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# THE EVOLUTION OF INSOLVENCY AND BANKRUPTCY LAWS IN INDIA

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## ABSTRACT

The current legal system in India for resolving corporate insolvency is riddled with flaws in its implementation, its procedures, and the institutions that support it. Economic effects have resulted from the need for an effective and efficient system for resolving corporate insolvency. The history of its evolution can be used to pinpoint the beginning of the complex framework, characterised by several disjointed laws. In this research, I discuss the origin and history behind the insolvency laws and how the evolution of the corporate insolvency resolution system takes place sequenced wisely. Also, this paper talks about how different enactments have dealt with the process of the insolvency resolution before enacting the Insolvency and Bankruptcy Code of 2016 (hereinafter referred to as "IBC"). I also talk about the purpose behind the introduction of insolvency in India. The IBC is a clear, contemporary statute that provides a straightforward, cogent solution to the insolvency resolution issues in contemporary India. When the law is put into effect, it has the potential to alter not only how in India insolvency is being handled but also the credit landscape of the India in the entirety.

***Keywords:*** *Insolvency, Bankruptcy, Evolution, Transformation, Insolvency & Bankruptcy framework, Historical Development.*

## INTRODUCTION

The word 'Insolvency' defines a state of being unable to pay off the debt or liabilities by a company or an individual within a stipulated period. It means that when the liability of an individual or a company extends over its assets, that specific individual or company is declared insolvent. On the other hand, the word 'Bankruptcy' defines the legal process which begins after a person or company declares itself insolvent or unable to meet its outstanding

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financial liabilities to seek relief from all its liabilities or debts. In this process petition is filed by the company or individual in a court of law when it is declared insolvent. All the assets of that company or individual are evaluated or liquidated and then distributed to pay off its outstanding liabilities. In India, if a company or an individual declares itself bankrupt once, it will directly affect that reputation of the company or of the individual or credit rating in the market. That company or individual may suffer many problems in taking new loans from any creditor in the future. There are many reasons behind the insolvency of a company or an individual, like poor money management, lack of data and information, an inadequate workforce, or following inadequate accounting practices. At a time when India has no adequate framework or instrument regarding dealing with insolvency and bankruptcy issues, and creditors suffered from the situation where they faced undue delays or remained unpaid and were becoming helpless for the recovery of the money, tat this time it became pertinent for the India that there is a requirement of enactment that will deal with the aspects of the bankruptcy and the insolvency. Before the IBC, 2016 Code came into force, the provisions pertaining to the aspects of the Bankruptcy and Insolvency were dealt under the "*Sick Industrial Companies (Special Provisions) Act, 1985*"[2] the "*Recovery of Debt due to Banks and Financial Institutions Act, 1993*"[3], the "*Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002*[4] *and the Companies Act, 2013*"[5]. These enactments had provided for the establishment of the various conventions such as the "*Board of Industrial and Financial Reconstruction (BIFR)*", "*Debt Recovery Tribunal (DRT)*", and their respective Appellate Tribunals. The High Courts handled the liquidation of companies. The bankruptcy and insolvency of an individual were dealt with under the "*President Presidency Towns Insolvency Act of 1909*"[6] and the "*Provincial Insolvency Act of 1920*"[7].

## STATEMENT OF PROBLEM

What is the need to take legislation regarding insolvency and bankruptcy?

[2]The Sick Industrial Companies (Special Provisions) Act, 1985
[3]The Recovery of Debts Due to Banks and Financial Institutions Act, 1993
[4]The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
[5]The Companies Act, 2013, No. 18, Acts of Parliament, 2013 (India)
[6]The Presidency- Towns Insolvency Act, 1909, Act No. 3 of 1909 1
[7]The Provincial Insolvency Act, 1920

## RESEARCH OBJECTIVES

The main objective of this research is to determine to what extent Indian laws or legislation regarding insolvency and bankruptcy successfully solve issues related to insolvency and bankruptcy.

