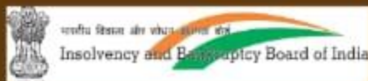


FIRST ANNUAL INTERNATIONAL CONFERENCE ON FINANCE, ECONOMICS, BANKING & INSOLVENCY LAWS

CONFERENCE PROCEEDINGS

BOOK OF ABSTRACTS

SEPTEMBER 7-8, 2024

CENTRE FOR BANKING AND INSURANCE LAWS , NATIONAL LAW UNIVERSITY ODISHA

ABOUT NATIONAL LAW UNIVERSITY ODISHA

National Law University Odisha (NLUO) was established by the Act IV of 2008 of the State of Odisha. In a span of sixteen years, the University has made a name for itself by earning laurels with an excellent performance by its students in various moot court, literary, debating competitions and other co-curricular activities. Our faculty has consistently produced high-calibre research with the faculty's scholarly work and domain knowledge being showcased in numerous national and international journals of repute. Our demanding academic standards and supportive learning environment give students a platform to reach to the fullest of their potential and advance in their areas of interest and passion. The University is also an associate member of the UGCINFLIBNET, and a participant in the National Knowledge Network under the Ministry of Information Technology and Communications, Government of India. NLUO believes in achieving academic excellence through collaborations and research projects where faculties are students are actively participating and engaging in research.

ABOUT CENTRE FOR BANKING AND INSURANCE LAWS

The Centre for Banking and Insurance Law (CBIL) at National Law University Odisha is dedicated to facilitating higher learning, research, and allied activities in the areas of Banking Insurance, Insolvency and Fintech Laws. CBIL has in the past benefitted from an alliance with the IBBI whereby a three-month long certificate course was successfully concluded with over 200 participants and distinguished faculties, members of Bar, and heads of institutions gracing the sessions and interacting with the students. Similarly, an essay competition on Insolvency Law was successfully conducted by the Centre with the support from IBBI. The faculties of the centre have been engaged in various projects with the RBI, the Institute of Insolvency Professionals of India etc. NLUO's institutional support towards collaborations with administrative flexibilities have nurtured a culture of academic excellence on the pedestal of unparalleled research prowess and acumen.

Thus, CBIL strives to foster intelligent analysis; focusing on enabling a deep and pervasive understanding of policies, regulatory mechanisms, and other aspects of legal domains at state, national, and international levels.

ABOUT THE CONFERENCE

Finance forms the lifeblood of the corporate economy with banking institutions supporting the flow of finance within the confines of economic theories and jurisprudence allowing for self-sustaining economic growth in general and entrepreneurial promotion in particular. Unless the triage of Finance, Banking and Economics works together the firms forming the corporate economy will have limited options for exit laying scores of monetary resources to waste. There has been a felt need for growth of research and development in sectors of finance, banking, insolvency and economics over the years with an increased need for financing of the social sector schemes. Identification of the most viable financial instruments, banking procedures and regulations, insolvency exit methods and economic doctrines for effective utilisation of resources has been at the forefront of the research pertaining to money. In this scenario, a conference dedicated solely to celebrating the success and appreciating the challenges in existing systems is the need of the hour.

In the two-day conference, NLUO aims to start a dialogue discussing the importance of the interconnectedness of Finance, Economics, Banking and Insolvency with the deeper perspective of insolvency and bankruptcy procedures allowing for better utilisation of financial resources. This dialogue in the long run will help create a systemic practice of integrating all aspects of any regulation and rule-building ensuring a harmonised machinery upholding the interests of the stakeholders in the corporate economy.

OBJECTIVE OF THE CONFERENCE

There are very few conferences in India which dedicate themselves to discussion of commercial, economic and bankruptcy related topics. NLUO is desirous of establishing an annual conference purely for discussion and researching of financial, commercial economic and banking-related discussions.

In line with our commitment to academic excellence and the pursuit of knowledge, we propose to organize a conference that will serve as a platform for legal luminaries, scholars, professionals, and policymakers to converge and exchange ideas, and deliberate on the latest developments, challenges, and opportunities in the corporate economy.

THE CONFERENCE ORGANISING COMMITTEE

The First Annual International Conference on Finance, Economics, Banking and Insolvency Laws is being organised by the following team of faculty members and students from National Law University Odisha:

PATRON IN CHIEF	Prof. Ved Kumari, Hon'ble Vice-Chancellor
ADVISOR IN CHIEF	Prof. Rangin Pallav Tripathy, Hon'ble Registrar
FACULTY CONVENOR, ORGANISING COMMITTEE	Prof. Dolly Jabbal
CO- CONVENOR, ORGANISING COMMITTEE	Dr. Rajat Solanki
CONFERENCE SECRETARY, ORGANISING COMMITTEE	Dr. Ankeeta Gupta

EXTERNAL CONFERENCE ADVISORS

The following members graciously accepted National Law University Odisha's Invite to serve on the Board of External Advisors:

MR. DEBAJYOTI CHOUDHURY, MD, NeSL
SMT. EP NIVEDITA, Executive Director, NeSL
MR. SUMANT BATRA, Insolvency Practitioner, President Insolvency Law Group
MR. DINKAR VENKATASUBRAMANIAN, Partner EY, and President of INSOL India
PROF RISHAM GARG, Associate Professor, National Law University Delhi
PROF RITU GUPTA, Professor at National Law University Delhi
PROF. ABHA YADAV, Professor at National Law University Delhi
PROF. GUNJAN GUPTA, Professor, Campus Law Centre, Faculty of Law, University of Delhi

STUDENT ORGANISING COMMITTEE

The following student members of the Centre for Banking and Insurance Laws have been associated with organising the Conference.

S.No	NAME	POSITION	YEAR
1.	Ayush Shandilya	Mentor	5th year
2.	Janhavi Mahalik	Mentor	5th year
3.	Akhil Raj	Convenor	4th year
4.	Aditya Roy	Co-Convenor	4th year
5.	Ekta Gupta	Co-Convenor	4th year
6.	Pooja Reddy	Editor-in-chief	3rd year
7.	Vvanshika Singhal	Secretary	3rd year
8.	Dewansh Raj	Treasurer	3rd year
9.	Ishita Ayala	Member	4th year
10.	Snigdha Dash	Member	4th year
11.	Subhashmin Moharana	Member	3rd year
12.	Suhani Sharma	Member	3rd year
13.	Pratha Barla	Member	3rd year
14.	Kushagra Keshav	Member	3rd year
15.	Samriddhi	Member	3rd year
16.	Ashwasti Shravani	Member	3rd year
17.	Shriyansh Singhal	Member	2nd year
18.	Barsha Das	Member	2nd year
19.	Rahul Agarwal	Member	2nd year
20.	Shreya Mathur	Member	2nd year
21.	Himadri Adhikari	Member	2nd year
22.	Mansi Maheshwari	Member	2nd year
23.	Vanshaj Mediratta	Member	1st year (3-year LLB)
24.	Manvi	Member	1st year (3-year LLB)

MESSAGE FROM THE PATRON-IN-CHIEF

It is an honour to welcome you to National Law University Odisha's First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws. This Conference marks a momentous milestone highlighting NLUO's commitment to fostering research and discussion on critical intersections of law, finance, economics and insolvency laws.

Over the past few years, NLUO has established itself as an institution *par-excellence* in research and academic pursuits allowing immense exposure to its students by promoting and conducting research in varied areas of law. I must acknowledge that CBIL has been doing commendable work since last year in terms of conducting competitions, certificate and credit courses. The current conference is an attempt to further the cause of research and advocacy by NLUO in general and CBIL in particular.

There are as many as 20 sub-themes spread over 85 papers presented by nearly 120 presenters will definitely help generate a body of work that will help scholars, students, academicians, researchers and practitioners alike. It is hoped that the sub-themes ranging from topics on economics, finance, insolvency, sustainable green claims, and mediation makeovers would form a fertile ground for discourse by future thought leaders who are present at the conference.

The Conference has brought together distinguished experts to address pressing global challenges. I implore them to motivate participants to follow the path of research and innovation in the field of corporate economy allowing for path-breaking developments.

I wish to extend heartfelt gratitude to all our sponsors for their continued support and guidance to the organising team. I wish to thank National e-Services Governance Ltd.(NeSL) our Title Sponsor, Insolvency and Bankruptcy Board of India our Logo Sponsor, INOSL India, our Knowledge Partner and RBI for their research guidance.

The exchanges and connections formed will undoubtedly impact academic and professional practices, shaping future policies and research. Thank you for your contributions to this successful event. We look forward to its enduring impact.

Prof. (Dr) Ved Kumari,
Vice Chancellor,
National Law University Odisha

MESSAGE FROM THE ADVISOR IN CHIEF

It is a matter of great pride for me to welcome you to National Law University Odisha's First Annual International Conference on Finance, Economics, Banking and Insolvency Laws. The conference reflects NLUO' s success as a hub for quality research and knowledge dissemination in the area of commercial laws. Participation by nearly 120 presenters and 50 resource persons is an indication of the exponential growth that NLUO has achieved over a short span of time.

NLUO has always ensured that students are exposed to emerging trends in law and legal systems via not just classroom discussions but through active research and innovation and rigorous academic enquiry.

It is envisioned that the diversity of voices, from academic experts, industry professionals, policy makers, students and academicians will foster meaningful discussions and innovative solutions. Thus, over the two days, the participants will engage in creative, critical, and collaborative discussions while forging long-term connections and research relationships. The rich scholarship generated during the discussions would help create a strong foundation for the future growth of central banking and Insolvency Laws. Thus, the initiative will convert the vision of a sustainable research centre into a reality.

I wish to extend heartfelt gratitude to our sponsors National e-Governance Services Ltd., Insolvency and Bankruptcy Board of India, INSOL India for their continuous support and RBI for their research guidance to our organising team.

I commend the efforts made by the team at CBIL to conceptualise and execute the conference in the most efficient manner. We are confident that the conference outcomes will have a lasting impact, contributing to academic research and influencing policy and practice on a broader scale.

Prof. (Dr.) Rangin Pallav Tripathy,
Registrar,
National Law University Odisha

MESSAGE FROM THE FACULTY CONVENOR

It is a matter of great satisfaction to witness the success of NLUO's First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws. The event has brought together diverse academics, professionals, and policymakers for critical discussions on these evolving fields.

Topics ranging from regulatory changes to cross-border insolvency, to technological innovations to cryptocurrency are being discussed, showcasing NLUO's commitment research and advocacy. With more than 100 participants writing on over 80 different topics, Centre for Banking and Insurance Laws will be able to abide by the principle of documenting evolution of corporate and commercial laws in India and abroad. The questions raised and insights presented will prove to be excellent starting points for further research at NLUO.

Thus it is proposed that the current book of abstracts shall help researchers, students, academicians in their quest of finding unchartered territories. I hope the publication of the book of abstracts will encourage deeper research and scholarly work that responds to rapid developments in these areas. Our aim is to elevate this publication to a position of eminence in libraries across national law universities and leading institutions.

Congratulations to CBIL and all participants for making this conference a success. May this work inspire greater participation and contribute to the evolving discourse on corporate and commercial laws.

Prof. (Dr) Dolly Jabbal,
Director, Centre for Banking and Insurance Laws,
National Law University Odisha

MESSAGE FROM THE FACULTY CO-CONVENOR

It is a privilege to be part of NLUO's First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws. This event addressed the evolving intersections of law, finance, and economics, shaping global challenges and opportunities.

The conference will explore critical themes aimed at contributing actionable insights beyond theory and the discussions are to range from regulatory shifts in financial markets to cross-border insolvency regimes, fintech advancements etc., laying groundwork for future policies and legal reforms.

The perspectives shared by experts, scholars, and policymakers will influence ongoing debates, inspire research, and shape the legal and economic landscape. Focus on sustainable finance, financial inclusion, and corporate distress resolution underscored our commitment to addressing contemporary challenges.

I extend gratitude to CBIL and the student organizers for creating this catalyst for meaningful change. The insights gained will lead to significant advancements in policy and practice, with lasting impact seen in continued dialogue, collaborations, and legal changes.

Thank you to all contributors. We look forward to seeing these ideas evolve into influential policies and legal frameworks in the coming years.

Dr. Rajat Solanki,
Co- Director, Centre for Banking and Insurance Laws,
National Law University Odisha.

MESSAGE FROM THE CONFERENCE SECRETARY

It is a great honour to witness NLUO's First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws come to life in the same manner as conceptualised from day one. This conference had the intention of bringing members from the corporate economy to National Law University Odisha so as to showcase its gravitas and commitment to research and innovation. It is a matter of great pride that we received over 200 abstracts of which 120 were shortlisted and 85 finally presented before 50 resource persons from India and abroad. Though welcoming all to NLUO Campus was the dream, the conference has paved the way for realisation of the said dream in the near future.

The event has successfully brought together leading minds from the corporate world to explore critical intersections of law, finance, economics and insolvency laws at NLUO. The diversity of ideas and representative experiences is remarkable, with seasoned professionals, emerging scholars, students, academicians and policy makers contributing their expertise to the conference. These exchanges will enhance academic understanding and hold the potential to influence real-world practices. In a rapidly transforming world of finance and law, this Conference delved into timely and essential topics, ranging from corporate insolvency, to artificial intelligence to green claims to credit economies to rights of creditors. We look forward to witnessing the positive impact of the conference in coming months and years.

I wish to extend a heartfelt gratitude to our partners and sponsors for their continued support and guidance, the event would not have been possible without National e-Governance Services Ltd. (NeSL) our Title Sponsor, Insolvency and

Bankruptcy Board of India, our Logo Sponsor, INSOL India, our Knowledge Partner and RBI for their research guidance leading upto the conference.

Team CBIL and the student organizers deserve a pat on their back for their tireless efforts in making this event a reality. Their passion and perseverance drove the conference's success. I also wish to put on record the continuous support received from the NLUO administration in ensuring that all logistical support was extended in a timely and efficient manner. Thus to say that the conference was the result of continuous efforts of all members of NLUO would not be an overstatement. We look forward to hosting more such events in the future.

Dr Ankeeta Gupta,
Co- Director, Centre for Banking and Insurance Laws,
National Law University Odisha

MESSAGE FROM THE STUDENT CONVENOR

As the Student Convenor of NLUO's First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws, it is with immense pride and enthusiasm that I extend my heartfelt greetings to all participants and contributors. This conference marks a significant milestone for our university and reflects our commitment to advancing knowledge in these critical fields.

We gather distinguished minds from academia, industry, and policy-making to share insights and engage in meaningful dialogue. The conference serves as both a platform for discussion and a celebration of intellectual rigor, showcasing the vision of the Centre for Banking and Insurance Laws.

The presentations and discussions significantly contribute to our collective knowledge, impacting both academic and professional practices. Participants engage fully, challenge assumptions, and explore new perspectives.

We extend heartfelt gratitude to all the participants in making this conference a success. The fruitful exchanges and lasting connections that will emerge from our collective efforts will continue to benefit our fields of study.

Akhil Raj,
Student Convenor,
Centre for Banking and Insurance Laws (CBIL),
National Law University Odisha (NLUO).

MESSAGES FROM THE MEMBERS OF THE ADVISORY BOARD

MR DEBAJYOTI RAY CHAUDHURY

MANAGING DIRECTOR & CHIEF EXECUTIVE OFFICER

NATIONAL E-GOVERNANCE SERVICES LIMITED

It was my pleasure to be associated with the First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws at National Law University Odisha (NLUO). The conference served as a platform, for distinguished academics, industry experts, and policymakers to engage in meaningful discussions on pivotal themes.

The deliberations during the Conference were intense and meaningful which reflected the considerable depth of expertise available across the participants and the speakers. This experience further reinforces our commitment to nurturing the next generation of leaders who will be at the forefront of driving innovation and taking leadership to achieve the desired outcomes. I would also like to express my gratitude to the Organizing Committee, particularly the Centre for Banking and Insurance Laws (CBIL), for their unwavering dedication to fostering an environment that was both collaborative and forward-thinking.

SMT. EP NIVEDITA

EXECUTIVE DIRECTOR, NATIONAL E-GOVERNANCE SERVICES LIMITED

I would like to convey my sincere appreciation for the opportunity to be a part of the First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws at National Law University Odisha (NLUO). The conference was a distinguished forum that brought together esteemed academics, industry experts, and policymakers to engage in comprehensive discussions on critical and contemporary issues.

The intellectual rigour and the breadth of the discourse were particularly enlightening, providing invaluable insights into these crucial areas. I was especially impressed by the contributions of the young researchers, whose innovative approaches and active engagement highlight their potential to become future leaders in these fields. Their participation underscores the vital importance of nurturing and supporting emerging talent in our industry.

MR SUMANT BATRA

INSOLVENCY LAWYER, PRESIDENT, INSOLVENCY LAW ACADEMY

It was a distinct privilege to participate in the First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws at National Law University Odisha (NLUO). The conference provided an exceptional platform for in-depth exploration of the evolving challenges and opportunities within the field of commercial law. I was particularly impressed by the enthusiastic participation of young researchers, whose fresh insights are essential for driving innovation and progress in these critical areas. Their contributions underscore the importance of cultivating new talent to ensure continued advancement in our industry.

I would like to commend the organizers for their outstanding efforts in curating an event that not only fostered rigorous academic discourse but also effectively bridged the gap between theoretical frameworks and practical application. I look forward to witnessing how the ideas and connections formed during this conference will shape the future of insolvency law and practice.

MR DINKAR VENKATASUBRAMANIAN

PARTNER EARNEST AND YOUNG, AND PRESIDENT OF INSOL INDIA

I was deeply honoured to participate in the First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws at National Law University Odisha (NLUO). This conference provided an essential platform, bringing together leading experts from academia, industry, and policy to collaboratively address and explore the key challenges and opportunities shaping the future of our field.

The sessions were notably enriched by the active involvement of young researchers, whose profound understanding and passion for these complex topics were truly commendable. Their contributions were both inspiring and indicative of the promising trajectory of our discipline. I extend my sincere appreciation to the organizers for their meticulous planning and unwavering dedication to creating a forum that fostered robust dialogue and collaboration. I am confident that the outcomes of this conference will have a significant and lasting impact on the future direction of law, both in India and globally.

PROF (DR.) GUNJAN GUPTA

PROFESSOR, CAMPUS LAW CENTRE, FACULTY OF LAW, UNIVERSITY OF DELHI

It was a distinct pleasure to be a part of the First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws at National Law University Odisha (NLUO). This event served as an exceptional convergence of thought leaders, experts, and emerging scholars, all focused on the critical intersections of law, finance, and economics.

I was impressed by the level of engagement from young researchers, whose insights added depth and a forward-looking perspective to our discussions. Their active participation is a testament to the bright future of legal scholarship and practice. The careful curation of sessions and speakers ensured that the dialogue was both rigorous and relevant. I am confident that the collaborations sparked during this conference will have a lasting impact.

PROF (DR.) RITU GUPTA

PROFESSOR, NATIONAL LAW UNIVERSITY DELHI

I had the distinct pleasure of participating in the First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws at National Law University Odisha (NLUO). This conference stood out as a remarkable forum where a diverse group of experts, academics, and policymakers came together to discuss the evolving challenges and opportunities in our fields.

The range of topics covered, from the future of fintech to the intricacies of cross-border insolvency, was both timely and relevant. What I found particularly noteworthy was the active engagement of young researchers, whose fresh perspectives and innovative ideas enriched the discussions. Their contributions not only demonstrated a deep understanding of complex issues but also pointed to a promising future for the legal profession.

DR. RISHAM GARG
ASSOCIATE PROFESSOR, NATIONAL LAW UNIVERSITY DELHI

It was an honor to participate in the First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws at National Law University Odisha (NLUO). This esteemed conference convened a distinguished assembly of scholars, industry professionals, and policymakers to address some of the most critical challenges facing our fields today.

A particular highlight was the active engagement of young researchers, whose innovative perspectives injected a dynamic and refreshing energy into the sessions. Their contributions underscored the vital importance of nurturing the next generation of legal and financial experts. The event not only facilitated rigorous academic discourse but also promoted the development of practical solutions to address real-world challenges.

DR. ABHA YADAV

ASSISTANT PROFESSOR AT NATIONAL LAW UNIVERSITY DELHI

It was a great intellectual experience to attend the First Annual International Conference on Finance, Economics, Banking, and Insolvency Laws at National Law University Odisha (NLUO). The conference provided an exceptional platform for engaging with leading minds from academia, industry and policy, all converging to address the critical issues shaping our fields.

The range of topics covered, from the intricacies of fintech to the complexities of cross-border insolvency, highlighted the evolving nature of our legal and financial landscapes. The contributions were a clear indication of the future potential within these areas of study. The conference not only facilitated meaningful dialogue but also laid the groundwork for future collaborations and advancements. The insights gained here will undoubtedly play a significant role in shaping the future steps in these critical disciplines.

MEET THE TEAM | CENTRE FOR BANKING AND INSURANCE LAWS (CBIL)

Ayush Shandilya

Janhavi Mahalik

Akhil Raj

Ekta Gupta

Aditya Roy

Vvanshika Singhal

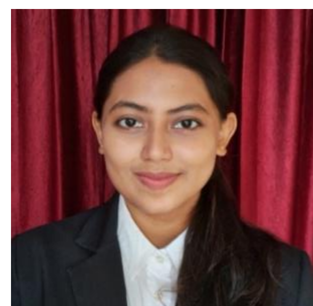
Dewansh Raj

Pooja reddy

Kushagra Keshav

Ishita ayala

Snigdha Dash



Subhashmin Moharana

PRATHA BARLA

SAMRIDDHI

SUHANI SHARMA

ASHWASTI

SHRIYANSH SINGHAL

MANSI MAHESHWARI

SHREYA MATHUR

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MANVI

VANSHAJ

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INTERSECTION OF CORPORATE LAW AND INSOLVENCY

Lifting the Corporate Veil: Charting the Landscape of Group Insolvency in India's IBC Era

- *Vrinda Kavdia & Chirag Agarwal* [1]

Group structures have become increasingly prevalent in the business landscape, and creditors often find dealing with groups advantageous when extending loans due to the perceived safety net. This safety net stems from the ability to rely on other entities within the group for capital in times of financial distress. During insolvency proceedings, consolidating the assets of a group tends to result in a higher valuation.

Despite these benefits, the current legal framework, particularly the Insolvency and Bankruptcy Code, 2016, lacks explicit guidance on the treatment of insolvency for group companies. The piecemeal approach to handling the insolvency of different companies within a group has prompted interventions by the courts, piercing the corporate veil and holding a parent company accountable for a subsidiary's obligations during insolvency.

The separate legal entity principle creates a corporate veil not only between the corporate entity and other stakeholders but also among different corporate bodies within a single group. Courts have at times lifted the corporate veil between group companies, considering them as part of a single economic entity. This contradicts the pre-IBC era's lack of appreciation for lifting the corporate veil and recognizing group entities as a single economic entity for restructuring and winding up purposes.

The introduction of the Insolvency and Bankruptcy Code in 2016 and the rising trend of group insolvency processes underscore the imperative need for codified provisions and clear directions regarding the uplifting of the corporate veil.

The study will investigate the prevailing legal and regulatory framework in India, examining its efficacy and limitations in effectively addressing the unique

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challenges posed by insolvency within corporate groups. By placing a particular focus on the economic implications of group insolvency and the interconnectedness of entities within a corporate group, the research aims to offer insights into the multifaceted impact on creditors, shareholders, and the broader economy.

To augment the depth of our analysis, this research endeavors to conduct a comparative examination of the legal frameworks pertaining to the lifting of the corporate veil in group insolvency scenarios in the United States, the United Kingdom, Australia, and Singapore. By scrutinizing the regulatory mechanisms and judicial precedents in these jurisdictions, we aim to draw meaningful comparisons with the Indian legal landscape.

In conclusion, drawing from the insights gained through the doctrinal analysis and examination of the existing legal and economic landscape, the research aims to propose a comprehensive framework for codifying the practice of uplifting the corporate veil within the context of group insolvency. This proposed framework will be tailored to align with the nuances of the Indian legal system, taking into account economic dynamics and benchmarking against global best practices.

