

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

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ISSN

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THE LEGAL FRAMEWORK GOVERNING NON-PERFORMING ASSETS (NPAs) IN INDIA

AUTHORED BY - KARTIKEYA VERMA

Abstract

The rising load of Non-Performing Assets (NPAs) continues to pressure the Indian banking sector, necessitating a more robust and efficient recovery mechanism. This article examines the present legal framework for NPA recovery, focusing on the limits of existing mechanisms such as the Insolvency and Bankruptcy Code (IBC), the SARFAESI Act, and Asset Reconstruction Companies (ARCs). While these procedures have helped to increase resolution rates, issues like as judicial delays, undercapitalized ARCs, and insufficient enforcement mechanisms continue to hinder their efficacy.

To address these problems, the essay suggests tangible steps toward a more compassionate and efficient approach to NPA rehabilitation. Recommendations include strengthening ARCs by encouraging private equity investments, improving IBC functionality by expediting simpler cases, and encouraging out-of-court settlements through incentives for banks and independent mediation boards. The paper also advocates improving the SARFAESI Act with digital auction platforms and tougher fines for obstructive borrowers.

Recognizing the significance of updating the recovery process, the essay recommends for digital integration, as well as the use of AI and data analytics to detect probable defaults early on. It also emphasizes the need for a more compassionate approach by introducing rehabilitation programs for real defaulters and extending pre-packaged bankruptcy procedures to speed up settlements. By implementing these changes, the NPA recovery structure may become more open, efficient, and responsive, lowering the judiciary's workload while ensuring that both wilful defaulters and distressed borrowers are treated fairly. This balanced strategy strives to develop a more robust financial sector, promoting long-term economic stability.

Keywords: Non-Performing Assets (NPAs), Insolvency and Bankruptcy Code (IBC), SARFAESI Act, Asset Reconstruction Companies (ARCs), NPA recovery framework, Digital integration in banking recovery.

Introduction

Over the years, India's banking sector has seen tremendous modifications, resulting in a vibrant and competitive market. Historically, banks have been essential to the country's economic success since they support infrastructural development and financial access. On the other hand, a new wave of innovation and market orientation has been brought about by the rise of private sector banks, enhancing competition and providing clients with a wider selection of financial goods and services. Notwithstanding these developments, banks in India are increasingly concerned about the problem of non-performing assets (NPAs). The Reserve Bank of India defines non-performing assets as those that no longer produce income for the bank.¹

Additionally, under the Securitization Act NPA is created when a borrower's account classified by a bank or financial institution as sub-standard, doubtful, or loss based on regulatory guidelines or Reserve Bank directions.² The RBI and the Indian government have implemented a number of debt recovery measures, such as Lok Adalats, Debt Recovery Tribunals (DRTs), and the SARFAESI Act, 2002, in order to address the growing NPA situation. NPAs continue to pose a serious threat to the stability and profitability of the banking industry in spite of these efforts. The accumulation of non-performing assets (NPAs) impedes the smooth operation of lending. It inhibits the expansion of credit and has an impact on bank profitability as well. The primary metric used to assess the banking industry's performance is net present assets (NPAs). According to RBI data³, the Scheduled Commercial Banks have gross non-performing assets (NPAs) above Rs. 7 lakh crores.

Research Objective

- To Analyse the existing legal provisions which govern the Non-Performing Assets under various different statuses.
- To evaluate and analyse the effectiveness and impact of these provisions over the regulation of NPAs and to recommend suggestions and improvements in the current legal landscape.

¹ Reserve Bank of India, *Framework for Resolution of Stressed Assets*, (Feb. 12, 2018), <https://rbi.org.in/upload/notification/pdfs/59027.pdf>.

² Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, No. 54 of 2002, § 2(o) (India).

³ Reserve Bank of India, *Report on Trend and Progress of Banking in India 2021-22*, at iii (2022), <https://rbi.org.in/Scripts/PublicationsView.aspx?id=21860>.

