

# A new corporate bankruptcy law for India

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  - ▶ Failure of business is a normal thing.
  - ▶ In failure, limited liability should be respected.
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- ▶ In India:
  - ▶ Weak capacity to separate theft from business and genuine business failure.
  - ▶  $\implies$  Catchphrase “poor companies, but no poor promoters” gaining popularity to apply to *all* business failure.  
Dangerous: used to expropriate shareholder assets  $\implies$  disincentivise equity participation.

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5. Trust that limited liability will be enforced.

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3. Worry about implementation: new institutions in the law
  - ▶ Regulated information utilities to record credit contracts as indisputable evidence.
  - ▶ Regulated professionals to mediate a rational and honest negotiation between creditors and debtors in distress.
  - ▶ A regulator who monitors three outcomes expected from better bankruptcy laws:
    - 3.1 Shorter time to resolve insolvency and bankruptcy
    - 3.2 Higher recovery rates
    - 3.3 Deeper and liquid credit markets, both secured and unsecured, from private and public markets.
4. Principle features:

The business decisions decided by creditors.  
Promoters / management lose their rights at default.
5. Courts are involved only in ensuring procedural correctness.

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- ▶ If no plan can be found, then the court puts the firm into liquidation automatically.  
Litigation against the outcome (of resolution or liquidation) has to be on failure of procedure, and not the business decision.

## Present status of the bill

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- ▶ Better outcomes when...?
  1. Draft law needs to be fine-tuned.
  2. Institutions need to put into place.

## Next steps

- ▶ It's a long haul after changes in legislation to get the outcomes that we want: quicker resolution, lower cost of credit, better financing choices.
- ▶ Research team at Finance Research Group, IGIDR, working on researching changes in laws and systems for bankruptcy.  
URL: <http://www.ifrogs.org/POLICY/blrc.html>
- ▶ Would love to talk to all of you to get a clearer understanding on how these changes impact firms and firms financing.

Thank you

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