The Intersection of IBC with RERA and ESG: A Comprehensive approach to Insolvency Proceedings

- *Geethika Yanamadala & Ayushmaan Chouksey* [2]

The Insolvency and Bankruptcy Code ("IBC") of 2016 is the primary act governing insolvency, bankruptcy and restructuring laws in India. The main objective of this act is to restructure the distressed firm's financial affairs to optimize its value for its creditors. As per the waterfall mechanism under the Act, it prioritizes insolvency resolution process costs, secured financial creditors, workmen's dues, unsecured creditors and lastly, operational creditors. Over time, Companies focus on the way the company is impacting the environment, employees, and society along with their financial performance. Environmental, Social and Governance ("ESG") factors encompass a company's environmental practices, social responsibility, and governance structure. Integrating these factors into decision-making ensures a holistic approach towards sustainability and stakeholder engagement.

In the year 2019, the Government of India came up with an amendment to the Insolvency and Bankruptcy Code to include the Real Estate Regulatory Authority ("RERA") insolvency proceedings under the IBC to protect the rights of Home Buyers and to impose the duty on developers to follow the rules and regulations imposed on them by the RERA and environmental compliances authorities. As a means of safeguarding their interests and rights during the insolvency process, the amendment places allottees on par with banks and other institutional creditors while allowing them to receive invested funds in the event that the builder or the property is declared bankrupt.

Insolvency in the RERA differs from the insolvency processes of other sectors, with ESG challenges inherent in real estate projects. The Insolvency and Bankruptcy Code was modified or created specifically for the real estate industry since dealing with corporate debtors (CDs) in this sector has different difficulties. Insolvency in

[2] The authors are students at Symbiosis International University, Pune.

this field is made more difficult by the need for coordination between the IBC and the RERA. The intersection of Insolvency with ESG principles and RERA simultaneously in the real estate context involves considering how environmental, social, and governance factors impact both the regulatory framework and the resolution process for insolvent real estate entities. The viability of funds and other factors often contribute to high failure rates in developer projects, ultimately leading to Insolvency and bankruptcy. Recently, the Insolvency and Bankruptcy Board of India ("IBBI") has proposed an amendment to integrate ESG during the evaluation of resolution plans, addressing various issues faced in the insolvency processes of real estate projects and the discussion was related to the intersection of Insolvency and ESG.

The integration of IBC with Real estate proceedings, guided by ESG principles enhances sustainability and stakeholder protection. However, the challenges include harmonizing these frameworks and ensuring effective enforcement of these principles. This paper examines the amendments that were proposed by the intermediaries of the IBBI regarding the intersection of ESG and Insolvency and will further examine the inclusion of home buyers under section 5(8)(f) of the IBC, 2016 and the much-needed harmonized approach to address the overlaps between the two frameworks, ensuring alignment with ESG principles and objectives.

Arbitrariness under IBC about claims of the Creditors in Proceedings against the Corporate Debtor

- *Dr. Swati Gandhi* [3]

Insolvency and Bankruptcy Code enacted in the year 2016 provides for a quick time bound resolution of stressed assets. The law on management of non-performing assets was codified and streamlined to benefit the creditors and help in resolution and rehabilitation of the company in distress. When a company commits a default, the corporate insolvency resolution process can be initiated by the financial creditor or the operational creditor or the corporate debtor itself under the newly enacted Insolvency and Bankruptcy Code, 2016. The resolution process must be completed within the statutory time limit. Once the resolution process is initiated in the National Company Law Tribunal, the adjudicating authority under the Code, the moratorium kicks in. A moratorium is the calm period which prohibits the continuation or initiation of any legal proceedings against the corporate debtor. This is intended to protect and maximize the value of assets of the company against any adverse proceedings. Moratorium under section 14 of the Code bars the claim or recovery proceedings in the court of law or any arbitration proceedings pending against the company. However, if any counterclaim has been filed by the company, say in any arbitration claim against it, the same is permitted to continue, to enable the maximization of the value of assets of the corporate debtor. However, a pertinent legal issue which needs fair consideration is, what is the *fate accompli* of the arbitration proceedings filed by the creditor in respect of his claim amount, if the claim proceedings are suspended due to moratorium while counter-claim proceedings of the corporate debtor are allowed to continue. Law should be fair to both parties to serve justice. For instance, the company who had initiated its claim proceedings under arbitration is also operating under the same market economies. In the recent trends, companies are encouraged to incorporate arbitration clauses in their contractual terms, for resolution of any future disputes between them. The paper is an analysis about interplay between arbitration proceedings and insolvency proceedings on the initiation of moratorium by the adjudicating authority, in the context of legal provisions and development of jurisprudence on the issue.

[3] The author is an Academician at Lloyd Law College, Greater Noida.

The Intersection of Arbitration and Corporate Insolvency: A Solution for Breach of Consent Terms

- *Pratik Biswal & Swayam Sambhab Mohanty* [4]

The complexity and interminability of the civil cases have forced the parties to opt out of litigation and find a middle ground. This practice has given rise to the "consent terms" in the field of corporate insolvency which is being widely availed by the parties to find a compromise and avoid a prolonged litigation process. The established insolvency regime postulates that, in case of a default the financial creditor shall file for CIRP u/s 7 of IBC, 2016. Later, section 12A was added to provide the financial debtors with an option to withdraw the CIRP application.

This addition gave the financial creditors and corporate debtors an avenue to formalize a mutual settlement through consent terms. Though the term "consent terms" has never been mentioned in the IBC, the statute still gives an option for an outside settlement by withdrawing the CIRP application. Consent Terms resembles the form of a contract between the financial creditor and the corporate debtor. This would lead to speedy resolution of the matter and would even conserve the resources of the parties. But the problem arises when the consent terms are breached. The financial creditor has not been statutorily empowered to revive the CIRP application. But there has been recent NCLAT rulings that have allowed the revival of CIRP application in the case of the breach of consent terms.

Again, the problem rises against the adverse repercussions of revisiting the CIRP process. This could encompass disruptions to the business operations of a corporate debtor, harm its reputation, and lack augmentation of its financial distress, which would, in turn, impede its capacity for recovery and effective reorganization. It has been found that on average, a CIRP can take up to 400 days. These delays have only adversely affected the parties, especially the corporate debtor.

[4] The authors are students at National law University Odisha (NLUO).

This creates a big dilemma for the parties. In the case of a typical breach of contract, the parties have been given freedom to opt for arbitration to resolve their disputes in a time bound manner. Similarly, the consent terms resemble a form of contract. Contracts generally incorporate a dispute resolution clause as an integral component.

This clause outlines the agreed-upon procedure for addressing conflicts or disagreements that may arise between the contracting parties during the course of the contract's execution. As there is no clarity regarding the revival of company petition under the IBC, for claiming the rights as under the contract, parties can add an arbitration clause in their consent term. Arbitration can effectively fill the gap in the IBC by providing a structured and enforceable mechanism for resolving disputes arising from breached consent terms. This approach would not only save the very essential time of the parties but would also prevent them from depleting their resources on prolonged litigation and delays of CIRP.

Corporate Insolvency and the Doctrine of Separate Legal Entities: Analysing the Impact of Parent-Subsidiary Relationships on Asset Ownership and Resolution Plans

- *Khushi Yadav & Vandana Miglani* [5]

This research paper explores the complex interplay between holding companies and their subsidiaries within the context of corporate insolvency. It analyzes the implementation challenges of the Insolvency and Bankruptcy Code (IBC) concerning group insolvency and examines the implications of the legal principle of "piercing the corporate veil" on parent-subsidiary relationships.

The approach involves an exhaustive examination of relevant literature, legislative provisions, and precedents, including the ***Vodafone International Holdings BV versus Union of India***, which demonstrated that a subsidiary's assets remain under the authority of its liquidator rather than its holding company in case of it being wound up. This principle was further reinforced in the recent ***BRS Ventures Investments Ltd versus SREI Infrastructure Finance Ltd*** case, which enunciated that holding companies do not own subsidiary company's assets. Thus, the subsidiary's assets cannot be incorporated into the resolution plan of the holding company. Further, the paper discusses the NCLAT's affirmation of AA's decision emphasizing the distinction between holding companies and their subsidiaries by establishing that the presence of shared management is not sufficient ground to establish interdependent liability.

Some authors also affirm that the traditional practice of treating each entity as a separate legal personality can result in fragmented and futile resolution strategies, aggravating the challenges confronted by creditors and stakeholders. However, key findings of this paper show that the legal framework upholding unequivocal boundaries between holding companies and their subsidiaries highlights the independence of each entity in asset ownership. This paper emphasizes that

[5] The authors are students at Fairfield Institute of Management and Technology, New Delhi and Christ University, Pune respectively.

despite shared management, the subsidiary's assets and liabilities remain distinct from those of the holding company and are not to be conflated within.

The essence of this paper lies in its contribution to comprehending the precedents governing corporate insolvency, especially how the legal distinction between parent and subsidiary companies impacts the ownership of their respective assets during the insolvency process. By reaffirming the independent legal persona of the holding and subsidiary companies, this research apprehends the application of these principles in corporate insolvency proceedings, thereby guiding practitioners in structuring resolution plans and managing insolvency proceedings accordingly.

INSOLVENCY UNMASKED: EXPLORING THE LEGAL LANDSCAPE

Predictive Horizons: Unravelling insolvency before it begins

- *Namisha Singh & Abhishek Mittapally* [6]

This article delves into the pivotal role of early warning systems including their methodologies, data sources, and key indicators in safeguarding communities, industries, and ecosystems from unforeseen crises and disasters. Early warning systems, ranging from meteorological instruments to advanced data analytics, have evolved to become indispensable components of proactive risk mitigation strategies. These systems enable financial institutions, regulators, and businesses to identify signs of impending insolvency well in advance, empowering them to take timely corrective actions. Further, we examine the evolving regulatory landscape and the growing adoption of fintech innovations in strengthening the insolvency sector's resilience.

The identification of potential insolvency risks has traditionally relied on reactive measures, resulting in significant economic consequences. This article explores the vital role of early warning systems in revolutionizing the insolvency sector. We examine the current state of the sector, discussing the limitations of conventional risk assessment methods and highlighting the need for proactive solutions. The article advocates for continued research, investment, and innovation in early warning systems to enhance disaster preparedness and reduce vulnerabilities on a global scale.

Furthermore, this article addresses the regulatory landscape with Indian context, discussing how government bodies can adapt to the changing insolvency dynamics by incorporating early warning systems into their oversight and enforcement strategies. We shed light on the challenges surrounding data privacy, and model accuracy, which are paramount in implementing these systems.

In a rapidly evolving insolvency ecosystem, early warning systems for the insolvency sector are no longer optional but essential for maintaining economic stability and resilience. This article provides a comprehensive overview of the current state of early warning systems, their practical applications, and the evolving regulatory framework, offering valuable insights for stakeholders in the insolvency sector, policymakers, and researchers.

[6] The authors are managers at the Insolvency and Bankruptcy Board of India (IBBI).

This article also captures the Preventive Restructuring Directive (PRD) of European Union that requires member states to introduce a system of Early Warning signs to assist businesses, especially SMEs, to identify risks to their viability and either address those issues or proceed to wind up in an orderly manner.

By bringing to light the nuances of these systems, this paper attempts to contribute to a more comprehensive understanding of the challenges and opportunities inherent in the intricate use of early warning systems.

Comparative Study of Insolvency Professionals in India and the UK

- *K Sai Deepanshu & Sai Eeshaa* [7]

This paper examines the role of insolvency professionals in the insolvency and bankruptcy frameworks of India and the United Kingdom. It aims to analyse how these professionals contribute in the efficiency and effectiveness of the corporate insolvency resolution process in both countries. Insolvency professionals are regulated individuals critical to the bankruptcy processes, wielding significant authority over debtors and assets. They are responsible for protecting creditors and employee interests while ensuring the impartial and efficient application of the insolvency law.

The study employs a comparative approach, by utilizing legal analysis, reviewing legal documents, examining the responsibilities, qualifications, and regulatory oversight, and also employing Quantitative research to draw comparisons between the insolvency practitioners in India and the UK. The research reveals significant differences in licensing requirements, ethical standards, and ongoing professional developments between Indian Insolvency Professionals and UK Insolvency Practitioners. It also highlights variations in the regulatory frameworks, comparing the roles of the Insolvency and Bankruptcy Board of India (IBBI) and the UK's Insolvency Service. The findings underscore the critical importance of well-trained and regulated insolvency professionals in achieving the goals of modern insolvency legislation.

The study identifies best practices and potential areas for improvement in both systems, emphasizing the professionals' role in maximizing asset value, protecting creditor interests, and promoting business rescue where viable. This comparative analysis contributes in understanding of effective insolvency regimes and may inform future policy developments in both countries.

[7] The authors are students at School of Law, Christ University, Bangalore.

Sectoral Analysis of the Effectiveness of Insolvency Bankruptcy Code, 2016

- *Jyotika Dhar* [8]

The Insolvency and Bankruptcy Code introduced in 2016 plays a huge role in the realization of Non-Performing Assets (NPAs) by bringing out capital tied up in inefficient firms so that it can be reallocated and deployed for more productive purposes. It helped reduce the high levels of stressed debts and pile up of assets which had occurred nearly a decade ago in the Indian ecosystem.

This paper deals with the analysis of the impact of the IBC on the banking sector, manufacturing sector as well as Micro, Small and Medium Enterprises (MSMEs) and co-operative sector. It also advocates that the IBC is an enhancement from its precursors in terms of recovery rates, resolution of NPAs, and costs leading to an enormous increase in the Ease of Doing Business in India. The paper will also deal with the question of how the IBC aids diverse stakeholders and what ought to be done.

The author has employed doctrinal, theoretical and analytical method of research in this paper and has primarily referred to secondary data given on the Insolvency Bankruptcy Board India's official website. The manufacturing sector show significant improvement in resolution timelines and recovery rates, attributed to streamlined processes and robust creditor rights enforcement. MSMEs are prone to sickness and face unique sectoral challenges, thereby leading to their failure to ensure timely resolution and protection of their enterprise.

For banks, the IBC has ensured the better recovery of large-value industrial loans over other recovery channels since, on average, financial creditors were able to recover about 40 percent of their admitted claims by going through the Corporate Insolvency Resolution Process (CIRP) and getting their resolution plans approved. This paper will also analyse whether the provision of a Pre-Packaged Insolvency Resolution Process (PPIRP) has been beneficial for MSMEs. Admitting cases early under the IBC, through an appropriate incentive framework can help improve its efficacy. The code has had a very positive impact on the insolvency process and the Indian economy.

[8] The author is a student at National Law University Odisha.

Critical Analysis: Section 238 of IBC -A Boon or A Bane?

- *Drishti Ostwal* [9]

Section 238 of the IBC, 2016 is the non-obstante clause which gives an overriding effect to the Code over any other law/statute if it is inconsistent with the provisions of the Code. However, this "overriding effect" has opened a pandora's box, limiting its intended objective.

For instance, Personal Guarantors under IBC albeit not covered under the s/14 moratorium also have no right of subrogation which is a substantive right provided under 141-142 of the Contract Act,1872. As per the law, currently interpreted by the Apex Court- Firstly, the liability of the guarantor does not get extinguished if a Resolution Plan with respect to the Corporate Debtor is approved by the NCLT. Secondly, the creditor is entitled to file parallel applications against the CD and the Guarantors. Resultantly, the PGs stand to lose, A) company/business, B) Personal assets, C) Creditworthiness - all at once, that too without any hope of resolution/revival, effectively kicking him out of the commercial enterprise for the rest of his life.

What is the consequential effect on commercial borrowings if the substantive rights of the Guarantors provided under a statute are nullified due to the operation of Section 238? Is there an increase in the reluctance to stand as Personal Guarantors for their business enterprise? Or whether guarantors have found new ways of securing the recovery of their dues from Corporate Debtor? Surely, it has started to affect the lender-borrower ecosystem, this will be analysed.

Another avenue is the effect of Section 238 IBC on protections guaranteed by the specific/extant laws. For Example - The definition of Workmen in IBC is the same as defined u/s 2(s) of the Industrial Disputes Act, 1947.

What happens if a Claimant is wrongly categorized as an Employee and the proceedings before the Industrial Tribunal are stayed due to the effect of moratorium under section 14 of IBC? Can the NCLT decide upon the categorization

[9] The author is a student.

of Workmen? Since, the proceedings under the code are summary proceedings and the adjudicating authority lacks the jurisdiction to decide upon this Issue without proper evidence, how will the AA decide this claim? Whether Section 238 of IBC can override a statute such as the Maharashtra Recognition of Trade Unions and Prevention Of Unfair Labour Laws Practices Act 1971 which is a special statute, enacted for the specific purpose of protection of workmen against unfair Labour practices? Whether the overriding effect cause prejudice and injustice to such Workmen? If yes, what is needed to prevent such prejudice? This will be analysed.

Section 238 is a novel way to support the IBC process by overriding other statutes to the extent they are inconsistent with the IBC. Its blanket application and overbearing effect on the AA have to be analysed vis-a-vis statutes created for the protection of the beneficiaries like Workmen and MSMEs.

This Article intends to analyse and discuss various aspects of this overriding effect on substantive rights and protections guaranteed by the specific/extant laws and tries to suggest possible solutions to achieve the objectives of the IBC,2016.

Finding the Best of Both Worlds: The case for a Hybrid Insolvency Resolution Model

- *Shreyansh Jain & Subhasis Sahoo* [10]

The Insolvency and Bankruptcy Code (**IBC**) marked a watershed moment in the Indian economy reeling under the mounting burden of deteriorating asset quality, and a gaping lacuna in the insolvency regime to provide apt resolution thereof. With value maximization of stressed assets as its raison d'être, the IBC sought to facilitate efficient recycling of financial value clogged in distressed businesses towards other profitable avenues.

Most notably, its introduction marked a conspicuous paradigm shift whereby the debtor undergoing insolvency resolution is stripped of control over its assets, and the reins of the business are handed to the creditors. This principle of "creditors-in-control" (**CiC**) is founded upon the vested interest that the creditors have in the timely recovery of their dues, incentivizing them to expedite the resolution process lest the value of their money be lost to depreciation. Coupled with the benefits of reaffirming lender's confidence and cooperation in the resolution process, such a creditor-friendly model also enhances the availability of credit in the market, thereby bolstering the nation's entrepreneurship ecosystem. However, the shadow of counterintuitive outcomes trails even the most noble of initiatives, including the CiC model.

The most glaring of such issues is the arbitrary exercise of power by the creditors. For instance, the creditors, entrusted with unbridled authority over the debtor, may prioritize recovery even at the cost of resolution and the debtor concern's long-term survival. Further, the fear of dethronement makes the debtor aversive to the resolution procedure, inducing them to keep the initiation thereof at bay, even by resorting to lengthy litigations. Thus, by tipping the scales excessively in favour of the creditor, a CiC model ultimately runs foul of the foundational

[10] The authors are students at National Law University Odisha, Cuttack.

principles of the IBC, which emphasizes a collective process, that balances the interests of all stakeholders.

To mitigate such shortcomings, the authors endeavour to make a case for a hybrid insolvency resolution mechanism. Such an approach seeks to combine the fruits of both “creditor-in-control” and “debtor-in-possession” models, under increased participation and supervision of Insolvency Professionals. To the end, the authors present an analysis of the contemporary insolvency frameworks in other jurisdictions and draw upon the framework for a creditor-led resolution approach suggested by the IBBI expert committee, proposing further changes and features to achieve the panacea heralded by such initiatives. In conclusion, the authors advance that the insolvency regime must strive towards an egalitarian framework, which caters to the interest of all the stakeholders, guaranteeing maximization of outcomes for all.

A Study of Insolvency & Bankruptcy Code: Its Impact on the Indian Economy

- *Akhilesh Kumar* [11]

The Indian bankruptcy system has gone through a memorable alteration through the approaching of the IBC 2016. Insolvency systems in India as well as the whole way across the world have gone through a range of changes.

An insolvency framework of a country not influence the effortlessness of cooperating situating yet furthermore subsequently fundamentally influences the country. IBC can be named as a significant change in a line of such measures presented by the public authority of India which have gone about as an impetus in the speed increase of the Indian economy.

To defend the interests of creditors as well as those of representatives, laborers, and different gatherings included, the primary and huge approach and procedural changes imagined in the Code expect to recuperate the movable and immovable resources engaged with bothered associations quickly. It has given the Indian economy a new look on the worldwide stage.

The paper assesses the impacts of restricting the IBC on the Indian economy and portrays the IBC as a vital device in the improvement of the Indian economy. The investigation likewise discovered that the IBC could make a useful difference; notwithstanding, it actually must be blessed with the capacity to be implemented and should be supplemented by a compelling assistant framework. Since IBC has just been set up for quite some time, its drawn-out impacts will likewise rely on how well the council and courts complete their particular responsibility.

[11] The authors is a PhD student at The University of Burdwan, West Bengal.

Reassessing Creditor Rights: The Impact of IBC on Distressed Secured Creditors

- *Jay Vishal Goyal & Priyank Bharatbhai Dhaduk* [12]

The Insolvency and Bankruptcy Code, 2016 (IBC) molded India's statutory framework towards Insolvency and Bankruptcy law and additionally, the Insolvency and Bankruptcy Code (Amendment Act),2019 brought pivotal changes in procedures governing the rights and recoveries of the creditors. This paper reassesses the creditor's rights in the context of the IBC, precisely focusing upon the Secured Creditors and the model governing their priorities for recovery of their debts towards Corporate Debtors under the IBC. Prior to the promulgation of IBC, India's insolvency framework was inefficient and disintegrated eventually leading into a prolonged resolution process and suboptimal recoveries for creditors. The IBC, with its creditor-in-control model, aims to streamline the resolution process, improve recovery rates, and ensure time-bound resolution.

This reassessment navigates how IBC has impacted the rights and recoveries of secured creditors and their perplexity qua to the priority mechanism for the distribution of CD assets under the code. By analyzing pre and post-IBC framework, Judicial Precedents, and legal provisions the present paper aims to examine whether IBC has succeeded in achieving its objective from the perspective of secured creditors. The present paper also delineates the imbroglio created by various judicial pronouncements qua to priority-based mechanism for distribution of CD's assets under section 53 of IBC. The paper also examines key aspects such as the role of the Committee of Creditors, the duties of resolution professionals, and the treatment of security interests.

In conclusion, this analysis highlights the importance of addressing the gaps regarding the validity of inter-creditor agreements to ensure that there is highest rate of recovery by the shareholder of the company and they may be treated with equity in regards to priority for claim security interest. Therefore, amendments and recommendation should be to bring clarity for the rights of first charge holders.

[12] The authors are students at Karnavati University, Gujarat.

FROM HOPE TO HARDSHIP: UNDERSTANDING HOMEBUYER INSOLVENCY

Protecting Home Buyers: The Role of Pre-pack Insolvency in the Real Estate Sector

- *Aratrika Deb* [13]

The real estate sector is pivotal in driving substantial changes in a nation's economy and infrastructure, and has been a highly attractive investment avenue in India for the past decade. However, recent years have seen the industry grappling with issues like incomplete and delayed projects, which have discouraged investors due to extended timelines and financial losses. The sector has struggled to recover from the distress caused by the 2020 pandemic.

The Insolvency and Bankruptcy Code (IBC), 2016, has significantly contributed to improving the situation, attempting to transform the landscape of real estate insolvency in India. The Supreme Court's classification of 'home buyers' as financial creditors has been particularly beneficial, helping investors manage long-standing financial obligations in real estate.

However, non-adherence to the timeline has posed a constant challenge which has ultimately dragged real estate companies to liquidation and subsequent corporate death. Another reason for the IBC not thriving in the real estate space is the role of the creditors' committee, which includes both homebuyers and other financial creditors. The large number and diversity of homebuyers, along with their individual decision-making, make it very challenging for the committee to approve a resolution plan. In 2021, the Parliament introduced the 'Pre-packaged Insolvency Resolution' (PPIRP) process for MSMEs, which became part of the IBC. This process allows debtors and creditors to collaboratively develop a resolution plan before submitting an insolvency application to the NCLT.

Unlike the Corporate Insolvency Resolution Process (CIRP), PPIRP does not transfer business control from the debtor to the creditors, offering a more efficient, cost-effective alternative that maximizes outcomes for all stakeholders without

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disrupting business continuity or jobs. There are three stakeholders in the insolvency proceedings of a real estate company – real estate entity, financial creditors and home buyers. The PPIRP Model can balance the interest of all these stakeholders while preserving the value of the ailing company.

