OVERRULING THE RULING

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Abstract

India's nascent battle against bankruptcy is sprouting new ideas and career options. After India enacted tougher laws to deal with viscous loans and the central bank stepped to accelerate the pace of recoveries, finance executives have stumbled upon a career growth on insolvency. The Insolvency and Bankruptcy Code 2016 is latest of such policies. The Code was established to improve the confidence of the lender and also to facilitate expansion of the credit market in India. The Bankruptcy Code has restored the bankruptcy and insolvency laws in India and most importantly done away with the scattered legislations that existed earlier and consolidated all laws under one umbrella. The law was introduced to help India clear up $117 billion stressed assets. The Code promote entrepreneurship, availability of credit and balance the

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interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto. Insolvency professionals, Information Utilities, Adjudicating Authorities (NCLT & DRT) and Insolvency and Bankruptcy Board of India are the main four pillars of the Code. Financial ministry officials refer IBC as 'A huge and game changing reform'. This code constitutes a significant retreat from the present system that is characterized by multiple laws and forums. The existing laws such as SARFAESI, 2002 is designed to exclusively benefit secured creditors such as banks and financial institutions. It lays down simple procedure for the banks and other financial institutions to recover the debt from the borrowers. The lender can recover a non-performing asset without the intervention of the court according to this act. The IBC tries to resolve this issue by providing rights to all types of creditors, and not just secured financial creditors, to evoke insolvency proceedings against the debtor. Under the Companies Act, 2013 any company, which has made any default that is nonpayment of debt whole or part of the installment, cannot make application for voluntary liquidation. Also under the Companies Act, 2013 petition for winding up by NCLT cannot be made by a creditor whereas in IBC the creditor has the right to initiate resolution of insolvency proceedings on failure of which liquidation can be approached. This paper seeks to examine various amendments the act brought under Indian Partnership Act,1932, Central Excise Act,1944, Income Tax Act,1961, Customs Act,1962, Recovery of Debts Due to Bank and FI Act,1993, The Finance Act,1994, SARFAESI Act,2002, SICK Industrial Companies (Special Provisions) Repeal Act,2003, Payment and Settlement Systems Act,2007, LLP Act,2008, and Companies Act,2013. The authors are of the view that some amendments to these acts is needed to be consistent with IBC. In addition, certain provisions in the IBC needs to be enhanced to improve the efficacy of the IBC.

INTRODUCTION

It seems that every generation has its **Shylock** – a despised financier blamed for the economic problems of his day. A couple of decades ago it was **Michael Milken** and his "junk" bonds. Today it is the mortgage bankers who, over the past few years, lent billions of dollars to homebuyers – hundreds of thousands of whom are now delinquent or in default on their loans. This "sub-prime mortgage crisis" is negatively affecting the broader financial markets and the economy as a whole. The villains, we are told, are not the borrowers – who took out loans they could not afford to pay back – but the moneylenders – who either deceived the borrowers or should have known better than to make the loans in the first place. In addition, we are told, the way to prevent such problems in the future is to clamp down on moneylenders and their industries; thus, investigations, criminal prosecutions, and heavier regulations on bankers are in order[1].

Of course, government policy for decades has been to *encourage* lenders to provide mortgage loans to lower-income

[1] www.theobjectivestandard.com/issues/2007-fall

families, and when mortgage brokers have refused to make such loans, they have been accused of "discrimination." Now that many borrowers are in a bind, politicians are seeking to lash and leash the lenders.

This treatment of moneylenders is unjust but not new. For millennia they have been the primary scapegoats for practically every economic problem. They have been derided by philosophers and condemned to hell by religious authorities; their property has been confiscated to compensate their "victims"; they have been humiliated, framed, jailed, and butchered. From Jewish pogroms where the main purpose was to destroy the records of debt, to the vilification of the House of Rothschild, to the jailing of American financiers—moneylenders have been targets of philosophers, theologians, journalists, economists, playwrights, legislators, and the masses.

