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Issues & Drawbacks of the Existing Insolvency and Bankruptcy Code, 2016

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ABSTRACT

This paper seeks to examine several drawbacks of the Insolvency and Bankruptcy Code 2016 in India. The identified issues include delayed resolution, a low default threshold for initiating insolvency proceedings, a creditor-centric approach, inadequate involvement of operational creditors, strict time limits for resolution, unclear qualifications for Insolvency Resolution Professionals (IRPs), insufficient infrastructure for handling insolvency cases, and concerns regarding the Insolvency and Bankruptcy Fund etc. This paper is also represents overview of the Insolvency and Bankruptcy Code (IBC) of 2016, and its dynamic framework that revolutionized the country's insolvency and bankruptcy landscape. The primary objective of the IBC is to consolidate and streamline the various laws and regulations dealing with insolvency and bankruptcy, providing a unified platform to address financial distress, both for individuals and corporations. This paper is also highlights insolvency and bankruptcy provisions of developed countries like USA, Australia which will be need for the adoption in insolvency and bankruptcy code of India, such provision as out-of-court workouts, cross-border insolvency cooperation, and debtor-in-possession financing, to enhance its insolvency resolution system and address these issues effectively.

Keywords: *insolvency, bankruptcy, insolvency professionals, committee of creditors, financial creditors, operational creditors, Insolvency Resolution Professionals.*

I. INTRODUCTION

The Indian corporate sector has seen significant transformation because to the Insolvency and Bankruptcy Code of 2016.India had no market-driven, time-bound insolvency acts or efficient mechanisms in place prior to the implementation of this rule. The May 28, 2016, enactment of the IBC, 2016, abruptly altered India's insolvency rules, taking effect on December 1, 2016. The first round of the Corporate Insolvency Resolution Process (CIRP) was completed on January 17, 2017.

As a result of the numerous laws that address the insolvency of partnerships, corporations, and people. The bankruptcy and insolvency processes have been governed by an extensive number

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of laws and agencies. The "Board of Industrial and Financial Reconstruction," the Company Law Board sight cards, and the debt recovery courts handled the insolvency of the organization they supervised. The entire structure of India's bankruptcy and insolvency laws is overlapping, complex, and very complicated, which makes it difficult to deal with systematic issues. It also took businesses four to five years to resolve their operations, despite establishing laws like The Debt Recovery Act, the Sick Industrial Companies Act and the SARFAESI Act, which were intended to improve the debt recovery process but still needed to yield the desired outcome. Since the Indian banking sector is known to hold a significant amount of non-performing assets, it was felt that an effective and consolidated insolvency law was needed to stabilize the country's financial system. The 1920 Provincial Insolvency Act, which dealt with individuals, has been updated to meet modern needs after being in effect for almost a century.

The code was developed to rebalance the rights of creditors by providing creditors with the much-needed remedy to take prompt and effective action against defaulters, and also to solve the structural issues that were impeding the efficient recycling of capital. Companies, Limited Liability Partnerships (LLPs), Individuals, Partnership Firms, Personal Guarantors to Corporate Debtors (CDs), and other body corporate are all covered by this regulation. Banks, financial organizations, and insurance providers are not covered by it. Consolidated law, a time-limited, creditors-driven insolvency process, asset maximization, and corporate entity resurrection are among the primary components of the IBC, 2016.

II. BACKGROUND OF INSOLVENCY AND BANKRUPTCY CODE

In 1981, the Sick Industrial Companies Act, 1985 emerged in response to the recommendations made by the Department of Company Affairs' Tiwari Committee. Afterwards, in 1991, the Recovery of Debts owed to Banks and Financial Institutions Act, 1993 came to light in relation to the Reserve Bank of India's Narasimham Committee I. Analogously, the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was introduced in 1998 with respect to the Reserve Bank of India's Narasimham Committee II. The enactment of the Companies (Amendment) Act, 2002 resulted from the 1999 proposal by the Justice Eradi Committee (Government of India) to repeal the Sick Industrial Companies Act, 1985. A thorough bankruptcy code was later proposed by the L.N. Mitra Committee (RBI) in 2001. The proposed Enforcement of Securities Interest and Recovery of Debts Bill, 2011 and proposed amendments to the Recovery of Debts due to the Banks and Financial Institutions Act, 1993 and the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 were developed by the Irani Committee (RBI) in 2005. The country's

