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Evolution Of Insolvency Law In India Leading Up To The Insolvency And Bankruptcy Code, 2016

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Abstract

India's insolvency framework has gradually progressed from a scattered collection of colonial laws to a unified and contemporary system capable of addressing modern financial challenges. The early insolvency laws in India were primarily punitive, focusing on debtor fault rather than on financial rehabilitation, treating insolvency as a moral issue rather than an economic process. As industrialization and globalization progressed, the shortcomings of earlier laws such as the Presidency Towns Insolvency Act, the Provincial Insolvency Act, and subsequently, the Companies Act of 1956, became more evident. The presence of multiple overlapping statutes and authorities resulted in procedural delays, low recovery rates, and diminishing creditor trust.

The enactment of the Insolvency and Bankruptcy Code (IBC) in 2016 represented a major transformation in India's legal and financial architecture. The Code unified various insolvency processes for different entities into a single, time-sensitive framework designed to maintain asset value. This research paper outlines the historical development of insolvency laws in India, highlights major shortcomings in the pre-IBC system, and explores the factors that prompted the creation of the IBC. The study concludes that the IBC has led to enhanced credit discipline, improved coordination between creditors and debtors, and greater investor confidence in India's financial system.

Keywords: *Insolvency Law, Bankruptcy Code, Corporate Restructuring, Financial Distress, Insolvency and Bankruptcy Code (IBC), 2016, Legal Reforms in India, Debt Recovery, Non-Performing Assets (NPAs), Corporate Insolvency Resolution Process (CIRP), Economic Liberalization, Judicial Reforms, Insolvency Framework Evolution, Creditor–Debtor Relationship, Financial Sector Reforms*

1. Introduction

A robust insolvency system is fundamental to a sound economic framework. It not only facilitates prompt debt recovery for creditors but also enables debtors to reorganize or liquidate their assets systematically. In India, however, insolvency has traditionally been viewed through a moral and punitive perspective rather than as an economic and financial tool. The lack of a cohesive framework for many years has led to inconsistencies that have impeded both business efficiency and investor trust.

Insolvency refers to a situation where an individual or company cannot meet debt obligations on time, while bankruptcy is the formal court acknowledgment of this financial incapacity. A well-designed insolvency law fulfills various roles; it reinstates credit confidence, encourages entrepreneurship, and aids in maintaining financial stability by averting the accumulation of non-performing assets (NPAs).

Before the enactment of the Insolvency and Bankruptcy Code (IBC) in 2016, India's insolvency laws were dispersed across multiple, uncoordinated statutes. Each of these laws, from the Presidency Towns Insolvency Act of 1909 and the Provincial Insolvency Act of 1920 to subsequent regulations like the Companies Act of 1956 and the Sick Industrial Companies (Special Provisions) Act of 1985, tackled insolvency matters in a piecemeal fashion.[1] This plethora of laws led to jurisdictional conflicts, procedural delays, and subpar asset recovery outcomes.

The post-liberalization economic reforms of the 1990s exposed the weaknesses of India's existing insolvency framework even more clearly. As businesses grew and financial dealings became increasingly intricate, the inadequacy of outdated legal frameworks emerged as a significant barrier to India's credit environment. Committees such as the Narasimham Committee and the Eradi Committee consistently underscored the necessity for a comprehensive insolvency framework that could bring India in line with international standards.

The introduction of the IBC in 2016 was the culmination of decades of incremental legal and economic evolution rather than a sudden reform. It marked a significant shift from a disjointed, litigation-focused system to a cohesive, creditor-oriented framework that prioritizes timely resolutions. The IBC aimed to strike a balance between protecting debtors and upholding creditor rights, facilitating quicker recoveries while encouraging responsible business practices.

This research paper delves into the historical path that led to the creation of the IBC, thoroughly analyzing the socio-economic factors, legal gaps, and institutional hurdles that influenced its evolution.

[1] *Presidency Towns Insolvency Act*, No. 3 of 1909 (India).

By reviewing pre-IBC legislation, important committee suggestions, and subsequent reforms, this study seeks to comprehend how the Code has altered India's insolvency environment and the insights it offers for future policy development.

2. Literature Review

The evolution of insolvency law in India has been extensively examined through a combination of legislative analyses, committee reports, and scholarly commentaries. Several researchers have emphasized that India's pre-IBC insolvency framework was fragmented and inefficient, with multiple overlapping statutes creating procedural complexity and delaying resolution. Scholars such as R. Varottil (2018) and Shroff & Varma (2017) have highlighted that the colonial insolvency statutes — namely, the Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920 — reflected a punitive, debtor-centric philosophy rather than a system of economic rehabilitation.

