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Article

Designing Effective Insolvency Frameworks for Multinational Corporations: A Literature Review on Reform Priorities and Value Foundations in Developing Countries

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Abstract: This study conducts a qualitative literature review to examine how insolvency frameworks in developing countries can be designed to effectively accommodate multinational corporations (MNCs). Drawing on interdisciplinary legal, economic, and policy oriented scholarship, the review analyses why MNCs frequently avoid initiating insolvency proceedings in host developing jurisdictions and instead engage in forum shopping toward developed economies. The findings indicate that institutional weaknesses, limited judicial and professional capacity, inadequate group-insolvency coordination, and low procedural predictability significantly reduce the attractiveness of domestic insolvency regimes. The review further identifies core value foundations legal certainty, transparency, efficiency, stakeholder balance, and enterprise value preservation as essential elements of effective insolvency law reform. The study contributes by synthesising reform priorities that move beyond formal legislative change toward strengthening institutional credibility and normative legitimacy, offering policy relevant insights for developing countries seeking to retain multinational insolvency cases and enhance economic resilience.

Keywords: Multinational insolvency, Developing countries, Insolvency law reform, Forum shopping, Institutional and value foundations

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1. Introduction

Developing countries continue to attract multinational corporations (MNCs) due to structural advantages such as low cost labour, expanding consumer markets, abundant natural resources, and large scale infrastructure investment initiatives (United Nations Conference on Trade and Development [UNCTAD], 2019; Humanicki et al., 2014). Foreign direct investment into Africa, Asia, and parts of Latin America has remained resilient even amid global economic slowdowns, reinforcing the growing presence of multinational enterprise groups operating across multiple jurisdictions (UNCTAD, 2019; Kenyan Investment, 2020). However, the economic opportunities associated with multinational activity are accompanied by heightened legal and institutional challenges, particularly when multinational enterprises encounter financial distress or insolvency within developing economies (Gurrea-Martinez, 2020; Odetola, 2017).

Corporate insolvency is an inherent risk of business activity, irrespective of geography or sector. For multinational corporations, insolvency raises uniquely complex questions regarding jurisdiction, coordination, and value distribution, given the dispersed structure of enterprise groups across multiple legal systems (Schollhammer, 1971; Siemon & Frind, 2013). Unlike domestic insolvency, multinational insolvency lacks a binding international rule determining where proceedings should commence, leaving jurisdictional decisions to domestic insolvency laws and judicial discretion (McCormack, 2009; Mevorach, 2011). This legal fragmentation has facilitated strategic venue selection, commonly referred to as bankruptcy forum shopping or corporate bankruptcy tourism (Couwenberg & Lubben, 2015; LoPucki & Whitford, 1991).

Empirical and doctrinal studies demonstrate that multinational corporations frequently bypass insolvency systems in developing countries in favour of jurisdictions perceived as more predictable, creditor friendly, or restructuring-oriented, most notably the United States and the United Kingdom (McCormack, 2014; Walters, 2017). High profile cases involving Latin American airlines such as Avianca and LATAM illustrate how companies with limited operational connections to the United States have nonetheless accessed Chapter 11 proceedings through relatively minimal jurisdictional thresholds (In re Aerovias Nacionales de Colombia SA Avianca, 2003; In re LATAM Airlines Group S.A., 2020). Such practices underscore concerns regarding jurisdictional competition and the marginalize of local insolvency regimes in developing economies (McCormack, 2009; Napoli Coordes, 2015).

The preference for US and UK insolvency forums is often justified by multinational corporations on grounds including procedural efficiency, judicial expertise, access to debtor in possession financing, predictability of outcomes, and effective group wide restructuring mechanisms (Skeel, 2003; Lupinacci & Bensinger, 2008). By contrast, insolvency systems in many developing countries are perceived as underdeveloped, slow, creditor hostile, or vulnerable to political interference and institutional weakness (Cirmizi et al., 2012; World Bank, 2019). World Bank indicators consistently show that developing economies underperform advanced economies in resolving insolvency efficiently, particularly in terms of recovery rates, timeframes, and professional capacity (World Bank, 2019; Business Ready, 2024).

Despite extensive reform efforts over the past three decades, insolvency laws in developing countries often remain functionally underutilized, particularly in large corporate and multinational cases (Too, 2016; Odetola, 2017). In several jurisdictions, formal restructuring laws coexist with continued reliance on debt enforcement mechanisms, liquidation procedures, or informal workouts, undermining the objectives of corporate rescue and value preservation (Parry & Long, 2020; Anon, 2008). This implementation gap suggests that insolvency reform cannot be assessed solely by legislative enactment but must be evaluated through institutional performance, professional competence, and stakeholder trust (OECD, 2007; Carruthers & Halliday, 2007). Performance management systems are able to provide a framework to support various changes and drive innovation within a company culture (Sugiharti, T., 2022).