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credit infrastructure may have been improved by the actions suggested by the Raghuram Ranjan Committee (Planning Commission) in 2008. Finally, in 2013, the Ministry of Finance's Financial Sector Reforms Commission developed a draft of the Indian Financial Code that included a corporate resolution process designed to help struggling enterprises with their financial issues.[3]

(A) Structure of the 2016 code

The 2016 Code is divided into five parts, each with 255 sections. Part I is devoted to the preamble to the Code and includes one chapter and Sections 1 through 3; Part II is devoted to the corporate insolvency resolution process and has seven chapters and Sections 4 through 77; Part III is devoted to insolvency resolution and bankruptcy for individuals and partnership firms and has seven chapters and Sections 78 through 187; Part IV is devoted to the regulation of insolvency professionals, insolvency resolution professional agencies, and information utilities and is divided into seven chapters and contains Sections 188 to 223; and Part V is devoted to other provisions and runs from Sections 224 to 255 (Sections 245 to 255 allow changes in other statutes like the Companies Act, 2013).

The Insolvency and Bankruptcy Code, 2016 comprises of 11 Schedules, which provide for amendments to be carried out in following statutes: the Indian Partnership Act, 1932 (First Schedule annexed to the 2016 Code); the Central Excise Act, 1944 (Second Schedule annexed to the 2016 Code); the Income Tax Act, 1961 (Third Schedule annexed to the 2016 Code); the Customs Act, 1962 (Fourth Schedule annexed to the 2016 Code); the Recovery of Debts due to Banks and Financial Institutions Act, 1993 (Fifth Schedule annexed to the 2016 Code); the Finance Act, 1994 (Sixth Schedule annexed to the 2016 Code); the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Seventh Schedule annexed to the 2016 Code); the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 (Eighth Schedule annexed to the 2016 Code); the Payment and Settlement Systems Act, 2007 (Ninth Schedule annexed to the 2016 Code); the Limited Liability Partnership Act, 2008 (Tenth Schedule annexed to the 2016 Code); and the Companies Act, 2013 (Eleventh Schedule annexed to the 2016 Code); so that all provisions as contained in the Insolvency and Bankruptcy Code, 2016 can be brought to effect in a comprehensively manner.[4]

[3] Shivam Goel, "The Insolvency and Bankruptcy Code, 2016: Problems & Challenges"3 Imperial journal of interdisciplinary research(2017)

[4] Available at https://www.indiacode.nic.in/handle/123456789/2154?sam_handle=123456789/1362 (last visited on November 3,2023)

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III. KEY ASPECTS OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

a) The 2016 Code suggests changing the current "Debtor-in-Possession" system to one of "Creditor-in-Control."

b) The purpose of the 2016 Code is to modify various laws about insolvency, notably the Companies Act of 2013. In addition, the 2016 Code supersedes all other laws concerning insolvency and bankruptcy through Section 238 of the Code.[5]

c) Part II of the 2016 Code addresses corporate entity insolvency resolution and liquidation; registered insolvency professionals, working under the NCLT's supervision, conduct the majority of the insolvency resolution and liquidation-related activity. After the corporate insolvency procedure is started, the insolvency specialist must assemble a Committee of Creditors, and with their combined efforts, a plan to resurrect the corporate entity will be presented;

d) There will be attempts to develop a resolution plan to bring the failing entity back to life during the 180-day corporate insolvency resolution process, with a maximum extension period of 90 days. If the attempts are unsuccessful, the corporate person will be liquidated in a timely manner. Small business organizations would be allowed to access a "Fast Track Corporate Insolvency Resolution."

e) In the context of corporate insolvency resolution, the NCLT serves as the adjudicating authority and the NCLAT as the appellate authority.

f) The insolvency resolution process and liquidation proceedings pertaining to people and firms are covered in Part III of the 2016 Code. For people and corporations, there are two different processes: insolvency resolution and fresh start; the "bankruptcy order" comes after both processes. Regarding insolvency resolution and liquidation procedures, the DRT will serve as the adjudicating authority and the DRAT as the appellate authority for both persons and firms.

g) The "fresh start" method is only available to people whose annual income is less than Rs. 60,000 and whose debt is less than Rs. 35,000. In this case, an insolvency professional will conduct the insolvency resolution, and the DRT will play the supervisory role.

h) The Insolvency & Bankruptcy Board of India is empowered by Section 196(1)(f) of the 2016 Code to conduct inspections and investigations on insolvency professional

[5] Insolvency and Bankruptcy Code, No. 31 of 2016, § 196(1)(t), INDIA CODE (2016), http:// indiacodenic.in.

