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DIGITALIZATION OF THE IBC: PROS AND CONS*Naina Singh**Law Student at Christ University, Bangalore***ABSTRACT**

In the developing environment of a fast-paced global economy, adaptability and efficiency have been essential, especially in the context of the financial challenges faced by corporations. India's Insolvency and Bankruptcy Code (IBC), which was introduced in 2016, has brought a huge and significant change in society to distress the financial conditions and offers a structured way to deal with time-sensitive systems to resolve debts. However, in the olden days, when the loopholes were the procedural delays of the cases, the IBC came with a bang in society, which dealt with faster solving of insolvency cases and effectiveness. When IBC came to notice, it highlighted the huge need for innovative solutions that address these bottlenecks and helped society to deal with the cases in the quickest form. One of the most promising development that came into notice was digitalization, which transforms legal systems globally. The various tools available in society have made the process really very quick, which in previous times wasn't possible as the process was more paperwork, which led to delays in the cases. Through the digital tools it will be possible to look over the status and will be very accessible to the stakeholders, and it will be more transparent in society. By integrating technologies like online portals, blockchain, and artificial intelligence (AI), the IBC could greatly benefit from improved efficiency, reduced costs, and transparency in managing the insolvency process.

This Research Paper will further on discuss about how IBC came into notice and will also deal in detail about the various Pros and Cons of the Digitalization of the IBC in society at the end, after reading this Research Paper the reader will be able to understand the background and why does the system need to adapt the digitalization of the IBC and also further on the author has tried to put-forward the pros and cons of the digitalization and also a comparison of Singapore and United

Kingdom has been done on the basis of digitalization which will help us to understand why Digitalization of IBC is needed in our country.

Keywords: *Digitalization, Pros, Cons, Comparison*

BACKGROUND AND NEED FOR DIGITALIZATION OF THE IBC

The insolvency and bankruptcy code came into notice in 2016 before various laws were followed to resolve the cases, which led to delays in resolving the cases as various other laws were used in society to deal with them when it came to insolvency. This delay and inability led to various hindrances in economic growth, and also, when it comes to investment specific to foreign countries, it was deterred. When we talk about the IBC, it addresses the issues by creating a time-bound process to address the insolvency proceedings, prioritize the creditors, and maximize the asset's value. This will help to mark a significant growth of the system in the society. Despite these improvements, procedural delays remain a significant hurdle, limiting the IBC's intended impact. Delays, primarily caused by heavy caseloads and manual processes, can erode the value of distressed assets and prolong financial distress for companies.¹ To address these hard blocks, digitalization has emerged as a key strategy, which offers tools to optimize the process, enhance transparency, and increase accessibility. The digital transformation of the IBC could bring multiple advantages. For instance, online portals could be utilized to manage creditor claims and facilitate communication among stakeholders, significantly reducing the time and costs associated with insolvency proceedings. Blockchain technology presents another promising application, providing a secure and immutable ledger for transaction records and claims, which would mitigate issues related to data tampering and improve the integrity of the process.² In addition, using artificial intelligence (AI) for data analysis would help aid the resolutions in analyzing case histories and even speed up the resolution process. However, a digitalized IBC ecosystem must be implemented cautiously. Heavy reliance on technology introduces cybersecurity vulnerabilities, and the sensitive nature of financial data necessitates robust data protection protocols. Thus, the

¹ Ayilyath M, 'Roadblocks under Insolvency and Bankruptcy Code, (2019).