The principal focus of modern insolvency legislation and business debt restructuring practices is not the liquidation and elimination of insolvent entities but on the remodelling of the financial and organizational structure of debtors experiencing financial distress so as to permit the rehabilitation and continuation of their business. In some jurisdictions, it is an offence under the insolvency laws for a corporation to continue in business while insolvent. In India there prevailed many laws which governed the insolvency laws. Ultimately the basic objective of insolvency laws is the distribution of the effects of a debtor in the most expeditious, equal and economical mode and liberation of his person from the demands of his creditors when he has made a full surrender of his property. Insolvency and Bankruptcy are two different concepts.

Insolvency

Insolvency is when an individual, corporation, or other organization cannot meet its financial obligations for paying debts as they are due. Insolvency can occur when certain things happen, some of which may include: poor cash management, increase in cash expenses, or decrease in cash flow. A finding of insolvency is important, as specific rights are enabled for the creditor to exercise against the insolvent individual or organization. For example, outstanding debts may be paid off by liquidating assets of the insolvent party. Prior to proceedings, it is common for the insolvent entity to meet with the creditor in order to attempt to arrange an alternative payment method. It is possible that a business may be "insolvent" in cash flow, yet still solvent on the balance sheet. These cases may involve illiquid assets, which help the balance sheet solvency but not the cash flows. This can also work the other way around with negative net assets (balance sheet insolvency), yet a positive cash flow. In this case, the flow of cash is simply enough to pay off debts, despite the fact that the business has more liabilities than assets[2].

There are many reasons for insolvency; mainly it can be poor management and financial constraints. Some of the reasons for different entities are as follows:

- Market – Company did not recognize the need for change
- Bad debts – obviously money owed by customers
- Management – failure to acquire adequate skills, imprudent accounting, lack of information systems
- Finance – loss of long term finance, over gearing or lack of cash flow

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2 Docplayer.net/8929609-insolvency-law-in-india-with-special-referance-to-corporate-insolvency

- Knock on effect – i.e. from other insolvencies
- Other – for example excessive overheads etc.

Bankruptcy

Bankruptcy is not exactly the same as insolvency. Technically, bankruptcy occurs when a court has determined insolvency, and given legal orders for it to be resolved. Bankruptcy is a determination of insolvency made by a court of law with resulting legal orders intended to resolve the insolvency. Insolvency describes a situation where the debtor is unable to meet his/her obligations. Bankruptcy is a legal maneuver in which an insolvent debtor seeks relief.

India is a country which provides its citizens the freedom to practice any profession or carry on any occupation, trade, or business under the article 19(1)(g) of the constitution although there are some restrictions on closure of any industrial undertaking. Such restriction is justified on the ground that it is in public interest to prevent unemployment. As a result of such policy there is a freedom to undertake any industrial activity, but there is no freedom to exit. There is a need to take the process of liberalization a step further and recognize that as long as a company is acting in the interest of shareholders and observing the law of the land it should have the freedom to manage its affairs, merge, amalgamate, restructure and reorganize or 5 otherwise plan its affairs as it considers best in the interest of the stakeholders. Interference by the Government or court or any tribunal should only be in the event of any wrong to the shareholders or under the Competition Act to prevent monopolies and restrictive trade practices. While undertaking reforms in the Insolvency Laws there is a need to change the focus from strict regulation of the activities of companies to granting freedom to the industry in conducting its business activities and lay down norms for protection of interest of stakeholders. Under the Constitution of India 'Bankruptcy & Insolvency' is Entry 9 in List III - Concurrent List, (Article 246 –Seventh Schedule to the Constitution) i.e. both Center and State Governments can make laws relating to this subject.

Earlier Insolvency Regimes in India

- Companies Act, 1956
- The Sick Industrial Companies (Special Provisions) Act, 1985 (SICA)

- Recovery of Debts Due to Bank and Financial Institutions Act,1993 (RDDBFI/DRT)
- Asset Reconstruction under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI)
- Companies Act, 2013 Chapter XIV-XX

BEFORE THE IBC CODE

The Sick Industrial Companies (Special Provisions) Act,1985(SICA) is a quasi-bankruptcy law, which provides for the revival and rehabilitation of potentially viable sick industrial companies and constitutes Board Of Industrial and Financial Reconstruction (BIFR) to oversee the operative aspects. Seven years after the enactment of this Act the legislature enacted the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDB Act) which ensures speedy recovery of claims by banks and financial assets and provides for enforcement of security interest.

