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THE EVOLUTION OF INSOLVENCY LAWS IN INDIA

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Abstract : The current Indian framework for corporate insolvency resolution, is fraught with deficiencies in the laws, their procedures, their implementation as well as in the capacity of the institutions supporting them. The absence of a coherent and effective mechanism for resolving corporate insolvency has resulted in poor economic outcomes. The origin of the complex framework characterised by multiple, fragmented laws, can be traced back to the history of its evolution. In this paper, we describe the evolution of the corporate insolvency resolution framework, with the objective of linking it back to the policy directive of the time. We conclude that when policy adopts a piecemeal approach focusing on solving only a part of the complex problem, one at a time, it most often leads to inefficient outcomes on the overall objective. We end with a brief description of the Insolvency and Bankruptcy Code (IBC), 2016 which is most recent policy initiative in this field. The IBC is a clean, modern law that offers a simple, coherent answer to the insolvency resolution problems under current Indian conditions. Once implemented, the law will potentially change not only the manner in which insolvency is resolved in India but also the entire credit landscape of the country contains**.**

***IndexTerms* - Indian insolvency law, Restructuring, Winding up, Secured creditors, Debt recovery, Insolvency and Bankruptcy Code.**
JEL Code: G33, G34, K2

I. INTRODUCTION

1.1. The origins of Indian Insolvency Law

Insolvency law in India has its origin in the English law. In India, the need for a legal framework to deal with insolvency was first felt in the three Presidency towns of Bombay, Calcutta, and Madras where the British carried on trade. The earliest insolvency provisions can be traced back to sections 23 and 24 of the Government of India Act, 1800, Statute 9 enacted in 1828, the Indian Insolvency Act, 1848, and the Presidency-towns Insolvency Act, 1909. The Presidency-towns Insolvency Act, 1909 continues to be in force for Bombay, Calcutta and Madras and covers the insolvency of individuals, partnerships and associations of individuals. Till the early 1900s, there was no insolvency law for the non-Presidency town areas. The 1907 Provincial Insolvency Act which was eventually replaced by the 1920 Provincial Insolvency Act was the first insolvency law for the other areas. It continues to be the insolvency law in force in areas other than the Presidency towns of Bombay, Calcutta and Madras and deals with insolvency of individuals, which may also include individuals as proprietors. In 1964, the Law Commission of India1 recommended combining the two laws to create a common insolvency law that would be applicable to the entire country. However, this was not implemented. Till today, the Presidency towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920 continue to be the relevant laws for insolvency resolution of individuals and associations of individuals.

- **SCOPE OF STUDY:**

The chapter pays special attention on knowing by what means Indian legislation and regulation with concern to the insolvency resulted in the development of insolvency and bankruptcy Code 2016, by examining the existing legislation came into existence for the purpose to regulate the acts arising out of liquidation.

- **OBJECTIVES:**

The principle goal of this research is to find out how Indian legislation due to increasing concern to the non performing assets and Insolvency caused the evolution of Insolvency and Bankruptcy Law in India

2. LITERATURE REVIEW

2.1. Sengupta, R., & Sharma, A. (2016). In this paper author analyse the corporate insolvency resolution procedures of India, UK and Singapore within a common framework of well-specified principles. India at present lacks a single, comprehensive law that

addresses all aspects of insolvency of an enterprise. The presence of multiple laws and adjudication fora has created opportunities for debtor firms to exploit the arbitrage between the systems to frustrate recovery efforts of creditors. This also adversely impacts timeliness of the resolution process. While the importance of a well-functioning insolvency resolution framework can hardly be overstated, there is no single framework with well-defined rules laid out for organizing an efficient insolvency resolution process. Hence we undertake a cross-country comparison, the underlying motivation being to highlight the similarities as well as differences across the laws and procedures of the three countries. The objective is to learn important lessons for India, in context of the formation of the Bankruptcy Law Reforms Committee (BLRC) in 2014. The Committee has recently recommended an Insolvency and Bankruptcy Code that would be applicable to all non-financial corporations in India.

2.2. Das, A.et.al. (2020). While the primary outcome of IBC is measured by the number of resolutions made or the amount of lenders' dues realized, the larger impact on the governance culture of corporations is more fundamental. The combination of corporate governance reforms and a well laid-out insolvency process in the last few years has laid the foundation of a corporate practice where interests of all stakeholders, including creditors, are recognized and protected. The twin reforms have also led to the empowerment of independent directors, who are now conscious of their liabilities and havestarted raising uncomfortable questions in their boards. The working culture in banks has also been showing remarkable improvement. This is resulting in fundamental changes in the way business is conducted in India. International examples of countries which have undertaken insolvency reforms point out that these reforms take a few years to effect the larger corporate and financial system. Developments of the last few years point out that India is well on course to maximizing the impact of these reforms on governance, business practices, and on the markets.

2.3. Anant, S., & Mishra, A. (2018).IBC is the second most crucial reform in the legal setting of India. It is because IBC is not only making India emphatically powerful in the field of the legal environment but also provides a new identification and recognition at the global platform economically. The Insolvency and Bankruptcy Code, 2016 is the bankruptcy law of India which seeks to consolidate the existing framework by creating a single law for insolvency and bankruptcy. The paper studies distinguish features and the legal framework of the code. The study is descriptive in nature. In line with that, the paper also presents the impact of Insolvency and Bankruptcy code on macro environment of India.

2.4. Sahoo, M. S., & Guru, A. (2020). The legal framework of insolvency and bankruptcy impacts a number of economic indicators such as credit growth, job preservation, employment creation and entrepreneurship and in turn, overall economic growth. It also causes behavioural changes in terms of affecting the willingness of investors, banks, and entrepreneurs to take risks. Each of the central economic issues pointed out at the outset of this article, can be said to be, in some form, addressed by the modern, comprehensive insolvency and bankruptcy law in the form of the Code. The implementation of Code has started demonstrating its results on each of these fronts, and as the new regime matures, further progress is likely to be visible.

2.5. Rajoria, K. (2018). This paper seeks to critically analyse the new law and its applicability in the last year of its enforcement, in the light of past lessons and series of reforms, to ascertain the effectiveness and future prospects of the reformed insolvency law in India.The paper is compartmentalised into six parts.Firstly, the Introduction. Then details of the history of the evolution of insolvency and bankruptcy reforms in India analysing its impact. The third part gives a bird's eye view of the IB Code statingreasons for its enactment and highlighting its main features and challenges in its proper implementation. There is then a discussion of the moratorium period given under IB Code s.14, its relevance and a detailed account of the nature of this ''calm period'' (directory or mandatory in nature). The ramifications of IB Code, future of sick companies after dissolution of BIFR and the effectiveness of the insolvency resolution process are also discussed.