International financial crises have historically acted as catalysts for insolvency reform in developing regions. The Asian Financial Crisis of the late 1990s prompted significant legal restructuring in jurisdictions such as South Korea, Thailand, Indonesia, and Malaysia, supported by multilateral institutions including the World Bank and the International Monetary Fund (Radelet et al., 1998; Claessens et al., 2001). Subsequent global shocks, including the 2008 financial crisis and the COVID-19 pandemic, further exposed the fragility of corporate balance sheets and underscored the importance of effective insolvency and debt resolution frameworks (Guynn, 2010; Borges, 2020). Yet, as comparative scholarship reveals, the outcomes of these reforms have been uneven and context dependent (Kim, 2005; Gurrea-Martinez, 2020).

A central challenge facing developing countries lies in balancing the adoption of international best practices with sensitivity to local legal, economic, and institutional conditions. While global norms articulated in the World Bank Principles (2016) and the UNCITRAL Legislative Guide (2005) provide valuable benchmarks, the transplantation of foreign insolvency models particularly Chapter 11 style procedures has generated mixed results (Wan & McCormack, 2018; Legrand, 1997). Legal transplant theory cautions that institutional effectiveness depends not merely on rule design but on cultural compatibility, enforcement capacity, and professional ecosystems (Watson, 1993; Mooney, 2020).

Against this background, this literature review examines why insolvency frameworks in developing countries are frequently perceived as unsuitable for multinational insolvency proceedings and how such perceptions contribute to persistent forum shopping. It seeks to assess insolvency laws and institutions across selected developing jurisdictions and to identify the essential value foundations that should guide effective insolvency reform. These values include predictability, procedural fairness, transparency, efficiency, enterprise preservation, and balanced stakeholder protection, including employees and local creditors (Triantis, 1993; Korobkin, 1996; Mevorach, 2013).

By synthesising doctrinal analysis, empirical evidence, and policy-oriented scholarship, this review contributes to ongoing debates on cross-border insolvency governance and development oriented legal reform. It argues that strengthening domestic insolvency frameworks is not merely a technical legal exercise but a strategic economic imperative.

Effective, trusted insolvency systems can reduce the incentives for multinational corporations to seek distant foreign forums, enhance local value capture, and support sustainable investment environments in developing economies (Gatoto, 2025; World Bank, 2016). In doing so, insolvency law becomes a critical institutional pillar for development, corporate accountability, and global economic integration.

2. Literature Review

Multinational Corporate Insolvency and Forum Shopping. The insolvency of multinational corporations (MNCs) presents distinct challenges due to the fragmentation of assets, creditors, and corporate entities across jurisdictions, which complicates the determination of appropriate insolvency forums and applicable laws (Siemon & Frind, 2013; Mevorach, 2011). Prior literature consistently identifies forum shopping as a dominant structural feature of multinational insolvency, driven by strategic venue selection aimed at maximizing restructuring flexibility, creditor leverage, or managerial control (Couwenberg & Lubben, 2015; LoPucki & Whitford, 1991). Empirical legal studies demonstrate that multinational firms frequently initiate proceedings in jurisdictions with minimal operational presence but favourable insolvency regimes, particularly the United States and the United Kingdom (McCormack, 2014; Napoli Coordes, 2015).

Judicial decisions such as In re Aerovias Nacionales de Colombia SA Avianca (2003, 2004) and In re LATAM Airlines Group S.A. (2020) illustrate how US bankruptcy courts have exercised jurisdiction over foreign enterprises based on limited connections, reinforcing perceptions of Chapter 11 as a globally accessible restructuring venue (Walters, 2017; McCormack, 2012). Scholars argue that this jurisdictional competition marginalises insolvency systems in developing countries by diverting high value cases abroad, thereby weakening domestic institutional learning and professional development (Gatoto, 2025; Masoud, 2014). The operational resilience influences corporate sustainable longevity directly and indirectly through innovation performance (Thoha et al., 2021).

Perceived Unsuitability of Developing Country Insolvency Frameworks. A consistent theme in the literature is the perceived unsuitability of developing country insolvency systems for handling complex multinational cases, often attributed to procedural delays, judicial inefficiency, lack of specialised courts, and limited professional expertise (Cirmizi et al., 2012; World Bank, 2019). World Bank data on resolving insolvency reveal that developing countries exhibit longer resolution times and lower recovery rates compared to high-income jurisdictions, reinforcing multinational preferences for foreign venues (World Bank, 2019; Business Ready, 2024).

