



# DR. RAM MANOHAR LOHIYA NATIONAL LAW UNIVERSITY

12TH RMLNLU INTERNATIONAL LEGAL ESSAY WRITING  
COMPETITION AND CONFERENCE ON INSOLVENCY LAW

JOURNAL COMMITTEE

RML  
NLU



Lakshmikumaran  
& Sridharan  
attorneys

An ISO 9001:2015 and ISO 27001:2013 certified law firm





## INTRODUCTION

The Journal Committee ("Committee") at Dr. Ram Manohar Lohiya National Law University, Lucknow is organising the 12th edition of the RMLNLU International Legal Essay Writing Competition ("RILEC") along with the RMLNLU - Conference on Insolvency Law.

## ABOUT RILEC

Since its inception in 2013, RILEC has expanded to greater horizons and today it is an internationally anticipated event. Every year, the Committee labours to promote legal scholarship. We provide intellectually challenging and contemporarily relevant themes for the legal fraternity to research and write on. During the course of our journey, we have covered numerous themes of law ranging from International Trade Law to Financial Regulatory Laws. For the 10th edition, the Committee invited submissions on Intellectual Property Rights and Technology Law and collaborated with Nishith Desai Associates. RMLNLU International Legal Essay Writing Competition 2024 was the 11th edition of RMLNLU's flagship essay writing event conducted in collaboration with Khaitan & Co. The competition had Competition Law as its main theme along with various sub-themes which covered a wide-ranging issues of contemporary relevance. After receiving more than 120 entries and conducting an intensive review procedure, the top 3 teams were invited to present their essays in front of a panel from Khaitan & Co. The competition augmented the knowledge of many and was successful in its endeavour. Thus, the intention behind organising such an event paid off in the form of increased acuity in the particular field of law and the exploration of fresh perspectives with respect to the various sub-themes.



## ABOUT RMLNLU



Dr. Ram Manohar Lohiya National Law University was established in 2006 to match the new challenges in the legal field and to strengthen the vision that was given by the establishment of the first National Law School in the country. The University is committed to providing excellent infrastructural

facilities and an environment to advance and disseminate learning and knowledge of the law and legal processes. The University aims to develop in students and research scholars, a sense of responsibility to serve society in the field of law by developing skills in advocacy and legal writing.

## ABOUT THE JOURNAL COMMITTEE

**JOURNAL** RML  
NLU  
**COMMITTEE**

The Journal Committee has been constituted with the objective of promoting legal research and writing. The RMLNLU Law Review is the annual peer-reviewed law journal of the

committee which runs parallel to the RMLNLU Journal on CMET (Communication, Media, Entertainment, and Technology) Law. Both these journals publish articles, essays, case notes/comments, and book reviews from contributors all over the world. To encourage legal research writing in the field of law, the Committee also organises the Dr. RMLNLU International Legal Essay Writing Competition, inviting entries on specific themes. The RMLNLU Law Review Blog is another such initiative of the Committee which provides a platform for people in the field to express their opinions on contemporary legal issues.

## ABOUT LAKSHMIKUMARAN AND SRIDHARAN



Founded in 1985 by Shri V. Lakshmikumaran and Shri V. Sridharan, Lakshmikumaran & Sridharan has been a leading law firm with multiple offices splattered all across India more with than

400 professionals who are specialists in their fields. Lakshmikumaran & Sridharan specializes in areas such as corporate & commercial laws, dispute resolution, taxation and intellectual property and has professionals with experience of working in both traditional sectors such as commodities, automobile, pharmaceuticals, petrochemicals and modern sectors such as e-commerce, big data, renewables.

The firm hosts a myriad of teams specializing in multiple areas like arbitration, banking & finance, commercial litigation, competition & antitrust, corporate, customs, direct tax, employment law, goods & services tax, insolvency, intellectual property, international trade & WTO, mergers & acquisitions to name a few. The firm has a rich history of over 35+ years of experience representing clients' interests in over 50,000 tax disputes before various forums like appellate bodies, DGFT, Tribunals, High Courts, and over 2000 cases before the Supreme Court of India.

The insolvency team at Lakshmikumaran & Sridharan (L&S) supports clients with advisory as well as litigation services. The firm provides clients with comprehensive and efficient counsel owing its extensive knowledge in fundamental corporate and commercial legislation as well as its awareness of different business sectors. The team at L&S has been involved in several matters involving the Insolvency and Bankruptcy Code, 2016 representing both creditors as well as debtors before various company law and appellate tribunals and has also represented creditors in various sectors, such as power, heavy industries, tourism, and financial sector.

## ABOUT THE JUDGE



Asish Philip Abraham is a Partner at Lakshmikumaran & Sridharan and practices in the areas of general corporate, M&A and regulatory. Based in Mumbai and with more than 10 years of experience, Asish has rich experience in advising various domestic and multinational companies in restructuring, M&A, regulatory, GST and commercial dispute resolution matters. He has assisted various clients with GST impact assessment and implementation. Additionally, he has done notable transactions in relation to transition, supply chain, re-modelling, and business transformation and anti profiteering assignments.

Asish advises clients on general corporate advisory matters and has worked on various transactions and matters pertaining to M&A, corporate restructuring, investment, FEMA, payment regulations and real estate including carrying out due diligence, drafting and negotiating transaction documents. He specialises in dealing with clients from digital and e-commerce space.

