

REVIEW

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Optimal bankruptcy regime: a literature review

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Abstract

An optimal bankruptcy regime is one which avoids taking/giving loans during financial crisis, provides a provision for entrepreneurship, and further provides for achieving a maximum total value for the distressed firm. The present study is aimed at understanding the concept of optimal bankruptcy regime and its determinants in terms of merits and demerits. The study is purely of qualitative nature followed by the method of synthesis of 50 previous studies. The study concludes that the optimal bankruptcy regime that provides for the said three features is somehow or other helping economies to do well in terms of increased entrepreneurship, decreased number of liquidations, reduced NPAs, and increased productive investments. It is also evident from several World Bank member countries that have opted for reorganisation of distressed businesses are experiencing the fruits of optimal bankruptcy regime in terms of achieving maximum value for the assets of distressed firms for about 71 cents on dollar and thereby entrepreneurship development.

Keywords Optimal bankruptcy regime, Qualitative study, Zombie lending, Entrepreneurship, Reorganisation and liquidation

Introduction

Any economy can perform well under the necessary prevailing conditions like possessing: (1) a well-built and intensified credit market for funding business houses, (2) an effective mechanism facilitating free entry and exit of business houses and entrepreneurs as well, (3) a perfect market place ensuring optimum use of resources, and (4) a well-designed system of rescuing firms from premature death [50].

It is suggested that Capitalist Reality is the first and the last in a process of change. In some cases, an in-efficient business can be made efficient by changing the entrepreneur or the people in charge of that business. For this purpose, the entrepreneurs or the persons in charge of the businesses are to be allowed free entry and exit

opportunities Puchakayala and Veluchamy [41]. Lack of entry would make the industry less competitive, which in turn imply fewer exits [29]. It is noticed that the entry and exit rates are extremely associated within industry. In other words, industries having higher entry rates over and above average are likely to have higher exit rates over and above average [19].

Some economic, strategic and/or emotional aspects would not permit the insolvent firms to way out pending due to resourceful distribution of inadequate resources of the economy. This is a hurdle for technological progress which prevents the businesses from replacing the old one with the new one. Easy exit procedures are very important for the encouragement of the entrepreneurship. Laws that entrap business houses in too lengthy court dealings or penalising on bankruptcy prevents the individuals or firms from risk taking entrepreneurship [45]. However, too much lenient insolvency laws enable the business houses to wind up easily but may not be advantageous to societies at all. Because creditors can take advantage of such lenience in raising the costs

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of interest which in turn affects negatively the access to credit for small firms'. On the other hand, insolvency legislation that is growth-friendly regularly tries to trade-off between un-favouring "small entrepreneurs" [25] and discouraging "surplus entry" from the entrepreneurs not doing well [15].

The result of efficient bankruptcy law lies in an ex-post allocation of resources efficiently and in providing the entrepreneurs with an optimal ex-ante benefit by enabling them to have better bargaining power in the process of bankruptcy negotiation [9]. It is, according to initial and economics approach, supposed that any bankruptcy system is required to resolve a joint problem of insolvent firm's creditors, while the modern law and economics approach is incorporating conventional study to a greater extent significantly modifying its focus. A good system of bankruptcy, from modern point of view, provides for creation of wealth through interest rate effect which maximises both undertaking good projects and incentive to make efficient investment in those projects when the interest rate is minimum [51]. The task of bankruptcy law is an integral part of an optimal agreement on problem between creditors and insolvent firms when there are incomplete contracts and poorly enforced laws. Hence, the efficiency of bankruptcy procedure is paramount issue for both government and corporate policy [2]. Hence, utilising the information of creditors than that of the strategic information of managers is a paramount aspect in case of optimal bankruptcy regime. Some regimes contain chapter for creditor only in a developed bank-based economic system like Germany, some other regimes contain both creditor and debtor chapters for a developed market-based economic system like USA, and other regimes in underdeveloped economic systems contain both creditor and debtor chapters which give manager more safeguard than in market-based arrangement [20].