2.6. Pandey, A. (2016). This research paper provides an analysis of the development of Bankruptcy and Insolvency laws in the post-independence period in India. Evolution of the regulatory framework and significant changes in regulations are temporally analysed in the context of political realities. The paper identifies critical shortcomings in individual laws and discusses the lack of harmonisation. The role of a weak framework for insolvency and bankruptcy in promoting a bank- oriented economy is discussed. The paper summarizes,using empirical data, the impact of inefficient and inadequate insolvency framework on resolution timelines and recovery rate. Author analyses the recently passed Insolvency and Bankruptcy Bill and concludesthat the Bill in its current form encourages liquidation at the cost of financial restructuring. An opinion is expressed that the Bill fails to provide adequate representation to all stakeholders. The paper highlights a lack of clarity in the Bill regarding appointment of executants. Certain other lacunae in the Bill impeding its overall effectiveness are also identified. The author draws upon cross-country experiences to suggest remedial measures that address impediments in the successful implementation of the Bill.

3. RESEARCH METHODOLOGY:

The methodology followed in this research will be purely doctrinal in nature. This research is on the "evolution and origin of insolvency and bankruptcy in India". Therefore the wewill be dealing mainly with the doctrinal material available. Since various doctrinal resources are very easily available on this particular topic, thus the we have contracted mainly on such resources and has dealt in all such resources in a comparative manner and analytical nature. The researcher will be taking help of various primary sources such as text of the Company Act,1956 Company Act 2013, Sick Industrial Companies Act, 1985(SICA), Securitisationand Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI), Insolvency and Bankruptcy Code (IBC),The Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations 2016, The Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations 2016, The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, and Bankruptcy Law Reforms Committee. The secondary sources that the we use are the various books, cases, journals, articles and papers relating to this topic. We will be making extensive use of both such primary and secondary sources in this research.

4. The Evolution of Bankruptcy Laws in India

In the Presidency – towns the foremost Insolvency court were put in place by means of statute 9 Geo.4,c. 73, go in the year 18284 . Basically those were the courts established to help the Insolvent Debtors. They were individual courts as well as courts of records. Any person disturbed because of the choice of the abovementioned court can move or proceed to the Supreme Court which is to be regarded as above all. The Supreme Court organized the capacity to hear the collection and transfer such kind of requests as it distinguished fair and considerable and identical application or demand is to be deferred through the courts for the mitigation of insolvent or the borrower. The workers of the court of insolvency were entrusted by the Supreme Court. One of such official was regarded as "normal appointee". In the event that an appeal for mediation was initiated or originated by one lender as well an order for arbitration was created the property interest of the indebted entrusted in the simple selected one by uprightness of the request. Agreement was in further made for the break guarantee orders.

- **Indian Insolvency Act, 1848**

It was the year 1848 when the past approvals were revoked and other Act was adopted so called the Indian Insolvency Act. The Act stored the provisions among all merchants and non-brokers make specific reference6 . Through this Act the Courts only for the alleviation of Insolvent Debtors established by the Act of 1828 were supposed to be moved however the Court was to take place within the persistent watch of judges of Supreme Court.

- **Administration towns Insolvency Act, 1909**

In advance of agenda in the twentieth century it was believed that the Indian Insolvency Act, 1848 has proven out to be antiquated and it was elected or we can say nominated to create separate law based on English Bankruptcy Acts. Same Act i.e. The Act of 1848 was to be believed as having no value or so called annulled and consequently a different separate Act was approved in 1909 being the Presidency-towns Insolvency Act taking into account of the Bankruptcy demonstration 1883 and the Bankruptcy Act 1890. As everything has a flaw likewise the Indian Insolvency Act also has its own flaws, one of the main and solid defaults was that the Act was rather benefitting the borrowers to greater extent but not lenders. The troops of legal assignee were exceedingly restrained. He just brought assets together and had no strength to consider the measures. By means of new Act enormous strength was provided rather given to the courts to push the disclosure of the indebted property. Section 79 speaks and requires the official trustee to investigate or inspect the case of bankruptcy and provide an answer or respond to the court upon whatsoever application for liberating stating whether there is encouragement to trust that the wiped outhad granted any indebtedness crimes or certain other crimes mentioned under segment 421 to 424 of the Indian Penal Code with concern to his indebtedness or which would justify the court in cannot, interrupting or limiting a request for his release.

- **The first law for Corporate Insolvency: The Companies Act, 1956**

In the Indian Constitution enacted in 1950, the terms “Bankruptcy” and “Insolvency” were specified in the Concurrent List However, incorporation, regulation and winding up of corporations was under the Union List. With these powers, the Parliament enacted the Companies Act in 1956. This Act governed all aspects of the functioning of companies, including their winding up. The Act had no definition of the terms insolvency or bankruptcy and dealt only withthe ’inability to pay debts’. However, for all practical purposes, it was the only law available for dealing with corporate insolvency. The High Courts constituted the adjudicating authority for winding up related matters under this law. Creditors with unpaid dues above a defined threshold6 could petition the court for winding up a company. Winding up was preceded by liquidation, a process managed by an Official Liquidator (OL), appointed by the High Court. The OL was responsible for collecting the assets of the company, and managing the sale and the distribution of the proceeds in accordance with the priority defined in the Act. This Act, passed in the early periods of India’s policy of industrialisation, prioritised workmen dues and dues to the government over secured creditors’ dues. The Companies Act, 1956 contained certain provisions through which the company or its creditors could seek to reorganise it.7 However, these were general provisions and not specific to insolvency or bankruptcy situations. In 2013, there were approximately 14 lakh registered companies in India of which only 9.5 lakh were active.8 In contrast, on an average, between 2008 and 2010, not more than 6,500 cases of winding up were registered with the High Courts. Only about 250-350 cases were added every year and about 300-600 completed every year. This highlights the low use of the Companies Act procedures for dealing with corporate insolvency. It also points to a lack of capacity at the High Courts to deal with case volumes. Anecdotal evidence suggests that winding up under the Act, on an average, takes around five to eight years to complete and in extreme cases even 25-30 years. The Companies (Amendment) Act, 2003 proposed significant changes to the insolvency related provisions of the Companies Act, 1956. However these could not be notified due to legal challenges. In 2013, the new Companies Act was passed. Most of the provisions of the 2013 Act are in line with those proposed under the Second Amendment in 2002. Implementation challenges with respect to the corporate insolvency provisions continue even with the new Companies Act, 2013. As a result the provisions of the Companies Act, 1956 continue to be in force

