



**INSOLVENCY
LAW ACADEMY**

An Indian Institute of Excellence in Insolvency

4th ANNUAL CONFERENCE

24-26 January, 2026

SUMMARY OF HYDERABAD PROCEEDINGS



Summary of Proceedings of the 4th ILA Annual Conference.



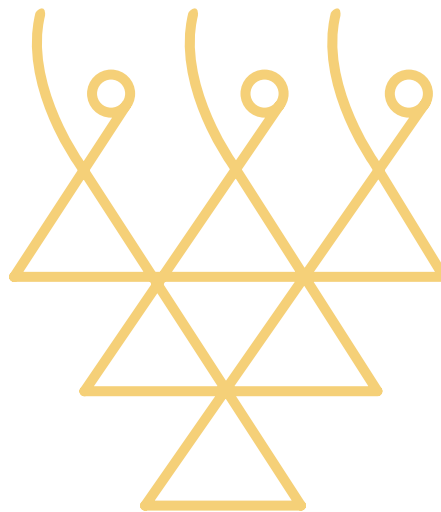
ABOUT INSOLVENCY LAW ACADEMY

Insolvency Law Academy is an institute of excellence in insolvency. An independent think tank and research institution, ILA contributes to robust and evidence-based policy making and enhancement of professional and ethical standards in the insolvency industry through cutting-edge research, innovation and development of best practices.

Insolvency Law Academy – an emerging soft infrastructure which has the potential to propel it into becoming the fifth pillar of Indian insolvency ecosystem, and a research institution with global footprint.

Fuelled by market support and stakeholders' encouragement, ILA has taken long strides over a period of three years, creating impressionable footprints through its contributions. We have forged collaborations with many global and Indian institutions of eminence, and together with them, taken thought leadership in many futuristic areas.

Thanks to ILA leadership and team, its institutional architecture is shaping rapidly giving wings to its vision. ILA projects are taking flights, many even beyond our borders. In a very short span of time, ILA has successfully created the soft infrastructure for a world class institute of excellence.



More about us can be found on www.insolvencylawacademy.com



ABOUT

INSOLVENCY SCHOLARS FORUM



Academic knowledge, evidence and expertise can help inform, design, improve and test policy, and ultimately make government policy better. Deep research can bring together evidence to support policymakers in achieving real-world outcomes. This includes the development and use of a sound evidence base such as peer-reviewed literatures or even better, systematic reviews. Scholars and think tanks are uniquely placed to broker links between different sectors and assist with cross-cutting approaches to achieving the sustainable development goals of insolvency industry and finding innovative solutions. Research based analysis bridges the gap between policy and practice, which can also lead to strong, inclusive and thorough implementation of the insolvency regime. This creates a need for building a specialist cadre of scholars of insolvency in the country.

ILA's Insolvency Scholars Forum brings together the community of academics in pursuit of education, research, and scholarship in the field of insolvency, and together, build a formidable cadre of insolvency scholars in the country. The members of the Forum serve as a credible resource for ILA in its research initiatives and to mentor the young researchers.

More about ISF can be found on
www.insolvencylawacademy.com/insolvency-scholars-forum

ABOUT

EMERGING SCHOLARS FORUM



As part of the initiative to systematically develop and mentor young scholars in insolvency, ILA has set up Emerging Scholars Group, a platform to bring together early career academics and young professionals from around the world, and offer them opportunities to research and participate in discourse relating to insolvency laws to improve approaches to national and international practice, promote professional excellence, collegiality and scholarship. ILA aims to employ the talents, resources and goodwill of ESG members in its various projects and programmes.

More about ESG can be found on
www.insolvencylawacademy.com/emerging-scholars-group

Foreword

It gives me immense pleasure to present the Summary proceedings of the 4th Annual Conference of the Insolvency Law Academy (ILA 2026), held from 24–26 January 2026 at the iconic Ramoji Film City in Hyderabad. This year's conference welcomed over 110 delegates from nearly all Continents, both in person and virtually, reflecting ILA's steady growth over the past four years under the guidance of the ILA Global Advisory Board, led by Mr. Justice A.K. Sikri, Hon'ble Former Judge, Supreme Court of India, and the support from its diverse global stakeholder community. The high quality of discussions and papers presented at ILA 2026 reaffirm ILA's commitment to fostering high-quality scholarships, encouraging new voices, and building a strong research ecosystem in the insolvency law.

Over the past decade, the global insolvency landscape has been shaped by shifting geopolitical alignments, pandemic, modified universalism, economic nationalism, and the pervasive uncertainties, impacting distressed businesses and their creditors. The conference was designed to reflect on these developments, and also the lessons from nearly ten years of India's own insolvency reforms. Eminent judges, regulators, policymakers, bankers, practitioners, scholars, and international experts came together to deliberate on these transformative trends.

Over three days, the sessions offered deep insight into ILA's activities over the past three years and highlighted several landmark contributions from the previous year. The technical session discussions traversed a wide thematic canvas:

- The evolving challenges to cross-border insolvency cooperation, especially as economic fragmentation tests the foundations of comity underlying frameworks such as the UNCITRAL Model Law.
- The international experience with group insolvency and hybrid processes, and the ongoing efforts to update the Guide to Enactment and Interpretation without altering the Model Law itself.
- The interface between insolvency law and climate risk, and how legal frameworks can better accommodate the realities of a warming, resource-stressed world.
- A fascinating study on the portrayal of bankruptcy in cinema, examining how filmmakers have historically represented financial distress and society's response to it.
- An in-depth discussion on recent and proposed amendments to India's Insolvency and Bankruptcy Code (IBC), assessing how these reforms aim to strengthen creditor rights, improve predictability, and further the Code's founding objectives.
- A forward-looking analysis of a commissioned thought paper on Municipal Debt Restructuring, a vital area as India's urban local bodies strive to meet the aspirations of a Viksit Bharat by 2047.
- Deliberations on nurturing a “safe-to-fail” culture to promote entrepreneurship and innovation, an essential foundation for India's next phase of economic transformation.
- The growing importance of proactive restructuring, turnaround strategies, and the emerging need for sectoral specialization among resolution professionals.

Each session reaffirmed our belief that insolvency law is not merely a legal framework, but a dynamic instrument of economic governance, societal resilience, and institutional trust.

As we look ahead, I hope, the insights and recommendations emerging from this conference will serve as guiding beacons for policymakers, practitioners, and scholars striving to strengthen India's insolvency ecosystem and align it with global best practices.

It is with deep appreciation that I record my sincere gratitude to our esteemed Chief Guest, Mr. N. V. Ramana, Hon'ble Former Chief Justice of India; Mr. Mark Bloom, Chair of the International Insolvency Institute and Head of Baker McKenzie's North America Global Restructuring Practice; for their addresses in the opening session. I am grateful to all our distinguished speakers, scholars and presenters. Their invaluable insights, thoughtful deliberations, and steadfast support greatly contributed to the success of the conference, making it both intellectually enriching and truly memorable.

I also thank our sponsors including State Bank of India, National E-Governance Services Limited, Maximus ARC Limited, and Chambers of Eshna Kumar, and the media partners, Global Restructuring Review, and SCC Times, for their invaluable support. I deeply appreciate the association and support of INSOL International through INSOL Asia Hub and personal interest taken by Mr. Scott Stuart, CEO, INSOL International and Ms. Clare Wee, Head, INSOL Asia Hub. A lot of hard work goes in putting together a conference of this scale. The credit for that goes to the members of the ILA team led by Ms. Vaidehi Gulati, Team Lead & Senior Research Associate –Ms. Pranita Raj, Assistant Research Associate, Ms. Shivani Sahu and Ms. Siya Batra, and the volunteers –Ms. Vandana, Mr. Dev Batra, Mr. Aditya Jain, Ms. Dhanya Jha, Mr. Sandeep Sawhney and Ms. Khusbhoo Khan. I would also like to acknowledge the assistance of Ms. Vaidehi Gulati and Ms. Pranita Raj, in preparing this report.

I reaffirm ILA's steadfast commitment to shaping progressive policy discourse and advancing the practice of insolvency law, with the shared objective of fostering a robust insolvency law and a stronger, more resilient economy.

Sumant Batra
President
Insolvency Law Academy

Address by the Chief Guest of the Conference



Mr. Justice N.V. Ramana

Hon'ble former Chief Justice of India

"I commend the Insolvency Law Academy for fostering these conversations and contributing to the evolution of insolvency law in India."

Mr. Justice N.V. Ramana highlighted the evolution of insolvency law from a moral concept to a structured economic framework focused on resolution and renewal. He noted that in today's interconnected and uncertain global economy, insolvency is often the result of systemic risks rather than moral failure. Emphasizing the importance of adaptability, Justice Ramana stated that modern insolvency frameworks must respond effectively to global economic shocks.

Reflecting on India's Insolvency and Bankruptcy Code, he observed that since its enactment in 2016, the Code has strengthened credit discipline, improved value discovery, enabled significant recoveries, and enhanced investor confidence. He cited recent data showing record approvals of resolution plans and improved post-resolution performance of companies.

He expressed concern over delays in insolvency proceedings, stretched timelines, and capacity constraints in tribunals. He stressed the need to strengthen institutional infrastructure, address procedural bottlenecks, and ensure clarity in law to preserve asset value and creditor confidence.

He concluded by underlining the judiciary's crucial role in ensuring certainty, fairness, and rule of law in economic governance, and commended the Insolvency Law Academy for its thought leadership and contribution to the development of insolvency system.

[Full speech of Justice N.V. Ramana can be accessed on [ILAThinkFactory](#)]

Address by Guest of Honour



Mr. Mark Bloom

Chair, International Insolvency Institute (III);
Chair, Baker McKenzie's North America Global
Restructuring Practice, Miami, USA

“ILA could serve as a model for insolvency-focused organizations in other jurisdictions; I affirm III's strong support for ILA's initiatives and India's broader reform efforts aligned with the vision of Viksit Bharat.”

Mr. Mark Bloom described III as a global, limited-membership organization comprising approximately 450 members from over 60 countries with mission to act as a catalyst for improvements and reforms in insolvency systems across jurisdictions. He noted that III's official observer status at UNCITRAL Working Groups II and V, which have been instrumental in developing the UNCITRAL Model Law on Cross-Border Insolvency. He emphasized that the adoption of the Model Law —currently implemented in approximately 64 jurisdictions —signals stability and predictability to international investors and financial institutions. He expressed hope that India would soon adopt the Model Law as an important milestone in strengthening its cross-border insolvency framework.

Acknowledging the broader global insolvency ecosystem, he referred to the contributions of organizations such as INSOL International, while highlighting III's distinctive role as a catalyst for thought leadership and reform through its experienced membership.

Mr. Bloom commended the substantial progress made by modernizing its insolvency framework, particularly following the enactment of the Insolvency and Bankruptcy Code. He observed that the consolidation of fragmented bankruptcy laws under the Code has streamlined resolution processes, facilitated time-bound insolvency proceedings, maximized asset value, and enabled efficient market exits. He further noted the positive systemic impacts, including increased credit availability, reduction in Non-Performing Assets, and a shift toward market-driven solutions.

Noting the ongoing reform efforts in several jurisdictions worldwide he stated that India's sustained focus on insolvency modernization since 2016 was particularly commendable.

Mr. Bloom acknowledged the role of the ILA in advancing insolvency law and practice in India. The comprehensive educational and developmental initiatives undertaken by ILA, along with its commitment to strengthening implementation of the IBC, were unique among similar institutions globally, he said. He expressed confidence that ILA could serve as a model for insolvency-focused organizations in other jurisdictions. Concluding his address, Mr. Bloom reaffirmed III's strong support for ILA's initiatives and India's broader reform efforts aligned with the vision of Viksit Bharat. He encouraged greater engagement with the international insolvency community and invited participants to collaborate with III through its conferences, webinars, and global platforms.