Although there were a few studies that discussed on the efficiency and effectiveness of Insolvency and bankruptcy regimes worldwide, there were insignificant amount of studies discussed on optimal bankruptcy regimes. The previous studies on optimal bankruptcy models were silent on entrepreneur censorship when talking about the provision of entrepreneurship. By discouraging surplus entries from those entrepreneurs who are not doing well, it is possible to make some healthy investments by financial system through redistributing the wealth of financially distressed businesses. Similarly, the previous studies on optimal bankruptcy models were also silent on super priority or interim finance when talking about prevention of taking and giving loans during financial crisis. Super priority or interim finance to financially distressed businesses is a good option to make the business

alive during the period of insolvency resolution process as it can fetch maximum value for the assets of the distressed businesses. Further, the previous studies on optimal bankruptcy regime models also did not touch up on the present scenario of the major determinants of the optimal bankruptcy regime in resolving insolvencies around the world. These are the main gaps that the present study is going to fill. Hence, the present study and discussion was motivated and led by the said research gap in addressing the research questions: What is an Optimal Bankruptcy Regime? What are the determinants of the Optimal Bankruptcy Regime? And, what is the present scenario of the major determinants of the Optimal Bankruptcy Regime in Resolving Insolvency around the world? Accordingly, the present study is aimed at understanding the concept of Optimal Bankruptcy Regime and its determinants from the point of view of their merits and demerits. It is further aimed at understanding the present scenario of resolving insolvency around the world with regard to the major determinants of the Optimal Bankruptcy Regime.

Background of study

Making changes or improvements in insolvency procedures is a paramount aspect for the governments around the world when their economies are confronting financial and economic crisis. Many Asian countries have made attempts to improvise on their insolvency procedures against the setbacks of financial and economic crisis during 1997–1998. Their main concern is to improving and instituting, both formally and informally, the process of rescuing financially distressed businesses. They have further paid little attention towards improving liquidation processes too [22]. India is one amongst them. It has brought several insolvency regimes like the sick industrial companies act (SICA) in 1985, the debt recovery act in 2002, etc. But, none of them did provide the expected results. They just crop up and crop down with insignificant results. The NPAs are increasing year after year and they are more than ten lakh crores by the end of 2018. During 2008–2014, banks lend indiscriminately to most of the existing and new corporations. This led to very high percentage of NPA which was highlighted by the asset quality review of the Reserve Bank of India. This led to prompt action by the government appointing an expert committee which in its report in 2015 recommended the Insolvency and Bankruptcy Code. The Insolvency and Bankruptcy Code (IBC) came into effect on 1st December 2016. Hence, the main purpose of the present study is to arrive at a solution in terms of optimal bankruptcy regime for those economies striving to improve their insolvency procedures.

Research methodology

The present study was purely of qualitative nature followed by the method of synthesis of previous studies. Data were collected systematically from the secondary sources like J-gate, Research gate, Google Scholar, and Research Reports of the World Bank. Based on the relevance and significance of the study, out of 65 research articles and reports gathered, a total of 50 most relevant research articles and reports published during 1976–2021 were selected for the study purpose. All studies, which adhere to the pre-determined dimensions of the proposed research model, were included in the literature review wherever necessary. And, those studies which did not adhere were excluded from the literature review. This process of selection was done using the key words: optimal bankruptcy regime, determinants of optimal bankruptcy regime, efficient and effective bankruptcy regime. An attempt was made to adjust Claessens and Klapper model of Optimal Bankruptcy Regime to address the research question in arriving at the objectives of the study. An extensive study carried out by World Bank Group across its 213 member countries during 2019 was used to understand the present scenario of resolving insolvency with regard to major determinants of Optimal Bankruptcy Regime.

An optimal bankruptcy regime: the research model

Economic view of the role of any insolvency law is to replicate a supposed bargain that would have been arrived at amongst creditors who had undergone some advance negotiation with debtor for a solution to their problems and acknowledged the call for individual enforcement action to be stayed for common good [53]. The framing of insolvency law should enable the adjudicating authority to deliver the outcome not only to benefit the company but also the creditors. Since the owner uses the assets in the most economically efficient manner, the outcome is to distribute the returns of the creditors in the best possible manner. The rules governing the best distribution of returns for creditors will extend the credit facility [57]. This approach recognises the role of insolvency law in ensuring that capital is made available for the best use in the economy [6, 31, 43].

An Optimal Bankruptcy Law is one which, on one hand, provides for ex-ante transmission mechanisms that avoids taking/giving loans by managers, shareholders, and lenders during financial crisis with a high chance of loans. On the other hand, it provides a provision for entrepreneurship at certain level in the country. And it further provides for ex-post efficient outcome that achieves a maximum total value for the distressed firm with least direct costs and loss in going concern.

