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IBC and Public Policy in India Integrating Bharatiya Concepts of Rina and Dharma into Modern Insolvency Governance

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ABSTRACT

The passage of the Insolvency and Bankruptcy Code, 2016 (IBC) brought a paradigm shift in the insolvency landscape of India with its adoption of a single, streamlined and time-bound resolution framework in place of the existing disorganized set of insolvency laws. Although the Code has boosted the confidence of creditors, facilitated the ease of doing business and financial discipline, talks about insolvency governance have kept within the scope of economic efficiency and market-oriented principles. But the Indian legal system has a rich philosophical tradition that could be useful in the ongoing discussion on insolvency in India. The concepts of 'righteous duty', 'justice', 'ethical conduct' (dharma) and 'debt' or 'obligation' (rina) have always been important in Indian society in terms of social and economic relations.This paper explores the link between IBC's goals and the Bharatiya philosophies of Rina and Dharma. It maintains that insolvency should not only be seen as a financial phenomenon but also a process in the process of which moral responsibilities are also assumed by the debtor, creditors, employees, investors and society. The study also examines how such indigenous concepts can serve as a normative basis for insolvency governance, which is based on the principles of fairness, accountability, responsible lending and equitable resolution. The paper critically examines the extent of applicability of these principles in the IBC and the need to strengthen insolvency jurisprudence in India based on public policy considerations which are culturally relevant. The paper ends by concluding that the principles of Bharatiya legal thought are not necessarily to be replaced by modern economic principles in the context of insolvency governance but can be complemented with ethical values which are conducive to sustained and socially responsible economic behaviour. This can help to create a more equitable insolvency regime based on both financial efficiency and social good.

KEYWORDS

Insolvency and Bankruptcy Code, Public Policy, Rina, Dharma, Bharatiya Jurisprudence, Corporate Governance, Insolvency Resolution, Ethical Finance, Debt Obligations, Indian Legal Philosophy.

1. INTRODUCTION

The effective operation of credit markets is an important component of economic development. Credit makes people more entrepreneurial and allows businesses to grow and develop the nations[1]. The extension of credit, however, always involves a possibility of failure to pay. The role of insolvency laws is thus very important in achieving a balance between debtors and creditors, and maintaining economic stability.[2]

The Insolvency and Bankruptcy Code, 2016 ('IBC') marks a significant overhaul of India's insolvency regime. Before the IBC was launched, there were several Acts and Regulations for insolvency, causing delays, inefficiency and low recovery rates. The Code has created a one-stop, time-limited process to maximize asset value, foster entrepreneurship and enhance creditor confidence.

The IBC, even though it has proven to be a success from an economic perspective, is frequently examined in terms of efficiency, discipline of the markets, and creditor rights. This is a valuable step but disregards the ethical and social implications of debt and insolvency. Indian civilization has always been cognizant that financial responsibilities aren't only contractual but additionally moral responsibilities. The concept of debt and obligations is mentioned in the ancient Indian texts like Vedas, Dharmashastras, Manusmriti, Arthashastra and other philosophic texts which are part and parcel of the social order in ancient India.[3]

Rina and Dharma are the two concepts that hold significant importance in the thought of Bharatiya people. Rina connotes a responsibility to be carried out, and Dharma means righteous actions and upholding social harmony. These principles form an ethical basis for dealing with financial relationships. They promote responsible borrowing and fair treatment of stakeholders, and accountability in economic practice, in the context of insolvency.

The paper aims to explore the possibility of augmenting the purpose of the IBC with these notions of an indigenous tradition and the potential contribution to public policy in the present times of India.

[1] World Bank, *Principles for Effective Insolvency and Creditor/Debtor Regimes* 1–4 (2021).
[2] INSOLVENCY LAW COMMITTEE, *Report of the Insolvency Law Committee* 3–6 (Ministry of Corporate Affairs, Govt. of India 2018).
[3] KAUTILYA, *Arthashastra* bk. III (R. Shamasastry trans., Mysore Printing Press 1915); MANU, *Manusmriti* ch. VIII, vv. 140–170 (G. Bühler trans., Sacred Books of the East, Vol. 25, Oxford Univ. Press 1886).