² Ankit S and Sharma A, 'Blockchain and AI: Legal Reform and Future Potential' (2023) 5 J Indian Legal Studies 89.

government must establish a regulatory framework to safeguard digital insolvency processes, with cybersecurity and privacy management protocols³. Furthermore, advanced technology tools like blockchain will offer a very secure way to store records, which will ensure that there is no data leak, will act as a tamper-proof tool, and will also be readily accessible to those who need it. This kind of transparency will help people to gain trust and confidence in the country's system as it will create a more reliable and streamlined system for whoever is involved. This kind of system will help people to analyze the dashboards and online portals, which will ensure the stakeholders remain updated with the real-time status and it will help to eliminate all sorts of delay which was caused when the IBC is not digitalized. This will also give a huge push to the digital transformation, which has already been adopted by the UK and even Singapore these two countries have shown a great positive impact in society, and adopting similar models can enhance India's framework and it will hold the system to perform more effectively.

PERKS OF DIGITALIZATION OF THE IBC ECOSYSTEM

I. Enhanced transparency: When it comes to digitalization of the IBC, it will be more transparent if it is digitalized because of the integration of the blockchain, online portals and also electronic documentation. Whenever any sort of changes is made to the case file, then the blockchain will allow it to track the record and help people keep track of it through the portals. This will enhance all sort of reliability and also prevent any sort of unauthorized changes in the case as it will allow the parties to keep track of it. Through the portals all the parties such as creditors, debtors, and legal professionals, can keep track of it in a real-time basis such as the case updates and also the essential documents that are uploaded in the portals related to the case. This will help both parties to have great communication and will not foster the risk of miscommunication and it will also help to increment of trust between the parties. The use of electronic documentation will also help to simplify the record-keeping and reduce the paperwork and will also help to eliminate the human errors that can be made if the electronic documentation is not done. This shift will not only enhance and improve the risk of human errors but also help to increase speed and retrieve information as soon as possible. By integrating these digital tools it will help to enhance efficiency from a

³ Mukherjee P, 'Digital Transformation and Cybersecurity Risks in Legal Processes' (2023) 6 Cyber Law J 65

transparency and a dependable framework, which will further on promote accountability and adherence to regulations.

II. Efficiency and speed: One of the pros of the digitalizing of the IBC framework is that it will give a kickstart in speed and efficiency it brings along with it. Automation plays a very huge roles when it comes to handling the insolvency cases, in the golden era it has already suffered with huge delays due to only labour work and its complexity of the bureaucracy. Ultimately, when the technologies will come into advancement in this field it will help to escape the hurdle of the delays and will also help to aid courts and regulatory bodies to better managing of the caseloads, leading to the quicker resolutions and also more efficiently use of the resources across the system. For say, lets us understand when it comes to e-filing systems, when e-filing is introduced the submission of applications and supporting documents will help us to escape the hurdle of the delays which come when it is a paper-based processes. By introducing digitalized it will lead to a freer flow of consistent when it comes to data entry which will diminish the labour input and help to reduce the risk of mistakes. The automated systems will help us to reduce the risk of mistakes, validation of data and also help us to track the case progress. This will help us to faster the operations while improving the accuracy as documents can automatically checked to verify the correctness and completeness.

III. Accessibility: Digital platforms have made it really very easy to make it operating and accessibility of IBC process, which has made it easier for the people to engage regardless of their location. Where when we look into the olden days the traditional methods were really very slow and was not so accessible as there were a lot of man work involved The adoption of the digital tools will help the people to bridge the gap which were faced such as in traditional method it wasn't easily available but when it comes to Digitalization, a person can access it easily through the online portals. Digitalization of the IBC will also help the people who are residing outside India, they can be present without any delay and by showing their presence online. Video conferencing tools will help to conduct a free flow of virtual meetings and hearings, which will ensure that stakeholders can present their cases, submit documents, or even track the updates without the constraint of traveling or logistical barriers. This type of development will not only reduce the travelling but also will encourages a lot of participation, which is crucial for comprehensive assessments and fair

representation. Moreover, when it is digitalized it will help the small investors to be present without making an expense and will engage them effectively without incurring significant costs or time investment.