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agencies, insolvency professionals, and information utilities. Following these actions, the Board may issue orders as necessary to ensure compliance with the regulations issued under the 2016 Code and its provisions. Additionally, Section 196(3) of the 2016 Code specifies that the Insolvency & Bankruptcy Board of India will have the same authority as a civil court under the Code of Civil Procedure, 1908 when trying a suit of the following: locating and producing books of accounts at a location and time that the Board may designate; calling people to appear and question them on the spot; inspecting books, registers, and other documents belonging to any individual at any location; and, finally, providing commissions for the questioning of witnesses or documents.

i) NCLT is the adjudicating authority for corporate entities for insolvency resolution; NCLAT is the appellate authority in this regard. Section 62 of the 2016 Code makes it very clear that an appeal against an NCLAT ruling may be filed with the Supreme Court of India within 45 days of receiving the contested order. Section 63 of the 2016 Code specifically prohibits the civil court's jurisdiction.[6]

j) DRT is the deciding authority for both individuals and businesses when it comes to insolvency resolution, and DRAT is the appellate authority. Section 182 of the 2016 Code is quite clear about the possibility of filing an appeal against DRAT orders to the Supreme Court of India within 45 days of receiving the order that is being contested. The 2016 Code's Section 180 specifically prohibits the civil court's jurisdiction.

IV. DRAWBACKS OF THE INSOLVENCY AND BANKRUPTCY CODE 2016

i. **Delayed Resolution**: Insolvency cases take longer to resolve than anticipated or planned. It suggests that the cases are not being resolved quickly, which is causing longer periods of time for a conclusion. In India, a specialized court that deals with disputes involving debt recovery is called the Debt Recovery Tribunal (DRT). It is essential to the 2016 Code's administration and decision-making of insolvency proceedings. According to the 2016 Code, the DRT has four months to make a decision in cases involving insolvency. This is a legally mandated time frame intended to ensure swift and efficient resolution of such cases.But the DRT often fails to meet this mandated 4-month deadline. As a result, it raises doubts about the efficiency and effectiveness of the 2016 Code in achieving its goal of expeditious insolvency

[6] Insolvency and Bankruptcy Code, No. 31 of 2016, § 31(2), INDiA CODE (2016), http://indiacode.nic .in. See also Binani Indus. Ltd. v. Bank of Baroda (In the Matter of Binani Industries Limited) (NCLAT New Delhi 2018), available at https://nclat.nic.in/Useradmin/upload/16821674135cO61ffdla478.pdf

resolution.[7]

ii. **Low Default Threshold:** Insolvency procedures may be started when a debtor, such as a business or an individual, is unable to pay their debts. During these proceedings, the debtor's financial problems will be legally resolved. This may entail asset sales to pay off creditors or debt restructuring. The minimum default amount of Rs. 100,000 is the amount that, if unpaid, can trigger the start of insolvency procedures. Put another way, creditors may file for bankruptcy if a debtor owes this much or more and refuses to make payments. Furthermore, because of the low default level, even small creditors are able to file for bankruptcy. Within this context, "minor creditors" are people or organizations where the debtor owes comparatively small sums of money. The temporary cash flow problems that may arise from this low threshold may result in insolvency proceedings. It follows that the commencement of insolvency procedures may occur even in cases when the debtor is experiencing temporary financial difficulties.

iii. **Creditor-centric approach:** an approach wherein creditors receive the majority of the attention and have the last say in cases involving insolvency and bankruptcy. Under such a framework, the resolution process places a high priority on the rights and interests of creditors. The participation of equity holders, who are frequently the debtor company's shareholders or owners, is reduced or eliminated in a creditor-centric strategy from important decision-making procedures. This is because creditors have a higher claim to the debtor's assets and finances, and their interests are given precedence over equity holders. Excluding equity holders from decision-making, they may become less supportive of the insolvency resolution mechanism. In other words, equity holders, who have a stake in the company's ownership, might be less inclined to cooperate or invest in the recovery process if they feel their interests are not adequately considered.

