World Journal of Law, Governance and Public Policy

PRIME OPEN ACCESS

Volume 1, Issue 1

Research Article

Date of Submission: 09 Jul, 2026
Date of Acceptance: 05 Aug, 2026
Date of Publication: 12 Aug, 2026

# Resolving Non-Performing Assets in India: A Critical Analysis of the Legal and Policy Framework Under Sarfaesi and the Insolvency and Bankruptcy Code

**Zeba***

LL.M Candidate, Faculty of Law, Jamia Hamdard University, India

***Corresponding Author:**
Zeba, LL.M Candidate, Faculty of Law, Jamia Hamdard University, India.

**Citation:** Zeba. (2026). Resolving Non-Performing Assets in India: A Critical Analysis of the Legal and Policy Framework Under Sarfaesi and the Insolvency and Bankruptcy Code. *World J Law Govern Pub Policy, 1*(1), 01-06.

## Abstract
Non-Performing Assets (NPAs) continue to pose a significant challenge to the Indian banking sector, affecting financial stability, credit growth, and public confidence in banking institutions. Over the years, the increasing volume of stressed assets has exposed several structural weaknesses within the system, including inadequate credit assessment, ineffective recovery mechanisms, regulatory shortcomings, and governance-related concerns. The issue has become particularly serious for public sector banks, where rising NPAs have impacted profitability and lending capacity.

This paper examines the legal and policy framework developed in India to address the problem of NPAs, with particular focus on the SARFAESI Act, 2002, the Insolvency and Bankruptcy Code (IBC), 2016, and the functioning of Debt Recovery Tribunals (DRTs). The study critically evaluates whether these mechanisms have succeeded in ensuring timely recovery of debts and improving financial discipline, or whether procedural delays and institutional inefficiencies continue to weaken their effectiveness.

Apart from legal analysis, the paper also explores broader policy concerns such as political interference in lending decisions, lack of accountability within public sector banks, and inconsistent implementation of banking reforms. By analysing legislative measures, policy initiatives, and major case studies, the paper highlights both the progress made and the challenges that remain in India's NPA resolution framework. The study ultimately argues that stronger institutional coordination, efficient enforcement mechanisms, and preventive regulatory strategies are necessary to create a more resilient and transparent banking system.

**Keywords:** Non-Performing Assets, Banking Regulation, Insolvency Law, Sarfaesi, Debt Recovery, Financial Stability, Public Sector Banks, Credit Risk Management

### Introduction
Non-Performing Assets (NPAs) have become one of the most significant concerns confronting the Indian banking sector. An asset is generally classified as non-performing when the borrower fails to repay interest or principal for a continuous period of ninety days or more.1 Although a certain level of default is inevitable in any financial system, the persistent rise of NPAs in India—particularly within public sector banks—has created serious challenges for financial stability, credit growth, and institutional accountability.2

Over the years, the Indian banking system has faced considerable difficulties in recovering stressed assets due to procedural delays, weak credit appraisal mechanisms, inadequate monitoring, and inefficiencies in the legal recovery framework.3 In response to the growing crisis, the Government of India and regulatory authorities introduced several legal and institutional measures aimed at strengthening debt recovery and improving banking discipline. Significant among these are the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), the establishment of Debt Recovery Tribunals (DRTs), and the Insolvency and Bankruptcy Code, 2016 (IBC).4 These mechanisms were intended to provide a faster and more structured process for the resolution of bad loans and stressed assets.

Despite these reforms, the problem of NPAs continues to persist in different forms. Delays in adjudication, prolonged insolvency proceedings, inconsistent implementation of recovery mechanisms, and institutional inefficiencies have often limited the effectiveness of these legal frameworks.5 Concerns relating to political influence in lending decisions, governance failures in public sector banks, and lack of timely regulatory intervention have further complicated the issue.6 Additionally, recent policy initiatives such as the establishment of Asset Reconstruction Companies (ARCs) and the concept of a "bad bank" have expanded the debate surrounding NPA resolution and banking reforms in India.

Against this backdrop, the present study examines the legal and policy framework governing NPAs in India and evaluates the effectiveness of existing recovery mechanisms. The paper also analyses structural and institutional challenges that continue to contribute to the accumulation of stressed assets. By critically examining the functioning of recovery laws, regulatory responses, and policy reforms, the study seeks to identify the gaps within the existing framework and suggest measures for strengthening India's banking and insolvency system.