Research Questions

- What are the primary legal provisions and frameworks that govern NPAs in India, particularly under the SARFAESI Act, RDDBFI Act, and Insolvency and Bankruptcy Code (IBC)?
- How effective have the debt recovery mechanisms, such as Debt Recovery Tribunals (DRTs) and the SARFAESI Act, been in resolving NPA cases?
- What is the role of the Reserve Bank of India (RBI) in regulating and mitigating NPAs in the Indian banking sector?

Conceptual Framework of Non-Performing Assets

The primary definition of NPAs comes from the central bank of our country i.e. The Reserve Bank of India. The RBI through its Master Circular on the Prudential norms on Income Recognition, Asset Classification and Provisioning⁴ pertaining to Advances 2023-2024 defines a NPA as a loan or advance that ceases to generate income for the bank, typically when payments are overdue for more than 90 days or specific conditions that are defined under the circular are not met. Thus, it can be stated that the meaning of NPAs given by the RBI is exhaustive but not completely.

On the other hand, Section 2(o) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 also defines the Non-Performing Asset, or NPA. According to the aforementioned provision, a "non-performing asset" is any asset or borrower account that has been designated by a bank or financial institution as sub-standard, questionable, or loss asset in accordance with the guidelines provided by the institution's relevant regulatory body, or in the absence of such a body, in accordance with the guidelines provided by the Reserve Bank of India.⁵

Further, in 2016 the Insolvency and Bankruptcy Code was passed, which was a premier legislation in resolving the issue of corporate bad debts. This code provided for a legal framework to address the issue of bad debts, attempt to re-establish the financial stability of corporate debtors as well as the asset maximisation of creditors in case of insolvency

⁴ RBI Master Circular - Prudential norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances (2023). Available at https://rbi.org.in/Scripts/BS_ViewMasCirculardetails.aspx?id=12658 (last visited Aug. 29, 2024).

⁵ Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, § 2(o), No. 54 of 2002, India Code (2002).

proceedings. The introduction of the code, itself, helped in bolstering the insolvency and NPA legal ecosystem in India on the lines of contemporary corporate needs.

The RBI's master circular⁶ further classifies the assets in broadly 4 categories. These four categories have been explained as under –

- i. Standard Assets-** These are the assets which do not pose any problem and also does not carry with it more than the normal risk, which is associated with the banking business.
- ii. Sub-standard Assets-** This type of classification is applicable on the NPAs since 2005. An asset is classified as a substandard if it remains as an NPA for a period of 12 months or less. In this type of classification there is a risk of debts getting converted into bad debts. However, it can be prevented by the banks by taking corrective measures.
- iii. Doubtful Assets-** These have all the characteristic feature of Sub-Standard Assets with the most pertinent difference being that they have been NPA for a period of over 12 months. The recovery or liquidation of these assets by the banks is highly doubtful and improbable.
- iv. Loss Assets-** These types of assets are considered as a lost asset. There are no chances of recovery of these kinds of assets, they only appear in the balance sheet of the bank because their amount has not been written off by the bank either wholly or partly. They have minimum to zero value.

Percentage of provisions to be created:

	Secured loans	Unsecured loans
Substandard Assets	15%	25%
Doubtful Assets	25%-100%	100%
Loss Assets	Written off or 100%	Written off

⁶ *Ibid* 4

Types of NPAs

- **Gross NPA-** Gross non-performing assets, or NPAs, are the total number of loans that have defaulted. It is made up of all nonstandard assets, including lost, substandard, and questionable assets. Banks have established provisions for gross non-performing assets (NPAs), which are non-standard assets that are retained in the bank's books of account.

$$\text{Gross NPAs Ratio} = \text{Gross NPAs} / \text{Gross Advances}$$

- **Net NPA-**The advances that remain after subtracting the provisions from Gross NPA are known as Net NPAs. Net NPA reveals the true cost to banks. In accordance with RBI requirements, banks are required to make certain provisions against non-performing assets.

