WHEN COMPANIES DROWN: INSOLVENCY IN THE ERA OF CLIMATE CHANGE

Aditya Vidyarthi, NALSAR University of Law

ABSTRACT

Insolvency law is where climate realism meets capital distribution. The science sets the stage; markets move the props; law calls the cues. When companies "drown," it is rarely from one wave but from rising tides interacting with old moorings - outdated infrastructure, brittle business models, weak controls, thin insurance. The task for boards and practitioners is to convert foreseeable climate risk into governable business plans before defaults accumulate. Where defaults do occur, legal systems must allocate loss in ways that are predictable, fair, and future-proof—ensuring that environmental obligations are honoured, victims compensated, and viable enterprises restructured to withstand what's coming.

Climate change has become an accelerating threat to living beings in more ways than it could've been deciphered. Environmental degradation is no longer limited to peripheral concerns, but it has become central determinants of business continuity and solvency as well. Climate-induced risks such as resource scarcity, regulatory pressures and physical damages affect climate-exposed industries, driving them towards financial distress. Carbon-intensive industries, agriculture, real estate and energy are particularly exposed to these shocks related to the climate. Despite the transnational nature of both change of climate and insolvency, existing frameworks have largely overlooked environmental externalities.

The intersection of climate change and insolvency raises pressing questions for legal and policy frameworks. Traditional insolvency regimes, designed to address financial mismanagement or market fluctuations, are now confronted with climate-induced defaults that are systemic and recurrent.

This paper argues for the emergence of a "green insolvency regime" – a framework that explicitly integrates climate and environmental imperatives into insolvency law. By embracing a public-interest view, such a regime would ascertain that the restructuring and reallocation of distressed assets align with sustainability goals rather than perpetuating adverse practices. The paper puts forward a taxonomy of proposals demonstrating how liquidation

and restructuring mechanisms can be altered to alleviate environmental risks. Moreover, it delves into the cross-border dimensions of insolvency, accentuating the need to reshape private international law standards to integrate climate-conscious preferences.

The paper, thus, participates in the discussion on harmonizing insolvency standards with extensive sustainability objectives, prompting a radical shift towards a globally harmonized, climate-responsive insolvency framework.

1. Introduction

Until most of the twentieth century, intensity of extreme events such as floods, wildfires and droughts were considered exceptional but in the twentieth century, these phenomena have become rather recurrent. Their consequences extend far beyond environmental degradation, resonating through insurance markets, supply chains, asset valuations and consumer demand. In due course, these shocks crystallise in law and finance amounting to insolvency proceedings when firms can no longer service their obligations. Insolvency, in this sense, is the point at which disparate threads of climate risk converge.

Climate change was invariably treated as a background cost of doing business, but it has emerged as an economic, financial, and legal issue. Scholars and policymakers increasingly recognise two primary pathways through which climate change translates into insolvency risk: **Physical** and **Transition risks**[1]. Physical risks is originated from sudden climatic events like cyclone, flood, droughts & storms as well as gradual changes like rising temperatures or shifting rainfall patterns. Whereas, transition risks are the risks which arise from the economic and regulatory adjustments linked to decarbonisation.[2] Measures like carbon taxes, stricter emission standards and changing consumer preferences towards low-carbon products can all unsettle established industries. Together, these dynamics undermine cash flows, reduce the value of assets and can push even financially sound businesses into financial distress.

The International Monetary Fund (IMF) had already warned us of the financial dangers which unmanaged climate risks poses. Disturbances which is caused by extreme weather or policy transitions may ripple through the banking sector leading to waves of insolvency that extend far beyond the regions where the shocks originate. Legal scholars have also supported this

[1] Task Force on Climate-Related Financial Disclosures. (2017). *Recommendations of the Task Force on Climate-related Financial Disclosures*. Financial Stability Board.
[2] *Id.*

warning by pointing out that most insolvency laws still view financial failure through a narrow lens of mismanagement or poor governance. Such frameworks are ill-suited to handle the complex, systematic defaults brought about by climate-related events. Evidence from recent years bears shows that these sectors heavily depends on carbon such as energy, fossil fuels and agriculture. These are already signs of heightened financial vulnerability. This situation is even more precarious in areas which have inadequate climate adaptation infrastructure as environmental stressors can quickly escalate into financial crises.

