

## Elective Proposal

**Saksham Shukla**  
**Assistant Professor, JGLS**

Course Title: **International Insolvency Law**

Course Code:

Course Duration: **One Semester (14 Weeks)**

No. of Credit Units: **4 Credits (please specify)**

Level: **UG (please specify)**

Medium of Instruction: **English**

Pre-requisites (if applicable): Company Law 1 & 2 & Insolvency Law

Equivalent Courses: N/A

### **Course Description**

The increasing integration of global markets has profoundly reshaped insolvency practice, giving rise to complex challenges for legal practitioners, accountants, and restructuring professionals. This process of globalisation has been reinforced by the formulation and enactment of transnational legislative instruments, most prominently the European Insolvency Regulation and the UNCITRAL Model Law on Cross-Border Insolvency, the latter having been adopted across multiple jurisdictions worldwide.

This course explores the principles, frameworks, and challenges of cross-border insolvency in an increasingly globalised economy. It examines the objectives of insolvency law, competing theories of universalism, territorialism, Modified Universalism, Cooperative Territorialism, Contractualism, Protocol (*The Maxwell case*) and the Internationalist principle. The focus of the subject will be on the key international instrument — the UNCITRAL Model Law on Cross-Border Insolvency (MLCBI), with comparative developments in the EU Insolvency Regulation, US Chapter 15, the UK Cross-Border Insolvency Regulations, and Singapore. A special focus will be placed on the Indian Insolvency and Bankruptcy Code (IBC), including the evolving cross-border framework under the 2025 Amendment Bill.

The course adopts a comparative and practice-oriented approach, engaging with case law and restructuring practices from both global and Indian contexts. Case studies such as *Lehman Brothers*, *Nortel*, *Jet Airways*, *Videocon Industries*, *Go Air*, and *BYJU's* will be analysed to illuminate challenges in recognition of foreign proceedings, group insolvencies, and complex debt restructurings.

### **Course Aims**

The course aims at developing a conceptual understanding of the concept of cross-border insolvency vis-à-vis the UNCITRAL Model Law on Cross-Border Insolvency (MLCBI) through case discussions and critical thinking.

### **Teaching Methodology**

The teaching methodology adopted in this course is primarily Socratic and doctrinal. Through the Socratic method, classroom discussions will be driven by questions designed to engage students in critical thinking, logical reasoning, and dialogue, enabling them to actively explore and interrogate complex legal concepts rather than passively receive information. Handouts will be provided for each

module with questions and hints for answers. The doctrinal approach complements this by grounding learning in a systematic study of statutory provisions, case law, and research papers, providing students with a rigorous understanding of the black-letter law and its application. Together, these methods aim to cultivate analytical clarity, interpretive skills, and the ability to apply legal principles to practical and theoretical problems.

Students are expected to read the assigned materials in advance of the class. In addition to this, expert lectures may be organised.

### Intended Learning Outcomes

Course Intended Learning Outcomes	Weightage in %	Teaching and Learning Activities	Assessment Tasks/ Activities
Learn the historical background and some comparative aspects of international insolvency law.	20%	Lectures & Class discussions	
Understanding the UNCITRAL Model Law on Cross-Border Insolvency & some comparative aspects from EU, USA, UK & Singapore	60%	Lectures & Class discussions	
Understanding the emerging issues, challenges to the implementation of the cross-border insolvency mechanism in India	20%	Lectures & Class discussions	

### 6. Teaching Plan

Module	Week	Module Title
Module 1	Week 1	<p><b>Introduction to International Insolvency Law &amp; Framework for assessing Insolvency systems globally</b></p> <p>This module provides students with a foundational understanding of international insolvency law and the tools used to evaluate insolvency regimes across jurisdictions. It introduces the historical development of cross-border insolvency principles, the tension between universalism and territorialism, and the role of international organisations such as UNCITRAL, the World Bank, and the IMF in shaping harmonised approaches to insolvency law. The module also examines <b>global benchmarking frameworks</b>, including the <b>World Bank Principles for Effective Insolvency and Creditor/Debtor Regimes (ICR Principles)</b> and the <b>UNCITRAL Legislative Guide on Insolvency Law</b>, as key instruments for assessing national insolvency systems. Comparative analysis of selected jurisdictions will highlight</p>

		variations in creditor protection, debtor rehabilitation, procedural efficiency, and institutional capacity.
Module 2	Week 2	<p><b>Nature &amp; Sources of International Insolvency Law &amp; doctrinal perspectives</b></p> <p>This module examines how globalisation of commerce and finance has necessitated legal frameworks to address cross-border insolvency and financial distress, and how international insolvency law interacts with domestic legal regimes. Students will study the diverse sources of international insolvency law, including treaties, model laws (e.g., UNCITRAL Model Law), soft law instruments (e.g., World Bank Principles, IMF Guidelines), judicial cooperation protocols, and private international law rules.</p> <p>The module also situates international insolvency within its <b>doctrinal perspectives</b>, exploring competing theories such as <b>universalism, modified universalism, and territorialism</b>, and assessing their implications for creditor protection, corporate rescue, and comity among courts. Through comparative insights, students will evaluate how different jurisdictions conceptualise cross-border insolvency, and how doctrinal debates influence practical outcomes in multinational insolvency proceedings.</p>
Module 3	Week 3	<p><b>Regulatory Instruments in International Insolvency Law &amp; Regional Perspectives</b></p> <p>This module examines the evolution and design of regulatory instruments shaping international insolvency law, from soft law frameworks such as UNCITRAL Legislative Guides, World Bank Principles, and IMF guidelines, to hard law instruments like the EU Insolvency Regulation and national enactments of model laws. It will explore how these instruments seek to harmonize divergent domestic insolvency regimes while balancing state sovereignty, creditor rights, and global market stability.</p>
Module 4	Week 4 – 8	<p><b>UNCITRAL Model Law on Cross-Border Insolvency (MLCBI)</b></p> <p>This module begins by exploring why the UNCITRAL Model Law on Cross-Border Insolvency (MLCBI) came about and why this particular model was chosen (as opposed to a treaty or a convention). It will look at the historical development of the common law principle of Comity, which allowed the courts in one common law state to recognise the courts in another common law</p>