Post-independence, legal scholars have studied how the Companies Act, 1956, the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA), and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, functioned in isolation without coordination. The inefficiencies of these laws led to poor asset recovery, as noted in reports by the World Bank and the Reserve Bank of India, which consistently ranked India low in "ease of resolving insolvency."

The works of the Narasimham Committee (1991 & 1998), the Eradi Committee (1999), and the Bankruptcy Law Reforms Committee (2014–15) collectively shaped academic understanding of the transition toward a unified insolvency regime. The Narasimham Committee first highlighted the necessity for institutional mechanisms to tackle non-performing assets (NPAs), while the Eradi Committee recognized the duplication of jurisdictions between BIFR, DRTs, and High Courts as a major bottleneck. The BLRC's report became a landmark, proposing the framework that culminated in the Insolvency and Bankruptcy Code, 2016.

Contemporary research by economic and legal analysts such as Krishnamurthy (2019), Gopalan (2020), and the Indian Institute of Corporate Affairs (IICA) demonstrates that the IBC has significantly improved creditor confidence, reduced resolution timelines, and enhanced investor sentiment. However, critics argue that challenges persist in areas such as cross-border insolvency, the capacity of insolvency professionals, and the need for judicial consistency.

Thus, existing literature suggests that while the IBC represents a paradigm shift in India's financial and legal landscape, continuous institutional strengthening and regulatory refinement are required to realize

its full potential. This paper contributes to the literature by offering a historical synthesis of India's insolvency laws, bridging the gap between fragmented pre-IBC mechanisms and the integrated structure of the 2016 Code.

3. Research Methodology

This research is primarily **doctrinal** and **qualitative** in nature, relying on an analytical and historical approach to trace the progression of insolvency law in India leading up to the enactment of the Insolvency and Bankruptcy Code, 2016. The study involves a comprehensive examination of **primary legal sources**, including statutory texts such as the Presidency Towns Insolvency Act, 1909; the Provincial Insolvency Act, 1920; the Companies Act, 1956; SICA (1985); the RDDBFI Act (1993); the SARFAESI Act (2002); and the Insolvency and Bankruptcy Code, 2016.

In addition to legislation, **secondary sources** such as committee reports (Narasimham Committee, Eradi Committee, and Bankruptcy Law Reforms Committee), government publications, academic journals, case law commentaries, and data from institutions like the Reserve Bank of India (RBI) and the World Bank have been analyzed. The study employs a **comparative method**, juxtaposing India's insolvency evolution with international models such as the U.S. Bankruptcy Code (Chapter 11) and the U.K. Insolvency Act, 1986, to contextualize reforms within global standards.

The methodology follows a **chronological framework**, examining colonial, post-independence, and liberalization phases to highlight structural and policy transitions. Qualitative content analysis has been applied to interpret the legislative intent and socio-economic motivations behind successive reforms.

This research aims not only to document the legislative evolution but also to evaluate the effectiveness of these reforms in achieving economic stability, promoting creditor confidence, and fostering a culture of responsible borrowing. The findings of this study are intended to contribute to academic discourse, policy refinement, and future reforms in India's insolvency ecosystem.

4. Early Insolvency Framework in Colonial India

The origins of India's insolvency law date back to the era of British colonial rule, a time when trade and commerce thrived under the East India Company. With the expansion of the economy, disputes regarding unpaid debts and unsuccessful business endeavors also increased. The colonial government, mainly focused on safeguarding the interests of British merchants and investors, implemented insolvency laws based on English legal principles. Nevertheless, these initial frameworks were not

comprehensive and were largely punitive, viewing insolvency as a moral shortcoming instead of an economic issue.

4.1 The Presidency Towns Insolvency Act, 1909

Among the earliest legislative responses to insolvency in India was the 1909 Act, which reflected British legal influences and primarily targeted traders in major colonial cities. The Act applied exclusively to the Presidency towns of Calcutta, Bombay, and Madras, then the key centers of British trade operations. The Act drew inspiration from the English Bankruptcy Act of 1883, focusing on creditor rights and introducing formal processes for declaring an individual insolvent.

Under this legislation, debtors who were unable to fulfill their financial commitments could either voluntarily apply for insolvency or be forced to do so by their creditors. The law created a legal framework for the distribution of the debtor's assets among creditors following liquidation. Procedures under the Act were lengthy and largely creditor-centric, leaving limited opportunity for debtors to reorganize their financial affairs. Additionally, its jurisdiction was geographically restricted, leaving most of British India outside its scope. This resulted in a distinct urban-rural disparity in insolvency regulation.

