

## **WILL THE NEW INSOLVENCY AND BANKRUPTCY CODE WORK???**

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### **ABSTRACT**

This paper analyses the need of new insolvency and bankruptcy code and also try to measure the efficiency and problems of the present laws for bankruptcy in India. There are certain existing acts for insolvency and bankruptcy like Companies Act, 1956 or Companies Act, 2013 (whichever is relevant) , Sick Industrial Companies Act, 1985 , Limited Liability Partnership Act, 2008 , Indian Trusts Act, 1882 , Various state laws on state cooperative societies , Multi-state Cooperative Societies Act, 2002 ,Trade Union Act, 1926 , Laws governing incorporation of statutory corporations (whether created by parliament or by state legislative assemblies) , Presidency Towns Insolvency Act, 1909 , Provincial Insolvency Act, 1920 .

I find that the time taken from the start of the application to the final judgement was over 10 years for more than 40% of the cases heard at the High Court. Winding up of companies or debt recovery took more than 5 years. The analysis identifies the underlying themes driving these delays as conflicts arising from having multiple laws to protect the interests of the debtor and different stakeholders, conflicts from having these different laws being implemented in the Civil Courts and Tribunals, and the pro-rehabilitation stance of the adjudicators in resolving insolvency and bankruptcy. So in order to solve all the above problems new bankruptcy code must be passed. There are also pendency of cases regarding insolvency and bankruptcy increased from year to year.

**KEYWORDS:** Bankruptcy law reforms, insolvency and bankruptcy resolution,

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