$$\text{Net NPAs} = \text{Gross NPAs} - \text{Provisions} / \text{Gross Advances} - \text{Provisions}$$

Causes of NPAs

- **Defective lending process:** In the banking sector there are generally three principles which guide the lending practise of the commercial banks i.e. principle of safety, principle of liquidity and principle of profitability. The principle of safety requires the banks to ensure while lending that the borrower will be in position to repay the loan at the time of maturity. Lack of due diligence in line with these principles is a major cause of non-recovery of debt.⁷
- **Poor credit appraisal system-** Owing to inadequate credit evaluation, the bank extends advances to individuals who are unable of repaying them. As a result, the bank's non-performing assets rise. Thus, the bank has to keep up a suitable method for credit evaluation.⁸
- **Wilful Defaults-** Industrial sickness is caused by improper project handling, ineffective management, a lack of resources, outdated technology, and frequent changes in governmental regulations. As a result, the banks that finance these industries see a low loan recovery, which lowers their profit and liquidity.
- **Industrial sickness-** These defaults mostly affect the Public Sector Banks in India. There has been a payback requirement default. For example, Kingfisher Airlines Ltd. is only one of the several blatant defaulters. Some of the others include Rank Industries Ltd., XL Energy Ltd., Napthol, Winsome Diamonds & Jewellery Ltd., and beta.⁹

⁷ Dr. P.K. Srivastav, *Banking Theory and Practice* (Himalaya Publ'g House 2000)

⁸ Govinda, M. S. & Aithal, Sreeramana, *Non-Performing Assets (NPA) and Legal Provisions in Indian Banking* (2019), <https://www.jsscacs.edu.in/sites/default/files/Files/NPA.pdf>.

⁹ Gudala, Syamala, Kamireddy, Prem Chand, & Purushotham, Mr. "Causes and Effects of Non-Performing Assets in the Banking Sector." (2020).

Economic Impact of NPAs

One of the most serious issues affecting the Indian banking sector as a whole is the issue of non-performing assets (NPAs). A higher non-performing asset percentage makes lenders, investors, and depositors less confident. Additionally, it results in inadequate fund recycling, which negatively impacts the utilization of credit. The failure to recover loans affects the banks' capacity to maintain their financial stability as well as the availability of lending in the future. Banks typically cut deposit interest rates in response to significant non-performing assets (NPAs), but they also frequently raise advance interest rates in order to maintain NIM. This might constitute a barrier to a seamless financial intermediation process, which would hurt banks' bottom lines and the expansion of the economy.¹⁰

Non-performing assets (NPAs) have a negative effect on banks' profitability since, although they cease to generate revenue, they also draw more provisioning as compared to regular assets. Bank profitability is directly impacted by the additional 25% to 30% that banks typically provide on top of increasing non-performing assets (NPAs). Contraction of assets (credit): A greater number of non-performing assets (NPAs) puts pressure on fund recycling, limits banks' capacity to lend more, and lowers interest revenue. It decreases the money supply, which might cause the economy to slow down.¹¹

Legal Frameworks Governing NPAs in India

The recovery mechanism involves developing, testing, and executing methods to restore financial assets after a firm's demise. We are all aware that NPAs cease to generate income, demand provisions, increase borrowing costs, lower employee morale, and erase capital. In this setting, the recovery of NPAs is critical to the banking industry's sustainability. Recovery is mostly accomplished through three key techniques, which are explored more below:

SARFAESI ACT:

SARFAESI Act was passed in Dec 2002 upon the recommendations of Narasimham Committee Report and Verma Committee Report. This act's objective is to fast-track the

¹⁰ Raj Kishor Pradhan, *Negative Impact of NPA on Indian Economy: An Analysis*, in *Indian Banking: The Issues of Non-Performing Assets (NPAs)* (2018), <https://ssrn.com/abstract=3840103>.