[Full speech of Mr. Mark Bloom can be accessed on [ILAThinkFactory](#)]



Sumant Batra

Insolvency Lawyer;
President, Insolvency Law Academy;
Past President, INSOL International

“India aspires to become a developed economy by 2047; a robust insolvency system will not only advance this goal but accelerate our race to this historic milestone.”

Mr. Sumant Batra started his address by paying homage to ILA Emeritus Fellow Late Mr. Patrick Ang, who passed away on 14 June 2025. Describing him not only as a dear friend but also a global stalwart in the field of insolvency, he noted that Patrick had made substantial contributions to the development of insolvency law over the past two decades and was a steadfast supporter of insolvency reform in India. His passing, Mr. Batra said, is a profound loss to the global insolvency community.

He also recalled the contributions of ILA Emeritus Fellows, Late Mr. Arun Jaitley, Finance Minister of India, and Late Dr. Bibek Debroy, Chairman of Prime Minister's Economic Advisory Council in the enactment and implementation of the Insolvency and Bankruptcy Code (IBC).

Reflecting on the ILA's work over the past three years, Mr. Batra highlighted several key areas of engagement. These include climate change and insolvency, where the ILA has submitted a thought paper to the Prime Minister's Office; cross-border insolvency, where sustained engagement contributed to the inclusion of enabling provisions in the Bill tabled in the Parliament in August 2025 to amend the Code; and MSME insolvency. He also referred to ongoing efforts for reforms in bank insolvency, particularly developments relating to the UNIDROIT model law for medium-sized banks and financial institutions, and municipal debt restructuring, where the ILA has worked with regulators and market participants to develop a framework for listed municipal bonds. This initiative has received attention from NITI Aayog – the government think tank, reflecting its potential relevance to India's long-term growth objectives.

Mr. Batra outlined ILA's institutional partnerships, research chairs, and impact studies, noting contributions to areas such as hybrid insolvency processes, maritime-insolvency interface, and the implementation of the Cape Town Convention's aircraft protocol. He also highlighted invitation to ILA at the recently concluded UNCITRAL Working Group V meetings, underscoring its growing international engagement.

Looking ahead, he identified personal insolvency as a key focus area for the next phase of reform, particularly in light of the government's intention to operationalize this framework. Emphasizing the importance of destigmatizing failure, he stressed the need for policies that encourage entrepreneurship, risk-taking, and dignified exit mechanisms.

He concluded by urging a shift in focus from recovery-centric processes under the IBC to operational turnaround of distressed assets, so that they may return to productive contribution within the economy.

He closed by acknowledging the guidance of the ILA Advisory Board and the support of its partners and stakeholders, whose collective efforts have shaped the institution's growth and impact.



Ms. Vaidehi Gulati

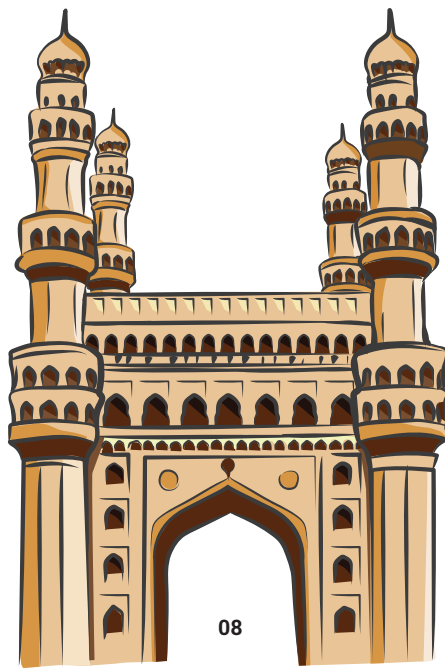
Team Lead & Senior Research Associate,
Insolvency Law Academy

“ILA acknowledges the support of our partners, sponsors, speakers and those who take out the time to write out papers to be presented at our conference. It is with their contributions that ILA continues to leap forward.”

On behalf of ILA, Ms. Gulati extended gratitude to the Hon'ble Chief Guest, Justice N. V. Ramana, for his august presence and for delivering an insightful and inspiring address that set the tone for the conference. Appreciation was also conveyed to the Guest of Honour, Mr. Mark Bloom, along with the distinguished dignitaries, speakers, and delegates for their valuable participation.

She acknowledged the generous support of its Powered-by Sponsor, State Bank of India, and its Associate Sponsors—National e-Governance Services Limited, Maximus ARC Limited, and Chambers of Eshna Kumar—for their continued partnership. Thanks were also expressed to the Global Media Partner, Global Restructuring Review, and Media Partner, SCC Times, for amplifying the conference's reach and impact. She expressed her deep gratitude to INSOL Asia Hub particularly Ms. Clare Wee for supporting ILA by hosting the Welcome Dinner.

Special recognition was given to the members of the ILA team, volunteers, and the hotel staff for their dedicated efforts in ensuring the seamless conduct of the event. ILA acknowledges the support of our partners, sponsors, speakers and those who take out the time to write out papers to be presented at our conference. It is with their contributions that ILA continues to leap forward.







Global Developments: From Pessimism to Promise?



From right to left - **Mark Bloom**, Chair, International Insolvency Institute; Chair, Baker McKenzie's North America Global Restructuring Practice, Miami, USA; **Antonia Menezes**, Senior Financial Sector Specialist, Insolvency and Debt Resolution, The World Bank Group, USA; **James Sprayregen**, Vice Chairman, Hilco Global; Past President, INSOL International, USA; **Scott Stuart**, Chief Executive Officer, INSOL International, USA; **Sumant Batra**, Insolvency Lawyer; President, Insolvency Law Academy; Past President, INSOL International, India

The panel noted that post-pandemic recovery stands further complicated by geopolitical conflicts, trade protectionism, and supply chain reconfiguration. These developments are accelerating the fragmentation of the international economic order into competing geopolitical blocs characterized by divergent trade regimes, payment systems, and regulatory standards. Tariffs, trade disputes, and climate-related disruptions have intensified corporate distress across jurisdictions. Cross-border restructuring has become more complex due to fragmented asset bases and jurisdiction-specific rescue frameworks. Climate risks, as reflected in recent international assessments, now constitute a material factor in business continuity and restructuring strategy. The evolving environment calls for greater coordination, policy clarity, and adaptive insolvency systems capable of addressing transnational financial distress.

One of the speakers highlighted the increasing strategic deployment of insolvency frameworks in what he described as an era marked by economic “weaponization,” beginning with tariffs and reciprocal trade measures. He highlighted the growing recourse to U.S. Chapter 11 proceedings by non-U.S. companies, particularly global airlines headquartered in Latin America and Europe, attracted by procedural flexibility, debtor-in-possession financing, and institutional predictability. He further discussed innovative cross-border strategies, including the restructuring of a Mexican enterprise through an English subsidiary followed by recognition in the United States under Chapter 15. Although subject to initial judicial scrutiny, recognition was ultimately granted, illustrating judicial openness to structured jurisdictional pathways.

These examples reflect a broader trend: insolvency regimes are increasingly accessed strategically to obtain procedural advantages, and courts are demonstrating enhanced receptiveness to cross-border recognition, reinforcing the globalization of restructuring practice, he said.

Another speaker spoke of the interplay between practical and political considerations in insolvency reform, the persistence of forum selection, and the transnational diffusion of best practices. From a debtor's counsel perspective, jurisdictional choice is often regarded as a professional obligation aimed at achieving optimal restructuring outcomes. Variations in eligibility standards, procedural tools, and safeguards inherently incentivize venue selection. The speaker characterized forum shopping as a constructive feature of a competitive restructuring landscape, fostering innovation and policy refinement. Advanced mechanisms such as liability management exercises and mass tort restructurings have become established instruments within modern practice. Regarding Chapter 15, the speaker said, while it remains a significant recognition mechanism under the UNCITRAL Model Law, it has not independently positioned the United States as the default global forum. Nonetheless, the broader strength of the U.S. insolvency framework sustains its prominence.

Another speaker provided the empirical insights into global recovery patterns - while approximately 90% of advanced economies have exceeded pre-pandemic per capita income levels, more than one-quarter of emerging markets and developing economies remain below such benchmarks. Growth is projected to moderate further in the coming years. Corporate vulnerability indicators reveal substantial fragility, particularly among smaller firms with limited earnings buffers. Global insolvencies rose in 2024 and are projected to continue increasing, albeit unevenly across jurisdictions. She mentioned that governments are increasingly pursuing simplified and streamlined insolvency frameworks to manage high-volume cases efficiently. There is also a discernible shift toward out-of-court and hybrid restructuring mechanisms, including pre-packaged processes, driven in part by court capacity constraints. The speaker underscored the rising significance of personal insolvency systems, noting that household debt in emerging economies has more than doubled over two decades. Robust personal bankruptcy regimes can mitigate enforcement costs, address non-performing loans, and support entrepreneurship. Renewed efforts are underway to identify and promote international best practices in this domain.

Another speaker offered a comparative assessment of insolvency systems, observing that although the U.S. Bankruptcy Code has been amended extensively since 1978, not all reforms have enhanced systemic coherence. Legislative changes are often reactive and influenced by creditor constituencies following major cases, which may risk policy fragmentation. Despite geopolitical volatility and trade tensions, the anticipated surge in insolvencies has not fully materialized, reflecting institutional adaptability and professional innovation. A credible and predictable formal insolvency framework often facilitates consensual out-of-court restructurings, as parties negotiate against the benchmark of likely court outcomes. He described Chapter 11 as a foundational mechanism underpinning market confidence through predictable capital reallocation. Preferring the term "forum selection" over "forum shopping," he emphasized the professional responsibility to seek jurisdictions offering certainty and efficiency. While jurisdictions such as the United Kingdom and Singapore are strengthening their roles as restructuring hubs, India continues to refine its relatively young regime. Comparative distinctions — such as promoter participation rules — highlight important policy divergences and offer instructive insights for incremental reform, he observed.

A Study of Failure and Bankruptcy through the Eyes of Indian Cinema



From right to left - **Sumant Batra**, Insolvency Lawyer; President, Insolvency Law Academy; Past President, INSOL International; **Asha Batra**, Founder Trustee, Indian Cinema Heritage Foundation

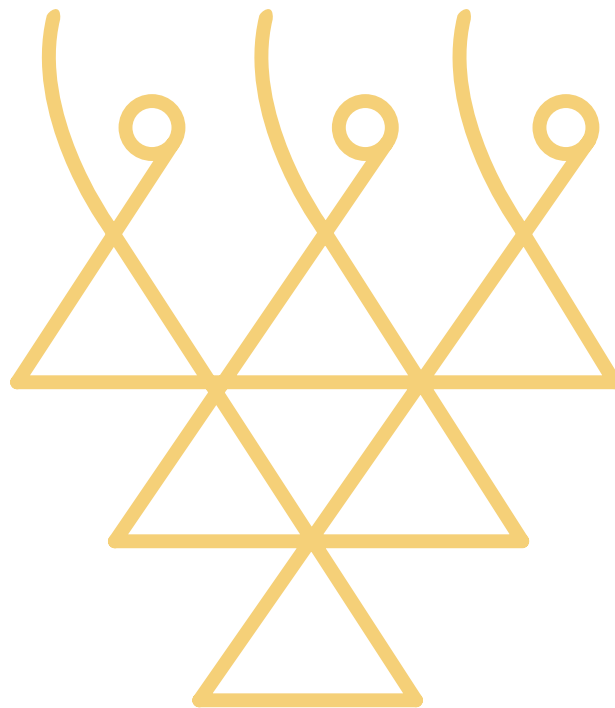
“Cinema does not offer prescriptions; rather, it functions as a two-sided mirror that not only reflects society but also actively participates in the ongoing process through which society perceives and understands itself.”