The challenges is further intensified by the inherently transnational character of both climate change and insolvency. For instance - A flood in South Asia can disrupt production lines and supply chains in Europe. Likewise, the collapse of a fossil-fuel company in Canada can send shockwaves through global capital markets. Despite this, the existing framework of private international law remains ill-suited to address these interconnected failures especially when environmental obligations come into conflict with creditor claims.

This paper examines how climate change is increasingly pushing firms and financial systems towards distress, revealing the shortcomings of current insolvency laws and pointing to the need for meaningful reform. It argues for a shift towards a green insolvency framework which treats sustainability as a guiding principle and not as an afterthought in the processes of restructuring and liquidation. The purpose of insolvency should extend beyond the recovery of creditor dues. It should also recognise environmental responsibilities, ensure justice for communities that are affected by climate disasters and direct failing or stranded assets towards uses that align with decarbonisation goals.

In the chapters that follow, the claim that insolvency is no longer a purely technical or private matter between debtors and creditors becomes clearer. It now stands at crossroads of law, economy and environment. The way governments, courts and markets respond to climate-driven financial collapse will help determine whether the world economy adapts to a sustainable future or remains trapped in patters that deepen both economic and ecological crisis.

2. Climate Change and Insolvency: A Need for Proactive Measures

Climate change has multiple impacts on businesses, from affecting supply chains and asset valuations to overall financial stability. As such, there is a growing consensus on the need for

insolvency frameworks to be more resilient to climate-related risks. This necessitates a proactive approach, including legislative reforms, regulatory guidance, and judicial activism.

For instance - in Ambattur Industrial Estate in Chennai, during Cyclone Michaung in December 2023, production was halted for over a week, resulting in losses of more than INR 7000 crores.[3] This followed the 2015 floods, when over ten thousands of MSMEs lost INR 1700Cr. and 50,000 workers were dislocated.

Workers faced major disruptions due to flooding, including loss of income, health risks such as dengue, and difficulty commuting with limited transport. Many reported their homes were uninhabitable for days, further reducing their ability to work.

Physical infrastructure also suffered extensive damage. Machinery and buildings were inundated, with some owners incurring losses in the range of INR 18–20 lakhs. Insurance recovery proved inadequate, leaving firms to absorb heavy financial shocks. A few enterprises adopted protective measures such as elevating shop floors or using movable equipment, but most remained highly exposed.

Operational challenges compounded these losses. Outsourced processes were delayed, raw materials such as steel were damaged by waterlogging, and frequent power outages disrupted production. Firms relied on diesel generators and costly premium freight to meet deadlines, significantly raising operating expenses.

The Ambattur case highlights how climate hazards disrupt labour, infrastructure, and supply chains, pushing MSMEs toward financial vulnerability and heightening the risk of insolvency.

In India, the IBC, 2016[4], has been an instrumental legislation in resolving insolvencies, emphasizing restructuring and rehabilitation over liquidation. However, climate change poses new challenges for Indian businesses, particularly MSMEs, which are vulnerable to climate-related disruptions.

In India, the incorporation of ESG criteria into corporate governance and insolvency

[3] https://www.thehindu.com/sci-tech/energy-and-environment/michaung-cyclone-chennai-andhra-floods-intensification-climate-change-explained/article67609875.ece

[4] *Insolvency and Bankruptcy Code, 2016* (No. 31 of 2016, as amended) (Ind.), available at *IBBI* (last visited Oct. 7, 2025) (PDF). https://ibbi.gov.in//uploads/legalframwork/2022-04-28-181717-r28jw-af0143991dbbd963f47def187e86517f.pdf

proceedings could be a significant step forward. The SEBI has already introduced mandatory ESG declarations for listed companies, in alignment with global best practices.[5] Extending these requirements to the insolvency process would ensure that climate risks are adequately assessed and managed.

