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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

UNCITRAL MODEL LAW ON CROSS-BORDER INSOLVENCY: A CRITICAL ANALYSIS OF CASE LAW AND INTERNATIONAL FRAMEWORKS viz-a- viz INDIAN PERSPECTIVE

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ABSTRACT

In this expanding globalized economy, Cross-border Insolvency has become a crucial concerned aspect where organizations often carry out their activities in more than one jurisdiction. Due to the intricacies of insolvency trials, multinational companies face substantial legal and economic obstacles like creditor protection, asset recovery, and harmonization of legal proceedings within multiple countries. The UNCITRAL Model Law on Cross-Border Insolvency which was adopted in 1997 poses a uniform legal framework to endorse constancy and cooperation to handle cross-border insolvency matters. This paper devotes a section to the relevance and prevalence of UNCITRAL Model Law in regulating cross-border insolvency proceedings along with its comparison with EU Insolvency Regulation. Several countries have acknowledged the Model Law including the United Kingdom, the United States, Canada etc. and they have inculcated its relevant provisions related to cross-border insolvency into their national laws. This paper highlights the above-mentioned statement along with India's approach towards cross-border insolvency. To handle real-world issues and improve international collaboration in cross-border insolvency cases, case law analysis emphasizes the necessity for additional improvement and harmonization. So, the paper further discusses the question of whether the separate proceedings of the Corporate Insolvency Resolution Process against a common Corporate Debtor can proceed in two different jurisdictions which was raised in the Jet Airways Case. The Model Law does, however, face several obstacles, including uneven adoption by various nations, especially in emerging markets, and discrepancies in national insolvency laws that could prevent full collaboration. Furthermore, the Model Law is not specially designed for industries like financial institutions, where unique settlement procedures are frequently needed. So, this paper concludes with some challenges that India is facing in its current cross-border insolvency regime.

Keywords: Cross-border Insolvency, UNCITRAL, International Collaboration, Proceedings, Harmonization.

INTRODUCTION

Before understanding cross-border insolvency, we need to acknowledge the meaning of the term 'Insolvency' which is nowhere defined in the Insolvency and Bankruptcy Code, 2016 (IBC). Although, the Black's Law Dictionary describes the word 'Insolvency' as "*the condition of being unable to pay debts as they fall due or in the usual course of business or the inability to pay debts as they mature. Also termed failure to meet obligations; failing circumstances.*"¹ When an insolvent debtor has assets in several different countries, it is referred to as 'cross-border insolvency' or 'international insolvency'. It also includes situations when some creditors are from a different nation than the one where the bankruptcy proceedings were filed.

When a financially distressed debtor has assets or creditors dispersed across several jurisdictions, international economic law grapples with the significant legal difficulties that emerge, notably in cross-border insolvency. In the current era of globalized trade and investment, this field is crucial, and managing "Cross-Border Insolvency" proceedings successfully calls for strong national and international legal measures. Law rule, jurisdiction, and prosecution of judgments are the three main sub-rules that govern "Cross Border Insolvency," like traditional conflict of law rules. Currently, the IBC primarily targets insolvent corporations domiciled in India and solely covers domestic legislation. However, the world has contracted in size as a result of the quick development of trade and technology. A growing number of multinational corporations are establishing cross-border business linkages between nations in the corporate sector. Having a business in many nations leads to creditors and debtors located in different nations, which results in overlapping laws and legal processes. This makes the process of resolving insolvency extremely complex, which makes the topic of "cross-border insolvency" extremely vital and significant.

