dissenting creditor. But regardless of whether you would agree with that position or not, I do hope that we can all agree that it is good that the Dutch Supreme Court has provided clarity on the matters that were at stake. In my view, this adds to legal certainty which is crucial for the development of the WHOA and its credibility. As an academic, I believe there are some important lessons to be drawn from this landmark judgment:

1. On substantive matters, the ruling of the Dutch Supreme Court has given legal certainty around two important topics on the WHOA:
 - A. The WHOA allows for changes to the waterfall of claims, regardless of whether those changes are implemented through a change of the ranking of *in rem* rights or whether those changes are implemented through an amendment of an (intercreditor) agreement. This certainly opens the door for rescue financing, but is not putting us at par with DIP-financing in US Chapter 11 proceedings; and
 - B. The WHOA does not allow a debtor to impose obligations on financiers to provide new financing or to keep existing commitments available on amended terms under an existing financing. In other words, the WHOA does not allow a debtor to impose new financing or to impose amendments to commitments under facilities agreements. In both these cases, the debtor is affecting the obligations (and not the rights) of creditors. I believe that this is a welcome clarification which gives clarity to practice on how to deal with revolving credit facilities and guarantee facilities under the WHOA. However, I disagree with the view that the Dutch Supreme Court has said more than this. The Dutch Supreme Court did not expand on other topics and I do not believe that the ruling in Royal IHC limits amendments to financial covenants, interest or maturity date of facilities agreements. Going forward, though, legal practitioners should carefully assess for each amendment that is being imposed through the WHOA whether it amends a “right” of a creditor.

¹³ HR 10 October 2024, ECLI:NL:HR:2024:1533.

On procedural matters, the WHOA-proceeding of Royal IHC teaches us that:

- A. A complicated, large restructuring can be implemented through the WHOA within a short period of three months, leading to a final and definitive judgment for the parties involved. Yes, indeed – I am a profound supporter of the current legal regime that does not provide for appeal under the WHOA. The parties involved in a WHOA-proceeding need a swift, efficient and effective instrument that leads to a final and definitive judgment at the end of the WHOA-proceeding. The legislature excluded the possibility for appeal (*hoger beroep*), stating that this is justified and necessary given that the debtor is facing insolvency and requires an expeditious and final judgment to avoid a bankruptcy.¹⁴ The WODC evaluation report concludes that no insurmountable obstacles arise from the exclusion of appeal;¹⁵ and
- B. The possibility for cassation in the interest of the law (*cassatie in het belang der wet*) is an excellent remedy that perfectly fits the (economic) reality of restructurings as well as the objective of the legislature as just mentioned. It allows for judicial review of court orders of the WHOA courts by the Dutch Supreme Court without delaying the actual restructuring. The Procurator General (*Procureur-Generaal*) of the Dutch Supreme Court may file for a cassation in the interest of the law to raise questions that contribute to the unity and the development of the law. However, the judgement of the Dutch Supreme Court does not have any legal consequences for the parties involved in the legal proceedings. As was demonstrated by the WHOA-proceeding of Royal IHC, cassation in the interest of the law allows the parties involved in the restructuring to complete the restructuring and reach finality, whilst the questions that are relevant for the unity and the development of the law can still be addressed.¹⁶

¹⁴ *Kamerstukken II 2018/2019*, 35 249, No. 3 (MvT), p. 33.

¹⁵ F.M.J. Verstijlen, R.D. Vriesendorp *et al.*, *Evaluatie Wet homologatie onderhands akkoord (WODC Report 3387)*, WODC 2023 (<https://repository.wodc.nl/handle/20.500.12832/3338>, last visited on 31 July 2025), p. 153-155.

¹⁶ The WHOA court may also raise prejudicial questions to the Dutch Supreme Court. For an example of a ruling of the Dutch Supreme Court on (the scope of) the WHOA, see HR 25 February 2022, ECLI:NL:HR:2022:328.

2.5 Developments in cross-border restructurings

Finally, I would like to move towards cross-border restructurings. We have seen various fascinating developments in international restructurings over the past years. The WHOA has played a significant role in the rise of parallel restructuring proceedings. The first large restructuring under the WHOA where this was used was the restructuring of Vroon. Vroon is an international shipping company headquartered in the Netherlands. The company petitioned for a WHOA-proceeding in the Netherlands, initially to gain protection against creditors that had commenced enforcement action, but with the intention to implement its restructuring through a WHOA-proceeding that was being negotiated at that time. However, various of its facilities agreements were governed by English law and as the WHOA-proceeding continued in the Netherlands, doubts were raised on the recognition of the WHOA-proceeding in England due to the rule in *Gibbs*.¹⁷ In order to mitigate this risk, the company launched a scheme of arrangement in England to restructure its English law governed debt. This was the first time that a WHOA-proceeding was used in parallel with another foreign restructuring proceeding, in this particular case with the English scheme of arrangement. Yes, indeed – this has been a groundbreaking WHOA-proceeding setting an important precedent for other parallel proceedings that followed under the WHOA. By now, we have seen restructurings involving a WHOA-proceeding parallel to an English Restructuring Plan in the case of McDermott, but also a WHOA-proceeding in parallel with a US Chapter 11 proceeding in the case of Diebold Nixdorf.