¹¹ Kartik Ramaswamy, *Impact of NPA on Profitability of Banks*, ResearchGate, https://www.researchgate.net/profile/Kartik-Ramaswamy/publication/341981361_Impact_of_NPA_on_Profitability_of_Banks/links/5f9ab69e92851c14bcf09f2d/Impact-of-NPA-on-Profitability-of-Banks.pdf (last visited Aug. 30, 2024).

recovery of loans and also subdue the increasing levels of Non-Performing Assets of banks and other financial institutions. The provisions contained in the act enable the banks and financial institutions to recover the long-term debts, manage cash flow problems, asset mismatch and to increase the rate of recovery by enforcing the security interest of the banks.¹² The act lays down three methods for the recovery of NPAs namely-

- Securitization
- Asset Reconstruction

According to SARFAESI Act "Securitization" refers to the acquisition of financial assets by an asset reconstruction company from an originator. This can be done through raising funds from qualified buyers or issuing security receipts representing undivided interest in the assets.¹³

The NPAs from the banks are bought by the Asset Reconstruction Companies, which take measure for the recovery of the bad loan. These measures include

- Change in the Management of the Borrower's Business.
- Take over
- Lease/ Sale
- Restructuring the business of the borrower
- Rescheduling the payment of debts by the borrower
- Taking possession of the secured assets.

THE INSOLVENCY AND BANKRUPTCY CODE 2016

This code transcends all other laws and governs various business structures, including individuals, partnerships, and corporations. The goal of this code is to achieve a balance between the interests of diverse stakeholders while minimizing the damage they are experiencing. It also aims to revitalize the commercial entities that contribute the most to economic progress.

Following the implementation of the IBC Code, it was specifically stated in the Eight Schedule of the IBC that if a matter is already before the BIFR and AAIFR but is re-initiated before the NCLT under the IBC, the proceedings before the BIFR and AAIFR shall be abated. The case

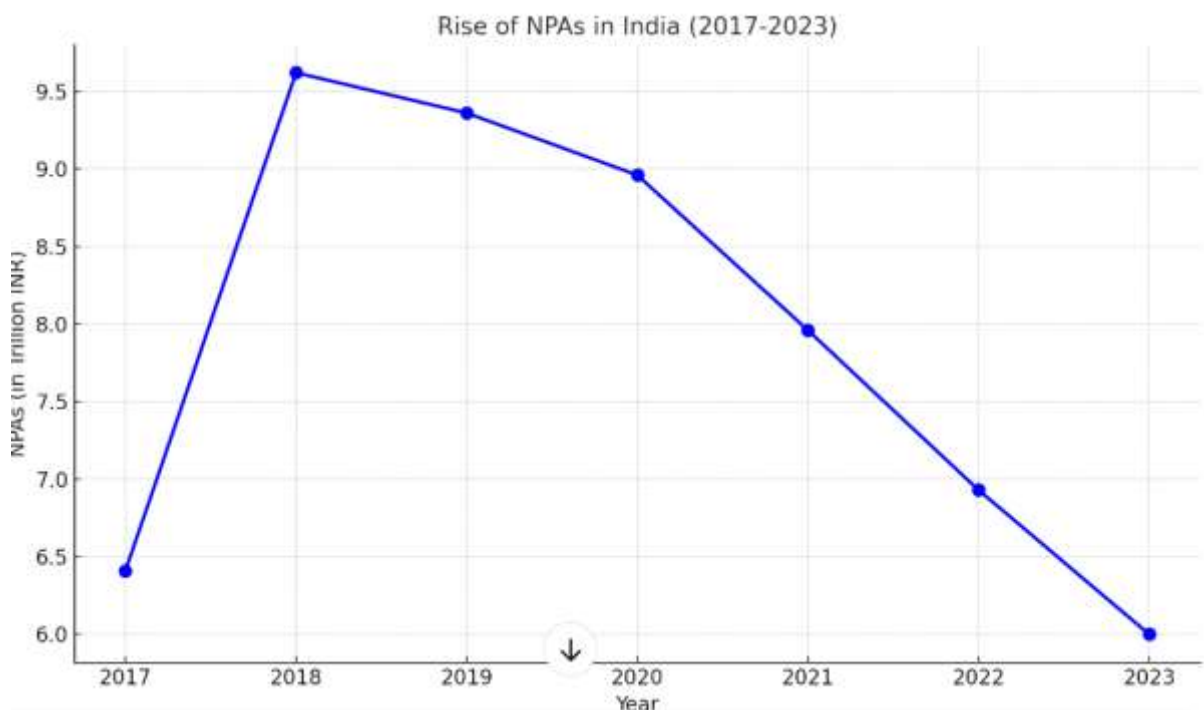
¹² Begenau, J., Piazzesi, M., & Schneider, M., *Banks' Risk Exposure*, NBER Working Paper No. 21334, Nat'l Bureau of Econ. Rsch. (2015).