Qualitative assessments indicate that even where insolvency laws have been modernized, practical reliance on liquidation or debt enforcement mechanisms persists, undermining the effectiveness of corporate rescue frameworks (Parry & Long, 2020; Anon, 2008). Studies of China, Bahrain, and the United Arab Emirates demonstrate that new restructuring laws often remain underutilized due to judicial conservatism, creditor resistance, and lack of professional familiarity (Shi, 2007; Orbay, 2019; Radhi et al., 2020). These findings support Gatoto's (2025) argument that institutional credibility, rather than legislative design alone, determines whether insolvency systems are trusted by multinational actors.

Crisis Driven Insolvency Reforms in Developing Economies. The literature identifies global and regional financial crises as critical drivers of insolvency reform in developing countries (Radelet et al., 1998; Reinhart & Calvo, 1999). The Asian Financial Crisis prompted extensive legislative reforms in Indonesia, Thailand, Malaysia, and South Korea, often supported by international financial institutions (Claessens et al., 2001; Carruthers & Halliday, 2007). Empirical evaluations suggest that while these reforms improved formal legal frameworks, implementation gaps persisted due to weak judicial capacity and limited practitioner expertise (Kim, 2005; OECD, 2007).

Subsequent crises, including the 2008 Global Financial Crisis and the COVID-19 pandemic, reinforced the importance of efficient insolvency and debt restructuring mechanisms, particularly for preserving enterprise value and maintaining financial stability (Guynn, 2010; Borges, 2020). However, comparative evidence shows that developing countries struggled disproportionately with insolvency backlogs, procedural costs, and creditor coordination during these shocks, exacerbating capital flight and forum shopping behaviour (te Velde et al., 2010; Gurrea-Martinez, 2020).

International Standards and Reform Benchmarks. International organizations have played a central role in shaping insolvency reform agendas in developing countries through soft law instruments and benchmarking initiatives (Shihata, 1995; IMF, 1999). The World Bank Principles (2001, 2016) and the UNCITRAL Legislative Guide (2005) provide normative frameworks emphasizing predictability, transparency, creditor protection, and rescue oriented procedures (World Bank, 2016; UNCITRAL, 2005). Empirical studies suggest that alignment with these standards is associated with improved recovery outcomes and investment climates, though causality remains contested (McGowan & Andrews, 2018; Menezes et al., 2017).

Critics argue that benchmarking tools such as Doing Business oversimplify insolvency effectiveness by prioritizing formal efficiency metrics over institutional quality and distributive outcomes (McCormack, 2018). The transition from Doing Business to Business Ready reflects an attempt to address these criticisms by incorporating broader institutional indicators, including court quality and professional regulation (World Bank, 2024).

Legal Transplants and Contextual Adaptation. The transplantation of insolvency models from developed jurisdictions, particularly Chapter 11 style reorganization frameworks, has generated extensive debate in the literature (Wan & McCormack, 2018; Skeel, 2003). Legal transplant theory cautions that wholesale adoption of foreign insolvency mechanisms may fail without corresponding institutional and cultural adaptation (Legrand, 1997; Watson, 1993). Empirical analyses of Singapore, India, and Chile suggest that selective adaptation, rather than direct replication, yields more sustainable outcomes (Illanes & Balharry, 2018; Bharucha, 2019).

Comparative scholarship further highlights that debtor-in-possession (DIP) regimes, while effective in the US context, require strong judicial oversight and professional governance structures to function effectively, conditions often absent in developing economies (Kelch, 1992; Gurrea-Martinez, 2023). As a result, reforms that emphasize hybrid governance models and incremental institutional capacity building appear more successful than ambitious legal transplants (Milman, 2013; Payne, 2014).

Value Foundations of Effective Insolvency Frameworks. Beyond procedural efficiency, scholars increasingly emphasize the normative foundations of insolvency law, including fairness, transparency, value preservation, and stakeholder balance (Triantis, 1993; Korobkin, 1996). Comparative studies demonstrate that insolvency systems perceived as equitable and predictable are more likely to be utilized by both domestic and multinational firms (Nyombi, 2013; Mevorach, 2013). Employee protection mechanisms, for example, have been shown to enhance social legitimacy without necessarily undermining restructuring outcomes, as evidenced in China and parts of Europe (Zhang, 2010; Noussia & Durdenic, 2019).

Recent interdisciplinary research also highlights the importance of recognizing intangible assets and value networks in insolvency proceedings, particularly for multinational enterprises operating in knowledge intensive sectors (Allee, 2008; Rodov & Leliaert, 2002). These insights suggest that effective insolvency reform in developing countries must move beyond creditor-centric recovery metrics toward broader conceptions of enterprise value and economic sustainability (Gatoto, 2025; Gurrea-Martinez, 2020).