Furthermore, the incorporation of climate risk assessments into the resolution plans approved by the CoC could enhance the resilience of the restructured entities. This would involve conducting comprehensive environmental impact assessments and incorporating mitigation strategies into the business plans of distressed companies. By doing so, the insolvency framework can supply to sustainable economic development and diminish the long-term financial risks associated with climate change.

3. How climate change creates insolvency risk

Climate change is affecting the permanence of businesses and the financial system gradually. In addition to environmental degradation, extreme weather events, shifting regulations and changing market expectations create significant financial risks. In the long run, these factors can push companies towards insolvency. The relation between climate and financial failure can be seen through physical risks, transitional risks, supply chain disruptions and asset devaluation.

3.1 Physical risk

In insolvency, physical risks of climate change refers to the direct and tangible effects like extreme weather, rising sea levels or long-term temperature changes that can cause damage to businesses' assets, operations and/or financial stability. When these risks arise, they can quickly drive a company into distress or even insolvency. Such hazards often damage productive assets, interrupt operations, and impose repair and adaptation costs. For asset-intensive industries such as utilities, real estate developers, agriculture, both insured and uninsured losses can create immediate liquidity pressures while repeated or severe damage may lead to lasting economic decline if assets become stranded. Over time, chronic risks like rising sea levels and increasing average temperatures further erode asset values and weaken revenue streams, gradually

[5] Securities and Exchange Board of India, Circular No. SEBI/HO/CFD/CMD-2/P/CIR/2021/562, *Business Responsibility and Sustainability Reporting by Listed Entities* (May 10, 2021), https://www.sebi.gov.in/legal/circulars/may-2021/business-responsibility-and-sustainability-reporting-by-listed-entities_50096.html

undermining a firm's long-term viability. Financial institutions that hold concentrated exposures to vulnerable sectors or regions are also at risk, as these cascading effects translate into higher credit losses and systemic fragility.

3.2 Transition risk

Transition risk arises from policy shifts like carbon pricing, regulation; technological displacement like renewables, electrification; and changing consumer preferences that reduce demand for carbon-intensive goods and services. Rapid or poorly anticipated policy changes can produce sudden asset revaluations — fossil fuel reserves, long-lived carbon-heavy capital — turning previously solvent firms into distressed ones. Legal liabilities (litigation for historic emissions or climate-related damages) also constitute a transition-style risk when they result in large claims against companies.[6] [7]

3.3 Supply Chain Disruptions

The change of climate also leads to supply chain disruptions. Natural phenomena like flood, cyclone and other extreme events leads to delayed transportation, destroyed raw materials and damaged necessary infrastructure, which in turn hike up the living costs. A disruption in one part of a supply chain can ripple across multiple industries. For example, a flood diminishing agricultural yields can impact food processing and exports, raising cost and reducing profits. Over time, such pressure weakens cash flow and liquidity, making companies more vulnerable to insolvency.

3.4 Asset Devaluation

The decline in the market or book value of an asset due to factors such as physical damage, regulatory changes, market shifts or technological obsolescence is referred to as Asset Devaluation.

Climate change leads to insolvency by damaging physical assets which in turn reduces their

[6] UN Environment Programme Finance Initiative**,** *Part 2 - Emerging Economies Climate Risks and Best Practices* (Jul. 15, 2020), https://www.unepfi.org/wordpress/wp-content/uploads/2023/12/Part-2-Emerging-Economies-Climate-Risks-and-Best-Practices.pdf

[7] Alexander Gouzoules, *Going Concerns and Environmental Concerns: Mitigating Climate Change through Bankruptcy Reform*, 63 B.C. L. Rev. (LIRA@BC Law) 2169 (2022). https://lira.bc.edu/files/pdf?fileid=4054253f-24d2-4e26-97f1-693214e3eb27 lira.bc.edu

value, raises operational and regulatory costs and restricts access to insurance and finance. Together, these factors weakens a company's financial stability, making insolvency probable.