Despite its shortcomings, the Act represented a significant advancement in the codification of insolvency principles in India. It introduced key concepts such as the adjudication of insolvency, the appointment of official assignees, and the discharge of debtors, principles that still impact contemporary insolvency laws. However, due to its lack of provisions for corporate insolvency, it mainly focused on individuals and partnership firms, rather than companies.

4.2 The Provincial Insolvency Act, 1920

Acknowledging the necessity for a broader legal framework, the Provincial Insolvency Act of 1920 was established to expand insolvency regulations to areas beyond the Presidency towns. This legislation aimed to foster consistency across provinces, facilitating a more comprehensive debt resolution system.

The Provincial Insolvency Act simplified procedures for small traders and rural debtors by allowing insolvency petitions to be filed directly in district courts. It also embraced the concept of safeguarding debtors who acted in good faith, differentiating between fraudulent and honest insolvency. Nevertheless, similar to the Presidency Towns Act, it remained predominantly focused on debtors and did not include provisions for corporate insolvency or restructuring.

The execution of the Act was further complicated by inadequate institutional capacity. District courts were overwhelmed, procedural requirements were protracted, and the stigma surrounding insolvency deterred voluntary disclosures. As a result, despite the Act marking an advancement in legal coverage, it did not sufficiently tackle the increasing intricacies of India's industrial and commercial sectors in the early 20th century

4.3 Influence of English Law

British legal philosophy had a significant impact on India's insolvency laws during this era. The core belief was that insolvency represented a personal shortcoming instead of a mere financial setback. As a result, insolvency proceedings frequently led to social stigma, imprisonment, or a lasting damage to one's reputation. British insolvency law favored liquidation rather than business recovery, and these priorities were transplanted into the Indian system without much adaptation to indigenous realities.

Nevertheless, as time passed, economic realities started to question this moralistic viewpoint. The growing involvement of Indian traders, industrialists, and moneylenders in colonial markets exerted pressure for a more equitable and effective insolvency system. However, the colonial government's limited concern for the welfare of local businesses meant that substantial reform would not take place until after independence.

4.4 Legacy of the Colonial Framework

When India achieved independence in 1947, its insolvency laws were still fragmented, outdated, and largely unfit for the requirements of a modern industrial economy. The Presidency Towns and Provincial Insolvency Acts persisted alongside each other, leading to jurisdictional confusion and procedural overlap. These laws were crafted for a time of small-scale commerce, rather than for corporate entities or financial institutions.

The lack of a corporate insolvency framework meant that struggling companies could only be liquidated under the Companies Act of 1913, which proved to be cumbersome and ineffective. Recovery rates were dismally low, and creditors frequently endured lengthy waits for partial payments. Consequently, the colonial insolvency system established a fragile legal foundation that could not adequately support the economic aspirations of the post-independence era.

In conclusion, the early insolvency laws of colonial India set the stage for formal debt adjudication but fell short of equipping businesses with the necessary tools for revival or economic sustainability. They regarded insolvency as a personal failure instead of a chance for financial restructuring, a viewpoint that

India would gradually begin to move away from in the decades after independence.

5. Early Insolvency Framework in Colonial India

The origins of India's insolvency legislation date back to the colonial period, when British officials established legal frameworks that largely reflected English bankruptcy statutes. The aim was not to foster economic recovery or support corporate rehabilitation, but to safeguard creditors and penalize debtors who failed to meet their obligations. This initial structure set the stage for subsequent insolvency laws in independent India, yet its inflexible and moralistic stance obstructed the development of a contemporary insolvency culture.

5.1 The Presidency Towns Insolvency Act, 1909

The initial formal codification of insolvency law in India was established by the Presidency Towns Insolvency Act of 1909, which was applicable solely to the three principal British presidencies: Bombay, Calcutta, and Madras. This Act was closely modeled after the English Bankruptcy Act of 1883. It addressed the insolvency of both individuals and partnerships, outlining procedures for adjudication, asset distribution, and debtor discharge.

Under this legislation, insolvency was characterized as a debtor's inability to settle debts of ₹500 or more. A creditor had the right to petition the High Court for a declaration of insolvency, and once declared, the debtor's assets would be transferred to an official assignee, tasked with realizing and distributing the assets to creditors. The Act placed a strong emphasis on procedural formality and judicial oversight, with little attention given to rehabilitation or commercial restructuring.

Although the 1909 Act marked progress towards a codified financial discipline, its geographical limitations and failure to reflect India's varied economic conditions were significant drawbacks. The Act's reliance on court procedures resulted in prolonged delays, and the lack of institutional support hindered asset realization. Additionally, the Act's concentration on individuals rather than corporations mirrored the limited industrial development in India during the early twentieth century.