The IBC is the root cause of "Cross-Border Insolvency" in India. Despite being a relatively new law, it is still being worked on. India has supported and highly advocated the United Nations Commission on International Trade Law Model Law on Cross Border Insolvency,

¹ 'Insolvency', *Black's Law Dictionary* (9th edn, West 2009).

which was established by the Insolvency Law Committee (ILC) while operating under the watchful eye of the Ministry of Corporate Affairs. This decision is based on the conviction that the model law offered here, with its core tenets of jurisdictional cooperation, efficiency, equity in administration, and debtor property protection, provides “Cross-Border Insolvency” in India a promising and happy future. In India’s path toward progressive reform and the development of unwavering trust in “Cross-Border Insolvency” by both domestic and foreign investors, the IBC represents a turning point. Despite being a hotly debated topic, the IBC does not fully address several issues pertaining to insolvency across borders. It is used specifically in two sections: “234” and “235.” The Central Government may establish agreements with other nations to enforce the provisions under Section 234, “Agreement with foreign countries,” 234(1). Section 235 enables the Indian court dealing with the insolvent to request the court where the assets of the insolvent are located for assistance in dealing with the insolvent’s insolvency. However, the execution of this particularity has been severely hampered by the lack of the announced bilateral agreement and specified processes, which emphasizes the necessity for further development in this area.

Recognition of Foreign Insolvency in UNCITRAL and EU Law

EU Insolvency Regulation-

A debtor may be the subject of a single main procedure under the scope of the EU Insolvency Regulations within the forum of its COMI (Centre of Main Interests), which is anticipated to be automatically recognized and enforced in other Member States. With a few exceptions, insolvency cases are normally governed by the *lex fori concursus* or law of the forum i.e. *the law of the state in which the insolvency proceedings have been started*. One of these exclusions is the possible initiation of secondary proceedings, in which case locally located assets are subject to the secondary forum’s law. As a result, the EU Regulation adopts a reasonable strategy in which one law is linked to a single forum. Nevertheless, group instances are not specifically addressed by the rule. Currently, when several entities within the same corporate group face insolvency, there are no measures for centralization, coordination, or cooperation. In these cases, each entity would be subject to the EU Regulation independently.

UNCITRAL Model Law

Part III of the UNCITRAL Legislative Guide on Insolvency³ defines an enterprise group as “two or more enterprises that are interconnected by control or significant ownership.”

Provisions of the framework for cross-border insolvency law are drawn to the interconnectedness of group members across countries, particularly financial interdependence. Similar to this, the UNCITRAL Model Law's cross-border insolvency system places a strong emphasis on determining the debtor's COMI. Nevertheless, rather than starting proceedings, this decision is required to recognize foreign proceedings. The Model Law provides recommendations on access, recognition, aid, and redress rather than standardizing choice of law norms. As a result, the applicable laws pertaining to insolvency matters may be determined by the different private international law rules of the court that recognizes the foreign proceedings and the court that initiates the procedures. However, under the Model Law, it is possible that the court starting the proceedings could first apply its own domestic legislation before requesting recognition under the Model Law's relief provisions, leading to a de facto centralized execution of the law. In fact, according to the Model Law, the recognizing court may give the foreign representative ownership of assets located in the recognizing state, giving them control over their administration, realization, and distribution. If certain conditions are not met, the assets are allocated in accordance with the rules of the originating state and form part of a unified insolvency estate as a result of such relief which has been explained in detail further in the chapter.

RESEARCH METHODOLOGY

The research technique used in the study UNCITRAL Model Laws on Cross-Border Insolvency: A Critical Analysis of Case Law and International Frameworks is doctrinal. This method, which is mostly qualitative, examines the UNCITRAL Model Law on Cross-Border Insolvency and its implementation in different jurisdictions in detail using legal principles, statutory provisions, case law, and international agreements.

UNCITRAL MODEL LAW ON CROSS-BORDER INSOLVENCY

In the area of international trade law, the United Nations General Assembly established the United Nations Commission on International Trade Law in 1966, which serves as the central legal authority for the UN system. Its mission is to promote the progressive harmonization and modernization of international trade law, and it plays a crucial role in creating and preserving a strong cross-border legal framework for the facilitation of international commerce and investment. UNCITRAL accomplishes this by creating and encouraging the application and adoption of both legislative and non-legislative tools in several important areas of business law.