1.2 Research Objectives

- To analyse the goals and concept behind the Insolvency and Bankruptcy Code, 2016.
- To study Rina and Dharma concepts from the legal and philosophical perspective in Bharatiya legal and philosophical traditions.
- To assess the connection between the governance of insolvency and moral duties in Indian law.
- To spot opportunities for Bharatiya concepts to bolster insolvency governance.
- To make policy proposals for the use of ethics in contemporary frameworks of insolvency.

1.3 Research Questions

- What is the main aim of Insolvency and Bankruptcy Code, 2016?
- What are the meanings of 'Rina' and 'Dharma' in Bharatiya jurisprudence?
- Are these ideas suitable for a normative framework of insolvency governance?
- What are the problems that may arise in the process of harmonizing these principles of ethics with the contemporary insolvency law?
- What should public policy be like in terms of integrating indigenous values without sacrificing economic efficiency?

1.4 Research Methodology

The research method used in this study is a doctrinal and analytical research. The research is done mainly from secondary sources primarily the Statutes, judicial decisions, reports of the Insolvency Law Committee, the academic literature, policy documents, and classical Indian texts that contain discussions on Rina and Dharma. Comparative and interpretative techniques have also been used to assess the relationship between the traditional philosophical principles and the current governance of insolvency.

2. PUBLIC POLICY FOUNDATIONS OF THE INSOLVENCY AND BANKRUPTCY CODE

India's Insolvency and Bankruptcy Code was introduced to correct some of the inefficiencies in the Indian insolvency regime. Past systems tended to have long and drawn-out processes and low recovery rates, which negatively impacted economic development and investor confidence.[4]

The IBC will have several public policy goals. Firstly, it aims to maximise the value of the asset; to ensure that distressed entities are resolved in time. Second, it fosters entrepreneurship by enabling the actual failure of a business to be dealt with effectively. Third, it balances the interests of the Stakeholders such as creditors, employees, shareholders and operational creditors. Fourth, it helps to increase financial stability by mitigating non-performing assets and credit discipline.[5]

The IBC is not just about debt recovery and public policy. The Supreme Court has made it clear that the Code is a resolution, not a recovery statute. Its goal is to save viable businesses, jobs and economic continuity.[6]

The objectives in the Insolvency Act indicate that the general public is better served by insolvency law. The effectiveness of insolvency systems is linked with economic growth, financial inclusion and public trust in commercial transactions. So insolvency governance is not just a legal procedure but a policy tool[7].

3. UNDERSTANDING ABOUT BHARATIYA CONCEPT OF RINA

Rina is a central theme in Indian philosophy. Rina is usually interpreted as debt/obligation. But the meaning goes beyond money debts. Ancient Indian literature acknowledges that each one of us has certain responsibilities towards the society, family, teachers, ancestors and the divine.[8]

The idea of Rina implies a sense of connectedness among humans and their lives. People are entitled to social institutions, knowledge systems and a shared resource base and have a responsibility for others. In this

[4] Bankruptcy Law Reforms Committee, *The Report of the Bankruptcy Law Reforms Committee: Volume I – Rationale and Design* 15–28 (Nov. 2015).
[5] The Insolvency and Bankruptcy Code, No. 31 of 2016, pmbl., §§ 12, 20, 30, India Code (2016);
[6] Swiss Ribbons Pvt. Ltd. v. Union of India, (2019) 4 S.C.C. 17, 26–28 (India).
[7] World Bank, *Principles for Effective Insolvency and Creditor/Debtor Regimes* 1–8 (2021)
[8] P. V. Kane, History of Dharmaśāstra vol. II, pt. I, at 569–610 (Bhandarkar Oriental Research Institute 1941); Patrick Olivelle, *The Āśrama System: The History and Hermeneutics of a Religious Institution* 67–72 (Oxford Univ. Press 1993).

respect, debt is seen not only as a legal obligation but as a moral obligation as well.[9]

