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# JURISTS VS. DEBTORS: THE ULTIMATE SHOWDOWN IN BANKRUPTCY COURT

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## ABSTRACT

*A paradox emerges as bankruptcy law navigates economic instability: procedural coherence clashes with equitable flexibility. This tension raises questions about justice in bankruptcy proceedings. Can rigid structures accommodate modern financial crises without perpetuating injustices? The rise of cryptocurrency insolvencies and environmental liabilities complicates traditional frameworks. This analysis probes the heart of bankruptcy jurisprudence, revealing a complex interplay of competing interests and philosophical underpinnings. It challenges the status quo, inviting a re-evaluation of fairness and efficiency in financial distress. But as we delve deeper, a critical question looms: Will the pursuit of balance between predictability and adaptability ultimately lead to a more just system, or will it unravel the fabric of economic stability? The answer lies in the shadows of a looming financial reckoning—where the future of bankruptcy law hangs precariously in the balance.*

## I. INTRODUCTION

Bankruptcy law exists at the complex intersection of legal theory, economic stability, and ethical considerations, serving as a critical framework for resolving financial distress while balancing the rights and interests of debtors and creditors[2]. Its jurisprudence reflects a constant tension between procedural formalism, which emphasizes adherence to established legal rules, and equitable discretion, which seeks just outcomes in the unique circumstances of each case[3]. Landmark cases and legislative developments on both sides of the Atlantic illustrate this dynamic.[4]

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[2] Douglas G. Baird, *The Elements of Bankruptcy* (6th edn, Foundation Press 2014)

[3] Larson A, 'Piercing the Corporate Veil', ExpertLaw, 5 October 2015, https://www.expertlaw.com/library/business/corporate_veil.html accessed 30th March, 2025.

[4] Elizabeth Warren & Jay Lawrence Westbrook, *The Law of Debtors and Creditors* (7th edn, Aspen Publishers 2014)

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For example, the ongoing legal battles surrounding *Purdue Pharma* in the US[5], particularly the debates about non-debtor releases, starkly illustrate the tension between adhering to established rules and achieving equitable outcomes. Similarly, India's **Insolvency and Bankruptcy Code** (IBC), 2016, represents a deliberate policy choice to prioritize the efficient resolution of corporate insolvency, potentially impacting the interests of certain classes of creditors *P. Mohanraj & Ors. v. Shah Brothers Ispat Pvt. Ltd.*[6]. These examples highlight the difficult choices facing policymakers and courts as they seek to balance competing interests in the context of financial distress.

Adding further complexity, the legal and economic landscape is rapidly evolving, shaped by emerging challenges such as the rise of cryptocurrency insolvencies, the increasing prevalence of environmental liabilities, and the growing recognition of the need for corporate social responsibility. As courts grapple with these issues, they must navigate uncharted legal territory and develop new approaches to address the novel challenges posed by a rapidly changing world. This article analyses these competing forces, exploring how courts in both the US and India grapple with adapting established doctrines to these modern challenges, ultimately shaping the future of bankruptcy law.

## II. Contrasting Philosophies: A Comparative Analysis of US and Indian Bankruptcy Law

Bankruptcy law serves as a critical mechanism for managing financial distress, but its structure and application vary significantly across jurisdictions, reflecting differing philosophical underpinnings and policy priorities. This section provides a comparative analysis of the US and Indian bankruptcy systems, highlighting their key features, underlying principles, and approaches to balancing competing stakeholder interests. By examining these contrasting philosophies, we can gain a deeper understanding of the challenges and opportunities facing both systems in an increasingly interconnected global economy.

[5] ABC News, 'Supreme Court Blocks Purdue Pharma Opioid Settlement that Shields Sackler Family from Liability', accessed on: 10 January 2024, https://abcnews.go.com/Politics/supreme-court-blocks-purdue-pharma-opioid-settlement-shields-sackler-family-liability/story?id=111458278, accessed 30th March, 2025.
[6] *P. Mohanraj & Ors. v. Shah Brothers Ispat Pvt. Ltd.* [2021] 5 SCC 24, Supreme Court of India.