The author therefore suggests extending PPIRP to larger corporate real estate firms beyond MSMEs to address the sector's unique challenges and establish a structured resolution framework for home buyers. This would protect their investments and prioritise their interests during the framing of resolution plan. If the model is implemented successfully, it shall lead to timely completion of projects, credit discipline among debtors, giving homebuyers what was promised and overall boosting the investor confidence in the market.

This paper will further explore the benefits of PPIRP over CIRP, particularly for homeowners struggling to obtain property possession and entangled in lengthy insolvency battles. The author shall also look into the regulatory framework governing pre-pack insolvency in various jurisdictions, and assess their applicability and effectiveness in the real estate sector.

Strengthening Homebuyers' Position within the Insolvency and Bankruptcy Code- India

- *Bhavik Gupta* [14]

In the realm of Indian real estate, the Insolvency and Bankruptcy Code, 2016 (IBC) has significantly shaped the rights and protections available to homebuyers against defaulting developers. Initially neglected, homebuyers' grievances, including project delays and financial mismanagement by developers, prompted legal reforms.

The 2018 amendment acknowledged homebuyers as financial creditors, enabling them to participate in Corporate Insolvency Resolution Processes (CIRP) and appoint authorized representatives. Subsequent challenges and evolution, notably the 2020 amendment imposing minimum thresholds for initiating CIRP, balanced homebuyers' rights with procedural efficacy. Additionally, innovative judicial concepts such as Reverse CIRP emerged to protect homebuyers' interests by allowing project completion amidst insolvency proceedings, albeit with legal ambiguities.

Project-wise CIRP further tailored insolvency proceedings to specific projects, safeguarding homebuyers' investments while upholding financial creditors' interests.

This research employs a doctrinal analysis of legislative texts, judicial decisions, and scholarly commentary to assess the impact of these legal developments on homebuyers' position within the IBC framework. It critically evaluates Supreme Court interpretations and National Company Law Appellate Tribunal (NCLAT) decisions that have shaped the applicability and effectiveness of these legal provisions. Methodologically, this study draws on case law analysis and legislative scrutiny to highlight tensions between protecting homebuyers' interests and maintaining the integrity of insolvency proceedings. It examines how courts have

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navigated these tensions through innovative legal interpretations, offering insights into the evolving landscape of real estate sector's insolvency law in India.

By analyzing amendments and judicial decisions, it identifies gaps and challenges in the current legal framework while proposing avenues for future legislative and judicial refinement. Ultimately, this study seeks to explore the transformative impact of the IBC on homebuyers' rights and its broader implications for insolvency law and policy in India's real estate sector.

This study employs a doctrinal research approach focusing on legal texts, statutes, case law analysis, and scholarly literature related to the Insolvency and Bankruptcy Code, 2016 (IBC) and its amendments pertaining to homebuyers in the Indian real estate sector. It synthesizes primary legal sources including legislative texts, amendments, and judicial decisions from the Supreme Court of India and the National Company Law Appellate Tribunal (NCLAT). The analysis critically evaluates the evolution of homebuyers' legal status from operational to financial creditors under successive amendments, particularly the 2018 and 2020 amendments.

Homebuyers as Financial Creditors: Analyzing the Position and its Challenges

- *Aryaa Parulekar* [15]

Homebuyers today, though earlier unrecognized, are given the status of financial creditors under the Insolvency and Bankruptcy Code, 2016 ("**Code**"). Taking cognizance of the denial of various important rights such as the ability to initiate insolvency proceedings under the Code and gain representation in the Committee of Creditors, an amendment was brought in 2018, which elevated the homebuyers to the pedestal of financial creditors under the Code. This brought much relief to the homebuyers, who earlier had to repeatedly knock the doors of various forums to enforce their rights and recover their investments in a sinking real estate project. However, the 2018 Amendment also attracted severe criticism from a number of real estate companies, which subsequently led to the constitutionality of the said amendment being challenged before the Hon'ble Supreme Court of India. Marking a significant milestone for the insolvency jurisprudence, the Hon'ble Apex Court upheld the validity of the amendment and brought the homebuyers within the four corners of the Code. Despite its positive implications, the recognition provided to the homebuyers has given rise to a string of issues which have highlighted the need for a greater clarity and further deliberation in order to afford the envisaged effective protection to the homebuyers under the Code. While some of these issues have attained finality, some continue to remain part of an evolving jurisprudence in the realm of insolvency. This paper aims to examine the journey of homebuyers from being mere litigants to financial creditors. Further, based on this understanding, the paper attempts to identify and analyze some of the key issues and gaps with respect to securing the interests of the homebuyers, which have been brought to the forefront in the recent times. Finally, consolidating the analysis, the paper concludes by providing certain suggestions and viewing them from the standpoint of their feasibility in the current scenario.

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Navigating the Void: Home Buyer's Recourse in Builder Insolvencies

- *Yoovika Toor* [16]

India's burgeoning real estate sector, characterized by soaring prices, has transformed homeownership into an aspirational dream for the middle class, often realized through burdensome EMIs. The significance of this sector is underscored by the dramatic increase in housing loans as a percentage of GDP, rising from 3.2% in 2001-02 to an impressive 10.52% in 2022-23.

However, the euphoric promise of "turning dreams into reality" projected by real estate projects has been severely undermined by the insolvencies of residential projects by major builder groups such as Amrapali, Jaypee Infratech, and Supertech. These high-profile cases have cast a long shadow over the sector's performance viability and raised critical questions about the protection of home buyers' interests.

This research paper aims to critically examine the evolving legal landscape surrounding home buyers' rights in corporate insolvency resolution process. It scrutinizes the efficacy of the paradigm shift in home buyers' status, brought about through legislative amendments and judicial interpretations. The study navigates the complex interplay between the Insolvency and Bankruptcy Code, 2016, the Real Estate (Regulation and Development) Act, 2016, and consumer protection laws.

The study begins with an examination of the landmark Supreme Court judgment in Chitra Sharma v. Union of India, which paved the way for the 2018 amendment to the IBC, granting home buyers the status of financial creditors. This shift empowered them to initiate insolvency proceedings under Section 7 of the IBC. The paper further delves into the judicial interpretation of 'time value of money' in Pioneer Urban Land and Infrastructure Ltd. v. Union of India, a critical factor in determining the nature of home buyers' debt as financial.

Subsequently, the research analyzes the introduction of statutory minimum thresholds for filing of insolvency applications by home buyers, exploring its

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implications on their rights. The paper also investigates innovative mechanisms such as reverse Corporate Insolvency Resolution Process (CIRP) and the immunities provided under Section 32A of the IBC. It evaluates the interplay of statutory protections in addressing the persistent issues of delayed possession and delivery of under-construction homes.

The research adopts a nuanced approach in assessing the home buyers' conundrum while striving to balance the rights of all stakeholders in the insolvency process, including developers, aggrieved home buyers, promoters, and financial institutions. This holistic perspective aims to provide a comprehensive understanding of the complex dynamics at play.

Set against the backdrop of India's booming real estate sector, projected to reach USD 1.04 trillion by 2029 with a CAGR of 25.60% during 2024-2029, the paper underscores the economic significance of addressing these legal challenges.

Through a meticulous analysis of existing literature, the study concludes by offering meaningful insights on targeted reforms and amendments. It proposes innovative dispute resolution mechanisms tailored to the unique needs of home buyers, advocating for a legally and economically justified system that seamlessly integrates insolvency law into the realm of real estate.

Accommodating the "Homebuyers" into the Insolvency and Bankruptcy Regime: An Analysis of the Reverse CIRP Proceedings under IBC in the Real Estate Sector

- *Harshita Shrivastava* [17]

The fast-growing Indian economy is significantly influenced by the real estate industry. Throughout the past few decades, it has been one of the fastest-growing sectors in the nation and includes the residential, commercial, retail, and hospitality divisions along with its forward and backward integrations. The sector has been instrumental in driving economic growth in India, contributing to the country's GDP, employment generation, and foreign investment inflows. A rough estimate places the domestic real estate industry's contribution to India's GDP at around 50%. However, in the past few decades, the real estate sector has collapsed into a quagmire of botched and delayed deliveries. Due to proposals and projects taking longer than expected to complete, investors were dissuaded from making real estate investments.

Bankruptcy in real estate investments can happen when an investor is unable to repay their debts, including loans acquired for real estate investments. The Insolvency and Bankruptcy Code, 2016 (hereafter referred to as the "Code") has been instrumental in addressing the issue. The Code initially contained no explicit provisions addressing the rights of allottees of real estate projects. Consequently, Section 5(8)(f) of the Code was changed in 2018 to expressly include allottees as "*financial creditors*" in response to court rulings declaring that loans provided by allottees have the commercial impact of borrowing. This gave the allottees the right to file a case through the Corporate Insolvency Resolution Process ("CIRP") against a real estate developer who is in default and to attend the developer's Committee of Creditors ("CoC") meetings. In order to reduce pointless applications, Section 7 of the Code was then further modified in 2020 to establish a threshold for allottees to start CIRP. The timely and effective resolution of

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distressed real estate projects has been hampered by a low success rate, even in spite of these legislative measures.

In devising a tailored arrangement for the real estate sector, the Supreme Court in the landmark judgment of Swiss Ribbons Private Limited and Anr. Vs. Union of India and Ors. has opined that – "*to stay experimentation in things economic is a grave responsibility, and denial of the right to experiment is fraught with serious consequences to the nation*." Further, the NCLAT has explicitly stated that the moratorium is solely applicable to the particular project that is undergoing CIRP and not to the developer's other projects in Umang Realtech's [2020] verdict, which introduced the concept of "reverse CIRP." This is in contrast to the position adopted by the NCLAT in Supertech Limited's (2022) bankruptcy case, when it was decided that the moratorium applied to the CD in its whole leading to confusion on the current position of law as the same is yet not sufficient to cater the under resolved issues in the sector.

The author thus, intends to analyse the split judgements of the NCLAT and the current position of law with regards to the proposal of Reverse CIRP in this paper.

Navigating Changes in the Insolvency & Bankruptcy Code, 2016: A Focus on the Rights of Homebuyers

- *Shakshi Kothari & Abhyuday Dhasmana* [18]

The Insolvency and Bankruptcy Code, 2016 (The 2016 Code) was enacted to consolidate and amend insolvency laws, balancing the interests of all stakeholders, including homebuyers. The Code has since recognized homebuyers as a distinct class of creditors, reflecting numerous developments. Initially under the Code, homebuyers were not recognized as a separate class of creditors, and it was only by way of 2018 Amendment, that the Homebuyers/Allottee of a Real Estate Project were given recognition as a financial creditor. Thus, this amendment is said to have opened doors of relief for them by providing them with adequate recognition and remedies. Also, judiciary has played a pivotal role in determining their status as financial creditors with an intent to provide significant protections and remedies against the unjust practices of defaulting developers leading to insolvency situations. This recognition as financial creditors have granted them the right to participate in the decision-making progress. From determination of threshold to initiate a CIRP against a developer to change of authorized representatives of homebuyers, and from project-wise CIRP to recognition of RERA decrees under the IBC, the Code has evolved to ensure that the already aggrieved Homebuyers, who invest their hard-earned money into a real estate project, are not subjected to technicalities which might render the provisions of the Code remediless for this aggrieved class. These amendments and judicial pronouncements have provided recourse to the homebuyers in the event of developer's insolvency. Despite these advancements challenges persist in balancing the interests of the homebuyers with those of other creditors which includes practical implementation of these projections which require continuous monitoring and proper implementation especially at their nascent stage of amendment. Thus, this paper delves into how the IBC evolved in relation to the rights of homebuyers by analyzing the legislative

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amendments and judicial pronouncements. This analysis will provide a comprehensive overview highlighting the progress made by these amendments to protect the interests of these vulnerable homebuyers along with further developments that are necessary to safeguard their interests while promoting fairness in the insolvency process. This analysis will ensure that necessary recommendations are made to create a balance between the shareholders' interests and efficient resolution of insolvency cases.

CROSS BORDER INSOLVENCY- BEST PRACTICES AND INNOVATION

Cross Border Insolvency: International Trends and Insights India's Approach

- *Yashaswini Singh Chouhan* [19]

Cross-border insolvency remains a legislative challenge for smooth Global Trade in India as the Annual Financial Statement of 2024 continues to keep the matter on the back burner. The issue itself necessitates an intricate but cohesive legal framework that could work across jurisdictions while balancing the interests of several States at large. This paper aims at a comprehensive understanding of the global trends and the Indian approach towards Cross Border Insolvency in four broad parts. Firstly, an in-depth study of the UNCITRAL (United Nations Commission on International on Trade Law) Model Law is done by summarizing its key provisions in brief. This is further done in two broad heads under two broad heads wherein the legal intricacies of the Model Law are studied, followed by a practical analysis of its possible impact on the State economies. This is followed by a review of the European Union Insolvency Regulation wherein comparisons are made between the Model Law and this legislation for a holistic understanding of the current global trends in so far as Insolvency and its legislations are concerned. Thirdly, the paper delves into the current position of the Indian law and its position on Cross-Border Insolvency. Finally, a cost-benefit analysis is done to understand why India is yet to adopt the UNCITRAL Model Law and if, in fact, the benefits of its adoption outweigh the possible obligations it would place the country under.

The paper approaches the subject cautiously with due consideration for the ever-changing global economy. Special attention has also been given to India's strong commitment towards a robust economy balanced with the ruling government's emphasis on foreign relations. Due regard has also been given to the State's Foreign Direct Investment (FDI) scenario and a comparison has been attempted to be made against the current state of Overseas Direct Investment (ODI) by India. It can be concluded that the adoption of the Model Law in India and a new Insolvency Law Regime needs to be established; however, a comprehensive policy

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for such an integration is needed that pays due heed to the valid reservations against such a step. The research concludes with the basic framework of such a policy that may be eventually integrated in the Indian legal framework, ensuring a direct boost to the Investments in India and creating a legal system that gains the trust of foreign investors, and removes their inhibitions against the lack of Cross-Border Insolvency Jurisprudence in India.

Bridging Borders: Integrating UNCITRAL Model Law into India's Cross-Border Insolvency Framework

- *Pubali Mukherjee & S. Naina* [20]

When a company holds assets or liabilities in another country and undergoes insolvency, the legal framework of that foreign jurisdiction may partially govern the insolvency proceedings alongside domestic laws. This captures the fundamental concept of cross-border insolvency. The UNCITRAL Model Law on Cross-Border Insolvency (1997) aims to harmonize cross-border insolvency laws globally. While India's Insolvency and Bankruptcy Code (IBC), 2016 focuses on domestic insolvencies, the increasing global trade and technological advancements underscore the need for a cross-border insolvency framework. This paper explores the implementation and key challenges related to the UNCITRAL Model Law and the Insolvency and Bankruptcy Code (IBC).

The legal stance in India on cross-border insolvency remains under debate, as the IBC currently lacks a standardized mechanism for the automatic recognition of foreign bankruptcy procedures. Although Sections 234 and 235 address cross-border insolvency, they are insufficient for intricate cases. In response, the Ministry of Corporate Affairs established the Insolvency Law Committee (ILC) in November 2017, which recommended amending the IBC and adopting the UNCITRAL Model Law. To integrate this Model Law, the Cross-Border Insolvency Rules/Regulation Committee (CBIRC) was formed in January 2020 to create a comprehensive regulatory framework, resulting in the preparation of Draft Part Z.

The Model Law, adopted by various countries such as the United States, the United Kingdom, and Singapore, focuses on four key elements: Access, Recognition, Assistance, and Cooperation. But to adopt the Model Law, India must address the issue of the Centre of Main Interest (COMI). The COMI concept is crucial for determining which country's insolvency laws will apply, guiding the jurisdiction for initiating main insolvency proceedings. The proposed cross-border insolvency

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framework is designed to address issues related to Indian companies with foreign assets and foreign companies with assets in India. However, it does not address the insolvency treatment of corporate groups, focusing instead on individual companies.

This paper examines the potential of adopting the UNCITRAL Model Law to enhance the ease of doing business, attract foreign direct investment, and harmonize insolvency laws through international cooperation while addressing cross-jurisdictional issues and establishing guidelines for recognizing foreign proceedings that will streamline access to foreign insolvency processes. This paper also signifies the key changes in cross-border insolvency and the potential benefits of integrating the UNCITRAL Model Law into India's legal system. It explores the challenges and opportunities, proposing ways to enhance insolvency processes, foster international cooperation, and attract global investment while considering the current state of India's legal framework.

Assessing the Need and Impact of Adopting the UNCITRAL Model Law on Cross-Border Insolvency in India's Insolvency and Bankruptcy Code (IBC)

- *Vaishnavi Nair* [21]

Geographical integration and cross-border trade make South Asian countries like India indispensable components of the global value chain. This successful cross-border collaboration is essential to the development of the Indian economy because of its ability to develop diplomatic connections and draw in foreign investment. The establishment of multinational organizations brings with it the problems related to insolvency. In order to speed up the drawn-out bankruptcy resolution processes, the Insolvency and Bankruptcy Code (IBC) was created in 2016. Sections 234 and 235 of the IBC empower the Central Government to expeditiously enforce our legislation on assets held by foreign entities, expedite the establishment of bilateral agreements with other governments, and provide insolvency resolution professionals with the resources necessary to track down and manage any foreign assets that corporate debtors own. The purpose of these provisions is to promote economic and judicial cooperation between Indian and foreign authorities.

However, the Bankruptcy Law Committee came to the conclusion in its 2018 Report that the IBC lacked a comprehensive framework for handling bankruptcy cases involving foreign corporations and that the Indian legal system needed to be brought into compliance with the UNCITRAL Model Law. The Jet Airways bankruptcy case serves as the clearest example of the challenges posed by cross-border insolvency. The case emerged from lawsuits filed in the Netherlands and India by creditors against Jet Airways. The universality principle, which states that all assets, regardless of location, should be taken into account and that insolvency proceedings should be initiated and overseen by a single court in the region where the corporate debtor maintains its registered office or place of residence, is upheld by the Netherlands court. The Indian court does, however, recognize territoriality,

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which restricts its authority to assets located on state property. Ultimately, ideas from the Model Law were integrated into a protocol for cross-border insolvency in the instant case.

In cases of cross-border bankruptcy, it can cause uncertainty, which hinders the adoption and execution of out-of-court settlements internationally. Since various countries have distinct bankruptcy laws, it is challenging to settle multinational bankruptcies. This undercuts the effectiveness of India's bankruptcy laws as well as the trust of foreign creditors and investors. A draft section Z of the IBC, which was suggested by the Cross-Border Insolvency Rules/Regulation Committee (CBIRC) at its 2018 discourse, incorporates the UNCITRAL Model Law for handling cross-border insolvency. Two kinds of international proceedings—foreign main and foreign non-main proceedings—that are only pertinent to corporate debtors were established in the proposed draft. It also included the concept of the Center of Main Interests (COMI) in the legislation. The purpose of this research is to identify any gaps that the adoption of the UNCITRAL Model Law may fill and to look into any barriers that India may have in approving and implementing 'Part Z'.

Evaluating the Efficiency of Indian Insolvency Law in a Cross-Border Context

- *Rohan Prasad Dharmadhikari & Nandini* [22]

One of the key issues in cross-border insolvency is the coordination and cooperation between different jurisdictions. The absence of a comprehensive framework for cross-border insolvency in India poses challenges in dealing with multinational corporations that have assets and creditors spread across various countries. The study will explore the extent to which the IBC aligns with global practices, such as the UNCITRAL Model Law on Cross-Border Insolvency, and whether it provides a sufficient legal basis for cooperation with foreign courts and insolvency practitioners. Furthermore, the research will delve into the practical implications of cross-border insolvency under the IBC, including the recognition and enforcement of foreign insolvency proceedings in India and vice versa. It will also analyse recent cases that have tested the cross-border provisions of the IBC, highlighting the strengths and weaknesses of the current framework. Through these case studies, the project aims to identify gaps in the legislation and suggest potential reforms that could enhance the efficacy of the IBC in managing cross-border insolvencies. Another important aspect of the study will be the impact of India's approach to cross-border insolvency on foreign investment. As India positions itself as a global economic hub, the predictability and reliability of its insolvency framework are crucial for attracting and retaining foreign investors. The research will examine how the current legal provisions influence investor confidence and whether the IBC provides adequate protection and clarity for foreign stakeholders involved in insolvency proceedings. By addressing these issues, the study aims to inform policymakers and legal practitioners on how to enhance the cross-border insolvency framework, ensuring that India remains competitive and attractive in the global market.

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Cross-Border Investments and Legal Frameworks: Investigating Challenges and Opportunities in the Context of Globalization

- *Abha Saini* [23]

In the globalized economy, cross-border investments play a vital role in boosting economic growth, technological advancement, and international trade. However, the legal frameworks regulating these investments present a complex landscape marked by both challenges and opportunities. This research paper examines the complex interaction between cross-border investments and legal frameworks within the context of globalization.

The study begins by defining the fundamental principles and mechanisms fostering cross-border investments, including foreign direct investment (FDI), portfolio investment, and mergers and acquisitions (M&A). It then begins to analyze the legal challenges faced by investors, host countries, and international bodies in facilitating and regulating these investments. Key challenges examined include jurisdictional conflicts, regulatory barriers, political risk, and the implications of varying legal standards across jurisdictions.

Furthermore, the research explores the opportunities that emerge from effectively navigating these legal challenges. It studies how strong legal frameworks can boost investor confidence, promote capital flows, and encourage economic development. Special attention is given to international investment agreements (IIAs), bilateral investment treaties (BITs), and multilateral frameworks (such as the OECD Guidelines for Multinational Enterprises) as tools for mitigating risks and resolving disputes in cross-border investment contexts.

Through a comparative analysis of case studies and empirical data, the paper evaluates the effectiveness of different legal strategies and regulatory approaches adopted by countries and international organizations. It scrutinizes best practices in legal harmonization, transparency, dispute resolution mechanisms, and the role

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of international arbitration in protecting investor rights and stimulating sustainable economic growth.

Ultimately, this research leads to a subtle understanding of the legal dynamics shaping cross-border investments in the era of globalization. By determining both challenges and opportunities, the findings offer insights for policymakers, investors, legal practitioners, and scholars seeking to maneuver and leverage the evolving landscape of international investment law and practice.

Bankruptcy Beyond Borders: Navigating the International Insolvency Landscape

- *Manaswini Samal & Soham Pradeep Kale* [24]

In the era of globalization and an exponential increase in cross-border trade, the complexity of insolvency proceedings for companies with global asset linkages has become increasingly significant. The economic reality of business failures adversely impacts stakeholders, including creditors, and may have cascading effects on the economy. However, a robust insolvency law framework can minimize these impacts. Businesses operating in a secure regulatory environment will face fewer difficulties in resolving insolvency, which is why the World Bank measures regulations for resolving insolvency as a key area for comparing ease of doing business across economies. This research paper explores the critical issues surrounding cross-border insolvency and focusing on the evolution of insolvency jurisprudence in India.

The Ministry of Corporate Affairs in India recently solicited comments on a draft chapter on cross-border insolvency for inclusion in the Insolvency and Bankruptcy Code, 2016 (IBC). This marks a pivotal moment given India's current non-adoption of the UNCITRAL Model Law on Cross-Border Insolvency, leaving significant gaps in the country's legal framework regarding international insolvency matters. The paper elucidates the fundamental principles of cross-border insolvency and examines scenarios involving insolvent entities with substantial overseas assets. It delves into theoretical frameworks such as territorialism, universalism, and modified universalism, evaluating their effectiveness in addressing cross-border insolvency issues.

The paper highlights the UNCITRAL Model Law, the European Union Regulation on Insolvency Proceedings, and guidelines for court-to-court cooperation by the American Law Institute and the International Insolvency Institute. These frameworks facilitate the recognition of foreign insolvency proceedings and foster

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cooperation between jurisdictions. The paper discusses the implications of India's non-adoption of the UNCITRAL Model Law and explores the potential benefits of its implementation and adoption in India.

India's IBC, enacted in 2016, lacks a detailed framework for cross-border insolvency. Current provisions under Sections 234 and 235 are insufficient in dealing with matters related to cross-border insolvency. The current framework depends on bilateral agreements with other countries, which are time-consuming and create uncertainties for foreign investors. The post-COVID-19 period has witnessed an increase in insolvency cases, impacting multinational corporations and making it challenging for these organizations to recover and consequently, the absence of a comprehensive cross-border insolvency law could disadvantage Indian creditors.