In economic relations, Rina stresses the need to fulfil commitments. The use of borrowed resources is a form of obligation to re-pay, and to maintain trust. The absence of such obligations not only impacts the parties concerned, but also the wider social fabric.[10]

This is in line with the goals of contemporary insolvency law. Without the responsible behavior of the participants, credit systems do not work well. Economic stability and a decrease in systemic risk are achieved through responsible borrowing and lending. Therefore, the ethical dimension of Rina opens the doors for a better understanding of financial obligations in insolvency governance.[11]

4. KNOWLEDGE OF THE BHARATIYA CONCEPT OF DHARMA

One of the most important terms in Indian law and philosophy is Dharma. It includes the responsibilities, justice, righteousness, moral behavior and social responsibility. Dharma is a guide to individual and institutional conduct that seeks to ensure social welfare, fairness and balance.[12]

Dharma is not just about adherence to rules and regulations, but about the spirit of justice. It enables people to reflect on how their own behaviour affects others, and to behave in a way that supports social harmony. In governance, Dharma must have the decision makers in the balancing act of competing interests to achieve fair results for all involved.[13]

Commercial relationship: Honesty, transparency and accountability are the traits of Dharma. It deters abuse and the exercise of good judgment even when legal requirements are not clear. These values are especially relevant in insolvency proceedings where many stakeholders vie for

[9] S. Radhakrishnan, Indian Philosophy vol. I, 83–95 (Oxford Univ. Press 1923); B. K. Matilal, *Moral Dilemmas in the Mahābhārata* 45–61 (Oxford Univ. Press 1989).
[10] KAUTILYA, *Arthashastra* bk. III (R. Shamasastry trans., Mysore Printing Press 1915); Bibek Debroy, *The Arthashastra* vol. II (Penguin Random House India 2016).
[11] World Bank, *Principles for Effective Insolvency and Creditor/Debtor Regimes* 1–8 (2021); UNCITRAL, *Legislative Guide on Insolvency Law* pt. I,1–12 (United Nations 2005).
[12] P. V. Kane, History of Dharmaśāstra vol. II, pt. I, at 1–40 (Bhandarkar Oriental Research Institute 1941); S. Radhakrishnan, Indian Philosophy vol. I, 175–210 (Oxford Univ. Press 1923).
[13] Patrick Olivelle, *Dharmasūtras: The Law Codes of Ancient India* 3–18 (Oxford Univ. Press 1999); B. K. Matilal, *Moral Dilemmas in the Mahābhārata* 88–110 (Oxford Univ. Press 1989).

scarce resources.[14]

The concept of Dharma implies that the solution process of bankruptcy should not only focus on the financial restructuring of the business but also on its fairness, employee welfare, continuity of the business and the interests of the society. Thus, Dharma provides a normative framework that is compatible with the modern goals of insolvency.

5. THE CONCEPTS OF RINA AND DHARMA IN LIGHT OF IBC

While there is no mention of any Bharatiya philosophies in the IBC, a few of its goals are similar to Rina and Dharma.

The idea of Rina is consistent with the Code's focus on paying back and financial discipline. The IBC ensures that a sense of responsibility towards debt obligations is reinforced by creating consequences on default, and encouraging timely resolution. It acts against deliberate non-payment and encourages borrowers to be responsible.[15]

In the same manner, Dharma is reflected in the Code's focus on weighing the interests of various stakeholders. Creditors, employees, suppliers, communities and investors are all involved in the proceedings of insolvency. The resolution process aims to result in outcomes that will provide economic value and protect legitimate stakeholder interests.[16]

The roles of the Committee of Creditors, insolvency professionals, adjudicating authorities and the resolution applicants are all roles that demands fairness and good faith. These expectations are in line with the moral duties that come with Dharma. The principle of 'righteous conduct' is also reiterated by the need to be transparent, disclose and treat stakeholders fairly.[17]

The Supreme Court's interpretation on the IBC has also given importance to fairness and value maximization and not only debt recovery. This is a

[14] KAUTILYA, *Arthashastra* bk. III (R. Shamasastry trans., Mysore Printing Press 1915); Bibek Debroy, *The Arthashastra* vol. II, 120–155 (Penguin Random House India 2016).