UNCITRAL is creating uniform, equitable, and up-to-date regulations for business transactions. These consist of international conventions, model laws and regulations, highly useful legislative and legal guidelines and recommendations, up-to-date case law and uniform commercial law enactments, technical support for law reform initiatives, and regional and national seminars on uniform commercial law. The goal of the UNCITRAL Model Law on Cross-Border Insolvency (MLCBI) is to help States create a contemporary, equitable, and harmonized insolvency framework so they can more successfully handle cases involving cross-border proceedings involving debtors who are insolvent or experiencing extreme financial distress. Instead of trying to unify substantive insolvency law, it concentrates on approving and promoting collaboration and cooperation between jurisdictions while acknowledging the variations in national procedural rules. Several well-known countries have accepted and integrated the Model Law into their local insolvency laws, including the United States, Singapore, Australia, South Africa, Korea, Canada, Japan, and the United Kingdom. The four components of the Model Law—access, recognition, relief (help), and cooperation—have been highlighted as crucial to the handling of cross-border insolvency situations.

Part Z Draft

The Cross-border Insolvency Rules/Regulation Committee (CBIRC) recommended the creation of Draft Part Z subordinate legislation after it became clear that the Model law for cross-border insolvency needed to be adopted. This was achieved by combining the provisions of the legislation with the Indian framework. A collection of draft guidelines known as Draft Part Z (Draft Chapter) includes a particular chapter that aims to address the shortcomings or lack thereof of the current cross-border insolvency system. The aforementioned draft is based on the Model Law or MLCBI. ILC endorsed the draft recommendations in its report, which was turned in on October 16, 2018.

1. Since it has been suggested that the information pertinent to corporate borrowers be included in the draft Part Z, Sections 234 and 235 may be changed to only apply to individuals and partnership firms and to exclude corporate debtors;
2. Section 60 may be changed to permit, in appropriate circumstances, the transfer of domestic proceedings to the adjudicating authority designated under Draft Part Z;
3. A proper system for investigating and deciding on fines against foreign representatives may need to be added to the Insolvency and Bankruptcy Board of India's ("IBBI") inspection and investigation capabilities;

4. The regulation of foreign representatives within the IBBI's operations may be added to Section 196;
5. It will be necessary to add further authority to make rules and regulations to Sections 239 and 240, respectively;
6. Depending on the decision to change section 375(3)(b) of the Companies Act ("2013 act"), the eleventh schedule may be modified;
7. It may be possible to update the Code's preamble to include cross-border insolvency.

General Guidelines for the Draft Chapter

Applicability: As of the time the aforementioned report was submitted, Part III of the IBS, which deals with individuals and partnership firms, had not been notified (it was notified later in November 2019), so the Draft Chapter's scope of applicability is currently limited to corporate debtors only. However, the report makes the specific suggestion that foreign corporations should be included in the definition of "corporate debtor" for Part Z purposes. This will guarantee that insolvency experts and creditors of businesses registered outside of India can request assistance from the adjudicating authority or acknowledge international proceedings in order to obtain relief in India.

Excluded Entities: The Committee suggested that the Central Government be given the authority to identify the entities that might not be covered by the proposed cross-border insolvency provisions in draft Part Z and that some entities might not be covered by them.

Reciprocity: The Committee suggested that the Model Law be adopted initially on a reciprocity basis, taking into account the remarks made in the MLCBI regarding reciprocity given the Indian insolvency infrastructure's stage of development, our overall economic development, and our position internationally. Eventually, the reciprocity requirement might be relaxed in light of the Model Law's implementation experience and the growth of the Indian insolvency system's infrastructure. The Model Law is founded on the four fundamental tenets of cross-border insolvency that the ILC outlined in their Report and that the Ministry of Finance later reaffirmed, which in turn, includes Recognition, Coordination, Access and Cooperation.