4. Evidence from empirical studies and institutional reports

A growing empirical literature links climate instability and corporate bankruptcy risk. Contemporary studies find that companies with higher carbon intensity, exposure to biodiversity loss, or located in climate-vulnerable regions have statistically higher probabilities of distress and bankruptcy particularly when transition pressures intensify. For example, newly published empirical work documents that carbon-risk shocks raise bankruptcy pressure, and other analyses associate biodiversity/climate vulnerabilities with increased bankruptcy risk.[8]

International organisations and regulatory authorities have highlighted the systemic nature of climate-financial linkages. The FSB and the IMF argues that climate risk can threaten financial stability and call for supervisory tools such as disclosure, stress testing and macroprudential frameworks to manage risk. UNEP Finance Initiative (UNEP FI) shows how inadequate disclosure and weak risk-management tools increase creditor uncertainty and the probability of disorderly rescues or liquidations. The World Bank frames climate-driven corporate distress as both a microeconomic and developmental threat, with potential to reverse productivity and investment in vulnerable economies.[9]

5. Legal and institutional challenges in insolvency frameworks

5.1 Valuation and information asymmetry

Climate risks aggravate market value determination of assets and liabilities. Insolvency professionals and courts rely on forecasts and valuations to decide reorganisation viability. Climate ambiguity increases model error, amplifies information asymmetries between debtors and creditors, and complicates negotiation over plan terms. Disclosures that omit climate exposures create material hidden risk. International guidance emphasises improved disclosure

[8]Jingxing Liu et al., *Carbon Risk and Corporate Bankruptcy Pressure: Evidence from a Quasi-Natural Experiment Based on the Paris Agreement*, 13 Frontiers Env't Sci. (2025), https://www.frontiersin.org/articles/10.3389/fenvs.2025.1537570

[9] World Bank, *Finance and Prosperity: Emerging Market and Developing Economies Face Threats from Climate-Driven Financial Distress* (Aug. 29, 2024), https://www.worldbank.org/en/news/press-release/2024/08/29/financial-sector-at-a-crossroads-in-emerging-markets-climate-risks-and-financing-gaps-demand-action.

standards (e.g., TCFD-aligned reporting) to support market valuation and restructuring.[10]

5.2 Allocation of liability and tort claims

Bankruptcy often forces aggregation of myriad tort claims into a claims process. Climate-related claims (e.g., wildfire victims, pollution victims) are typically numerous and heterogeneous, raising fairness and prioritisation questions. Legal scholars emphasize that the current bankruptcy rules may fail to adequately compensate victims or may create perverse incentives that hinder mitigation efforts, suggesting reforms for claims resolution that reflect long-term adaptation needs.[11]

5.3 Treatment of stranded assets and orderly wind-downs

Firms with carbon-intensive assets may appear insolvent because those assets are promptly depreciated under traditional insolvency frameworks, which focus on creditor value maximization but often overlook climate-related impacts. Proposals have been made to require reorganisation plans to consider climate-adjusted valuations and to allow specialized liquidation pathways (e.g., prioritising dismantling of hazardous infrastructures) that minimize societal expense. Some scholars asserts for statutory reforms to prevent insolvent fossil-fuel firms from receiving traditional rescue treatments that perpetuate emissions.[12]

5.4 Cross-border and systemic coordination

Climate events and supply chains are often transnational. Insolvency frameworks can struggle with cross-border coordination when multinational firms are distressed by climate shocks. Moreover, when multiple firms in a sector face simultaneous distress (e.g., in energy or insurance), coordination among supervisors, resolution authorities and fiscal policymakers becomes necessary to avoid destabilising outcomes. Supervisory stress testing and pre-arranged resolution frameworks that incorporate climate scenarios are strong policy

[10] *Id.*
[11] M.P. Ram Mohan & Sriram Prasad, Environmental Claims under Indian Insolvency Law: Concepts and Challenges, Working Paper No. 2023-02-01, Indian Inst. of Mgmt. Ahmedabad (Feb. 2023), https://www.iima.ac.in/sites/default/files/2023-04/WP-2023-02-01-updated.pdf
[12] *Id.*

recommendations from the IMF and FSB.[13] [14]

6. Case Studies

I. PG&E Case

In re PG&E Corporation Securities Litigation is a securities class action carried by the PERA against PG&E Corporation, and certain officers, directors and underwriters.[15] The lawsuit claims that the defendants made false and deceiving statements about safety and compliance prior to the catastrophic Northern California wildfires in 2017 (North Bay Fires) and 2018 (Camp Fire), violating sections 10(b) and 20(a) of the "Securities Exchange Act, 1934[16]" and sections 11 and 15 of the "Securities Act of 1933[17]." The case represents stock, option and bond purchasers and is pending in the Northern District of California.