¹³ Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, § 2(z), No. 54 of 2002.

under IBC must be initiated within 180 days of the IBC's implementation.

Other cases that were before the DRT or winding up proceedings that were before the High Court and admitted under the Companies Act of 2013 are also eligible to be launched as fresh under the IBC. The IBC permits all types of creditors, financial and operational, bank or non-bank, to file a corporate bankruptcy case. Also, there is a specified time period mentioned, i.e. the procedure must be completed within 330 days. So, even non-bankers facing protracted pendency can file a lawsuit with the NCLT, and the bank will be forced to participate in the process. As a result, IBC may be implemented on a broad scale for current NPAs.¹⁴

Thus, the Insolvency and Bankruptcy Code provides a mechanism for the affected and aggrieved creditors, to file before the appropriate adjudicating authority an application to recover the maximum possible amount in case the defaulting debtor is unable to pay back its debt. It helps in reducing the amount of loss caused due to NPAs by maximizing the amount of recovery or by reviving the corporate debtor through appropriate resolution plan.



RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS ACT, 1993 (RDDBFI ACT)

Under the RDB Act, debt recovery tribunals (DRTs) were progressively formed around the nation based on the volume of cases that were moved from civil courts to them and the petitions

¹⁴ Insolvency and Bankruptcy Code, 2016, § 6 (India).

for recovery that banks and financial institutions submitted to them. If the borrower's company is found to be viable, banks will attempt to restructure stressed assets, such as non-performing assets (NPAs) and restructured accounts. If the account becomes non-performing assets (NPA), they attempt to recoup their losses via Negotiated Settlement (NS) or One Time Settlement (OTS). If they have easily marketable security, they may also pursue legal action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act), 2002.¹⁵

The Presiding Officer (PO) prefers to dispose of the OA 180 days after receiving it from the banks. The Recovery Officer (RO) gets a certificate of recovery from the DRT's PO, together with the final order for the recovery of the debt amount specified in the certificate. The RO may attach the defendant's property in whole or in part, after which the assets may be sold and a receiver appointed to oversee their management.¹⁶ Thakkar et al. (2020) investigated the efficacy of the DRT case status for closed and pending cases. The research revealed that, in comparison to freshly filed and unresolved cases, the number of cases disposed of was insufficient. In contrast with 190 countries India ranked 63rd in 2022 in ease of doing business which is a lower rank considering that India has the 5th largest GDP around the world.