[15] The Insolvency and Bankruptcy Code, No. 31 of 2016, pmbl., India Code (2016); P. V. Kane, History of Dharmaśāstra vol. II, pt. I, at 569–610 (Bhandarkar Oriental Research Institute 1941).

[16] The Insolvency and Bankruptcy Code, No. 31 of 2016, §§ 12, 29A, India Code (2016); Bankruptcy Law Reforms Committee, *The Report of the Bankruptcy Law Reforms Committee: Volume I – Rationale and Design* 73–82 (Nov. 2015).

[17] The Insolvency and Bankruptcy Code, No. 31 of 2016, §§ 17–25, 208, India Code (2016); Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016; P. V. Kane, History of Dharmaśāstra vol. II, pt. I, at 1–40 (Bhandarkar Oriental Research Institute 1941).

reading that can be tied to the moral goals of Dharma.[18]

6. ETHICAL DIMENSIONS OF INSOLVENCY GOVERNANCE

Increasingly, in the modern thinking of insolvency law, financial distress has social implications. Employees, families, suppliers, consumers & local communities are impacted by insolvency. Thus, ethical issues need to be taken into consideration as part of governance processes, along with economic goals.

The pairing of Rina and Dharma creates the basis for an ethics-based way of governing insolvency. First, it promotes responsible borrowing and lending practices. Everyone involved in the debt/credit relationship has to do their part to keep finances in check.

Secondly, it fosters transparency and honesty in insolvency proceedings. The legitimacy of the insolvency system is hindered by concealing assets, as well as by fraudulent transactions and bad faith.

Thirdly, it gives importance to the wellbeing of stakeholders. Though the interests of creditors are significant, the effects of the insolvency on the employees and the community should not be overlooked.

Fourth, it promotes sustainability of business. Businesses that conduct themselves in an ethical and responsible manner are less inclined to be involved in "reckless financial conduct" that can result in business insolvency.

Therefore, ethical governance fosters not just economic efficiency but also trust in government.

7. CHALLENGES IN INTEGRATING BHARATIYA CONCEPTS INTO MODERN INSOLVENCY LAW

While relevant, the inclusion of Rina and Dharma in current governance of insolvency has some challenges.

The first challenge relates to the certainty of law. Clear rules and predictable outcomes are essential to modern insolvency systems. Dharma as a concept is very general, and can be understood differently by various stakeholder groups.[19]

The second challenge has to do with globalization. The insolvency

[18] Swiss Ribbons Pvt. Ltd. v. Union of India, (2019) 4 S.C.C. 17, 26–28 (India); Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, (2020) 8 S.C.C. 531, 70–73 (India)

[19] S. Radhakrishnan, Indian Philosophy vol. I, 175–210 (Oxford Univ. Press 1923).

regime in India is set against the backdrop of the international economic landscape, which is shaped by foreign investment practices and transactions, etc. Foreign investors might face uncertainty due to too much dependence on culturally specific concepts.[20]

The third challenge is the institutional implementation. It can be challenging to turn ethical principles into legal requirements. The courts and insolvency professionals need criteria to make decisions.

The fourth issue is one of ethics and commercial considerations. Companies do business in a competitive market with a focus on finances in decision making. Policymaker(s) must then ensure that ethical principles serve to support, rather than impede, economic efficiency.

The challenges suggest that Bharatiya values ought to be guiding and not rigid legal rules.

8. COMPARATIVE PERSPECTIVE: WESTERN INSOLVENCY MODELS AND BHARATIYA THOUGHT

The western bankruptcy procedures are mostly based on contractual rights, economic efficiency and market discipline. These principles have greatly influenced the current law of insolvency.[21]

But modern research has come to the understanding of the significance of stakeholder's interest and corporate social responsibility. Ethical concepts like sustainable finance, responsible governance, and environmental, social, and governance (ESG) principles reflect an increasing focus on ethical issues.[22]

An alternate view is Bharatiya concepts of Rina and Dharma. Western approaches focus on rights and remedies while Indian philosophical approaches focus on responsibilities and duties. These can work together to develop a more comprehensive insolvency framework.[23]