## Research Problem

The issue of Non-Performing Assets (NPAs) has become a major concern for the Indian banking sector, especially for public sector banks. Rising NPAs not only affect the financial health of banks but also reduce credit growth and weaken public confidence in the banking system. Although the Government of India has introduced laws such as the SARFAESI Act, Debt Recovery Tribunals (DRTs), and the Insolvency and Bankruptcy Code (IBC) to improve recovery of bad loans, the problem still continues.7

Delays in legal proceedings, weak implementation of recovery mechanisms, poor credit assessment, and lack of accountability have limited the effectiveness of these measures.8 In many cases, political influence and institutional inefficiencies have further worsened the situation. Therefore, the study seeks to examine whether the existing legal and policy framework is sufficient to address the NPA crisis effectively or whether further reforms are required to strengthen India's banking system.

## Hypothesis

The study is based on the hypothesis that the existing legal and policy framework governing Non-Performing Assets (NPAs) in India has not been fully effective in ensuring timely recovery and resolution of stressed assets. Although mechanisms such as the SARFAESI Act, Debt Recovery Tribunals (DRTs), and the Insolvency and Bankruptcy Code (IBC) were introduced to strengthen the recovery process, their effectiveness has been limited due to procedural delays, institutional inefficiencies, and weak enforcement mechanisms.

The study further assumes that inadequate governance, poor credit monitoring, and lack of accountability within the banking sector continue to contribute to the rise of NPAs. Therefore, stronger institutional reforms and a more efficient regulatory framework are necessary for effective management of stressed assets in India.

## Research Questions

- What are the major factors responsible for the increasing level of Non-Performing Assets (NPAs) in the Indian banking sector?
- How effective are the existing legal mechanisms, particularly the SARFAESI Act and the Insolvency and Bankruptcy Code (IBC), in resolving NPAs and recovering stressed assets?
- What legal and policy reforms are necessary to strengthen the NPA recovery framework and improve the efficiency of the Indian banking system?

## Significance of the Study

The issue of Non-Performing Assets (NPAs) continues to affect the stability and efficiency of the Indian banking sector. This study is significant because it examines both the legal and policy dimensions of NPA management while evaluating the effectiveness of existing recovery mechanisms. By analysing major laws such as the SARFAESI Act and the Insolvency and Bankruptcy Code, the study contributes to a better understanding of the challenges associated with stressed asset resolution. The findings may assist researchers, policymakers, legal professionals, and financial institutions in identifying reforms necessary for strengthening the banking system.

## Objective of the Study

The present study aims to examine the legal and policy framework governing Non-Performing Assets (NPAs) in the Indian banking sector and to evaluate the effectiveness of existing recovery mechanisms. The study particularly focuses on the challenges faced by banks, regulators, and financial institutions in resolving stressed assets efficiently.

The major objectives of the study are:

- To examine the primary causes responsible for the growth of NPAs in Indian banks, particularly in public sector banks.
- To analyse the legal framework governing NPA recovery, including the SARFAESI Act, Debt Recovery Tribunals (DRTs), and the Insolvency and Bankruptcy Code (IBC).
- To evaluate the effectiveness of existing legal and institutional mechanisms in ensuring timely recovery and resolution of bad loans.
- To identify the policy and administrative challenges those continue to hinder efficient NPA management in India.
- To study the role of regulatory authorities such as the Reserve Bank of India (RBI) in addressing the NPA crisis.
- To suggest legal and policy reforms for strengthening India's banking and insolvency framework.

## Research Methodology

The present study adopts a doctrinal and analytical research methodology to examine the legal and policy framework relating to Non-Performing Assets (NPAs) in India. The research is primarily based on secondary sources, including statutes, judicial decisions, government reports, RBI circulars, books, research articles, and policy papers.

The study analyses important legal mechanisms such as the SARFAESI Act, Debt Recovery Tribunals (DRTs), and the Insolvency and Bankruptcy Code (IBC) to evaluate their effectiveness in resolving stressed assets and recovering bad loans. Reference has also been made to selected case laws and policy reforms introduced by the Government of India and the Reserve Bank of India (RBI).

Further, the study briefly compares India's NPA recovery framework with international practices to understand possible areas of improvement. The methodology helps in critically examining the strengths and limitations of the existing legal system governing NPAs in India.

## Limitations of the Study

The present study is primarily based on secondary sources such as statutes, judicial decisions, government reports, RBI publications, books, and research articles. Due to limited access to confidential banking records and internal financial data, the study does not include empirical or field-based analysis.

The research mainly focuses on major legal mechanisms relating to NPAs, including the SARFAESI Act, Debt Recovery Tribunals (DRTs), and the Insolvency and Bankruptcy Code (IBC). Other related areas of banking regulation and financial governance have been discussed only to a limited extent.