It was stated that resolving insolvency in India takes an average of 4.3 years, which is more than twice as long as in China and Russia. The average recovery rate in India was just 26%, compared to more than 35% in China and Russia. Even though India's score has improved in consecutive Doing Business reports, this is due mostly to the introduction of the Insolvency and Bankruptcy Code (IBC) in December 2016 and other economic reforms. Regi and Roy (2017) investigated 22 cases of DRT-III, Delhi, totalling 474 orders. The investigation examined the instructions to identify the causes of hearing difficulties. Gandhi (2017) stated that while the RDB Act and SARFAESI Act of 2002 have helped banks and FIs recover faster, there is still need for improvement. In 2016, revisions to the RDB Act and SARFAESI Act resulted in procedural improvements for DRTs.¹⁷

¹⁵ Jyoti Sharma & Kamal Vagreacha, Effectiveness of Debt Recovery Tribunals in Resolving NPAs of Banks in India: A Critical Analysis, 43 Orissa J. Com. 75 (2022)

¹⁶ K.S. Rao, *Need for Strategic Shift in the Management of Non-Performing Assets in the Indian Banking Industry*, 83 Bank Quest 50, 50-59 (2012).

¹⁷ Dr. Madan Lal Bhasin, *Unmasking Rising NPAs: Can the Indian Banking Sector Overcome this Phase?*, 31 Mod. L. Rev. 481 (2020).

ROLE OF RESERVE BANK OF INDIA IN NPA REDUCTION

In India, public sector banks improved profitability, efficiency, and asset quality in the 1990s. However, they still have higher interest rate spreads and lower rates of return due to higher operating costs. Table 6 shows that private sector banks have lower spreads and operational expenditures compared to G3 nations' banking systems. Meanwhile, lower asset quality leads to larger loan loss provisions.

Restructuring loans and advances modifies terms and conditions to help borrowers overcome transitory cash flow issues or economic downturns. According to the Reserve Bank's prudential standards on restructuring, a restructured account is one where the bank provides concessions to a borrower due to their financial difficulties. Restructuring often involves modifying the conditions of advances/securities, such as changing repayment periods, repayable amounts, instalment amounts, and interest rates (for non-competitive reasons). The Reserve Bank periodically updates its prudential criteria for bank advances to align with worldwide best practices and Basel Committee on Banking Supervision (BCBS) principles. In August 2008, the Reserve Bank took pre-emptive actions to stabilize the economy after the global financial crisis of 2007. This included changes to the standards for restructuring loans. In August 2008, banks were given the option to restructure accounts of viable firms designated as standard, sub-standard, or questionable.¹⁸

Judicial interpretation and case law analysis

Balkrishna Rama Tarle Dead thr LRS & Anr Vs. Phoenix ARC Pvt. Ltd. & Ors.¹⁹

The Hon'ble Supreme Court affirmed the order of the Bombay High Court Division Bench, which enumerated Dos and Don'ts for action under Section 14 of SARFAESI. The Hon'ble Supreme Court ruled that the powers exercisable by the CMM/DM under Section 14 of the SARFAESI Act are ministerial in nature, and that Section 14 does not entail any adjudicatory procedure regarding the objections presented by the borrowers against the secured creditor taking control of the secured assets.

In that regard, once the secured creditor has complied with/satisfied all of the requirements under Section 14 of the SARFAESI Act, it is the CMM/DM's responsibility to assist the secured

¹⁸ Shri Mahadev B. Bagadi, *Role of RBI in Management of NPAs in Corporate Banking*, 31 Mod. L. Rev. 481 (2021)

¹⁹ *Balkrishna Rama Tarle Dead thr LRS & Anr. v. Phoenix ARC Pvt. Ltd. & Ors.*, Civil Appeal No. 2465 of 2020 (India).

creditor in obtaining possession and documents related to the secured assets, including the assistance of any officer subordinate to him and/or an advocate appointed as Advocate Commissioner. At that point, the CMM/DM is not required to adjudicate the dispute between the borrower and the secured creditor and/or between any other third party and the secured creditor with respect to the secured assets, and the aggrieved party is relegated to raise objections in the proceedings under Section 17 of the SARFAESI Act, before Debts Recovery Tribunal.