One of the reasons that we have seen a rise in parallel restructuring proceedings is that recognition of foreign restructuring and insolvency proceedings can be challenging. But where do we stand with the recognition of foreign restructuring proceedings currently? A public WHOA-proceeding is on Annex A of the European Insolvency Regulation¹⁸ and, as a result, will be automatically recognized across the EU (with the exception of Denmark). However, a private WHOA-proceeding is not on Annex A and the recognition thereof depends on the private international law of each jurisdiction. Jurisdictions that have adopted the UNCITRAL Model Law on Cross-Border Insolvency (1997) will most likely recognize (both the public and private version of) WHOA-proceedings.

¹⁷ *Antony Gibbs & Sons v La Société Industrielle et Commerciale des Métaux* (1890) 25 Q.B.D 399.

¹⁸ Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast).

In the restructuring of Diebold Nixdorf, a private WHOA-proceeding was recognized in a Chapter 15 proceeding in the US.¹⁹ However, the recognition of the WHOA in jurisdictions that have adopted the UNCITRAL Model Law on Cross-Border Insolvency (1997) may become a problem, if those countries require reciprocity with respect to recognition. Yes, indeed – the recognition of foreign restructuring and insolvency proceedings in the Netherlands could be challenging. Whilst restructuring and insolvency proceedings that are on Annex A of the European Insolvency Recognition will be recognized automatically in the Netherlands, restructuring and insolvency proceedings (of non-EU jurisdictions) that fall outside thereof fall under a separate regime that does not provide full recognition.²⁰ In this respect, I do applaud the approach of Singapore that enhanced its scheme of arrangements with Chapter 11 features and simultaneously adopted the UNCITRAL Model Law on Cross-Border Insolvency (1997) in 2017.²¹ Singapore also clarified that the Singapore International Commercial Court (SICC) has jurisdiction to hear cross-border restructuring matters. And, by now, we have seen the fruits of these efforts. On 18 January 2024, the SICC issued its first insolvency-related judgment where it recognized the Indonesian restructuring proceeding of Garuda Indonesia in Singapore.²² I am truly honoured that Justice Kannan Ramesh, who was a member of the panel of three judges in this case back then and who is a judge at the Singapore Supreme Court, is present today. I do believe we can learn from the approach taken by Singapore in this respect by adopting the UNCITRAL Model Law on Cross-Border Insolvency (1997) in the Netherlands and further promoting

¹⁹ *In re: Diebold Nixdorf Dutch Holding B.V.* (Case No. 23-90729).

²⁰ The insolvency proceeding of Yukos has resulted in a patchwork of case law which raises various questions on (the scope of) recognition of foreign insolvency proceedings in the Netherlands. The Dutch Supreme Court ruled that foreign insolvency proceedings may be recognized in the Netherlands if certain requirements are met, see HR 18 January 2019, ECLI:NL:HR:2019:54. However, based on case law of the Dutch Supreme Court, the principle of territoriality (*territorialiteitsbeginsel*) still applies in such cases, which means that creditors may still take recourse against assets located in the Netherlands, see HR 19 December 2008, ECLI:NL:HR:2008:BG3573; HR 13 September 2013, ECLI:NL:HR:2013:BZ5668.

²¹ The Committee to Enhance Singapore's Corporate Restructuring and Insolvency Regime released its report on additional restructuring and insolvency law reforms on 11 March 2025, whereby it proposes to also adopt the UNCITRAL Model Law on Enterprise Group Insolvency and the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments (https://www.mlwgov.sg/files/RI_Committee_Report__11Mar2025_.pdf, last visited on 31 July 2025).

²² *Re PT Garuda Indonesia (Persero) Tbk and another matter* [2024] SGHC(1) 1.

the Netherlands Commercial Court (NCC) as a venue to resolve international restructurings, whether under the WHOA or in respect of recognition issues.²³

²³ See also J.M.G.J. Boon, R.D. Vriesendorp and R. Sijbesma, 'Netherlands Commercial Court als mogelijke WHOA-rechter bij internationale hestructureringen', *HERO* 2021 / W-001.