Access to Foreign Representatives

The ILC Report on Cross-Border Insolvency's clauses 5 through 9 address the requirements pertaining to "Access to Foreign Representatives" to the court in the enacting nation. In this

regard, the following are the main provisions: -

- According to the aforementioned report's clause 5.4, it could be preferable to take a cautious approach when it comes to cross-border insolvency in India until infrastructure is developed. According to the Clause, granting foreign representatives access to courts and the ability to apply their authority under draft Part Z through domestic insolvency representatives is another potential choice. The Committee did, however, believe that the Central Government should use subordinate laws to specify the scope of the right of access in this respect.
- Foreign representatives may be bound by a code of conduct, according to Clause 6.3. This might be established by the IBBI, and draft Part Z could include a punishment clause akin to the one the Code applies to domestic insolvency professionals.
- Foreign representatives may be required to register with the IBBI, according to Clause 6.4, although no agreement was achieved on this matter. After consulting with the IBBI, the Central Government may consider this.
- According to Clause 8.1, international creditors that seek to start bankruptcy proceedings in the enacting nation or submit claims in such a proceeding shouldn't be treated less favourably than domestic creditors, subject to the exceptions listed in this article.
- As per Clause 9.2 of the aforementioned report, whenever notification is to be sent to the debtor's creditors, it may be sent to known overseas creditors separately. However, the Committee agreed that the IBBI could define how notice is given to a foreign creditor in order to keep the costs of notice from being excessively high. It may also be possible to use electronic notices and upload notices to the corporate debtor's or the IBBI's website. Regarding this, it was also mentioned that the purpose of implementing this clause is to guarantee that notices are sent in a way that is accessible to international creditors as well, not to grant them preferential treatment.

Acceptance of a Foreign Action

Recognition of Foreign Proceedings and Relief is covered in clause 10-13 of the ILC Report on Cross-Border Insolvency. The Model Law gives foreign representatives the authority to ask a domestic court to recognize a foreign proceeding so they can obtain the necessary treatment for the foreign proceeding. Additionally, it lists the paperwork that the foreign representative must provide in order to apply for recognition. The details of any ongoing overseas proceedings

against the debtor are included, as well as evidence of the foreign proceeding's existence and the foreign representative's appointment in it. If required, the court to whom the recognition application is submitted may also mandate that these documents be translated. The aforementioned Model Law provisions may be incorporated into the current draft Part Z with a comparable need for the submission of English-language document translations, according to clause 10.5 of the ILC Report. The foreign representative may also be required to list any ongoing domestic and international insolvency procedures against the corporate debtor that she is aware of. By doing this, the Adjudicating Authority will be fully informed about all overseas procedures as well as any ongoing Code proceedings against the corporate debtor.

Identifying the Centre of Main Interest (COMI)

One of the most significant concepts under Cross-Border Insolvency is the notion of COMI, which is discussed in full in Clause 11 of the Report. The determination of the corporate debtor's COMI is covered by Clause 14 of the Draft Part Z and Article 2(b) of the Model Law. Clause 11.5 of the Report states that since the Code and the framework for its enforcement in India are still developing, it is advised that the two guidelines offered by the UNCITRAL Guide to Enactment, which in most cases indicate COMI, be incorporated into the Code. These guidelines are: -

- (a) where the debtor's central administration occurs; and
- (b) which creditors can easily determine.

The goal is to give the Adjudicating Authority objective considerations to help them in situations when the registered office and the COMI do not coincide. Additionally, it suggests that a list of indicative criteria in subordinate legislation that may be taken into consideration by adjudicating authorities for calculating COMI be provided if the two primary reasons alone are unable to provide a definitive answer to the COMI. Section 14 of the draft Part Z contains guidelines for COMI determination. There is a presumption established by the same which is enunciated as follows: -

- Unless otherwise demonstrated, the corporate debtor's COMI is its registered office.
- This presumption would apply, nevertheless, if the corporate debtor's registered office had not been relocated to another state within three months of the start of bankruptcy proceedings in that state.
- Additionally, it states that in order to ascertain the corporate debtor's COMI, the Adjudicating Authority will evaluate the location of the corporate debtor's central

administration.

- Such an evaluation should be conducted in a way that is determinable by third parties, including the corporate debtor's creditors, and may also take into account criteria that have been set by the Central Government.