- **Strengthening Debtor’s rights: Sick Industrial Companies Act (SICA) 1985**

From 1956 to 1985, the Companies Act was the only law dealing with corporate insolvency. The early policies of the government after independence involved the development of manufacturing industries in the economy which required significant investments. As was typical in several emerging economies, the government made these investments through large development finance institutions (DFIs), which were set up with the objective to encourage industrial development. In return for credit, the DFIs were given a seat on the board of these firms. This was expected to give these creditors a direct control on the management of these firms. In turn, this resulted in poor allocation of economic capital. There is evidence that large firms with banks as creditors and the latter on the boards, have higher leverage, lower investment and tend to be in greater financial distress. This turned out to be true in India as well (Bubna and Gopalan 2012). By the early 1980s, the problem of sickness among the industrial companies had become widespread. From 1981 to 1985, the number of sick industrial units rose from 26,758 to 119,606.9 In 1980, an empowered committee (Tiwari Committee) was set up to recommend legislative and administrative remedies to the problem of industrial sickness. As an outcome of this, the Sick Industrial Companies Act (SICA) was passed in 1985 with the objective of identifying “sickness” in industrial companies and reviving them. The Act was supported by the setting up of a new legal forum, the Board of Industrial and Financial Reconstruction (BIFR) and the Appellate Authority for Industrial and Financial Reconstruction (AAIFR). SICA was the first law which focused solely on restructuring of companies. However, its coverage was narrowly defined to include only “industrial companies” that were deemed “sick”.10 The Act put the onus of reporting sickness on the board of the firm. Once sickness was reported, the Act provided an automatic stay on all suits, claims and proceedings against the company. This procedure differed from that in the Companies Act, where a stay was not automatic and was granted at the discretion of the High Court. SICA also empowered the debtor company to control its assets and operations even after being adjudged sick. Over time, the law developed a distinct rehabilitation bias (Zwieten 2015). Key provisions of the Act were interpreted and reinterpreted by judges in an attempt to rescue companies that were bankrupt and hence destined for liquidation, and to protect some types of stakeholders (especially employees) in the interim period. An additional challenge with SICA was that there was only one bench of the BIFR, in Delhi. As enterprises grew manifold in number all over the country, the lack of capacity at the BIFR became a bottleneck. Further, if the BIFRjudged the company to be sick, it recommended winding up. But the winding up order as per the Companies Act, 1956, was issued by the High Court. Often, winding up recommendations by the BIFR were re-opened by the High Court’s afresh and many a time, even reversed, thereby causing inordinate delays and associated loss in firm value. An analysis of BIFR cases between 1987 to 2014 shows that a total of 5,800 cases were reported to the BIFR. 53% of these cases were either dismissed or abated, 22% of the cases were recommended for liquidation, in 9% of the cases a rehabilitation plan was implemented and the remaining 15% cases remain pending in BIFR. The average time taken for the closure of a case is around 5.8 years. This highlights fact that eligible companies often used

BIFR as a mechanism to seek protection from their creditors. It also points to the capacity challenge at BIFR in dealing with case volumes. The 2003 Amendment of the Companies Act sought to repeal SICA. However, due to legal challenges this Amendment could not be notified.

- **Policy focus on strengthening creditors' rights**

In the decade of 1990, there was a general acknowledgement of the failure of insolvency resolution process under the Companies Act, 1956 and the SICA, 1985. Procedures under both these Acts were plagued with significant delays and did not lead to productive outcomes. In order to rectify this several committees were set up between 1991 and 2008 to reform the framework for corporate insolvency resolution. Table 2 lists the numerous government committees that have worked on this subject, for many decades. A noticeable feature of this reform push was the attempt to strengthen the "individual" recovery rights of banks and financial institutions, the dominant lenders at the time, rather than all creditors in general. As an outcome of the policy reform push of the 1990s and early 2000s, laws focusing solely on strengthening the recovery rights of the banks and public financial institutions were brought about. A consequence of this, and of the general failure of the collective resolution mechanisms under Companies Act, 1956 and SICA, 1985, is that credit in India continues to be dominated by secured lending and reputation based lending by banks. This thwarts the development of alternative sources of credit such as corporate bond market and in turn makes it difficult for new firms and firms without collateral to access credit.

- **The SARFAESI Act, 2002**

The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) is a piece of one such legislation that focuses on strengthening the rights of the secured creditors against the defaulting debtors. It was enacted after the recommendations of Narashiman Committee-I and introspecting Committee under Andhyarujna, in replacement of the existing Recovery of Debts due to Banks and Financial Institution Act, 1993.

The whole purpose of enactment of the SARFAESI Act was to remove the time delay caused to the Banks for the recovery of loans. It is considered as an essential function of the banking system and an improper delay caused to such actions cannot be encouraged. Thus, the banks wished to reduce their NPAs through faster recovery. Since the previously enacted law namely the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, failed to satisfy the agenda of the enactment leading to a replacement. Hence the SARFAESI Act, 2002 came into existence.

Though, initially few apprehensions over the utility of this legislation prevailed, various judicial pronouncements have influenced a better understanding over the same.

- The Supreme Court, in the case of Karnataka State Financial Corporation vs. N. Narasimham has rightly highlighted the significance of the constitutional right to property. Thereby, guiding both the creditors and lenders on the necessity of the property mortgaged to the bank.
- The Supreme Court of India upheld the SARFAESI Act, 2002 to be constitutionally valid except for the provision under section 17(2) of the Act, 2002, as it was Ultra vires the Article 14 of the Indian Constitution.
- The Ministry of Finance vide notification dated 24.02.2020 considered Non – Banking Financial Companies (NBFCs) having assets worth Rs. 100 Crore and above, to be entitled for enforcement of security interest in secured debts of Rs. 50 Lakhs and above, similar to that of financial institutions for the purposes of the SARFAESI Act, 2002.
- The various Crisis faced by the Co-operative Banks of Punjab, Maharastra and other co-operative banks exposed the vulnerable nature of the Co-operative Banks. With regard to this, in the matters of Pandurang Ganapathi Chaugule vs. Vishwasrao Patil Murugud Sahakari Bank Limited the Supreme Court of India has established the following outcomes:
- Co-operative Banks established under both the state and multi- state level co-operative societies are recognised under section 2(1)(c) of SARFAESI Act, 2002, thus allowing the secured creditors to take possession of assets of defaulting borrower(s) within 60 days from demand for repayment, as per section 13 of the Act, 2002.
- Co-operative Banks are bound by the provisions of legislations that are relatable to Entry 45 of List I of the Seventh Schedule such as the Banking Regulation Act, 1949 and other legislations that the banks are generally governed as under the Reserve Bank of India Act. Thus, the co-operative banks are considered under the definition of 'banking'.
- The Activities of Co-operative Banks are explained in Entries 45 and 38 of List I of the seventh schedule and are covered within the meaning of 'banking company' defined u/s 5(c) read with section 56(a) of the Banking Regulation Act, 1949 for the purpose of determining the activities of such banks.
- The process of 'incorporation, regulation and winding up' of the co-operative banks are also dealt under the Entry 32 of List II of the Seventh Schedule.
- The power of Parliament to enact law, in order to provide the Banks with the recovery procedures for speedy recovery of dues without the court's intervention, is upheld.
- Thereby, the Apex court upheld the 2003 Government notification, which allowed the banks to recover the dues from the defaulters through the prescribed recovery procedures u/s 13 of the SARFAESI Act, 2002 without the intervention of court/ tribunal