PG&E filed for bankruptcy in January 2019, which stayed the securities litigation. The jointly administered bankruptcy cases are before the Ld. Judge Dennis Montali in the Northern District of California. In Bankruptcy Court, PERA achieved several key victories: class treatment for securities claims, appointment as Lead Plaintiff with Labaton Keller Sucharow as Lead Counsel and overcoming PG&E's objections to its proof of claim. PERA has also moved to certify a class of securities claimants and is actively pursuing discovery.

When appealed, the Ninth Circuit vacated the stay granted by district court and allowed the securities litigation to proceed alongside the bankruptcy proceedings. Defendants' motions to expel have been fully briefed and are scheduled for hearing in February, 2025. Currently, the case continues on parallel tracks in both bankruptcy and district courts, with active litigation ongoing in both forums.

---

[13] IMF, *Bank Stress Testing of Physical Risks under Climate Change: Macro Scenarios* (Working Paper No. 2022/163) (Aug. 19, 2022). https://www.imf.org/en/Publications/WP/Issues/2022/08/19/Bank-Stress-Testing-of-Physical-Risks-under-Climate-Change-Macro-Scenarios-Typhoon-Risks-to-522486

[14] *Supervisory and Regulatory Approaches to Climate-Related Risks: Final Report* (Fin. Stability Bd. Oct. 2022). *Supervisory and Regulatory Approaches to Climate-related Risks: Final Report* https://www.fsb.org/2022/10/supervisory-and-regulatory-approaches-to-climate-related-risks-final-report/

[15] Gilson, Stuart C., and Sarah L. Abott, PG&E and the first climate change bankruptcy (revised September 2023). https://www.hbs.edu/faculty/Pages/item.aspx?num=59284

[16] U.S. Sec. & Exch. Comm'n, *Statutes & Regulations: Securities Exchange Act of 1934*, https://www.sec.gov/rules-regulations/statutes-regulations#secexact1934 (last updated Oct. 1, 2013).

[17] U.S. Sec. & Exch. Comm'n, *Statutes & Regulations: Securities Act of 1933*, https://www.sec.gov/rules-regulations/statutes-regulations#secact1933 (last updated Oct. 1, 2013).

II. "Gujarat Urja Vikas Nigam Ltd. V. Amit Gupta & Ors. (2019)[18]"

The Corporate Debtor, in this case, was constrained to file a petition u/s 10 of the "Insolvency and Bankruptcy Code, 2016" due to the adverse effects of rainfall and floods on its solar power plant, the Supreme Court upheld the preservation of the Power Purchase Agreement. The Court ruled against the attempt of Gujarat Urja Vikas Nigam to halt the agreement solely on the grounds of insolvency. This decision highlights that the climate change impact on business operations and stresses the necessity for insolvency laws to adapt to emerging challenges, including the rise in non-performing assets due to climate-related stress in the banking sector, the complexities involved in asset valuation and debtor viability assessment.

7. Insolvency law meets environmental law: who pays, and in what order?

7.1 The persistence and priority of environmental obligations

A core solvency question is "Whether environmental duties are provable, dischargeable debts, or ongoing regulatory obligations that can outrank or bypass the claims waterfall." Two landmark cases illustrate the spectrum:

United States – "Midlantic National Bank v. New Jersey DEP (1986)" [19] : The U.S. Supreme Court held that a bankruptcy trustee cannot relinquish tainted property in infringement environmental laws of the state. Translation: insolvency does not license environmental non-compliance; remediation duties can constrain asset dispositions and impose administrative-expense-like burdens on the estate.

Canada – "Orphan Well Association v. Grant Thornton" (Redwater, 2019) [20]: The Supreme Court of Canada held that the end-of-life environmental obligations (plugging and abandoning oil and gas wells) must be satisfied before secured creditors are paid; they are not "claims provable in bankruptcy" but continuing public-law duties. This effectively grants super-priority to environmental remediation over secured claims in certain contexts.