Maintaining balance between these objectives becomes complicated when the efficiency of judicial system in a country is questionable [16]. The preamble to Indian Insolvency and Bankruptcy Code IBC, [30] indicates the objectives for which it is enacted: (1) Combine and alter the reorganisation and insolvency resolution laws relating to companies, partnership firms, and individuals; (2) The bankruptcy process should be completed in a time bound manner; (3) Maximise the value of assets and realise better price for the assets; (4) Availability of credit; (5) To provide entrepreneurship; (6) Balancing stakeholders’ interests; and (7) Establishing Insolvency and Bankruptcy Board of India (IBBI).

In the adjusted Optimal Bankruptcy Model, the three features as stated by Claessens and Klapper are further classified into six sub-features considering two for each main feature. Prevention of taking and giving loans is viewed from zombie lending and super priority financing; maximum total value for distressed firm is viewed from liquidation vs continuation and ex-ante and ex-post efficiency; and provision for entrepreneurship is view from new entrepreneurship and entrepreneur censorship (Fig. 1).

Findings and discussion

As mentioned earlier, the total number of articles reviewed for the study is classified into 10 different categories on the basis of the central themes of the articles along with their key insights (Table 1). Then these 10 themes are further grouped into three main features and six sub-features of optimal bankruptcy regime as stated in the research model for discussion purpose.

Prevention of taking/giving loans

Recent evidences reveal that the inefficient resolution mechanisms are cause and effect of the harmful

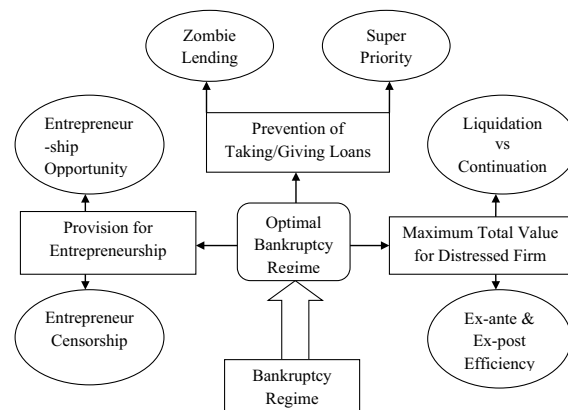


Fig. 1 Model of Optimal Bankruptcy Regime. Source: Model of [16] adjusted by Authors for this article

Table 1 Summary of Reviews. Source: Authors' contribution

No of articles	Central theme of articles	Key insights of articles
6	Zombie Credit and Firms	Zombie Lending and Zombies Firms, Firm Defaults and Entries, Limited Liability, Insolvent Banks,
1	Super Priority Finance	Super Priority Finance, Rescue Financing, etc., Interim Finance,
16	Bankruptcy Law and Procedures	Law and Economic Approach to Bankruptcy, Bankruptcies, Creditors Rights/Bargain, Liquidity, Debt Overhang
5	Recovery of Default	Loan Recovery, Collateral, Lending Capacity, Maximisation of Distressed Firm Value, liquidation, Continuation, etc.,
11	Entrepreneurial Entry-Exit, and Entrepreneurship Development	Entry and Exit, Firm Dynamics, Survival, Entrepreneurial-friendly Bankruptcy laws; Entrepreneurship Development, etc.,
3	Bankruptcies Around the World	Resolving Insolvency, Bankruptcies, Judicial Efficiency, Creditor Rights, Effective Bankruptcy Procedures, New Bank Loans, Recovery Rates
2	Bankruptcy and Firm Size	Bankruptcy, Firm Size, Credit Facility, Reasons for Small Firms Insolvency
4	Contracts and Lending	Incomplete Contracts, Lending, Foreclosure, Liquidation, Reorganisation, Debt Enforcement, Absolute Priority, etc
1	Capitalism, Socialism, and Democracy	Capitalism, Socialism, Democracy, Economic Development, Economic Theory, Economic Policies, Social Factors, and Economic Analysis
1	Doing Business	Parameters of ease of doing business like capital requirements; cost of doing business; judicial system; etc

macroeconomic effects on account of excessive corporate debt Jordà et al., [32]. During such inefficient regimes, 'zombie' borrowers and insolvent firms keep going by recurring extension of bank credit, might escalate slow down of investment and growth [14]. In public sector banks, political interference plays a pivotal role in continuing extended credit to distressed firms that are politically favoured [1]. According to Resolving Insolvency Report by World Bank Group [58], Finland, United States of America (USA), and Japan are considered to be having the most effective insolvency law in terms of resolving insolvency rank and strength of insolvency framework. Finland stood in the 1st place with 14.5 points, USA stood in the 2nd place with 15 points, while Japan stood

in the 3rd place with 13 points. All the top 20 countries have secured points ranging 10–15 for their strength of insolvency framework (Table 2).