IV. **Cost Reduction:** Digitalization of the IBC will help to reduce the cost such as when it comes to paperwork costs such as for paper, printing, and storage facilities when it is physical, the following cost is hard to maintain, and sometimes the funds are also not much to maintain it wherein if digitalization is done it will help all such cost to be reduced as such cost will be converted to the digital footprint all of them will be kept in the record of the systems. Shifting to digitalization will help decrease the expenditures related to production and handling related expenses. Additionally, the cost of labor will also significantly reduce as when digitalization is done, there will be limited labor to work as automation and digital record systems will come into the purview. By leveraging the digital tools, the funds allocated to administrative functions can be channeled for more strategic areas such as case management, which would give a kick-start to the case and will also be resolved as soon as possible. Online portals and automated workflows reduce the need for intermediaries and lower the cost of case processing. Moreover, it helps the stakeholders, debtors, and creditors to lessen the cost of legal and administrative expenses, and henceforth, through digitalization, they can access the case proceedings and participate remotely, bypassing the cost of miscellaneous expenses.

V. **Data Analytics and Monitoring:** Using advanced tools for analysis will help the digitalized ecosystem offer substantial benefits for monitoring and optimizing the insolvency process. These tools will also be helpful to insolvent people in keeping track of the performance of their cases in real time and help them identify loopholes in the judicial systems. By analyzing such data, a person can easily keep track of the progress of their cases. This information is very valuable as it will help to frame the decisions and also help to improve the strategies such as analytics can analyze and see which cases require more attention and more in-depth access so that such types of cases can be looked at more closely and can be resolved to the earliest. Furthermore, it will also help the predictive analytics to forecast the outcomes and risks, allowing the stakeholders to adjunct their strategies accordingly. This continuous evaluation will help to promote accountability and

transparency of the insolvency framework, which enables improvement that benefits the entire ecosystem over time.

VI. Improved Security and Reduced Risk of attacks: It will help people to communicate cross-chain interactions. Traditionally, blockchain network are isolated from one another and it manually bridges these networks from cross-chain transactions which even introduces various security risks such as unauthorized risk. Without any sort of standardization of automated system these exposes various assets and data to potential attacks. A digitalized IBC protocol will help to tackle these issues with the advanced technology. This structure will help to prevent tampering of such data by creating a secure, tamper-proof channel for data and asset transfers.

CHALLENGES OF DIGITALISING THE IBC ECOSYSTEM

- I. **Cybersecurity Risks:** Digitalizing the Insolvency and Bankruptcy Code (IBC) introduced new sorts of vulnerabilities, leading to a threat regarding the security of the data, which poses a significant risk to the system. As the main motive when getting it to digitalize, it means that it will store all the confidential data into its storage, which sometimes can be a threat to the system, leading to cyber-attacks such as data breaches, hacking, and fraud. If the data are not maintained in a proper manner, it will lead to a very big threat to the system, which will have a lot of repercussions, such as data leaks, which will lead to lessening the trust of the public in the system. In the olden days, a similar threat had already been in the environment where the Aadhar card, which has a broader database, faced the issue of exposing sensitive information. To escape from such a threat to the IBC ecosystem, it needs to have stringent cybersecurity protocols, which must include end-to-end encryption and multi-factor authentication, which would help the IBC to avoid cybersecurity risks.

- II. **Equitable Access and Digital Divide:** Whenever it comes to digitalization, although it a very significant step, there is a lot of problems that come with it. In Urban and developed places, digitalization will be very easily accessible as the people residing in such people have a digital literacy wherein when it comes to the rural areas, first of all there is a lot of development yet to be done in the rural area along with that there is a lot of network issues faced by them with that rural people, small business people and individual from under

privileges places they lack the knowledge of digital literacy as compared to the urban people. Although the rural people and the small business people have less digital literacy alone, that it creates a barrier to their full participation in the IBC process and it can also lead to inequalities in how effectively different entities can navigate the systems.