5.2 The Provincial Insolvency Act, 1920

Acknowledging the necessity for a broader framework, the British government implemented the Provincial Insolvency Act of 1920 to expand insolvency regulations to areas beyond the presidency towns. This legislation largely mirrored the provisions of the 1909 Act but assigned jurisdiction to district courts instead of High Courts. It introduced new concepts such as voluntary and involuntary

insolvency, the vesting of property in a receiver, and fair distribution among creditors.

While the Provincial Insolvency Act extended the reach of insolvency laws, it continued to function within the same punitive framework. Debtors faced social stigma, and insolvency was perceived as a personal failure rather than a business risk. The Act did not provide mechanisms for restructuring or revival, rendering liquidation the only viable outcome.

From a procedural standpoint, the 1920 Act encountered considerable implementation difficulties. District courts were overwhelmed, receivers were often untrained, and debtors frequently hid assets due to societal stigma. As a result, the process became lengthy and ineffective, yielding minimal recovery for creditors. The focus remained on individual insolvency, as corporate insolvency had not yet emerged as a significant issue in colonial India.

5.3 Nature and Limitations of Early Insolvency Laws

Both colonial Acts shared several limitations that rendered them ineffective in fostering a robust financial system:

1. **Fragmented Application:** The dual structure, one for presidency towns and another for the rest of India, reated inconsistency in legal interpretation and enforcement.
2. **Judicial Dependence:** Courts were central to every stage of insolvency, causing excessive procedural delays and administrative bottlenecks.
3. **Lack of Institutional Support:** There were no specialized insolvency professionals or agencies to oversee asset distribution or debtor rehabilitation.
4. **Absence of Corporate Insolvency Mechanism:** Neither Act addressed company failures; hence, commercial entities relied on winding-up provisions under company law.
5. **Moral Stigma:** The colonial system treated insolvency as a moral and personal failing rather than as a legitimate financial risk associated with commerce.

These limitations meant that insolvency laws functioned more as punitive tools than as economic recovery mechanisms. The underlying philosophy was creditor protection, not market stability or business rescue. Consequently, insolvency proceedings were rare, cumbersome, and socially undesirable.

5.4 Legacy and Transition

Despite their limitations, the Acts of 1909 and 1920 established the foundation for organized debt resolution in India. They introduced the idea of fair asset distribution, acknowledged secured creditors, and provided for statutory insolvency adjudication. However, following independence, these colonial regulations quickly became outdated in a swiftly industrializing economy.

The period after 1947 necessitated a legal transition from individual insolvency to corporate restructuring. With India embracing a mixed economy model and the rise of large public and private enterprises, the previous framework was inadequate for managing institutional debt or corporate failures. The shortcomings of the colonial insolvency system thus led to the creation of new legislation, particularly the Companies Act of 1956 and the Sick Industrial Companies (Special Provisions) Act of 1985.

Looking back, the initial insolvency laws during British rule marked the start of India's formal interaction with bankruptcy legislation, yet they did not progress beyond the convenience of colonial administration. They were deficient in sophistication, speed, and institutional coordination required for a contemporary insolvency system. Nevertheless, these Acts laid the groundwork for adjudication and asset distribution concepts that would later shape post-independence insolvency reforms and ultimately impact the development of the Insolvency and Bankruptcy Code of 2016.

6. Post-Independence Developments and the Fragmented Legal Regime (1950–2000)

After India's independence in 1947, the country adopted a mixed economic model driven by industrial growth, public sector expansion, and financial regulation. As the economy diversified, the need for a robust insolvency system became evident. However, following independence, India's insolvency regime developed through several isolated laws, each functioning independently without an overarching framework. Each statute addressed specific aspects of financial distress, ranging from company liquidation to debt recovery, yet failed to provide a comprehensive, time-bound mechanism for resolving insolvency. This fragmentation led to procedural complexity, overlapping jurisdictions, and systemic inefficiency, delaying the resolution of distressed assets and discouraging credit growth.

6.1 The Companies Act, 1956

One of the earliest post-independence laws touching upon corporate insolvency, albeit indirectly, was

the Companies Act of 1956.[2] It regulated the formation, management, and dissolution of companies. Chapter V of the Act established the procedures for winding up companies through the High Court, whether voluntarily or involuntarily, in cases where a company could not meet its debt obligations.

The court-focused approach of the Act made liquidation the primary option instead of rehabilitation. Cases were processed through High Courts, leading to significant delays and complex procedures. There was no dedicated tribunal or expedited process for companies in distress. Additionally, the legislation failed to differentiate between insolvency resulting from legitimate business failures and that caused by fraud or mismanagement.