iv. **Inadequate Involvement of Operational Creditors:** Operational creditors are people or organizations that a business owes money to for services rendered and operational costs incurred during regular business operations. They are not the same as financial creditors, who lend money or other resources to the business. Suppliers, service providers, workers, and other organizations that the debtor company owes money to for regular business operations might all be considered operational creditors. The procedure of insolvency resolution restricts the involvement of operational creditors. This implies that in comparison to financial creditors, they might not have the same influence or

[7] Dipak Mondal, Going For Broke, Business Today, Vol. 25, Issue: 13, p.32, July 03, 2016

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competence to make decisions. Conflicts and disputes may arise from operational creditors' limited involvement in the settlement process. Litigation is the last choice for operational creditors who feel their rights are not being sufficiently handled and who need to get their money back.

v. **Strict Time Limits:** The legal process used when a business is in financial trouble and can't pay its debts to creditors. Either reviving the business or selling off assets to pay off debts is the process's objective. A maximum of 180 days are allowed to complete the insolvency resolution procedure under the 2016 Insolvency and Bankruptcy Code, with a possible further 90-day extension. This implies that the process should ideally be finished within this time range, starting to finish with the creation of a resolution plan. The phrase expresses concern that this 180-day timeframe might not be enough. The line expresses concern that this 180-day deadline might not be long enough, particularly in light of the complex dynamics and intricacies of a financially troubled organization. The procedure takes time for the insolvency experts in charge of overseeing it to evaluate the company's assets, obligations, activities, and financial standing. Numerous businesses that are insolvent have extensive business procedures, numerous creditors, and complex financial structures. It can take a while to fully analyze these variables and develop a workable resolution strategy that benefits all parties.

vi. **Limitated 'Fresh Start' Mechanism:** Within the context of insolvency and bankruptcy, a "Fresh Start" mechanism is generally defined as a legal provision that permits individuals, particularly those with low incomes and relatively small debt amounts (individuals whose monthly income is less than Rs. 5,000/- and the debt amount is not more than Rs. 35, 000/-). Very few people will be able to utilize this mechanism because of how little of it there is. These clauses are intended to assist those who might not be able to pay back their obligations in full. The "Fresh Start" mechanism is seen to be too restrictive to be very useful. This could indicate that the requirements to use this mechanism are very onerous or that the relief offered is insufficient to have a major effect on the people's financial circumstances. The restriction may result from the qualifying requirements—such as income and debt thresholds—being set at a level that disqualifies a large number of people who are having financial difficulties.

vii. **Absence of Control over Asset Reconstruction Businesses (ARCs):** Companies for Asset Reconstruction Banks and other financial institutions sell their non-performing assets, or bad loans, to ARCs, which are specialized financial institutions. Their main goal is to take control of troubled assets and try to recover value in order to clean up

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these institutions' balance sheets. There are insufficient regulatory requirements or oversight mechanisms in place under the Insolvency and Bankruptcy Code (2016) to adequately monitor and control the operations and activities of ARCs. Put another way, since the 2016 Code's Section 3(7) excludes all "financial service providers," including banks, mutual funds, insurance companies, and ARCs, there needs to be a sufficient mechanism in place to monitor the operations and procedures of ARCs. Concerns regarding the behavior and methods of ARCs may arise if there is no such oversight. The possibility exists that, in the absence of strong regulation, ARCs may not operate in the best interests of all parties involved, including creditors, debtors, and the larger financial system.

viii. **The Need for Judicial Expertise:** There has to be a major change in the way people in charge of bankruptcy proceedings view their work. Bankruptcy should be perceived as a business issue rather than solely as a legal one. Stated differently, bankruptcy cases ought to be tackled from a commercial and economic perspective, considering the financial health of the organization and its stakeholders. Judges must receive specific training in order to bring about this shift of viewpoint. Judges may not be sufficiently prepared by traditional legal education to manage the intricate financial and corporate issues that frequently surface in bankruptcy cases. Therefore, judges need to be trained in understanding financial statements, business operations, and the nuances of corporate finance. The 2016 Code is built on a particular philosophy, which is that the decision regarding whether a struggling business should continue to operate or be liquidated should not be solely left to judges or lawyers. Instead, the primary decision-makers should be the creditors.

ix. **No Special Provisions for Stressed Sectors:** When dealing with insolvency cases in stressed sectors, it's often necessary to have specialized or sector-specific provisions in place. These provisions could include unique rules, regulations, or considerations that account for the particular challenges faced by businesses in those sectors. In the 2016 Code it may not have specific measures designed to address the complexities and issues that arise when businesses in stressed sectors go through insolvency or bankruptcy proceedings. The absence of specialized provisions can be problematic because it means that businesses in stressed sectors will be subject to the same insolvency framework as other sectors. This one-size-fits-all approach may not adequately address the specific needs and challenges faced by these businesses, potentially leading to less effective or less efficient resolution processes.