Bank of Baroda Vs. M/s Karwa Trading Company & Anr²⁰

The Supreme Court ruled that even after making a payment of Rs.65.65 lakhs against the total dues of Rs.1,85,37,218.80/- on 07.01.2013, the borrower's whole responsibility was not discharged. Even if the mortgaged property was sold at a public auction for Rs.71 lakhs and the bank made Rs.71 lakhs from the sale, the borrower's duty to pay the rest amount would still exist. The borrower is not released from all outstanding liabilities by selling the mortgaged or secured property. The borrower's responsibility for the remainder of unpaid dues would continue.

Unless and until the borrower was prepared to deposit/pay the total amount owed, including all charges and expenses, with the secured creditor, the borrower could not be released from the entire outstanding responsibility. As a result, neither the DRT nor the Division Bench of the High Court could have issued an order to discharge the borrower from all outstanding liabilities, discharge the mortgaged property, and transfer over ownership to the borrower along with the original title papers. Even if this Court overturns the temporary relief order, the appeal/application must be considered and resolved on the merits and on any other grounds available to the borrower.

Diamond Entertainment Technologies Pvt. Ltd. Vs. Religare Finvest Ltd. Through Its Authorised Officer²¹

The Hon'ble High Court ruled that the SARFAESI Act and the RDDB Act are complimentary, and that the mere fact that proceedings under the SARFAESI Act have begun does not justify removing the RDDB Act's authority. In addition to adjudication under the Arbitration and Conciliation Act of 1996, the provisions of the SARFAESI Act of 2002 serve as an alternative

²⁰ *Bank of Baroda v. M/s Karwa Trading Co. & Anr.*, Civil Appeal No. 4514 of 2002 (India)

²¹ *Diamond Ent. Techs. Pvt. Ltd. v. Religare Finvest Ltd.*, Civil Appeal No. 11346 of 2018 (India).

venue to the Civil Court/DRT. Once the remedy of recovery is established, the parties retain the option of adjudicating their inter se issues in an alternative venue, such as the regular Court or DRT, as the case may be.

All conflicts connected to the "Right in Personam" are arbitrable, therefore the parties have the option of selecting an alternate venue. A bank or financial institution's demand for money cannot be recognized as a right in rem, removing it outside the domain of arbitrability.

Effectiveness of Existing Mechanisms

Lok Adalats, being a people's court, have the most referred cases among the four recovery channels. However, the sum involved in each case is not large. In comparison, the SARFAESI Act provides a larger sum for each cited case. DRTs are moderate in terms of quantity and amount involved in each occurrence. SARFAESI Act had the highest recovery rate, but Lok Adalats and DRTs struggled to recover NPAs. IBC 2016, 2018, 2019, and 2020 had amazing recovery as a new entry in the recovery area to the extent of almost 50%.²²

With regard to unrecovered sums NPAs represent a portion of the overall quantity engaged in certain channels. In 2008, the rate was 50% and steadily increased until 2010. After a two-year decline, the rate increased to 90% in 2016. In 2017, it decreased slightly to 86%, while in 2018, it remained at 86%. In 2019 and 2020, the total unrecovered sum decreased by 83% and 77%, respectively, due to IBC's successful recovery efforts. Lok Adalats recovered ₹1943.84 billion, DRTs collected NPAs of ₹15411.73, and the SARFAESI Act recovered ₹39310.79. The SARFAESI Act was fairly effective in recovering NPAs, whereas DRTs and Lok Adalats did not meet expectations. IBC has collected ₹1771 billion in 3 years, exceeding the 40% recovery rate. It is also effective in recovering non-performing assets.²³

Recommendations

To propose actual changes in recovery processes for Non-Performing Assets (NPA), we must strike a balance between the legal framework's rigidity and more humanitarian, pragmatic

²² Dhananjaya Kadanda & Krishna Raj, Non-Performing Assets (NPAs) and Its Determinants: A Study of Indian Public Sector Banks, **20 J. Soc. & Econ. Dev.** 193 (2018), <https://doi.org/10.1007/s40847-018-0068-0>.