This extra-ordinary session, perhaps the first ever at any insolvency conference, examined the themes of financial failure, redemption, and dignified exit through the lens of cinema. Cinema represents a dynamic convergence of art, literature, and social inquiry. Beyond entertainment, it functions as a cultural archive reflecting the moral, political, and economic anxieties of its time. From the pioneering works of Dadasaheb Phalke to the contemporary era of digital streaming, Indian cinema has continually mirrored shifting societal realities. Despite changes in technique and technology, its enduring thematic concern remains the human condition—particularly experiences of failure, stigma, resilience, and evolving perceptions of insolvency.

Drawing on research commissioned by the Insolvency Law Academy and the Indian Cinema Heritage Foundation, in a conceptually distinctive session, Ms. Asha Batra demonstrated how cinematic portrayals of bankruptcy over the past century reflect changing social attitudes toward economic distress. Indian cinema, she observed, has persistently engaged with socio-economic concerns, whether explicitly or symbolically. Films such as *Do Bigha Zamin*, *Mother India*, *Naukri*, *Deewaar*, *Guru*, and *Phas Gaya Obama* trace India's developmental journey while foregrounding debt, dispossession, aspiration, corruption, and market risk.

Chronologically, these narratives move from post-Independence agrarian distress to developmental optimism, later disillusionment, and post-liberalization entrepreneurial volatility.

Through close textual analysis of protagonists' financial status and moral trajectories, insolvency was reframed not merely as a technical event but as a lived experience shaped by dignity, shame, and structural constraint. While economic discourse measures failure through material loss, cinema interprets it through emotional and ethical registers. The session ultimately demonstrated that Indian cinema operates both as mirror and mediator of social consciousness, shaping the moral vocabulary through which economic failure is understood and humanized.



The Bold and Beautiful: IBC (Amendment) Bill 2025



From right to left - **Pooja Mahajan**, President, INSOL India; Managing Partner, Chandhiok & Mahajan Associates, India; **Debajyoti Ray Chaudhuri**, MD & CEO, National E-Governance Services Limited, India; **Dr. M.S. Sahoo**, former Chairperson, Insolvency and Bankruptcy Board of India; Advocate; Former Distinguished Professor, National Law University Delhi, India; **Anoop Rawat**, Practice Head (Restructuring and Insolvency), Shardul Amarchand Mangaldas & Co., India; **Avinash Subramanian**, Partner, AZB & Partners, India

The Insolvency and Bankruptcy Code, 2016 (Code) has been widely regarded as one of India's most consequential economic reforms. Nearly a decade after its enactment, however, persistent challenges – including delayed resolutions, inconsistent judicial interpretation, and rising creditor disputes – have affected its predictability and efficiency. Against this backdrop, the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, tabled in Parliament on 12 August and subsequently cleared during the Winter Session, was described as the most substantial reform of India's corporate insolvency framework in recent years. The Bill introduces cross-border insolvency provisions, a group enterprise framework, and a hybrid insolvency process. It seeks to compress timelines, reduce litigation, clarify priority structures, and modernize procedures in alignment with global best practices.

The session featured detailed deliberations on key amendments, including stricter timelines for submission and approval of resolution plans, clarification of claim hierarchies, and strengthened accountability for resolution professionals. The reforms were examined through the lens of creditor confidence, value maximization, and the restoration of the Code's founding objective – swift, predictable, and revival-oriented resolution of corporate distress.

Setting the tone, the moderator reflected on nine years of the Code's operation, framing the discussion around: (i) behavioural shifts induced by the Code; (ii) institutional performance of tribunals and market actors; and (iii) whether the 2025 Amendment realigns the regime with its original objectives.

A member of the panel observed that the Code was conceived as a mechanism for asset repurposing and enterprise renewal. Over time, however, it has increasingly functioned as a recovery-driven regime. Public discourse and official metrics tend to emphasize recovery percentages rather than the sustainability of revived enterprises. He highlighted structural distortions, including the high volume of pre-admission settlements relative to approved resolution plans – suggesting strategic invocation of the IBC as a pressure tool. He cautioned that expanding reliance on the “commercial wisdom” of creditors, if left unchecked, may dilute broader goals of balanced stakeholder consideration. With respect to Section 29A, he suggested recalibration, noting that its current formulation may operate both over- and under-inclusively. He also emphasized that “resolution” should not be equated solely with plan approval; liquidation may represent an economically rational and legitimate outcome. Institutional capacity constraints and deviations from the adjudicatory role envisioned under the Code were identified as pressing concerns.

Another speaker underscored the transformative role of Information Utilities, particularly through the work of National E-Governance Services Limited (NeSL). Built on India's digital public infrastructure, Information Utility (IU) now hosts over five crore authenticated records of debt and default. He mentioned that the Amendment Bill enhances reliance on the Record of Default (ROD), enabling adjudicating authorities to base admission decisions primarily on authenticated IU data. A notable proportion of recorded defaults are reportedly cured shortly after notification, indicating that IU-triggered alerts function as early warning mechanisms. Mandatory authentication requirements are expected to reduce admission-stage disputes and procedural delays, while strengthening evidentiary certainty. The IU framework was described as central not only to corporate insolvency but also to potential expansion into personal insolvency regimes.

Another speaker reflected on the jurisprudential maturity achieved during the Code's early years, particularly concerning admission standards and the doctrine of commercial wisdom. However, post-pandemic case surges have strained adjudicatory infrastructure, leading to delays and expanded cause lists. She noted increasing litigation intensity, including promoter-driven challenges, as a contributing factor. The proposed shift toward creditor-led and collaborative restructuring models requires insolvency professionals to transition from control-based roles to coordination-driven engagement. This evolution demands sectoral expertise, negotiation skills, and turnaround management capabilities. Excessive regulatory scrutiny, she cautioned, may discourage innovation and risk-taking within the professional community.

As the panel observed that banks have played a pivotal role in operationalizing the Code, another speaker said, using it as a corrective tool against non-performing assets. However, lender behavior remains largely recovery-centric, he expressed his concern. He identified structural weaknesses in handling complex and regulated sectors such as aviation, telecom, and EPC, where absence of preparatory restructuring plans, limited sectoral expertise, lack of debtor-in-possession financing mechanisms, and insufficient regulatory coordination have often led to liquidation or erosion of value. The proposed collaborative and early-intervention frameworks signal a conceptual shift. Yet, their effectiveness will depend on capacity building within financial institutions and the cultivation of specialized restructuring expertise beyond traditional recovery approaches.

The session highlighted a central tension in the Code's ten-year evolution: a framework designed to promote revival and value maximization has frequently operated as a recovery mechanism. While digital innovations such as the IU have strengthened early stress detection and procedural certainty, deeper institutional recalibration remains necessary.

Key areas identified for reform include revisiting Section 29A, augmenting adjudicatory capacity, recognizing liquidation as a legitimate economic outcome, enhancing banking-sector expertise in complex restructurings, and restoring confidence within the insolvency professional ecosystem. A decade after its enactment, the Code stands at a critical juncture. Meaningful alignment between statutory design, institutional capacity, and stakeholder incentives will be essential to reaffirm and reinvigorate its revival-

The American Dream and Indian Wings



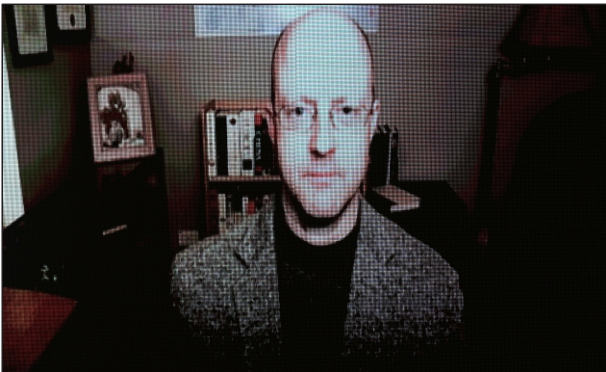
From right to left – **Debanshu Mukherjee**, Co-founder, VIDHI Centre for Legal Policy, India; **David Grant**, Partner, Troutman Pepper Locke, United Kingdom; **Prof. Rebecca Parry**, Co-Director for the Business and Insolvency Law, Nottingham Law School, Nottingham Trent University, United Kingdom; **Anil Bhardwaj**, Secretary General, Federation of India, Micro, Small and Medium Enterprises, India; **Sumant Batra**, Insolvency Lawyer; President, Insolvency Law Academy; Past President, INSOL International, India

The session examined the philosophical underpinnings, institutional design, and socio-economic consequences of individual and small enterprise insolvency frameworks in India. Through comparative perspectives from the United States, China, and the United Kingdom, the discussion explored how insolvency regimes shape entrepreneurial incentives, distribute economic risk, and influence long-term participation in formal markets. A recurring theme was that insolvency law operates not merely as a debt-recovery tool but as a structural component of economic policy.

The moderator opened the discussion by highlighting a structural tension between senior-dominated decision-making institutions and India's youthful demographic profile. He cautioned that if institutional frameworks do not reflect the aspirations and risk appetite of younger generations, developmental ambitions may be undermined. Narrowing the focus to insolvency, he argued that the architecture of failure management is foundational to economic transformation. Drawing from the United States' experience, he identified three pillars of a growth-oriented insolvency regime: recognition of legitimate business failure, provision of dignified exit mechanisms, and institutionalisation of a "second chance." For India to transition from a job-seeking to a job-creating economy, insolvency law must provide certainty, fairness, and accessibility particularly, for proprietorships and partnerships that form the backbone of small enterprise activity.

A speaker illustrated the systemic implications of insolvency design through two contrasting experiences. In the Indian case, a first-generation entrepreneur whose business was disrupted by technological change faced fragmented enforcement actions, imprisonment for statutory dues, and absence of coordinated

creditor restructuring. Without early-warning triggers or protective moratoria, distress escalated into irreversible collapse. He referred to many episodes which demonstrate that institutional design failures—not merely market forces—can convert commercial difficulty into personal ruin. By contrast, he described observing in the United States a bankrupt small entrepreneur securing fresh credit based on a revised business plan. The system assessed viability rather than penalising prior failure, reflecting a framework that distinguishes between misconduct and honest misfortune. He emphasised the need for two reform imperatives: a philosophical shift recognising insolvency as a legitimate economic outcome rather than moral delinquency; and institutionalised early-intervention tools enabling proactive restructuring before value destruction becomes terminal.



Dr. Jason J. Kilborn, University of Illinois, Chicago USA
(Virtually)

The American academic argued that insolvency within the broader American legal and economic tradition normalises entrepreneurial risk. Since the mid-19th century, U.S. bankruptcy law has evolved from punitive collection models toward a discharge-based “fresh start” philosophy for the “honest but unfortunate” debtor. Reforms during the Great Depression further institutionalised structured compromises through liquidation and income-based repayment mechanisms. He conceptualized insolvency law as a form of economic insurance that spreads inevitable losses across stakeholders while preserving individual participation in formal economic systems. Accessible, inexpensive, and time-bound procedures reduce

incentives to withdraw into informality or avoid productive risk-taking. On financial counseling, he drew a critical distinction: preventive financial education enhances resilience and responsible borrowing, but mandatory counseling at the stage of imminent default may delay necessary relief and compound distress. Counseling is most effective as a preventive instrument, not as a procedural barrier to discharge.