Recognition of Foreign Proceedings Decision

According to Model Law, the court must acknowledge the foreign proceeding as soon as feasible, provided that the conditions outlined in this clause are fulfilled. As a result, Clause 12.3 of the Report states that the aforementioned clause may be included in Draft Part Z; nevertheless, the Adjudicating Authority may be given thirty days to decide on the recognition application. The report does not, however, suggest that draft Part Z include the authority to provide temporary relief.

Relief on Recognition

The two categories of relief are outlined in the report, i.e., When a foreign main proceeding is recognized, two types of relief can be granted: (a) Mandatory Relief, and (b) Discretionary Relief. Furthermore, the two categories of foreign procedures including Foreign Main Proceedings and Foreign Non-main Proceedings are covered by "Draft Part Z." A Foreign Main Proceeding is a foreign proceeding that is being held in the state where the corporate debtor's primary interests are located. On the other hand, a Foreign Non-main Proceeding is any foreign proceeding that occurs in a state where the corporate debtor has an establishment and is distinct from a foreign main proceeding. Clause 14 of the Report contains provisions pertaining to these reliefs.

Collaboration with Foreign Representatives and Courts

In the interest of all parties involved, Clause 16.2 of the Report suggests that during the early phases of the Model Law's introduction, communication and collaboration between foreign courts and adjudicating authorities in cross-border insolvency cases should be founded on a framework that the Central Government notifies after consulting with the adjudicating authority. In order to help the Adjudicating body transmit notices and other communications with foreign courts, the Committee suggested that the Central Government notify a suitable body of the matter. Adjudicating Authorities and foreign courts may directly conduct simultaneous hearings in concurrent processes. Additionally, Adjudicating Authorities can be permitted to speak with foreign officials directly and ask for information or support. The report

also suggests that Article 27 of the Model Law, which offers examples of different types of collaboration between domestic and foreign courts and insolvency professionals, and Article 26 of the Model Law, which permits communication and cooperation between insolvency professionals and foreign courts and foreign representatives under the supervision of the domestic courts, be adopted with no significant changes.

Committee on Cross-Border Insolvency Rules and Regulations (CBIRC)

The Ministry of Corporate Affairs established the Cross-Border Insolvency Rules/Regulation Committee (CBIRC) on January 23, 2020, under office order No. 30/27/2018-Insolvency Section. Based on the UNCITRAL Model Law on Cross-Border Insolvency, the Committee was established to offer a thorough set of regulations and guidelines that would facilitate the application of the Insolvency Law Committee's recommendations in its Report dated October 16, 2018. The following is a summary of the CBIRC's main recommendations: -

1. Part Z should not include the Financial Service Providers (FSPs) or businesses that provide essential infrastructure, utilities, and financial services.
2. Part Z of the Companies Act, 2013 should define "foreign companies" and make it clear whether they are "unregistered companies."
3. The CBIRC took note of the potential irregularities resulting from the IBC's non-applicability to overseas LLPs and businesses. Consequently, the CBIRC suggests that: -
 - I. The following entities should be subject to the IBC's provisions: -
 - a. organized under a foreign nation's laws with limited liability; and
 - b. possessing an establishment in India as that term is defined in Part Z.
 - II. In order to implement the aforementioned advice, the MCA and the IBBI must take into account assessing the IBC's, the Companies Act of 2013, and the LLP Act of 2008's provisions that require amendment, as well as any ensuing delegated legislation that may need to be produced.
 - III. Establishment of an online system that the IBBI oversees and manages. The aforementioned method would allow foreign representatives to submit an application for authorization which must be done at the time of asking for authorization or cooperation from the NCLT under Part Z or soon afterward.

Such applications by overseas agents may be denied by the Insolvency & Bankruptcy Board of India (IBBI) in two situations: -

- Misconduct during an earlier IBBI proceeding

- Existence of a pending disciplinary proceeding before the IBBI.