Instead of opting for either indigenous values or modern economic principles, the policy-makers can embrace a combination of both for

[20] UNCITRAL, *Legislative Guide on Insolvency Law* pt. I, 13–22 (United Nations 2005); World Bank, *Principles for Effective Insolvency and Creditor/Debtor Regimes* 13–20 (2021).
[21] Thomas H. Jackson, The Logic and Limits of Bankruptcy Law 7–19 (Harvard Univ. Press 1986); Douglas G. Baird, Elements of Bankruptcy 3–15 (7th ed. 2022).
[22] World Bank, *Principles for Effective Insolvency and Creditor/Debtor Regimes* 7–15 (2021); Organisation for Economic Co-operation and Development (OECD), *G20/OECD Principles of Corporate Governance* 9–15 (2023).
[23] P. V. Kane, History of Dharmaśāstra vol. II, pt. I, at 1–40, 569–610 (Bhandarkar Oriental Research Institute 1941); S. Radhakrishnan, Indian Philosophy vol. I, 175–210 (Oxford Univ. Press 1923).

better and sustainable governance.[24]

9. FINDINGS

The present study reveals that the Insolvency and Bankruptcy Code, 2016 (IBC) is not merely a legal mechanism for debt recovery and corporate restructuring, but also an important instrument of public policy aimed at ensuring economic stability, market confidence, and efficient allocation of resources. By emphasizing timely resolution of insolvency and maximizing the value of distressed assets, the IBC seeks to protect the broader interests of the economy while balancing the rights of creditors and debtors.

A significant finding of this study is that the traditional Bharatiya concept of Rina closely aligns with the modern notion of financial accountability. In Indian philosophical thought, Rina signifies an obligation or debt that must be fulfilled with sincerity and responsibility. This concept extends beyond financial transactions and reflects a broader ethical duty towards society and stakeholders. The study finds that the IBC's emphasis on repayment, resolution, and responsible conduct indirectly mirrors this age-old principle of honouring obligations.

The research further demonstrates that the concept of Dharma provides an ethical framework that complements the objectives of insolvency law. Dharma embodies principles of justice, fairness, duty, and social harmony. These values resonate with the IBC's efforts to ensure equitable treatment of stakeholders and transparent resolution processes. Although the Code does not explicitly refer to indigenous philosophical concepts, many of its underlying objectives reflect similar ethical considerations.

Another important finding is that ethical values and economic efficiency need not be viewed as competing goals. The study suggests that incorporating ethical considerations into insolvency governance can improve institutional legitimacy, stakeholder confidence, and long-term sustainability without compromising the efficiency of insolvency proceedings. Ethical decision-making can help insolvency professionals and policymakers address the human and social dimensions of financial distress more effectively.

The research also highlights the continuing relevance of Bharatiya jurisprudential traditions in contemporary legal governance. Concepts such as Rina and Dharma provide a culturally rooted normative framework that encourages responsible financial behaviour,

[24] UNCITRAL, *Legislative Guide on Insolvency Law* pt. I, 1–15 (United Nations 2005); Swiss Ribbons Pvt. Ltd. v. Union of India, (2019) 4 S.C.C. 17, 26–28 (India).

accountability, and social responsibility. Their integration into discussions on insolvency law can enrich legal discourse and contribute to the development of a more holistic approach to economic regulation.

Finally, the study finds that incorporating indigenous ethical principles into insolvency governance has the potential to strengthen public trust in legal and financial institutions. A framework that combines economic efficiency with moral responsibility is more likely to be perceived as fair, legitimate, and socially responsive, thereby enhancing the overall effectiveness of insolvency regulation in India.

10. SUGGESTIONS AND POLICY RECOMMENDATIONS

Based on the findings of this study, several policy recommendations may be considered to strengthen the effectiveness and legitimacy of insolvency governance in India. First, insolvency professionals, resolution professionals, and other stakeholders involved in the insolvency process should receive training not only in legal and financial matters but also in ethical decision-making and stakeholder-sensitive governance. Such training can help decision-makers better appreciate the broader social consequences of insolvency proceedings.