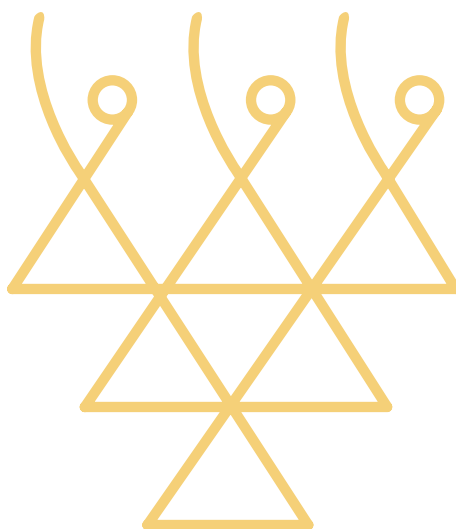
Another academic analyzed China’s incremental approach to personal insolvency reform. While corporate insolvency legislation was introduced in 2006, personal insolvency remained absent for years due to entrenched cultural perceptions of debt as an enduring familial obligation. Rising consumer credit and guarantee liabilities eventually created systemic pressures necessitating reform. She noted that Shenzhen’s pilot personal insolvency framework represents a controlled experimental model, with limited eligibility and structured safeguards. However, she emphasised that legislative drafting alone cannot ensure legitimacy. Reform must be accompanied by public education and media engagement to distinguish opportunistic default from genuine economic misfortune. Institutional capacity—property registries, trained adjudicators, and advisory bodies—remains essential for effective implementation. She also noted that the draft proposal for a revised national bankruptcy law is currently under consideration. While it includes provisions for personal insolvency, draft national framework has limited scope to enterprise-related debtors reflects ongoing policy caution and the centrality of public perception in insolvency reform.

Another speaker traced the evolution of the United Kingdom’s insolvency framework toward collective value maximisation and structured resolution processes. Although stigma surrounding business failure has diminished, it continues to influence policy design. Unlike the United States, UK law does not provide an equivalent presumption akin to the business judgment rule protecting directors’ good-faith commercial decisions. Drawing from personal experience of a law firm collapse, he illustrated the enduring severity of

personal insolvency consequences, even within limited liability structures. He further noted that COVID-era reforms did not create a dedicated, streamlined restructuring track for SMEs comparable to the simplified U.S. framework—an omission offering lessons for India's evolving regime. He cautioned against excessive executive intervention in case-level insolvency decisions, emphasising the importance of statutory frameworks, professional autonomy, and judicial oversight in maintaining institutional balance.

Another speaker analysed the political economy underlying the Insolvency and Bankruptcy Code's design. Corporate insolvency reform was driven by three principal forces: MSME-focused proposals in the 2014 Union Budget, the RBI's intensified efforts to address rising NPAs, and India's ambition to improve its Ease of Doing Business ranking. Although the Code incorporated individual insolvency mechanisms, these were not operationalised with comparable urgency, he said. However, rising household indebtedness—particularly unsecured, consumption-driven borrowing—and post-pandemic repayment stress signal increasing vulnerability. Small enterprises also continue to lack an effective and accessible restructuring pathway. He suggested that India could consider state-level pilot reforms, given insolvency's placement in the Concurrent List, to test and refine institutional design.

The session reaffirmed that insolvency law is a normative and developmental instrument, its design determines whether entrepreneurial failure results in permanent exclusion or functions as a structured pause within a dynamic cycle of risk, learning, and renewed participation in the formal economy.



Insolvency Law for Civic Bodies: Boosting Credit Profile and CAPEX of Urban Local Bodies



From right to left– **Laura N. Coordes**, Co-chair ISF, Professor of Law, Arizona State University, USA (virtually); **Pramod Rao**, Executive Director, Securities and Exchange Board of India; **Dr. M.S. Sahoo**, eminent economist and former Chairperson, Insolvency and Bankruptcy Board of India; Advocate; former Distinguished Professor, National Law University Delhi; **Sumant Batra**, Insolvency Lawyer; President, Insolvency Law Academy; Past President, INSOL International, India

The session examined the institutional and regulatory case for establishing a predictable municipal debt restructuring framework to support the development of India's municipal bond market. Speakers analysed constitutional authority, comparative models, and design considerations necessary to reconcile investor protection with public governance realities.

Mr. Sumant Batra opened the session by emphasising the central role of Urban Local Bodies (ULBs) in infrastructure development and public service delivery amid rapid urbanisation. Despite their importance, municipal corporations remain fiscally constrained due to limited revenue autonomy and reliance on State transfers. Although select municipalities have accessed capital markets, investor concerns over creditworthiness, revenue predictability, and repayment uncertainty continue to limit broader participation. He underscored the need for a structured and credible municipal debt restructuring framework to strengthen investor confidence. He noted that the Insolvency Law Academy, in collaboration with SEBI and domain experts, has developed a policy proposal initially focused on listed municipal bond issuers, where an existing securities regulatory architecture already operates. However, municipal restructuring differs fundamentally from corporate insolvency. Municipal entities vary widely in governance capacity and fiscal structure, and any framework must account for fiscal federalism, Centre–State dynamics, and electoral accountability. Municipal distress implicates public interest concerns that extend beyond commercial recovery. The proposal authored by Mr. Pramod Rao and Mr. Sumant Batra, is being peer-reviewed by Dr. Sahoo. The proposal has already caught the attention of NITI Aayog.

Mr. Rao highlighted the significant untapped potential of India's municipal bond market. Drawing comparison with the United States—where over 40,000 municipal entities have outstanding bonds exceeding USD 4 trillion—he noted that India's 8,000–9,000 ULBs represent substantial latent capacity. SEBI's 2015 municipal debt regulations introduced safeguards such as mandatory credit ratings, debt service reserve accounts, pooled cash flows, and enhanced disclosure norms. Yet, only 26 issuances by 21 issuers have collectively raised just over ₹3,700 crore—modest relative to infrastructure needs. Municipal issuers, while vested with taxation powers, cannot be liquidated or have essential public assets sold upon default. Traditional enforcement mechanisms are therefore unsuitable. Instead, structured debt adjustment processes are required. International precedents, including fiscal crises in major U.S. cities, demonstrate that municipal distress is a practical risk.

Mr. Rao proposed a dedicated municipal restructuring forum—potentially under SEBI or stock exchange oversight—to facilitate coordinated negotiations among creditors within defined timelines, thereby enhancing credit discipline and market depth.

Dr. Sahoo endorsed the proposal as conceptually sound and jurisdictionally viable. Referring to Supreme Court application of the doctrine of “pith and substance,” he observed that municipal bonds clearly fall within the statutory definition of securities, enabling SEBI to design an investor-protection-oriented restructuring framework. He noted that while issuances and credit ratings have increased, the absence of a predictable stress-resolution pathway continues to dampen both investor confidence and municipal participation. In the absence of formal mechanisms, ad hoc and legally contentious interventions may arise, as evidenced by past controversies involving municipal financial instruments. While corporates, financial institutions, and sovereign entities possess structured distress frameworks, municipalities do not. Establishing such a framework would enhance fiscal discipline and market credibility.

Dr. Laura Coordes emphasised that municipalities globally face mounting infrastructure and climate-related pressures, requiring sustained access to financing. Drawing from U.S. experience, she outlined three core principles for municipal restructuring: continuity of essential public services; early detection through transparency and robust disclosure; and flexibility to accommodate diverse municipal structures. Comparative insights must be adapted to local institutional realities.

Dr. Eugenio Vaccari cautioned against directly transplanting corporate insolvency models into the municipal context. Elected leadership should ordinarily remain in office during distress to encourage transparency and avoid perverse incentives. Professionals can play a valuable role in early-stage fiscal management, particularly where technical capacity is limited, but such involvement must respect democratic accountability and public purpose.

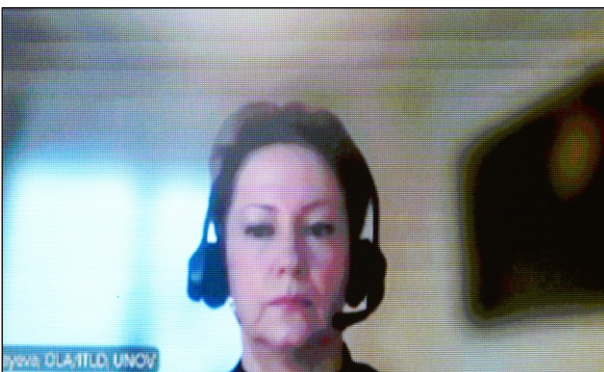
The session converged on a central proposition: India's expanding urban infrastructure ambitions require a deeper municipal bond market, which in turn necessitates a predictable and structured debt restructuring mechanism. Unlike corporate insolvency, municipal restructuring must balance investor protection with continuity of public services, fiscal federalism, and democratic governance. A carefully designed, securities-anchored framework—tailored to India's institutional context—can strengthen credit discipline, enhance investor confidence, and unlock the financing potential of India's Urban Local Bodies.

Navigating IBC'S New Frontier: Cross-Border Insolvency



From right to left – **Mohamad Hafisol Bin Yusoff**, Director of Insolvency (Legal and Policy Division), Malaysian Department of Insolvency, Malaysia; **Sumant Batra**, Insolvency Lawyer; President, Insolvency Law Academy; Past President, INSOL International, India; **Aparna Ravi**, Partner, S&R Associates, India

The moderator opened the session by observing that cross-border insolvency remains one of the most significant unfinished components of India's insolvency regime under the Insolvency and Bankruptcy Code. She recalled that even at enactment, the Joint Parliamentary Committee had acknowledged the absence of cross-border provisions as a structural gap. India has before it an internationally accepted template in the UNCITRAL Model Law on Cross-Border Insolvency. The Insolvency Law Committee in 2018 recommended its adoption as Draft Part Z of the IBC, with contextual modifications. While supporting rules were developed, implementation has yet to occur. Noting that the proposed Amendment Bill now includes an enabling provision, Ms. Ravi framed the discussion as an opportunity to evaluate global experience and identify key design considerations for India.



Samira Musayeva, Senior Legal Officer, UNCITRAL;
Secretary, UNCITRAL Working Group V (Insolvency), Austria
(Virtually)

Ms. Samira Musayeva situated the debate within broader global developments. She emphasised two core propositions: first, cross-border insolvency now routinely involves coordination of multiple parallel proceedings across jurisdictions; second, it has evolved from a technical recognition mechanism into a systemic governance tool central to financial stability and market confidence. She observed that newer jurisdictions—including Singapore and several countries across Asia, Africa, and the Gulf—are

actively shaping interpretations of Model Law concepts such as public policy and creditor protection. Strict reciprocity requirements are declining, reflecting the consensus that they undermine value maximisation. Business realities, she said, have also transformed since 1997. Enterprise groups, digital platforms, data-driven firms, and complex restructuring strategies complicate concepts such as COMI and establishment. Fraud, asset dissipation, sanctions regimes, climate-related liabilities, and data localisation rules intensify coordination challenges. Parallel civil, regulatory, criminal, and arbitral proceedings are now structural features of cross-border cases. She noted that UNCITRAL has expanded the normative framework through the 2018 Model Law on Recognition and Enforcement of Insolvency-Related Judgments; the 2019 Model Law on Enterprise Group Insolvency; and the 2025 Asset Tracing and Recovery Toolkit.

While modified universalism is widely accepted, the future challenge lies in ensuring digitalisation and geopolitical shifts strengthen rather than fragment global cooperation, Ms. Musayeva said. On enterprise group insolvency, she explained that high-profile collapses such as Lehman Brothers and Nortel exposed the limitations of entity-centric approaches. The 2019 Model Law on Enterprise Insolvency introduces planning proceedings, group coordination mechanisms, and appointment of a group representative—providing structured tools beyond judicial improvisation. It complements the 1997 Model Law by addressing group-level, rather than purely entity-level, coordination.



Scott Atkins, *Global Head, Restructuring, Norton Rose Fulbright; Past President, INSOL International, Australia (Virtually)*

Australia adopted the Model Law in 2008 as an early adopter. Mr. Atkins noted that Australia's common law tradition of cooperation facilitated implementation, but the Model Law significantly streamlined recognition and interim relief processes. Over 125 cases have since been adjudicated, creating a mature jurisprudence. High-profile matters, including Japan Airlines and Lehman-related proceedings, demonstrated the Model Law's flexibility and speed. However, the Halifax Investments case—where parallel main proceedings existed in Australia and New Zealand—revealed structural limits of the framework and underscored the potential relevance of enterprise group tools. He identified key success factors: close

adherence to the Model Law text, strong judicial willingness to cooperate, and sustained investment in judicial networks and capacity building. Australia's experience, he suggested, has positively influenced investor confidence and cross-border capital flows.