Institutional Capacity, Courts, and Professional Regulation. The effectiveness of insolvency frameworks is closely linked to institutional capacity, including specialized courts, trained judges, and regulated insolvency practitioners (Gramckow & Walsh, 2013; Loubser, 2007). Empirical studies indicate that judicial independence and expertise significantly influence insolvency duration and recovery rates, particularly in developing jurisdictions (McKenzie, 2010; Bo Li & Ponticelli, 2020). Weak regulation of insolvency practitioners has been associated with higher costs, procedural abuse, and stakeholder distrust (Conway, 2019; Adebola et al., 2025).

Comparative evidence from the UK, South Africa, and India demonstrates that professional regulation and oversight mechanisms are critical for maintaining insolvency system credibility (Calitz, 2010; Burman & Roy, 2015). These findings reinforce Gatoto's (2025) conclusion that reform priorities must encompass not only statutory design but also institutional ecosystems supporting insolvency practice.

3. Methods

This study adopts a qualitative integrative literature review design to synthesize doctrinal, empirical, and policy literature on insolvency frameworks for multinational corporations in developing countries. The integrative review approach is appropriate where the goal is to combine diverse types of evidence (theoretical, empirical, policy) to generate new conceptual insight and reform priorities, an approach recommended for interdisciplinary law and policy topics (Torraco, 2016).

The review follows established reporting and transparency standards for systematic and qualitative syntheses. Reporting of search, selection, and inclusion/exclusion is structured with reference to the PRISMA 2020 statement to ensure clear documentation of records identified, screened, included and excluded. PRISMA's flow diagram conventions and checklist items are used to present the identification and screening process.

For synthesis specific transparency (methods and appraisal of qualitative material), the ENTREQ guidance (Enhancing Transparency in Reporting the Synthesis of Qualitative Research) informs reporting of search strategy, appraisal and synthesis steps used for qualitative and doctrinal sources.

A comprehensive search was conducted across bibliographic and legal databases selected for their coverage of comparative law, insolvency, and interdisciplinary policy literature. Institutional repositories and policy portals were searched for soft law materials, principles, and country reform reports. The search covered publications through September 2025 (inclusive) to capture the most recent reform literature (including Gatoto 2025). Search strings combined keywords and synonyms for the main concepts, for example: "(insolvency or bankruptcy or restructuring) and (multinational or multinational corporation or enterprise group) and (forum shopping or cross-border or comity or comi) and (developing country or emerging market or low and middle income country)". Searches used Boolean operators, truncation, and field limits (title/abstract) where available; backward and forward citation chaining was also applied to capture additional relevant sources. The use of multiple complementary databases and citation chaining reduces publication bias and increases comprehensiveness, consistent with integrative review guidance.

Inclusion criteria: (i) English language peer reviewed articles, books/book chapters, policy reports, working papers and key cases or statutes that address insolvency, cross border insolvency, or reform in developing countries; (ii) material that discusses multinational/group insolvency, forum shopping, or institutional reform relevant to developing economies; and (iii) publications up to September 2025. Exclusion criteria: (i) sources limited to purely domestic micro case financial analyses with no cross border or reform relevance; (ii) non substantive editorial notes without empirical or doctrinal content; and (iii) duplicate conference abstracts when full text later published. These criteria focus the review on literature that informs reform priorities and value foundations for developing country insolvency frameworks. The selection criteria and rationale are reported following PRISMA/ENTREQ recommendations.

Search results were exported into a reference manager and duplicates removed. Two reviewers independently screened titles/abstracts against inclusion criteria; disagreements were resolved through discussion and, where necessary, a third reviewer. Full texts of potentially eligible records were retrieved and assessed independently by two reviewers; reasons for exclusion at full text stage were recorded and will be reported in a PRISMA flow diagram. This dual screening procedure is consistent with systematic and integrative review best practice to minimize selection bias and increase reproducibility.

Although integrative reviews intentionally include diverse evidence types, methodological rigour of included works was appraised to support interpretive weighting in synthesis. For empirical and qualitative studies, the CASP (Critical Appraisal Skills Programme) Qualitative Checklist was applied to assess methodological transparency, sampling, data collection, reflexivity, and analytic validity; items were used to classify studies as high, moderate, or low confidence in findings rather than as strict exclusion criteria (CASP checklist).

For legal doctrinal analyses and policy reports, a structured assessment considered (i) clarity of argument, (ii) use of primary sources (case law, statutes), (iii) policy relevance, and (iv) empirical grounding where present. The appraisal results informed how much interpretive weight each source contributed to the synthesis (i.e., higher quality sources carried greater influence in the development of reform priorities).

A standardized extraction matrix was used to capture bibliographic details, jurisdiction/context, research design (if empirical), key findings/arguments, normative values identified (e.g., predictability, enterprise preservation, transparency), reform recommendations, and methodological quality rating. Extraction was conducted by one reviewer and checked by a second for accuracy; disagreements were resolved by consensus. An audit trail of extraction sheets and coding decisions was maintained to enhance transparency and reproducibility.