## RESEARCH METHODOLOGY

The methodology used by the researcher in this research paper is entirely doctrinal. This research is based on the "*evolution of insolvency and bankruptcy laws in India*", which is purely theoretical; that is why the researcher uses doctrinal sources. This paper is a mix-up of both sources, primary sources, and secondary sources. Primary sources like the "*Companies Act, (2013)*" and "*Insolvency and Bankruptcy Code (2016)*"[8], and various other sources of the secondary nature like the book, journals, articles, etc. that had been written by the authors and the researchers. secondary sources like research papers, journals, articles, books, etc., were written by different authors and researchers.

## LITERATURE REVIEW

- **How the Bankruptcy and Insolvency laws have evolved in India[9]**

This is a research article by Hritika Sharma about the evolution of insolvency laws in India. In this article, the author discusses some legislation before enacting the IBC Code, 2016, like the Indian Insolvency Act of 1848 and the Administrative towns Insolvency Act of 1909. This article points also discusses the need for insolvency laws in India.

The flaw in this article is that the author needs to talk about the recommendations of different committees and what legislation they suggest because these are the main essence of this topic. The author talks about the Bankruptcy Law Reforms Committee Report, the last Committee made before the enactment of the IBC, even though on the recommendation of this Committee's report, the IBC came into force. Nevertheless, before that, many committees, like the Eradi committee, JJ Irani committee, etc., played a crucial role in the evolution of insolvency laws.

[8]The Insolvency and Bankruptcy Code, 2016. No. 31 Act of Parliament, 2016 (India)

[9]Hritika Sharma "Evolution of the Insolvency and Bankruptcy Laws in India." IBC Law Accessed November 11, 2022.

In my paper, I discuss all the committees and their recommendations or legislation they suggest regarding the development of insolvency laws in India in a serial-wise manner.

- **How for the non-financial firms the insolvency framework had been evolved[10]**

In the aforesaid article, the authors outline the development of the corporate insolvency resolution system to connect it to the relevant policy direction at the time. The authors concluded that whenever there is the piecemeal implementation of the policy and there is focus only on the few portions which forms the complicated problems, it more often than leads to the ineffective results. The authors say that the Insolvency and Bankruptcy Code, 2016, is the most current governmental move in this area.

This article covers almost all the points necessary to justify its topic. Nevertheless, to improve this article, the authors needed to cover more points like a detailed discussion about the historical perspective or different committees.

In my research, I covered all necessary points to justify my topic, from the historical point of view of insolvency laws to present conditions.

## HOW THE INSOLVENCY LAWS HAVE DEVELOPED THROUGH THE HISTORY

The insolvency laws in India have originated from English laws. There was no law on the aspect of the insolvency in India prior to the arrival of the Britishers. Sections 23 and 24 of the Government of India Act, 1800 (39 and 40 Geo III c 79)[11], which gave the Supreme Court insolvency authority, are the first known pieces of insolvency legislation. After the enactment of Statue 9 (Geo- IV c 73) in 1828[12], it can be said that this was the starting of the specific legislation for dealing with insolvency in India because, after the enactment of this statute, there were first. Foremost insolvency courts were set up in the Presidency towns, i.e., Bombay, Madras, and Calcutta, to seek relief for insolvent debtors. After taking a further step in the development of insolvency laws, another act came into force called the Indian Insolvency Act of 1848.

[10] Rajeswari Sengupta, Anjali Sharma, Susan Thomas. "Evolution of the Insolvency Framework for Non Financial Firms in India," June 22, 2016. http://igidr.ac.in/pdf/publication/WP-2016-018.pdf.

[11] icsi /151120221_Module_3_Paper_9_8_ILP_Book_11_11_2021_pg no. 2

[12] Id

Nevertheless, the provisions under this Act needed to be adequate to meet the consecutively dynamic conditions in the 20th century. Although this Act of 1948 was into force in Presidency towns till, the Presidency Towns Insolvency Act of 1909 was not enacted. This Act and another act called the Provincial Insolvency Act of 1909 were the two central enactments at that time that dealt with personal insolvency & also both have parallel provisions and almost akin content substantially. However, both differ in territorial jurisdiction legislation, meaning that the Presidency Towns Insolvency Act of 1909 was only applied in Presidency towns, and the Provincial Insolvency Act of 1909 applied all over India. These enactments were also applicable to sole proprietorships and partnership firms with individuals.