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x. **Qualifications of Insolvency Resolution Professionals:** These are individuals or entities appointed to manage the insolvency resolution process of a debtor. They play a crucial role in facilitating the restructuring of debts, asset liquidation, or any other measures aimed at resolving insolvency. To effectively perform their duties, IRPs should possess specific qualifications, knowledge, and experience. This includes understanding legal, financial, and operational aspects of insolvency proceedings, as well as the ability to manage complex financial and legal matters.in the 2016 Code does not provide clear and specific criteria for the qualifications and experience required for individuals or entities to serve as IRPs.[8] This lack of clarity can have several implications. It might lead to the appointment of IRPs who do not have the necessary expertise, potentially hindering the effectiveness of the insolvency resolution process. It could also result in inconsistency in the qualifications of IRPs appointed across different cases.[9]

xi. **Lack of necessary infrastructural facilities:** the adjudicating authorities responsible for handling insolvency cases under the 2016 Insolvency and Bankruptcy Code. These authorities include Debt Recovery Tribunals (DRTs), which handle cases related to individuals and partnership firms, and the National Company Law Tribunal (NCLT), which deals with cases involving companies. the Indian government has taken steps to create and operationalize the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT). These institutions play a crucial role in overseeing insolvency cases, especially those involving companies. despite the formation of NCLT and NCLAT, there may still be challenges related to infrastructure and resources. In other words, even with the creation of these tribunals and the appointment of experienced individuals to key positions, there may be issues regarding the physical and organizational infrastructure needed to efficiently handle insolvency cases.

xii. **Insolvency and Bankruptcy Fund Concerns:** Section 224 of the 2016 Code states that a fund, namely, the Insolvency and Bankruptcy Fund is to be created for the purposes of insolvency resolution, liquidation and bankruptcy of persons under the 2016 Code,

[8] The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2018, Gazette of India, pt. III sec. 4 (July 4, 2018), § 35(3), available at http://egazette.nic.in/(S(qxwohkcrzgchoanufmumlglg))/Search1.aspx ("The resolution professional and registered valuers shall maintain confidentiality of the fair value and the liquidation value.").

[9] Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016, Lawyersclubindia, available at http://www.ibbi.gov.in/Law/IPA%20REGULATIONS_professional_agencies.pdf

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and any person can voluntarily make contributions to the fund and in any event of insolvency proceedings been initiated against such person, such person can withdraw funds not exceeding the amount contributed by him to the fund to make payments to the workmen or for protecting his assets or to meet the incidental costs incurred during the insolvency proceedings and for any other or such other like purpose. However, the moot question is this, that, if a person will get only that which he has contributed to the fund, then why at all a person will make contributions of the fund and not deposit the amount he has in a bank account over which he will earn interest as per the specified rates.

V. NEED FOR INDIA TO ADOPT INSOLVENCY AND BANKRUPTCY PROVISION FROM DEVELOPED COUNTRIES

Some insolvency and bankruptcy provision of developed countries need to be adopt in India to improve the insolvency and bankruptcy formwork .they are discuss below

a. **Out-of-court workouts**: The USA has a well-established system for out-of-court workouts, where creditors and debtors can negotiate and reach agreements without entering formal bankruptcy proceedings. "Out-of-court workouts" refer to a practice in the United States where creditors and debtors, often facing financial distress or insolvency, can engage in negotiations and reach agreements to resolve their financial issues without involving the formal legal process of bankruptcy. This approach is often preferred when it's believed that a consensual agreement can achieve a better outcome for all parties involved.