Zombie Lending

Zombie lending may happen because of numerous and concurrent reasons: (1) futile creditor rights create costlier unpleasant loan resolution [3, 37], (2) banks' undercapitalisation make banks disinclined to provide provision for barren loans or to plan risk-shifting [12, 44]; and (3) political economy antagonism at public sector banks may push them to remain politically favoured firms upbeat [46] or else delay acknowledging the loss of loan so that there will be a freedom to evade a costly

Table 2 Top 20 Countries in Resolving Insolvency and their Strength of Insolvency Framework. *Data Source:* Resolving Insolvency—World Bank Report [55]

Country	Strength of insolvency framework	Resolving insolvency rank	Country	Strength of insolvency framework	Resolving insolvency rank
Finland	14.5	1	Korea Republic	12.0	11
USA	15.0	2	Iceland	11.5	12
Japan	13.0	3	Canada	11.0	13
Germany	15.0	4	United Kingdom (UK)	11.0	14
Norway	11.5	5	Portugal	14.5	15
Denmark	12.0	6	Czech Republic	14.0	16
Netherlands	11.5	7	Sweden	12.0	17
Slovenia	11.5	8	Spain	12.0	18
Belgium	11.5	9	Ireland	10.5	19
Puerto Rico	15.0	10	Australia	11.0	20

recapitalisation [1]. Since futile debt resolution keep going zombie lending, the bankruptcy reform has come up as an answer. Resolving zombie loans enabled financial creditors to reorganise their credit to those who enhance healthy investment [34]. Obviously, the bankruptcy reforming has now become a trend in addressing the issue of zombie lending [37]. Similarly, India too assumed new bankruptcy law in 2016 amidst corporate debt crisis that destabilised the banking sector a lot [42]. An upright insolvency law should not only constrain the premature liquidation of viable businesses but also inhibit the lenders extending perilous loans, and shareholders and management of going for unwise loans and involving in careless financial decisions [18].

Super priority financing

Sometimes, economically worthy businesses also split-up as a result of extensive debt. Keeping in view of this, most jurisdictions are allowing “super-priority” funding for rescue financing. Similarly the US Bankruptcy regime also arranges for ‘super-priority’ funding to the creditors of the companies in distress. The UK and India’s Bankruptcy regimes do not provide for any “super-priority” funding [49]. Similar to that of USA’s and Singapore’s ‘super-priority’ situation, the Indian IBC designates interim finance inside the costs of insolvency resolution process. It is also accorded top priority during both liquidation and corporate insolvency resolution process (CIRP). The World Bank Group [58] suggested that the post-commencement financing (after commencement of insolvency proceedings) as a good practice which is helpful for having continued business operations of distressed firm (debtor) during CIRP and also to have maximum value for the assets of the distressed firm. There has been much ambiguity with regard to the recognition of a range of finances by banks and non-banking finance companies as interim finance, while India is moving forward to trigger interim finance. Under these uncertain conditions, it is indeed required to uphold the liquidity of banks simultaneously extending the interim finance to companies that may subside the insolvency trend in near future [4].

From this, it is understood that continuing the super-priority or interim finance to the economically valuable firms, while discontinuing the zombie lending to the distressed firms is a necessary paradigm shift. Hence, the countries looking for optimal bankruptcy regime must separate the financially un-viable ones from the financially viable ones to incorporate legal provisions relating to continuance of super-priority or interim finance and discontinuance of zombie lending.

Provision for entrepreneurship

Entrepreneurship development taking place in a region/country is one of the contributing factors for the region’s/country’s economic development, while the effective implementation of insolvency regime enhances the entrepreneurship development in the region/country.

Entrepreneurship opportunity

Supporting new entrepreneurship by banks and investors largely depends on the prevailing rules that govern unsuccessful businesses. Effective insolvency regimes are the best means of saving unsuccessful businesses to the extent possible, or reallocate their assets to healthy businesses for productive use. Moreover, entrepreneurs are also very much interested to make their investments in a market where their personal fortunes are not at stake. This further viewpoints the impact of effective implementation of insolvency regimes. A survey of businesses conducted by the World Bank Group in 135 emerging markets shows that around sixty percent of businesses need loan facility in the due course of business despite the fact that only thirty-three percent of businesses have that loan facility. An effective insolvency regime can help businesses to overcome this problem [57].