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### The US Bankruptcy System: A Focus on Rehabilitation and Fresh Start

The US bankruptcy system, primarily governed by the Bankruptcy Code (Title 11 of the United States Code)[7], is characterized by a dual focus on providing debtors with a fresh start and ensuring fair treatment of creditors[8]. Chapter 7 of the Bankruptcy Code provides for liquidation, where a debtor's assets are sold to satisfy creditors' claims, while Chapter 11 allows for reorganization, enabling businesses to restructure their debts and continue operating[9]. A key feature of the US system is its emphasis on debtor rehabilitation, with Chapter 13[10] offering wage earners a structured repayment plan. Furthermore, the "automatic stay" concept provides immediate protection to debtors upon filing, preventing creditors from taking collection actions.

### The Indian Insolvency and Bankruptcy Code (IBC): Prioritizing Efficient Resolution

In contrast to the US system's focus on debtor rehabilitation, India's Insolvency and Bankruptcy Code (IBC), 2016, prioritizes efficient and timely corporate insolvency resolution[11]. The IBC[12] establishes a streamlined process with strict timelines to maximize asset value. The Corporate Insolvency Resolution Process (CIRP)[13] aims for revival or liquidation within a set timeframe. Insolvency Professionals (IPs)[14] manage the process and ensure compliance. Section 53 defines payment priorities[15]. While improving recovery rates and resolution times, the IBC faces criticism for potentially favoring financial over operational creditors and impacting SMEs, as highlighted in *P. Mohanraj* (2021)[16].

### Comparative Analysis: Contrasting Philosophies and Key Differences

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7 United States Courts, 'Process - Bankruptcy Basics', US Courts, 1 January 2005, https://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics/process-bankruptcy-basics accessed 31 March 2025.

8 Douglas G Baird, *Elements of Bankruptcy* (6th edn, Foundation Press 2014). Elizabeth Warren and Jay Lawrence Westbrook, *The Law of Debtors and Creditors* (7th edn, Wolters Kluwer 2014).

9 Congressional Research Service, 'Bankruptcy Basics: A Primer' (CRS Reports, 12 October 2022) https://crsreports.congress.gov/product/pdf/R/R45137 accessed 31 March 2025.

10 https://www.investopedia.com/terms/b/bankruptcy.asp accessed 31 March 2025.

11 Report of the Bankruptcy Law Reforms Committee, *The Insolvency and Bankruptcy Code, 2016: Final Report* (Ministry of Finance, November 2015).

12 Insolvency and Bankruptcy Code 2016 (India), ss 4, 7-32, 53.

13 Corporate Insolvency Resolution Process (CIRP): Provisions and Procedures https://ksandk.com/insolvency/corporate-insolvency-resolution-process/ accessed 31 March 2025.

14 IndiaFilings, 'Corporate Insolvency Resolution Process' (25 November 2024) https://www.indiafilings.com/learn/corporate-insolvency-resolution-process/ accessed 31 March 2025.

15 Taxmann, 'Process of Insolvency Resolution for Corporate Persons | IBC' (3 September 2024) https://www.taxmann.com/post/blog/insolvency-resolution-of-corporate-persons accessed 31 March 2025.

16 P Mohanraj and others v Shah Brothers Ispat Pvt Ltd[2021] 6 SCC 258.

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While both the US and Indian bankruptcy systems[17] aim to address financial distress, they differ significantly in their underlying philosophies and operational mechanisms. The US system places a greater emphasis on providing debtors with a fresh start and protecting their rights, while the Indian IBC[18] prioritizes the efficient resolution of insolvency and the maximization of asset value. This difference in emphasis is reflected in the stricter timelines and the greater power afforded to creditors under the IBC compared to the US system[19]. The US system also provides for more extensive judicial oversight of the bankruptcy process[20], while the Indian IBC relies more heavily on the role of the Insolvency Professional[21].

**Challenges and Opportunities:**

Both the US and Indian bankruptcy systems face unique challenges in the context of globalization and technological change. In the US[22], the increasing complexity of financial instruments and the rise of cross-border insolvencies require greater international cooperation and harmonization of bankruptcy laws[23]. In India, the IBC[24] faces challenges related to implementation, infrastructure bottlenecks, and the need to address the concerns of operational creditors and SMEs[25]. However, both systems also have opportunities to learn from each other and to adapt their approaches to better meet the needs of their respective economies[26].

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[17] Md Rashid Shamim, 'Bankruptcy Laws: A Comparative Study of India and USA' (2019) *Journal of Management*, vol 6, issue 2, 247-252 https://ssrn.com/abstract=3526083 accessed 31 March 2025

[18] Financier Worldwide, 'Corporate Bankruptcy Resolution: Juxtaposing the US and India' (March 2020) https://www.financierworldwide.com/corporate-bankruptcy-resolution-juxtaposing-the-us-and-india accessed 31 March 2025.