Synthesis combined thematic synthesis procedures (adapted from Thomas & Harden, 2008) with integrative review interpretive steps appropriate for doctrinal and policy literature. Thematic synthesis proceeded in three stages: (1) line by line coding of extracted findings and author claims (including doctrinal assertions and empirical results), (2) grouping codes into descriptive themes (e.g., institutional capacity, forum shopping drivers, DIP financing, judicial expertise), and (3) generating analytical themes that address reform priorities and underlying value foundations relevant to developing countries (e.g., legitimacy of domestic forums, balanced stakeholder protection, institution building). This approach is suitable for synthesizing heterogeneous qualitative and policy materials and for producing higher order conceptual contributions.

To strengthen credibility, the review used investigator triangulation (multiple reviewers for screening, appraisal, coding), kept a documented audit trail of decisions, and carried out sensitivity analyses by comparing syntheses with and without lower quality sources. Reflexive memos were written to surface the reviewers' interpretive assumptions and to ensure that normative recommendations were tied to evidence rather than ad hoc preferences. Reporting follows ENTREQ guidance to disclose synthesis methods and reflexive procedures.

The integrative approach allows breadth but may underweight primary empirical heterogeneity; inclusion of non English literature was limited by resources and may omit jurisdictional nuance. Also, doctrinal and policy documents vary in empirical grounding; hence, policy recommendations are presented with graded confidence reflecting appraisal results. These limitations are acknowledged and reported transparently as recommended by PRISMA/ENTREQ.

4. Results

This qualitative literature review reveals that the suitability of insolvency frameworks in developing countries for multinational corporations (MNCs) is shaped by a complex interaction of legal design, institutional capacity, normative value choices, and cross border coordination mechanisms. Through thematic synthesis of doctrinal analyses, empirical studies, policy reports, and case law, five dominant analytical themes emerge: (1) forum shopping and jurisdictional avoidance, (2) institutional and procedural deficiencies, (3) enterprise group treatment and coordination failures, (4) reform priorities driven by international benchmarks and crises, and (5) foundational values underpinning effective insolvency regimes in developing countries.

Forum shopping and jurisdictional avoidance by multinational corporations. A consistent finding across the literature is that MNCs frequently bypass insolvency proceedings in developing countries in favour of jurisdictions such as the United States and the United Kingdom. This practice, often described as corporate bankruptcy tourism, is driven by perceptions of predictability, creditor protection, and restructuring expertise in these forums (Couwenberg & Lubben, 2015; McCormack, 2014). High profile cases such as Avianca Holdings and LATAM Airlines Group demonstrate how companies with substantial operations in developing countries strategically commenced proceedings under Chapter 11 in the United States, despite limited operational nexus (Walters, 2017).

The literature identifies the absence of a binding international rule governing the commencement of insolvency proceedings as a structural enabler of forum shopping (McCormack, 2009; Mevorach, 2011). Courts in developed jurisdictions have often adopted expansive interpretations of jurisdictional thresholds, reinforcing the attractiveness of these venues to foreign debtors (LoPucki & Whitford, 1991; Eastman v Eastman, 1995). As a result, developing countries experience a systematic erosion of their insolvency regimes' relevance in multinational cases.

Institutional and procedural deficiencies in developing-country insolvency systems. The second major theme concerns the institutional limitations of insolvency systems in developing countries. The literature consistently highlights weaknesses in judicial capacity, practitioner expertise, procedural efficiency, and enforcement mechanisms as key deterrents to local filings (Cirmizi et al., 2012; Odetola, 2017). Empirical indicators from the World Bank show that insolvency resolution in developing economies is often slower, costlier, and yields lower recovery rates compared to high income jurisdictions (World Bank, 2019; Business Ready, 2024).

Qualitative country studies further reveal that even where modern insolvency statutes exist, their practical implementation remains uneven. For example, reforms introduced in Indonesia, Thailand, and Malaysia following the Asian Financial Crisis improved statutory frameworks but faced persistent challenges due to limited judicial specialization and inconsistent interpretation (Carruthers & Halliday, 2007; OECD, 2007). Similar implementation gaps are observed in African jurisdictions, where formal reforms coexist with continued reliance on debt enforcement rather than restructuring proceedings (Masoud, 2014; Fancy Too, 2016).

Inadequate treatment of multinational enterprise groups. A third prominent finding relates to the fragmented treatment of corporate groups in insolvency. Traditional entity by entity approaches prevalent in developing countries fail to reflect the economic reality of integrated multinational enterprise groups (Siemon & Frind, 2013). This fragmentation increases coordination costs, encourages parallel proceedings, and undermines value preservation.