Research shows that the interest of individual to start a new venture is influenced by specific factors of economic policy like taxes, interest rates, efficacy of laws or insolvency laws [5] (Braunerhjelm and Eklund 13). In other terms, the insolvency regimes themselves become barrier to both entry and exit [35, 36]. For instance, insolvency law that minimises the cost of entrepreneurial exit may enhance the level of entrepreneurship in the country [35, 54]. Likewise, loss of personal assets can be regarded as a key factor in assessing the degree of risk associated with decisions related to entrepreneurial-entry [21]. The effectiveness of Insolvency Law will be measured in terms of Insolvency Time, Insolvency Cost, and Recovery Rate. It is expected that a shorter the time for the bankruptcy procedure, higher the rate of bankruptcy filings and higher the rate of entrepreneurship. It is further expected that lesser the insolvency cost, higher the bankruptcy filings and higher the rate of entrepreneurship [27]. Recovery rate calculates the number of cents on dollar that the claimants (i.e. creditors, tax authorities, and employees) can recover from corporate debtor the default firm [10]. A study on resolving insolvency conducted by World Bank Group [58] across its 213 member countries, revealed that organisation for economic co-operation and development (OECD) high income countries were considered to be in the first place in terms of high insolvency recovery rate of about 70.2 cents/dollars on an average, low insolvency procedure cost of about 9.3% of

estate on an average and lesser time of about 1.7 years to complete the insolvency proceeding on an average. The South Asian region and Europe and Central Asian region were considered to be in the subsequent places after OECD region (Fig. 2).

Entrepreneur censorship

Entrepreneur censorship is all about eliminating the entrepreneurship or ownership that is not doing well. Like there is ban on media, films, etc., in case of not doing well, there should be a ban on entrepreneurs who are not doing well to encourage those entrepreneurs who can do well. It is a kind of entrepreneurial or ownership change. One of the most important goals that any bankruptcy regime is expected to achieve is to separate the financially unviable business from the financially viable ones so as to eliminate them; and to allow the viable ones to continue their operations. The unviable ones should be handed over to more capable owners in order to encourage the best users of financial resources to keep momentum as going concern, or allowed for liquidation through sale of assets. The first case is the most efficient one as it enables the creditors to have a chance to realise a greater amount of their credit, the large number of employees continue to work, and the larger number of customers and suppliers are intact with the businesses [56].

Here it can be understood that eliminating the entrepreneurs not doing well is as much as important as encouraging the prospective entrepreneurs for the

development of economies. Hence, the optimal bankruptcy regimes must contain the provisions relating to both entrepreneur censorship and encouragement.

Maximum total value for distressed firm

It has been noticed that several loan specific (micro) factors and economy specific (macro) factors can determine the recuperation of assets of stressed firm. These are: level of security, company size [26]; business cycle stage [24], and GDP growth and supervision of loan [8, 17]. It has been found that recuperation of bad loans is directly related with secured loans, term loans, and bank’s exposure to real estate [38].

Liquidation Versus continuation

The primary role of bankruptcy system in any modern economy of capitalistic nature is to promote reorganisation since the firms are worthy as going concerns as compared to when they are liquidated [52]. World Bank Group [58] stated that the most of the countries are making efforts towards improvising the efficiency of insolvency proceedings. The Insolvency Law that has been brought in by India in 2016 was the best example through which India opted for reorganisation for all commercial concerns by clarifying and streamlining the provisions pertaining to liquidation. The law has set time bound by facilitating continuance of business operations of debtors business during CIRP. It has had a favourable impact in terms of procedure, time, and final outcome as well as the