Further, although brief references have been made to international practices, the study largely concentrates on the Indian legal and policy framework. Since banking laws and financial regulations continue to evolve, future legislative or policy developments may affect certain observations made in this study.

## Policy Recommendations

Despite several legal reforms and policy measures, the problem of Non-Performing Assets (NPAs) continues to affect the Indian banking sector. In order to strengthen the recovery framework and improve financial stability, the following policy recommendations are suggested:

- Banks should adopt stronger credit assessment and risk management practices before sanctioning loans, particularly in high-value transactions.
- The Reserve Bank of India (RBI) should make asset quality reviews more transparent and ensure regular monitoring of stressed assets across all banking institutions.
- Debt Recovery Tribunals (DRTs) and National Company Law Tribunals (NCLTs) should be provided with better infrastructure, adequate staffing, and digital support to reduce delays in recovery proceedings.
- The implementation of the Insolvency and Bankruptcy Code (IBC) should be strengthened to ensure faster and more effective resolution of stressed assets.
- Greater accountability and transparency must be introduced in public sector banks to prevent political influence and irresponsible lending practices.
- Asset Reconstruction Companies (ARCs) should function under stricter regulatory supervision to ensure fair valuation and efficient recovery of bad loans.
- Banks and regulators should develop early warning systems and technological monitoring mechanisms to identify financial stress at an early stage.
- Financial awareness programs and restructuring support should be encouraged for small businesses and MSMEs to reduce the risk of future defaults.

Effective implementation of these measures can help create a more transparent, efficient, and accountable banking system capable of managing NPAs more effectively.

### Case Studies

To understand the real-world implications of NPAs and how legal and policy frameworks have been applied (or challenged), it's helpful to look at a few significant case studies. These examples reflect both the complexity of the recovery process and the effectiveness (or lack thereof) of current legal mechanisms in India.

### The Kingfisher Airlines Case – Wilful Default and Legal Gaps

One of the most high-profile NPA cases in India involves Kingfisher Airlines, promoted by Vijay Mallya. The airline defaulted on loans worth over ₹9,000 crore taken from a consortium of Indian banks, including SBI and PNB. Despite repeated restructuring efforts, the company failed to repay its debt, eventually being declared a wilful defaulter.

The case exposed several legal and institutional shortcomings—weak credit assessment, delayed response from regulators, and difficulties in extraditing a defaulter from abroad. While legal action was taken under the SARFAESI Act and other provisions, the slow and fragmented process highlighted the urgent need for a more coordinated and enforceable legal framework.

### Essar Steel and the IBC Success Story

In contrast, the Essar Steel insolvency under the Insolvency and Bankruptcy Code (IBC) is often cited as a relative success. The company owed nearly ₹49,000 crore to its creditors and became one of the first major cases admitted under the IBC. After years of litigation and negotiation, ArcelorMittal acquired the company, and banks recovered a significant portion of their dues—around 85% of the total claim.

This case demonstrated how a structured and time-bound insolvency process, backed by legal certainty, could improve recovery rates. It also emphasized the role of the National Company Law Tribunal (NCLT) in fast-tracking large-scale resolutions, even though delays in legal appeals were still a concern.

### IL&FS Crisis – NPAs in the Shadow Banking Sector

The Infrastructure Leasing & Financial Services (IL&FS) crisis, which erupted in 2018, raised questions about bad assets not only in banks but also in Non Banking Financial Companies (NBFCs). - IL&FS defaulted on multiple repayment obligations, creating a ripple effect across financial markets.

The case highlighted a lack of regulatory oversight in the NBFC space and showed that NPAs are not just a public-sector problem. While the IBC wasn't directly used in this case, it prompted a relook at supervisory frameworks and led to temporary government intervention in company management—signaling the need for more preventive legal tools rather than reactive ones.

### Punjab National Bank (PNB) – The Nirav Modi Fraud

In 2018, PNB reported a fraud of over ₹13,000 crore involving businessman Nirav Modi, who used fake Letters of Undertaking (LoUs) to secure loans. Though technically a fraud and not a traditional NPA at the start, the amount added to the NPA burden when it became unrecoverable.

This case exposed serious lapses in internal controls and compliance in banks. It emphasized the importance of legal accountability, robust internal audit mechanisms, and the need to strengthen the legal framework to distinguish between genuine business losses and deliberate frauds.