3 Global restructuring laws:
Case law on English
Restructuring Plan and US
Chapter 11

3.1 Developments in the UK and the US

The Dutch legislature explicitly mentioned that the WHOA was inspired by the English scheme of arrangement and the US Chapter 11 proceeding.²⁴ The UK and the US have restructuring laws that have set the benchmark for other jurisdictions for many decades. In recent years, there have been interesting developments in these jurisdictions that could further inspire us in the Netherlands while shaping our thinking around the development of the WHOA.

3.2 Restructuring laws in the UK

Whilst the WHOA was inspired by the English scheme of arrangement, in 2020 – one year before the enactment of the WHOA – the English legislature introduced the Restructuring Plan as a new restructuring instrument in Part 26A of the Companies Act 2006. Unlike the scheme of arrangement, the English Restructuring Plan provides for a cross-class cram down and a moratorium – two features that the WHOA also has. From that perspective, it is more comparable to the WHOA than the scheme of arrangement.

Unlike the WHOA, the English Restructuring Plan provides for an appeal option. So far, there have been three Restructuring Plans that have been brought before the English Court of Appeal – in relation to the restructurings of Adler, Thames Water and Petrofac – two of which have been overturned by the Court of Appeal.²⁵ This has resulted in two very significant judgements on the English Restructuring Plan. We are very privileged to have Lord Justice Snowden – who handed down both those judgements – here among us today. In his presence in this room, I am bound to make errors when speaking about the English Restructuring Plan. But I will make a modest attempt on what we can learn from these cases from a Dutch law perspective in the Netherlands.

On 23 January 2024, the English Court of Appeal handed down its judgment on the Restructuring Plan of Adler. The judgment is a must-read for any non-English law qualified lawyer – and perhaps also for any English law qualified lawyer – who wishes to better understand the legal regime under Part 26A of the Companies Act 2006, in particular with respect to the discretion of the court to sanction a plan when imposing a cross-class cram down. Adler, a German real

²⁴ *Kamerstukken II 2018/2019*, 35 249, No. 3 (MvT), p. 4.

²⁵ *Re AGPS Bondco Plc* [2024] EWCA Civ 24; *Re Thames Water Utilities Holdings Limited* [2025] EWCA Civ 475; *Re Petrofac Limited and Petrofac International (UAE) LLC* [2025] EWCA Civ 821.

estate company, filed for an English Restructuring Plan to restructure its debt. Essentially, its Restructuring Plan was aimed at liquidation (and not rescue). It sought to restructure six series of senior unsecured notes. The six series of notes had staggered maturity dates but would rank *pari passu* as unsecured claims in an insolvency. However, under the Restructuring Plan, (new money providers received first ranking security and) one series of notes received second ranking security, whilst the other five series received third ranking security (ranking equally among themselves, but below the other series of noteholders). A group of lower ranking noteholders contested the plan (initially, before the High Court of Justice Business and Property Courts England and Wales (the High Court) where they lost the argument and the plan was sanctioned and, later) before the Court of Appeal. The Court of Appeal overturned the sanctioning decision and rejected the Restructuring Plan. Here is what we can learn from this judgment in the Netherlands:

1. Whilst the English Restructuring Plan does not have an absolute priority rule, the assessment of the English court when considering whether it will exercise discretion to sanction a cross-class cram down may be more familiar to the application of the cross-class cram down under the WHOA than most Dutch insolvency law experts would believe at first glance;
2. The application of the *pari passu* principle in English Restructurings Plans and a possible departure thereof when there are good and reasonable grounds could provide inspiration for Dutch legal professionals and the judiciary in the Netherlands when assessing the application of – and in particular the exception to – the absolute priority rule under the WHOA;
3. An English Restructuring Plan and scheme of arrangement must offer a genuine compromise or arrangement involving some element of “give and take” and cannot merely involve an extinguishment of rights of shareholders or “out-of-the-money” creditors. Whilst a restructuring plan under the WHOA is also a compromise or arrangement by design, this point may differ significantly under the WHOA from the English Restructuring Plan; and
4. The Court of Appeal ruled that the elevation of creditors’ existing claims in return for new money (in addition to the (super) senior ranking of their new claims for that new money) may be permissible, but the Court of Appeal

was clearly skeptical on whether this is permissible where the opportunity to provide new money is not offered to all creditors or where the new money is on more expensive terms than what would be available in the market.

With the Royal IHC ruling of the Dutch Supreme Court allowing changes to ranking of claims in a restructuring plan under the WHOA, I am convinced that the judgment of Adler is highly relevant for the further development of the WHOA in the coming years.

The second case that has been overturned by the Court of Appeal relates to the Restructuring Plan of Petrofac. Petrofac, a listed company active in the oil and gas industry, petitioned for a Restructuring Plan to restructure its business. The Restructuring Plan was sanctioned by the High Court, but that decision was overturned by the Court of Appeal. On 1 August 2025, Petrofac announced that it will lodge an application for permission to appeal to the UK Supreme Court.²⁶ At the date of the writing of this address, this application is pending and I do not know whether permission will be granted and, if so, what the ruling of the UK Supreme Court will be. Therefore, I will not discuss each and every point in the judgment of the Court of Appeal in detail.