The NCLT proceedings do not require the IBBI's approval, and if such applications are denied, the IBBI notifies the appropriate NCLT bench, and new applications for a different foreign representative or representatives may be submitted concurrently with the NCLT proceedings. The IBBI is required to reject applications within ten days in order to maintain efficient operations; otherwise, such representatives will be automatically authorized. The Cross-Border Insolvency Regulations are described in the CBIRC Report as a "principle-based light touch code of conduct." Thus, it can be said that India is attempting to clarify the legal environment for cross-border insolvency difficulties in several serious ways. The aforementioned structure is in line with and inspired by the Model Laws that have been enacted by numerous nations worldwide. India will be better equipped to manage its cross-border ties if these recommendations are appropriately adopted and made legal under the current legislation.

CRITICAL STUDY OF JET AIRWAYS CASE

Cross-border insolvency laws are one thing, but putting them into practice is quite another. This is the point at which getting the court's viewpoint becomes important. Unfortunately, the Indian courts have only been allowed to establish judicial precedents in and around this subject on a few instances to date while dealing with parts of cross-border insolvency. With its primary focus on the problem of a company going bankrupt while drawing in foreign investors, Jet Airways' bankruptcy proceedings are likely the only comprehensive ruling in India.

Since 2018, Jet Airways, a well-known and prominent airline company, has been experiencing financial difficulties. The business then fell behind on its financial commitments, which included lease fees for aeroplanes and personnel wages. The company was ultimately taken to the NCLT (Mumbai Bench) for insolvency proceedings after failing to get any fresh funding. Simultaneously, the aviation giants were also facing bankruptcy in the Netherlands, which was initiated only a month before the insolvency application before the NCLT was filed. The Mumbai Bench (NCLT) has been asked by the Dutch Bankruptcy Administrator to acknowledge concurrent bankruptcy proceedings in the Netherlands. Because there are no clauses in the Code that provide the recognition of decisions from foreign courts, the NCLT has ruled that the Dutch proceedings are unlawful.

To challenge the National Company Law Tribunal's (NCLT) decision, the Bankruptcy

Administrator filed an appeal with the National Company Law Appellate Tribunal (NCLAT). The NCLAT later overturned the previously cited ruling. A cross-border insolvency protocol that complies with the Model Law's tenets has been jointly developed by the Resolution Professional and the Dutch Bankruptcy Administrator in response to the National Company Law Appellate Tribunal's (NCLAT) ruling. According to this innovative method, the Netherlands and India are designated as the major jurisdictions for non-main bankruptcy proceedings and main interest insolvency procedures, respectively.

The Jet Airways case emphasizes how crucial it is to have a robust legal structure in place to support international insolvency procedures. To resolve conflicts effectively and safeguard the interests of all parties concerned, this framework is essential. This case serves as an example of why the UNCITRAL Model Law on Cross-Border Insolvency, 1997, must be implemented to strengthen the cross-border provisions of the Insolvency and Bankruptcy Code, 2016. In conclusion, the resolution of cross-border insolvency has been greatly impacted by the National Company Law Appellate Tribunal's (NCLAT) directive about the cooperation between the Bankruptcy Administrator and Resolution Professional.

INDIA'S APPROACH TO CROSS-BORDER INSOLVENCY: A COMPARATIVE ANALYSIS WITH UK AND US

India is making gradual progress in formalizing its framework for cross-border insolvency; but, at this time, it does not have a comprehensive legal structure designed for these situations. For insolvency in India, the main piece of legislation is the Insolvency and Bankruptcy Code (IBC), 2016. Nevertheless, the IBC currently lacks specific measures for dealing with cross-border insolvency situations. At the moment, bilateral agreements and judicial cooperation founded on the Principle of Comity or Mutual Respect for one another's legal systems are used to resolve such disputes. Moreover, the Indian courts have dealt with cross-border insolvency cases by either: -

1. Acknowledging foreign bankruptcy proceedings in accordance with particular international agreements; or
2. When required, apply foreign insolvency legislation on an individual basis.

Based on the UNCITRAL Model Law on Cross-Border Insolvency (1997), India unveiled a draft chapter on cross-border insolvency in 2018. The said draft aims to achieve the following

goals: -

1. Make Indian courts accessible to international representatives.
2. Acknowledge international bankruptcy proceedings.
3. Oversee concurrent hearings across several jurisdictions.
4. Assure cross-border collaboration between insolvency professionals and courts.