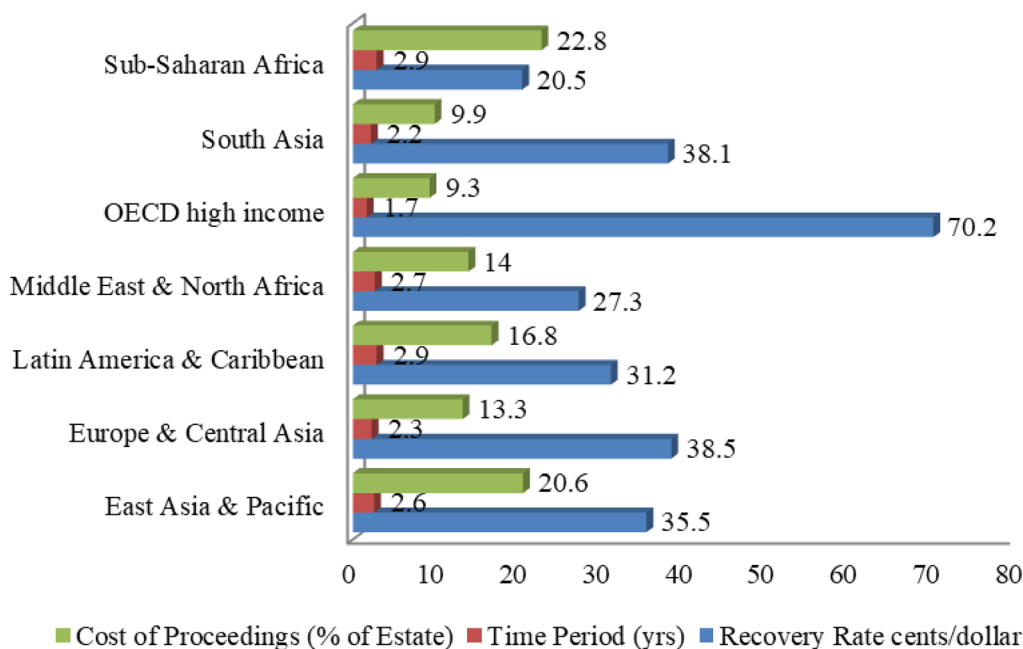
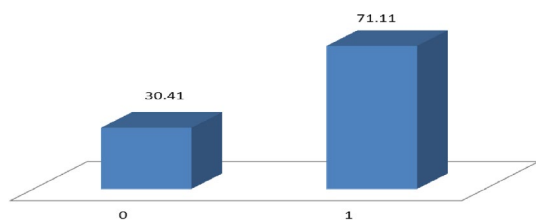


Fig. 2 Resolving Insolvency Across the World. Data Source: Resolving Insolvency—World Bank Report [55]

most of the insolvency professionals (IPs) are resorting to the concept of reorganisation. Doing Business Report by World Bank [55], also mentioned that India made resolving insolvency much easier by opting reorganisation as the most likely event in the court of proceedings for the insolvent companies.

It was argued that an optimal bankruptcy system should focus on maximising the total value of the firm which is to be apportioned among creditors and debtor—the ex-post goal [28]. It was further argued that it should avoid over liquidations that happen when there is a greater total value for the firm as going concern. However, the debt value is greater in the case of liquidation. And it should provide benefits for managers to take on voluntary liquidation in times of creditors' failure to make sure efficient continuation of firm [9]. Hence, satisfying the overall efficiency criteria is a paramount aspect of the optimal bankruptcy law. As per the said criteria, it is preferred to liquidate a firm when the going concern value is less than the liquidation value. Past researches



(0 represents recovery rate of closure of business; 1 represents recovery rate of going concern)

Fig. 3 Insolvency Recovery Rates of Closure and Going Concern Insolvency Regimes across World. Data Source: *Data Source: Resolving Insolvency—World Bank Report* [55]

reveal that effective insolvency reforms of creditor rights are related with lesser borrowing costs, enhanced access to loan facility, increased recovery of creditor claims and reinforced safeguarding of present employment [33, 40]. Insolvency regimes that are seeking for high insolvency recovery rates should allow the viable and sustainable businesses to continue as going concerns. It further strengthens the entrepreneurship development and safeguards the present employment in the country. The World Bank Group [58] report on resolving insolvency further reveals that 102 countries with Insolvency Regime that allow viable businesses to continue as going concern are witnessing a high recovery rate of about 71.11 cents on dollar on an average. While 111 countries with Insolvency Regime that prefer closure of businesses are experiencing a low recovery rate of about 30.41 cents on dollar on an average (Fig. 3):

The Insolvency Regimes of 102 countries are encouraging businesses to continue as going concern, while that of 111 countries are encouraging business closure as

piecemeal sale. Accordingly, the rates of recovery are taking place in the respective countries. In Fig. 4, it can be seen apparently that countries with big bubbles are having high recovery rates (e.g. Japan—92.1; Finland—88; UK—85.4; USA—81; and India—71.6), while the countries with small bubbles are having low recovery rates (e.g. Russia—43; Pakistan—41.7; Kazakhstan—39.8; China—36.9; and Bangladesh—29.1).