- **The RDDBFI Act, 1993**

Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI Act), 1993

The RDDBFI Act, 1993 provides for establishment of Debts Recovery Tribunals (DRTs) with original jurisdiction and Debts Recovery Appellate Tribunals (DRATs) with appellate jurisdiction, for expeditious adjudication and recovery of debts due to banks and financial institutions, insolvency resolution and bankruptcy of individuals and partnership firms and connected matters therewith. The Act aims to safeguard the interest of banks and financial institutions as lenders, while not discouraging borrowers. The Tribunals have not yet commenced taking up insolvency resolution and bankruptcy matters as the related provisions are not yet in force. The Act is applicable to cases where the amount of debt due to any bank or financial institution defined under the Act or a consortium of banks or financial institutions is Rs.20 lakh or more.

- **The recommendations of the High Level Committee on the Financial System (Narasimham Committee I, 1991) led to the enactment of the Recovery of Debts**

Year	Committee	Outcome
1964	24thLawCommission	AmendmentstotheProvincialInsolvencyAct,1929.
1981	Tiwari Committee (Department of Company Affairs)	SICA, 1983. (Sick Industrial Companies Act of 1983)
1991	Narasimham Committee I (RBI)	RDDBFI Act,1993. **(**Recovery of Debts Due to Banks and Financial Institutions)
1998	Narasimham Committee II (RBI)	SARFAESI Act,2002. (Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002)
1999	Justice Eradi Committee(GOI)	Companies(Amendment)Act,2002, Of SICA. (Sick Industrial Companies Act)
2001	L. N. Mitra Committee (RBI)	Proposed a Comprehensive Bankruptcy Code.
2005	Irani Committee(RBI)	Enforcementof Securities Interest and Recovery of Debts Bill, 2011. (With amendments to RDDBFI and SARFAESIActs).
2008	Raghuram Rajan Committee (Planning Commission)	Proposedimprovementstocreditinfrastructure.
2014	BankruptcyLawReformsCommittee(MinistryofFinance)	Insolvencyand Bankruptcy Code (Replacing extant lawswithasingleconsolidatedcode)

24thLawCommission report (1964)

1. Issuing a cheque which is dishonoured is crime in India. But we hardly see any people being punished for bouncing of cheques. People are dissuaded to trust bank cheques. This all because courts in India are awfully overburdened with dishonoured cheque cases.
2. Legal experts are unanimous in their opinion that the present system of criminal jurisprudence is destined to fail if the backlog of cases is not substantially reduced. Recently, the Law Commission of India mooted the concept of "plea-bargaining" – pre-trial negotiations between the accused and the prosecution in which if the accused agrees to plead guilty for the charges levelled against him he would get in exchange certain concessions as a quid pro quo, by taking a lenient view by the courts, particularly in cases of lesser gravity. Actually, the courts have been practically following such a practice, for several years, now.
3. A speedy trial is not only required to give quick justice but it is also an integral part of the fundamental right of life and liberty, as envisaged in Article 21 of the Constitution of India.
4. The Law Commission of India is of the firm opinion that considering the alarming situation of the pendency of cases and the constitutional rightsof a litigant for a speedy and fair trial, the Government of India should direct the State authorities for setting up of Fast Track Courts in the country, which alone, in the opinion of the Law Commission, will solve the perennial problem of pendency of cases, which are even summary in nature.

5. The Law Commission is of the view that the backlog of cheque bouncing cases need to be speedily disposed of through this measure lest litigants may lose faith in the judicial system. The commercial circles should have confidence that we have quite faster judicial system.
6. We, accordingly, recommend as under: (a) Fast Track Courts of Magistrates should be created to dispose of the dishonoured cheque cases under section 138 of the Negotiable Instruments Act, 1881; (b) The Central Government and State Governments must provide necessary funds to meet the expenditure involved in the creation of Fast Track Courts, supporting staff and other infrastructure.

- **Narasimham Committee I (RBI) 1991-**

The recommendations of the committee have somewhere reflected the need for investors and protection of financial institutions. When a country has sound mechanism for revival of debts, it automatically acts as a hub for investment as it provides an assurance that such financial institutions and creditors will not be without any remedy. The recommendation of the committee has surely been given to ease the doing of business be it by entry of foreign banks or allowing joint ventures. Although because of poor implementation of the recommendations and lack of harmonization between different forums there has been loopholes that existed because of which the overhaul dynamics of rising NPAs in the Indian Banking Sector is exerting pressure upon the government and RBI to address the problems of NPAs. The accumulation of NPAs acts as a termite on the banks‟ balance sheets of the banks, which is ought to be supported by sound risk management practices in each bank, where RBI‟s regulatory role in such predicament situation became exigent. The banks on their level should also devise a stringent loan recovery mechanism, which would closely follow the progress of each loan account. Thus apparently, the health of the banking sector should be restored urgently, as the NPA problem can jeopardize into a real economic crisis worse than that of 1991. Therefore, the calls for building adequate regulatory frameworks, comprehensive reforms and a strong resolution and supervision policy is the need of the hour to outpace banking sector of India.

- **Narasimham Committee II (RBI) 1998-**

The Narasimhan Committee on banking sector reforms submitted its report in April 1998 and made a series of sweeping recommendations. The report covers an entire gamut of issues ranging from bank mergers and the creation of globalised banks to bank closures, recasting bank boards and revamping banking legislations. The Committee makes a case for a stronger banking system in the country, especially, in the context of Capital Account Convertibility.

The recommendations of the Committee continue to be implemented in a phased manner. For example, Capital Adequacy requirements of banks have been stepped up and prudential norms have been made more and more stringent. All the major banking legislations viz., the RBI Act (1934), the Banking Regulation Act (1949), Bank Nationalisation Act (1970) have been reviewed and gradually diluted in accordance with changing requirements. More flexibility is being provided to banks by greater autonomy to bank boards. On-line banking has become the key word and consolidation of the banking industry (rather than branch expansion) is being encouraged by permitting mergers and acquisitions within the existing legal framework.