**PURPOSE BEHIND FOR INSOLVENCY LAWS IN INDIA**.

When there were no enactments or laws regarding insolvency, in case there is default by any company or organization in the repayment of the loan to a creditor, i.e., insolvent, it was not easy to distribute the money to the creditors according to their interest. Every creditor or claimant tried first to grab its interest or share in the company's assets. This battle among the company's claimants pushed it towards liquidation even though it was in an excellent position to pay off its liabilities. This would result in the needless destruction of the organization's worth and the loss of jobs.

The winner-takes-all scenario would make the business of granting credit riskier from the creditors' viewpoint. Additionally, a firm's shareholders are the remaining claimants with liability of limited nature. The business has every motive to pursue high-risk tactics as it nears collapse. The upside is theirs if the plan is successful. The creditors lose if the plan works.

Additionally, shareholders could take part in related party transactions and asset siphoning. These risks would increase if shareholders' and managers' motivations were in line. All these risks would be ex-ante priced in by creditors, who would then lend money at higher interest rates, hurting borrowers. The economy would suffer overall.

The principal purpose behind the enactment of legislation regarding insolvency and bankruptcy is-

1. To establish a proper procedure for insolvency resolution.

2. To protect the right of insolvent debtors or companies, they can seek relief from the harassment of creditors whose money they have borrowed and cannot pay back.

3. To provide a proper system for those creditors who are not feeling secure about their payment of debts to be well pleased.

## MAJOR LEGISLATIONS GOVERNING CORPORATE INSOLVENCY

The principal legislation governing Corporate Insolvency was as follows-:

### COMPANIES ACT, 1956

'Bankruptcy' and 'Insolvency' is given in Entry 9 of the Concurrent List[13] under Article 246 of the 7th Schedule of the Indian Constitution, which means that the Union and State Government both can make laws upon the subjects under this list. For exercising these powers Companies Act of 1956 had been enacted by the Union Government. This legislation deals with all the concerned things related to how the companies function, including their dissolution, and winding up process; albeit this is the good legislation by the government but the major flaw of this Act was that it did not contain any provision which deals with the expression insolvency or bankruptcy. It just dealt with the payment of debts. However, at that time, this was the only legislation deal with the insolvency of corporates but not explicitly.

### "*SICK INDUSTRIAL COMPANIES ACT (SICA) 1985*"

During the period between 1956 to 1985, the Companies Act 1956 was the only Act that dealt with the insolvency of corporations. After attaining independence in 1947, the initial policies of the government of India for the development of the country's manufacturing sector required more investments. However, at that period Indian economy was among the various growing economies of the world; the government continuously made efforts to raise funds through many large development finance institutions. The objective behind setting up these financial institutions was to uplift industrial development. However, in return for these funds or credit given by these development financial institutions, shares or the seats on board of firm by the firms. By this direct authority was offered to the creditors direct authority over how these enterprises were run. The result of this was the poor distribution of economic capital.

[13] Article 246 in The Constitution of India 1949

The issue of sickness had extended throughout industrial businesses by the early 1980s. The number of sick industrial units increased from 26,758 to 119,606[14] between 1981 and 1985. So, to deal with this problem, in 1980, there was a committee called the Tiwari committee set up to give suggestions regarding dealing with this issue of industrial sickness. The result of setting up this Committee was the enactment of SICA legislation, 1985. The objective behind the enactment of this Act was to recognise the "sickness"[15] of the industries and bring them back to a proper position. The support of this Act established two new legal forums: the *"Board of Industrial and Financial Reconstruction*" (BIFR) and the "*Appellate Authority for Industrial and Financial Reconstruction*" (AAIFR).