Mr. Mohamad Hafisol Bin Yusoff, highlighted that the on-going cross-border insolvency reform in Malaysia was driven by practical necessity and investor confidence considerations. Malaysia studied early adopters such as the UK, Australia, and Singapore while preserving domestic judicial sovereignty. Recognition of foreign proceedings remains subject to court approval, with public policy safeguards ensuring balance between domestic and foreign interests. Crucially, reform extended beyond legislation to judicial familiarisation, practitioner training, and institutional readiness. He emphasised that effective implementation depends on institutional and human capacity—not legislative transplantation alone.

Mr. Batra traced India's evolving engagement with cross-border insolvency. While the Code's original legislative process anticipated comprehensive provisions, urgency surrounding the NPA crisis led to prioritizing the reformation of domestic laws. Subsequent efforts including a detailed draft prepared following stakeholder consultation and later proposals for Part Z based on the UNCITRAL Model Law—have not yet culminated in enactment. Concerns cited include the need for empirical evidence of economic benefit and geopolitical sensitivities.

He said while the proposed enabling provision in the 2025 Bill to empower the government to frame rules for cross-border insolvency is a great step forward, substantive elements must be embedded in primary legislation itself to provide NCLT jurisdiction to recognise foreign proceedings; determination of main and non-main proceedings; authority to grant interim relief; and power to cooperate with foreign courts. While acknowledging that reliance on delegated legislation may provide flexibility—particularly in light of geopolitical uncertainties—he cautioned that core structural features should remain in the statute to ensure clarity and credibility. He concluded with cautious optimism that India is progressing toward adoption, provided reform is framed through a coherent economic narrative emphasising financial stability and investor confidence.

The session underscored that cross-border insolvency is no longer peripheral but central to modern financial governance. As capital flows, enterprise groups, and digital assets transcend national boundaries, insolvency regimes must facilitate coordination without compromising domestic public policy. For India, nearing a decade of the Code, adoption of a cross-border framework aligned with the UNCITRAL Model Law represents both a legal necessity and an economic imperative. Properly calibrated, such reform can enhance investor confidence, strengthen financial stability, and integrate India more effectively into the architecture of global insolvency cooperation.



Insolvency Scholars Forum

Session –1 (ISF)



From right to left- **Prof. Kathleen Van der Linde**, Professor of Corporate Law, University of Johannesburg, South Africa; **V.V.S.N. Raju**, Managing Partner, Juris Prime Law Services, India; **Dr. Eugenio Vaccari**, Chair, ISF; Senior Lecturer in Law, Department of Law and Criminology, Royal Holloway University of London, United Kingdom; **Dr. Akshaya Kamalnath**, Associate Professor, The Australian National University, Australia; **Saurabh Ranka**, Advocate, Rajasthan High Court, Jodhpur, India

Dr. Eugenio Vaccari noted that for the first time, the Insolvency Scholars Forum (ISF) invited papers through an open global call. After a thorough and rigorous selection process, six papers were selected and presented during this session and the joint ISF–ESG session later in the conference. Earlier editions relied on invitation-only submissions, with peer-reviewed publications appearing in leading journals including the *International Insolvency Review*, *Banking and Finance Review Journal*, and the *Journal of Business Law*. This year's selected papers will be published in the *Journal of International and Comparative Law* and the ILAThinkFactory.

Session-I featured four papers organised around two broad themes insolvency issues in the context of space law; and MSMEs in financial distress.

Dr. Kamalnath presented a paper -*Bankruptcy in the Space Sector*. She examined the role of insolvency law in enabling financing in emerging sectors such as the private space industry. Drawing analogies to the aircraft protocol under the Cape Town Convention, she suggested that a comparable cross-border framework may eventually be necessary for space assets. As private investment in satellites and launch infrastructure expands, predictable and enforceable creditor rights will become central to securing international capital. She emphasised that space enterprises intersect with national security, public service obligations, and sovereign interests. Enforcement in insolvency thus often depends on regulatory coordination rather than conventional asset repossession. Unlike aircraft, satellites cannot be physically seized, and outcomes are

shaped by sovereign approvals and spectrum allocation regimes. Dr. Kamalnath argued that insolvency law functions not merely as a mechanism for failure resolution but as a precondition for innovation and disciplined market entry. In high-risk sectors, the ability to fail and restart is foundational to sustained entrepreneurial development.

Mr. Ranka presented the paper - *When Is a Satellite Not an Asset? Orbital Control, Sovereign Authority, and the Limits of Insolvency Law*. He extended this inquiry by interrogating the asset-centric assumptions of traditional insolvency law. Satellites, though legally defined as assets, derive value primarily from regulatory permissions, orbital slots, and operational control—each dependent on sovereign oversight. Through comparative analysis of the United States, the United Kingdom, and India, and case studies such as One Web and Intelsat, he argued that satellite insolvencies are resolved through enterprise-level restructuring rather than asset liquidation. This reveals a doctrinal gap: insolvency captures conditional operational control, not autonomous property rights. He proposed that a future space-specific insolvency framework should prioritise regulatory coordination and enterprise preservation while remaining compatible with international obligations, including those of the International Telecommunication Union.

Reflecting on the papers, Mr. Raju observed that both papers expose a structural limitation of modern insolvency doctrine: its reliance on transferable, possessory asset assumptions. In the space sector, value lies in regulated control rather than physical possession. He highlighted Dr. Kamalnath's insight that predictable insolvency outcomes reduce capital costs, as demonstrated in the aviation sector. However, space assets lack territorial enforcement points. He noted the potential relevance of escrow mechanisms for satellite codes and control systems, and emphasised that regulatory authorities would inevitably shape outcomes in any Indian space insolvency. Regarding Mr. Ranka's paper, Mr. Raju underscored that satellite insolvencies illustrate the primacy of enterprise preservation over liquidation. In regulated sectors, restructuring—not asset sale—often emerges as the only viable pathway. Collectively, he identified three key lessons: asset-centric insolvency theory is increasingly strained in regulated and digital sectors; enterprise rescue depends heavily on regulatory cooperation; and international coordination and possibly sector-specific frameworks may be required.



Dr. Jonatan Schytzer, Chair, ILA ESG; Associate Professor, Faculty of Law; Uppsala University, Sweden

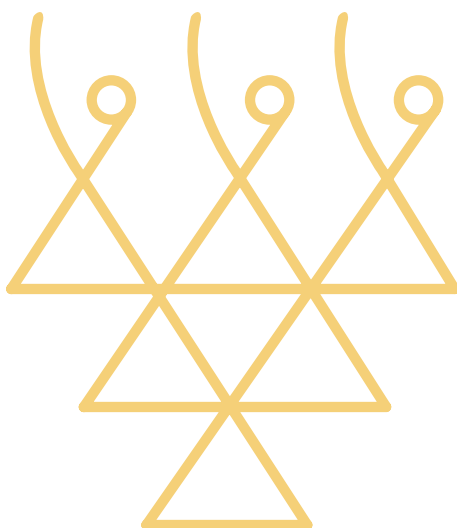
Dr. Jonatan Schytzer presented a paper co-authored with Dr. Olof Wadell, titled - *Viability in the Shadow of Creative Destruction: A Process-Based Assessment of Swedish SME Restructuring*. He analysed Swedish SME restructuring following implementation of the EU Restructuring Directive. He conceptualised viability as a prospective, process-based assessment distinguishing financial distress from underlying economic viability. In Sweden, he said, viability is tested at multiple stages—commencement, during proceedings, and plan confirmation. Drawing on interviews with practitioners and empirical analysis of 298 SME cases, he found that judicial oversight provides an important safeguard, especially where

creditor monitoring capacity is limited. However, mandatory preliminary viability studies—often costing €10,000 or more—create access barriers for smaller firms. Prof. Schytzer concluded that while viability testing safeguards procedural integrity, further work is needed to reduce costs and enhance accessibility.

Prof. Van der Linde presented a paper co-authored with Ms. Tripathi - *A comparative study of MSME restructuring in India and South Africa*. India's pre-packaged insolvency process offers a tailored mechanism for MSMEs, whereas South Africa applies a unified business rescue regime across enterprise sizes. Despite

structural differences, both systems face similar constraints: limited restructuring finance, procedural costs, stigma, and creditor coordination challenges. Expanding the comparative lens to jurisdictions such as China and Brazil, the study highlighted diverse institutional responses to MSME distress. Evaluating both systems against international best practice standards (including those of the World Bank and INSOL International), the paper identified areas for reform to enhance accessibility and procedural balance.

In his second intervention, Mr. Raju commented on both papers for their empirical grounding. He emphasised the Swedish model's multi-stage viability assessment as a disciplined filtering mechanism that ensures only enterprises with genuine prospects proceed. Contrasting this with India's framework under the Insolvency and Bankruptcy Code, he noted the absence of a formal viability report requirement. Under India's MSME pre-pack regime, the debtor submits a base resolution plan, and the resolution professional verifies compliance without conducting an independent viability study. He suggested that a structured yet cost-effective viability assessment could strengthen India's MSME restructuring regime. Drawing comparisons with South Africa's practitioner-led model, he observed that governance design significantly influences restructuring outcomes. He further noted practical challenges under India's pre-pack framework: creditor dominance by financial institutions, limited influence of operational creditors, and consensus difficulties—factors contributing to limited uptake.



IBC 2.0: Group Insolvency & Hybrid Insolvency



From right to left – **Nitin Jain**, Partner (Restructuring & Turnaround), EY India; **Smitha Menon**, Partner & Head (Restructuring & Insolvency Practice), Wong Partnership LLP, Singapore; **Mark J. Forte**, Managing Partner & Head (Litigation and Restructuring Practice), Conyers' British Virgin Islands; **Dr. Siddharth Srivastava**, Partner, Khaitan & Co., India

The moderator opened the session by situating the discussion within India's ongoing debate on codifying group insolvency under the Insolvency and Bankruptcy Code. He highlighted practical challenges arising from corporate groups where enterprise value is embedded across interdependent entities, rendering stand-alone resolution inadequate.

The central question posed was whether legislative codification should articulate guiding principles while preserving judicial flexibility to address complex, fact-specific group structures. The discussion also examined how hybrid insolvency processes can bridge trust deficits between management and creditors, particularly in promoter-driven economies. Panelists noted that creditor attitudes toward hybrid restructuring have evolved alongside improvements in banking sector balance sheets and the growth of alternative financing markets. Reduced systemic stress has encouraged cooperative restructuring models, where transparency, early intervention, and creditor oversight help align incentives and restore confidence.

Mr. Forte offered insights from the British Virgin Islands (BVI), an offshore holding company jurisdiction. He explained that BVI entities typically function as holding structures with operational assets located elsewhere, making most insolvency matters inherently cross-border. He emphasised the foundational role of a moratorium in restructuring. A moratorium stabilises the debt position and prevents enforcement, enabling coordinated negotiations across group entities. However, in creditor-friendly jurisdictions such as the BVI, broad statutory moratoria interfering with secured creditor rights could undermine lending confidence. Secured enforcement forms the basis of international credit structures; erosion of these rights may deter future financing. The BVI therefore adopts a calibrated approach. While there is no automatic statutory moratorium, courts may grant relief through provisional liquidation mechanisms. Hybrid restructurings often

combine provisional liquidation, schemes of arrangement, and cross-border cooperation. The framework seeks to balance restructuring facilitation with preservation of secured creditor protections, thereby safeguarding jurisdictional credibility.