²³ Sonia Chawla & Seema Rani, *Conundrum of Nonperforming Assets Over Two Decades: An Analysis of Punjab National Bank*, 44 *Mgmt. & Lab. Stud.* 263 (2019).

alternatives. Based on the present legal environment and the context of your post, here are some actionable suggestions:

1. **Strengthening the Asset Reconstruction Companies (ARCs):** ARCs play an important role in resolving NPAs by buying and restoring distressed loans. They frequently encounter issues linked to capital sufficiency and operational efficiency. To boost recovery, the government might incentivise private equity investments in ARCs, ensuring they have the financial resources to deal with huge, complicated NPAs. This might be accomplished by lowering investment restrictions for foreign investors or streamlining the legal environment for ARCs. Furthermore, ARCs should be allowed greater freedom to restructure troubled assets.
2. **Enhancing the Functionality of the Insolvency and Bankruptcy Code (IBC):** The IBC has helped to speed up the settlement of stressed assets, but it still faces delays owing to litigation and administrative inefficiencies. Streamlining the approval process at the National Company Law Tribunal (NCLT) by increasing the number of benches and enhancing infrastructure can help to eliminate backlogs. Furthermore, a fast-track method might be implemented for situations having minor or uncomplicated insolvencies, ensuring rapid resolution while eliminating excessive expenses.
3. **Refining the SARFAESI Act for Better Enforcement:** The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act authorizes banks to confiscate and auction defaulters' assets, however practical obstacles such as auction delays and borrower opposition hamper its efficacy. To address this issue, digital platforms may be employed to make auctions more transparent and efficient. Legal measures might also be strengthened to inflict harsher penalties on borrowers who knowingly hinder enforcement proceedings, ensuring that the SARFAESI Act is not rendered ineffective in challenging instances.
4. **Expanding the Use of Pre-Packaged Insolvency:** Pre-packaged bankruptcy, which allows creditors and debtors to agree on a resolution plan before official insolvency procedures commence, has the potential to speed up the recovery process. Expanding its use beyond MSMEs to larger enterprises would speed up resolutions and lessen the NCLT's workload. Legal requirements under IBC might be changed to encourage the more frequent use of pre-packaged insolvencies, particularly for mid-sized and larger enterprises.

Conclusion

Non-Performing Assets (NPAs) are a major burden for the Indian banking system, hurting stability, profitability, and overall operational efficiency. Despite numerous reforms and legal frameworks, such as the SARFAESI Act, the Insolvency and Bankruptcy Code (IBC), and the Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI), NPAs continue to erode the sector's lending capacity, resulting in lower investor confidence, insufficient fund recycling, and higher provisioning requirements for bad loans.

Poor lending practices, faulty credit evaluation systems, industrial disease, and purposeful defaults are all causes contributing to the growth of nonperforming assets (NPAs). Public sector banks have a higher percentage of NPAs, owing to structural inefficiencies and outmoded risk management systems. Although the Reserve Bank of India (RBI) has implemented many regulatory measures, including as the prompt corrective action (PCA) framework and restructuring recommendations, they have not been entirely effective in managing the problem, highlighting the need for more dynamic solutions.

Legal frameworks like as the SARFAESI Act and IBC have played an important role in tackling the NPA problem, but they are not without limits. The IBC, which was created as a comprehensive system for bankruptcy resolution, has increased recovery rates but confronts obstacles such as procedural delays and lower-than-expected recoveries. While the SARFAESI Act empowers banks to confiscate defaulters' assets, it, too, has backlogs in Debt Recovery Tribunals (DRTs) and implementation delays.

To fully solve the NPA problem, a multifaceted solution including legal, regulatory, and institutional reforms is required. While current frameworks have provided the platform for better NPA management, long-term resolution of the issue would need concerted efforts from all parties, including banks, regulatory authorities, and the courts. Only then can India's banking industry restore financial health and successfully contribute to the country's economic growth.