Here, it is worth taking to remember the words of Sri M.S. Sahoo, the outgoing Chairperson of IBBI, given on an interview by Nachiket Kelkar from *The Week Magazine*, 8th October, 2021:

“The success of IBC must be assessed in terms of reorganisation one of the objectives of IBC.”

It further reflects how successful the IBC is in achieving the objective of reorganisation, i.e. allowing the firm to continue as going concern by replacing its ownership.

Ex-ante and ex-post efficiency

Maximisation of ex-post value of the distressed firm is regarded as ex-post efficiency, while maximisation of realisation of creditors' claims from the reorganised firm and facilitating benefits for creditors in monitoring the firm is regarded as ex-ante efficiency [23]. Dividing optimally the total value is regarded as equal to ex-ante efficiency, while maximising the total value of the firm reorganised is regarded as equal to ex-post efficiency. It means that both maximum total value and how it is divided among the creditors and debtor are important here. There are some ex-ante consequences for the ex-post division. In other words, so as to encourage the participants to offer finance to the company ex ante, it is necessary to divide the value in the even to ex-post insolvency as agreed upon contractually [7]. It is also very clear in the words of Sri Rajnish Kumar, the former Chairman of State Bank of India, given on an interview by Tamanna Inamdar from *The Economic Times*, 24th June, 2021:

“The success of IBC cannot be measured in terms of its recovery. If it has to be done so, then the paradigm shift that it has brought in debtor-creditor relationship should be taken as yardstick.”

It is apparently seen in case of IBC, which has tremendously changed the debtor-creditor relationship. Previously it is the creditor who has to chase the debtor. Now it is debtor who has to chase the creditor in clearing dues. It is also evident that about Rs. 2 lakh crore of debt of 4452 cases was paid off prior to the admission into the IBC process [48].

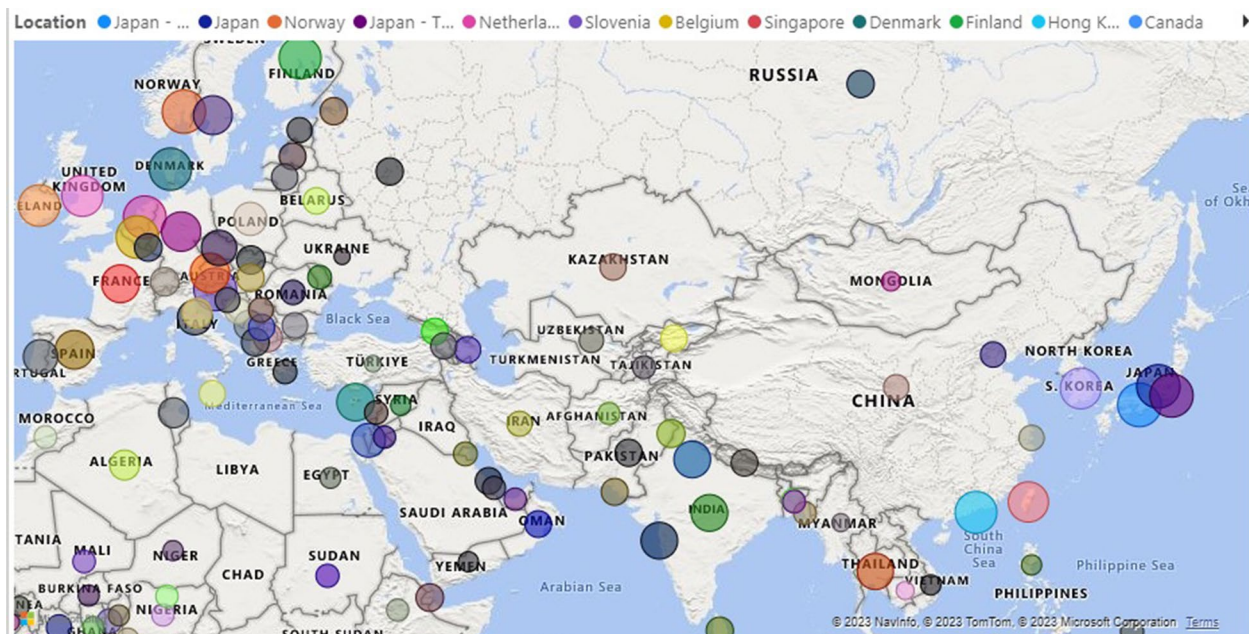


Fig. 4 Insolvency Recovery Rates across World. Data Source: Resolving Insolvency—World Bank Report [55]