[19] Taxmann, 'Insolvency Law in India and Other Countries – A Comparative Study' (8 May 2024) https://www.taxmann.com/post/blog/insolvency-law-in-india-and-other-countries-a-comparative-study accessed 31 March 2025.

[20] SCConline, 'Insolvency Regime in India and USA: A Comparative Study' (19 September 2023) https://www.scconline.com/blog/post/2023/09/19/insolvency-regime-in-india-and-usa-a-comparative-study/ accessed 31 March 2025.

[21] Taxguru, 'Comparative Analysis of Insolvency and Bankruptcy Code of India and U.S.' https://taxguru.in/corporate-law/comparative-analysis-insolvency-bankruptcy-code-india-u-s.html accessed 31 March 2025.

[22] Jodie Adams Kirshner, *International Bankruptcy: The Challenge of Insolvency in a Global Economy* (University of Chicago Press 2018).

[23] Leora Klapper, 'The Challenges of Bankruptcy Reform' (World Bank Blogs, 1 November 2010) https://blogs.worldbank.org/allaboutfinance/the-challenges-of-bankruptcy-reform accessed 31 March 2025.

[24] Leora Klapper, 'The Challenges of Bankruptcy Reform' (World Bank Blogs, 1 November 2010) https://blogs.worldbank.org/allaboutfinance/the-challenges-of-bankruptcy-reform accessed 31 March 2025.

[25] Elena Cirmizi, Leora Klapper and Mahesh Uttamchandani, 'The Challenges of Bankruptcy Reform' (2010) World Bank Policy Research Working Paper 5448.

[26] Simeon Djankov and Eva (Yiwen) Zhang, 'Divergence in Bankruptcy Law Across Advanced and Developing Economies' (VoxEU, 14 September 2021) https://cepr.org/voxeu/columns/divergence-bankruptcy-law-across-advanced-and-developing-economies accessed 31 March 2025.

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## III. Theories in Tension: Jurisprudential Foundations of Bankruptcy Law

Bankruptcy law embodies a practical application of jurisprudence, forcing a negotiation between competing ethical and economic frameworks beyond mere debt resolution. Examining its jurisprudential underpinnings reveals inherent tensions shaping its evolution, as utilitarian, deontological, and libertarian perspectives clash in balancing debtor, creditor, and societal interests.

Economic efficiency, rooted in utilitarianism, prioritizes maximizing the bankrupt estate's value through predictable rules and minimized transaction costs[27]. However, critics argue this model can disregard distributional concerns and inequitable outcomes for vulnerable stakeholders[28]. Academic writings, as reflected in journals, offer a nuanced perspective on the economic implications of various legal approaches[29].

Conversely, deontological and justice-based theories emphasize moral obligations, prioritizing fairness, individual rights, and preventing exploitation (Dworkin 1977). This translates to policies protecting debtors, ensuring transparency, and holding wrongdoers accountable[30]. Libertarianism, prioritizing autonomy and freedom of contract, advocates minimal intervention. Understanding these theoretical lenses is crucial for navigating bankruptcy's complexities and evaluating policy choices[31].

## IV. *The Purdue Pharma Saga: A Case Study in Conflicting Interests*

The *Purdue Pharma*[32] bankruptcy exemplifies the tension between corporate interests, creditor rights, and public welfare. Facing mass litigation stemming from the opioid crisis, Purdue

[27] Thomas H Jackson, *The Logic and Limits of Bankruptcy Law* (Harvard University Press 2001).
[28] Michelle J White, 'Economic Analysis of Corporate and Personal Bankruptcy Law' (2005) NBER Working Paper No 11536 https://www.nber.org/papers/w11536 accessed 31 March 2025.
[29] Todd J Zywicki, 'Bankruptcy Law as Social Legislation' (2001) George Mason University School of Law Working Paper No 01-18 https://www.law.gmu.edu/assets/files/publications/working_papers/01-18.pdf accessed 31 March 2025.
[30] Baylor Business Review, 'Ethics of Bankruptcy' (Fall 2024) https://bbr.baylor.edu/bankruptcy/ accessed 31 March 2025.
[31] Michelle J White, 'Bankruptcy Law' in A M Polinsky and Steven Shavell (eds), *Handbook of Law and Economics* (Elsevier Science 2007)
[32] *Harrington v. Purdue Pharma L.P.*[2024] 23-124 https://www.supremecourt.gov/opinions/23pdf/23-124_8nk0.pdf accessed 31 March 2025.