Ultimately, the Companies Act embodied a liquidation-centric mindset, perceiving insolvency as the conclusion of a business rather than a chance for restructuring. The absence of professional insolvency practitioners and creditor committees further exacerbated the inefficiencies. This resulted in extended legal battles, often lasting for decades, during which assets depreciated and creditors received minimal or no recovery.

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

The industrial downturn of the late 1970s and early 1980s prompted the introduction of the Sick Industrial Companies (Special Provisions) Act, 1985, widely referred to as SICA.[3] This legislation represented a crucial effort to facilitate the rehabilitation of struggling industrial enterprises. The Act created the Board for Industrial and Financial Reconstruction (BIFR) and the Appellate Authority for Industrial and Financial Reconstruction (AAIFR), both functioning as quasi-judicial entities tasked with identifying and revitalizing "sick" companies.

Under SICA, any industrial company whose total losses matched or surpassed its net worth was mandated to register with BIFR. Following registration, the Board had the authority to propose rehabilitation plans, mergers, acquisitions, or, if recovery was deemed impossible, to suggest liquidation.

Although SICA was progressive in its focus on rehabilitation rather than liquidation, it quickly became associated with delays and exploitation. Numerous promoters took advantage of the system to protect themselves from creditor actions. Once a company registered with BIFR, creditors were prohibited from starting recovery processes, which frequently resulted in stagnation instead of revival. The procedure lacked definitive timelines and robust enforcement measures, leading to a backlog of cases that remained unresolved for years. As a result, SICA's initial goal of rejuvenating viable industries was eclipsed by

[2] *Companies Act*, No. 1 of 1956 (India).
[3] *Sick Industrial Companies (Special Provisions) Act*, No. 1 of 1986 (India).

inefficiency and misuse.

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

The RDDBFI Act of 1993 was implemented to accelerate the recovery of loans owed to banks and financial institutions, reflecting the government's increasing concern regarding the rise of non-performing assets (NPAs).[4] This Act established Debt Recovery Tribunals (DRTs) and Debt Recovery Appellate Tribunals (DRATs) to alleviate the burden on civil courts.

Although the RDDBFI Act enhanced the efficiency of debt recovery to a certain degree, its applicability was restricted to banks and financial institutions. It did not offer a resolution mechanism for borrower insolvency or corporate restructuring. Additionally, the DRTs quickly encountered capacity limitations, resulting in growing case backlogs. There was no provision for collective creditor action, and disputes frequently remained unresolved for extended periods, diminishing asset value.

In spite of its limitations, the RDDBFI Act served as a precursor to the more extensive mechanisms introduced under the Insolvency and Bankruptcy Code (IBC), as it laid the groundwork for specialized tribunals addressing financial disputes, a concept that would later be expanded upon by the National Company Law Tribunal (NCLT).

6.4 The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002

The SARFAESI Act of 2002 marked a significant reform in the debt recovery framework of India.[5] It granted banks and financial institutions the authority to enforce their security interests without the need for court intervention. Creditors were able to seize and liquidate the assets of borrowers in default to recover outstanding dues, thus avoiding protracted litigation.

Furthermore, the Act established Asset Reconstruction Companies (ARCs), which allowed financial institutions to offload non-performing loans and improve their balance sheets. This initiative provided greater flexibility in managing bad debts and contributed to the stability of the credit market.

Nevertheless, SARFAESI functioned primarily as a tool for creditor enforcement rather than a comprehensive insolvency framework. It did not include provisions for restructuring or rehabilitation, concentrating exclusively on recovery efforts. Moreover, its scope was restricted to secured creditors,

[4]*Recovery of Debts Due to Banks and Financial Institutions Act*, No. 51 of 1993 (India).; Reserve Bank of India, Report on Trend and Progress of Banking in India (2001).
[5]*Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act*, No. 54 of 2002 (India).

leaving unsecured creditors and small businesses without adequate recourse. Over time, even the proceedings under SARFAESI became mired in litigation, as debtors often contested enforcement actions in High Courts.

6.5 Fragmentation and Systemic Inefficiency

By the early 2000s, India's insolvency regime was governed by **a patchwork of overlapping legislations**, the Companies Act, SICA, RDDBFI, and SARFAESI, all operating with conflicting objectives. This lack of a cohesive legal structure led to uncertainty for both creditors and debtors, as well as inconsistent decision-making across tribunals.