The paper underlines the necessity for India to align with international standards to manage cross-border insolvency matters effectively and efficiently. This alignment shall enhance legal certainty and predictability, bolstering investor confidence and facilitating foreign investment and economic growth. It recommends adopting the UNCITRAL Model Law with modifications suited to the Indian context, establishing clear procedures for recognizing foreign insolvency proceedings, ensuring access for foreign representatives to Indian courts, and promoting cooperation between Indian and foreign courts.

Bridging Borders: Cross Border Insolvency and India's Legal Framework

- *Abhishree Anandi* [25]

Over the past years, the world has encountered an overwhelming expansion of multinational corporations, foreign trade and investments, with allied advancements in commerce and technology. The global amalgamation of economic interests has caused the mutual interdependence of countries worldwide. This interdependence has nevertheless resulted in the twin perilous problems of insolvency which further leads to bankruptcy. The situation of international insolvency, also known as Cross Border bankruptcy emanates when financially beleaguered companies owe their assets and liabilities across multiple legal jurisdictions. Insolvency as a matter of fact is interwoven through the tapestry of law as well as economy i.e., the economy will endure a setback if the laws are spiritless.

Concerning this, the study aims to achieve two primary objectives: firstly, to critically analyze the arena of cross border insolvency and secondly to examine the current legal mechanisms for cross border insolvency in India. Consequently, the paper provides in-depth insights as well as stresses the need for harmonization of insolvency laws in order to impede the rigamarole of assorted legal proceedings. The study is descriptive and analytical in essence.

The paper begins with a detailed and structured prelude on cross border insolvency, equipping the readers thoroughly about its meaning and theories as well as the related areas of contention. In light of cross border insolvency, the United Nations Commission on International Trade Law (UNCITRAL) Model Law is of utmost significance. Therefore, the paper elucidates the evolution, purpose and framework of UNCITRAL Model Law which is exclusively devised to assist countries in addressing issues of cross border insolvency. In order to expand the breadth of this research, a reflection is made upon how few countries have incorporated UNCITRAL Model law in their domestic legal framework. In this regard, special emphasis is given to the European Union Insolvency Regulation. The opening segment of the article wraps up

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by analyzing the potency and limitations of UNCITRAL law as a yet to be universally harmonized instrument for Cross border insolvency.

The subsequent section of the paper explores the nuances of cross border insolvency in India, emphasizing on the critical need for India to strengthen its international insolvency laws. In this regard, the inception of the Indian Bankruptcy Code, 2016 (IBC) followed by the lacuna present in it is highlighted. Further, the article delves into the Draft Z proposal by the Insolvency Law Committee, based on the UNCITRAL Model Law that is paramount in India's step towards cross-border insolvency laws. The article concludes by analyzing the case of SBI vs Jet Airways to accentuate the necessity for India to uncover loopholes and fortify legislation on cross border insolvency.

Addressing Cross-Border Insolvency in India: An Introspection

- *Muhammed Rayhaan & Hanan Fathima* [26]

With the dalliance of globalization and the emergence of foreign investment, the advent of cross-border insolvency poses a plethora of challenges in the modern economy, despite its virtues. This brings to question several concerning issues, such as the protection of domestic creditors due to the varied nature of global insolvency laws; drawbacks in recognition of foreign proceedings; conflicting claims in different jurisdictions; and more, all actively hampering coordination among different courts and adjudicating authorities (as understood in the case of the Hanjin Shipping Company in 2016) and necessitating striking a careful balance to maintain everyone's interests. In India, the Indian Bankruptcy Code (IBC) further exacerbates the situation with its complete lack of any mention of the term 'cross-border insolvency' and the absence of any structured framework or legislation in this regard. The existing arrangement, as per Sections 234 and 235 of the IBC, continues to remain largely inadequate and ineffective, breeding the aforementioned complications of recognition and coordination, as evidently observed in the collapse of Jet Airways. This often requires bilateral agreements as the only plausible solution (as per Section 234) in the current system, which fosters an atmosphere of inconsistency and delay, all of which severely need to be mitigated to alleviate the burden among different parties and pave the way for seamless insolvency procedures with India. The Insolvency Law Committee (ILC) of the Ministry of Corporate Affairs derived a similar conclusion in their October 2018 report, further analyzing the United Nations Commission on International Trade Law's (UNCITRAL) Model Law on Cross-Border Insolvency and categorically commenting on how the provisions of said Model Law may or may not be adopted by the IBC. Furthermore, the ILC report elucidates certain key advantages of implementing the Model Law and officially recommends its adoption in the form of a Draft Cross-Border Insolvency Legislation, or alternatively, Draft Part Z. For reference, the UNCITRAL Model Law sustains itself as a landmark legal framework

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in the matter of cross-border insolvency, enhancing cooperation, ensuring fair treatment, facilitating timely and effective resolution, and promoting legal certainty in intricate situations. The provisions of this law, such as the prevention of discrimination against foreign creditors and direct access to resources in domestic courts, significantly improve procedures and enhance cooperation, thus proving themselves as a valuable contribution to domestic insolvency regimes, specifically India, which is not part of the 51 nations that currently implement this law. This prevailing situation puts forth the necessity of a deeper analysis of the existing concerns of cross-border insolvency and, consequently, the adoption of the UNCITRAL Model Law in India, which are the objectives this paper seeks to achieve. Conjointly, the researchers' methodology involves a secondary analysis of the aspects mentioned supra in defining the nuances of this agenda and ultimately addressing the various concerns of this matter with reference to Indian laws and regulations, holistically decrypting the complex phenomenon of cross-border insolvency.

CENTRAL BANKS AND CROSS BORDER INSOLVENCY-STRATEGIES AND CHALLENGES

The AI-CBDC Nexus: Advancing Central Bank Capabilities in the Era of Digital Currencies

- *Khushi Lunawat, Bhoomika G Kuruvatti & Rukaya Tasmin Chadni* [27]

The rise of financial technology has brought Central Bank Digital Currencies (CBDC) into focus as a potential addition to our current money system. This research paper aims to examine how Artificial Intelligence (AI) and CBDCs establish a link with each other and explore ways to establish the prospects of applying AI in an effort to enhance the advantages and lessen the disadvantages of the new framework. This paper uses an extensive research approach that involves an analysis of various articles, government documents, and legal texts to give a comprehensive analysis of the subject.

The first segment of the paper will explore the integration of AI with smart contracts in developing self-learning applications capable of disinterring complex patterns within blockchain information. This approach succours the automation of numerous central bank functions, in areas like risk management related to financial crimes, and government benefit guidance, and renders adjustment of relevant economic parameters. Further, we delve into how AI-driven smart contracts could enhance the efficiency and transparency of CBDC-based transactions, thereby revolutionizing monetary policy execution. Highlighting the ethical concerns, the authors will put forth possible regulatory bottlenecks that could arise from the advanced technological integration within the financial system, given the dynamic conceptualization of the CBDC landscape in India.

The succeeding section of the paper sheds light on the ever-changing regulatory landscape for CBDCs in India. The Reserve Bank of India (RBI) is authorized to issue digital banknotes through amendments to the RBI Act via the Finance Act, 2022. This paper will further delve into the role of intermediaries, a governance framework for participants in CBDC, privacy and data protection issues, and the

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applicability of current financial regulations relating to Know Your Customer norms and the application of the Prevention of Money Laundering Act, 2002.

Lastly, the paper will examine the international market premise of CBDCs with national and international focus. The authors evaluate various stages that CBDCs have passed, starting from the pilot testing in Nepal, Pakistan, and New Zealand, in-development in India, China, and Russia, and the testing phase in the USA. The successful launches in Nigeria and The Bahamas had cancellations of the same done in Ecuador and Senegal, who could not complete due to regulatory challenges. In India, the RBI achieved 1 million daily transactions of CBDC by the end of 2023 and conducted trials in remote areas where there were issues related to internet connectivity. Additionally, trials for the CBDC pilot have been carried out across cities like Mumbai, New Delhi, Bengaluru, Chandigarh, and Bhubaneswar in India.

Owing to the various aspects examined in this paper, the authors offer a comprehensive view of the potential uses of AI in the CBDC system, presenting the most critical issues and threats resulting from the integration of AI into CBDCs, by outlining the possible solutions. This work assesses the prospective effects of AI-enabled CBDCs on central bank capabilities and the execution of monetary policy strategies. Conclusively, the paper advances to integrate the dynamic ecosystem of AI and CBDCs.

Navigating the Ripple Effect: The Impact of Global Economic Policies on National Banking Systems

- *Pratyasa Mishra* [28]

Economic policies of world institutions and leading countries are becoming integrated into national banking systems, as a result, the global economy is more and more consolidated. This paper examines this complex interaction and takes a deep dive into how international economic governance influences the territory-specific configuration of banking systems.

Economic global policies driven through international institutions, such as the IMF (International Monetary Fund) and the World Bank or agreements as we see in the Basel Accords have evolved quite a lot nowadays ranging from various forms of trade to economic treaties between numerous countries. These are policies designed to respond to a global economic ambition of maintaining financial stability or achieving the goal of just and sustainable growth, development disparities etc. Yet their reach and effects are so large that they affect the national banking systems of entire nations.

These global regulations greatly affect national banking systems, each of which is characterized by its own regulatory environment and economic functions. The channels of transmission are such which global economic policies reach national banks through trade, investment flows and financial markets. Often these things mean changes in how one has to manage capital adequacy, liquidity risk management and the level of satisfaction with prudential or regulatory compliance.

Financial stability is the main concern. National banking systems face risks, some of which can be mitigated or exacerbated by global economic policies that impact such factors as bank capital adequacy and liquidity ratios. A review of historical case studies relating to financial crises as well assert directions in global policy that

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have targeted the creation or enhancement of systemic vulnerabilities reveals a fundamental risk-mitigating role for robust regulatory frameworks.

In addition, international economic policies interface with/ the nation state's monetary policy as far /as interest rates and inflation are concerned. How the mix of these policies are in alignment or even divergence raises issues for national policymakers as they manoeuvre between global expectations and their domestic economic realities.

This interplay also gives rise to regulatory and supervisory challenges. This includes the proportional harmonization of international regulatory standards and ensuring cross-border supervision is effectively conducted, ideally through co-ordination between national and global regulators. Navigating the changing global regulatory environment, that sees a series of reforms and best practice appearing will be critical in meeting these challenges.

Overall, this study offers a detailed analysis of the contagion effects through diverse economic policies on local banking systems. This highlights the need for policymakers and financial institutions to grasp these dynamics, as well as providing actionable ideas on how negative consequences can be moderated while adjusting to an economy that is quickly shifting its shape worldwide. The results stress the importance of research and conversation about how best to address global economic challenges from a national perspective.

Cryptocurrency in India and the Devastation of Banking Economy

- *Ralph Anand L*[29]

India, considered as a developing state plays a remarkable role in the global economy. Indians where almost 65% is of the youth population helps the country in adapting to digital technologies and digital services rendered online. With recent trends and the advancement of new technologies like the Unified Payment Interface (UPI), there seems to be a paradigm shift from using traditional physical currency notes and coins to digital currencies. Cryptocurrencies which are considered to be a part of digital currency also have their own implications. Recent studies have showcased that cryptocurrencies are booming in every sphere of the world and are even being traded to buy essentials provided by established companies. Though cryptocurrencies are considered to be advantageous for people, it still pose a threat to the banking economy, a system of economy built by banks. Banks are considered to be the nerves in an economy which regulate the distribution of currency dealing with credit control, inflation and foreign exchange. When this digital currency evolves, there's a high possibility that banks could lose their power in regulating Fiat money and their streams of revenue. This paper helps one to understand the workings of cryptocurrencies along with the technology associated with it and answers questions like Is it possible for cryptocurrencies to rule the market in future and when that situation arises what would be the cascading effect on banks and their economy? This paper also evaluates the management of cryptocurrencies in India and aims to elucidate various options available for the Government, Reserve Bank of India (RBI), NBFC and other individual financial institutions to understand and embrace themselves for a change as the Indian banks must be prepared for the latent possibilities to face global requirements in the changed scenario.

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Are NBFCs More Prone to Failures?

- *Avik Karmakar & Brinda Majumder* [30]

The strong credit demand in the 21st Century backs the growth of the Indian economy. As per a report, it's now the world's 3rd largest non-banking financial sector after only the USA and UK. While traditional banks may not be in every corner of the country, NBFCs are trying to reach and provide that niche segment of the market.

This paper delves into the intricate and multifaceted failures of Non-Banking Financial Companies (NBFCs), elucidating their operational, regulatory, and systemic inadequacies. Central to this discourse is an examination of critical factors such as deficient risk management frameworks, lapses in corporate governance, and inherently flawed business models that precipitate these failures. The paper underscores these collapses' profound ramifications on the broader financial ecosystem by scrutinizing notable case studies, including the debacle of Infrastructure Leasing & Financial Services (IL&FS). Ultimately, the failure of these institutions hampers the lifetime savings of people cum shareholders of the institution.

The narrative traverses the labyrinthine regulatory landscape, dissecting the inadequacies in supervisory oversight and regulatory arbitrage that have allowed these entities to operate with impunity. It critiques the Basel III regulatory norms' applicability to NBFCs and the Reserve Bank of India's (RBI) regulatory purview, identifying lacunae that persist despite recent regulatory tightening. The paper argues for a paradigm shift towards a more robust regulatory architecture, integrating prudential norms, stringent liquidity requirements, and comprehensive stress testing to mitigate systemic risks.

Furthermore, the discourse explores the cascading effects of NBFC failures on a multitude of stakeholders, including retail and institutional investors, borrowers,

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and the macroeconomic environment. It examines the contagion effects on credit markets, the exacerbation of liquidity crises, and the ensuing erosion of investor confidence. The conclusion posits that a confluence of enhanced regulatory vigilance, fortified corporate governance mechanisms, and a resilient financial infrastructure is imperative to safeguard the stability and sustainability of the NBFC sector.

In summation, this paper provides a comprehensive analysis of the systemic vulnerabilities and regulatory challenges plaguing NBFCs, advocating for substantive reforms to avert future financial debacles and ensure the robustness of the financial system.

From NPAS to Recovery: The Legal Framework and Function of Bad Banks

- *Lavanya & Lavanya Chetwani*[31]

The purpose of this paper is to analyze the concept of stressed assets and their effects on the economy with reference to the use of bad banks in protecting the viability and robustness of banks. Distressed assets refer to any non-performing loan, restructured loan or written-off investment. These assets are dangerous threats to economic development and stability since they rode investor confidence, inflate bank's balance sheets and slow down the flow of lending business. This paper seeks to establish the impact that laws regarding distressed assets have on the economy. It is centered on providing specific information on the nature, function and position of bad banks in this process. First, the paper describes and elaborates on stressed assets. The paper then examines the ways in which these assets influence the economy as a whole. The roles of the central banks and the important laws such as the Insolvency and Bankruptcy Code (IBC), the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest (SARFAESI) Act, and the Banking Regulation Act are also discussed in relation to the management and control of these assets. In-depth IBC case studies are also presented. This paper also pays considerable attention to the ideas of bad banks, which are specially developed entities that take over and manage distressed assets from other organisations. The study focuses on the organisational model, functioning, and efficiency of the bad banks in the SA, the European Union, and India. The paper also includes the description of the operational models, success rates, and lessons learned from the experiences of bad banks in other countries. Additionally, this paper includes case studies of the real-life application of bad banks to demonstrate the consequences of its implementation, such as the establishment of the National Asset Reconstruction Company Limited (NARCL) in India. The paper also describes policy implications on how best to improve legal and regulatory mechanisms, formulation of better

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resolution processes and increase stakeholder engagement. Thus, in conclusion, this paper emphasises the importance of sound legal systems and new strategies such as bad banks to prevent the negative impact of non-performing assets on the economy. This way, it is possible to improve the stability, the resiliency, and the integrity of financial systems by fixing existing gaps and by borrowing from best practices of other countries. This paper can be considered as a part of the ongoing research on financial stability and creates the foundation for further research on the legal and economic aspects of managing distressed assets.

ADR MECHANISM FOR CROSS-BORDER INSOLVENCY DISPUTE

A Study on Critical Effectiveness of Recovery Process vis-a-vis Resolution Process in India

- *Jithin George Jackson K* [32]

A longstanding and emerging issue that financial creditors have faced since the advent of the Insolvency and Bankruptcy Code 2016 is the widely losing relevance of the archaic debt recovery system in the country.

Since 2016 there has been a paradigm shift from the recovery process approach to a resolution process approach by the financial creditors when it comes to non-performing assets. The tug of war between the recovery process through debt recovery tribunals and the resolution process through the National Company Law Tribunal still continues, the financial creditors still play safe by initiating lies both before the Debt Recovery Tribunal and the National Company Law Tribunal.

This nuanced practical approach by financial creditors does bring certain critical impediments to the effectiveness of both the recovery and the resolution process of financial debtors. While the position of law reflects a clear path, financial creditors do take a safe approach which eventually requires dredging by the debt recovery tribunals to remain informed about the proceedings in National Company Law Tribunals.

This is a practical concern largely witnessed in the present legal system. The debt recovery tribunal is largely oriented towards recovery and while the national company law tribunals orient themselves for a resolution, it can be seen that a defence may occur that national company law tribunals could not be used as a recovery mechanism. If such a defense would be affirmative then the purpose of debt recovery tribunals of the country would get largely minimized gradually. This area calls for a critical study. There is a need to study the effectiveness of the recovery process in debt recovery tribunals in India as compared to the resolution process before the national company law tribunals. While the latter is a more time-bound process as compared to the former, it is important to analyze effectiveness on the grounds having a common grid integrating a proper system between these two tribunals to exchange information more effectively and efficiently.

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Insolvency Reimagined: Harnessing ADR and Creditor-Led Autonomy for a New Era of Corporate Freedom

- *Mouli Singhal & Mehwish Siddiqui* [33]

This research article titled "Insolvency Reimagined: Harnessing ADR and Creditor-Led Autonomy for a New Era of Corporate Freedom", is based on an untabled idea and a far-sighted approach concluded with suggestions and proposals, which though has crossed the minds of researchers, has never been perceived to be the one which could be injected in the law. Whilst the Corporate Insolvency Resolution Process (CIRP) promotes a time-bound approach, there are circumstantial limitations that challenge its efficacies as happened in the Jet Airways Case which took more than two years for CIRP alone to get over, whilst the provisional time limit including extensions is Three Hundred and Thirty Days. This goes way beyond the foundational principles of the Insolvency and Bankruptcy Code (IBC) on which it was drafted and hence needs to be rectified through a suitable alternative. For instance, France and USA have an out-of-court insolvency and restructuring mechanism which is aimed at increasing corporate autonomy and an analysis of the same is incorporated further to substantiate the researchers' suggestions and proposals.

Second ideology is that there needs to be a shift from the CIRP under supervision of NCLT to a newer and faster process like the Creditor Lead Resolution Process (CLRP) which will look after the rehabilitation aspects of the company and the economy. The idea is not to support the contention that NCLT's role as an Adjudicating Authority be diminished to ashes but to limit the same for major approvals, grants and handling interpretational aspects of law. Another viewpoint kept by the researchers entails a blooming interplay of Alternative Dispute Resolution (ADR) Mechanisms in the Insolvency and Bankruptcy procedures. The idea would be to initiate insolvency and restructuring proceedings through agreements between Corporate Debtor and its creditors. The same is analyzed from the point of a flexible increase in corporate and creditor autonomy, giving the

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companies a free will to run and wind up the business without compromising with the interests of the creditors.

The article concludes on a neutral and suggestive stance since the concept of CLRP or an out-of-court insolvency and restructuring is not alien, however, the major obstacle is lack of research and development in the law which should be the focus. Another point of suggestion that the authors have tried to provide is the "borrowing" of this concept from countries like France and USA, where this postulation has proven successful in terms of saving time, manpower, expertise and other resources. This CLRP if hauled-in in India will first have to be fully operative and successful for it to be experimented in the cross-border scenario. An economy's reputation is also at stake if flawed mechanisms are used in instances when companies are on the verge of being shut down. Giving autonomy to corporate bodies and creditors is a risky step and demands close supervision in initial period. The authors have emphasized that inadequate implementation of the CLRP and ADR could backfire, potentially having a drastic impact on both the domestic and international prospects.

Transitioning from Conflict to Consensus in India's Insolvency and Bankruptcy Disputes: Navigating through the Lens of Mediation

- *Adv. Krishma Kapoor & Dr. Nandan Sharma* [34]

The Mediation Act 2023 is an umbrella statute that focuses on the adoption and advancement of mediation as a method for resolving disputes. The Act does not specifically address nor explicitly exclude the Insolvency and Bankruptcy Code (hereinafter referred as IBC) within its scope. The Code is a remarkable legal framework in India that deals with insolvency and bankruptcy whose effectiveness lies in its autonomous, comprehensive, and self-sufficient nature. The IBC is a specific and advantageous law aimed at rejuvenating struggling businesses by implementing insolvency resolution procedures within a specified timeframe. Mediation is an alternative method of resolving conflicts instead of going to court with a goal to achieve a peaceful settlement of disputes while also reducing backlog of cases shackled in courts or tribunals.

In order to advance and execute the goals and intentions of the Code, its different components must be meticulously harmonised with any mediation mechanism. Insolvency mediation necessitates the presence of individuals with specialised knowledge and expertise in a certain field to comprehend and address specific difficulties that arise between the involved parties. Acquiring this particular set of skills necessitates intensive training in matters related to insolvency and a comprehensive grasp of the practical implications of insolvency procedures as outlined in the Code. Corporate bankruptcy in India has a distinctive public law feature. This is because public sector banks, which are funded by public funds and taxpayer money, provide substantial funding to Indian corporate debtors. The interaction of factors is crucial for resolving challenges within the insolvency ecosystem.

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Insolvency and bankruptcy law, together with mediation, are crucial elements of the financial and legal environment, particularly for addressing financial difficulties in both enterprises and individuals. Gaining a comprehensive understanding of the relationship between insolvency, bankruptcy, and mediation can assist stakeholders in efficiently handling financial difficulties, which may result in more cooperative and streamlined outcomes.

This paper aims to delve into the nitty-gritty of mediation in insolvency law, putting it under the microscope to investigate the function of mediation in insolvency law, assessing its efficacy in comparison to arbitration and litigation, and analysing the legislative structures that facilitate its implementation.

This study utilises a doctrinal legal research approach, examining primary and secondary legal sources such as statutes, case law, and academic literature. Comparative analysis is employed to evaluate the execution and efficacy of mediation in various legal systems.

An important step forward in India's strategy for conflict resolution, the Mediation Act, 2023 recognises mediation as a legitimate process. There is a chance to improve the integration of mediation into the resolution of bankruptcy disputes through this Act and current insolvency regulations. This would have been a transition from conventional confrontational approaches to more cooperative and problem-solving strategies.

Use of ADR Techniques to Resolve Economic Disputes

- *Ankit Agrawal* [35]

Alternative Dispute Resolution (ADR) has long been recognized as a useful tool for settling economic conflicts. However, the rapidly evolving digital economy presents new challenges and opportunities for ADR implication. This paper explores the systematic factors of emerging technology and Nobel ADR methods in resolving economic conflicts arising from the digital transition in global markets.

The rise of Blockchain-based smart contracts, decentralized finance (DeFi), and cross-border E-commerce has created new economic horizons that often outpace the traditional legal system. This study introduces a hybrid model known as Tech-enhanced ADR (TE-ADR), which merges with traditional ADR by adding advanced technology.

Tech-enhanced ADR (TE-ADR) incorporates artificial intelligence to predict disputes and virtual reality (VI) to conduct remote mediation and arbitration. Blockchain technology for transparent and ultimate record keeping. The proposed approach considers the distinct features of digital economic conflicts, including the requirement for real-time data analysis, swift transaction rates, and jurisdictional uncertainty.

This paper reviews cases in which technology-enhanced ADR (TE-ADR) has been effectively implemented, such as a multimillion-dollar smart contract dispute in the Defi sector and complex cross-border e-commerce conflicts involving multiple jurisdictions. This demonstrates that TE-ADR is a more cost-effective and globally enforceable solution than traditional ADR or litigation. Further, this study explores the potential of the Algorithmic Dispute Resolution subset of technology-enhanced ADR (TE-ADR). AlgoDR utilizes this mechanism to resolve specific types of standardized economic disputes, especially in high-frequency trading and marketplaces.