However, I do want to point out one matter in the judgment of the English Court of Appeal. In essence, the judgment of the Court of Appeal deals with the question on fair allocation of the restructuring surplus. What is a fair allocation of the benefits that are preserved or generated by a Restructuring Plan? The providers of new money were receiving a return of 211% in this case. The dissenting creditors also complained about the work fees, which were excessive according to them. The Court of Appeal rejected the plan as it was not satisfied that, based on the available evidence, there was a fair allocation of the restructuring surplus. I am convinced that in the years to come, we will be confronted with similar questions under the WHOA in the Netherlands. Under the WHOA, the existing claims of existing creditors cannot recover more than 100% under the absolute priority rule. But what about new claims of existing creditors that provide new funding? And what about new creditors that are

²⁶ See press release Petrofac with a “Restructuring and business update” on 1 August 2025 (<https://www.petrofac.com/media/news/restructuring-and-business-update/>, last visited on 1 August 2025). As of the date of completion of the written text of this address, the application for permission to seek appeal before the UK Supreme Court was still pending. The written text of this address has been completed on 5 August 2025.

providing new funding? Can they obtain the full benefit of the restructuring surplus? We have not been faced with these questions under the WOA yet. However, I do expect to see more discussions on new money funding under the WHOA – also in light of the Dutch Supreme Court judgement on Royal IHC – and when those discussions arise, this restructuring may serve as an important case to revisit. From that perspective, we will be following the developments at the UK Supreme Court with much interest here in the Netherlands as well.

3.3 Restructuring laws in the US

One of the most prominent restructurings in the US in recent years has been the restructuring of Purdue Pharma, a pharmaceutical company which was privately held by the Sackler family. The company manufactured *inter alia* pain medicines known by their brand name OxyContin. The Sackler family deployed aggressive marketing tactics – one could say beyond anything that is either ethical or moral – to persuade doctors to prescribe OxyContin, raising sales of their pain drugs. Purdue Pharma earned billions of dollars in drug sales. However, as most of you know by now, these pain medicines were very addictive causing an epidemic of opioid addiction in the US. A large dose of OxyContin resulted in respiratory depression and, eventually, death for many patients. According to estimates, the opioid overdose epidemic led to hundreds of thousands of deaths in the US over two decades.

In 2007, one of the affiliates of Purdue Pharma pleaded guilty to a federal felony for misbranding OxyContin. What followed were a series of lawsuits. Over the years, the Sackler family withdrew approximately USD 11 billion from the company in a “milking program” as they feared that the litigation would eventually impact them directly. Those withdrawals left the company in a significantly weakened financial state, so the company filed for Chapter 11 proceeding in 2019. As part of the Chapter 11 plan, the Sackler family would contribute USD 5.5 billion to USD 6 billion, but in return were asking the court to release them from all opioid-related claims and enjoin the victims from bringing such claims against them in the future. In essence, it would be a full discharge that would be realized through a non-consensual third-party release. The Chapter 11 plan was initially approved, but litigated through to the US Supreme Court. On 27 June 2024, the US Supreme Court rejected the Chapter 11 plan in a

groundbreaking judgment concluding that the US Bankruptcy Code does not authorize a non-consensual third-party release as set out in the plan.²⁷

The global restructuring community has been following this development with utmost interest and so have Dutch insolvency law experts. The question arises what the US Supreme Court ruling in Purdue Pharma means for other jurisdictions. Certain jurisdictions, like the UK and Canada, that allow non-consensual third-party releases if certain conditions are met, may see this development in the US as one that puts their own jurisdiction at an advantage possibly attracting more foreign debtors to restructure in their jurisdictions. Other jurisdictions where this question has not been answered yet, like the Netherlands, may wonder whether they should follow the same route as the US. In the Netherlands, non-consensual third-party releases have been included in restructuring plans in practice for a long time. For example, the restructuring plans in the bankruptcy of Lehman Brothers Treasury Co., the suspension of payments of Steinhoff and the WHOA-proceeding of McDermott contained third-party releases. However, the question whether they are permissible is not settled by the courts yet. Will the Netherlands follow the reasoning of the US Supreme Court in Purdue Pharma?