- **Justice Eradi Committee (GOI) 1999-**

Introduction of any new reform comes with its own set of challenges. The effect of notification is that CLB stands immediately dissolved. With only 11 benches currently operative, there will be a huge burden on the tribunal to deal with cases transferred from CLB and other forums. This may serve as an impediment in the transition process. Further, not all provisions with respect to NCLT have been notified, such as provisions related to winding-up, capital reduction, amalgamation and compromises which means that High Court continues to exercise jurisdiction over these matters. Once all the provisions regarding functioning of NCLT are notified, there will be more clarity on the effect this has on dispute resolution. Overall the constitution of NCLT and NCLAT has paved way for a much needed judicial reform. For now all that can be said is that in the light of increasing globalization and the need to move in-sync with changing times, a landmark step has been taken to promote better corporate dispute redressal mechanism.

- **N L Mitra Committee(2001)**

The Reserve Bank of India has moved to crack down on bank fraud. In an eight-page circular sent to scheduled commercial banks except regional rural banks, it said it would take penal action against banks that failed to report cases of fraud to the central bank within seven days of getting to be in the know of it. It has advised banks to initiate departmental action against officials involved in fraud simultaneously with criminal action.

RBI directed banks to strengthen their control mechanisms to detect and prevent fraud and to implement the recommendations of the high-level group set up by the Central Vigilance Commission on frauds in the banking sector. The RBI instructed banks to adopt the best practices code, suggested by the N L Mitra Committee in September 2000 on the legal aspects of bank fraud. The apex bank has also called for a closed-door meeting next week with bank chairmen to discuss fraud prevention measures.

The Mitra Committee stated that there had to be a two-fold approach to tackling financial fraud. First, preventive measures to minimise malfeasance were required. Second, banks should adopt a prohibitive approach. The RBI has suggested instead of banks setting up an institution for recording credit data, the existing Credit Information Bureau should implement the Mitra Committee recommendations of recording credit transactions above a certain value. This is with a view to improving the quality of information and to reducing the possibility of fraud. Based on the suggestions of the Mitra Committee, the RBI has advised banks and financial institutions to develop the best practices code for its officers and staff. This is to provide a detailed rule-based procedural system in customer-related matters and in the application of discretionary powers. The RBI observed banks failed to "adhere to checks and controls".

The central bank instructed commercial banks to implement the Mitra Committee recommendations on the establishment of an in-house legal compliance certification process. This will ensure the accountability of each member in the management cadre as regards exercising discretion in transactions above a value.

Banks have to undertake a legal compliance and due diligence audit annually. This report is to be submitted to the chairman, the managing director or the chief executive of the bank, and the RBI. The central bank has waived the requirement that the report has to be submitted to shareholders. The RBI has accepted the Mitra Committee recommendations on incentive systems for promotion of employees in banks.

- **RaghuramRajan Committee (Planning Commission)2008**

The Raghuram Rajan Committee on Financial Sector Reforms (hereafter CFSR) has placed its draft report on the Planning Commission web site for public debate. The mandate of the CFSR has been to "outline a comprehensive agenda for the evolution of the financial sector". The report delineates "A Hundred Small Steps" to reform India's financial sector. The fascinating part of the report is its articulation of "GenNext" reforms related to financial inclusion, stability and growth within a macroeconomic framework it thought appropriate in the Indian context.

Before one comments on the relevance of the CFSR's macroeconomic framework, the major highlights of the report may be in order. To start with, one cannot agree more with the CFSR on the need for a disciplined and predictable monetary, fiscal and debt management policies for the success of financial sector reforms and, in turn, the critical importance of a well-functioning financial system for macro-economic stability. Also there cannot be two opinions on the need for financial inclusion. The CFSR delineates a plethora of measures for financial inclusion, recognising that access to credit rather than cost of credit matters for the nearly three-quarter of poor households who are outside the purview of banking in India. This is all the more true when the report acknowledges that the poor engage in credit dealings with the indigenous money lenders at an exorbitant interest rate, which is well above the mandated lending rate for banks.1 While advocating GenNext reforms, the CFSR emphasises the significance of a well-functioning regulatory mechanism and strongly argues for establishing new regulatory institutions and new legislative fiats for fixing the financial sector.

- **Following is the Summary of the Recommendations of the Bankruptcy Law Reforms Committee (BLRC)**

The Report of the BLRC is in two parts:

i. Rationale and Design/Recommendations;
ii. A comprehensive draft Insolvency and Bankruptcy Bill covering all entities.

The draft Bill has consolidated the existing laws relating to insolvency of companies, limited liability entities (including limited liability partnerships and other entities with limited liability), unlimited liability partnerships and individuals which are presently scattered in a number of legislations, into a single legislation. The committee has observed that the enactment of the proposed Bill will provide greater clarity in the law and facilitate the application of consistent and coherent provisions to different stakeholders affected by business failure or inability to pay debt and will address the challenges being faced at present for swift and effective bankruptcy resolution. The Bill seeks to improve the handling of conflicts between creditors and debtors, avoid destruction of value, distinguish malfeasance vis-a-vis business failure and clearly allocate losses in macroeconomic downturns.

The major recommendations of the Report are as follows:

I. **Insolvency Regulator:** The Bill proposes to establish an Insolvency Regulator to exercise regulatory oversight over insolvency professionals, insolvency professional agencies and informational utilities.
II. **Insolvency Adjudicating Authority:** The Adjudicating Authority will have the jurisdiction to hear and dispose of cases by or against the debtor.

i. The Debt Recovery Tribunal ("DRT") shall be the Adjudicating Authority with jurisdiction over individuals and unlimited liability partnership firms. Appeals from the order of DRT shall lie to the Debt Recovery Appellate Tribunal ("DRAT").
ii. The National Company Law Tribunal ("NCLT") shall be the Adjudicating Authority with jurisdiction over companies, limited liability entities. Appeals from the order of NCLT shall lie to the National Company Law Appellate Tribunal ("NCLAT").
iii. NCLAT shall be the appellate authority to hear appeals arising out of the orders passed by the Regulator in respect of insolvency professionals or information utilities.

iv. **Insolvency Professionals:** The draft Bill proposes to regulate insolvency professionals and insolvency professional agencies. Under Regulator's oversight, these agencies will develop professional standards, codes of ethics and exercise a disciplinary role over errant members leading to the development of a competitive industry for insolvency professionals.

v. **Insolvency Information Utilities:** The draft Bill proposes for information utilities which would collect, collate, authenticate and disseminate financial information from listed companies and financial and operational creditors of companies. An individual insolvency database is also proposed to be set up with the goal of providing information on insolvency status of individuals.

vi. **Bankruptcy and Insolvency Processes for Companies and Limited Liability Entities**: The draft Bill proposes to revamp the revival/re-organisation regime applicable to financially distressed companies and limited liability entities; and the insolvency related liquidation regime applicable to companies and limited liability entities.