The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) regulates securitisation and reconstruction of financial assets and provides for enforcement of security interest. The three Acts enacted one after the other constitute a major chunk of the bankruptcy laws of our country. While SICA is a bankruptcy law, the other two are creditor-driven debt recovery laws, which obviously work at cross-purposes.

The conflicting provisions and the non-obstante clauses in the Acts too add to the confusion. The SARFAESI Act provides that a secured creditor could still seize and sell assets without the intervention of any judicial authority even when reference under SICA is pending. RDDB Act was amended in 2000 and a new sub-section (2) in section 34 was added stating the Act is in addition to and not in derogation of SICA, thus making SICA prevail over RDDB Act.

The result of this fragmented legal framework was delays, confusion and conflicts between these multiples laws and legal fora. Further, many of these laws, such as SICA, had proved to be wholly ineffective in achieving a speedy restructuring that took into account the interests of both debtors and creditors. The World Bank's *Ease of Doing Business Index 2015* ranked India 137 out of 189 countries on the ease of resolving insolvencies based on various indicators such as time, costs, recovery rate for creditors, the management of a debtor's assets during the insolvency proceedings, creditor participation and the strength of the insolvency law framework.[3]

Efforts at insolvency law reform began in late 2014 when the Ministry of Finance constituted the Bankruptcy Law Reform Committee ("**BLRC**") under the chairmanship of Mr T.K. Viswanathan. The Finance Minister reiterated the Government's commitment to insolvency reform in his 2015-16 budget speech when he identified having a new insolvency law as one of the key priorities for the year. The BLRC submitted its report, including a draft of the Insolvency and Bankruptcy Bill, 2015 (the "**Bill**") on November 4, 2015,[4] which was introduced in the Lok Sabha in December 2015 with a few amendments. The Bill was subsequently referred to a Joint Parliamentary Committee, which submitted a detailed report, including a revised draft

[3] Corporate law adviser vol. 132, page no. 183
[4] The report of the bankruptcy law reforms committee vol. 1 and vol. 2

of the Bill. The IBC that was eventually passed was the version proposed by the Joint Parliamentary Committee.

Laws relating to bankruptcy resolution earlier existed in various codes. Insolvency and bankruptcy code, 2016 seeks to bring all the laws under one hood. And so, it brought amendment to the existing codes relating to the insolvency and bankruptcy.[5] The Insolvency and Bankruptcy Code, 2016 (IBC) replaces a fragmented legal framework and a broken institutional set-up that has been delivering poor outcomes for years for creditors and distressed businesses seeking an exit.

The IBC offers a time-bound resolution process aimed at maximising the value of a distressed business. This will benefit not just the creditor and debtor companies, but also the overall economy because capital and productive resources will get redeployed relatively quickly. To meet the objectives of timeliness and value maximisation, the IBC proposes a new institutional set-up comprising four critical pillars:

[5] https://thewire.in/86871/insolvency-and-bankruptcy-code/

- A robust and efficient adjudicating authority to hear the cases.
- A regulated profession of insolvency professionals (IPs) to manage the insolvency and bankruptcy cases.
- A regulated competitive industry of information utilities (IUs) to reduce information asymmetries in the insolvency resolution process.
- A regulator – the Insolvency and Bankruptcy Board of India (IBBI) – to perform legislative, executive and quasi-judicial functions with respect to the IPs, and IUs and draft regulations for the resolution procedures under IBC.

Advantages of IBC

a. The bill seeks to shift from revival/recovery to resolution. This will ensure maximum assets recovered from the debtor, thus helping the balance sheets of the creditor. This would go a long way in helping the NPA-situation of the banks.
b. The new bill proposes to speed up both recoveries and restructuring procedures. There is significant a curb on

the time involved a maximum of 270 days. This will expedite the insolvency process. Time is important as the value of the assets corrodes very rapidly, when the firm is precariously placed.

c. The bill aims at promoting investments, freeing up banks' resources for other productive uses, boosting credit markets and improving ease of doing business in India, thus making a cumulative positive impact on the economy
d. The fixed time-period and predictable procedural methods will encourage creditors to join the collective insolvency resolution, rather than initiate individual actions.
e. By keeping the role of the adjudicator to a minimum, the bill ensures that delays arising from the bottlenecks in court proceedings are also reduced to the minimum. The principal business decisions such as the economic viability of the debtor, will be determined through negotiations between the debtor and creditors – an exercise that will be facilitated by insolvency professionals. The role of the NCLT is primarily to

ensure that the procedures are complied with and no illegality or fraud has taken place.