Despite not yet being implemented, the draft chapter represents India's goal to take a more methodical and open approach to cross-border insolvency. The new approach would enhance the predictability and effectiveness of cross-border bankruptcy cases and bring India's framework closer to international standards once it was put into effect.

Furthermore, the two primary legislative frameworks support the UK's more sophisticated approach to cross-border insolvency which is entailed as follows: -

- Through the Cross-Border Insolvency Regulations, the UK enacted the UNCITRAL Model Law on Cross-Border Insolvency in 2006. The Model Law allows courts, practitioners, and stakeholders from other jurisdictions to collaborate and recognize overseas insolvency processes.
- By establishing consistent protocols for identifying insolvency proceedings among member states, the European Insolvency Regulation (EIR) was crucial in regulating cross-border insolvencies within the European Union prior to Brexit. Since the UK is no longer subject to the EIR following Brexit, the UNCITRAL Model Law and common law principles serve as the main resources for managing cross-border bankruptcy situations.

A systematic and effective method for handling insolvency cases involving assets and creditors from many jurisdictions is provided by the UK system. The recognition of foreign proceedings is simpler than in India, and courts in other states are required to collaborate with their counterparts. On the other hand, Chapter 15 of the US Bankruptcy Code provides a strong and established framework for cross-border insolvency in the US. Chapter 15, which was enacted in 2005, integrates the UNCITRAL Model Law and stipulates: -

- The Acceptance of insolvency proceedings from other countries.
- Access for foreign officials to US courts.
- Coordination to prevent conflicts or duplication between insolvency cases in the US and other countries.

One of the most unique aspects of the US strategy is its "Debtor-Friendly" system, in which courts prioritize restructuring and reorganization over liquidation. Wide-ranging collaboration

between US and international courts is permitted by Chapter 15, and foreign proceedings are typically recognized quickly and effectively. It can be said that by incorporating the UNCITRAL Model Law into their own domestic legislation, the US and the UK have made cross-border insolvency problems more predictable and clearer. In contrast, India is working toward formal integration but has not yet reached this level. The mechanisms for coordination and collaboration with foreign courts have been established by the US and the UK. India, on the other hand, has a specific legal structure and is primarily dependent on Ad-hoc court collaboration. Unlike India, which takes a case-by-case approach, the US and UK recognize international proceedings more easily under Chapter 15 (US) and the Cross-Border Insolvency Regulations (UK). In addition to upgrading its cross-border insolvency system, India is working to implement international norms such as the UNCITRAL Model Law. Due to their prior adoption of this legislation, the US and the UK have well-established structures that provide effective coordination and collaboration in cross-border insolvency proceedings. When India's proposed IBC modifications are implemented, it is expected to handle these issues better and get closer to the legal systems of nations like the US and the UK.

CONCLUSION

India does not yet have a proper legal structure in place to handle cross-border insolvency cases. Nevertheless, the nation has felt the need to create the aforementioned legal structure for many years and is making earnest attempts to complete it. Numerous efforts have been undertaken in this direction by establishing different committees of academics. According to the committee's recommendations, the government intends to amend the Insolvency and Bankruptcy Code to include a chapter on cross-border insolvency. The Indian government's revision to the IBC is, in some ways, a positive step forward. The main objective of the Code is to update insolvency in order to optimize asset value in a time-linked manner. Notwithstanding the uncertainties, the decision is a positive step toward preventing abuse in the current economic climate. The proposed Cross-Border Insolvency Framework will enable the nation to address problems that arise for Indian businesses that have assets abroad and vice versa. Moreover, the issues like how business entities are treated in bankruptcy, however, will continue to be difficult. Instead of being designed for corporate groups, the suggested structure is meant for individual enterprises. The UNCITRAL and the other international bodies resume examining many cross-border insolvency issues and developing feasible international alternatives to tackle the same. Thus, the Indian Framework must also be in sync with the extant

laws in the partner countries, which are covered under the scope of the Draft Regulations.

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