This paper also emphasizes the subject of data privacy, the need for a legal framework to recognize technology-enable ADR outcomes and draw attention to the advantages

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of innovative strategies, and the necessity of preserving human oversight in the face of progressively automated dispute resolution procedures.

This study concludes that the development of alternative dispute resolution (ADR) methods toward more technologically integrated solutions is not only advantageous but also required as economic activities become increasingly digitized and globalized. The proposal advocates for heightened cooperation among legal specialists, engineers, and economics to enhance and improve TE-ADR techniques, guaranteeing their continued efficacy and fairness during swift advancements in both technology and the economy.

CORPORATE INSOLVENCY UNVEILED: PATHWAYS TO RESOLUTION AND RECOVERY

Decoding the Rights of Dissenting Creditors under the IBC: The Way Forward

- *Rohini Roy* [36]

The following paper aims to study the rights of dissenting creditors under the IBC framework in light of the pending reference before the Supreme Court in *DBS Bank*. The contradictory opinions flowing from benches of similar strength in *India Resurgence ARC* and in *DBS Bank* has renewed questions on the minimum entitlement of a secured creditor if they were to dissent to a resolution plan. The resulting legal vacuum emanating from these contrasting positions will be finally settled once a larger bench of the SC gives its final opinion in the pending reference. However, the decision comes with its own set of ramifications namely, the priority given to the rights of secured creditors and how our legal frameworks aim to balance out the interests of a corporate debtor to financially restructure itself.

Through this paper, the author shall endeavour to examine positions from both sides to establish that a decision to protect creditors' rights cannot come without protecting the interest of a corporate debtor to restructure itself in the larger interest of the economy. By drawing on the legal positions taken across the world in UK's Corporate Insolvency and Governance Act and in USA's Chapter 11 proceedings, the author aims to highlight that secured creditors must be allowed to realise a minimum value which they would have received in liquidation. However, appropriate mechanisms must be in place to ensure that sufficient encouragement exists for creditors to opt for restructuring and not for liquidation. This paper examines the current trend of CIRPs across India using data from the Ministry of Corporate Affairs and precedents by Indian courts on the rights of dissentient creditors to assess whether India is a debtor to creditor friendly jurisdiction and what are the measures to be taken to make it a favourable jurisdiction for restructuring like the USA.

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Currently, restructuring plans are imposed on dissenting creditors using a cramdown but slowly across the world, for instance in the USA and UK, a cross class cramdown is recognised to encourage restructuring that maximises the value of the Corporate Debtor's assets. However, these mechanisms need to have in-built safeguards which require primarily, court approval of the resolution plan compulsorily. The court's supervision ensures that the resolution plan adheres to stipulated grounds which include public policy and lack of undue prejudice to creditors' rights. As India deliberates on Draft Part Z, these safeguards become even more important in cross-border insolvency to ensure that any CIRP recognised in India is given recognition by other jurisdictions as well. Both the Model Law on Cross Border Insolvency and the UNCITRAL have upheld minimum entitlements for dissentient creditors. While these rights have been interpreted in diverse manners across jurisdictions, most agree as a minimum that any resolution plan must not leave creditors worse off than in a liquidation proceeding or that the creditors are "sufficiently protected". This paper seeks to highlight the important considerations legislators must keep in mind in light of international developments in cross-border insolvency to protect the rights of dissenting creditors.

The Need for Speed: Enhancing Efficiency in Insolvency Proceedings

- *Ananya Dutta & Rahul Ranjan* [37]

The Insolvency and Bankruptcy Code is an elaborate piece of legislation passed in 2016, providing for timely resolution of insolvency of corporate persons, companies and other entities. A critical part of the Corporate Insolvency Resolution Process under the Code is the voting by the Committee of Creditors for approval of the Resolution Plan. The Code provides for a Resolution Professional who oversees the process and is tasked with the duty to ensure compliance of such Resolution Plan with certain stipulations provided under the Code regarding the distribution of proceeds under Section 30. It is often seen that dissenting financial creditors with substantial security, unsatisfied by the amount assigned to them, contest such approved plans in the courts. The aforesaid section of the Code has undergone various amendments and its interpretation has been discussed in various cases over the years. Due to a persistent ambiguity relating to the minimum entitlement of dissenting financial creditors in the Code, there has been increased litigation leading to stagnation in resolution processes of distressed corporations. Addressing the issue at hand, the authors delve into a comparative analysis of two conflicting judgments pertaining to entitlement of dissenting creditors complemented by understanding the legislative intent behind the code and its subsequent amendment in 2019 through reference to UNCITRAL Guide. Consequently, the authors propose a harmonious reading of the Code, equitable treatment of minority dissenters and suitable amendments that would ensure clarity in the resolution process and prevent excessive litigation which stalls the resolution and hinders the objective of expeditious insolvency process.

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Maximizing Value, Ensuring Equity: The Role of Swiss Challenge Method in CIRP

- *Siva Sreekumar & Hridyaa Singh* [38]

The Swiss Challenge Method (**SCM**) is recognized for its structured approach to competitive bidding. Once accepted into the Insolvency and Bankruptcy Code (**IBC**), it can significantly enhance the Corporate Insolvency Resolution Process (**CIRP**). *But is this model viable in the Indian legal sphere?* This study aims to explore SCM, focusing on how it fits into corporate insolvency resolution. It examines the lack of explicit mention in the IBC and its regulations, and what this absence means for insolvency proceedings and court rulings. The core issue is the lack of clear guidelines on SCM, which creates uncertainty about its legality and use in insolvency cases. This uncertainty consequently leads to inconsistent court interpretations and possible inefficiencies. The Supreme Court of India's endorsement of SCM in *Ravi Development v. Shree Krishna Prathisthan* solidified its utility, and the paper traces this path to judicial acceptance. The court recognized SCM's ability to ensure maximum value for assets while maintaining fairness and transparency. Although SCM isn't directly referenced in the IBC, its use by Committees of Creditors (**CoCs**) has proven effective in resolving asset issues. Its adoption in certain insolvency cases has been recognized by regulatory authorities and state authorities. In August 2021, the Insolvency and Bankruptcy Board of India **(IBBI)** introduced a discussion paper, proposing the use of SCM in CIRP to enhance value realization and promote efficiency in resolution processes. The Paper identified a gap and made a suitable environment for growth in Regulation 39 and proposed amendments. One potential reform could involve incorporating SCM provisions directly into the IBC since it already is a Code, a systematic consolidation of acts. The primary research question aims to identify potential reforms or amendments to regulations that could enhance SCM's recognition and effectiveness and to analyse judicial precedents related to SCM in insolvency resolution. The analysis details the process of inculcating SCM into the IBC framework on maximizing asset value and the implications and challenges it presents. Judicial perspectives and practical applications are examined to ascertain the method's

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place and areas for improvement. The resolution process of *M/s. Ruchi Soya Limited* stands as a successful example of SCM in CIRP, while *Bank of Baroda v. Mandhana Industries*, has expressed its importance in promoting fair competition and value maximization. The SCM's application in various sectors, including infrastructure development, demonstrates its versatility and effectiveness. This paper argues the need for regulatory reforms, including incorporating SCM provisions into existing regulations, issuing implementation guidelines, and establishing monitoring mechanisms.

A Comparative Analysis of Fundamental Issues in Corporate Insolvency Law

- *Jaisvicakaur Bagga & Nivedha K.V*[39]

Corporate insolvency law sits at the nexus of finance and justice, influencing the fate of businesses and the broader economy. This article embarks on an in-depth exploration of how different countries navigate the complexities of "bankruptcy governance" and the agency problems it entails. By employing a functional methodology, this research melds theoretical insights with empirical data to scrutinize and compare various legal regimes against the yardstick of economic efficiency.

Structured to mirror the sequential hurdles of corporate bankruptcy, the paper begins by delineating the foundational goals of insolvency legislation. It then progresses through initiating and managing bankruptcy procedures, examining critical issues such as the prioritization of claims, the roles of shareholders and secured creditors, and strategies for corporate rescue. The analysis also delves into the contractual mechanisms for resolving financial distress. A key case law discussed is M/s. Next Education India Pvt. Ltd. vs. M/s. K12 Techno Services Pvt. Ltd. (2023), where the Supreme Court of India clarified the position on the limitation period barring operational claims arising out of multiple invoices. The court held that when a petition is filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (I&B Code) based on several invoices, the Adjudicating Authority must consider invoices raised at least three years preceding the date of filing of the Section 9 petition to determine the limitation period.

With a focus on the corporate insolvency laws of the United States, England, France, Germany, and India, this comparative study provides a thorough review of the distinct legal environments in these key economies. In its final section, the paper explores the reasons behind jurisdictional variances and discusses international efforts to harmonize corporate insolvency laws. Through the integration of theoretical frameworks and empirical findings, this research offers a profound understanding of corporate bankruptcy challenges and evaluates the efficacy of different legal systems.

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Insolvency in the Crosshairs: Unpacking the Conundrums of Section 29A and its Impact on Corporate Resolution

- *Deva Priya N* [40]

The enactment of The Insolvency and Bankruptcy Code ["IBC"] revolutionized India's corporate insolvency framework by streamlining the process of resolving and reviving or liquidating insolvent companies. However, certain individuals responsible for insolvency attempted to regain control through illicit means, as exemplified in the landmark *Synergies Dooray case*. To address this, Section 29A of IBC was introduced in 2017, disqualifying "ineligible" resolution applicants, including wilful defaulters, those with non-performing assets ["NPAs"], and disqualified directors under the Companies Act, 2013, from participating in the Corporate Insolvency Resolution Process ["CIRP"]. Despite its controversial nature and challenges to its validity, Section 29A has been consistently upheld, underscoring its significance in maintaining the integrity of the insolvency resolution process.

This paper critically examines the divergent opinions and interpretations of courts regarding the intricacies of Section 29A, including the timing and nature of enforcement, the scope of "acting jointly" and "in concert", and the potential disqualification of companies involved in joint ventures. While analysing all clauses of the section, the paper focuses on clause (j) and the ongoing legislative debates surrounding its overbroad scope and blanket bans on certain categories of individuals.

In a country like India, where judicial backlogs persist and business relationships are often intertwined, a strict interpretation of the Act may prove counterproductive. These restrictions can be exploited to disqualify competing companies from becoming resolution applicants, often on loopholes that lack substantive significance. The current laws do not obligate the Resolution

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Professional ["RP"] to provide rejected parties with reasons for their ineligibility, potentially leading to misuse of the section and lack of transparency.

The scope of certain clauses should be narrowed to prevent overbroad applications and blanket bans should be avoided. In cases involving NPAs or defaulters, the defaulter's intention should be considered, as NPAs can arise without *mala fide* intent, such as when a company is unable to repay debts due to circumstances beyond its control. Similarly, when applying clause (j), the reasonableness of allegations should be assessed to ensure that connections between parties are genuine and not merely technical or contrived. After providing individuals with NPAs or connections with a fair opportunity, measures can be implemented to monitor their actions and ensure the company's solvency, without compromising the integrity of the process.

The IBC has significantly contributed in shaping India's insolvency framework, with a profound impact on the country's economic landscape. Notably, India ranked 63rd out of 189 economies in the World Bank's Ease of Doing Business Index 2023, reflecting the nation's progress in this domain. The crucial aspect is to ensure that going forward, Section 29A does not unfairly target innocent promoters. Implementing a more comprehensive review process and allowing for exceptions based on individual circumstances could strike a balance, enabling the section to achieve its intended purpose effectively, without disproportionately penalizing those who are genuinely committed to their roles and responsibilities.

Examining Section 29A of IBC: Ensuring accountability or hindering recovery?

- *Samparna Tripathy and Swayam Sritam Prusty* [41]

Section 29A of the Insolvency and Bankruptcy Code (IBC) of India sets forth stringent criteria for disqualifying certain entities from participating as “resolution applicants” in the corporate insolvency resolution process. This provision was established to ensure that only credible and responsible entities engage in rescuing financially distressed companies, thereby fostering transparency and trust within the insolvency framework. One of the primary intents of Section 29A is to prevent individuals who may have contributed to a company's financial distress, such as defaulting promoters or related parties, from regaining control or benefiting from the insolvency process. Also, quoting the biblical proverb “*if the blind shall lead the blind, both shall fall into the ditch*”, in Swiss India Pvt. Ltd v. Union of India (2019), the Supreme Court of India has upheld the constitutional validity of Section 29A.

However, Section 29A has been a topic of considerable debate and controversy due to its broad and, at times, overly restrictive criteria. Critics argue that the stringent disqualification norms can exclude capable and genuine bidders, who may have the necessary resources and expertise to turn around distressed companies, from the resolution process. This exclusionary approach has been seen as undermining the principles of fairness and due process, which are fundamental to any legal and economic framework aimed at resolving corporate distress. The threat of losing control also reduces any economic incentive for the promoters and the erstwhile management of the corporate debtor to cooperate with the resolution professional. The resultant information asymmetry holds the potential to adversely impact asset value maximization in the resolution process.

Judicial interpretations of Section 29A have varied, especially regarding key issues such as lifting the corporate veil to ascertain actual control, defining "connected persons" and "wilful defaulters," and establishing the standard of proof required

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for disqualification. Additionally, while the judiciary has been mindful of making a clear distinction between “fraudulent intent” and “bad commercial decisions” in interpreting other provisions of IBC such as Section 66, the same approach hasn’t been extended to Section 29(A). Such inconsistency has resulted in uncertainty and unpredictability in the application of the law, complicating the decision-making process for potential resolution applicants.

This paper examines the evolution of Section 29A, its intended purpose, and the practical challenges it presents. Through a comprehensive review of judicial interpretations, critiques from legal practitioners, and academic literature, alongside a comparative analysis of international insolvency frameworks, this study aims to provide a nuanced understanding of the provision. Interviews with stakeholders, including resolution professionals and corporate lawyers, further illuminate the practical impacts of these disqualification criteria.

The paper aims to contribute to the ongoing discourse by suggesting potential reforms that could make the disqualification criteria under Section 29A more balanced and precise. It advocates for a more nuanced approach that protects the integrity of the insolvency process while also allowing for a broader pool of qualified and capable bidders. Such reforms could enhance the effectiveness of the IBC, fostering a more conducive environment for corporate recovery and ensuring that the process remains fair and equitable for all parties involved.

THE SURGING TREND OF INVESTMENT IN THE INDIAN ECONOMIC LANDSCAPE

Pledge of Demat Shares - Case Study under Takeover Code

- *Satish Kumar Dinavahi & Dr. Harita Bangali* [42]

This paper explores the concept of the pledge of dematerialized shares ("Demat Shares") under the existing provisions of the Depositories Act, 1996 ("Depositories Act") and the associated Securities Board of India (Depositories and Participants) Regulations 2018 ("Depositories Regulations") and identifies certain inconsistencies and anomalies in them.

The Depositories Act and the Depository Regulations facilitated the dematerialization of securities eliminating specific nagging issues, such as signature mismatch in the share transfer form, which resulted in the rejection of the transfer of shares by the companies that were affecting the interest of the investors in the securities market. However, the provisions of the Depositories Act and the Depository Regulations created discrepancies and anomalies in dealing with the pledge of Demat Shares, as such provisions are at variance with the pledge requirements as provided under the Indian Contract Act, 1872 ("Contract Act"). Consequently, it resulted in certain anomalies in the existing provisions of the Securities and Exchange Board of India (Acquisition of Shares and Takeovers) Regulations, 2011 ("Takeover Code"). Securities and Exchange Board of India ("SEBI") interpreted the invocation of pledged Demat Shares and redemption of pledged shares as the acquisition of shares and stipulated public offer requirements under the Takeover Code if it exceeds the thresholds stipulated therein.

This paper suggests the need to relook at and make appropriate amendments to the provisions of the Depositories Act and the Depositories Regulations to align with those of the Contract Act in treating pledges of Demat shares, and consequential amendments by SEBI to the Takeover Code.

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A Hanging Damocles Sword on Preferential Transactions

- *Somesh Sankhala & Spandan Panda* [43]

Everyone is in a hurry but no one is on time. In a complex and interconnected system with numerous variables, anticipating timely outcomes is akin to setting lofty expectations. This is particularly true in the context of the Corporate Insolvency Resolution Process (CIRP) under the Indian Bankruptcy Code, 2016. (IBC)

Section 43 (2) of the IBC, articulates that a transaction is deemed preferential when a transfer of any asset is done for the benefit of the *creditor, surety, or guarantor,* which gives the other creditors a drawback in the waterfall mechanism in the event of distribution of those assets. For any CIRP to be efficient for the creditors, a major series of events must occur. A resolution professional (RP) and a liquidator are appointed by the Committee of Creditors (CoC) commenced under section 7 of the IBC, to protect the general body of the creditor falling under the waterfall mechanism and to distribute the assets in the proper order following section 53 of the code. This intricate process underscores the challenge of anticipating timely outcomes in such a complex system.

In this chain of events, RP has to seek for maximization of assets in hand by doing a systematic audit of the transactions made by the corporate debtor in the *"Relevant time"* or *"lookback period"* which has been specified up to 2 years for related parties and 1 year for others under section 43(4) of IBC, further, they also determine whether the transaction aligns with Regulation 35A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) or not – these transactions are deemed to be *avoidable transactions* or *"Preferential transactions"*. Under section 25(2)(j) of the IBC, the RP is responsible for reporting such transactions via an application to the adjudicatory authority (AA) adhering to Chapter III of the code, if any. The importance of this procedure is to ensure that no creditor, surety, or guarantor has taken an unfair

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advantage or has been favoured against the waterfall mechanism during the twilight period preceding the Insolvency Commencement Date (ICD).

In this context, some critical questions arise: Can preferential transactions be challenged even after the CIRP concludes? The key issue concerns whether procedural requirements are strictly mandatory or merely directory. Specifically, can the RP pursue avoidance of preferential, undervalued, or fraudulent transactions post-CIRP, even if the RP has already confirmed the ability to recover improperly transferred assets? The interpretation of the term *"shall"* within Regulation 35A of the CIRP regulations, rests with the AA. Additionally, we grapple with the impact of adhering strictly to procedural timelines: Does it enhance or hinder the overall effectiveness of the CIRP? Striking a balance between expeditious resolution and thorough transaction examination remains crucial, as courts consider whether rigid adherence to timelines ensures fairness or compromises decision quality.

Financial Globalization the Rise of Income Inequality in India

- *Pramay Jain* [44]

Globalization of finances has been one of the agents that drive the economies in the world, including the Indian economy. This paper aims to assess the correlation between financial globalization and income inequality in India covering the period from the early 1990s up to the present. The liberalization policies since the 1990s intended to globalize the Indian economy have impacted capital flows, foreign investment and economic growth. However, these benefits have not reached across the population; this means the so-called "stationary" people have benefited enormously, while the rest have continued to deteriorate. With the major involvement of the South Asian Association for Regional Cooperation (SAARC), the BRICS group, and Asian Development Bank (ADB) of a regional and international nature among others.

Financial globalization has however brought economic opportunities such as cross-border capital movement and foreign investment into India with the social costs being a rise in income inequalities. From the perspective of SAARC, and within the context of regional cooperation, how the processes of regional financial integration and regional economic policies may impact income distribution, within member countries, including India itself. Furthermore, the effect of the BRICS association of emerging economies is also analysed to reveal its overall economic influence on the increase in inequality coefficients through strategies and investment. The Asian Development Bank's functions are studied to determine how its contributions to loans and development projects support and/or undermine India's endeavour to overcome the income distribution problem.

Also, Foreign Direct Investment (FDI) and Portfolio Investment have mainly concentrated on the urban sector especially in technology and service sectors while the rural dominated agriculturally has not benefited in the same proportion. This has consequently brought about a politically acceptable income divide between

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the urban and rural areas. Furthermore, the liberalization of financial markets and the growth of MNEs have frequently resulted in increased wage inequality, where the demand for highly skilled workers increases while the minimum wage inequality persists.

Based on the analysis of the financial globalization impact on income inequality, the paper includes some recommendations. Such measures include supporting the inclusive approach of development which refers to a broader manner in which development is carried out to ensure that every individual benefits from globalization, improving the education and skills development programs to prepare the workforce for the global demands and putting in place social policies to protect vulnerable groups in society. This way, it will be possible to establish a more equal distribution of income and control the negative consequences of globalization: growth inequality by providing people with opportunities required for personal development in an interconnected world.

Equity-based Crowdfunding - Driving India's Journey to Entrepreneurial Excellence

- *Penumaka Lakshmi Aiswarya & Saaketh Jammi* [45]

The Reserve Bank of India (RBI) has been urged to develop a comprehensive regulatory framework that accommodates both equity-based crowdfunding and debt-based models by the India SME Forum. Experts argue that such a framework not only bridges the existing finance gap but also enhances MSMEs' ability to compete by facilitating easier access to capital from a broader pool of investors. Micro, Small, and Medium Enterprises (MSMEs) in India face substantial funding gaps estimated at $530 billion, hindering their growth potential in a competitive global market.

Traditional financing avenues often fall short of meeting these diverse needs, prompting calls for alternative funding mechanisms like equity crowdfunding. However, current regulatory frameworks in India, overseen by the Securities and Exchange Board of India (SEBI), deem equity crowdfunding as unauthorized and illegal, limiting its implementation outside of recognized stock exchanges.

Despite its potential benefits, including democratizing access to investment opportunities and fostering entrepreneurial innovation, equity crowdfunding in India faces significant regulatory hurdles. SEBI's adherence to the Securities Contracts Regulation Act 1956 restricts the operation of crowdfunding platforms to recognized stock exchanges, thus hampering the development of a vibrant crowdfunding ecosystem. Addressing these regulatory challenges is paramount to unlocking the full potential of equity crowdfunding in India.

A balanced regulatory framework that ensures investor protection while fostering entrepreneurial dynamism can catalyze economic growth, empower MSMEs, and contribute to a more inclusive financial landscape. Such initiatives are essential to overcoming the current limitations and tapping into the transformative power of

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crowdfunding to drive sustainable economic development in India's burgeoning MSME sector.

This project provides a comprehensive exploration of Equity-Based Crowdfunding, examining its applications across developed nations and assessing its relevance in the Indian context. The study delves into the legal ramifications associated with this form of crowdfunding, offering insights into its potential impact and feasibility within the Indian regulatory framework.

Penetrating Capitalism in the face of Globalisation: is the rise of India's semiconductor industry a capitalist agenda?

- *Piyush Ranjan* [46]

India's sudden rise in the semiconductor manufacturing industry is a paradox. Known for its bureaucratic red tape, India has become the favourite of multinational corporations and venture capitalists, receiving billions of dollars in investments and creating millions of jobs. But at what cost? India's growth has come at the cost of imperialism, capitalism, and exploitation of workers, with many employed in sweatshops and working long hours for minimal wages. The environmental impact of this rapid industrialization is also a major concern, with pollution and destruction of natural habitats affecting the lives of millions.

This paper explores the intricate tale of India's semiconductor industry, where the government plays the role of the besotted lover, showering its suitors with subsidies, tax breaks, and regulatory favours. Is this a triumph of free market ideology or a case of crony capitalism and state-sponsored corporate welfare, this paper will be addressing and answering the same.

As we delve into the complexities of India's semiconductor ecosystem, we must ask the tough questions. Can India's infrastructure and regulatory landscape support a cutting-edge industry? Will foreign capital and expertise lead to a brain drain or create a new generation of Indian entrepreneurs? What are the environmental and social costs of this capitalist penetration? Through a critical lens of legal philosophy, we examine the implications of India's semiconductor ambitions on the global digital economy, the role of the state in facilitating corporate interests, and the human cost of progress in the face of globalization. India's semiconductor industry is a high-stakes game, where the government's "strategic state intervention" raises concerns about fair competition and level playing fields. As we navigate the landscape of globalization, we must critically evaluate the implications of India's rise in the semiconductor industry. Is it a symbol of progress, or a harbinger of environmental and social costs? This Paper will ascertain whether it is a symbol of progress or a harbinger of environmental and social costs.

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Scenario Analysis on future electricity supply and demand in India

- *Jessica Singh & Gautam Kumar* [47]

This paper delves into the factors determining the overall electricity demand in India, employing an autoregressive distributed lag model (ARDL) bounds cointegration approach from 1991 to 2021. Investigating the level relationship reveals that GDP, industrial efficiency, urbanisation level, and economic structural changes could be the primary 'long-run forcing' variables that explain aggregate domestic electricity demand in India. The findings indicate a positive relationship between the explanatory variables and electricity consumption, aligning with earlier studies. The scenario analysis shows that the projected electricity demand for 2027 is in line with that of the projections of the Central Electricity Authority.