Asish also has experience of being a part of the service tax team of Lakshmikumaran & Sridharan. As a part of the team, he had advised various leading companies on issues related to service tax like taxability, classification, exemption and credit optimization strategy.

## ESSAYS IN BRIEF

### MEDIATING THE GAME OF INSOLVENCY: UNLOCKING EFFICIENCY AND EQUITY IN INDIA'S BANKRUPTCY LANDSCAPES

*by*

**Avantika Tewari & Chetan R**

The Indian Insolvency and Bankruptcy Code (“IBC”), 2016, has faced persistent challenges, including prolonged resolution timelines and inequitable treatment of creditors. This article explores the potential of integrating mediation into the existing insolvency framework as a means to address these issues. By employing game theory as an analytical tool, the study examines the strategic interactions among the key players in insolvency proceedings, including creditors, debtors, and regulatory bodies.

The game-theoretic analysis reveals that the insolvency game is characterised by coordination problems, information asymmetries, and heterogeneous interests among stakeholders. These factors often lead to suboptimal outcomes, where the Nash equilibrium may not align with the Kaldor-Hicks efficient solution. The article argues that the introduction of mediation can transform the insolvency game into a more cooperative endeavour, fostering mutually beneficial agreements and preserving overall economic value.

Through a graphical representation of the game, the study demonstrates how mediation can expand the feasible set of outcomes, guiding the players towards a Nash equilibrium that is closer to the Pareto frontier. The flexibility of mediation allows for creative solutions that may not be available through formal legal processes, potentially leading to faster resolutions and higher recovery rates for all stakeholders. By leveraging the insights from game theory, this article provides a compelling case for policymakers to consider the integration of mediation into the Indian insolvency regime, as a means to enhance the efficiency and equity of the corporate debt resolution landscape.

## **FROM RIGHT TO DISSENT TO SUCCESS OF THE RESOLUTION PROCESS: REINFORCING CRAMDOWN WITH FAIRNESS AND EQUATIBILITY**

*by*

**Katyayni Singh and Arjit Mishra**

The “Creditor-Friendly” framework in India has met trouble halfway due to a lack of consent over the resolution plans. The two-thirds majority of the CoC that passes a resolution plan disregards the opinions of the dissenting creditors, who get outvoted, and operational creditors, who don’t have voting rights. The minority cannot challenge the commercial wisdom of the Committee but is entitled to fair and equitable distribution under Section 30(2) of the IBC, 2016. Section 30(2) confirms that the operational and the dissenting creditors receive value equivalent to the payment received in the event of liquidation or order of priority. However, its application is shrouded in the mist of confusion regarding the extent of proceeds payable, lowering the success rate of resolution processes.

To salvage the creditor-centric resolution process pursued in India, the “cross-class cram down” mechanism may be a relief. An important part of the US insolvency framework, this mechanism has also gained momentum in the UK. It is a bridge binding the dissenting creditors to the resolution plan approved by the Committee of Creditors. In return, it ensures that the minority is not worse off than the “relevant alternative”. Although Section 30(2) attempts to plant this concept, it has not yet been able to bear the fruits. This article sifts through the application of this concept in different jurisdictions to solve the ambiguities in the Indian Insolvency framework.



## A CASE FOR TRANSFERRING PROPERTY TO DESERVING ALLOTTEES DURING REAL-ESTATE CIRP: REFURBISHING IBBI'S PROPOSAL

*by*

**Arun Raghuram Mahapatra**

India's real estate market has expanded significantly, but homebuyers often face difficulties when real estate developers undergo insolvency under the Insolvency and Bankruptcy Code, 2016 (IBC). Despite being classified as financial creditors following the 2018 IBC amendment, homebuyers remain unsecured creditors and receive minimal payouts under the IBC's waterfall mechanism. Recognizing these challenges, the Insolvency and Bankruptcy Board of India (IBBI) released a Discussion Paper (November 2023) proposing key amendments to the Corporate Insolvency Resolution Process (CIRP) and liquidation regulations. Among them, "Proposal 3" sought to allow Resolution Professionals (RPs) to transfer completed properties to deserving homebuyers who had fulfilled their obligations, with approval from the Committee of Creditors (CoC). However, this proposal was not implemented in the February 2024 amendments, despite judicial support.

The article analyzes the reasons behind the IBBI's reluctance to implement "Proposal 3", highlighting concerns such as stringent CoC voting requirements, potential construction risks from transfer of incomplete units, and the issue of residual claims by homebuyers post-transfer of such units. Addressing these concerns, the article proposes a refined amendment allowing flexible phase-wise CoC approvals, restricting "as is where is" transfers to units with only minor interior work pending, and ensuring homebuyers waive additional claims upon possession. These modifications aim to balance the interests of homebuyers and creditors while facilitating efficient resolution. Ultimately, the article advocates for the IBBI's reconsideration of "Proposal 3", at least to the extent of enabling property registration for homebuyers who have met their contractual obligations. By implementing these changes, the IBBI can ensure a fairer and more efficient resolution process for homebuyers, protecting their interests in real estate insolvencies.



## STRUCTURE OF THE CONFERENCE

After review, three submissions have been selected for presentation at the 12th RILEC-Lakshmikumaran & Sridharan Conference on Insolvency Law. The conference will constitute three presentations of 15 minutes each followed by 5 minutes of Q&A by the panel. Thus, each team of authors will be given a total of 20 minutes for their presentation.

## CONTACT DETAILS

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