Now it can be understood that the optimal bankruptcy regimes must encourage reorganisation of firms as going concern in case of financial distress as long as the firm value as going concern is more than that of its liquidated value. It can further be understood that it should strive for maximisation of the value of distressed firm and maximum realisation of admitted claims of creditors. Creditors of the seven companies, out of first 12 companies that are referred by Reserve Bank of India to the new Insolvency and Bankruptcy Code'2016, resolved so far were able to realise for about 53% on an average in a quick time bound manner []. And accordingly the bankruptcy regime should try to incorporate the provisions relating to maximum value to the firm and to its creditors.

Implications of study

The present study would certainly take the previous works a step forward in terms of new sub-dimensions like entrepreneurship censorship and super priority or interim financing that could enable the financial systems of various nations to redistribute the wealth of financially distressed businesses. It would further enable the emerging academicians and researchers in the field of study to carry forward the present study with necessary refinements to the proposed research model by adding or deleting those dimensions that could give optimal solutions to the unresolved issues amongst the different stakeholders from time to time. Although the present study is based on the synthesis of very few previous studies, the study discusses what is necessary in terms of

effective mechanism and rescuing system for the economies to do well. It further helps the governments in framing the insolvency law in such a way that it delivers the outcome that benefits not only the companies but also the creditors. It further encourages the economies, which would opt for liquidation of distressed businesses, to opt for reorganisation of distressed businesses so that they can arrest the possible loss of claims of creditors, entrepreneurship development, and present employment.

Suggestions and conclusion

On one hand, the soft bankruptcy laws, also known as optimal bankruptcy laws, prevent both liquidations and the entrepreneurs performing poorly. On the other hand, they help the entrepreneurs who can raise plead-geable funds, and thereby lowering their liquidation rates and related inefficiencies. They further maximise social welfare [11]. It is also evident from several World Bank member countries that have opted for reorganisation of distressed businesses are experiencing the fruits of Optimal Bankruptcy Regime in terms of achieving maximum value for the assets of distressed firms for about 71 cents on dollar and thereby entrepreneurship development. Hence, it is very important to keep in mind all these things while framing the insolvency law. The insolvency law is to be framed in such a way that it delivers the outcome not only benefits the company but also the creditors. Since the owner uses the assets in the most economically efficient manner, the outcome is to

distribute the returns of the creditors in the best possible manner. The credit facility in the economy will be extended basing on the rules that govern the distribution of creditors' returns [57]. That is where the role of insolvency law is important to make sure that capital is put to use for the best possible outcomes in the economy [6, 31, 43].

Along with an effective mechanism facilitating free entry and exit of business houses and entrepreneurs, a well-designed system of rescuing firms from pre-mature death and maximising the value of distressed firms is very important for the economies to do well. That is where the discussion of optimal bankruptcy regime is indeed required, since it simultaneously contains the three features like provision for entrepreneurship, prevention of lending and borrowing, and maximisation of the total value of distressed firm. The study concludes that the bankruptcy regime that provides for the said three features is somehow or other helping economies to do well in terms of increased entrepreneurship, decreased number of liquidations, reduced non-performing assets (NPAs'), and increased productive investments.

Abbreviations

IBC	Insolvency and bankruptcy code
IBBI	Insolvency and Bankruptcy Board of India
RBI	Reserve Bank of India
CIRP	Corporate insolvency resolution process
OECD	Organisation for economic co-operation and development
NPAs'	Non-performing assets
USA	United States of America
UK	United Kingdom

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Author contributions

N.V.V.S.P. conceived the research idea, done systematic reviews, data analysis and manuscript writing. R.V. supervised the research and performed manuscript editing. All the authors read and approved the final manuscript.

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Data availability

The data sets used for analysis purposes have already been incorporated as part of analysis. It can also be had from the corresponding author on reasonable request.

Declarations

Ethical approval and consent for publication

The information and data used for the study is of secondary source obtained from the published articles, reports of World Bank and Reserve Bank of India which are made available openly. Hence, the ethical approval and prior consent is not applicable. The authors are hereby consented to publish the article in *Future Business Journal*.

Competing interests

The authors hereby declare that they don't have any conflict of interest regarding publication of this work.

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