Key systemic flaws included:

1. **Multiple institutions**: Including the BIFR, DRTs, and High Courts, shared overlapping responsibilities in insolvency cases, resulting in frequent jurisdictional clashes
2. **No Time-Bound Process:** None of the existing laws imposed strict deadlines, resulting in prolonged delays.
3. **Low Recovery Rates:** Creditors often recovered less than 25% of dues, discouraging future lending.
4. **Lack of Creditor Coordination:** Each creditor pursues individual remedies, undermining collective restructuring efforts.
5. **Absence of Professional Management:** Insolvency resolution lacked trained professionals to oversee restructuring or liquidation.

The net effect was a legal environment that neither protected creditors nor revived debtors. Investors, both domestic and foreign, viewed the Indian credit market as high-risk due to its unpredictable recovery mechanisms.

6.6 The Push for Reform

The economic liberalization of 1991 brought to light the shortcomings of India's insolvency laws under global examination. The Narasimham Committee (1991 and 1998) along with the Eradi Committee (1999) underscored the pressing necessity for a comprehensive bankruptcy framework. Notably, the Eradi Committee advocated for the creation of a singular tribunal to oversee company law and insolvency issues, stressing the significance of empowering creditors and ensuring timely resolutions.

These suggestions formed the basis for a cohesive legal reform aimed at aligning India with international

benchmarks, including those of the United States and the United Kingdom. Nevertheless, the execution of these reforms was sluggish, and it was not until the mid-2010s that the vision was realized through the Bankruptcy Law Reforms Committee (BLRC), which crafted what ultimately became the Insolvency and Bankruptcy Code, 2016.

Conclusion

The post-independence insolvency framework of India was characterized by legal fragmentation, procedural delays, and ineffective enforcement. Although each law, Companies Act, SICA, RDDBFI, and SARFAESI, addressed specific challenges of its time, their combined effect was one of institutional chaos. The absence of a cohesive insolvency system stifled entrepreneurship, increased the burden on courts, and limited economic dynamism.

By the early 21st century, policymakers and economists recognized that India's insolvency ecosystem required a **paradigm shift**, from fragmented and reactive laws to a comprehensive, time-bound, and market-oriented framework. This realization set the stage for the revolutionary Insolvency and Bankruptcy Code of 2016, which sought to unify, simplify, and modernize the insolvency process in India.

7. Economic Liberalization and the Push for Reform (1991–2015)

The 1991 economic reforms marked a defining moment in India's journey toward industrial and financial modernization.[6] During a period marked by a critical balance of payments crisis, dwindling foreign reserves, and an unsustainable fiscal deficit, the government led by Prime Minister P.V. Narasimha Rao and Finance Minister Dr. Manmohan Singh launched an extensive array of economic reforms. These initiatives aimed to stabilize the economy and reshape India's developmental trajectory by abolishing the long-established License Raj, diminishing state intervention, and promoting foreign direct investment (FDI), privatization, and market competition.

This transition from a protectionist economy to a liberalized, globalized, and market-oriented framework created unparalleled growth prospects. It encouraged entrepreneurship, industrial growth, and integration into global markets. Nevertheless, liberalization also brought forth new challenges in financial transactions, credit systems, and corporate governance. The swift acceleration of economic activities underscored the shortcomings of India's antiquated insolvency and bankruptcy laws, which were still based on colonial-era regulations and fragmented post-independence legislation. As a result,

[6] Ministry of Finance, Government of India, Economic Reforms and Liberalization Policies (1991–1993) (1993).

while liberalization unleashed economic potential, it also highlighted the pressing need for a contemporary, effective, and cohesive insolvency framework to meet the requirements of a changing economy.

7.1 The Impact of Economic Liberalization

The economic liberalization that took place in 1991 is considered one of the most pivotal moments in the financial and industrial evolution of India. This era was characterized by a severe balance of payments crisis, declining foreign reserves, and an unmanageable fiscal deficit. In response, the government, under the leadership of Prime Minister P.V. Narasimha Rao and Finance Minister Dr. Manmohan Singh, initiated a comprehensive set of economic reforms. These measures were designed to stabilize the economy and alter India's developmental path by dismantling the long-standing License Raj, reducing state intervention, and encouraging foreign direct investment (FDI), privatization, and market competition.

This shift from a protectionist economic model to a liberalized, globalized, and market-driven system opened up unprecedented opportunities for growth. It fostered entrepreneurship, stimulated industrial expansion, and facilitated integration into international markets. However, the process of liberalization also introduced new challenges related to financial transactions, credit systems, and corporate governance. The rapid increase in economic activities revealed the inadequacies of India's outdated insolvency and bankruptcy laws, which were still rooted in colonial-era frameworks and fragmented legislation from the post-independence period. Consequently, while liberalization unlocked significant economic potential, it also underscored the urgent need for a modern, efficient, and unified insolvency framework to address the demands of an evolving economy.