a. The draft Bill lays down a clear, coherent and speedy process for early identification of financial distress and revival of the companies and limited liability entities if the underlying business is found to be viable.

b. The draft Bill prescribes a swift process and timeline of 180 days for dealing with applications for insolvency resolution. This can be extended for 90 days by the Adjudicating Authority only in exceptional cases. During insolvency resolution period (of 180/270 days), the management of the debtor is placed in the hands of an interim resolution professional/resolution professional.

c. An insolvency resolution plan prepared by the resolution professional has to be approved by a majority of 75% of voting share of the financial creditors. Once the plan is approved, it would require sanction of the Adjudicating Authority. If an insolvency resolution plan is rejected, the Adjudicating Authority will make an order for the liquidation.

d. The draft Bill also provides for **a fast track insolvency resolution process** which may be applicable to certain categories of entities. In such a case, the insolvency resolution process has to be completed within a period of 90 days from the trigger date. However, on request from the resolution professional based on the resolution passed by the committee of creditors, a one-time

extension of 45 days can be granted by the Adjudicating Authority. The **order of priorities** [waterfall] in which the proceeds from the realisation of the assets of the entity are to be distributed to its creditors is also provided for.

vii. **Bankruptcy and Insolvency Processes for Individuals and Unlimited Liability Partnerships:**

The draft Bill also proposes an insolvency regime for individuals and unlimited liability partnerships also. As a precursor to a bankruptcy process, the draft Bill envisages two distinct processes under this Part, namely, Fresh Start and Insolvency Resolution.

a. In the Fresh Start process, indigent individuals with income and assets lesser than specified thresholds (annual gross income does not exceed Rs. 60,000 and aggregate value of assets does not exceed Rs.20,000) shall be eligible to apply for a discharge from their "qualifying debts" (i.e. debts which are liquidated, unsecured and not excluded debts and up to Rs.35,000). The resolution professional will investigate and prepare a final list of all qualifying debts within 180 days from the date of application. On the expiry of this period, the Adjudicating Authority will pass an order on discharging of the debtor from the qualifying debts and accord an opportunity to the debtor to start afresh, financially.

b. In the Insolvency Resolution Process, the creditors and the debtor will engage in negotiations to arrive at an agreeable repayment plan for composition of the debts and affairs of the debtor, supervised by a resolution professional.

c. The bankruptcy of an individual can be initiated only after the failure of the resolution process. The bankruptcy trustee is responsible for administration of the estate of the bankrupt and for distribution of the proceeds on the basis of the priority.

viii. Transition Provision: The draft Bill lays down a transition provision during which the Central Government shall exercise all the powers of the Regulator till the time the Regulator is established. This transition provision will enable quick starting of the process on the ground without waiting for the proposed institutional structure to develop.

ix. Transfer of proceedings:

Any proceeding pending before the AAIFR or the BIFR under the SICA, 1985, immediately before the commencement of this law shall stand abated. However, a company in respect of which such proceeding stands abated may make a reference to Adjudicating Authority within 180 days from the commencement of this law

- **Bankruptcy Law Reforms Committee, 2014**

On 22nd August 2014, the Ministry of Finance created a committee called the Bankruptcy Legislative Reforms Commission (BLRC), headed by T. K. Viswanathan (Former Union Law Secretary and Secretary General LokSabha). The mandate of the BLRC was to draft a new bankruptcy law, along the lines of the work done by the Justice Srikrishna-led Financial Sector Legislative Reforms Commission. The law drafted by the BLRC is a consolidated bankruptcy framework, covering both individuals as well as legal entities, and aims to be a holistic reform of the insolvency resolution process for all entrepreneurs in India. The reforms aim to improve the time taken to resolving insolvency and improve loss given default on repayment on credit. In turn, this can lead to a significant improvement of the ease and cost of doing business in India, and is expected to develop the credit and the debt securities markets.

- **The Insolvency and Bankruptcy Code, 2016**

IBC 2016 is different from the labyrinth of extant Indian laws dealing with corporate insolvency, both in principle and in the design of the resolution framework. It incorporates the recommendations of several past committees that were not taken into consideration earlier. It is a single, consolidated code for insolvency resolution of all entities unlike the existing laws such as Companies Act 1956 or SICA 1985, or SARFAESI 2002, that apply selectively to a certain group of debtors and creditors. It empowers all creditors – secured, unsecured, financial and operational to initiate insolvency proceedings. This is a significant departure from the existing framework. Unsecured financial creditors and operational creditors including the employees of the debtor firm have no rights to seek resolution of an insolvent firm under the prevalent laws.

IBC provides a forum for collective recovery and resolution. It gives opportunity to all key stakeholders to participate in the insolvency proceedings and collectively assess the viability of the defaulting firm. This is different from the individual recovery rights accorded to secured financial creditors by laws such as the SARFAESI, to the detriment of other creditors. Unlike SICA 1985 where restructuring proceedings can be initiated only when the firm has been reported "sick" which might be too late to recover any value, IBC 2016 enables the resolution process to start at the earliest sign of financial distress as reflected in a single default.

Once the resolution process begins, there is an automatic moratorium on all suits and claims against the debtor firm. This is to enable a calm period where other proceedings do not derail existing ones. While SICA 1985 has this provision as well, it permits the promoter/management of the debtor firm to retain control of the firm's assets even in "sickness". Often this led to pilferage and siphoning off of assets by the promoters/management, at the cost of the creditors. The debtor-in-possession regime promoted by SICA has been criticised by several committees in the past. IBC rectifies this by replacing the existing management during insolvency proceedings. A regulated insolvency professional will run and manage the firm as a going concern during the period of the insolvency proceedings.

IBC also stipulates finite time limits within which the debtor's viability can be assessed. In the existing framework, judicial involvement in business decisions often causes inordinate delays in resolving insolvency. Under IBC the adjudicator's main role is to see that the processes follow the law. All business decisions will be taken by a committee comprising all financial creditors. If the debtor firm is adjudged unviable and bankrupt, the firm goes into liquidation. IBC outlines a clear waterfall of priorities for the payment of dues to all claimants once the bankrupt firm's assets are sold off.

In addition to the process improvements, IBC also proposes to set up new institutions to support the implementation of the law and ensure efficient ooutcomes.

These include a cadre of regulated insolvency professionals (or IPs) and IP agencies, regulated information utilities, an insolvency and bankruptcy regulator as well as a specialized tribunal to adjudicate upon insolvency related matters. It has been decided that individual insolvency cases will be referred to the DRTs and DRATs whereas the newly set up NCLT and NCLAT will deal with corporate insolvency matters.