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sought Chapter 11 protection, proposing a settlement shielding the Sackler family from personal liability via non-debtor releases[33]. This triggered fierce debate.

The proposed non-debtor releases ignited controversy. Proponents argued they were vital for settlement funding, ensuring compensation for victims. Critics countered that they unjustly protected the Sacklers from accountability, exceeding bankruptcy law's scope and undermining equitable principles. The courts grappled with balancing efficient resolution and fairness.

Ultimately, the *Purdue Pharma* case underscores the complex ethical and legal questions arising when corporate actions inflict widespread harm[34]. It tests the limits of bankruptcy law, forcing a reevaluation of non-debtor releases and the prioritization of competing interests in mass tort bankruptcies[35]. The saga highlights the need for innovative approaches that balance corporate restructuring with accountability and victim compensation.

## V. Navigating Uncharted Waters: Emerging Challenges in Modern Bankruptcy Law

Modern bankruptcy law confronts novel challenges: cryptocurrency insolvencies[36], environmental liabilities, and evolving notions of corporate social responsibility (CSR). Cryptocurrency's decentralized nature complicates asset tracing and recovery[37]. Environmental liabilities, often extensive and long-term, strain traditional creditor hierarchies and funding mechanisms. Increasing pressure for CSR pushes for balancing profit with stakeholder welfare, influencing bankruptcy outcomes.

[33] National Conference of State Legislatures, 'Supreme Court Overrules Purdue Pharma Opioid Settlement, Rejects Immunity for Sacklers' (14 October 2024) https://www.ncsl.org/resources/details/supreme-court-overrules-purdue-pharma-opioid-settlement accessed 31 March 2025.

[34] Reuters, 'Purdue Pharma Files New Bankruptcy Plan for $7.4 Billion Opioid Settlement' (19 March 2025) https://www.reuters.com/business/healthcare-pharmaceuticals/purdue-pharma-files-new-bankruptcy-plan-74-billion-opioid-settlement-2025-03-19/ accessed 31 March 2025.

[35] Purdue Pharma, 'Restructure' (March 2025) https://www.purduepharma.com/restructure/ accessed 31 March 2025.

[36] Mary Taylor Stanberry, 'Cryptocurrency's Clash with Bankruptcy: Insolvent Crypto Exchange Companies Create Difficulties for Courts & Customers' (2023) 26 SMU Sci & Tech L Rev 445 https://scholar.smu.edu/cgi/viewcontent.cgi?article=1364&context=scitech accessed 31 March 2025.

[37] JD Supra, 'Navigating Cryptocurrency Disputes in Litigation and Bankruptcy: Legal Challenges and Complexities' (3 February 2025) https://www.jdsupra.com/legalnews/navigating-cryptocurrency-disputes-in-6966719/ accessed 31 March 2025.

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Courts must adapt. Legal frameworks require refinement to address digital assets[38], quantify and manage environmental risks, and integrate CSR considerations. Innovation in legal tools and interdisciplinary approaches are vital. The need to balance corporate interests with long-term societal well-being is critical.

## Conclusion

Bankruptcy law faces a crossroads. *Purdue Pharma*[39] and the IBC highlight the conflict[40] between procedure and equity[41]. New challenges demand adaptation[42]. As a result, legal professionals must support economic stability and just outcomes through ethical bankruptcy practice.

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38 Nelson Mullins, 'Emerging Issues in Crypto Bankruptcies' (2024) https://www.nelsonmullins.com/insights/blogs/red-zone/bankruptcy-101/emerging-issues-in-crypto-bankruptcies accessed 31 March 2025.

39 *Harrington v. Purdue Pharma L.P.*[2024] 23-124

40 Kenneth M Ayotte and Edward R Morrison, 'Creditor Control and Conflict in Chapter 11' (2009) 1 Journal of Legal Analysis 511

41 Daniel J Bussel, 'Doing Equity in Bankruptcy' (2017) 34 Emory Bankruptcy Developments Journal 13

42 Brenda Hacker Osborne, 'Attorney's Fees in Chapter 11 Reorganization: A Case for Modified Procedures' (1994) 69 Indiana Law Journal 581