SICA was the first Act whose primary focus was only on restructuring the companies. Albeit the realm of the enactment was only restricted to the industrial companies, which looked "*sick*".[16] The *Firm's Board* is responsible for disclosing sickness, according to the Act. The Act granted an automatic suspension of all lawsuits, claims, and processes against the firm once sickness was disclosed. This process differed from the process given under the Companies Act, where a stay was not automatically granted; instead, it was upon the High Court's discretion to do so. Additionally, despite being declared sick, SICA gave the debtor corporation autonomy over its resources and business operations.

## TRANSFORMATIONAL POSITION OF INSOLVENCY LAWS IN INDIA

In the last two decades, we can see that there have been drastic reforms happening in the Indian Financial system. The government made crucial decisions in the finance sector, whose primary purpose was to encourage an effective, efficient, well-structured, and competitive financial market or system to speed up economic development with proper utilisation of resources. As we all know that India is the foremost economy around the world, so the policy and lawmakers have given their best efforts to make the laws and policies of India at the international level, which attracts investors to invest in Indian financial markets.

[14] Economic Survey 1987-88, Ministry of Finance
[15] The Sick Industrial Companies (Special Provisions) Act, 1985
[16] Id


We discuss how reforms take place in laws of insolvency and bankruptcy-

**NARASIMHAN COMMITTEE I, 1991**

In 1991, a high-level committee called Narasimha Committee was set up. The outcome of this Committee was enacting **the "*Recovery of Debts due to the Banks and Financial Institutions Act 1983*" (RDDBFI, 1993)**. The Committee focused on the development of the financial institution, and banks faced many difficulties while recovering their dues amount from the borrowers by filing cases in Civil Courts. The Committee suggested the establishment of specialised tribunals that would be very easy to deal with these kinds of matters quickly. So, as per the suggestion with the enactment of the RDDBFI Act, two tribunals were set up called "*Debt Recovery Tribunals (DRT) and Debt Recovery Appellate Tribunals (DRAT)*". The DRTs and DRATs were designed as specialised tribunals to help banks and a specific group of financial institutions quickly recover debt from defaulters.

**NARASIMHAN COMMITTEE II, 1998**

In 1998, once again Narasimhan Committee was set up for the concerns about the rising non-performing assets (NPAs) in the banking system. The *"Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest*" (SARFAESI, 2002) Act were passed in 2002 on the recommendation of the Committee.

The Act gave banks and other financial institutions broad authority to pursue non-performing secured loans for recovery. The SARFAESI Act offered an alternate path for recovery because the DRTs had yet to prove to be as effective in facilitating recovery as anticipated. The Act permitted banks and FIs to seize the collateral security without needing a court order. Its goal was to lower banks' and other sizable public financial institutions' rising NPA balances.

SARFAESI granted exceptional enforcement capabilities but only for a specific class of secured creditors, i.e., banks. In addition, if agreed upon by 60% of the value of the creditors, under the SARFAESI the precedence is given to the enforcement proceedings over the BICR procedure. With the invocation of the SARFAESI, the winding up process under the SICA or the Companies Act would be postponed.

**ERADI COMMITTEE (1999)**

In order to increase the transparency, under the aegis of the Justice VB Eradi, the Government of India, had established a committee of high-level in the year 1999, for the purposes of the investigations and making the recommendationsregarding the desirability of changes to the current law relating to winding up of companies. After analysing the international laws and provisions upon insolvency, the Committee concludes that the idea behind insolvency laws **s**hould not only deal with the quick liquidation of assets. In India, it should be like first finding out how we can protect and rehabilitate the companies. The Committee also acknowledged the urgent need to harmonize India's current insolvency rules with those of international law, given that disparities in national laws and procedures have significant ramifications when an enterprise has assets and liabilities in many countries. The Committee further proposed that the jurisdiction, power & authority that deals with the liquidation of the companies should hand over to the "*National Company Law Tribunal*"(NCLT) rather than any High Court at present. The Committee further suggest that the authorities should appoint peoples who are professionals in the field of insolvency and also who are sound expertise & experience in the corporate field and are part of the "*Institute of Company Secretaries of India*" (ICSI), "*Institute of Chartered Accountant of India*" (ICAI), "*Institute of Cost and Work Accountants of India*" (ICWAI), Bar Councils or corporate managers.