With this framework, IBC seeks to achieve the objectives of low time to resolution, higher recovery rate and higher levels of debt financing across diverse sources.

1. Cash flow

Bad financial management and having a consistent lack of cash can be one of the biggest causes of insolvency.

Not having enough money in the bank to cover monthly expenses such as payroll and rent as well as any unexpected costs, can eventually land a business in hot water. Sales can fluctuate from month to month, and failing to have a substantial buffer to cover you during a particularly quiet period can lead to a business's demise.

2. Lack of reliable financial information

Without an in-depth understanding of the financial movements of your business, it's impossible to know how well it is doing. This is when problems creep in. Having good business and cash flow forecasts in place is crucial if you want to avoid insolvency. This will mean you have a solid understanding of where the business is heading in the future and therefore better equipped for any potential costs that come with growth and expansion.

3. Failing to separate business and personal accounts

Another common error that can lead to insolvency is failing to keep business and personal finances separate

Entrepreneurs that blur the lines between the two run the risk of either draining too much money from the business for personal use, or using personal finances to make up the business's shortfall when cash is running low.

4. Too much debt

Keeping on top of debt repayments is crucial to a business's success and taking out too much debt is one of the biggest causes of insolvency. While most businesses at some point rely on taking out credit, over-borrowing can place your business in a vulnerable position.

Assuming your business will make the necessary revenue in the future is risky and borrowing money without any accurate insight into whether you will be able to pay it back may well be detrimental to your business.

5. Lack of budgeting

Failing to make a profit over a substantial period of time can also lead to business insolvency, and a lack of budgeting can further add to this.Business owners that are struggling to make ends meet but fail to reduce overheads such as rent, bills, wages are likely to be steering their business further into financial difficulty. Failing to postpone luxuries and reduce excessive salaries can also have a part to play.

6. Demands for payment or defaulting

While the odd forgotten bill isn't the end of the world, frequently missing payments due to lack of funds or bad financial management can land you on the path to insolvency.

Negotiations may be able to be made with some creditors in the early stages, defaults on HMRC bills or other formal arrangements can be extremely damaging. Ignoring legal action threats can cause a headache, too. Ignoring Statutory Demands can lead your business to the end of the road, as these are often your first warning that creditors are serious about recouping the money you owe.

7. Failing to have a debt recovery procedure in place

Businesses that don't have a strong debt recovery strategy in place run the risk of insolvency, as failing to recoup money owed can seriously disturb the cash flow balance.

By requesting deposits from new clients, sending invoice payment reminders or imposing late fees can help you ensure you are being paid for services or goods provided.

8. Competition

Ignoring your competitors and keeping an eye on what they are doing better or differently to you could eventually lead to your business losing out on its market share. Failing to prepare for changes in the market and having an understanding of what competitors are offering could result in your own client base seizing up, which in turn might result in a severe lack of sales and profit.

9. over reliance on one key client or customer

Over reliance on one or two key clients or customers can also result in insolvency if they decide to stop using your services or move to a competitor, especially if your business relies on a large percentage of its profit from them.

Insolvency may also be a risk if one of your most valued clients enters into financial difficulties themselves and are therefore unable to pay you for the service they have received.

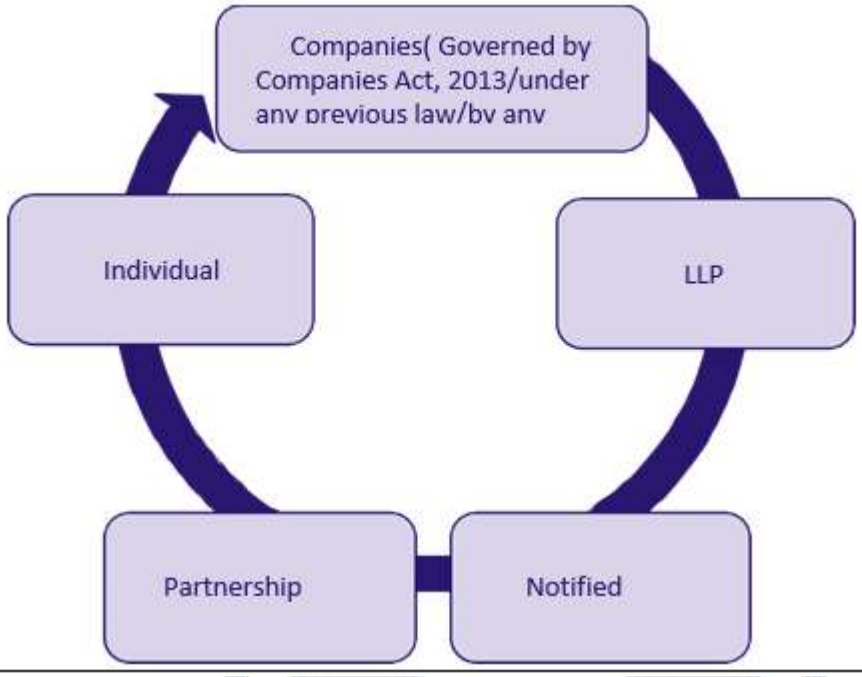
10. Burying your head in the sand

Business owners that bury their heads in the sand only further increase their chances of insolvency. Facing any financial hardship head on may open up your options and help you steady the ship before it's too late

Applicability of the Code

The provisions of the Code shall apply for insolvency, liquidation, voluntary liquidation or bankruptcy of the following entities:-

1. Any company incorporated under the Companies Act, 2013 or under any previous law.
2. Any other company governed by any special act for the time being in force, except in so far as the said provision is inconsistent with the provisions of such Special Act.
3. Any Limited Liability Partnership under the LLP Act 2008.
4. Any other body being incorporated under any other law for the time being in force, as specified by the Central Government in this regard
5. Partnership firms and individuals



Moreover, this code shall apply only if minimum amount of the default is Rs. 1 lakh. However, by placing the notification in Official Gazette, Central Government may specify the minimum amount of default of higher value which shall not be more than Rs. 1 Crore.

Exceptions: There is an exception to the applicability of the Code that it shall not apply to corporate persons who are regulated financial service providers like-

- Banks;
- Financial Institutions; and
- Insurance companies.

➢ **Objectives of the Code**

A sound legal framework of bankruptcy law is required for achieving the following objectives:-

Improved handling of conflicts between creditors and the debtor

It can provide procedural certainty about the process of negotiation, in such a way as to reduce problems of common property and reduce information asymmetry for all economic participants.

Set a limit between malfeasance and business failure

It can also provide flexibility for parties to arrive at the most efficient solution to maximize value during negotiations. The bankruptcy law will create a platform for negotiation between creditors and external financiers which can create the possibility of such rearrangements.