I do believe that we should look at the ruling of the US Supreme Court for inspiration. It teaches us about the inherent tension when resolving mass tort claims through restructuring and insolvency proceedings. I believe that there are two important lessons to be drawn from this judgment that we can take into account while further developing our thinking around third-party releases under the WHOA:

- I. The technical and legal arguments in the US Supreme Court ruling cannot be leading for us in the Netherlands given the fundamentally different legal grounds, although they remain interesting to study. To name a few legal grounds with similarities as well as differences under both legal systems:
 - A. One of the reasons in the ruling of the US Supreme Court to reject the plan was that pursuant to section 541(a) of the US Bankruptcy Code a debtor “creates an estate” that includes virtually all its assets

²⁷ *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204 (2024).

when it files for bankruptcy and its reorganization plan governs the distribution of that estate's assets. A bankruptcy court's order confirming a reorganization plan discharges the debtor of certain pre-petition debt. However, in this particular case, the Sackler family had not filed for bankruptcy or placed all their assets at the table for distribution to creditors, whilst they were seeking essentially a discharge. There is no provision in the US Bankruptcy Code that authorizes this kind of relief. This reason may hold true for the Dutch legal system as well, given that the WHOA affects the estate of the debtor only;

- B. Certain other arguments of the US Supreme Court may be less appropriate to follow in the Netherlands. The US Supreme Court ruled that section 1123(b) of the US Bankruptcy Code addresses the kinds of provisions that may be included in a Chapter 11 plan and a third-party release falls outside the scope thereof. Section 1123(b) provides rules for the contents of a plan: Five paragraphs thereof refer to specific rights and responsibilities, whilst the sixth paragraph thereof contains a catch-all provision for any other appropriate provision not inconsistent with the applicable provisions of (the relevant title of) the US Bankruptcy Code. Based on a textual interpretation of section 1123(b) of the US Bankruptcy Code, the US Supreme Court concludes that the first five paragraphs do not apply in this case and the sixth catch-all paragraph must be interpreted in light of its surrounding context where all preceding paragraphs relate to rights and responsibilities of the debtor and the catch-all does not endow a bankruptcy court with the "radically different" power to discharge the debt of a non-debtor without the consent of the affected claimants. This argument is strongly embedded in the legal grounds in the US Bankruptcy Code. Under the WHOA, there is no such specific provision that prescribes the content of a WHOA restructuring plan. The content of a restructuring plan under the WHOA is to be determined by, and at the liberty of, the debtor (or the restructuring expert, if appointed). Therefore, it is not appropriate to distill legal grounds on the basis hereof under Dutch law; and
- C. There are specific Dutch law arguments that are relevant for this debate. For example, article 160 in conjunction with article 272 and article 370 Dutch Bankruptcy Act provide that, notwithstanding the restructuring

plan, creditors will retain their rights against guarantors and co-debtors of the debtor. Article 372 Dutch Bankruptcy Act provides a specific exception to this rule for group liabilities. Hence, we need to focus this part of the debate on the technical and legal grounds under the Dutch Bankruptcy Act.

2. The more fundamental, and perhaps normative, question is: Do we want to provide for non-consensual third-party releases in a restructuring plan? The answer to this question is not easy. On the one hand, Purdue Pharma is perhaps the worst example of a non-consensual third-party release, because it may lead to discharge of a group of defendants that intentionally and deliberately caused harm to the health of hundreds of thousands of claimants. It is clear that (i) these defendants were involved, or at least had some level of involvement, with the wrongful act, and (ii) yet, they have not filed for bankruptcy themselves but intend to benefit from a discharge in the bankruptcy of Purdue Pharma. However, in most restructurings in the Netherlands, third-party releases are granted to former stakeholders (e.g. managing directors, trustees, advisors) who were not involved with any form of intentional or deliberate harm done to creditors, and often had not caused the financial distress either. They rather seek a clean exit from the financial distress. For them, filing for their own bankruptcy is not even an option in most cases. Should third-party releases also be excluded in these cases? One could wonder whether the type of cases that we have seen in the US – like Purdue Pharma – will be resolved under the WHOA in the Netherlands, given that we have a different – perhaps even more advanced – legal framework in the Netherlands that deals specifically with mass tort claims, i.e. the Act on Collection Settlement of Mass Claims (*Wet collectieve afwikkeling massaschade*, WCAM) and the Act on Settlement of Mass Claims in Collection Action (*Wet afwikkeling massaschade in collectieve actie*, WAMCA). Therefore, simply following the US Supreme Court without properly assessing the context of the Dutch legal system may not work for us. On the other hand, Purdue Pharma may be the best example of a non-consensual third-party release, as it illustrates how far-reaching the consequences of a non-consensual third-party release without any conditions or restrictions may be. Therefore, I believe we should further shape our thinking on this topic in the Netherlands to come up with a sophisticated approach that better fits our legal framework.

This brings me to some concluding remarks on the restructuring laws in the UK and the US. Since the enactment of the WHOA, there have been interesting developments in the restructuring and insolvency laws of the UK and the US. I am convinced that it remains important for us as well as highly valuable to follow those discussions with interest in the future to seek inspiration and further develop the WHOA. In some cases, they may provide us a glance of what is coming at us in the future. In other cases, they may inspire our thinking but lead to the conclusion that we should take a different approach in the Netherlands on certain topics than the UK and the US. But either way, I am convinced that studying those developments will be intellectually stimulating.