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‘Debt’ Jurisdiction of Debt Recovery Tribunal

- *Saumya Srividya* [48]

The covid 19 has unleashed an enormous international economic and monetary shock, plunging the global economy into an unfathomable magnitude of collapse. The banks in turn are ultimately vulnerable to rising rates of Non Performing Assets and a decline in the rate of recovery, hence, being prone to fraud arising out of mass unemployment and migration. In this backdrop, the current debt recovery channels face huge challenges especially when it comes to fraud-perpetuated debts from either side i.e. the debtor and also employees of the bank. In the post covid scenario, it becomes pertinent that the recovery channels are efficient and are able to function to their maximum capacity. The current paper deals with the ambiguity wherein, in the matter of a fraudulent debt, the authority of the tribunal in such a matter is established. The anomaly also lies in the fact that if a case involving fraud cannot be decided by the tribunal as such, then how can the construct of the definition of debt in 2(g) of the RDDBFI Act, 1993, be deemed to be inclusive of fraudulent debt, as has been reiterated in several cases. There seems to be a lacunae in the law regarding this as there is no specific reference by RDDFI Act,1993, in regard to such determination unless it can be inferred that the statute did not prima facie enable the tribunal to deal with such cases. The current study therefore enumerates the contrasting dissimilarities of a tribunal and a court in its civil jurisdiction. It also gauges the viability of DRT in its debt jurisdiction where tribunalization of debt recovery seems unyielding, due to its limited functionality in just issuing recovery certificates without being able to address the core of the matter in issue and act independently, in pursuance of its purpose of expeditiously dealing with cases of debt recovery.

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ADDRESSING REGULATORY PROVISIONS

Traversing the Co-Lending Regulatory Labyrinth: A Pathway for Non-Priority Sector Financing in India

- *Saumya Verma* [49]

Securing funding for non-priority sectors is essential for India's economic growth since it provides important assistance to a diverse array of key businesses and organisations. The industries included are manufacturing, services, infrastructure, commerce, and several other commercial operations. The process of modernising India's economic environment hinges on the strength and growth of its manufacturing, real estate, and infrastructure development sectors. Obtaining sufficient funding is crucial for the development and success of these sectors. Conventional lending banks often encounter challenges related to risk perceptions or requirements for collateral. The Indian government acknowledges the significance of funding for industries that are not considered high priority and is exploring alternative lending structures, such as co-lending partnerships. These agreements enable collaboration between banks and non-banking financial organisations (NBFCs) to provide loans. This streamlines the management of the credit deficit and enables the provision of extra funding in the non-priority sector. Loan subsidy agreements mitigate the risk for private lenders by dispersing it between banks and NBFCs.

Banks often seek to diversify risk by extending loans to a range of firms, even those in novel sectors or industries that are not the bank's primary emphasis. Collaborating with financial institutions enables banks to enhance their lending decisions and extend their reach to individuals and businesses facing difficulties in obtaining loans. Pooling resources enables the expansion of loans, hence increasing the scope for development and stimulating the whole economy across several locations. This paper investigates the regulatory structure that governs co-lending in India, with a specific emphasis on funding outside of the priority sector. This study examines the rules and monitoring processes of the Reserve Bank of India (RBI) and the difficulties encountered by co-lenders in adhering to sector-

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specific laws, risk management standards, and data-sharing procedures. The research emphasises the potential benefits of co-lending strategies in facilitating increased access to finance for non-priority industries. Collaborative lending agreements may boost financial inclusion and stimulate economic development in different sectors by using the combined skills of banks and NBFCs, as well as their strong risk management experience. Efficient risk mitigation measures and effective cooperation among many lenders are essential.

The paper also investigates techniques for harmonising risk preferences, standardising rules, and building robust data exchange platforms to guarantee seamless execution of co-lending programmes. The research highlights the need to have precise laws, ongoing monitoring, and prompt revisions to effectively respond to changing market dynamics and overcome obstacles. Through astutely manoeuvring regulations and cultivating fruitful partnerships, stakeholders can seize the abundant opportunities offered by co-lending collaborations. This will facilitate efforts to promote financial inclusion, foster entrepreneurial growth, and contribute to sustainable economic advancement in different sectors of the country's economy.

Navigating Conflicts between IBC and PMLA: Prioritizing Insolvency Resolution over Asset Attachment

- *Shraddha Tiwari* [50]

The nexus between the Insolvency and Bankruptcy Code, 2016 (IBC) and the Prevention of Money Laundering Act, 2002 (PMLA) presents substantial legal issues, especially concerning the attachment of assets during the Corporate Insolvency Resolution Process (CIRP). This paper will explore the conflict between these two laws, focusing on the powers of the Enforcement Directorate (ED) to attach assets deemed as 'proceeds of crime' under PMLA even when CIRP has commenced. The existing law allows ED to attach such assets before approval of the Resolution Plan under IBC, hence creating a conflict between the non-obstante clauses of both laws. The paper will examine the nature of PMLA and IBC proceedings, ED's power to attach assets obtained through criminal activities and IBC's emphasis on the revival of distressed companies by protecting their assets through a moratorium. While courts have given different interpretations, the consensus is that IBC's moratorium does not bar PMLA's attachment of assets till approval of the Resolution Plan, hence creating uncertainty in the resolution process. Key issues identified are delay in CIRP due to ED's attachment of assets, adverse public perception affecting the market standing of the Corporate Debtor (CD), need for harmonious interpretation of §14 and §32A of IBC to protect assets during CIRP. The paper suggests that IBC should take precedence over PMLA in the attachment of assets to avoid hindering the corporate rescue process. It recommends penalizing previous management for money laundering while safeguarding assets for creditors and CD's revival. By doing so, the objectives of both laws can be balanced, CD can remain a going concern and creditors' interest can be protected, ultimately boosting the confidence in the insolvency resolution framework.

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Addressing Digital Assets in Corporate Insolvency Process: Legal Challenges and Regulatory Frameworks in India and Beyond

- *Sanya Singhal & C. Harini* [51]

The legislatures of India came up with the Insolvency and Bankruptcy Code, 2016 to regulate the insolvency resolution process and liquidation of a company. This legislation is a one-stop solution for resolving insolvencies when it comes to legally recognized assets or currency. However, Corporate investments in virtual currency have increased rapidly in the past decade. Bitcoin, Ethereum, Tether and Binance coin are some of the cryptocurrencies that have garnered significant interest in investment from Indian companies. This shift opens up a multitude of questions on how much currency or asset should be dealt with during the Corporate Insolvency Resolution Process or The Pre-Packaged Insolvency Resolution process. The most important questions are the categorization of such assets as property, the laws under which it will be governed, and the basis of valuation of the crypto-assets or other virtual currencies. Further, since cryptocurrencies work on distributed ledger technology, the determination of the jurisdiction of the court dealing with such issues is a challenging proposition. Clearly, there is a lack of rules and regulations pertaining to crypto-assets and provisions specifically dealing with such assets at the time of insolvency proceedings. Through this research paper, the researchers will try to analyse the existing provisions in Indian legislation concerning virtual assets or currencies to understand the present legal standpoint. This includes an analysis of the pros and cons of introducing cryptocurrency in India as a legal tender by passing the Cryptocurrency and Regulation of Official Digital Currency Bill, 2021. It also discusses the take of creditors on virtual currency as a mode of payment during insolvency proceedings. Further, it discusses the current laws governing digital assets in countries like the EU, US and UK when it comes to insolvency proceedings. The paper tries to pinpoint the required amendments in the current Insolvency and Bankruptcy Act, of 2016.

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CONVERGENCE OF TECHNOLOGY WITH FINANCE: SHAPING LEGAL LANDSCAPE THROUGH AI

Navigating the Challenges posed by Cryptocurrency in the Current Insolvency Regime.

- *Manas & Dhairya Kumar* [52]

Emergence of cryptocurrency and its newfound popularity in modern times has changed the meaning of most of the fundamental ideas around us. Definitions of many terminologies such as wealth, money and any material property in general too have been subjected to the change due to widened horizons of cryptocurrency. However, this brings with itself a new set of challenges. Recently, insolvency of the company FTX trading that operated a cryptocurrency exchange and crypto hedge funds in the US showed the existence of mismanagement, volatility and regulatory issues in the current insolvency regime with respect to cryptocurrency and revealed the need for a nuanced understanding of cryptocurrency insolvency. This problem arises due to the fact that the treatment of crypto-assets during the insolvency proceedings is a question that remains unanswered. There exists a lot of debate on whether crypto should be conferred with a proprietary nature, which would allot them third party ownership and save them from insolvency proceedings, or to deny such characterization, which would imply their participation in the distribution of unsecured creditors during insolvency proceedings.

Similar problems exist with regards to identification and valuation of crypto-assets. Cryptocurrency is stored in digital wallets that are accessed by private keys or passwords. The ownership and transfer of cryptocurrency depends on the verification and consensus of the network participants, who maintain a distributed ledger or blockchain. Therefore, it may be difficult to ascertain the existence, ownership, control and value of crypto-assets in insolvency proceedings. This technology also creates problems in the process of recovery of crypto assets, since seizing, attaching or freezing crypto-assets by the insolvency resolution professionals becomes a challenge.

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In the Indian Legal Landscape, the magnitude of the challenge significantly increases due to the initial hostility shown by the Regulatory bodies such as the Reserve Bank of India in adapting to innovation in the realm of cryptocurrency. This attitude hindered a lot of initial growth in the realm of crypto-policy which makes it a very nuanced field, one that requires research and deep understanding.

The authors, through this paper seek to answer these fundamental questions and through it navigate through policy surrounding Crypto-insolvency. The authors shall attempt to take inspiration from fields of law where some jurisprudence in interplay with crypto-currency already exists, such as white-collar crimes and money laundering to understand the regulatory mechanisms that have been incorporated not only in India but also globally. The authors shall also analyze the concept of cryptocurrency on a very fundamental level to facilitate its efficient classification, treatment during insolvency proceedings and valuation.

The Role of Technology in Modern Insolvency Processes: Enhancing Efficiency, Transparency, and Compliance

- *Rishabh Tomar* [53]

The introduction of cutting-edge technologies is transforming many industries, and insolvency procedures are no exception. This research examines how technology functions in contemporary bankruptcy procedures, emphasizing the ways in which it improves compliance, efficiency, and transparency. With their many advantages and ability to tackle long-standing issues in the area, technologies like artificial intelligence (AI), blockchain, and data analytics have been more and more integrated into insolvency frameworks in recent years.

Artificial intelligence is automating repetitive jobs, like data collecting and analysis, which saves time and money and is revolutionizing insolvency processes. Through the analysis of large datasets, AI systems are able to anticipate the likelihood of insolvency, allowing for early and preventive actions. Additionally, by giving precise and timely information, AI-powered technologies are enhancing decision-making processes and helping bankruptcy practitioners create winning plans.

Blockchain technology is yet another important development that affects bankruptcy procedures. Blockchain guarantees transaction security and transparency by offering a decentralized, unchangeable ledger. This technology is especially useful for tracking asset transfers and confirming claims, which helps to prevent fraud and guarantee that all parties involved have access to accurate data. The use of blockchain technology in bankruptcy proceedings promotes more seamless cross-border insolvencies by establishing an open and uniform mechanism for recording documents.

An important factor in improving the effectiveness of insolvency procedures is data analytics. Sophisticated data analytics systems are capable of efficiently and accurately processing massive amounts of financial data, spotting trends and

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abnormalities that can point to financial trouble. This skill improves recovery results by helping to identify insolvency early on and by assisting with the appraisal of distressed assets. Predictive analytics can also reveal information about debtor behavior and market trends, which can help develop insolvency plans that are more successful.

Notwithstanding these developments, there are still difficulties in integrating technology into insolvency procedures. It is necessary to handle issues like data privacy, cybersecurity, and the requirement for legislative frameworks to keep up with technological advancements. The integrity of the bankruptcy system and stakeholder's trust depend heavily on the ethical and responsible use of these technologies.

In conclusion, there are many advantages to integrating AI, blockchain, and data analytics into insolvency procedures, including higher efficiency, more transparency, and better compliance. Legal frameworks and insolvency practitioners must keep up with technological advancements in order to effectively manage insolvency cases and safeguard the interests of stakeholders. Subsequent investigations have to concentrate on formulating all-encompassing protocols and optimal methods about the moral application of technology in bankruptcy cases, along with examining novel technical advancements that may augment these procedures even more.

Corporate Insolvency: Navigating the Role of Artificial Intelligence in bolstering Economic Growth in India

- *Anukul Jyrwa* [54]

The understanding of Corporate Insolvency becomes essential in overhauling the burden of big-sized and small-sized companies, facing tremendous issues in huge payment of debts, liquidation of companies and creating a financial impact in economic stability and growth. The result is the need to develop a strategic approach in bringing out predictive actions to demonstrate a decrease in financial distress for the companies.

However, in striving for a positive impact, the need to introduce Artificial Intelligence becomes essential in assessing the financial risk of the companies by immersing in predictive analysis and detecting any financial risk that may hinder the growth of the company. The problems of Inadequate financial infrastructure, lack of expertise in debt resolution, hindrance in cooperation, failure to detect appropriate due diligence to assess corporate risks, becomes critical to the corporate insolvency process in bringing out need-based solutions for better economic growth in India.

Necessitating the doctrine of fiduciary duty in bringing out an approach to assess the drawbacks of the company and prioritizing Artificial Intelligence (AI) while being able to make informed choices about the loopholes that are a threat to the process and conducting a thorough analysis through various AI tools and automation of data reviewing can be some of the ways in reducing the impact of corporate insolvency of the company.

This paper seeks to provide a comprehensive analysis of the usage of Artificial Intelligence in addressing various corporate insolvency issues in India and provide stability in the financial growth of the country. It also focuses on analyzing various existing guidelines and regulations that may be applied to support the growing concerns of this landscape. One such guideline is where the Reserve Bank of India

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issued a framework for a regulatory sandbox to allow financial institutions to use innovative technologies, including AI to test financial risk and compliance.

Furthermore, the analysis and research of this paper shall navigate the role of Artificial Intelligence by connecting important legislations and guidelines and bringing about an approach to address issues of Corporate Insolvency and boosting the economic stability and growth of the Country.

Digital Transformation of Insolvency: A New Era of Efficiency

- *Arundhathi G* [55]

Insolvency, commonly misconstrued as solely a mechanism for dealing with corporate failures, is in fact a fundamental pillar supporting a nation's robust financial architecture. A well-established insolvency system is instrumental in fostering a dynamic market by expediting the exit of unproductive businesses, thereby optimizing resource allocation. Moreover, it instills confidence among investors, as it provides a clear framework for recovering investments in case of business distress. By imposing discipline on the credit market and safeguarding financial stability, insolvency also plays a pivotal role in nurturing entrepreneurship and job creation.

India's corporate insolvency landscape was significantly overhauled with the introduction of the Insolvency and Bankruptcy Code (IBC) in 2016 by the Central Government. The Insolvency and Bankruptcy Board of India, a regulatory body established under the IBC, oversees all insolvency proceedings within the country. In tandem with the global surge in technological advancements, insolvency systems worldwide have undergone a profound metamorphosis. Key improvements encompass expedited information sharing, enhanced transparency, and greater consistency across jurisdictions.

In the recently announced financial budget, the central government has announced an integrated technological platform aimed at enhancing outcomes under the Insolvency and Bankruptcy Code. This platform focuses on achieving timely progress, improving oversight for all stakeholders, and expediting insolvency resolutions. While specifics about the proposed integrated technology platform remain forthcoming, this recent declaration has ignited significant optimism for a substantial positive overhaul of India's insolvency framework. The anticipated technology platform is poised to incorporate advanced data analytics, curtail fraudulent activities, and foster heightened transparency, all while safeguarding sensitive data.

This research paper aims to explore the potential of technology to revolutionize the insolvency framework by critically examining recent advancements in the field. By

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critically analyzing recent advancements, the study demonstrates how technological integration can expedite case resolution and enhance stakeholder interests. While acknowledging the numerous benefits, this research also addresses critical challenges such as the need for robust technological infrastructure, data privacy concerns, and cybersecurity risks. The findings of this study are particularly relevant in light of recent policy initiatives promoting technology-driven insolvency platforms.

Privacy Challenges in AI-Powered Robo-Advisory Financial Services: A Comparative Legal Analysis of Indian and Global Regulatory Frameworks

- *Madhuja Chatterjee* [56]

Robo-advisors, a fascinating innovation emerging from the recent waves of fintech evolution, have entered the financial market with the aim of transforming existing practices of wealth management. Owing to the revolutionary integration of artificial intelligence (AI) into finance, a robo-advisor is designed to provide automated financial services to investors through digital platforms using algorithms to assist in portfolio selection without human intervention. With a current worldwide user base of around 400 million, a global penetration rate of 4.6%, and investments scaling up to reach 44.97 billion USD by 2026, it is safe to say that the impingement of robo-advisory has planted the seeds and set the stage to bring in a sweeping change in the realm of financial decision-making across the globe. In India, even though the user base of robo-advisory services is still in its early stages, it is expected to near 40 million by 2026, thanks to the Indian tech-savvy millennials whose preference for technology is 92%, much ahead of developed countries like Germany (54%) and the USA (31%). Nevertheless, as is often the case, this swift progress in technology has outpaced its corresponding legal and regulatory frameworks, creating substantial difficulties in potent and feasible implementation of such innovations. This AI dependency on continuous flow of data highlights a myriad of concerns including data protection, consent management, cross-border data transfers, and regulatory compliance. SEBI being the financial regulator of India, its 2013 Regulation on Investment Advisory (IA) and its 2016 Consultation paper on additional compliances related to IA Regulations form the basis of robo-advisory regulation. Besides, the Digital Personal Data Protection Act (DPDPA) of 2023 is the central legislation on data privacy in India. The Securities and Exchange Commission (SEC) of the US introduced Rules for Robo Services in 2021 to expand the investment landscape,

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while The Gramm-Leach-Bliley Act (GLBA) of 1998 covers data privacy for financial institutions. In the EU, the regulatory framework under Directive 2014/65/EU (MiFID2) and Basel III governs robo-advisors, while The General Data Protection Regulation (GDPR) of 2018 is regarded as the world's most stringent privacy legislation. This paper gives central stage to the issue of data privacy and investigates the effectiveness and limitations of current consent management mechanisms in Indian robo-advisory services and compares it to the best practices observed in other jurisdictions. It analyzes how the Indian financial institutions and robo-advisory firms manage compliance with varying data protection regulations across multiple jurisdictions and explores potential strategies that can be developed to streamline cross-border data compliance mandates. The aim of this research is to delve into the cybersecurity and privacy challenges associated with the allure of robo-advisors, emphasizing the need for mindful harmonious legislations and its interpretations to ensure responsible use of AI.

Navigating Compliance: The Impact of Discretionary Exemptions on Startups under the Digital Personal Data Protection Act, 2023

- *Shambhunath Mahesh Yadiyapur* [57]

The doctrine of reasonable classification, enshrined in Article 14 of the Constitution of India, mandates that the equals be treated equally and unequals unequally, including juristic persons. Startups, recognized as a distinct class of businesses, have only gained from protective measures such as, *inter alia*, tax exemptions given their relatively smaller scale and weaker financial strength. These policies are designed to level the playing field against established giants and they function as a catalyst in sustaining an equitable space for the domestic entrepreneurial spirit. However, Section 17(3) of the Digital Personal Data Protection Act, 2023, introduces an ambiguous component of state discretion to the free market equation. It empowers the state to grant compliance exemptions to select businesses of its choice thereby harboring the potential to disturb the hitherto stable environment by causing businesses of the same class to be governed differently.

This paper argues that the unreasoned discretion granted to the government could lead to arbitrary and unequal treatment of startups, thereby infringing on their constitutional rights. It further examines how such practice would attract peril to the free market by introducing unfair competition amongst businesses of the same rank. These selective exemptions could benefit certain startups over others, not based on merit or necessity, but basis other non-transparent criterions influenced by the political parties at the helm of governance. The secular practice of governance, when driven by political incentives, could promote regionalism, casteism, racism and other discrimination-based governance practices shunned by the ethos of constitutional morality.

The paper explores the view that such a practice could lead to sowing of seeds for division of startups of same rank into two classes, based not on laissez faire but

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state discretion alone; where startups favored by the state enjoy less regulatory scrutiny, while others face uneven compliance burdens at par with the giants parked with abundant resources. Unfavored startups may be left with limited digital marketing methods, such as the developing right to reasonable inference, to scale up their businesses, while the favored ones might dominate the market quickly, saturating and widening the gaps in between the two classes of business. Such discrimination may affect consumer choice and trust, as users could be coerced into using services from only such startups which align with the state's interest, thereby jeopardizing the free will of the consumer. The penalties for non-compliance prescribed under the DPDP Act, ranges from fifty crore rupees up to two hundred and fifty crore rupees, which would adversely affect the unfavored startups causing their quick demise, while those favored by the state would sail through the compliance network with limited unease.

By adopting a doctrinal approach, this paper aims to throw light upon the risks linked with creating an uneven playing field within the startup ecosystem and the dangers posed by the same. This research further advocates for a more equitable and transparent regulatory framework.

The Influence of AI, News and Social Media Analysis on Stock Market Dynamics

- *B. Solomon Raju & M. Venkata Reddy* [58]

In the ever-evolving world of stock markets, the lure of quick profits draws many novice traders and investors into the trajectory of so-called Financial Influencers. These self-proclaimed experts exert their influence on widespread platforms like YouTube, Telegram, Instagram and Twitter, where their promises of profitable investments can lead the followers down a risky path. In the disguise of financial advice most of these people often tend to make the retail investors invest in stocks, those who believe these uncertain sources often find themselves not in the green, but in the red, risking their hard-earned savings in chase of unachievable gains.

Recent events in the Indian stock market have intensely illustrated the impact of media platforms and so-called financial influencers on investor behavior. For instance, subsequent to the publication of exit polls which signified a BJP-led NDA triumph, Many Indian stocks ascended to record highs as retail investors hurried to buy into the bullish sentiment which proliferated by the influencers on social media platforms like YouTube, Twitter and Telegram. However, the joy quickly turned to misery when the actual election results were announced, triggering a sharp market slump that left many retail investors and option traders winding up from the market with substantial losses.

Furthermore, this paper also explains how the media platforms and influencers manipulate retail investors into making investment decisions. Moreover, inspecting current regulatory frameworks in India and comparing them with international Markets, the study aims to detect breaches and recommend improved regulations to the current regulatory framework that can alleviate the risks posed by such market influences. By inspecting the effectiveness of prevailing laws and drawing perceptions from global practices, this research seeks to offer suggestions for protection of investors and markets in the aspect of evolving media dynamics.

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NAVIGATING ASSET RECONSTRUCTIONS COMPANIES IN MANAGING STRESSED ASSETS AND NPAS

Stressed Assets and their Management: A Study with reference to SARFAESI Act, 2002

- *Nadeem Hasan Malek* [59]

The rising proportion of the stressed assets in the Indian banking sector has posed several challenges for the Indian financial sector. Stressed assets are identified as the loans or advances in the financial sector that have high risk of default or are under monetary stress. The stressed assets include non-performing assets, written off assets, restructured loans etc. This proliferation of stressed assets has induced the need to think about management strategies to mitigate the risk emerging out of this proliferation of stressed assets. In order to mitigate these challenges posed by rising stressed assets, the government of India introduced and enacted the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act in the year 2002. The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 was enacted with the objective of providing the financial institutions and banking sector in India with a structured framework that would help in the recovery of the non-performing assets without getting indulged in judicial process that often causes delay in the recovery of non-performing assets. Thus, the objective of this research paper is to present a comprehensive analysis of the recovery mechanism set up under the SARFAESI Act, 2002. Secondly, the research paper intends to study the effectiveness of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act 2002 in managing the stressed assets. And lastly, to identify challenges faced in the implementation of the SARFAESI Act in recovery of NPAs and present with recommendations for effective management of stressed assets. Thus, this research paper would play a significant role in studying the effectiveness of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act 2002 in reducing the level of stressed assets in the Indian banking sector.