Second, policymakers and regulatory authorities should broaden public policy discussions on insolvency by incorporating indigenous jurisprudential perspectives alongside conventional economic and legal analyses. While modern insolvency frameworks are largely influenced by global economic models, the inclusion of Bharatiya philosophical concepts can provide valuable insights into responsible financial conduct and social accountability.

Third, greater emphasis should be placed on transparency, accountability, and procedural fairness throughout insolvency proceedings. Regulatory bodies such as the Insolvency and Bankruptcy Board of India (IBBI) should continue to strengthen mechanisms that ensure ethical conduct, prevent misuse of the insolvency process, and protect stakeholder interests. Transparent procedures can improve public confidence in insolvency institutions and enhance the credibility of the resolution process.

The study also recommends that resolution plans should take into account not only creditor recoveries but also the welfare of employees, the impact on local communities, and the long-term sustainability of the business enterprise. Insolvency proceedings often affect a wide range of stakeholders whose interests may not be adequately reflected in purely financial assessments. A more inclusive approach can promote balanced and socially responsible outcomes.

Further, corporate governance frameworks should emphasize responsible borrowing, prudent risk management, and ethical financial practices. Companies should be encouraged to adopt governance structures that promote accountability and reduce the likelihood of financial distress. Such preventive measures can contribute significantly to maintaining economic stability and reducing insolvency-related disruptions.

Academic institutions and research organizations should also promote interdisciplinary scholarship that explores the relationship between Indian philosophy, law, economics, and public policy. Greater academic engagement with indigenous legal thought can generate innovative approaches to contemporary governance challenges and contribute to the development of context-sensitive legal reforms.

Lastly, future reforms of the insolvency framework should strive to balance efficiency with ethical and social considerations. While speedy resolution and value maximization remain important objectives, policymakers should also recognize the broader societal implications of insolvency law. A balanced framework that integrates economic and ethical dimensions can create a more sustainable and socially responsive insolvency regime.

11. CONCLUSION

The Insolvency and Bankruptcy Code, 2016 has brought about a transformative change in India's insolvency landscape by establishing a comprehensive, time-bound, and creditor-driven framework for resolving financial distress. Since its enactment, the Code has significantly improved the efficiency of insolvency resolution processes, strengthened creditor confidence, and contributed to the development of a more robust financial ecosystem. Its role in promoting economic stability and preserving enterprise value has made it one of the most important legal reforms in modern India.

However, insolvency governance should not be understood solely as a technical or economic process. Financial distress affects not only businesses and creditors but also employees, investors, communities, and society at large. Consequently, insolvency law must address both economic and ethical concerns. A purely financial approach may overlook the broader social responsibilities associated with debt, accountability, and stakeholder welfare.

In this context, the Bharatiya concepts of Rina and Dharma offer valuable philosophical insights. The concept of Rina emphasizes the moral importance of fulfilling obligations and maintaining trust in social and economic relationships. It encourages individuals and institutions to act responsibly and honour their commitments. Similarly, Dharma promotes justice, fairness, ethical conduct, and the pursuit of social harmony. Together, these principles provide a normative framework that complements the objectives of modern insolvency law and enriches our understanding of responsible financial governance.

Importantly, integrating indigenous philosophical concepts into insolvency governance does not imply a departure from modern legal principles or global best practices. Rather, it involves supplementing existing frameworks with ethical values that can enhance accountability, fairness, and stakeholder sensitivity. Such an approach can help create a more balanced system that not only resolves financial distress efficiently but also promotes social responsibility and public trust.

As India continues to refine its insolvency jurisprudence and adapt to evolving economic challenges, drawing upon its rich intellectual and philosophical traditions can offer meaningful guidance. The integration of Bharatiya concepts into public policy discussions can strengthen the legitimacy of legal institutions and encourage a culture of responsible economic conduct. Ultimately, the future of insolvency governance lies not merely in achieving efficient resolutions but in creating a framework that harmoniously balances economic objectives with ethical responsibilities, thereby fostering sustainable and inclusive development.

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