4 Global restructuring laws:
Restructuring and insolvency
law reform in Curaçao,
St. Maarten, Aruba and
Indonesia

4.1 Historic developments in Curaçao, St. Maarten, Aruba and Indonesia

So far, I have discussed modernizing and further developing our restructuring laws for the future, but in this last part of my address I want to look at our history. I would like to look at some historic developments that have affected restructuring and insolvency laws across the globe. During the 19th century, the legislation of the Netherlands was introduced in the Dutch East and West Indian colonies. Certainly, the colonial history of our country is not something to be proud of. But in present times, the fact is that the insolvency regimes of the Netherlands, Curaçao, St. Maarten, Aruba and Indonesia show significant similarities sharing the same source and origin by being based on the same act, the Dutch Bankruptcy Act. Why should we not explore how we can learn from each other to improve our legal systems? Not by telling those other jurisdictions that our system is superior and we possess all the wisdom in the world. But by respectfully sharing knowledge and experiences to improve each other's legal systems and to learn from each other, very much in the same way as we have learned ourselves in the Netherlands from the UK and US legal systems.

4.1 Restructuring laws in Curaçao, St. Maarten and Aruba

In 1954, the Netherlands, the Netherlands Antilles and Suriname declared to establish a new legal order within the Kingdom of the Netherlands. They agreed that each country would promote its own interests independently and joint interests were to be promoted on the basis of equality and reciprocal support. This was set out in the Charter for the Kingdom of the Netherlands (*Statuut voor het Koninkrijk der Nederlanden*). The Netherlands Antilles was an autonomous country within the Kingdom of the Netherlands until its dissolution on 10 October 2010. Upon its dissolution, Curaçao and St. Maarten became separate countries within the Kingdom of the Netherlands. Aruba had already separated from the Netherlands Antilles in 1986. According to article 1 of the Charter for the Kingdom of the Netherlands, the Netherlands, Curaçao, St. Maarten and Aruba together form the Kingdom of the Netherlands.

During the 19th century, the codes and acts of the Netherlands had been introduced in Curaçao, St. Maarten and Aruba. Consequently, Curaçao, St. Maarten and Aruba are also civil law systems and have comparable laws as the Netherlands. The laws of the four countries that comprise the Kingdom of the Netherlands share the same origin, contain a large number of (almost) identical

articles and have been developed in largely the same manner, but there are also some differences. The comparable development of these laws is, however, not a coincidence. It follows from a well-established principle of law applicable within the Kingdom of the Netherlands called the “principle of concordance” (*concordantiebeginsel*). The principle of concordance requires that there is as much concordance as possible between the laws in the various countries that comprise the Kingdom of the Netherlands. This principle is set out in article 39 of the Charter for the Kingdom of the Netherlands which is primarily concerned with legislation. The Dutch Supreme Court, however, has also extended the principle of concordance to jurisprudence.²⁸

One example of the principle of concordance is that the insolvency laws of the different countries that comprise the Kingdom of the Netherlands are very similar. For example, Curaçao has its own Bankruptcy Resolution 1931 (*Faillissementsbesluit 1931*) which is comparable to the Dutch Bankruptcy Act. The Bankruptcy Resolution 1931 contains two proceedings: bankruptcy and suspension of payments. Since the enactment of the WHOA, however, no legislative amendments have been made to introduce the WHOA in Curaçao, St. Maarten or Aruba. Whilst formally the principle of concordance does not apply to Suriname, one could wonder whether the WHOA could provide inspiration for insolvency law reform in Suriname as well.

Before the enactment of the WHOA in the Netherlands, we did not have a restructuring tool that would provide a debtor-in-possession proceeding (DIP-proceeding), that could bind secured creditors to a restructuring plan, that could affect rights of shareholders or that provided a moratorium outside of formal bankruptcy proceedings and suspension of payments. We are witnessing the same shortcomings in the legislation of Curaçao, St. Maarten and Aruba. For example, the Bankruptcy Resolution 1931 does not provide for a DIP-proceeding either, but only provides for a bankruptcy proceeding where a bankruptcy trustee (*curator*) will be appointed and a suspension of payments where an administrator (*bewindvoerder*) will be appointed. A restructuring plan under a suspension of payments does not bind secured creditors or shareholders in Curaçao. Outside of bankruptcy and suspension of payments, there is no moratorium providing debtors protection while negotiating a restructuring plan. The WHOA has solved

²⁸ HR 14 February 1997, ECLI:NL:HR:1997:ZC2280.

all these issues for us in the Netherlands and I believe that the WHOA, possibly in adapted form, could also inspire restructuring and insolvency law reform in Curaçao, St. Maarten and Aruba. The WHOA could serve as a blueprint for restructuring insolvency law reform in those jurisdictions. However, careful consideration and study of local laws, practice and needs are required before adopting the WHOA to ensure that it is amended to fit the specific context and meet the specific requirements of those jurisdictions. This requires further research in the years to come.