[18] *Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta*, Civil Appeal No. 9241 of 2019 (India Sup. Ct. Aug. 29, 2019), https://ibbi.gov.in/uploads/order/79e3093d3be5f907a06411924f0a6b62.pdf.
[19] *Midlantic Nat'l Bank v. New Jersey Dep't of Envtl. Prot.*, 474 U.S. 494 (1986) https://www.law.cornell.edu/supremecourt/text/474/494
[20] *Orphan Well Ass'n v. Grant Thornton Ltd.*, 2019 SCC 5 (Can.). https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/17474/index.do

The upshot: depending on jurisdiction, environmental liabilities can dilute recoveries for financial creditors, shape DIP financing terms, and constrain sales "free and clear." Climate-exposed sectors (energy, chemicals, mining, utilities) must model this legal risk as part of solvency planning.

7.2 Environmental claims in plans and releases

Even where legacy environmental claims are channelled into trusts or addressed via plan releases, courts scrutinize the sufficiency of funding and the fairness to affected communities and public agencies. Climate-linked disasters add plaintiff classes (e.g., fire victims) and governmental claimants seeking cost recovery for emergency response and infrastructure damage.

7.3 Cross-border coordination

Multinationals face mosaic risks: EU reporting plus potential civil-law duties of vigilance (and the emerging Corporate Sustainability Due Diligence Directive), common-law tort exposure in the U.S. and Commonwealth countries, and home-state environmental priorities like Redwater. Forum selection, recognition of environmental judgments, and the treatment of regulatory fines and equitable orders (injunctions) vary. Early venue analysis can be outcome-determinative for creditor hierarchy and discharge scope.

8. Credit markets, covenants, and valuation: pricing the uninsurable

As counterparties digest climate risk, four shifts are underway:

i. Collateral haircuts for climate-exposed assets – Lenders and rating agencies increasingly haircut collateral values in floodplains, WUI (wildland-urban interface) zones, and heat-vulnerable areas. Appraisals factor in forward physical risk and insurability, not just historical loss data.

ii. Covenants referencing resilience and disclosure – Financing agreements incorporate covenants to maintain minimum insurance levels, implement adaptation measures, or deliver climate disclosures consistent with ISSB/ESRS. Breaches can accelerate defaults.

iii. Pricing grids for transition pace – Sustainability-linked loans and bonds adjust coupons to

emissions-intensity targets or transition KPIs—poor performance raises debt service in exactly the scenarios where cash is tight.

iv. DIP financing constraints – In restructuring, DIP lenders may insist on ring-fencing environmental liabilities, enhanced reporting, or sale milestones for high-risk assets. Where environmental obligations rank highly (e.g., Redwater-like regimes), DIP appetite may thin out.

9. Playbook for boards and management: from denial to design

i. Assess material exposures – Conduct in-depth risk mapping of assets, value-chain dependencies, and policy/market sensitivities. Perform scenario-based cash flow stress tests.

ii. Enhance insurability – Engage insurers proactively. Implement measures like floodproofing, redundancy and backup power. Document all initiatives to maintain coverage and mitigate tail risk.

iii. Integrate climate into CapEx and M&A - Apply internal carbon pricing and resilience criteria to investments. Conduct thorough climate due diligence, including environmental liability and insurability evaluations.

iv. Ensured disciplined disclosure – Adhere to ISSB/ESRS reporting standards.[21] [22] Avoid unsupported claims; maintain broad oversight and robust internal controls over climate data.

v. Design triggers and contingencies – Establish pre-negotiated covenant waivers, standby liquidity and flexible operational strategies. Treat climate incidents as inevitable.