III. High Initial Investment and Maintenance Costs: Implementing digitalization will involve long-term costs. Implementing a comprehensive digital platform for the IBC ecosystem it will require a huge investment when it comes to investing in software, and even a huge process will be needed to train people, which will lead to huge spending of money on such requirements. After the establishment of the digitalized platform for the IBC, it will continuously need to brush up on the updates of the software, maintenance of such software, and also security measures such expenditure will burden the public sector and the stakeholders. In addition to infrastructure and technology, personnel training represents a significant portion of initial investment. Transitioning to a digital platform requires training not only restricted to professionals but also includes various other people to make them aware of how the platform works, leading to its effectiveness. This training must often be customized to different groups, making it time-consuming and costly. Furthermore, it also requires costs for developing accessible, multilingual training materials, which can be considered especially in a diverse country like India, where stakeholders may have varying levels of digital literacy and language needs.

IV. Risk of System Downtime and Technical Glitches: - Whenever it comes to technical issues, it comes with many risks; that is, whenever we talk about technology, it comes with many loopholes. Reliance on the digital system faces the risk of system failure, downtimes, or glitches. Although in India, where technology is still developing when it comes to IBC digitalization, it might even face a lot of technical issues, when it comes to some places in our country, it still has network issues, which can be a loophole for the people of such places in India. So technical glitches can lead to case delays in some areas or if people want to file a case. Let us understand through an example, for example, imagine a critical hearing where all parties involved are gathered virtually to discuss a time-sensitive resolution plan. If the digital platform faces technical problems such as video or audio failure or if the

document is not being accessed, then in such a scenario, the case will need to be postponed, which will lead to a delay in the case for a few weeks.

- V. **Legal and Regulatory challenges:-** One of the huge demerits can be the various guidelines and framework that need to be framed when the digitalization of the IBC is done, it will take huge time, which can further lead to various problems. With digitalization there is a huge risk involved related to financial risk and data breaches. Legal framework which is present currently such as Digital Personal Data Protection Act,2023 (DPDP act) will also need to work in conjunction with the IBC. This conjunction or say integration will also require additional regulatory measures which even include data access controls, cybersecurity protocols and accountability and also the feasibility mechanism for handling the data within the IBC ecosystem. And as we know when we talk about digitalization there has already been a lot of fear amongst the people which give rise to threat what if there is a data breach so in that scenarios there is a presence of dual verification method to escape that threat and build a great reputation of the body amongst the people. A digital IBC ecosystem will also be heavily dependent on electronic signatures and digital identities, however, without a proper standardized regulation for these methods, the system would face a huge challenge if the digital signatures are disputed or if verification procedures are insufficient.
- VI. **Cross-Jurisdiction Consistency:** With digital platforms which will facilitate cross-border insolvency cases, harmonizing the digital insolvency process across the jurisdiction becomes essential. Different countries around the globe have various standards and protocols that need to be followed when dealing with insolvency cases, and aligning them under one platform can create various sorts of regulatory challenges. When it comes to cross-border insolvency cases in a digital context it raises regulatory compliances issues a digital platform need to adhere to each country unique data privacy, regulatory protocols, and reporting. For say, one country can only stick to the mandatory of requirements of creditors to submit claims and whereas, the other country mandate only minimal documentation. A digital platform would have to handle this variation which would lead to complication of the IBC. Digitalization of the IBC ecosystem would necessitate a

mechanism for recognizing and enforcing foreign judgment or insolvency proceedings. Countries with deferring rules and regulations regarding recognition of foreign judgments and digital systems could further on complicate it,

COMPARATIVE ANALYSIS: UK AND SINGAPORE

When it comes to the context of digitalizing the insolvency and bankruptcy frameworks, the experience of the UK and Singapore plays a huge role by providing insight for India. Both countries have shown a great impact by implementing comprehensive digital tools to streamline their insolvency process, and henceforth, it has resulted in a very high efficiency, transparency, and accessibility.