## N L MITRA ADVISORY COMMITTEE (2001)

The N L Mitra Advisory Committee looked at the specifics of contrasting court rulings regarding the criminalization of justice. A unique feature of the civil law system is tribunal justice. In India, the contest between the two systems is nothing new. The common law and civil law systems are now approaching one another, with the standard law systems adopting administrative justice and the structure of administrative authority for managing various state functions. On the other way, the civil law system incorporates the principles of the accusatory system and judicial process.

So, the advisory group's entire discussion was about how to avoid the possibilities of dualism in the system so that the whole procedure of liquidation of a company can be completed without delay. So, the group suggested two ways regarding this were following-:

1. Establish a National Tribunal with various benches under the jurisdiction of the High Court. So, it would be able to receive and deal with all petitions, regarding insolvency or bankruptcy and restructuring of the company, with an appeal file in the High Court and Special Leave Petitions in Apex Court; and

2. Each high court has a bench devoted to bankruptcy matters, enabling quick liquidation through reorganization and insolvency procedures. The only avenue of appeal is a special leave petition to the Apex Court.

The advisory body also analysed that establishing a professional body of experts who can deal with bankruptcy-related matters or proceedings shall build up the current court proceedings. This will fulfil the objective of fastening judicial proceedings.

## COMMITTEE UNDER THE CHAIRMANSHIP OF JJ IRANI (2005)

On December 2, 2004, the Ministry of Corporate Affairs (MCA) a group has been established for the purposes of proffering the suggestions and recommendations on the amendments to be brought in the Companies Act, 1956 for the purposes of building a law/statute which would be compact in nature for addressing changes in the national and international environment, allow for the adoption of best practices that are widely recognised, and for the purposes of the evolution at the rapid pace, by providing enough flexibility, and making novel arrangements in response to the business models. It was a commendable endeavour to give India a current

company law that would satisfy the demands of economy in the competitive world. The committee recommendations were as follows:

1. The role of the Insolvency Tribunal in the rehabilitation and liquidation process should be generic, non-intrusive, and supervisory. Only when using a fast-track method to resolve disputes does the Tribunal need to intervene more. The Tribunal should follow well-established legal rules of procedural fairness by taking a pragmatic approach to dispute resolution.

2. The Tribunal should establish high standards and be capable of upholding the necessary degree of public expectations for accountability, fairness, and impartiality. The Tribunal's president and members should be chosen in a way that allows for a diverse range of skills in the course of its work.

3. To deal with the problems that have been presented to the Tribunal, specific knowledge will be needed. The statute shall provide a sufficient qualification standard for appointment to the Tribunal and the judges' and members' training and ongoing education.

4. The creation of rules should ensure easy access to court documents, judicial proceedings, debtor and financial information, and other public information.

5. It is essential to develop and establish standards for measuring the Tribunal's abilities, performance, and services so that an accurate assessment can be made and additional improvements can be offered.

6. The Tribunal shall have a defined scope of power and practical means for upholding its rulings. It should be equipped with the necessary authority to stop unlawful or abusive behaviour.