The literature contrasts these deficiencies with emerging international norms advocating modified universalism and enterprise group coordination, as reflected in the UNCITRAL Legislative Guide and the World Bank Principles (UNCITRAL, 2005; World Bank, 2016). However, developing countries often lack procedural tools such as group coordination proceedings, cross border recognition mechanisms, and court to court cooperation frameworks (Mevorach, 2019). This institutional gap further incentivizes MNCs to relocate proceedings to jurisdictions that can offer consolidated or coordinated solutions.

Crisis driven reforms and international benchmarking. The findings also indicate that insolvency reforms in developing countries are frequently reactive, triggered by financial crises rather than proactive institutional planning. The Asian Financial Crisis and the Global Financial Crisis of 2008 played a decisive role in catalyzing insolvency reforms across East Asia and emerging markets (Radelet et al., 1998; Claessens et al., 2001). More recently, the COVID-19 pandemic accelerated temporary and permanent insolvency law adjustments worldwide (Gurrea-Martínez, 2020; Borges, 2020).

International benchmarking exercises, particularly the World Bank's Doing Business and Business Ready indicators, have strongly influenced reform agendas (World Bank, 2019; Business Ready, 2024). While these benchmarks have promoted convergence towards efficiency oriented models, critics argue that excessive focus on rankings may obscure local institutional realities and distributive concerns (McCormack, 2018). The literature therefore cautions against mechanical transplantation of Chapter 11 style procedures without contextual adaptation (Legrand, 1997; Wan & McCormack, 2018).

Foundational values for effective insolvency frameworks in developing countries. Beyond technical design, the literature converges on a set of core value foundations essential for effective insolvency regimes in developing countries. These include legal certainty, procedural transparency, predictability, and legitimacy of domestic forums (Triantis, 1993; Paterson, 2018). Equally important is the balancing of creditor protection with broader stakeholder interests, including employees and public economic stability (Korobkin, 1996; Zhang, 2010).

Scholars increasingly emphasize the enterprise value preservation function of insolvency law, particularly for systemically significant multinational groups operating in developing economies (Mevorach, 2013; Gurrea-Martínez, 2020). The findings suggest that reforms grounded in these normative values, rather than solely in efficiency metrics are more likely to attract multinational usage and reduce incentives for forum shopping.

5. Discussion

This qualitative literature review demonstrates that the persistent marginalization of developing country insolvency regimes in multinational corporate insolvencies is not merely a technical failure of legal drafting, but a deeper institutional and normative challenge embedded in global insolvency governance (Gatoto, 2025; Mevorach, 2011). The findings extend prior scholarship by showing that forum shopping, institutional capacity deficits, and fragmented enterprise group treatment are mutually reinforcing, rather than isolated problems, within developing-country contexts (McCormack, 2014; Couwenberg & Lubben, 2015).

Forum shopping revisited: beyond jurisdictional opportunism. Consistent with Couwenberg and Lubben's (2015) seminal analysis of corporate bankruptcy tourism, this review confirms that multinational corporations systematically select insolvency venues based on predictability, restructuring sophistication, and creditor confidence. However, unlike earlier studies that emphasised debtor opportunism as the primary driver (LoPucki & Whitford, 1991), the present findings align more closely with Walters' (2017) argument that forum shopping is structurally enabled by permissive jurisdictional doctrines in developed courts. This distinction is critical because it shifts responsibility from firm behaviour alone to systemic asymmetries in global insolvency architecture (Mevorach, 2019).

Comparatively, Gatoto's (2025) developing country focused analysis adds nuance by demonstrating that MNCs' avoidance of local forums is frequently justified by concerns over judicial expertise, enforcement reliability, and procedural delay rather than purely strategic gaming. This finding diverges from earlier US centric accounts that framed forum shopping primarily as rent seeking behaviour (LoPucki, 2005), suggesting that reforms in developing countries must prioritize institutional credibility rather than merely tightening jurisdictional thresholds (McCormack, 2009).

Institutional capacity as the decisive reform variable. The results strongly support Cirmizi, Klapper, and Uttamchandani's (2012) empirical conclusion that institutional quality, rather than statutory design alone, determines insolvency effectiveness in emerging markets. This review extends that insight by demonstrating that even formally sophisticated insolvency statutes such as those enacted in Indonesia, Thailand, and Malaysia after the Asian Financial Crisis failed to attract multinational usage due to uneven judicial implementation and limited practitioner expertise (OECD, 2007; Carruthers & Halliday, 2007).

In contrast, Gurrea Martínez (2020) argues that emerging markets can partially compensate for institutional weaknesses through streamlined, creditor friendly restructuring frameworks. The present synthesis challenges this optimism by showing that multinational firms priorities procedural legitimacy and enforceability over speed alone, particularly in high value cross border restructurings (World Bank, 2016; Business Ready, 2024). This divergence highlights that reform strategies centered solely on efficiency metrics may be insufficient to alter multinational filing behaviour (McCormack, 2018).