f. The draft Bill also abolishes the institution of the official liquidator, which by all accounts has been a failure in non-viable businesses. Instead, the functions of the official liquidator are to be performed by insolvency professionals.
g. Industry anticipates that the change will provide an easy exit option for insolvent and sick firms.
h. The new code will matter to private sector employees too. The Bill, by forcing failed firms to shut shop, can lead to a survival of the fittest in the job market too.
i. Make it easy for the budding entrepreneurs to start or exit from the start-up business. Commerce and Industry minister says it is going to make it easy to start up as much as to get out of the start-ups because if they are not doing well, there shouldn't be a taboo.

The first major case under the code is *ICICI v. Innoventive Industries Limited*[6]. The ICICI filed a case before the NCLT Mumbai Bench to initiate the corporate insolvency

[6] NCLT, Mumbai; 16 January 2017

resolution process against Innoventive under Section 7 of the code. Innoventive filed a writ petition before the Bombai High Court inter alia. It challenged the constitutional validity of Section 4 to 32 of the code, the order passed by the NCLT admitting ICICI's application under Section 7 and also some other provisions. Innoventive's writ petition was disposed due to the fact that they had also challenged the NCLT order admitting ICICI's application. The questions raised in the writ petition remain relevant.

IBC AND OTHER ACTS

Various acts have different effect by IBC. In some Acts, there is an omission of the certain clauses, in some there is a change in the existing clauses. Section 238 of the IBC provides the provisions of the IBC an overriding nature. Once a corporate comes within the process prescribed under the IBC, not all the other applicable provisions of law will be taken into consideration. All the other proceedings against a company undergoing restructuring now fall within the exclusive jurisdiction of the IBC proceedings. Section 14 of IBC says about moratorium order and Section 231 of IBC says about bar on jurisdiction of civil courts.

The amended acts are The Indian Partnership Act,1932, The Central Excise Act,1944, The Income Tax,1961, The Customs Act,1962, The Recovery of Debts due to Banks and Financial Institutions Act,1993, The Finance Act, 1994, The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002, The Sick Industrial Companies (Special Provisions) Repeal Act,2003, The Payment and Settlement Systems Act,2008 and The Companies Act,2013.[7]

Indian Partnership Act

Section 41(a) of Indian Partnership Act provides for Compulsory dissolution, which reads as under: A firm is dissolved by the adjudication of all the partners or of all the partners but one as insolvent. Part III of the IBC (Section 78-187) deals with Insolvency Resolution and Bankruptcy for Individuals and Partnerships Firms and accordingly

[7] https://www.icsi.edu/portals/2/PPT/Varsha-IBC-230317.pdf

Section 41(a) has been omitted by virtue of Section 245 read with First Schedule of IBC.

Central Excise Act

In Section 11E of the Central Excise Act, the words, 'the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002' is replaced by the 'the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 and Insolvency and Bankruptcy Code, 2016'.

Income Tax Act

Section 178(6)[8] of the Income Tax Act said that 'the provisions of this shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force'. According to the amendment said in Section 247 read with third Schedule of IBC, after the words 'for the time being in force' the words and figures 'except the provisions of the Insolvency and Bankruptcy Code, 2016' shall be inserted.

8 https://www.icsi.edu/portals/2/PPT/Varsha-IBC-230317.pdf

Customs Act

Section 142A[9] of the Customs Act, 1962 says about the liability under act to be first charge. By the amendment said in Section 248 read with the fourth schedule of IBC, 'for the words and figures "and the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 (54 of 2002)", the words and figures " the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 and the Insolvency and Bankruptcy Code, 2016" shall be substituted'.

RDDBFI Act

Amendment to the RDDBFI Act, 1993 is said in Section 249 which is to be read with Fifth Schedule of the IBC. It amends the title where, after the words financial institutions, the words, insolvency and partnership firms are inserted. After Section 19, Section 19A was inserted which states,' The application made to Tribunal for exercising the powers of the Adjudicating Authority under the Insolvency and

[9]https://www.icsi.edu/portals/2/PPT/Varsha-IBC-230317.pdf

Bankruptcy Code,2016 shall be dealt with in the manner as provided under that code'.