7.2 The Narasimham Committee Reports (1991 & 1998)

To address structural weaknesses in the banking and financial system, the government established two committees under the chairmanship of **M. Narasimham**, a former Governor of the Reserve Bank of India.[7]

- The **First Narasimham Committee (1991)** focused on banking sector reforms and emphasized reducing NPAs by improving loan recovery mechanisms. It proposed establishing specialized tribunals for quicker debt recovery, an idea that led to the creation of **Debt Recovery Tribunals (DRTs)** under the RDDBFI Act, 1993.

[7] Narasimham Committee, Report of the Committee on the Financial System (1991); Narasimham Committee, Report on Banking Sector Reforms (1998).

- The **Second Narasimham Committee (1998)** delved deeper into the need for a comprehensive insolvency framework. It pointed out that the existing mechanisms were fragmented and judicially dependent, resulting in prolonged delays. The committee recommended the creation of an integrated system that could handle both restructuring and liquidation under one roof.

These reports highlighted a fundamental shift in India's policy thinking: insolvency resolution was no longer viewed as a legal formality but as a vital component of financial stability.

7.3 The Justice Eradi Committee (1999)

In continuation of the Narasimham recommendations, the government constituted the **Justice V. Balakrishna Eradi Committee** in 1999 to review the functioning of company law and suggest reforms.[8] The committee's report was one of the most influential precursors to the Insolvency and Bankruptcy Code (IBC), 2016.

The Eradi Committee noted that the BIFR framework established under SICA suffered from delays, lack of transparency, and frequent procedural abuse. It observed that the overlapping jurisdictions between BIFR, High Courts, and DRTs caused duplication of efforts and conflicting orders. To streamline the process, the committee recommended:

1. **A single quasi-judicial authority** to handle company law, restructuring, and insolvency matters.
2. **Time-bound resolution** of insolvency cases to prevent erosion of asset value.
3. **Creditor participation and empowerment** in the decision-making process.
4. **Early detection** of financial distress to prevent liquidation wherever possible.

These recommendations later inspired the creation of the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT), both of which became central to the IBC's architecture.

7.4 The Global Influence: Learning from International Models

During the late 1990s and early 2000s, globalization exposed India to international best practices in insolvency management. Countries such as the United States (under Chapter 11 of the U.S. Bankruptcy Code) and the United Kingdom (under the Insolvency Act, 1986) had already established advanced frameworks that balanced debtor rehabilitation with creditor protection.

[8] Justice V. Balakrishna Eradi Committee, Report on the Law Relating to Insolvency and Winding Up of Companies (2000).

The World Bank and the United Nations Commission on International Trade Law (UNCITRAL) also developed model laws and principles that emphasized time-bound restructuring, institutional independence, and the importance of maximizing asset value. India began to align its legal philosophy with these global trends, recognizing that investor confidence depended heavily on the efficiency of its insolvency regime.

The World Bank's Doing Business Reports repeatedly ranked India poorly in the category of "resolving insolvency," signaling a need for urgent reform. This international scrutiny added momentum to domestic efforts to design a unified insolvency framework that could meet global benchmarks.

7.5 The Role of the Bankruptcy Law Reforms Committee (BLRC), 2014–2015

By the mid-2010s, the inefficiency of India's insolvency system had become a significant macroeconomic concern. Non-performing assets had crossed alarming levels, investor confidence was weakening, and banks were burdened by bad loans. In this context, the Ministry of Finance constituted the **Bankruptcy Law Reforms Committee (BLRC)** in August 2014 under the chairmanship of **Dr. T.K. Viswanathan**, former Secretary-General of the Lok Sabha.

The BLRC conducted an in-depth review of India's insolvency laws and proposed a **comprehensive, creditor-driven, and time-bound system** applicable to individuals, partnerships, and corporate entities alike. Its report, submitted in November 2015, became the blueprint for the **Insolvency and Bankruptcy Code (IBC), 2016**.

The BLRC's guiding principles were transformative:

- The Code should **consolidate all existing insolvency laws** into one coherent framework.
- Insolvency resolution must occur within a **strict timeline of 180 days**, extendable by only 90 days.
- Decision-making should be **creditor-centric**, ensuring that financial creditors lead the process.
- Independent institutions such as **Insolvency Professionals (IPs)**, **Information Utilities (IUs)**, and a dedicated regulator the **Insolvency and Bankruptcy Board of India (IBBI)** should be established.