		<p>State and to assist each other in the enforcement of their respective judgements to the extent permitted by each court's domestic laws.</p> <p>Students explore the design, principles, and practical application of the UNCITRAL Model Law on Cross-Border Insolvency (MLCBI), the most influential international framework governing cross-border insolvency proceedings. Students will examine the Model Law's objectives, promoting cooperation between courts and insolvency practitioners across jurisdictions, ensuring legal certainty for trade and investment, protecting the value of assets, and facilitating the rescue of financially distressed businesses. The module will also study the key provisions of the MLCBI, including recognition of foreign proceedings, access for foreign representatives, relief measures, and coordination of concurrent proceedings.</p> <p>The course critically assesses the adoption of the Model Law in different jurisdictions such as the United States (Chapter 15 of the U.S. Bankruptcy Code), the United Kingdom, and Singapore, while also engaging with the debates surrounding its limitations, particularly in emerging economies. Case law analysis and comparative perspectives will be employed to highlight challenges in balancing universalism and territorialism in cross-border insolvency.</p>
Module 5	Week 9-10	<p><b>UNCITRAL Model Law on Recognition &amp; Enforcement of Insolvency Related Judgments</b></p> <p>This module will introduce students to the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments (MLIJ), adopted in 2018 as a complementary instrument to the UNCITRAL Model Law on Cross-Border Insolvency. The MLIJ addresses critical gaps by providing a framework for recognising and enforcing judgments arising out of, or materially associated with, insolvency proceedings, such as avoidance actions, claw-back judgments, and directors' liability claims.</p>
Module 6	Week 11	<p><b>UNCITRAL Model Law on Enterprise Group Insolvency</b></p> <p>This module examines the UNCITRAL Model Law on Enterprise Group Insolvency (MLEGI), adopted in 2019 to address the growing complexity of multinational corporate group failures. Unlike traditional insolvency regimes that treat each company as a separate legal entity, the MLEGI provides mechanisms to coordinate</p>

		insolvency proceedings within enterprise groups, while respecting the principle of entity separateness.
<b>Module 7</b>	Week 12 - 13	<p><b><u>Cross-Border Insolvency Mechanism in India – Draft Part Z &amp; The Insolvency and Bankruptcy Code (Amendment) Bill, 2025</u></b></p> <p>This module examines India's evolving cross-border insolvency framework, anchored by <b>Draft Part Z</b> of the Insolvency Law Committee's report and the <b>IBC (Amendment) Bill, 2025</b>. Students will explore the legal foundations, emerging institutional designs, and operational implications of recognising and coordinating foreign insolvency proceedings in Indian law.</p>
<b>Module 8</b>	Week 14	<b><i>Revision</i></b>

### Readings (Indicative List)

- I Fletcher, Insolvency in Private International Law (OUP, 2<sup>nd</sup> Edition, 2005)
- P R Wood, Principles of International Insolvency (Sweet & Maxwell, 2007)
- B Wessels, International Insolvency Law (Kluwer Law International)
- B Wessels, BA Markell & J Kilborn, International cooperation in bankruptcy and insolvency matters, (OUP, 2009)
- Irit Mevorach, The Future of Cross-border Insolvency: Overcoming Biases & Closing Gaps (OUP, 2018)
- Jay Lawrence Westbrook, The Lessons of Maxwell Communication, 64 Fordham L. Rev. 2531 (1996). Available at: <https://ir.lawnet.fordham.edu/flr/vol64/iss6/3>
- Jay Lawrence Westbrook, "Theory and Pragmatism in Global Insolvencies: Choice of Law and Choice of Forum," American Bankruptcy Law Journal 65, no. 4 (Summer 1991): 457-490
- Working Group V documents on Cross-Border Insolvency can be accessed here <https://uncitral.un.org/en/content/working-group-v-insolvency-law>
- UNCITRAL Guide to Enactment - <https://digitallibrary.un.org/record/1487896/files/1997-model-law-insol-2013-guide-enactment-e.pdf>
- UNCITRAL Practice Guide on Cross-Border Insolvency Cooperation (2009) - [https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/practice\\_guide\\_ebook\\_eng.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/practice_guide_ebook_eng.pdf)
- The Judicial Perspective (UNCITRAL) - <https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/judicial-perspective-2013-e.pdf>
- Model Law on Enterprise Group Insolvency - <https://uncitral.un.org/en/MLEGI>
- Digest of Case Law - [https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/20-06293\\_uncitral\\_mlcbi\\_digest\\_e.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/20-06293_uncitral_mlcbi_digest_e.pdf)