

# CONTEMPORARY ISSUES ON THE LAWS OF INSOLVENCY & BANKRUPTCY

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## CONTENTS

Examining Cross-Border Insolvency Law in India <i>Prof. (Dr.) V Shyam Kishore</i> .....	1
Nexus between Mergers & Acquisitions and Insolvency & Bankruptcy Code, 2016 <i>Anish Jaipurkar &amp; Gaurav Rai</i> .....	17
The Position of Guarantors under the Indian Insolvency Regime - How far has the Noose been Tightened? <i>Swarnendu Chatterjee &amp; Disha Jain</i> .....	35
Insolvency Resolution of RBI Regulated Entities in light of the DHFL Saga <i>Anwesha Pal &amp; Dr. Shouvik Kumar Guha</i> .....	45
Corporate Governance and the Insolvency & Bankruptcy Code, 2016 <i>Dr Preetha S</i> .....	57
An Analysis of the Admiralty Act and the IBC <i>Dhrupad Vaghani &amp; Ajiz MK</i> .....	69
Can the IBC be a saviour for Enforcement of Arbitral Awards?: An Analysis of its Challenges and Limitations <i>Abir Lal Dey &amp; Nidhi Arun Mamta Thakur</i> .....	83

## CHAPTER 1

# EXAMINING CROSS-BORDER INSOLVENCY LAW IN INDIA

*Prof. (Dr.) V Shyam Kishore\**

### ABSTRACT

*In an increasingly liberalised economy, more companies have transcended national boundaries. Companies are likely to face insolvency proceedings in more than one country if a business fails. This often leads to a conflict of laws in various countries which proves detrimental to the interests of the creditors and other stakeholders, including the corporate debtor. Therefore, it is necessity of time for there to be a broad understanding or agreement on some of the basic insolvency principles on a global level. This work seeks to trace the international efforts primarily led by UNCITRAL to create a common ground on cross-border insolvency principles in the form of a Model Law. The work explores the existing legal framework on cross-border insolvency in India and further analyses the reforms presently undertaken in India. The work then examines the draft provisions on cross-border insolvency recommended for incorporation into the Insolvency and Bankruptcy Code, 2016.*

**Keywords:** Cross-border insolvency, UNCITRAL Model Law, Insolvency and Bankruptcy Code, Insolvency Law Committee, Centre of Main Interest, Foreign Main Proceeding.

### I. INTRODUCTION

The three decades preceding the current one have witnessed the global economy's integration on a scale never witnessed before. Free trade and the flow of capital across borders have seen positive shifts. Since 2000,

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