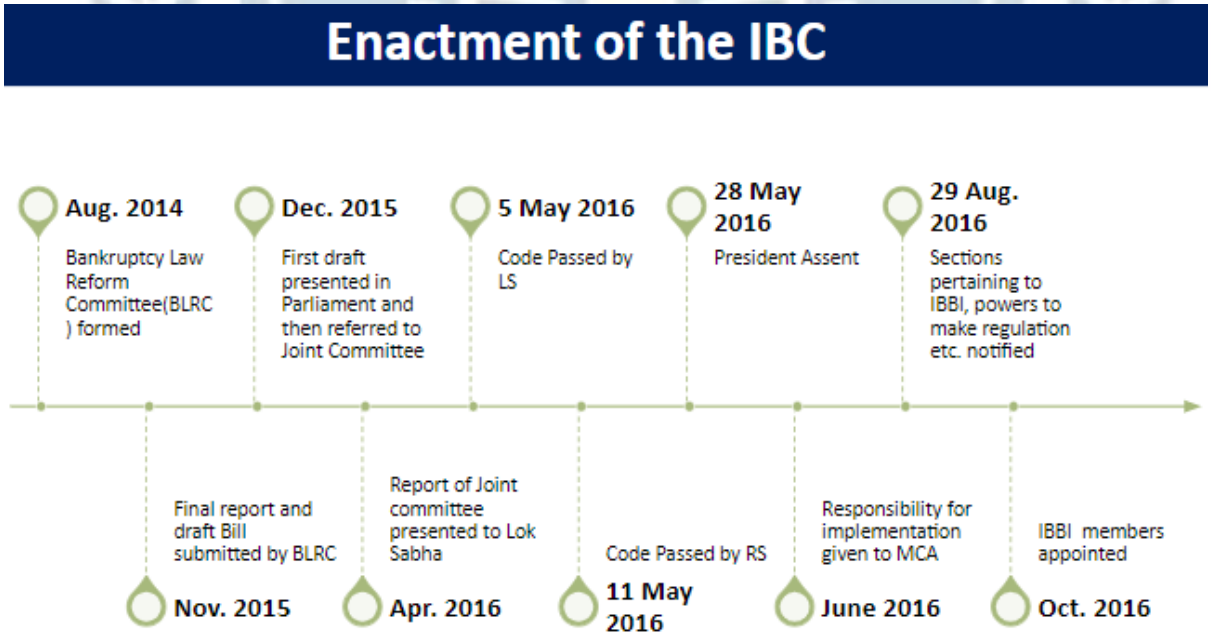
**REFORMS COMMITTEE ON THE LAW OF BANKRUPTCY (2014)**

For bringing about the change in the Bankruptcy laws, a prominent step had been taken by the Ministry of Finance by establishing the reforms committee on the Bankruptcy laws under the aegis of the Dr. TK Viswanathan which was named as "*Bankruptcy Law Reforms Committee (BLRC) 2014*". This committee had been established such that there is code for the bankruptcy which would be applicable to the individuals and the non-financial

institutions in the entirety, which is lacking in the incumbent system. The committee in November 2015, had submitted its report with the draft proposal on the Insolvency and Bankruptcy Code, and had focussed on the following things as hereunder:

- The report suggests that insolvency will resolve in less time with minimum loss while recovering debt and more debt financing across instruments.
- The report recommended that there should be uniform legislation which means that all the existing enactments concerning insolvency and bankruptcy code should be. It proposed that rescind the two laws and modifying six others enactments. So, the laws which were repealed were the Presidency Towns Insolvency Act of 1909 and the Provincial Insolvency Act of 1920. Post amendments, the laws were known as:
    - "*(i) Companies Act, 2013, (ii) Sick Industrial Companies (Special Provisions) Repeal Act, 2013, (iii) Limited Liability Partnership Act, 2008, (iv) Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (v) Recovery of Debts due to Banks and Financial Institutions Act, 1993 and (vi) Indian Partnership Act, 1932*".
- For the purposes of the dealing with the grievances pertaining to the bankruptcy and the. Insolvency, certain tribunals had been introduced by the Committee:
    - i) the "*National Company Law Tribunal"*: which will have the jurisdiction over the winding up of the LLPs and the companies, and also over the resolution process under insolvency; and (ii) the "*DebtRecovery* Tribunal": which will have the jurisdiction over the individual grappled with the insolvency and bankruptcy resolution process.
- The Committee had introduced to set up of an Insolvency & Bankruptcy Board of India (IBBI) as a controller or regulator, to manage as well as keep an eye over the entire insolvency resolution process (IRP) running in the country. All the professional agencies and information utilities in the country that are grappled with the process of the bankruptcy and insolvency shall be governed under IBBI to make a proper system and regulations for the liquidation process in the entire country.