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The Role Played by Asset Reconstruction Companies in Managing Non-Performing Assets

- *Daksh Jain & Nandini Khetan* [60]

The extent to which a nation can protect its financial stability depends on its ability to operate a robust and efficient banking system. However, Non-Performing Assets (NPAs) have over the years emerged as a major problem in the banking sector in the country. NPAs are those advances or loans that have gone bad or are classified as non-performing implying that the expected cash flows or revenues from such loans are not being recovered by the banks. This issue is a threat to the economic growth and financial stability of the nation as a whole. NPAs are on the rise and this affects the liquidity and profitability of the banks and their capacity to provide funds hence stimulating economic growth.

India has been able to tackle NPAs through the use of regulatory measures and procedures. Of them, Asset Reconstruction Companies (ARCs) have come out as quite effective solutions. ARCs are sort of specialized financial institutions which are involved in the exercise of recovering bad debts and in the process of cleaning up the balance sheets of the banks and other such institutions by purchasing the non-performing assets of the said institutions. They are very important in mitigating the impacts of NPAs and rebuilding the financial industry.

The authors aim to explore the role and effectiveness of ARCs in reducing the NPAs in India. This research is presented in the following sections. After understanding the meaning of the ARCs and NPAs we delve into the identification of the changes in trends of the ARC after the RBI Guidelines issued in 2023 and the master directions in 2024. These Guidelines were introduced with the objectives of enhancing governance, establishing standard assets and ensuring quick realization of the stressed assets. These policies were formulated to alleviate some systematic issues and enhance the efficiency of the day-to-day functioning of the ARCs.

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However, these enhancements have not eliminated the challenges that ARCs encounter. Insufficient capital, complex legal systems and long procedures are some of the issues that continue to affect ARCs from performing optimally. The authors have delved into different critical measures in making ARCs more successful like improving transparency, expediting the legal procedure, and addressing financial concerns.

Role Played by Asset Reconstruction Companies in Managing Stressed Assets

- *Ayush Dave* [61]

"With the Indian banking sector grappling with persistent asset quality issues and capital constraints, the role of Asset Reconstruction Companies in managing stressed assets has becoming increasing vital"

The Indian economy is primarily driven by its banking sector, with scheduled commercial banks leading the financial landscape. Public sector banks have been essential in offering credit to both priority and non-priority sectors. However, these banks have been under persistent strain due to declining asset quality and reduced capital reserve.

These issues have significantly impacted their profitability over an extended period and highlighted the urgent need for structural reforms within the banking sector. The government frequently recapitalizes the banks which leads to boost in the credit flow. However, the increasing non-performing assets (NPAs) require immediate attention. In light of the significant accumulation of NPAs within the financial system, Asset Reconstruction Companies (ARCs) are poised to play a pivotal role. ARCs are specialized financial entities that address the issue of stressed assets in the Indian financial landscape. They purchase NPAs or bad loans from banks and financial institutions, allowing these institutions to clean up their balance sheets and concentrate on new lending activities. ARCs are crucial in debt management and financial recovery, known for their capacity to acquire and restructure NPAs, thus revitalizing these otherwise inactive resources.

Their strategies include debt restructuring, asset sales, and management takeovers, all aimed at maximizing asset value. ARCs are registered with the Reserve Bank of India (RBI) and governed by the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, which facilitates the acquisition and restructuring of NPAs. This allows banks and

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financial institutions to refocus on their primary lending functions. The effectiveness of ARCs in resolving NPAs has been demonstrated as one of the most successful strategies in managing the problem of non-performing assets in the Indian banking sector.

Although ARCs are engaged in revitalizing stressed assets, their efforts frequently result in mere financial gains rather than genuine asset recovery. This is because not all assets are successfully transformed into viable, revived entities. ARCs encounter several challenges in their mission to revive stressed assets. The ARCs encounter several challenges including inadequate funding, excessive regulatory burdens imposed by the RBI and dealing with the complexities of valuing restructured loans and selling immovable properties. This paper will then provide a nuanced study of these challenges and will further examine the impact of The Insolvency and Bankruptcy Code, 2016 on addressing these challenges and explore the potential improvements to enhance the effectiveness of the ARCs in resolving distressed assets and contribute to India's financial stability.

Stressed Assets: A Blemish on the Economy – Unveiling the Role of Asset Reconstruction Company in Risk Management

- *Shivangi Prabha* [62]

"karmany-evadhikaras te ma phaleshu kadachanama karma-phala-hetur bhur ma te sango 'stvakarmani"- In economics, actively fulfilling your responsibilities drives progress and yields better outcomes than inaction.

~Bhagvad Gita Chapter- II, Verse 471

The COVID-19 pandemic has significantly disrupted global economic health, challenged established beliefs and led to declines in economic activity and wealth creation. This paper addresses overlooked causes of defaults and stressed assets, highlighting the need for greater awareness and discussion on their management.2 The paper's core objective is "The Problem" such as the unemployment peaking up which reduces the capability of borrower and simultaneously motivate the person to borrow the loan for their works. The "Economic Blunder" that is not under control by the IBC, 2016 & SARFESI Act, 2002 due to its Non Borrower centric approach. The moral jurisprudential aspect of borrower plays a huge role in converting any Asset to Non-Performing Asset or Stressed Asset.

Eyeing on the grassroot problem, the analysis explores the socio-economic dynamics behind stressed assets, emphasizing the disparity between the financially vulnerable middle class and the affluent elite. The "Rats vs. Tigers" analogy highlights how financial pressures lead to loan defaults among those with fewer resources. It also examines how technological advancements and regulatory shifts impact corporate debtors, and how regulatory negligence, as seen in the Diwan Housing Finance Ltd. scam, results in significant financial losses.

The paper examines "The Solutions," focusing on Asset Reconstruction Companies (ARCs) under the SARFAESI Act, 2002. While ARCs hold potential as a key tool in stressed asset management, the paper contends that ARCs is still in the nascent seedling stage which needs to be watered and nurtured more often to form a well-

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grounded shield for stressed asset. Ray of sunshine in the Bhushan Steel case success demonstrates how the timely implementation5 of IBC 2016 procedures, along with DRT and the Corporate Debt Restructuring Cell, can preserve asset value and benefit the economy.

Separate bodies governing Mediation, especially for Stressed Assets, should be encouraged as the rescue for the dispute between Creditors and Borrowers. Under Section 442 of the Companies Act, 2013, the NCLT can refer cases to mediation. Section 18 of the MSME Development Act, 2006 allows for conciliation in payment disputes. Virtual mediation offers a valuable tool for resolving conflicts in today's technologically advanced, globally connected era.

The paper discussed the solution lies in establishing a Local body for regular checks on Substandard & Doubtful Assets in each district to alert the creditor beforehand. A pre-planned blueprint accessible online for every type of defaulter as per the threshold limit should be provided by the central Authority to ease & streamline the exit process. Proper Auditing and the "Borrower- Centric" approach help reduce the NPAs. The critical challenge is to develop effective Exit Strategies for swift realisation of the asset value and reduce the incidence of defaults, thereby fostering a more stable economic environment.

BONDS AND SECURITIES

Regulatory Efficacy of SEBI's Enhanced Surveillance Measure on Microcap Companies: An Empirical Study

- *Shefali Rana* [63]

The Securities and Exchange Board of India, along with the stock exchanges, introduced the Enhanced Surveillance Measure (ESM) framework that came into effect on June 5, 2023. It regulates the trading activities of companies that have a market capitalization of less than 500 crores, listed on the main board. This regulation was amended on July 24, 2023, following a representation filed by a microcap automobile company, Mercury EV Tech, before the Securities Appellate Tribunal. The ESM framework aims to reduce speculative trading, and collusion between operators and promoters who often engage in pump-and-dump schemes, and address price manipulations, which are more common in microcap companies due to their low trading volumes.

The ESM framework consists of two stages, each of which has clearly defined parameters for inclusion, and is designed to reduce open market manipulation and to protect investors who are often unable to differentiate whether a price jump is due to a corporate action or manipulation. It is a new but significant market surveillance measure, yet no research exists that has directly studied the effectiveness of this regulatory measure. This study bridges the gap that exists in the current literature and conducts an empirical analysis of its effectiveness and whether it achieves the goals it sets out as a regulatory measure.

The study employs an event study methodology to study the immediate market reaction when a stock is shortlisted in the ESM framework. It defines a 120-day event window and examines the data of 200 microcap companies that were included in the framework during this period, also comparing its returns to the Nifty 50 Microcap Index. It utilizes the Capital Asset Pricing Model to further strengthen the results of the event study and validate the robustness of the results.

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Further, the study defines hypotheses about stock price returns, trading volumes, and price volatility of the stocks before inclusion, during inclusion, and post-exclusion in the ESM framework to compare and draw analysis using standard deviation and downside standard deviation.

Key findings suggest that the ESM framework is an efficient regulatory measure that significantly reduces open market manipulation. The stocks placed in the ESM stages 1 and 2 exhibit reduced volatility in pricing and speculative trading activity. Further, it helps investors identify companies with potential signs of open market manipulation and encourages them to perform their due diligence before investing in such stocks.

Analysing the ESM framework, this paper contributes to the existing gap in the literature and provides a broader discourse on financial regulation and market integrity. It highlights the importance of regulatory measures in the field of finance to safeguard investors and also to promote a fair and transparent market environment, reducing problems arising out of asymmetric information in the market. To explore the long-term effects of such regulation, more research is required across specific sectors and market conditions, leading to further generalization of the findings of this research.

Opportunities and Legal Challenges for Equity Crowdfunding in India

- *Aayushi Bhatti & Prof. Shashank Kumar* [64]

Finance is one of the first disciplines to adopt advancements in technology. Technological innovations allow more people to access financial markets and therefore integrate with the financial growth of the economy. India has made major advancements in the field of technology, especially in the adoption of technology to further financial inclusivity. Taking a cue from the recent growth in the earlier number of people who have been included in the financial system, who have been underserved so far. India requires a greater percentage of people participating in the financial markets and modern technologies can make it accessible to a greater population. Equity crowdfunding in this regard could be a breakthrough in this process. However, the looming challenges of risk involved through lack of regulations may affect the investor and market interest negatively and therefore the regulators have been proceeding with prudence and caution while allowing limited access to the same. The authors in this paper argue that effective regulations for the platforms of equity crowdfunding while allowing more people to participate in capital building process through this technology will enable further financial inclusion and allow more investors to align with the financial growth of the markets. The findings will furnish valuable insights on how crowdfunding platforms will help improve performance and increase the participation of investors. In this regard, the authors will present a survey of legislation from different jurisdictions and evaluate the risks and opportunities for India. The research will traverse the necessity and importance of balance between investor protection and the role of equity markets. The end goal is to present a model for effective regulation for equity crowdfunding framework which can be used more widely and will further the goals of financial inclusion.

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ELUCIDATING ON THE NEED OF EVOLUTION OF THE COMPETITION LAWS

Tracing the Changing Landscape of the Grocery Sector in the Digital Era through the Lens of Competition Law

- *Dulung Sengupta* [65]

Digitalization has touched upon every facet of human life. With the rapid rise in the use of mobile phones and digital services, there have been palpable changes in the structure of markets and consumer behaviour. Post covid, a larger fraction of the population especially in the metro and Tier-I cities have been growing increasingly dependent on online grocery platforms to fulfil their day-to-day needs. World Bank data reveals that the cost of a healthy diet in India is almost at par with the median income of the citizens which implies that a person has to spend almost all of his income to afford a healthy diet. The inflation rate based on the consumer price index in the country has increased from 4.87 in June 2023 to 5.08 in June 2024. Considering the exponential rise in the cost of procurement of groceries and staples in India in the last few years, protection of market competition in the grocery market is crucial. This paper aims to analyse the changes in the grocery markets in India in the wake of digitalisation especially in the post-COVID era and its possible impacts on market competition and consumers. In jurisdictions like Canada, Australia, and New Zealand the governments have identified the need for regulating grocery markets to protect consumer interests and have conducted market studies to explore the threats and regulatory gaps.

In the first part of the paper, changes in the grocery sector, specifically the growth of e-commerce platforms and the changes in the market structure will be discussed. In the second part, I will analyse the concerns identified through market studies and reports published by the competition enforcement authorities of Canada, Australia, and New Zealand and compare them with the market conditions and quintessential features of the online grocery platforms in India. Finally, I would like to conclude the paper with my observations and suggestions.

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NEW VOGUE OF ECONOMIC STUDY: CYBERSECURITY

Cybersecurity Menaces in Banking: Emerging Perils and Ways to Mitigation

- *Swesthiga K* [66]

As the backbone of current economies, the banking sector has experienced a digital revolution, utilising technology to improve client satisfaction, accessibility, and efficiency. However, this higher dependence on the Internet has also made the banking industry more vulnerable to a complicated and dynamic threat environment. Cyber-attacks are becoming a constant and serious problem for financial institutions around the globe. They can take many different forms, from clever phishing operations to advanced continuing dangers. Persistent cyber-attacks have profound consequences on banks, including harm to their company, a decline in customer trust, and possible systemic dangers to the overall economy. The banking sector must proactively modify its cyber security defences to keep ahead of new threats as scammers' strategies To improve banking security, this study intends to discover new cyber security threats in the banking industry, analyse their potential effects on the banking sector, and assess successful mitigation. The author will use a mixed-methods approach that combines expert interviews with an extensive review of the literature.

The author will examine upcoming dangers and trends in addition to existing threats, weaknesses, and security precautions. The results will show a sharp rise in ransomware, social engineering, and advanced persistent threats (APTs). Out-dated systems, limited personnel training, and inadequate incident response strategies are some of the main hazards. Establishing strong security frameworks, carrying out routine risk assessments, and utilising AI-powered threat detection are examples of effective mitigation techniques. This study advances knowledge about new cybersecurity risks in the banking industry and offers practical suggestions for financial entities looking to strengthen their safety measures. Banks can safeguard consumer information, stop financial losses, and uphold confidence in the financial system by addressing these new dangers. Professionals in banking, legislators, and researchers looking to enhance cyber security in the financial industry will need to consider the ramifications of the findings.

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INTELLECTUAL PROPERTY RIGHTS

Protecting Financial Innovations: Intellectual Property Rights in the Age of Digital Banking in India

- *Aranya Nath & Anisha Sen* [67]

From the age of technology till the present age of hustling humans, the perennial affair between life and technology has stood against the stubbornness of time. Artificial Intelligence plays a significant role in the modernization of the banking sector through technological advances. Technology marked the beginning of a new era of financial services, with enormous repercussions for customer satisfaction, operational efficiency, and competition. In India, protecting these digital banking innovations through effective intellectual property rights (IPR) regimes is essential. The objective of the research is to look into the present scenario of intellectual property rights in India's online banking sector, assess existing barriers, and recommend methods for enhancing the ownership and monetization of financial innovation. This study adopts a qualitative research methodology here data is compiled from a comprehensive review of academic literature, industry reports, legal documents, and case studies on IPR in the financial sector. Comparative analysis with international IPR frameworks provides a benchmark for assessing India's position and identifying potential areas for improvement. The authors in this chapter find that India has made strides in developing intellectual property rights (IPR) regulations, but obstacles remain in securing digital banking inventions. Present laws include regulatory gaps that prevent them from properly addressing such specific difficulties, leading to inadequate safeguards and implementation. A precise balance between innovation and regulation is required since too strict restrictions can impede invention. Lack of understanding of intellectual property rights and protection measures among financial institutions and startups is also a source of worry. India falls behind industrialized countries regarding intellectual property enforcement and protection procedures, emphasizing the need for global best practices. This study's conclusions have

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substantial practical consequences for politicians, financial institutions, and entrepreneurs in India. Policymakers may use the findings to improve and reinforce intellectual property rules, ensuring they are strong enough to safeguard digital banking advances. Increased knowledge and understanding of intellectual property rights (IPR) may help financial companies and entrepreneurs safeguard their ideas and achieve a competitive advantage. Furthermore, implementing best practices based on global standards will help India's standing in the international financial market. Finally, while concluding the chapter, the authors have taken the liberty to gauge the feasibility and accuracy of the capacity of the current information on intellectual property rights (IPR) in digital banking in India. It provides unique insights into the issues and possibilities involved with safeguarding financial innovations in an increasingly digitalized economy. The study's findings are utilized to inform future research and policy development targeted at establishing an environment conducive to innovation yet protecting sufficient intellectual property protection.

The Interplay of AI-Generated Work, IPR, and Its Impact on the Economy

- *Ms. Sima Kumari Chauhan & Dr. Rajat Solanki* [68]

Intellectual property rights impact the economy in multiple ways. Innovation, copyrightable materials, trade secrets, and more play vital roles in any country's economic growth, especially in the manufacturing and entertainment industries. IP protection allows for the free flow and transfer of technology from one country to another by providing IP owners with the deserved reward for their labor, costs, and time, which encourages further investment in R&D.

Today no field remains untouched by this technology, including the economy. AI has direct impact on the economy, such as automation of the labor market and manufacturing, as well as the use of Generative AI in the arts and entertainment industries. Apart from this, one more factor often overlooked in assessing its impact on the economy is the interplay of AI-generated works with intellectual property laws. This technology has revolutionized the economic fields by replacing humans, who are often proved inferior to this technology in many ways; in time consumption, cost-effectiveness, productivity, etc.

Today, AI is no longer just a tool for automation; it has successfully attained the status of an inventor in a few countries and continuously strives to gain IP protection for its creative works generated by algorithms. AI can now invent new things independently or with minimal human involvement.

With the advent of generative AI, it can also produce artistic works like paintings, literature, music, and video even without human intervention, which industries utilize commercially. Now the question arises whether these generative works fall under the definitions of 'invention' and 'creative work' as per the existing IP laws and whether they can be protected under the same regime.

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Additionally, how will companies, firms, or developers receive incentives from the fruits of algorithmically generated work to cover the expenses they are incurring on R&D to develop more advanced AI that can work more efficiently, independently, and cognitively unless it is protected under IP law similarly to any human creation? This is a growing concern for any economy.

The paper tries to analyse the critical aspects of algorithmically generated work, its 'novelty' and 'uniqueness'. It further analyses the arguments for and against the non-recognition of AI work as 'invention' and 'creative' under IP laws and its impact on economic growth.

SURVEYING THE BRANCHING OUT ECONOMIC CONCERNS OF THE MODERN WORLD

Change in Cost of Credit and its Effect on Delinquency Rate in the USA

- *Rugved Jayant Gadge* [69]

Reduction of inflation has been the paramount issue for the central banks globally. The sticky inflation era has led to tightening of the monetary policy in all major economies which has eventually led to an increase in the borrowing cost and the cost of credit. The rising cost of credit has taken a toll on the consumer balance sheets, affecting the corporates and the majority of the banking sector. The objective of the paper is to analyze the effect of the rising cost of credit. The paper takes into consideration three sectors to assess the effect of change in the cost of credit. Effects are analyzed on the consumer, real estate and banking sectors with a major focus on the Federal Reserve's Senior Loan Officer Opinion Survey (SLOOS). Increasing tightening standards by the banks as stated in the SLOOS has increased the delinquency rate and reduced the demand for the loans. A moderate to strong correlation is observed between delinquency rates on consumer loans and commercial real estate loans and changing tightening standards used by the banks. However, the correlation between variables is visible after some lag which has been calculated using R software. The survey talks about the consumers' willingness to make consumer instalment loans, which is seen decreasing with increasing federal fund rates stating a negative relationship. A few more variables from the SLOOS are checked for their correlation and effect on the delinquency rate on consumer loans. The delinquency rate on credit cards is half of what it was during the global financial meltdown of 2008 which is now alarming with the delinquency transition rate increasing in 2023. Buy now, pay later has been adding up to the debt pile for the consumers. Secondly, Commercial real estate is a prime focus area in the real estate segment. A lot of regional, small and mid-sized banks have the majority of their credit lending to commercial real estate where it is now seen that the valuation and the prices of these establishments are decreasing. In addition to this, the COVID-19 pandemic has led to a structural change in the way

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the offices are working. With work-from-home becoming a popular method, the vacancy rates have continued to increase in the commercial real estate sector. These problems have made the refinancing of loans challenging. Coming on to the banking sector, it is now visible that there is a major gap between demand and supply for loans. Rising interest rates have taken a toll on the profitability of the banks. With rising rates, decreasing asset prices and increasing delinquencies, banks' balance sheets might come under tremendous pressure with persisting uncertain economic outlook. The provision for non-performing assets (NPA) may increase if this continues further. The paper throws light on the effect of change in the cost of credit and its effect on delinquencies. It tries to analyze the change in asset prices with the business cycle in play and suggests steps that can be taken during such a tightening cycle to reduce the amount of delinquencies.

Striking the Balance: Intellectual Property Rights and Competition Law Dynamics in Market Economies"

- *Kishori Goswami* [70]

This comprehensive analysis explores the intricate relationship between Intellectual Property Rights (IPR) and Competition Law, delving into the dynamic interplay between these legal domains. The evolution of India's economic policies, from pre-1991 protectionism to the liberalization, privatization, and globalization era, sets the backdrop for understanding the need for a regulatory framework like The Competition Act of 2002. The study navigates through key objectives, including the interface between IP and competition laws, the impact of economic patterns on innovation, and the historical context provided by reports such as the 1972 Committee Report on Restrictive Business Practices. The study focuses on economic patterns created by the interaction of intellectual property rights in a competitive economy. This paper wants to establish a relationship between the two through real-time cases.

The exploration extends to forms of anti-competitive practices within the realm of intellectual property, such as abuse of dominant position, cartel formation, economic monopolies, and issues related to Standard Essential Patents. Noteworthy legal cases, including the Microsoft case and judgments by the Competition Commission of India, illustrate the nuanced balance required between intellectual property rights and competition laws. The analysis also addresses the impact of IP anti-competitive actions on market economies, emphasizing the potential consequences on innovation, competition, investor's trust, finance, technology, environment and market dynamics. Special attention is given to tying agreements, merger agreements, and the broader implications on fair market competition and the abuse of intellectual property rights. The paper concludes by underlining the critical role of regulatory bodies in curbing anti-competitive behaviour in the intellectual property sector, emphasizing the importance of well-crafted regulations to foster a competitive market that benefits both innovators and consumers. The abstract encapsulates the study's focus on the complex intersection of IP and competition laws, providing insights into the legal frameworks necessary for sustaining innovation and fair market practices.

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Resilience or Ruin? Understanding Corporate Liquidation's Economic Impact

- *Digin George & Drisya M* [71]

The paper aims to analyze the impact of liquidation on the corporate economies, focusing on its origin, economic effects, sectoral implications, legal framework, effectiveness of insolvency laws, economic recovery and policy measures.

Liquidation is a critical event where businesses are forced to auction off their assets among creditors to satisfy their debts, causing significant repercussions for various stakeholders and the economy as a whole. Taking into account the factors that shall include mismanagement, economic downturns, unsustainable debt levels etc. that are not aligned with the company goals, insufficient financial planning and regulatory compliance failure.

The economic impact of liquidation extends beyond what is anticipated resulting in job loss, negative investor confidence, supply network disruption etc. The losses suffered due to decreased recovery rate by the creditors, employee's unemployment which shall affect the local communities and the consumer spending habits. The real estate and construction industries are more susceptible to the effect of economic instability while the technology and healthcare industries demonstrate high resilience.

The International Business Corporation establishes procedural rules to facilitate the court supervision, dispute resolution and maximization of funds recovered from creditors. The legal structure of the process of liquidation varies from jurisdiction to jurisdiction involving tribunals and court-controlled processes, designed to maximize the amount recovered from the creditors. In India, the Insolvency and Bankruptcy Code (IBC) provides a structured method for orderly

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liquidation striking a balance between creditors and debtors while addressing economic stability.

The efficiency of bankruptcy laws, such as IBC in India, tends to improve the speed of resolution procedures, safeguard the creditors' interests and facilitate asset realization which can be seen through the cases that have helped to restore the financial health of enterprises in crisis and to retain their economic value.

Reviving the local economy after liquidation involves reorganizing and redistributing assets, creating new jobs, restructuring existing debts and reintegrating the company into supply networks. By prioritizing legislative reforms strengthening the debtor-creditor relationship, proactive policies promoting financial literacy and risk management practices among enterprises that shall reduce further liquidation risks etc. and early intervention measures shall build resilience against the rule of liquidation.