Mr. Menon from Singapore discussed her country's approach, noting that group insolvency is not expressly codified but addressed through judicial tools and cross-border mechanisms. As a financial hub, Singapore frequently serves as a holding or financing jurisdiction, with operating assets spread across Asia, making insolvencies predominantly cross-border. Domestically, Singapore employs "related company moratoriums," allowing courts to extend moratorium protection to subsidiaries or parent entities where necessary for restructuring success. This mechanism provides breathing space while preserving judicial oversight. From a cross-border perspective, Singapore relies on UNCITRAL Model Law instruments, including enterprise group insolvency and recognition of insolvency-related judgments, to facilitate coordinated proceedings while respecting judicial sovereignty. On hybrid insolvency and debtor-in-possession (DIP) restructuring, she described Singapore's evolution from a creditor-centric to a more balanced debtor-led model. Historically, bank-dominated credit markets and enforceable personal guarantees limited restructuring incentives. The rise of private credit funds diversified creditor bases and enabled greater acceptance of DIP frameworks, she added. Singapore's hybrid model permits management to remain in control but imposes robust creditor safeguards. Moratorium protection is conditional upon comprehensive disclosure—updated valuations, liabilities, creditor lists, and cash flow forecasts. Restrictions apply to extraordinary asset disposals, and creditor steering committees often participate in oversight. The model represents a calibrated trade-off: management retains operational continuity while creditors gain transparency and involvement.

Mr. Jain addressed the issue of whether group insolvency should be formally codified in India. He advocated a balanced approach: while judicial innovation has shaped group insolvency jurisprudence, legislative codification can enhance clarity and predictability. However, statutory rigidity should be avoided given the complexity of corporate groups. He observed that group structures frequently involve guarantees, cross-defaults, inter-company loans, and layered holdings. Indian cases such as Videocon and other group resolutions demonstrate that courts have permitted coordinated approaches to prevent value erosion. Yet reliance solely on judicial discretion may create uncertainty. Addressing promoter involvement, he emphasised the importance of balancing accountability with value maximisation. Excluding promoters entirely may undermine revival efforts, especially in owner-managed enterprises. However, safeguards are essential to prevent misuse. He reflected that while Section 29A of the IBC disqualifies certain promoters linked to prolonged NPAs, practical delays in enforcement often contribute to such classifications. Recent clarifications permitting restoration of eligibility upon curing defaults provide some comfort but do not replace the need for a coherent hybrid framework. He observed that although the Code's preamble envisions a resolution-oriented regime, its practical application has often functioned as a recovery or management-change mechanism. Future reforms should aim to restore its core objective: value-preserving resolution rather than punitive displacement.

The session underscored two emerging frontiers in IBC reform: Group Insolvency – Codification can enhance certainty, but must preserve judicial flexibility to address diverse corporate structures and sector-specific realities; and Hybrid Insolvency – Effective restructuring requires calibrated trust-building mechanisms, balancing debtor control with creditor oversight. Across jurisdictions, a common theme emerged: modern insolvency frameworks must move beyond entity-centric and enforcement-driven paradigms toward coordinated, enterprise-value-preserving solutions. As India contemplates "IBC 2.0," carefully designed group and hybrid mechanisms will be central to strengthening its resolution architecture.

UNCITRAL Working Group V: Future Work



Sumant Batra, *Insolvency Lawyer; President, Insolvency Law Academy, Past President, INSOL International, India*

This panel discussed the proposals and outcome of the meeting for updating the Guide to Enactment and Interpretation of the Model Law on Cross-Border Insolvency to the extent that they can be shared in public domain.

Mr. Zucker informed the participants of the substantive concerns raised during the colloquium, emphasizing that differing national interpretations continue to hinder uniform application of the Model Law. A central issue was recognition of foreign proceedings. Although the framework distinguishes between foreign main and non-main proceedings, some jurisdictions treat recognition as strictly binary, while others recognize a residual third category—creating ambiguity that requires clearer guidance, he informed. He also highlighted inconsistencies in the relief granted upon recognition. Certain jurisdictions provide automatic stays, whereas others rely on judicial discretion, leading to uneven outcomes. He noted that the existing safeguards already balance domestic creditor interests with cross-border cooperation but require clearer articulation. The treatment of digital assets was identified as another emerging challenge, as modern asset classes strain traditional definitions and call for updated interpretive direction. Additional debates concerned debtor-in-possession restructurings, the threshold of severe financial distress, appointment of foreign representatives, and the timing of COMI determinations, with jurisdictions differing on when COMI should be assessed. He further observed that despite the Model Law not mandating reciprocity, some states impose it, and that interpretations of the public policy exception vary significantly. He concluded by noting that Working Group V's immediate priority is finalizing a Model Law on applicable law to complement the existing procedural framework, after which efforts will focus on updating the Guide to Enactment to encourage more consistent global implementation.

Mr. Atkins outlined the work of UNCITRAL Working Group V, established in 1997 to develop international insolvency standards through collaboration among member states and observer organizations. He clarified

that the present initiative does not amend the Model Law itself but seeks to modernize the 2014 Guide to Enactment, which supports domestic implementation. While the Model Law emerged during a phase of economic convergence, today's geopolitical fragmentation has shifted its role toward safeguarding global financial stability rather than promoting integration. The two-year modernization project aims to incorporate practical national experiences and address interpretive inconsistencies in cross-border insolvency practice. Responding to a question on ESG and climate change, Mr. Atkins noted that although France proposed their inclusion, lack of consensus among member states prevented their incorporation. He also stated that funding constraints threaten UNCITRAL resources, including its cross-border insolvency case database, potentially jeopardizing decades of jurisprudence. Additionally, he highlighted growing attention within UNCITRAL to the impact of artificial intelligence on insolvency processes.

The session emphasized that although the Model Law remains intact, evolving economic realities and divergent interpretations require clearer guidance. Strengthening clarity on recognition standards, relief measures, digital assets, and public policy can enhance uniformity without reopening politically sensitive negotiations, even as emerging issues such as ESG, AI, and funding pressures shape the future of international insolvency cooperation.



Evan Zucker, Of Counsel, Bankruptcy & Restructuring, Blank Rome LLP, USA (Virtually); **Scott Atkins**, Global Head, Restructuring, Norton Rose Fulbright, Australia; Past President, INSOL International, Australia (Virtually)

Modified Universalism – The Road Ahead



From right to left - **Steven Kargman**, Founder and President, Kargman Associates, USA; **Sumant Batra**, Insolvency Lawyer; President, Insolvency Law Academy, Past President, INSOL International, India; **David Grant**, Partner, Troutman Pepper Locke, United Kingdom

Referring to the speech of Mr. Kannan Ramesh, Hon'ble Judge of the Appellate Division of Singapore's Supreme Court, the moderator introduced the concept of modified universalism, in the words of Justice Ramesh, a middle path between strict territorialism and pure universalism. He explained that the doctrine acknowledges global economic interdependence while preserving domestic sovereignty in insolvency matters. Framing the discussion within rising trade tensions and protectionist trends, he inquired whether cross-border insolvency frameworks—particularly those influenced by the UNCITRAL Model Law—can remain insulated from broader political developments. The panel examined whether such shifts might affect both adoption of the Model Law and judicial interpretation of core principles such as COMI, recognition, and inter-court cooperation.

Mr. Kargman emphasized that adoption of the Model Law is ultimately a political decision rather than merely a technical reform. Although insolvency professionals widely support cross-border coordination, legislatures may hesitate due to sovereignty concerns or apprehensions about foreign creditor influence. He noted that major emerging economies initially deferred adoption while prioritizing domestic reforms, with implementation often occurring gradually through sustained professional advocacy. Drawing on Brazil's experience, he observed that the Model Law was adopted only after continued engagement within policy circles, and its use has since expanded. However, he cautioned that formal adoption does not ensure effective operation. Some jurisdictions have limited its impact through reciprocity requirements or restrictive interpretations, underscoring that domestic legislative choices and judicial practice ultimately shape outcomes.

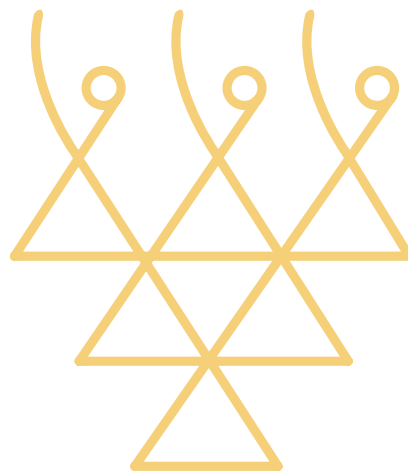
Noting the recent developments in United Kingdom, Mr. Grant suggested that while repeal of the Model Law

is unlikely, courts may interpret its provisions more cautiously in response to geopolitical sensitivities. In particular, he noted increasing judicial scrutiny of strategic COMI shifts to restructuring-friendly jurisdictions. Courts have become more attentive to jurisdictional connections perceived as artificially created, resulting in divergent decisions across jurisdictions. He further argued that participation in cross-border insolvency regimes is driven by economic self-interest. States adopt cooperative frameworks to attract investment, enhance creditor confidence, and secure reciprocal recognition. Any retreat from such systems could undermine market stability and investor trust.

The panel also discussed the possibility of indirect territorialism, whereby jurisdictions introduce sector-specific carve-outs for strategically sensitive industries—such as defense or critical infrastructure—without formally abandoning Model Law principles. Additionally, while UNCITRAL Working Group V has traditionally functioned as a technical and consensus-based forum, sustained geopolitical tensions may increasingly influence negotiations.

Audience interventions reflected concerns about growing localization within a fragmented global economic order. While globalization persists, protectionist tendencies are shaping domestic policymaking, raising uncertainty about the future of cross-border harmonization.

The session highlighted that modified universalism remains a pragmatic balance between cooperation and sovereignty. Although adoption of international insolvency standards is unlikely to reverse, their interpretation may increasingly reflect geopolitical considerations. Nevertheless, economic interdependence continues to necessitate cross-border coordination, ensuring the continued relevance of modified universalism in insolvency law.



Climate Change and Insolvency: Fireside Chat



From right to left – **Migmar Lham**, Lecturer, Jigme Singye Wangchuck School of Law, Bhutan; **Dr. Eugenio Vaccari**, Senior Lecturer in Law, Department of Law and Criminology, Royal Holloway University of London, United Kingdom; **Sumant Batra**, Insolvency Lawyer; President, Insolvency Law Academy; Past President, INSOL International, India

This fireside chat explored the growing interface between insolvency law, climate accountability, and sustainable development. The discussion focused on how insolvency frameworks increasingly serve as mechanisms for allocating environmental and climate-related risks at moments of corporate financial distress. While insolvency law is not a substitute for environmental regulation, it plays a crucial gatekeeping role in determining whether environmental liabilities are absorbed by corporations or shifted onto governments and communities. Drawing on comparative experiences, including Bhutan, the session examined how developing and climate-vulnerable economies can reconcile economic growth with climate responsibility.

Mr. Batra recalled earlier initiatives aimed at integrating climate considerations into insolvency discourse. He observed that climate accountability remains politically sensitive but is becoming unavoidable in legal and economic policymaking. Developing economies, he noted, face a structural dilemma: balancing industrial expansion necessary for growth with commitments to environmental sustainability. Integrating environmental liabilities into insolvency frameworks raises complex questions, particularly regarding priority distribution in resolution plans and the treatment of environmental claims vis-à-vis secured creditors.

Dr. Vaccari explained that insolvency law intersects with climate change most sharply at the point of corporate distress, when deferred environmental risks crystallize into legal and financial liabilities. In many developing jurisdictions, inadequate insurance mechanisms mean insolvency proceedings function as systems of last resort for allocating climate-related harm. This creates the risk that environmental damage caused by private actors is ultimately borne by taxpayers and vulnerable communities. He characterized climate change as a micro-financial risk with implications for credit markets, financial stability, and

insolvency trends, particularly in climate-exposed economies. While insolvency law should not replace environmental regulation, it can facilitate cost internalization, accountability, and appropriate priority allocation. However, attempts to “green” insolvency law carry risks, including administrative burden, greenwashing in restructuring plans, limited environmental expertise among insolvency professionals, and increased credit costs. Dr. Vaccari suggested reforms such as enhancing parent company accountability for subsidiary harm, recognizing environmental protection as public policy in cross-border insolvency, reconsidering priority treatment of environmental liabilities, and cautiously applying doctrines like piercing the corporate veil. He cautioned that poorly designed reforms could raise borrowing costs and encourage regulatory arbitrage. The core challenge, he concluded, lies not in whether to integrate climate accountability into insolvency law, but in doing so proportionately and institutionally realistically.