- The company recommended quick IRP and time-restricted negotiations between the borrower and lender. A period of 180 days was proposed for the whole IRP. In case the matter is more complex, there shall be extension of the 180 days duration, which is also extendable upto 90 days, but it requires the assent of 75% of creditors.
- The Committee had introduced that a certified insolvency specialist would oversee overseeing the entire IRP. To keep the debtor's assets safe during discussions, the expert would oversee and manage them during the IRP.
- The Committee had suggested creating a committee of creditors, wherein the debtors' financial obligations would determine how many votes each would receive.
- The report suggested that the creditor's Committee would engage in discussions with the debtor to develop a revival or payback plan.
- The paper described the process for businesses and people to resolve insolvency. Either the debtor or the creditors can start the process.




***"THE INSOLVENCY AND BANKRUPTCY CODE, 2016*" (hereinafter referred to as "IBC")**

IBC differs from previous legislation dealing with the corporation's insolvency resolution process (IRP). Almost all are the same in design and principle because the legislation's main objective was the insolvency resolution. The thing which separates the IBC from other

frameworks is that it is structured or made according to the recommendations of various past committees that should have been taken more seriously. The IBC 2016 is the uniform code for IRP, which applies to all insolvent entities like corporations, individual firms, unlimited liability partnership firms, and limited liability partnership firms in a time-restricted manner. However, some incumbent enactments and statutes, such as the "*Companies Act 1956, SICA 1985, or SARFAESI 2002*", applies only to particular type of the debtors & creditors. It entitles all unsecured, secured, financial, and operational creditors for the commencement of the proceedings of the insolvency. According to prevailing laws, neither unsecured financial nor operational creditors, including the debtor firm's employees, are entitled for seeking the resolution of the firm which is undergoing insolvency.

Under this Code, several tribunals have been established for the IRP of individuals and unlimited liability partnerships. However, their jurisdiction is different, like the authority of the adjudicating nature with jurisdiction over private individuals and limited liability partnership firms shall be the Debt Recovery Tribunal (the "DRT"). The Debt Recovery Appellate Tribunal (or "DRAT") may hear appeals from DRT orders. The adjudicating authority for businesses and limited liability entities is the "*National Company Law Tribunal"* (NCLT). "*National Company Law Appellate Tribunal*" ("NCLAT") may hear appeals from NCLT orders.

The regulation of insolvency professionals and insolvency professionals' agencies will be under the authority of this Code. Under the supervision of the authorities, these professional agencies will set up a level of professionalism, maintain a code of conduct and enforce discipline on disobedient members, resulting in the growth of a cutthroat market for insolvency professionals.

The Code established rules for information utilities that would gather, compile, authenticate, and transmit financial data from publicly traded corporations, which are operational and financial debtors. It is also suggested to create an individual insolvency database to provide details on Individuals' state of insolvency.

The Code specifies a quick procedure and a 180-day window for handling requests for corporate insolvency resolution. The Adjudicating Authority may only extend this once for 90 days. An interim resolution professional or resolution professional is given control of the debtor during the insolvency resolution period (180/270 days). The duration of the CIRP

(corporate insolvency resolution process), including any extensions, as well as the time spent in legal procedures related to the corporate debtor's resolution process must be completed within three hundred and thirty days after the insolvency commencement date.

The Code specifies a quick insolvency resolution procedure for businesses with fewer employees. The procedure must be finished in 90 days, but it may be prolonged for an additional 45 days with the consent of 75% of the financial creditors. Extensions are only permitted once.

## CONCLUSION

The main objectives behind the passing of the IBC were to protect the rights of the creditor if an individual or a company takes a loan, it would be the duty of that individual or the company to repay the debt, but if that individual or company become insolvent in future so in this matter why credit would suffer or remain unpaid? So, to protect the creditors from this type of tragedy, IBS came into action. Another benefit of the commencement of IBC is that the insolvency resolution process has become quick or less time taken.