4.2 Restructuring laws in Indonesia

Between 2015 and 2018, I worked as a registered foreign lawyer in Singapore. I was struck by the effective and efficient approach of the Singapore government on many fronts, but in particular in respect of their legislative amendments to enhance their scheme of arrangement with features of the US Chapter 11 proceeding. The Singapore scheme – very much like the WHOA also referred to as the “Dutch scheme” – combines the “best of both worlds”. Whilst living in Singapore, I also learned more about Indonesian insolvency law. It was back then that I learned about the connections between Dutch and Indonesian insolvency law.

In 1905, Indonesian insolvency law was formally codified by the Dutch colonial authorities when they introduced the Bankruptcy Regulation (*Faillissementsverordening, Staatsblad 1905, No. 217*). After Indonesia became independent in 1945, the Bankruptcy Regulation remained in force. Many years later, when the IMF required insolvency law reform in Indonesia, the Republic of Indonesia enacted Law No. 37 of 2004 on Bankruptcy and Suspension of Payments (the Bankruptcy and Suspension of Payments Law). The Bankruptcy and Suspension of Payments Law was also inspired by the Dutch legal system which had the suspension of payments as a restructuring proceeding next to bankruptcy which was aimed at liquidation. Like the Dutch suspension of payments, in the Indonesian suspension of payments, called *Penundaan Kewajiban Pembayaran Utang* and internationally known by its acronym the “PKPU”, an administrator will be appointed whose authorization the debtor requires for certain acts.

Most of the drawbacks of the Dutch suspension of payments are also prevalent in the PKPU, although there are also differences between the two proceedings.

And whilst the PKPU as a proceeding has been more successful than the Dutch suspension of payments, the urge for insolvency law reform has been felt in Indonesia for some time now. There have been many discussions and attempts to modernize Indonesian restructuring and insolvency law. As part of the debates for insolvency law reform, Indonesia – like many other jurisdictions – has also assessed the English scheme of arrangement and the US Chapter 11 proceeding. It has further considered the enhanced scheme of arrangement in Singapore. However, as a civil law jurisdiction, it is not easy to adopt a legal regime of a common law jurisdiction. We have obviously struggled with that translation exercise ourselves with the introduction of the WHOA which took the Dutch legislature almost a decade. By now, however, with the WHOA we have been able to enact a modern restructuring tool with a debtor-in-possession regime rooted in our own civil law system but strongly inspired by common law systems like the UK and the US. Given that Indonesian insolvency law still resembles Dutch insolvency law, the enactment of the WHOA may be an excellent restructuring tool for Indonesia to assess when modernizing their insolvency law – if not as a blueprint, then at least as a source of inspiration.

In conclusion, when we look at the restructuring and insolvency laws of jurisdictions like Curaçao, St. Maarten, Aruba but also Indonesia, we notice that their insolvency law legislation is based on Dutch insolvency law. With the enactment of the WHOA, we have adopted a modern restructuring tool. The WHOA may provide a good basis for, and we could assess how it can contribute to, restructuring and insolvency law reform in jurisdictions like Curaçao, St. Maarten, Aruba and Indonesia. However, this requires careful study and further academic research, as it is key to understand and respect local practices and differences and to ensure that any proposed legislative amendments meet, and also fit, the demands of a particular jurisdiction.

5 Conclusion

Concluding remarks

This brings me to some concluding remarks. In this address, I have discussed some key developments in the field of global restructuring and insolvency laws. As academics and legal professionals active within restructuring and insolvency, we are privileged to live in an era where exciting changes are taking place within our field of research and work. We have seen a paradigm shift within Europe – and, I dare to say, across the globe – where countries are moving towards a business rescue culture to save jobs and preserve economic value.

In the Netherlands, we have been witnessing one of the most important legislative amendments that took place over the last century in the field of restructuring and insolvency law. The work is, however, not done. The codification of the WHOA has introduced a common law inspired restructuring tool in a civil law jurisdiction. With the introduction of the WHOA, I do believe that we should continue to monitor, assess and analyze legal developments in other jurisdictions such as the UK and the US. Whilst those developments and the case law in those jurisdictions will not have a formal effect on our laws, they provide a source of inspiration.