Finance Act

Section 88 of The Finance Act says about liability under act to be first charge. By the amendment said in Section 250 read with Sixth Schedule of the IBC, the words the 'Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002' is replaced by 'the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002 and the Insolvency and Bankruptcy Code, 2016'.

SARFAESI Act[10]

The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (here-in-after referred to as The Securitisation Act) has been enacted with an intention to strengthen the creditors rights through foreclosure and enforcement of securities by the banks and financial institutions by conferring on the creditors the right

[10] https://priyalkothari.wordpress.com/2016/08/16/sarfaesi-act-a-constructive-remedy-for-secured-creditors/

to seize the secured asset and sell of the same in order to recover dues promptly bypassing the costly and very time consuming legal process through courts. [11]The Securitisation Act empowers the banks and FIs to move on its own against a borrower whose assets are secured, and who has made some kind of default in repayment of the same without the intervention of the court. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law. Thus after complying with the statutory provisions in the said Act, the banks can:

- Take possession of the secured assets of the borrower. This includes the right to transfer by way of lease, assignment or sale of the same for realization of the secured debt.
- Take over the management of the secured asset including the right to transfer by way of lease,

11 https://www.scribd.com/document/96139684/A-Report-on-Sarfaesi

assignment or sale of the same for realization of the secured debt.

- Appoint any person to manage the secured asset.

Amendment to the SARFAESI Act, 2002 is said in Section 251, which is to be read with Seventh Schedule of IBC. It amends Section 13(9) where the words "subjected to the provisions of The Insolvency and Bankruptcy Code, 2016 has been added to avoid any conflict with the distribution proceeds from the assets.

Sick Industrial Companies (Special Provisions) Repeal Act

Amendment to Sick Industrial Companies (Special Provisions) Repeal Act, 2003 is said in Section 252, which is to be read with Eighth Schedule of the IBC. It amends Section 4B and the section is given liberty to companies before BIFR and AAIFR to file a reference before NCLT within one hundred and eighty days. Also, no fees is payable for making reference under Insolvency and Bankruptcy Code, 2016 by a Company whose appeal or reference or inquiry stands abated under this clause. IBC does not deal with sick companies. There is no provision for formulation of scheme for revival of sick companies under IBC.

Payment and Settlement Act

Section 23 and Section 23A of Payment and Settlement Act, 2007 says about 'settlement and netting' and 'protection of funds collected from customers' respectively. By the amendment said in Section 253 read with ninth schedule of IBC in section 23, in sub-sections (4), (5) and (6), after "the Banking Regulation Act, 1949 (10 of 1949)", "the Companies Act, 2013 (18 of 2013)", the words "or the Insolvency and Bankruptcy Code, 2016" shall be inserted and in section 23A, in sub-section (3), after "the Companies Act,2013", the words "or the Insolvency and Bankruptcy Code, 2016" shall be inserted.

Limited Liability Partnership Act

Section 64(c) of Limited Liability Partnership Act 2008, which provided for inability to pay debt as a Circumstance in which Tribunal may wind up LLP has been omitted by virtue of Section 254 read with tenth schedule of IBC. The definition of Corporation persons as provided under Section 3(7) of IBC includes a LLP, as defined in the LLP

Act. Ground inability to pay debt no longer subsists and a creditor (financial and operational) can initiate insolvency proceedings against a LLP only before National Company Law Tribunal under IBC.

Companies Act

The act which affect the most is The Companies Act, 2013 and been made harmonious to the provisions of the IBC. According to Section 255 of the IBC, The Companies Act, 2013 shall be amended in the manner specified in the Eleventh Schedule. Under the Eleventh Schedule almost 36 amendments have been introduced.

