UPSC Syllabus Topic   GS2- polity- Government Policies and Interventions for Development in various sectors and Issues arising out of their Design and Implementation.

Insolvency and Bankruptcy Code (IBC): Overview and Supreme Court Significance

The Insolvency and Bankruptcy Code (IBC) is a legal framework in India, introduced in 2016 to tackle the growing issue of Non-Performing Assets (NPAs) and debt defaults. Key objectives include revamping India's corporate distress resolution system, consolidating laws for a time-bound resolution process, and transferring control from debtors to creditors.

Significance of the Supreme Court Rule on IBC:

1. **Upholding IBC Provisions:** The Supreme Court ruling affirms the Insolvency and Bankruptcy Code's inclusion of personal guarantors, enabling creditors to claim from the personal assets of company owners if their businesses fail to repay debts.

2. **Closing Legal Loopholes:** The decision addresses legal gaps, preventing company promoters from easily evading their debt responsibilities and reinforcing accountability.

3. **Promoting Contract Sanctity:** The ruling underscores the importance of respecting contractual obligations in the business realm, fostering a culture of adherence to financial commitments.

Challenges Faced by IBC:

Despite its objectives, the IBC encounters challenges related to speed and efficiency. The resolution process is notably slow, averaging 724 days between April and September 2023, well beyond the IBC's stipulated 330-day limit.

Recommended Actions:

1. **Speeding Up the Resolution Process:** To preserve the value of companies undergoing insolvency proceedings, there is a pressing need to expedite the resolution process. The current average of 724 days exceeds the IBC's limit and warrants reduction.

2. **Increasing Recovery Rates:** Efforts must be intensified to improve the recovery rate from personal guarantor cases, which currently stands at 5.2%. Striving for a rate closer to the 31.6% observed in corporate insolvency cases is crucial for enhancing the overall effectiveness of the IBC.

3. **Timely Appointments to NCLT:** The Government of India should focus on ensuring timely appointments to the National Company Law Tribunal (NCLT) to handle cases more efficiently. Streamlining the adjudicatory process contributes significantly to the overall efficacy of the IBC.

By addressing these challenges and implementing recommended actions, the Insolvency and Bankruptcy Code can fulfil its intended objectives more effectively, providing a robust framework for corporate distress resolution in India.

UPSC Syllabus Topic   GS2- Governance- Issues relating to development and management of Social Sector/Services relating to Education.

Understanding "Ragging" and Anti-Ragging Measures in India

As per the Supreme Court of India (Vishwa Jagriti Mission case), ragging is defined as disorderly conduct involving teasing, treating, or handling fellow students rudely. It includes undisciplined activities causing annoyance, psychological harm, or fear among junior students. The Court views it as an act often motivated by deriving sadistic pleasure or showcasing seniority.

Anti-Ragging Measures in India:

1. **Judicial Measures:** In 2001, the Supreme Court banned ragging nationwide and mandated the formation of proctoral committees in educational institutions. Severe incidents are recommended to be reported to the police.

2. **Legal Measures:** Ragging cases can be addressed under various sections of the Indian Penal Code, such as wrongful restraint and confinement. Some states have enacted specific anti-ragging laws, providing a robust legal framework.

3. **UGC Measures:** The University Grants Commission issued comprehensive guidelines in 2009, including the signing of anti-ragging undertakings, establishing vigilant committees, and supporting an anti-ragging helpline. Reporting and tracking mechanisms are also in place.

4. **Other Measures:**

    - The 2007 R.K. Raghavan Committee report recommended prohibition and preventive measures, influencing UGC guidelines.

    - The Unny Committee suggested a range of punishments for ragging, reinforcing the seriousness of the issue.

Gaps in the Anti-Ragging System:

1. **Lack of Effective Prevention:** State laws mainly focus on prohibition, neglecting preventive measures to address root causes and behaviors leading to ragging.

2. **Poor Enforcement of Regulations:** Despite existing guidelines, strict implementation by authorities is lacking, contributing to unsafe campus environments.

3. **Insufficient Institutional Measures:** Many educational institutions limit anti-ragging efforts to formalities, such as displaying notices and obtaining undertakings, which may not effectively deter ragging.

Recommendations:

1. **Strengthen Institutional Accountability:** Hold educational institutions accountable for preventing ragging through regular monitoring and strict enforcement of policies.

2. **Create Supportive Environments:** Establish systems where teachers and wardens are approachable for students facing ragging, ensuring immediate assistance for victims.

3. **Involve Multiple Stakeholders:** Engage students, teachers, and parents in the anti-ragging campaign, fostering a community-wide effort against ragging

UPSC Syllabus Topic   GS2- Polity- Functions and responsibilities of the Union and the States.

Core Criminal Justice System in India and the Need for Modernization

The core criminal justice system in India is built upon three main laws: the Indian Penal Code (IPC), 1860, the Code of Criminal Procedure (CrPC), 1973, and the Indian Evidence Act (IEA), 1872. These laws establish the framework for defining, prosecuting, and trying crimes in the country. To modernize this system, the government has introduced three new Bills: the Bharatiya Nyaya Sanhita Bill to replace the IPC, the Bharatiya Nagarik Suraksha Sanhita Bill for the CrPC, and the Bharatiya Sakshya Bill to replace the IEA.

Need for Modernizing the Criminal Justice System:

1. **Modernizing Jurisprudence:** The replacement of India's criminal justice system represents an update to modern legal standards. For instance, the Bills introduce community service as a punishment, indicating a shift towards a more reformative approach.

2. **Aligning with Supreme Court Rulings:** The new legislation aligns with key Supreme Court decisions, such as the decriminalization of adultery and same-sex relations. This ensures that the legal system is consistent with contemporary judicial interpretations.

3. **Addressing Overlaps with Special Laws:** The replacement aims to eliminate inconsistencies and duplications with specific laws. For example, it removes IPC provisions on weights and measures to avoid overlap with the Legal Metrology Act, 2009.

4. **Updating Definitions and Illustrations:** The Bills update terms like 'unsound mind' to 'mental illness', aligning with modern medical understanding as per the Mental Healthcare Act, 2017. However, there is a need for further modernization as some outdated illustrations are retained.

5. **Ensuring Fairness and Efficiency:** The objective is to create a criminal justice system that is fair, just, and efficient, addressing the needs of a modern society.

Challenges in Replacing the Criminal Justice System:

1. **Balancing Civil and Criminal Laws:** Differentiating and integrating civil law aspects within the criminal justice system is a challenge, as criminal law typically addresses offenses against society, while civil law focuses on individual losses.

2. **Reformative vs Punitive Approach:** The Bills introduce community service as punishment but retain trials for non-compoundable minor offenses, indicating a struggle to balance reformative and punitive elements.

3. **Consistency in Sentencing:** Providing consistent sentencing, especially with a wide range of potential penalties, poses a complex issue for lawmakers.

4. **Updating Age and Gender Laws:** The Bills need to address modern norms regarding age thresholds for criminal responsibility and update gender-related offenses, as evidenced by the non-inclusion of marital rape as an offense.