10. Playbook for lenders, investors, and insurers: underwrite the future, not the past

i. Due diligence – Demand detailed asset-level hazard data, adaptation strategies and exposure to regulatory or litigation risks.

ii. Structuring for resilience – Incorporate covenants and pricing mechanisms that incentivize

[21] International Sustainability Standards Board, *Sustainability-related Disclosures*, IFRS (2023), https://www.ifrs.org/groups/international-sustainability-standards-board/.
[22] European Financial Reporting Advisory Group (EFRAG), *European Sustainability Reporting Standards (ESRS): Exposure Drafts* (2023), https://www.efrag.org/ESRS.

risk mitigation. Require remediation reserves where environmental obligations are probable.

iii. Portfolio risk management – Avoid geographic or sector concentration. Stress-test portfolios against climate scenarios. Align reinsurance and capital with peak-risk periods.

iv. Distressed workout considerations – Assess whether environmental obligations supersede secured claims (e.g. Redwater-type exposures) and constraints on asset abandonment or sales (Midlantic-type limitations). Adjust DIP pricing accordingly.

11. Playbook for insolvency professionals (IPs): climate-aware restructuring

i. First-day triage – Make a list of environmental permits, pending orders, disaster-response duties and insurance coverage. Identify assets in high-risk areas or that require cleanup.

ii. Claims management – Distinguish regulatory obligations from financial claims. Prepare for mass-tort claimant committees in disaster situations and ensure proper notification.

iii. Asset sales – Incorporate insurability, adaptation costs and community expectations into asset valuations. Evaluate sales strategies that include funded remediation trusts or resilience commitments.

iv. Plan articulation – Set up victim trusts or litigation and allocate reserves reasonably to climate-related contingencies.

12. Policy and law reform: insolvency for a hotter planet

i. Clarify priority of environmental obligations - Legislatures and courts should make explicit how cleanup orders and climate-damage liabilities rank, to reduce uncertainty in credit pricing and DIP negotiations.

ii. Resilience-linked safe harbours - Provide safe harbours and expedited approval for restructuring plans that include credible adaptation investments, to avoid under-investment in resilience during distress.

iii. Insurance market modernization - Enable risk-based pricing with social protections; invest in mitigation to earn premium credits; ensure residual markets (like FAIR Plans) have robust,

backstopped capitalization to avoid systemic solvency risk.[23]

iv. Data and disclosure infrastructure - Support ISSB/ESRS adoption, interoperability, and digital tagging so that lenders and courts can rely on comparable climate data.

v. Community voice - Formalize participation for communities disproportionately affected by climate disasters in plan negotiations where their claims are central.

13. Conclusion: solvency as climate policy's mirror

The comparative study of insolvency laws in the contextual background of climate change unveils a growing recognition of the need to amalgamate environmental considerations into the insolvency process. While jurisdictions like the United States of America, the United Kingdom, and Australia made substantial progress in this direction, India is still in the primary stage of dealing with these impediments.

As climate change persists to alter the global economic outlook, the consolidation of environmental considerations into insolvency laws will be pivotal in nurturing a more durable and sustainable future. Through proactive measures and legislative reforms, countries can alleviate the financial risks impersonated by climate change and encourage long-term economic stability.

Climate change is evolving insolvency risk from a peripheral concern into a dominant element of financial and corporate risk management. The evidence illustrates that both physical and transition channels substantially increase bankruptcy risk for certain sectors and geographies, with potential systemic insinuations. To reduce the possibility of disorderly insolvencies and to support an orderly transition, policymakers and market participants should focus on:

i. Mandatory, standardised disclosure to improve valuation and creditor decision-making.[24]

ii. Climate-integrated supervision, stress testing and macroprudential monitoring are essential to identify and assess concentrations or risk.

iii. Adaptation measures, financial mechanisms, and targeted public facilities should be

[23] *Id.*
[24] *Id.*

developed to provide liquidity and reduce the incidence of solvency crises triggered by external events.

iv. Insolvency laws should be reformed, where necessary, to effectively address large-scale climate-related claims and stranded assets, ensuring fair compensation for victims and preventing the creation of perverse incentives.

v. International coordination is essential to manage cross-border exposures and multinational firms, prevent jurisdictional arbitrage and ensure orderly resolutions.

Implementing these measures will not eliminate climate-driven insolvencies, nor should every distressed firm be rescued but they can make insolvency processes more predictable, equitable and aligned with long-term climate goals.

A