In a similar fashion, we can share our knowledge and experience with restructuring and insolvency law with other jurisdictions. Historically, although for tragic reasons, there are strong ties between the restructuring and insolvency laws of the Netherlands and its former colonies. The same topics that we have struggled with when dealing with companies in financial distress due to a lack of an effective legal framework, are still prevalent in the legal framework of those jurisdictions. By engaging in constructive dialogue and sharing our knowledge and experiences with the WHOA, we could possibly inspire jurisdictions like Curaçao, St. Maarten, Aruba and Indonesia whilst they are looking at restructuring and insolvency law reforms.

These topics illustrate the areas that I have identified for further research in the years to come. As part of my research at this university, I will continue to focus on the development of global restructuring law by making an attempt to shape our thinking around the further development of our laws, by researching and understanding developments of the laws of other countries and by working on research projects on insolvency law reform that may contribute to policies for government and other institutions. In the field of education, I will continue to

teach the excellent law students that we have at this university. For the last years, one of the courses that I have been teaching in the Global Law LLB Bachelor's program is the course on Global Property and Insolvency Law. They say “the youth is the future” and this course allows us to prepare the future for the restructurings of tomorrow by teaching them about the US Chapter 11, the UK scheme of arrangement as well as Restructuring Plan and – yes, indeed – the Dutch WHOA.

6 Acknowledgements

“Wear gratitude like a cloak, and it will feed every corner of your life.”
– Jalāl al-Dīn Muḥammad Rūmi –

*Rector Magnificus,
Ladies and gentlemen,*

I would like to express my gratitude to the executive board of Tilburg University and to the faculty board of Tilburg Law School for the trust they have put in me to fulfil the role of professor at this wonderful university. I will do my utmost best to fulfil this role with integrity, dedication and passion. I thank all my colleagues at the Department of Private, Business and Labour Law. When I was appointed as university professor in 2021, after having left the university with my PhD thesis in 2014, it felt like a true homecoming at my *alma mater*. You all made sure that I had a warm welcome back. I would like to thank Professor Eric Tjong Tjin Tai and Professor Reinout Wibier in particular for supporting me and encouraging me to join the university in this role.

A special word of thanks goes to my PhD supervisors, Professor Reinout Vriesendorp and Professor Reinout Wibier. Reinout Vriesendorp, you have had an incredibly strong impact on my personal and professional growth throughout the years. I still remember walking into your office as a first-year student, who had come as a refugee from Afghanistan to the Netherlands, and the sign outside of your office was reading: “A refugee would like to have your problems”. When I asked you why you had put it there, your answer was “just to put things into perspective” and you quickly switched the conversation to insolvency law. I have learned an exceptional amount from you and you have inspired me to stand where I am today. Reinout Wibier, I owe my academic career to a large part to you. You have always been there, in the right place at the right time, to teach me, inspire me and encourage me to take steps on the academic ladder. As a student, whilst I was attending your classes on property law – which you referred to as the “classes from hell on Friday” – you did spark my interest for property and insolvency law, even though it looked like I was not always paying attention. You encouraged me when I worked on my PhD on Islamic finance and we often had interesting legal, philosophical and religious discussions. And you also encouraged me to join the ranks as a professor back at this university. Many thanks to both of you!

I would like to take this opportunity to thank our international guests who made an effort to travel to the Netherlands and contribute to our research seminar on global restructuring laws at Tilburg University earlier today and to attend my inaugural address. I am truly honoured and privileged to have Justice Kannan Ramesh, judge at the Singapore Supreme Court, and Lord Justice Richard Snowden, judge at the English Court of Appeal, here with us today. I would also like to thank Judge De Vos, judge at the District Court of Amsterdam, for her valuable insights during the seminar earlier today as well as Professor Frank Verstijlen en Professor Reinout Vriesendorp for their contributions to the same seminar.

I would like to thank my firm Norton Rose Fulbright and my colleagues at the firm for their support, great work and collaboration. We have an impeccable team and I enjoy working with each one of you every day! I would like to thank my former firm, De Brauw Blackstone Westbroek, and all former colleagues present here for a decade full of growth and professional development whilst I was with the firm.

I am grateful to my friends and family. As most of you know, family is of utmost importance in my life. My parents, Salahudin Salah and Mashaal Salah-Najib, have been the guiding light in my life. They have taught me to overcome and be resilient, whilst never forgetting to care for and love the people around you. To them, I owe everything. My siblings, Khibar, Lemar, Lema and Maiwand, are my kindred souls – we all know the struggles we have witnessed, the feelings we have shared and how to still rise. I also would like to thank my lovely family in-law. My wife, Nathalie, I am indebted to you for your unconditional love and support and for our son Stor who is a little miracle in our lives.

Last but certainly not least, I would like to thank all my students at Tilburg University. In addition to all the courses on insolvency law, I truly hope that I can inspire you. I walked down this campus as a first-year law student in September 2005. To stand here today, twenty years later on 5 September 2025, for my inaugural address as a professor at the same university makes the circle complete.

I have spoken

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