Responding to these observations, Mr. Batra noted that public policy exceptions in cross-border insolvency may increasingly incorporate environmental considerations. However, countries like India must navigate the tension between rapid industrialization and leadership in global climate governance. Debates surrounding classification and prioritization of environmental claims within insolvency distribution frameworks, he observed, carry significant economic and political consequences.

Ms. Lham presented Bhutan's experience as a climate-conscious jurisdiction where environmental preservation is constitutionally mandated, including the requirement that at least sixty percent of national territory remain under forest cover. Identifying as a carbon-negative nation, Bhutan measures development through Gross National Happiness, integrating environmental sustainability with social and economic progress. She explained that Bhutan's forthcoming insolvency reforms seek to adopt a rescue-oriented framework while embedding climate accountability. Historically, environmental restoration costs were often externalized onto communities and taxpayers. Proposed reforms aim to prioritize environmental restoration claims in insolvency proceedings, thereby incentivizing corporations to internalize environmental costs. She emphasized the growing responsibility of insolvency professionals to promote awareness of the link between corporate distress and environmental harm, while maintaining Bhutan's broader commitment to balancing modernization, foreign investment, and environmental safeguards.

Reflecting on his work in Bhutan, Dr. Vaccari observed that effective environmental protection depends not only on legal design but also on societal values and collective responsibility. Bhutan's environmental consciousness, rooted in cultural and social norms, demonstrates that sustainable development requires both institutional reform and cultural transformation.

The session underscored that insolvency law increasingly intersects with climate governance, particularly in developing and climate-vulnerable economies. Although insolvency frameworks cannot replace environmental regulation, they play a pivotal role in determining whether environmental costs are internalized by corporations or borne by society. Bhutan's experience illustrates that economic development and environmental preservation need not be mutually exclusive, provided sustainability is embedded within corporate and insolvency governance structures.

Economic Law Tribunals of 21st Century India



From right to left – **Shreesha Merla**, Hon'ble former Member (Technical) National Company Law Appellate Tribunal, India; **Justice N. Seshasayee**, Hon'ble Member (Judicial), National Company Law Appellate Tribunal, India; **Justice A.K. Sikri**, Chairman; Former Judge, Supreme Court of India; International Judge, Singapore International Commercial Court; **Justice Rakesh Kumar Jain**, Hon'ble Former Member (Judicial) National Company Law Appellate Tribunal, India; **Sunil Fernandes**, Senior Advocate, Supreme Court of India

This session examined the evolution, performance, and need for reform in India's economic tribunals including the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) in the context of expanding commercial and regulatory complexity and India's aspiration to become an advanced economy by 2047. The panel traced how tribunalization has progressively shifted jurisdiction from constitutional courts toward specialized forums intended to deliver expertise-driven and efficient adjudication. Drawing on judicial, practitioner, and administrative experience, the session evaluated whether tribunals have achieved their intended objectives and identified systemic challenges related to infrastructure, staffing, procedural efficiency, and institutional independence. The panel noted that the Constitution of India did not originally contemplate specialized economic tribunals. Their development followed the 42nd Constitutional Amendment, which introduced Articles 323A and 323B, enabling the establishment of administrative and specialized adjudicatory bodies. Over time, significant jurisdictions once exercised by High Courts—particularly in company law—have shifted to tribunals such as the NCLT and NCLAT.

The discussion centred around two central questions: whether transferring jurisdiction from Constitutional courts to tribunals was justified, and whether tribunals have fulfilled their promise of delivering efficiency and domain expertise. The session evaluated the structural, procedural, and institutional challenges that continue to shape tribunal performance.

The panel defended tribunalization on grounds of specialization. It observed that tribunalization offers clear conceptual advantages. Economic disputes, particularly in insolvency, competition, and financial

regulation—often involve technical complexities that can benefit from expert members. Specialized forums can provide technical and economic expertise not always available in generalist courts, particularly in complex commercial matters. But the tribunals face persistent structural weaknesses. It was noted that many members assume office without prior exposure to specialized statutes, underscoring the need for systematic training. Tribunals often lack the institutional independence enjoyed by Constitutional courts. Administrative dependence on government ministries results in delays in appointments, infrastructural inadequacies, and operational constraints.

It was emphasized that economic legislation such as the Insolvency and Bankruptcy Code must be interpreted with economic reasoning, focusing on industrial revival and systemic efficiency rather than narrow procedural compliance. Among suggested reforms were structured recruitment processes, continuous judicial training, permanent staffing cadres, modern case management systems, strengthened infrastructure, and integration of mediation and arbitration within insolvency frameworks. Justice Sikri also indicated that judicial intervention may sometimes be necessary to ensure adequate funding and institutional independence.

The panel highlighted the importance of permanent staffing structures to prevent institutional discontinuity caused by contractual appointments. Infrastructural and staffing challenges have persisted despite expansion of tribunal jurisdiction. Heavy reliance on contractual personnel results in high attrition and loss of institutional memory. The panel emphasized the importance of collaborative functioning between judicial and technical members, stressing that mutual respect and coordinated deliberation are central to effective adjudication. Additional reforms proposed included increasing insolvency thresholds to prevent misuse of proceedings for small debt recoveries, introducing pre-litigation mediation to encourage settlements, and expanding the number of tribunal benches to address mounting caseloads.

Members also cautioned that inefficiencies cannot be attributed solely to tribunals. Litigant conduct, procedural culture, and professional practices also contribute to delays. The panel advocated procedural discipline, including elimination of unnecessary oral mentions, streamlined appellate filings, concise written submissions capable of direct judicial adoption, and punctual commencement of hearings. Such measures, he argued, could substantially enhance productivity without significant infrastructural reform.

It was further noted that compensation structures often fail to attract top domain experts to tribunal positions, creating a gap between expectations of expertise and institutional realities. Structured orientation and training are therefore essential to facilitate transition into specialized adjudication.

A member supported the establishment of a National Tribunals Commission to centralize administration, standardize funding, and strengthen institutional independence, underscored the need for permanent staffing, digital modernization, and greater use of hybrid dispute resolution mechanisms combining litigation, mediation, and arbitration.

The discussion reflected that while tribunalization was designed to promote expertise-driven efficient adjudication, but structural and institutional constraints like infrastructure deficits, staffing instability, procedural inefficiencies, and inadequate training have constrained its potential. At the same time, reforms in case management, staffing permanence, digital systems, and alternative dispute resolution can offer practical pathways for improvement. The panel concluded that meaningful reforms require coordinated engagement among the judiciary, executive, bar, and policymakers to ensure that economic tribunals function as credible and effective institutions supporting India's commercial and economic development.

Turnaround: The Next Milestone of Insolvency Industry



From right to left - **Dinkar Venkatasubramanian**, Former President, INSOL India; **Seth Freeman**, Senior Managing Director, GlassRatner, USA; **Saurav Panda**, Partner, Shardul Amarchand Mangaldas & Co. India

This session explored the anticipated transformation of India's insolvency landscape in light of the proposed IBC Amendment Bill 2025, which is expected to introduce a formal pre-insolvency resolution framework. This development is likely to shift the industry's orientation from enforcement-driven recovery toward sector-specific turnaround expertise. Speakers emphasized that professionals will increasingly require deep knowledge of operational cycles, regulatory structures, supply chains, and market conditions across industries such as real estate, infrastructure, and manufacturing to design effective revival strategies. The discussion reflected a broader transition from recovery-centric processes to rescue-focused restructuring. Participants underscored the importance of early intervention, enterprise value preservation, and hybrid restructuring mechanisms that combine formal insolvency proceedings with negotiated workouts. Comparative global practices were cited to demonstrate that flexible, rescue-oriented systems better prevent value erosion and enhance long-term business viability.

Growing recognition of debtor-in-possession models, private credit participation, and governance reforms was highlighted as critical to enabling distressed firms to access rescue capital while maintaining operational continuity. Insolvency frameworks, the panel noted, should function as integral components of a wider economic ecosystem promoting business continuity, capital recycling, and corporate resilience.

The panel traced the evolution of India's insolvency regime since the enactment of the Code, noting that the Code's early years were dominated by creditor recovery and management displacement within strict timelines, sometimes at the expense of long-term sustainability. Recent experience suggests a growing need to rebalance the framework toward genuine revival. Jurisdictions such as the UK and the Netherlands

increasingly employ hybrid restructuring tools blending court supervision with negotiated settlements. Similar interest is emerging in India, supported by expanding private credit markets and greater lender openness to pre-insolvency restructuring solutions.

Mr. Venkatasubramaniam emphasized that while recovery outcomes under the Code have improved, Indian lenders have yet to fully internalize a culture of early distress recognition and value preservation. Insolvency, he argued, is a time-bound legal remedy, whereas turnaround management is a continuous process that begins at the first signs of financial stress. Successful Indian out-of-court restructurings demonstrate that early intervention, cooperative lender-borrower engagement, and professional turnaround expertise can prevent irreversible value destruction. However, institutional reform is required to normalize proactive intervention. He proposed strengthening board and lender governance responsibilities, institutionalizing role of Chief Restructuring Officer creating legal safe harbors for turnaround professionals, enabling bridge and interim financing outside insolvency, operationalizing structured out-of-court mechanisms, and shifting distress triggers earlier in the credit cycle to encourage timely corrective action.

Mr. Freeman provided insights from U.S. restructuring practice, noting that although Chapter 11 proceedings are often viewed as turnaround successes, many cases result in ownership transfers even as the underlying business continues as a going concern. The central objective of turnaround, he clarified, is preservation of enterprise value rather than preservation of incumbent ownership. He observed that management teams frequently delay seeking restructuring assistance due to optimism bias, reducing recovery prospects. Early intervention significantly improves outcomes. Chief Restructuring Officers often serve as neutral intermediaries between management and creditors, enhancing governance credibility and facilitating negotiations. Operationally, turnaround professionals rely on rigorous financial discipline, including rolling cash-flow forecasts, cost rationalization, and margin analysis. Many distressed companies lack accurate visibility into their financial performance, leading to continued losses despite apparent revenue growth. He also emphasized the importance of institutionalized DIP financing markets, which provide distressed firms with super-priority liquidity at the commencement of proceedings, ensuring operational stability during restructuring.

The session underscored that India's insolvency industry is entering a new phase —one that prioritizes early intervention, sectoral expertise, governance reform, and hybrid restructuring tools. The next milestone lies not merely in improving recovery rates but in embedding turnaround culture within the credit ecosystem. By aligning insolvency frameworks with value preservation and business continuity, the system can better support sustainable economic growth and corporate resilience.

Joint session of Insolvency Scholars Forum and Emerging Scholars Group



From right to left - **Raghav Mittal**, Senior Associate, Dentons LInk Legal, India; **Dr. Eugenio Vaccari**, Chair, ISF; Senior Lecturer in Law, Department of Law and Criminology, Royal Holloway University of London, United Kingdom

Insolvency Scholars Forum (ISF)

The session focused on contemporary developments in personal insolvency law, particularly in response to evolving consumer debt structures such as mortgage distress and digitally mediated borrowing. Selected papers examined how insolvency systems must adapt to provide effective relief mechanisms within changing financial environments. Dr. Vaccari opened the discussion by highlighting the increasing prominence of personal insolvency reform in global discourse. He emphasized that modern debt patterns—especially housing-related liabilities and digital credit expansion—require recalibrated legal responses.