Enterprise group insolvency and value destruction. A major contribution of this review lies in its synthesis of literature on enterprise group insolvency, an area often underdeveloped in developing-country reforms (Siemon & Frind, 2013). Consistent with Mevorach's (2013) enterprise theory, the findings show that entity-by-entity insolvency treatment in developing countries systematically undermines value preservation for multinational groups. This reinforces Napoli Coordes' (2015) geographical analysis demonstrating that fragmented proceedings increase coordination costs and encourage centralization of cases in dominant jurisdictions.

Compared with UNCITRAL's (2005) normative framework advocating group coordination and procedural cooperation, the literature reviewed indicates that implementation in developing countries remains largely aspirational. This contrasts with the European experience, where even partial adoption of coordination mechanisms has reduced parallel proceedings (Mevorach, 2019). The comparative implication is that without enterprise-sensitive tools, developing countries will remain structurally disadvantaged in attracting multinational insolvencies regardless of other reforms (Gatoto, 2025).

Crisis-driven reforms: reactive convergence without consolidation. The discussion also reveals that insolvency reform in developing countries has historically been crisis-induced, echoing findings from Radelet et al. (1998) and Claessens et al. (2001) on post-Asian Financial Crisis legal change. While these reforms produced rapid statutory convergence, Carruthers and Halliday (2007) caution that such convergence often outpaces institutional internalization. The present review confirms this concern by demonstrating that repeated crises, 2008 Global Financial Crisis and COVID-19 have led to layered reforms without deep institutional consolidation (Borges, 2020; Gurrea-Martínez, 2020).

In contrast, Shi's (2007) analysis of China's bankruptcy reform suggests that gradualist approaches may embed market norms more effectively over time. However, this review finds that even gradual reform does not automatically translate into multinational confidence unless accompanied by credible enforcement and cross border recognition mechanisms (Parry & Long, 2020). This suggests that sequencing matters: institutional trust must evolve alongside statutory reform to influence multinational behaviour meaningfully (World Bank, 2016).

Benchmarking, transplantation, and the limits of convergence. The influence of World Bank benchmarking tools, particularly Doing Business and Business Ready, emerges as a double edged sword. While empirical studies show that benchmarking has accelerated insolvency reforms globally (World Bank, 2019), McCormack (2018) persuasively argues that such metrics prioritize form over function. The present findings corroborate this critique by showing that improved rankings have not translated into increased multinational filings in developing countries.

This reinforces Legrand's (1997) theory of the impossibility of legal transplants, particularly in insolvency law where procedural culture and judicial discretion play decisive roles. Wan and McCormack's (2018) study of Singapore's selective transplantation of Chapter 11 supports the view that contextual adaptation, rather than wholesale adoption, determines reform success. The present review extends this insight by demonstrating that developing countries face even higher transplantation risks due to institutional and capacity constraints (Odetola, 2017).

Normative foundations: legitimacy, balance, and developmental objectives. A central interpretive contribution of this review lies in its identification of normative value foundations underlying effective insolvency frameworks. While early law and economics scholarship prioritized creditor wealth maximization (Triantis, 1993), more recent literature emphasizes stakeholder balance, transparency, and legitimacy (Korobkin, 1996; Paterson, 2018). The findings align with Mevorach's (2013) argument that insolvency law must function as a governance mechanism during corporate crisis.

Comparatively, Zhang's (2010) analysis of employee protections in China demonstrates that stakeholder-inclusive insolvency regimes can coexist with restructuring efficiency. This contrasts with earlier assumptions that labour protection undermines rescue outcomes (Skeel, 2003). The present review suggests that developing countries, where insolvency outcomes have broader socio-economic consequences, may benefit from explicitly embedding distributive and developmental values into insolvency design (Masoud, 2014).

Synthesis with eight key prior studies. Taken together, this discussion positions the present study in dialogue with at least eight foundational works: (1) Couwenberg and Lubben (2015) on bankruptcy tourism; (2) McCormack (2014) on forum shopping; (3) Cirmizi et al. (2012) on institutional reform; (4) Carruthers and Halliday (2007) on crisis-driven convergence; (5) Mevorach (2013, 2019) on enterprise and coordination principles; (6) Gurrea-Martínez (2020) on emerging market insolvency; (7) Gatoto (2025) on developing-country perspectives; and (8) Wan and McCormack (2018) on contextual transplantation. Unlike these studies individually, this review integrates them into a unified explanatory framework linking institutional credibility, enterprise value, and normative legitimacy.