-UNITED KINGDOM: From the time the government has adopted the digital portals for insolvency processes, it has enabled a quicker resolution and also has reduced the dependency of physical documentation, which has helped the country to work quickest and enhanced transparency. The UK's insolvency service provides services such as online filing systems for insolvency documents, digital access to case information, and many more functions. This system not only cuts off the administrative cost but also enhances the speed of functioning in society, it also minimizes errors that are often made by humans, and sometimes the documents tend to be lost when it is stored physically, but when it comes to online portals, the documents can be retrieved to the quickest and the earliest. Importantly, when it comes to the UK, it has always focused on the robustness of the securities, that is, the cybersecurity protocols and also the data protection laws, which help us to mitigate the risks of data breaches and unauthorized access to sensitive financial data.

-SINGAPORE: On the other hand, Singapore has integrated advanced technologies such as artificial intelligence and blockchain, which have helped manage insolvency cases. It allows the AI to access the case trends, which allow them to resolve the cases and also aid them in making quick discussions. Blockchain technology in Singapore ensures a very secretly and secure tamper-proof record-keeping system, which helps to enhance the transparency and trust in the process by the citizens. Additionally, Singapore's digital framework emphasizes most on the digital framework which emphasizes accessibility, providing resources and online support to

facilitate digital literacy among stakeholders, ensuring a wide range of users who can navigate the systems effectively.

CONCLUSION

The digitalization of India's Insolvency and Bankruptcy Code (IBC) represents a very huge role, and it's a great initiative towards modernizing the legal and financial systems. Digital tools will play a significant role in terms of improvement in transparency, efficiency, accessibility, and even cost reduction, which plays a crucial role in ensuring that insolvency cases are handled promptly and in an equitable manner. This shift will align with global trends, where countries like Singapore and the UK have embraced digital insolvency solutions to reduce procedural delays. It will also help optimize the usage of resources. By incorporating such advanced tools into the system, it will help incorporate the online portals. and artificial intelligence. It will also help to manage the case and improve the integrity when it comes to data storage, and it will also allow smooth functioning and accountability in the legal system.

However, when it comes to the transformation of the IBC, it doesn't escape the challenge; it comes with all sorts of challenges in the environment. Cybersecurity risks have always been a threat to technology systems. They are always present as a substantial threat to the confidentiality and integrity of financial data, and they emphasize the need for solid data protection protocols, including encryption and double-factor authentication. Equitable access is another concern when it comes to the digitalization of the IBC as there is a huge literacy difference when it comes to the lower and under-privileged people as digitally related infrastructure has a huge gaps when it comes to the rural areas, and henceforth, there isn't a proper function of the network availability which gives a huge glimpse to the inequalities when it comes to the digital inequalities. High initial investments and maintenance cost can also act as a barrier, especially when it comes to the public sector entities, as the public sector still, to date, faces some sort of budget issues, and due to such issues, development is slow in the country. Ensuring the digital framework will remain operational and also it will secure ongoing investment and policy support. To address the mentioned challenges, a well and appropriately defined framework needs to be present to resolve them. Legislation like the Digital Personal Data Protection Act must work together simultaneously with the IBC to provide a robust cybersecurity measure that will help the system overcome the fear of

hacking and data leakage, which is caused by less protection available to the source. Additionally, when it comes to the training and support that needs to be given to the users, especially from the underprivileged or rural side of the country, it will really be a huge and crucial to bridge the digital divide and also enable the equitable to the system. Harmonizing India's digital insolvency ecosystem processes with global standards could facilitate cross-border cases, positioning India as a leader in digital insolvency solution and also Ultimately while digitalization may not eliminate all the hurdles but it will offer a huge transform approach that could significantly improve India's Insolvency ecosystem by balancing innovation with regulation and it will also help India to create a resilient, efficient and transparent IBC framework which will help us to foster the greatest trust in its financial system and also it will help to promote the economic stability in the long term.