Dr. Joseph Spooner, Associate Professor, The London School of Economics and Political Science, United Kingdom (Virtually)

Dr. Spooner presented a paper titled - *“Mortgage Restructuring in Bankruptcy Courts: Learning from Litigation Through a Decade of Debt Relief examining”* Ireland’s mortgage restructuring reforms following the global financial crisis. Traditionally centered on unsecured debt, personal insolvency frameworks were expanded in Ireland to incorporate mortgage restructuring through the Personal Insolvency Arrangement. This mechanism permits courts, under defined conditions, to approve restructuring plans even without creditor consent. The PIA allows repayment freezes, warehousing of portions of mortgage debt,

principal reductions, and rescheduling. Claw-back provisions enable creditors to benefit from future property value appreciation where debt forgiveness is granted. Despite widespread mortgage arrears, initial uptake of the mechanism was lower than expected, though utilization increased over time with institutional support and legislative refinements. Drawing on Galanter's distinction between repeat players and one-time litigants, Dr. Spooner's ongoing empirical research evaluates whether financial institutions strategically challenge restructuring plans to shape precedent, while debtors seek immediate relief. The study assesses how litigation patterns reflect stakeholder acceptance and the practical effectiveness of reform.



Dr. Pier Mario Lupinu, Lecturer in Commercial Law, The University of Glasgow, Scotland, United Kingdom

Dr. Lupinu addressed the intersection of digital consumer finance and personal insolvency, focusing on Buy Now, Pay Later and Try Now, Pay Later models. These platforms enable deferred micro-installments, often without traditional credit assessments, resulting in fragmented liabilities that borrowers may not fully perceive as cumulative debt. He highlighted behavioral effects—including reduced “pain of payment,” debt habituation, and the endowment effect—that encourage overspending. Penalty charges and outsourced debt collection practices can rapidly escalate liabilities. Using Scotland as a case study, Dr. Lupinu demonstrated regulatory fragmentation:

consumer credit regulation operates at the UK level, while personal insolvency is regionally governed. This creates misalignment between credit expansion and debt relief mechanisms. Existing insolvency tools, designed for conventional lending structures, inadequately address fragmented digital liabilities. He proposed reforms such as lowering access thresholds for minimal asset procedures, enhancing data sharing to detect early debt accumulation, simplifying debt relief access, and recalibrating schemes that freeze interest accrual. Data integration and early intervention were identified as key preventive strategies.

Mr. Mittal emphasized the policy relevance of both papers. He noted that mortgage restructuring lessons from Ireland may inform jurisdictions grappling with housing distress. Regarding digital lending, he observed that BNPL models generate “invisible” and fragmented debts, challenging insolvency systems structured around traditional credit relationships. Modern insolvency policy, he concluded, must address debt invisibility, behavioral influences, and digital financial ecosystems.

Emerging Scholars Group (ESG)



Dr. Jonatan Schytzer, Chair, ILA ESG; Associate Professor, Faculty of Law; Uppsala University, Sweden

The ESG session featured three selected papers addressing insolvency law's intersection with digital assets, data governance, and behavioral decision-making.

Ms. Seerwani presented a paper titled - “*Virtual Digital Assets Service Providers under Indian Insolvency Framework*,” co-authored with Dr. M.P. Ram Mohan, Professor, Indian Institute of Management, Ahmedabad. The paper examined the insolvency involving virtual digital asset service providers (crypto exchanges) in India. Ms. Seerwani noted the absence of a comprehensive regulatory framework, with oversight currently limited to taxation and anti-money

laundering measures. The restructuring of WazirX illustrated jurisdictional and ownership complexities arising from cross-border structuring and cyber-related asset losses. Indian courts have recognized crypto assets as property capable of being held in trust, yet under the Code, crypto holders do not clearly qualify as financial or operational creditors. Consequently, users lack explicit statutory protections in insolvency proceedings. Ms. Seerwani, proposed reforms that include mandatory segregation of customer and company assets, structured cross-border cooperation mechanisms, and flexible valuation frameworks acknowledging crypto volatility.

Mr. Parey presented a paper co-authored with Anushka Bhatt, both students, PGIP (LL.M), NLU Delhi, titled - *“Balancing Value and Privacy: A Proposed Framework for the Insolvencies of Data Intensive Firms”* addressing data as an asset in insolvency, particularly during liquidation. While Section 36 of the IBC allows inclusion of intangible assets, including potentially data, conflicts arise when data is held in fiduciary capacities or protected under India’s Digital Personal Data Protection Act. Resolution Professionals seeking to monetize data must reconcile insolvency duties with data fiduciary obligations. Current statutory exemptions for court-mandated restructurings do not clearly extend to standalone data sales. The paper proposed a four-pillar framework: classification of data assets, recognition of RPs as data fiduciaries, opt-out mechanisms for data principals, and regulatory oversight by the Data Protection Board. The objective is to balance value maximization with privacy compliance.



From right to left - **Dr. Niccolo Usai**, Post-Doctoral in Business Law Scuola Superiore Sant' Anna di Pisa, Dirpolis Institute, Italy; **Perna Seerwani**, Research Associate, Indian Institute of Management



From right to left - **Pranjal Parey**, Student, PGIP (LL.M), NLU Delhi, India; **Raghav Mittal**, Senior Associate, Dentons Link Legal, India; **Dr. Jonatan Schytzer**, Chair, ILA ESG; Associate Professor, Faculty of Law; Uppsala University, Sweden

Dr. Usai presented a paper titled - *“Early Warning Systems to Prevent Insolvency: Timely Identification and Reaction to the Crisis in Light of Bounded Rationality.”* He examined early warning systems through the lens of behavioral economics. Traditional insolvency regimes assume rational directors; however, bounded rationality and cognitive biases often delay intervention. He identified the sunk cost fallacy, loss aversion, overconfidence, illusion of control, and hyperbolic discounting as factors contributing to delayed restructuring. He described this phenomenon as “cognitive hazard,” where delay arises from predictable psychological biases rather than strategic misconduct. Regulatory frameworks based solely on liability threats may therefore fail. Effective early warning systems, he argued, must incorporate behavioral insights and create immediate incentives for timely action.

Mr. Mittal highlighted the practical implications of all three papers. Crypto insolvency raises unresolved issues of ownership, valuation, and cross-border coordination. Data monetization requires reconciling creditor recovery with privacy protections. Finally, behavioral approaches challenge traditional director liability models, suggesting that proactive incentives may be more effective than punitive sanctions in encouraging early restructuring.

Emerging Scholars Group Session



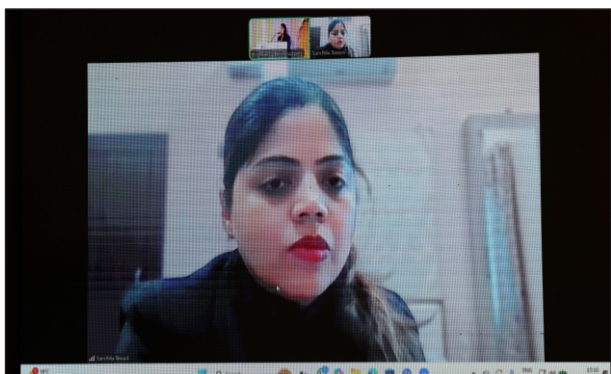
From right to left- **Mahi Agrawal**, Student, Hidayatullah National Law University; **Eshna Kumar**, Founder, Chambers of Eshna Kumar, India; **Ishana Tripathi**, Co-Chair, ILA ESG; Director, Research & Innovation, Shardul Amarchand Mangaldas & Co.; **Satvik Mittal**, Student, National Law University, Odisha, India

The session examined the structural tension within insolvency regimes between creditor recovery and environmental accountability. Across the three papers presented, a common theme emerged: without deliberate reform, insolvency frameworks risk enabling financially distressed firms to externalize environmental costs at the very moment ecological liabilities crystallize. Integrating climate risk and sustainability into insolvency law is therefore increasingly viewed as essential to long-term economic resilience.

Mr. Mittal presented a paper titled *-Internalising Environmental Risk: An Anglo-Indian Comparison*, co-authored with Dr. Eugenio Vaccari, aiming to draw a comparative study on internalizing environmental risk within insolvency systems. He argued that while India's environmental jurisprudence imposes strict and continuing liability during corporate solvency, these obligations weaken procedurally once insolvency proceedings commence. Mechanisms such as the moratorium, liquidation waterfall, and clean slate doctrine tend to subordinate environmental claims to creditor recovery objectives. This structural design may incentivize distressed companies to use insolvency strategically to dilute remediation obligations, effectively converting insolvency into a mechanism of liability displacement. Comparative experience from the UK and Europe demonstrates that absent explicit statutory prioritization, insolvency logic typically overrides environmental enforcement. Proposed reforms include granting limited super-priority to remediation costs, mandating environmental due diligence within resolution plans, qualifying the clean slate doctrine for ongoing harm, and strengthening regulatory participation in proceedings.

Ms. Agrawal presented a paper titled *- Carbon Credits as Assets: Reforming India's Insolvency Laws for Climate Resilience* co-authored with Mr. Krishna Dube, student, National Law Institute University, Bhopal. She examined the treatment of carbon credits within India's insolvency framework. Carbon credits, functioning as

digitally recorded intangible assets within emerging carbon markets, lack clear classification under Indian insolvency law. This creates uncertainty regarding ownership, control of registry entries, and priority treatment in insolvency proceedings. She identified systemic risks arising from intermediary or registry insolvency, given that digital credits depend entirely on registry continuity. Drawing on comparative approaches from the EU, UK, US, and UNIDROIT digital asset principles, she proposed reforms including recognition of carbon credits as intangible property, segregation of client-held credits from custodian estates, adoption of registry primacy rules, clarification of priority treatment, and continuity safeguards for registry failures. These measures aim to prevent insolvency proceedings from destabilizing carbon markets or undermining climate commitments.



Dr. Sanchita Tewari, Assistant Professor, National University of Study and Research in Law, Ranchi, India (Virtually)

Dr. Tewari presented paper titled - *Climate Change, Business Solvency and Legal Reform: Rethinking Corporate Resilience in India*. She focused on the relationship between corporate solvency and climate resilience. She observed that insolvency-led revival often prioritizes short-term financial restructuring while neglecting long-term sustainability. Companies revived without transitioning from carbon-intensive models remain exposed to both physical climate risks—such as extreme weather disruptions—and transition risks linked to regulatory decarbonization and carbon pricing. Although Indian financial regulators have begun integrating climate risk into governance frameworks, insolvency resolution processes remain

largely creditor-centric and time-bound. Environmental remediation obligations are frequently stalled during moratorium periods, and resolution plans seldom incorporate environmental disclosures or sustainability restructuring. She proposed reforms including exempting essential environmental remediation from moratorium protection, mandating environmental risk disclosures in information memoranda, and requiring resolution plans to ensure compliance with environmental standards. Insolvency law, she argued, should evolve into a framework that facilitates sustainable revival rather than temporary financial stabilization.

Ms. Kumar highlighted the doctrinal ambiguity surrounding environmental liabilities and assets within insolvency proceedings. While approval of a resolution plan does not automatically extinguish regulatory authority, the absence of clarity regarding classification and priority of environmental claims generates inconsistent enforcement outcomes. In her concluding remarks, Ms. Kumar suggested integrating environmental compliance review at the stage of insolvency admission, clarifying treatment of environmental liabilities within resolution frameworks, and developing standards to ensure that post-resolution entities retain the capacity to meet environmental obligations. The session underscored that climate accountability is no longer peripheral to insolvency law. Environmental liabilities, carbon market instruments, and climate risk exposure increasingly intersect with corporate distress. Meaningful reform requires recalibrating insolvency frameworks to prevent ecological externalization and to embed sustainability within corporate restructuring processes.









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