To increase, the rate of creditor recovery and reduce economic disruptions, it is necessary to continually analyze and revise the policy measures for the efficient implementation of IBC; finding a middle ground between creditors' rights and tools for economic revitalization remains a challenge.

This study highlights the significant role of liquidation in business economies and the importance of a regulatory framework for fair outcomes and long-term economic recovery.

GREEN ECONOMY: TAKING FINANCIAL GROWTH WITH SUSTAINABILITY GOAL

Prioritizing Environmental Claims in Company Insolvency: A Constitutional Imperative

- *Neeti Goyal* [72]

On 6th April 2024, the honorable Supreme Court in its landmark judgment recognized the right against the adverse effect of climate change. A study featured in the Journal of Urban Management (December 2021) reports that the 62 MT of waste generated annually includes 7.9 MT of hazardous waste, 5.6 MT of plastic waste, 1.5 MT of e-waste, and 0.17 MT of biomedical waste. The Indian waste management market size is estimated at USD 12.90 billion in 2024, and is expected to reach USD 17.30 billion by 2029, growing at a CAGR of 6.10% during the forecast period (2024-2029). Right to have a healthy environment and against climate change has become a crucial fundamental duty imposed on the state. The constitutional right to a healthy environment (Article 21) and the principles of sustainable development and intergenerational equity demand that environmental concerns be addressed promptly and effectively.

If any entity causes any environmental degradation, it must bear the cost of clean-up. In the event of a company's insolvency, the distribution of assets and repayment of debts often takes precedence over environmental concerns. However, this approach neglects the fundamental right to a healthy environment enshrined in the Indian Constitution. Environmental degradation caused by insolvent companies can have devastating and long-lasting consequences, affecting not only the environment but also public health and livelihoods.

This paper argues that environmental claims should be given priority in the insolvency proceedings of companies at par to the financial creditors. Treating as an operational creditor is not in line with the polluter pays principle. Operational creditor status may lead to reduced payouts or delayed compensation, exacerbating environmental damage. The paper examines the current legal framework and its limitations in addressing environmental claims in insolvency proceedings. It also explores international best practices and suggests reforms to ensure that environmental concerns are prioritized in the insolvency process. By doing so, we can prevent further environmental degradation and uphold the constitutional right to a healthy environment.

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Economic Revival vs. Environmental Accountability: Treatment of Green Claims under the Indian Insolvency Code

- *Sachika Vij & Vrinda Gaur* [73]

The supremacy of Corporate Social Responsibility and growing awareness of environmental issues have advanced the need to align economic growth with environmental sustainability. Despite the Indian Courts' proactive enforcement of environmental liability through no-fault and absolute liability principles, the Insolvency and Bankruptcy Code of 2016, a benison to creditors, remains with an unresolved challenge to integrate green claims within the waterfall mechanism. The National Company Law Tribunals' passive stance on environmental claims has become a credible threat, incentivizing companies to take insolvency as a defense under the guise of economic revival and Fresh Start, neglecting environmental compliance knowing that the liabilities will be extinguished in a resolution plan. Despite safety nets put in place internationally, by countries like the United States and the United Kingdom to protect stakeholders with environmental claims against stressed companies, India is currently behind in establishing a similar legal framework.

The article's central argument revolves around the question of creating a harmonious balance between the economic revival of a company and public policy considerations with an emphasis on environmental and climate change considerations. The article is broadly divided into three parts. The first part provides a context to the environmental claims and their intersection with the insolvency under the present regime. The second part decodes the positioning of these green claims under the waterfall mechanism and the rights of relevant stakeholders seeking enforcement of their claims. The third part navigates the power of courts to enforce environmental claims and assess whether courts have adopted a more restrictive approach towards such claims. Based on an analysis of the aforementioned points, the article unravels the international practices and concludes with lessons and solutions relevant to building an Indian approach to a green insolvency regime.

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Climate Risk Management: The Cornerstone for Accelerating Green Financing in Indian Banking Sector

- *Sayali Telang* [74]

Climate change is one of the most contemporary and critical challenges facing the world today. According to the Global Risks Report 2022 by the World Economic Forum, societal and environmental risks are the topmost threats the world will encounter in the next five years. Over the next decade, environmental risks, including "climate action failure," "extreme weather," and "biodiversity loss," are ranked as the top three severe risks. A survey by EY Global reveals that 49% of bank chief risk officers consider climate change the foremost risk requiring urgent attention. Climate risks encompass probable risks arising from climate change or mitigation efforts, impacting economic and financial sectors through physical and transition risks.

The Reserve Bank of India's Report on Currency and Finance (RCF) for 2022-23, themed "Towards a Greener Cleaner India," emphasizes climate change as a central theme and underscores the role of fiscal policy in fostering a green transition. The report identifies the adverse impacts of climate change on global warming, ecological destruction, human habitation loss, and financial stability. The RCF report indicates that climate change can alter the value of financial assets by changing investor risk perceptions, emphasizing the need to balance environmental concerns with economic development. Thus, effectively addressing, and mitigating climate risks is essential for a successful transition to a 'green financing'. As the concept of green financing gains traction, it becomes increasingly important to integrate climate risk considerations into comprehensive financial and economic planning.

The research paper aims to comprehensively explore the diverse range of climate risks, delving into their potential implications for various facets of banking operations. This includes an examination of the specific challenges and

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opportunities posed by physical risks, such as extreme weather events, as well as transition risks associated with the shift to a low-carbon economy. Furthermore, the researcher will analyze the imperative for Indian banks to address climate risk, investigating the current state of climate risk management practices within the sector. By analyzing the evolving regulatory landscape, the researcher seeks to understand how regulatory frameworks are being shaped to address climate-related financial risks. The research paper will also assess the practical challenges and opportunities inherent in climate risk disclosures, exploring the potential benefits and obstacles associated with transparent communication of climate-related information to stakeholders. The researcher will examine how the integration of climate risk management into banking operations will provide the necessary framework and impetus for banks to develop and promote green financing solutions, ultimately driving the transition towards a more sustainable financial system.

Climate Change may Upend Financial Stability: Is India Ready?

- *Jahnavi R Bhattathiripad & Amreen Anwer* [75]

India is no stranger to the risks associated with climate change. Studies show that the risks associated with climate change may be most visible in India's financial sector -with experts suggesting that India is set to see record lows in its financial and economic growth, unless the risks of climate change are mitigated. Presently, the Indian financial system is unprepared for risks arising from climate change. However, Indian regulators are trying to come up with mechanisms and frameworks that would help in mitigation of climate risks.

This paper focuses on the analysis of regulatory mechanisms and frameworks put forth by India's financial institutions- notably the RBI3 and SEBI4, to ensure mandatory disclosures of climate related risk in their compliance. It will discuss the importance of climate change disclosures in matters like stakeholder awareness and decision making. This paper will then explain the international standards governing climate risk in finance like the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD)5, and analyze how better climate change risk management can help drive economic growth.

This paper focuses on the current practices of the financial institutions in India when it comes to mitigating financial risks arising from climate change. We will delve into challenges that the Indian Financial institutions will face in complying with the regulatory framework and mechanisms. Also, we will try to show how coordination between regulators, most importantly RBI and SEBI, will ensure a transparent and resilient future for the financial system in India.

This paper will also talk about policy recommendations that will help the financial system in better assessment and mitigation of climate risks. Some of the policy recommendations in paper will be related to enhancement of regulatory framework, capacity building, and incentive for disclosure.

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INDIA'S INSOLVENCY REGULATIONS IN HIGH GROWTH MSMES.

Quick Insolvency Processes for MSMEs: A Global Comparison

- *Poonam Gulati & Sanjay Semwal* [76]

In today's world where 'ease of doing business' is a mantra for economic success, this research looks at how quickly insolvency issues are handled for small businesses (Micro, Small, and Medium Enterprises- MSMEs) in India and compares these methods with those used in other countries. MSMEs are important to the economy, and effective insolvency solutions can greatly affect their chances of recovery during financial trouble. This research dives into the legal intricacies of Pre-pack and Fast-Track insolvency under the Indian Insolvency and Bankruptcy Code, 2016 (IBC), juxtaposing them with analogous systems in the United Kingdom and other global jurisdictions. In India, the Insolvency and Bankruptcy Code offers faster ways to resolve insolvency for small businesses. One such method is the Fast Track insolvency process, which is designed to be quicker and simpler than traditional methods. This research explores how this process works, including the steps involved and the roles of various people and organizations. Pre-pack insolvency entails the sale of a company's assets before the commencement of formal insolvency proceedings, whereas fast track insolvency aims to expedite the resolution process for small and medium-sized enterprises (SMEs). The study aspires to dissect the laws, procedures, and roles of various stakeholders in these insolvency mechanisms within India, scrutinizing recent legislative amendments and landmark judicial pronouncements. Additionally, this study draws comparisons between India's frameworks and those in the UK, US, Singapore, etc highlighting both divergences and commonalities in their legal structures and practical applications. By examining systems in other countries, the research aims to unearth best practices that could potentially refine the Indian context. The methodology encompasses a comprehensive analysis of legal texts, case law, academic literature, and expert interviews, amalgamating these insights to offer a holistic perspective on the functionality of Pre-pack and Fast-Track insolvency processes. Ultimately, the objective is to propose recommendations for

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enhancing these mechanisms in India, fostering greater efficiency, transparency, and fairness, thereby bolstering the economy and the legal framework. The ultimate goal is to suggest ways to make India's insolvency procedures for MSMEs more effective and efficient by learning from successful practices in other countries. This will help small businesses get better support and contribute to a stronger economy.

MSMEs and India's Economic Ascent: Policies, Challenges, and Growth Opportunities

- *Appana Tulasi Sanjeeva Raya Gupta* [77]

Micro, Small and Medium scale enterprises MSMEs significantly contribute to India's economy and form an estimated 30 % to India's GDP. Not only do they contribute considerably to economic development but to employment creation, income enhancement, and poverty alleviation. On a note of growing India's economy to a 5 trillion-dollar economy, the role of MSMEs is not negligible. This paper focuses on the investigation of the performance of MSMEs in India and the analysis of the correlation of government policies and contribution of MSMEs towards economic development and employment in India. This paper aims at identifying the various policies that the Government of India has deployed in its attempts to improve the growth of MSMEs. Schemes such as the MSME Development Act 2006, MUDRA where the loan limit is uplifted to 20 lakhs rupees, employment generation program me, CGTMSE are meant to offer credit facility, capital, and marketing opportunities to the micro and small-scale enterprises. Also, the Self-reliant India Mission targets the development of the domestic manufacturing industry and relates to MSME's importance in attaining economic sovereignty. However, MSMEs face some challenges while operating, most of which are related to inadequate infrastructure, the MSMEs operating in the industry have restricted access to credit, fewer technological development, and excessive bureaucracy. Basically, these challenges affect their chances of expanding and hence, restricts their ability to boost the economy. Solving these problems is vital to create conditions for the comprehensive development of MSMEs and guarantee that they will play a large role in attaining the goal of having a 5-trillion economy. Thus, this paper focuses on the different government policies targeting MSMEs, their effectiveness, and existing challenges. In this regard, the collective influence of India's MSMEs has the capability to unlock potential and feed into the nation's economy and generate employment, thereby steadily eradicating poverty to make India among the world's economic giants.

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Revitalizing MSMEs Insolvency: A Critical Analysis and Reform Proposal for India's Pre-Pack Agreement Framework

- *Aditya Singh & Kumari Asmita* [78]

This paper critically examines the introduction and implementation of pre-pack agreements in India's insolvency resolution framework for Micro, Small, and Medium Enterprises (MSMEs), a mechanism introduced in 2021 to offer a streamlined alternative to traditional insolvency proceedings.

Despite its promise of expedited resolutions, cost efficiency, and minimal operational disruption, the pre-pack scheme has seen limited adoption, with only five companies utilizing this option in three years. Our research conducts a comprehensive analysis of India's pre-pack agreement framework, comparing its theoretical advantages with practical challenges and contrasting it with established models in the United Kingdom and United States.

We investigate the complex interplay of factors hindering widespread adoption, including regulatory hurdles, stakeholder apprehensions, and procedural complexities. Through rigorous analysis and expert insights, we identify systemic inadequacies and propose a series of calibrated reforms to enhance the accessibility, efficiency, and efficacy of pre-pack agreements for MSMEs.

Our recommendations encompass streamlining procedural requirements, recalibrating creditor safeguards, and fostering a more conducive ecosystem for pre-pack negotiations. The study contributes to the ongoing discourse on insolvency law reform in India by offering a nuanced perspective on the intersection of regulatory intent and market realities.

We argue that refining the pre-pack framework is imperative to fortify the resilience of the MSME sector, which plays a pivotal role in India's economic fabric. Our analysis suggests that through judicious recalibration of the pre-pack

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mechanism, India has the opportunity to align its insolvency practices with global standards, potentially fostering a more robust and dynamic business environment.

This research not only highlights the current challenges in the pre-pack scheme but also provides actionable insights for policymakers, legal practitioners, and stakeholders involved in MSME insolvency resolution. By addressing the identified issues, we posit that India can significantly augment its insolvency resolution landscape, providing MSMEs with a viable pathway to navigate financial distress while preserving enterprise value, ultimately contributing to the sector's growth and stability in the face of economic challenges.

The Insolvency Framework around MSMEs and their exit strategies: A comparative study between Hong Kong & India

- *K.S Ganeshan & Aanjaneya Singh* [79]

MSMEs are critical cogs of the Indian economy which help sustain upwards of 110 million people and, as per the 2021 annual report of the Ministry of MSME, contributed 30% to the GDP of India. This in turn makes the sector critical, and one which requires a great share of attention from Economists, to lawmakers, and policymakers. By the means of this paper, the authors aim to walk the reader through the hallways of corporate governance and rules, laws and regulations pertaining to MSMEs in India, especially the IBC. IBC has had its fair share of moments of failure as well as triumph. When it comes to MSMEs, though, it has, so far, mostly witnessed the former. The paper shall present the readers with a detailed analysis of the provisions within the IBC, pertaining to MSMEs, with a special focus on pre-packaged insolvency resolution process, and its current state. Additionally, it will examine key amendments to the IBC, such as the introduction of Section 240A, which exempts MSMEs from certain disqualifications under Section 29A. This change allows MSME promoters to bid for their own companies during insolvency proceedings, potentially increasing the chances of successful resolution. Recent judicial interpretations, including Supreme Court and NCLT rulings, have further clarified and reinforced these provisions, enhancing the legal framework for MSME insolvencies. The authors will additionally also present a brief comparison with the framework in Hong Kong. It is an economy which has enjoyed strong ties with the Indian economy and MSME sector and has traditionally had a dynamic presence of SMEs along with a high ease of doing business ranking. This paper shall aim to present the various facets of the Insolvency framework pertaining to MSMEs through a study and analysis of the same, flesh out a clearer picture of what needs to be done while moving forward and onwards in a direction that best represents good corporate governance for MSMEs and fosters their growth and eases their path to a better exit.

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MSMES and their Exit Strategies

- *G.manimudisivam, Prakash.D & P.Sandhiyappan* [80]

Micro, Small and Medium Enterprises (MSMEs) face a variety of obstacles, including limited financial resources, fierce market competition, regulatory compliance, and sustainability issues. It is therefore imperative that small business owners develop proactive exit plans that include sophisticated arrangements for transferring ownership and management, whether voluntary or by necessity Proper exit preparations can help business owners achieve their personal and financial goals, minimize potential downsides, and maximize benefits. Additionally a thorough exit strategy can reduce or resolve disputes with partners, investors, employees, customers, suppliers, debtors, and regulators. This study explores the key factors that lead entrepreneurs to abandon their businesses and the main tactics they use. Recent trends suggest that small and medium-sized enterprises are increasingly pursuing viable exit strategies, a practice that was once widespread among larger companies. Indian entrepreneurs in particular are more likely to leave their companies than previous generations reflecting less emotional attachment and more emphasis on business consideration and the study explores entrepreneurs' preconceived exit plans and compares them with actual outcomes. An inductive approach based on grounded theory methodology is used. The results reveal significant differences between intended and realized exit strategies and identify two distinct groups: one faction that was funded by equity investors and pursued an exit strategy aimed at financial gain, and the other faction that self-funded but was unable to execute. Planned exit plans for the continuation of the company's operations. The study utilizes the theory of planned behavior and behavioural agent model to interpret the results, highlighting how entrepreneurs' initial intentions shape their eventual exit plans.

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INSOLVENCY IN CIVIL AVIATION: A NEED FOR A STATUTORY REGULATORY BOARD

Reconciling Indian Aviation Insolvency Laws with the Cape Town Convention: A Comparative Analysis

- *Shreyamsi Brahma* [81]

The rapid expansion of the aviation industry has significantly increased the popularity of aircraft leasing, a sector marked by its capital-intensive nature. The Indian government in sync has introduced a plethora of policies and programs to encourage aircraft leasing (such as the Regional Connectivity Scheme), however, it appears to be quixotic as the environment for lessors in the international market continues to be unfavorable. Go-first Airlines recent voluntary filing for insolvency, which triggered a moratorium under Section 14 of the Indian Bankruptcy Code, 2016 (IBC), exemplifies this issue. This moratorium prevents lessors from repossessing leased aircraft during the Corporate Insolvency Resolution Process (CIRP), which can last up to 330 days. Section 14(1)(d) prohibits the repossession of assets, including leased ones, even if the lease agreements are terminated. Since Go First's assets are mostly leased, the moratorium prevents the lessors from reclaiming these aircraft, even after the lease agreements have been terminated resulting in huge losses for lessors. In the backdrop of this, the Cape Town Convention- to which India is a signatory - was introduced in 2001 The CTC Protocol offers two alternatives for repossession, and India adopted Alternative A, which mandates that aircraft be returned to lessors within 60 days of insolvency. This conflicts with Section 14 of the IBC, causing concerns among foreign lessors who couldn't reclaim their aircraft from Go-First. This issue tarnished India's international aviation reputation, leading the Aviation Working Group to issue a “negative compliance” notice. In response, the Ministry of Corporate Affairs (MCA) issued a notification under Section 14(3) of the IBC, allowing lessors to repossess aircraft and enforce security interests during insolvency. However, this relaxation conflicts with the CTC protocol, which still requires a 60-day waiting period.

The author, therefore, in this paper, attempts to underscore the dichotomy

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between the CTC protocol and the IBC act with an emphasis on the repossession of aircraft in the event of airline insolvency. The paper further argues for the importance of balancing between the extremes- whilst favoring the interest of the creditors, we must not deny debtors a fair chance to resolve their insolvency. Thus, balancing the creditor's interest with national interest. In this context, The US and UK's airline insolvency laws partially address the conundrum of balancing. The US's §1110 provides robust repossession rights while Chapter 11 allows restructuring, and the UK's adoption of CTC Alternative A ensures prompt repossession while the Corporate Insolvency and Governance Act (CIGA) 2020 supports debtor restructuring. Ergo, the author presents a comparative analytical study of Indian Aviation Insolvency Laws with the US and UK, in the backdrop of the CTC bill, suggesting changes. Through a doctrinal and comparative analysis, the paper proposes recommendations for harmonizing Indian laws with international standards.

Grounded or Soaring? The Imperative for Clarity in Aviation Insolvency Regulations

- *Shloke Sarkar* [82]

An essential part of India's economic development and transportation network is the aviation industry. But the sector has a lot of obstacles to overcome, especially when it comes to insolvency and financial hardship. Even though they are extensive, the present insolvency rules sometimes lack the precision and clarity required to handle the particular complexity of the aviation industry. For airlines and related companies, this uncertainty may result in drawn-out legal disputes, operational interruptions, and unstable finances. This essay explores the urgent need for more precise and customized bankruptcy laws in India's aviation sector, emphasizing the possible advantages of these changes for all parties involved—creditorships, workers, passengers, and the national economy. This report would attempt to address the issues at hand and offer a road map for improving the resilience and sustainability by examining global best practices and suggesting certain legislative changes.

The paper would also attempt to include a case study of Global issues and, more importantly, of a particular case along the shores of India, in the form of Go First. Go First, one of India's private airlines, voluntarily sought insolvency protection due to ongoing issues with the supply of aircraft engines from Pratt & Whitney. The company filed the insolvency application, citing a self-disclosed default of ₹11.03 crore in interest payments to financial creditors and a total debt of ₹1,202 crore owed to aircraft lessors and vendors.

Recently, the head of major leasing firm Aviation Capital Group (ACG) also indicated the upcoming concerns for the field, stating that if the aforementioned clarifications are not provided at an immediate level, there would be a significant and unprecedented rise in leasing bills. Delving deeper into Aviation trends reveal how significant Leasing is to reduce operation costs, hence such a drastic shift would result in disastrous consequences for budget operators. The paper would seek to find remedies for such low-cost operators to ensure growth of Aviation sector.

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The Impact of COVID-19 on Airline Insolvency: A Case Study of Go First's Financial Struggles

- *Shreyas Rajan & Dhritiman Sarma* [83]

Another airline going insolvent with skim chances of revival shows the landscape of the Indian aviation industry in insolvency.1 Airline insolvency involves a legal process where an insolvent airline, under the management of an insolvency practitioner, undergoes either restructuring to continue operations or liquidation to pay off creditors. GO First is another airline following the path of airlines such as Jet Airways and Kingfisher, yet with a different approach and a detailed difference with the onset of the COVID-19 pandemic. The global crisis severely impacted various sectors, making the aviation industry one of the most brutal hits.2 This research paper critically analyzes the insolvency of Go First, formerly known as GoAir, an Indian low-cost airline. 3 As travel restrictions tightened and passenger demand plummeted, Go First faced insurmountable financial challenges, leading to its voluntary insolvency resolution proceedings in May 2023. 4 This research delves into the factors contributing to Go First's financial decline, including the role of Pratt & Whitney, which delayed the supply of engines to Go First and severed the already escalated financial crisis of the airline. 5 This resulted in the grounding of a substantial portion of its fleet. It also explores the broader implications of airline insolvencies by analyzing the potential implementation of the Cape Town Convention, 2001 (CTC). It aims to provide a standardized legal framework for safeguarding international interests in aircraft acquisition following asset - based financing and leasing. 6 Precedents such as Jet Airways v. State Bank of India serve as crucial determinants to the future of airline insolvency, highlighting the challenges airlines face in managing debt and the role of insolvency proceedings in attempting to revive financially distressed carriers. 7 Governments have intervened in aviation insolvencies by providing financial aid, restructuring support, and regulatory adjustments. Examples include Jet Airways, Pan Am, Alitalia, and numerous airlines during the COVID-19 pandemic. These interventions aim to stabilize the industry, safeguard passengers, and maintain

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essential connectivity while questioning the need for dedicated government support to address the aviation industry's unique challenges effectively. Governments have intervened in aviation insolvencies by providing financial aid, restructuring support, and regulatory adjustments. Examples include Jet Airways, Pan Am, Alitalia, and numerous airlines during the COVID - 19 pandemic. These interventions aim to stabilize the industry, safeguard passengers, and maintain essential connectivity while questioning the need for dedicated government support to address the aviation industry's unique challenges effectively.

TAXATION IN THIS TECH ERA: EQUITY, POLICY, AND GLOBAL CHALLENGES

India's Green Tax: AI, Cloud, Quantum for Equitable Climate Action

- *Amartya Pralhad Jaybhaye* [84]

The promulgation of a carbon tax in India seems indispensable for addressing the exigent issue of anthropogenic climate change. However, this policy measure must also be evaluated within the context of contemporary technological advancements in artificial intelligence (AI), cloud computing, quantum computing and machine learning, where technology conglomerates are depleting natural resources while receiving substantial government subsidies and tax incentives for job creation.

This paradoxical situation has fiscal encumbrance on the proletariat, thereby enervating the resources of the middle-income population. Consequently, this dynamic perpetuates income inequality and widens the wealth gap. Despite governmental rhetoric extolling the virtues of technological and internet diffusion as mediums of social and economic mobility, the veracity of such claims appears incongruent with reality.

This paper aims to critically evaluate the veracity of this assertion in the Indian context, juxtaposed against other global powers. Through an exhaustive analysis, we also make an effort to assess endeavor to elucidate the socioeconomic ramifications of the carbon tax within the technological ambit, thereby illuminating its potential to either ameliorate or exacerbate extant inequities and whether these inequalities can be addressed by reduced government subsidies and tax incentives along with carbon tax.

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