Macroeconomic downturns losses to be allocated

An infirm insolvency regime leads to the stereotype of "rich promoters of defaulting entities" generating theories such as:

1. misconduct is the reason for all the defaults made
2. Ultimately it is the promoters who should personally and financially be held responsible for defaults of the firms which are under their control.

Macroeconomic downturns losses to be allocated

Clear allocation of these losses is a result of a well-defined bankruptcy framework. Taxes, inflation, currency depreciation, expropriation, or wage or consumption suppression are the common practices of loss allocation. These could affect foreign creditors, small business owners, savers, workers, owners of financial and non-financial assets, importers, exporters.

➢ **Key Objectives of the Code**

The sole intention of the Insolvency and Bankruptcy Code, 2016 is to provide a justified balance between-

- an interest of all the stakeholders of the company, so that they enjoy the availability of credit
- the loss that a creditor might have to bear on account of default

The objective behind Insolvency and Bankruptcy Code, 2016 are listed below-

1. To consolidate and amend the laws relating to re-organization and insolvency resolution of corporate persons, partnership firms, and individuals.
2. To fix time periods for execution of the law in a time-bound settlement of insolvency (i.e. 180 days).
3. To maximize the value of assets of interested persons.
4. To promote entrepreneurship
5. To increase the availability of credit.
6. To balance all stakeholder's interest (including alteration). Balance to be done in the order of priority of payment of Government dues.
7. To establish an Insolvency and Bankruptcy Board of India as a regulatory body for insolvency and bankruptcy law.
8. To establish higher levels of debt financing across a wide variety of debt instruments.
9. To provide painless revival mechanism for entities.
10. To deal with cross-border insolvency.
11. To resolve India's bad debt problem by creating a database of defaulters.

- **DistinguishFeatures of the Code:**

There are the following key features of the code

1. Comprehensive Law:

Insolvency code is a comprehensive law which envisages and regulates the process of insolvency and bankruptcy of all persons including corporate, partnership, LLP's and individuals.

2. **No multiplicity of law:**

The code has withered away from the multiple laws covering the recovery of debt and insolvency and liquidation process and present singular platform for all the relief's relating to recovery of debts and insolvency.

3. **Low time resolution:**

3. The code provides a low time resolution and defines fixed time frames for insolvency resolution of companies and individuals. The process is mandated to be completed within 180 days, extendable to a maximum of 90 days. Further, for a speedier process, there is a provision for fast track resolution of corporate insolvency within 90 days. If insolvency cannot be resolved, the assets of the borrowers may be sold to repay the creditors.

4.**One window clearance**:

It has been drafted to provide one window clearance to the applicant whereby he gets the appropriate relief at the same authority unlike the earlier position of law where in case the company is not able to revive the procedure for winding up and liquidation has to be initiated under separate law governed by separate authorities. **Clarity in the process:** The code provides for a clear-cut process with respect to the insolvency and bankruptcy. The structure of the code is very specific and 180 days is mandated for the complete insolvency resolution process.

5. One chain authority:

There is one chain of authority under the code. It does not even allow the civil courts to interfere with the application pending before the adjudicating authority, thereby reducing the multiplicity of litigation. The National Company Law Tribunal (NCLT) will adjudicate the insolvency resolution for companies and the Debt Recovery Tribunal (DRT) will adjudicate the insolvency resolution for individuals.

6. **Priority to the interest of workmen and employees:**

The code also protects the interest of workman and employees. It excludes dues payable to workmen under the provident fund, pension fund and gratuity fund from the debtor's assets during liquidation.

7. **New regulatory authority:**

It provides for constitution of a new regulatory authority "insolvency and bankruptcy board of India" to regulate professionals, agencies and information utilities engaged in the resolution of insolvencies of companies, partnership firms and individuals. The board has already been established and has started functioning.

8. **Promote entrepreneurial activity:** The code promotes entrepreneurial activity in India because of its revival mechanism and fast resolution process.

- **The Principle Legislation for Corporate Insolvency**

The Indian Constitution set up in 1950 provides listed the expressions such as "Insolvency" and "Bankruptcy" in the third list of schedule 7 i.e. concurrent List. On the other hand, the terms such as incorporation, command and liquidation of enterprises are mentioned under the Union List. With these strengths or we can say strong points provided in the Constitution, Companies Act, 1956 came into the existence which gave a new shape to corporate field. In fact this Act contained virtually all provisions concerned or related to the workings of companies along with the process of winding up. And it is believed that it even decreased the fraudulent activities. But the main point to be noted is the despite the Act was a good initiative by the government but the other fact which attempts to say that this Act never made any sense with regard to expressions like insolvency or bankruptcy and has no power to deal with payment of debts notwithstanding that this Act was chief law for the purpose of adjusting corporate bankruptcy. The Companies Act, 1956 included particular measures by which the association or its lenders could try to restructure it. However, these were particular regulations and not specific to bankruptcy or insolvency conditions. It is noteworthy and important to know that in the year two thousand thirteen, there were approximately 13.5 lakh enrolled organisations in our country India of which only 9.4 lakh were active. Strangely enough on a regular note in the proximity of 2008 and 2010, not more than 6,455 cases of twisting up were enlisted with the High Courts. Just near two hundred to three hundred cases were incorporated each and every year and above that approximately three hundred to six hundred fifty completed each year. These characteristics or we can say indicators showed that the less application of the Companies Act approaches for handling corporate indebtedness. Furthermore it demonstrates a deficiency of limit at the courts to deal with such case volumes. Occasional evidence suggests or rather prefers that winding up or liquidation under the said Act, generally, requires nearly five to seven years getting end as well as in exorbitant cases evening twenty six to thirty one years. However there was a time when innumerable changes concerned with the insolvency related measures mentioned under Companies Act, 1956 was proposed by the Act so called "The Companies (Amendment) Act, 2003". Be that as it may these couldn't be successful since legitimate challenges. Following this in the year 2013 the new Companies Act was approved. And a significant proportion of the measures of the 2013 Act were in conformity with those planned under the last amendment which occurred in the year 2002. Implementation issues concerning to the corporate insolvency measures moved equal with the new Companies Act, 2013

Conclusion

The Insolvency and Bankruptcy Code was the driving force behind the creation of Insolvency and Bankruptcy law in India. There are certain complications associated with this legislation; thus, you should review modifications and court declarations to better understand the law.

Adequate institutional capacity is required to guarantee that the IBC does not meet the same fate as previous reform initiatives such as the DRTs. Doing all of these things takes time and careful planning.

Rush thru the introduction of the proposed legislation may enhance India's position in the World Bank's "Doing Business" report, but it may not result in a de facto improvement of the bankruptcy resolution system, undermining the IBC's fundamental objective.

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