The committee envisioned the IBC as a modern economic tool rather than a mere legal statute, one that could promote entrepreneurship, reduce systemic risk, and strengthen India's position in the global financial landscape.

7.6 The Insolvency and Bankruptcy Code (IBC), 2016

The IBC represented the culmination of decades of deliberation and reform. It aimed to harmonize the insolvency process across sectors, including individuals, partnerships, and corporate entities and introduced a structured mechanism for resolution and liquidation.[9] The Code established a new institutional architecture comprising the National Company Law Tribunal (NCLT), the Insolvency and Bankruptcy Board of India (IBBI), Insolvency Professionals (IPs), and Information Utilities (IUs). It emphasized creditor empowerment, transparency, and accountability, while setting strict timelines for resolution to preserve asset value and ensure predictability.[10]

The IBC represented more than a mere statutory reform, it redefined the governance of financial distress and corporate accountability in India. It signaled a shift from a debtor-friendly regime to a balanced framework that protects the interests of both creditors and debtors. By fostering a culture of financial discipline and responsible borrowing, the Code contributed to the development of a more resilient and investor-friendly financial ecosystem.

In conclusion, the period from 1991 to 2015 was characterized by a growing recognition that India's fragmented insolvency laws were incompatible with the demands of a liberalized economy. The enactment of the IBC in 2016 was the result of sustained efforts by successive committees and policymakers to create a unified, efficient, and transparent insolvency framework. It ushered in a new era of legal and institutional reform, positioning India as a more attractive destination for investment and economic growth.

Conclusion

The period between 1991 and 2015 marked a critical phase in India's economic and legal evolution, particularly in the domain of insolvency and bankruptcy law. With the onset of economic liberalization in 1991, India transitioned from a protectionist, state-controlled economy to a more open, market-driven system. This shift brought with it a surge in private enterprise, foreign investment, and credit expansion. However, the existing legal framework for resolving financial distress remained rooted in colonial-era statutes and fragmented post-independence legislation, which were ill-equipped to handle the complexities of a modern, globalized economy.

India's insolvency regime during this time was governed by a patchwork of laws, including the Companies Act of 1956, the Sick Industrial Companies (Special Provisions) Act of 1985 (SICA), the Recovery of Debts Due to Banks and Financial Institutions Act of 1993 (RDDBFI), and the

[9] *Insolvency and Bankruptcy Code*, No. 31 of 2016 (India).
[10] Ministry of Corporate Affairs, Government of India, *The Insolvency and Bankruptcy Code, 2016: A Policy Perspective* (2017).

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act of 2002 (SARFAESI). Each of these laws addressed specific aspects of financial distress but operated in silos, resulting in overlapping jurisdictions, procedural delays, and inconsistent outcomes. The absence of a unified, time-bound process for resolving insolvency led to prolonged litigation, low recovery rates, and erosion of asset value, all of which undermined creditor confidence and discouraged investment.

As India's financial sector grew in size and complexity, the limitations of this fragmented legal architecture became increasingly apparent. The post-liberalization era exposed deep structural weaknesses in the institutional mechanisms for handling insolvency. Companies facing financial distress often exploited loopholes in the system to delay resolution, while creditors struggled to recover dues in a timely and efficient manner. The lack of coordination among adjudicating authorities, such as High Courts, Debt Recovery Tribunals (DRTs), and the Board for Industrial and Financial Reconstruction (BIFR), further compounded the problem, creating a legal environment that was both unpredictable and inefficient.

Recognizing the urgent need for reform, the government constituted several expert committees to examine the shortcomings of the existing framework and propose solutions. The Narasimham Committee, in its reports of 1991 and 1998, emphasized the importance of strengthening the financial sector and reducing non-performing assets (NPAs). It recommended the establishment of specialized tribunals for debt recovery and called for a comprehensive bankruptcy law that could facilitate timely resolution of distressed assets.

Building on these recommendations, the Eradi Committee was formed in 1999 to examine the legal provisions relating to winding up of companies and suggest reforms. The committee highlighted the inefficiencies of BIFR and proposed the creation of a single tribunal to handle both company law and insolvency matters. It stressed the need for empowering creditors, streamlining procedures, and introducing strict timelines to prevent undue delays.

Despite these efforts, progress remained slow, and the legal landscape continued to be fragmented. It was not until the formation of the Bankruptcy Law Reforms Committee (BLRC) in 2014 that a comprehensive blueprint for reform began to take shape. The BLRC conducted an in-depth review of India's insolvency laws and proposed a unified, time-bound, and market-oriented framework for resolving financial distress. Its recommendations formed the basis for the **Insolvency and Bankruptcy Code (IBC), which was enacted in 2016.**