### Key Learnings from the Case Studies

- NPAs often result from systemic failures, not just borrower default.
- Legal tools like IBC and SARFAESI have shown mixed results—effective in some cases, but slow or limited in others.
- Coordination among regulators, faster judicial processes, and better credit discipline are critical for real impact.
- A shift from reactive to preventive legal frameworks is essential for long-term stability.

### Comparing India's NPA Resolution Framework with Global Best Practices

The issue of Non-Performing Assets (NPAs) is not confined to India alone. Several countries across the world have faced similar banking crises and have developed different legal and institutional mechanisms for resolving stressed assets and maintaining financial stability. As India continues to deal with rising bad loans and delays in recovery proceedings, it becomes important to compare its framework with international practices.9

This study examines the approaches adopted by countries such as the United States, the United Kingdom, and China in managing distressed assets and insolvency resolution. These systems are compared with India's existing legal framework, including the SARFAESI Act, Debt Recovery Tribunals (DRTs), Asset Reconstruction Companies (ARCs), and the Insolvency and Bankruptcy Code

In the United States, efficient bankruptcy courts and a developed secondary market for distressed assets have contributed to quicker debt resolution and higher recovery rates. The United Kingdom places greater emphasis on restructuring and rehabilitation through flexible insolvency procedures that encourage business continuity. China, in contrast, has relied largely on state-backed Asset Management Companies (AMCs) to absorb stressed assets and support the banking system through government intervention.

Through this comparative analysis, the study identifies both the strengths and limitations of India's current NPA recovery framework. Although the introduction of the IBC has significantly improved insolvency resolution in India, challenges such as procedural delays, shortage of institutional infrastructure, and inconsistent implementation continue to affect its effectiveness.14 The study suggests that India can strengthen its recovery framework by improving institutional efficiency, encouraging faster resolution processes, and adopting certain global best practices suitable to the Indian financial system.

### Comparison of NPA Resolution Frameworks

The comparative analysis demonstrates that jurisdictions with specialised insolvency institutions and faster resolution mechanisms generally achieve better recovery outcomes. India has made substantial progress through the IBC framework, but further improvements in institutional capacity and enforcement remain necessary.

### Contribution of the Study

This study contributes to the existing literature by combining legal analysis, policy evaluation, and comparative assessment of international practices relating to NPA resolution. It examines not only the statutory framework but also the practical challenges that affect recovery mechanisms in India. The study further identifies reforms that may strengthen the efficiency of the existing system.

### Conclusion

The problem of Non-Performing Assets (NPAs) continues to remain a serious concern for the Indian banking sector and reflects broader weaknesses within the country's financial and legal system. Over the years, several reforms have been introduced, including the SARFAESI Act, Debt Recovery Tribunals (DRTs), and the Insolvency and Bankruptcy Code (IBC), with the objective of improving recovery mechanisms and strengthening financial discipline.15 Although these measures have contributed to better regulation and faster insolvency processes in certain cases, the overall recovery framework still faces significant practical challenges.

One of the major findings of this study is that the effectiveness of legal reforms largely depends on proper implementation and institutional efficiency. Delays in tribunal proceedings, shortage of infrastructure, procedural complexities, and inconsistent enforcement continue to affect the timely resolution of stressed assets.16 At the same time, weak credit monitoring, governance-related issues in public sector banks, and inadequate risk assessment practices have further contributed to the growth of NPAs.17

The study also highlights that legal reforms alone cannot completely resolve the NPA crisis unless they are supported by stronger institutional accountability, transparent lending practices, and effective regulatory supervision. While the Insolvency and Bankruptcy Code has significantly changed India's insolvency framework, its long-term success will depend on faster adjudication, better coordination between stakeholders, and consistent policy implementation.

"Unlike many studies that focus exclusively on statutory mechanisms, this paper combines legal analysis with policy evaluation and comparative assessment to examine the practical effectiveness of India's NPA resolution framework."

Overall, the study concludes that India has made considerable progress in addressing the NPA problem; however, further reforms are necessary to create a more efficient, transparent, and sustainable banking system capable of managing stressed assets effectively.

### Suggestions

- Debt Recovery Tribunals (DRTs) and National Company Law Tribunals (NCLTs) should be strengthened through better infrastructure increased staffing, and wider use of digital systems to reduce delays in recovery proceedings.
- Banks should adopt stricter credit appraisal and monitoring mechanisms to ensure responsible lending and reduce the risk of future defaults.
- Greater accountability should be introduced within public sector banks to prevent irregular lending practices and improve financial governance.
- Alternative dispute resolution mechanisms, including restructuring schemes and negotiated settlements, should be encouraged to reduce the burden on courts and tribunals.
- Regulatory supervision of Asset Reconstruction Companies (ARCs) should be improved to ensure transparent and efficient management of stressed assets.
- Banks and financial institutions should develop early warning systems and technological monitoring tools to identify financial stress before loans become non-performing.
- Financial awareness programs should be promoted to educate borrowers regarding loan obligations, repayment responsibilities, and the consequences of default.
- Recovery mechanisms should maintain a fair balance between the interests of lenders and the rights of borrowers

to ensure transparency and equitable treatment.