Implications for theory and policy. The discussion suggests that insolvency reform in developing countries should be reconceptualized as institution-building rather than rule-drafting, aligning with Shihata's (1995) development-law framework. Theoretical implications include strengthening enterprise-based insolvency theory in cross-border contexts and reframing forum shopping as an indicator of institutional inequality rather than regulatory arbitrage alone (Mevorach, 2011; Gatoto, 2025).

From a policy perspective, reforms should prioritize judicial specialization, practitioner regulation, cross border cooperation mechanisms, and value based legitimacy over symbolic convergence with developed models (World Bank, 2016; UNCITRAL, 2005). Without such recalibration, developing countries are likely to remain peripheral venues in multinational insolvency practice despite repeated statutory reforms (McCormack, 2018).

6. Conclusions

This qualitative literature review synthesized interdisciplinary and jurisdictionally diverse scholarship to identify key reform priorities and value foundations for effective insolvency frameworks tailored to multinational corporations operating in developing countries. The analysis revealed that, despite extensive statutory reforms in many developing jurisdictions, structural and institutional deficits continue to hinder the capacity of domestic insolvency regimes to attract and manage multinational insolvency cases.

First, the persistent phenomenon of forum shopping reflects not only debtor opportunism but also underlying institutional inequality, whereby MNCs systematically prefer developed jurisdictions, particularly the United States and the United Kingdom due to greater procedural predictability, specialized courts, creditor confidence, and established restructuring practices (McCormack, 2014; Couwenberg & Lubben, 2015). This finding underscores that insolvency design alone is insufficient; institutional credibility and legitimacy are decisive determinants of jurisdictional attractiveness.

Second, the review confirms that institutional capacity judicial expertise, professional insolvency practitioner regulation, enforcement mechanisms, and procedural efficiency remains a critical bottleneck in developing countries (Cirmizi, Klapper & Uttamchandani, 2012; World Bank, 2019). Even where modern insolvency laws exist, weak implementation and enforcement undermine their practical utility, reinforcing perceptions of unsuitability among MNCs.

Third, conventional entity-by-entity insolvency approaches in many developing countries fail to reflect the economic reality of multinational enterprise groups, leading to coordination failures, value erosion, and increased incentives for jurisdictional avoidance (Siemon & Frind, 2013; Mevorach, 2013). This suggests that effective reform must incorporate group-sensitive procedural tools, cross-border cooperation frameworks, and coordination mechanisms.

Fourth, the review found that global benchmark driven reforms, particularly those influenced by the World Bank's Doing Business and Business Ready frameworks have accelerated legislative change but have not translated into meaningful increases in multinational filings. This highlights the limits of benchmarking and legal transplantation without contextual adaptation (McCormack, 2018; Legrand, 1997).

Finally, the review emphasizes that effective insolvency frameworks are grounded not only in procedural efficiency but also in normative values such as legal certainty, transparency, stakeholder balance, and enterprise value preservation (Korobkin, 1996; Paterson, 2018). Embedding these values into insolvency law and practice enhances legitimacy and aligns legal reform with broader development objectives.

In summary, the conceptual integration of institutional credibility, normative legitimacy, and enterprise coordination provides a holistic framework for policy-oriented insolvency reform in developing countries. Reforms that prioritize these dimensions, alongside procedural improvements are more likely to encourage MNCs to utilize domestic insolvency systems and to strengthen local economic and legal ecosystems.

7. Limitation

While this study provides a comprehensive synthesis of literature on insolvency frameworks in developing countries, several limitations should be acknowledged. Language and Publication Bias. The review focused primarily on sources published in English, which may exclude relevant literature available in other languages, particularly in jurisdictions where insolvency reforms are locally documented (e.g., Spanish, Portuguese, Arabic, Chinese). This language constraint could limit the comprehensiveness of jurisdiction specific insights.

Scope of Databases and Grey Literature. Although multiple academic and policy databases were searched, the inclusion of grey literature (e.g., government reports, practitioner surveys) varied by region due to accessibility constraints. This may underrepresent regional nuances in insolvency practice or unindexed reform evaluations, particularly in sub Saharan Africa and Latin America.

Empirical Evidence Gaps. The majority of existing scholarship remains doctrinal or conceptual rather than empirical, especially regarding cross border insolvency practice in developing economies. Consequently, the review's findings are heavily informed by interpretive analysis rather than large scale empirical data, which may limit generalizability.

Temporal Lag in Reform Assessment. Insolvency reforms are evolving rapidly, particularly in response to recent economic disruptions such as the COVID-19 pandemic and post pandemic restructuring waves. Some reforms may not yet be fully evaluated in the literature, leading to a temporal lag between practice and academic assessment.

Heterogeneity of Developing Countries. Developing countries exhibit significant heterogeneity in legal traditions, economic structures, institutional capacities, and degrees of international integration. While the review identifies general patterns, it may oversimplify context specific dynamics that differ significantly across regions and legal systems.

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