As determined by the Ease of doing business report (2020) released by the World Bank, India secured 63rd rank among the 190 participating countries worldwide. As per this report (2019), India's rank was 77th which means India improved its rank by 14 compared to last year. India ranks 10th amongst the top improvers.

IBC is the most significant contributor to this outstanding performance of India on a global level because India's rank in 2015 was 142, and in the current report, it is 63. So, there is a vast difference. The following mentioned data discuss India's improvement-

| S.No. | Indicator | 2018 | 2019 | Change |
|---|---|---|---|---|
| 1 | Resolving Insolvency | 108 | 52 | +56 |
| 2 | Construction Permits | 52 | 27 | +25 |
| 3 | Trading Across Borders | 80 | 68 | +12 |
| 4 | Registering Property 166 | 154 | +12 | |
| 5 | Paying Taxes | 121 | 115 | +6 |
| 6 | Getting Electricity | 24 | 22 | +2 |
| 7 | Starting a Business | 137 | 136 | +1 |
| | Overall Rank | 77 | 63 | +14 |

*Source of data:ICSI_CSEET_REFERENCE_READING_MATERIAL_I.pdf (icsi.edu) page no. 569*

The Code's enactment and execution will enhance not only India's standing in the Ease of doing business but also the credit market, GDP, foreign direct investment, and general business climate. Overall if we talk about this law, it is more or less got success in achieving its goals because the fact that there has been a double-digit increase in successful resolutions in less than two years is strong evidence that the law is headed in the right direction. There were indeed many challenges before this Code because it is nascent, but despite a few difficulties, the success of the Code cannot be overlooked. The insolvency regime in India has significantly improved, according to the growth trajectory shown by the Code.

## BIBLIOGRAPHY

Tuovila, Alicia. "Insolvencies: Definition, How It Works, and Contributing Factors." Investopedia. Investopedia, October 2, 2022. https://www.investopedia.com/terms/i/insolvency.asp.

"Insolvency." Cambridge Dictionary. Accessed November 11, 2022. https://dictionary.cambridge.org/dictionary/english/insolvency.

https://www.icsi.edu/media/webmodules/151120221_Module_3_Paper_9_8_ILP_Book_11_11_2021_1.pdf

"Evolution of the Insolvency and Bankruptcy Laws in India." Accessed November 11, 2022. https://ibclaw.in/wp-content/uploads/2021/05/EVOLUTION-OF-INSOLVENCY-AND-BANKRUPTCY.pdf.

"The Evolution of Corporate Insolvency Laws in India." Legal Service India - Law, Lawyers, and Legal Resources. Accessed November 11, 2022. https://legalserviceindia.com/legal/article-8526-the-evolution-of-corporate-insolvency-laws-in-india.html.

Admin. "Evolving Landscape of Insolvency Law in India." ShardulAmarchandMangaldas& Co, April 21, 2020. https://www.amsshardul.com/insight/evolving-landscape-of-insolvency-law-in-india/.

Rajeswari Sengupta, Anjali Sharma, Susan Thomas. "Evolution of the Insolvency Framework for Non-Financial Firms in India," June 22, 2016. http://igidr.ac.in/pdf/publication/WP-2016-018.pdf.

Jain, Anaya, By, -, Diva Rai, and Please enter your name here. "Critical Analysis of Insolvency Law in India." iPleaders, August 19, 2020. https://blog.ipleaders.in/critical-analysis-insolvency-law-india/.

GUPTA, ANKEETA. "Insolvency And Bankruptcy Code, 2016Insolvency and Bankruptcy Code, 2016: A Paradigm Shift within Insolvency Laws in India." View of insolvency and bankruptcy code, 2016: A paradigm shift within insolvency laws in India. Accessed November 11, 2022. https://rauli.cbs.dk/index.php/cjas/article/view/5650/6293.