### Books

- Myneni, S.R., *Banking Law and Practice*, Asia Law House, Hyderabad, 2019.
- Jalan, Bimal, *India's Economic Policy*: Preparing for the Twenty-First Century, Viking, New Delhi, 1996.
- Sharma, T.R., *Banking and Financial Institutions*, Oxford Book Company, Jaipur, 2018.

### Government Reports and Official Publications

- Reserve Bank of India, *Report on Trend and Progress of Banking in India 2022*, RBI, Mumbai, available at: Reserve Bank of India (last visited Apr. 11, 2025).
- Insolvency and Bankruptcy Board of India, *Quarterly Newsletter*, IBBI, New Delhi, 2023, available at: IBBI Official Website (last visited Apr. 11, 2025).
- Government of India, *Union Budget Speech 2021–22*, Ministry of Finance, available at: Union Budget India (last visited Apr. 11, 2025).
- Planning Commission of India, *A Hundred Small Steps: Report of the Committee on Financial Sector Reforms*, Government of India, 2009.

### Statutes and Legal Instruments

- *Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,* 2002.
- *Insolvency and Bankruptcy Code, 2016. Recovery of Debts and Bankruptcy Act*, 1993.

### Web Sources

World Bank, *Doing Business Report – Resolving Insolvency,* available at: World Bank Doing Business Report (last visited Apr. 11, 2025).

Press Information Bureau, "Government Launches National Asset Reconstruction Company", available at: Press Information Bureau (last visited Apr. 11, 2025).

### Reference

1. Mitra, N.L., "Effectiveness of the SARFAESI Act in NPA Resolution", (2021) 14(2) *Journal of Banking and Finance Law* 115.
2. Sinha, R.K., "The Legal Framework for Resolution of Non-Performing Assets in India", (2020) 7(1) *Indian Journal of Banking Law 39.*
3. Subbarao, D., "Challenges of NPAs in the Indian Banking Sector", (2018) 53(28) *Economic and Political Weekly 22.*


### Footnotes

[1]Reserve Bank of India, *Master Circular on Prudential Norms on Income Recognition, Asset Classification and Provisioning Pertaining to Advances,* RBI/2021-22/116, available at: Reserve Bank of India (last visited Apr. 10, 2025).

[2]Bimal Jalan, *India's Economic Policy: Preparing for the Twenty-First Century* 134 (Viking, New Delhi, 1996).

[3]Bimal Jalan, India's Economic Policy: Preparing for the Twenty-First Century 134 (Viking, New Delhi, 1996).

[4]S.R. Myneni, *Banking Law and Practice* 304 (Asia Law House, Hyderabad, 2019).

[5]D. Subbarao, "NPAs in Indian Banking: Causes and Solutions", 53(28)

[6]Bimal Jalan Committee Report on Public Sector Bank Governance, Ministry of Finance, Government of India,

[7]S.R. Myneni, *Banking Law and Practice* 304 (Asia Law House, Hyderabad, 2019).

[8]Reserve Bank of India, *Report on Trend and Progress of Banking in India* 2022, available at: Reserve Bank of India.

[9]framework with international practices

[10](IBC)

[11]Federal Deposit Insurance Corporation*, Managing the Crisis: The FDIC and RTC Experience, Washington D.C.*, 1998.

[12]United Kingdom Insolvency Service, *Review of the Corporate Insolvency Framework*, London, 2016, available at: UK Government Publications.

[13]International Monetary Fund, *People's Republic of China: Financial System Stability Assessment*, IMF Country Report No. 17/175, 2017, available at: International Monetary Fund China Report.

[14]Insolvency and Bankruptcy Board of India, *Quarterly Newsletter*, Vol. 12, 2023, available at: IBBI Official Website.

[15]S.R. Myneni, *Banking Law and Practice* 304–312 (Asia Law House, Hyderabad, 2019).

[16]Insolvency and Bankruptcy Board of India, *Quarterly Newsletter*, Vol. 12, 2023, available at: IBBI Official Website.

[17]Reserve Bank of India, *Report on Trend and Progress of Banking in India* 2022, available at: Reserve Bank of India.