Highlights of Amendments[12]

1. Reference of winding up under IBC in Companies Act, 2013 by amending following sections 2(94A), 224(2), 249(1)(e) & 419]
2. Definition of company liquidator to also include liquidator under IBC [2(23), 77(3) & 230(1) & (6)]

12 http://www.onlinelawsolutions.com/index.php/2016/05/29/amendments-made-to-companies-act-2013-vide-insolvency-code-2016/

3. Voluntary winding up provisions removed from Companies Act, 2013 & put in IBC: (a) Provisions omitted – 304 to 323 & 342(2), (3) & (4) (b) Provisions amended – 117(3)(f), 329, 334, 336(1), 337, 343(1), 347(1), 348(1), 357 & 468 (c) Corresponding provisions under IBC – 59 read with 35 to 53 (d) Company which has made any default cannot make application for voluntary liquidation. (e)[13] Default under IBC means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not repaid.
4. Sick companies provisions removed from Companies Act, 2013 & put in IBC: (a) Provisions omitted – 253 to 269 (b) Provisions amended – 280 Sick Companies: Following enactments were brought in as to Sick Companies :- (1) SICA -1985 read with 1991 &1993 amendment (2) (Amend) Act, 2002 – Never made effective (3) SICA (Special Provision) Repeal, Act – Not yet effective & now

[13]http://www.mondaq.com/india/x/623536/Insolvency+Bankruptcy/Default+Under+Insolvency+Bankruptcy+Code+2016

amended by IBC (4) Act, 2013 – Never made effective & now omitted by IBC (5) IBC – provisions to be notified As IBC provides opportunity of resolution & liquidation to both financial & operational creditor on a speedy basis hence sick Company provisions omitted. Further SICA Repeal Act has been amended to facilitate transfer of proceedings from BIFR/AABIFR to NCLT/NCLAT.

5. Petition for winding up by NCLT cannot be made by a creditor under Companies Act, 2013. Section 272 of CA, 2013 was amended and creditor removed from entitlement of making application for winding up to tribunal. Sufficient remedy is given in IBC that they first have right to initiate resolution of insolvency proceedings on failure of which liquidation application may be made.

Major Sections amended in Companies Act are:

- Section 2(23)- relating to Company Liquidator
- Section 2(94)- relating to winding up
- Section8(9)- the rehabilitation and insolvency fund

- Section 66(8)- unable to pay the amount of debt or claim
- Section 224- wound up under Companies Act
- Section 230- liquidator
- Section 272- petition for winding up
- Section 275(2)- Provisional Liquidator
- Section 280- jurisdiction
- Section 326- Overriding preferential payments
- Section 434- transfer of pending proceedings
- Section 468- relating to proceedings have been amended.

CONCLUSION

'India has completed 25 years of its economic reforms. The economic reforms can be successful if the country keeps pace with its finance sector legislations. By analysing the past and the present we can understand that there is a need for a unified code especially because currently the issue is handled under 13 different laws. This code seeks to replace the Presidency Towns Insolvency Act, 1909 and Provincial Insolvency Act, 1920, also it seeks to amend 11 laws, including the Companies Act, 2013, Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and Sick Industrial Companies (Special Provisions) Repeal Act, 2003, among others.

Earlier, if a company defaults, there were at least four different legal routes available to the debtors and creditors. This could lead to multiple negotiations, multiple penalties etc. for the debtor, compounding his plight. As there was parallel proceedings available to the debtor it has given rise to numerous instances of conflict between the laws. Four different agencies, the high courts, the Company Law Board, the Board for Industrial and Financial Reconstruction (BIFR), and the Debt Recovery Tribunals (DRTs) have overlapping jurisdiction, giving rise to the potential of systemic delays and complexities in the process. This new bill addresses these issues, by bringing in a new uniform Code. According to World Bank data, it takes **more than four years** to wind up an ailing company in India, almost twice as long as it does in China, thereby the value of the assets depreciated and made the insolvency negotiations superfluous. Before the enactment of IBC the disposition involved the institution of official liquidator, which was prone to bureaucracy chronic corruption, and nepotism. The Code seeks to provide a solution to this problem by reducing the role of official liquidator. Currently, only the creditors recover 25% of the asset value even after the liquidation process, all these compounded to the pitiable position our Public Sector Banks. Rising non-performing assets and mounting Stressed Assets have grinded down their profits, as the recent SBI reports point out. The easing of liquidation process can help the banks recover many bad debts. The empirical analysis indicate that the IBC is likely to have a structural change in the behaviour of economic agents, as well as in the areas where the NCLT functions as the adjudicator under IBC.