In India has alternative resolution dispute (ADR) proceedings But it hasn't providing effective result in case of insolvency and bankruptcy. In addition, the legal framework in India would need to be structured to support and enforce these types of agreements, and mechanisms would need to be in place to protect the rights and interests of all parties involved.[10]

b. **Cross-border insolvency cooperation:** At the beginning of the 20th century, courts in London and Madras saw perhaps the first cross-border insolvency protocol between insolvency administrations. The proceedings concerned the involuntary liquidation of an Anglo-Indian merchant and banking partnership, following the death of one of the partners. The insolvency administrators in London and Madras had to respectively collect, realise and distribute assets to English and Indian creditors respectively. To do this efficaciously, the London and Madras trustees came to an agreement on admitted

[10] Md Rashid Shamim, Bankruptcy Laws: A Comparative Study of India and USA, International Journal of Management, 10 (2), 2019, pp. 247-252.

claims and promised that surplus sums would be remitted to the other proceedings for a global distribution. This agreement was confirmed by both London and Madras courts and when one English creditor sought to challenge the arrangement, the English court stated that the agreement was 'clearly a proper and common-sense business arrangement' and that it was 'manifestly for the benefit of all parties interested.' Sadly, such a spirit of cross-border civil cooperation does not continue to prevail in India or its neighbouring states.[11]

In modern insolvency and bankruptcy law The USA has developed the modal United Nations Commission on International Trade Law (UNCITRAL) to provide a framework for countries to follow in dealing with cross-border insolvencies. Adhering to such international standards can create consistency and predictability in how cross-border insolvencies are managed. India can improve its mechanisms for dealing with cross-border insolvencies by adopting practices from developed countries.[12]

c. **Debtor-in-possession (DIP) financing**: Australia's insolvency framework allows for DIP financing, it is a form of financing that allows a company that is experiencing financial distress and has filed for bankruptcy or insolvency to secure new loans or credit while the insolvency process is ongoing. This financing is provided to the company to fund its ongoing operations, pay essential expenses, and potentially implement a restructuring plan. The primary goal of DIP financing is to help preserve the value of the distressed business. By providing the necessary funds to maintain operations, the company can avoid a fire-sale of assets or a forced liquidation, which might lead to lower returns for creditors and job losses for employees. Introducing DIP financing in India could help preserve the value of businesses and improve the chances of successful restructurings.[13]

VI. CONCLUSION

An international standard bankruptcy and insolvency framework will help make business transactions in the nation more predictable and certain, making it easier for people to do business there. However, how this framework is put into practice will determine how successful it is. With a lot riding on the details of the regulations that are currently anticipated to be issued

[11] Bob Wessels, International Insolvency Law Part I: Global Perspectives on Cross-Border Insolvency, vol. X of Wessels Insolvency Law (4th edn, Wolters Kluwer 2015) paragraph 10032.
[12] Dr. Binoy J. Kattadiyil and CS. Peer Mehboob, Corporate Insolvency in India and Other Countries- A Comparative Study, IJMER, 7(9), 2020
[13] http://restructuring.bakermckenzie.com/wp-content/uploads/sites/23/2016/12/Global-Restructuring-Insolvency-Guide-New-Logo-Australia.pdf

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under the Code, the upcoming months will be critical in overcoming a number of practical, logistical, and legal obstacles. As comprehensive legislation covering all areas of bankruptcy, liquidation, and insolvency resolution, the 2016 Code's main goal is to fulfill this role. The code applies both private individuals and businesses as well as corporate entities. Increasing foreign direct investment and elevating India's ranking in the Ease of Doing Business Index are the main objectives.

The 2016 Code has difficulties, but its scope and goal are ambitious. It is a difficult and comprehensive undertaking for the Code to attempt to significantly change over eleven legislation. It also seeks to establish organizations like the Insolvency and Bankruptcy Board of India, the National Company Law Tribunal (NCLT), and the National Company Law Appellate Tribunal (NCLAT). Given the difficulties with India's infrastructure, this is viewed as ambitious. Although there are other appeal channels, such as the Debt Recovery Appellate Tribunal (DRAT) and NCLAT, persons or organizations impacted by decisions made by the Debt Recovery Tribunal (DRT) and NCLT may still contest those orders in High Courts and the Supreme Court, especially in cases of extraordinary urgency. Appeals to the Supreme Court will come from DRAT and NCLAT, among other sources. The anticipated outcome of this is a rise in cases, which is known as a "docket explosion." This surge in cases is expected to persist, adding to the burden on the legislative branch of government to amend the various enactments that the 2016 Code touches on.

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