



Working Paper Series

A Study on the Effectiveness of Remedies Available For Banks in a Debt Recovery Tribunal - A Case Study on Ernakulam DRT

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Abstract

The practice of lending and borrowing is millenniums old. The concept of banking was incepted ever since humans started engaging in economic transactions of any kind. The banking system has evolved since then. We have well-established banks now in the 21st century-huge ones having more than \$1 trillion in assets. The banking (or credit) sector is one that hold the reins of the world economy. Without the presence of a well-established credit-system, we cannot expect the economy to roll on. A dynamic banking system is essential for a thriving economy. Banking in India faces the difficulty of mounting Non-Performing Assets (NPA), which is unfavourable for the bank's financial health. Banks have had to wait for very long time in Civil Courts to get cases concerning debt-recovery disposed and recovered. This led to the trapping of crores of rupees in litigation proceedings, which the bank could not re-advance, forcing the Government to establish a Debt Recovery Tribunal (DRT) to assure expeditious recovery proceedings and speedy adjudication of matters concerning debt recovery of banks. This paper aims to study the functioning of the Debt Recovery Tribunal, established following the Recovery of Debts due to Banks and Financial Institutions Act, 1993.

1. Introduction

1.1. Introduction to the Banking System in India

The banking system in India is significantly different from that of other Asian nations because of the country's unique geographic, social, and economic characteristics. India has a large population and land size, a diverse culture, and extreme disparities in income, which are marked among its regions. There are high levels of illiteracy among a large percentage of its population, but, at the same time, the country has a large reservoir of managerial and technologically advanced talents. These features are reflected in the structure, size, and diversity of the country's banking and financial sector. The banking system has had to serve the goals of economic policies enunciated in successive five-year development plans, particularly concerning equitable income distribution, balanced regional economic growth, and the reduction and elimination of private sector monopolies in trade and industry.

The banking system in India faces many problems at present. One of such problems is the vast number of Non-Performing Assets on the bank's balance sheet. To ensure proper functioning of the banking system in the economy, we need to see that the level of NPAs is kept down. Non-Performing Loans (NPLs) are an area of concern, as they adversely affect the financial health of the bank. The bank's primary activity is to advance loans to the needy. Extension of credit is one of the major activities of banks and financial institutions. Credit (or retail products of banks like loans) represents the bulk of the bank and financial institution's asset portfolio. Apart from raising resources through fresh deposits, borrowings and recycling of funds received back from borrowers constitute a major part of funding credit dispensation activity. Finance is the life-blood of economic activities. Advancement of credit is significant so as to fund the productive purposes. However, Credit Risk is attached to the retail products of banks, which arises from the failure of the borrower in repayment. Here, the credit cycle gets upset, leaving the fund locked up. Thus, these loan losses affect the bank's profitability on a large scale. Though complete elimination of such losses is not possible, banks can always aim to keep the losses at a low level.

There were about 15 lakh cases pertaining to debt-recovery pending at various Civil Courts in India on September 30, 1990. The cash stuck in litigation amounted to ₹5622 crore of Public Sector Banks and ₹391 crore of Financial Institutions. The year 1991 was characterised by the credit crunch, fall in foreign-exchange reserves and cash shortage for the government to even function. This economic crisis to which India succumbed, forced the Government to set up a committee in 1991 to study the possibilities of a revamp in the situation. The committee

was headed by A L Narasimhan. Reducing Non-Performing Assets was one of the missions of the Narasimhan Committee, which submitted its report in 1991 itself. The Narasimhan Committee upheld the Tiwari Committee Report (TCR), which made the same demand. The Tiwari Committee was set up in 1981 to study about the sick industrial scenario of the country.

1.2. What are Non-Performing Assets?

All loan advances of banks are assets. The loan or lease, which is not meeting its stated interest or principal repayment of the secured debt to the designated lender, is called as a Non-Performing Asset. A 'Non Performing Asset' means an asset or account of a borrower, which has been classified by a bank or financial institution as substandard, doubtful or loan asset. The borrower has not paid any previously-agreed payments or the Principal amount, making the loan account non-performing.

The SARFAESI Act, the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, defines Non Performing Assets as: "...an asset or account of a borrower, which has been classified by a bank or financial institution as sub-standard, doubtful or loss asset, (a) in case such bank or financial institution is administered or regulated by any authority or body established, constituted or appointed by any law for the time being in force, in accordance with the directions or guidelines relating to assets classifications issued by such authority or body; (b) in any other case, in accordance with the directions or guidelines relating to assets classifications issued by the Reserve Bank"

The NPA is not extending any income to the designated lender. The banks treated the accounts as non-performing if the borrower has not paid the instalments or the principal for a period of 180 days. But the Central Bank's policy change in 2004 required that banks classify the loan account as Non-Performing if the payment has not been made into the loan account for a period of 90 days. Even if credit facilities remain performing, the bank has to categorise it as non-performing.

1.3. Types of Non-Performing Assets (Khan, 2007)

- **Standard:** Bank receives the principal and interest repayment, systematically from the borrower. Another important aspect is that the arrears of the principal as well as the interest does not surpass more than 90 days on the closing of the FY (Financial Year)
- **Sub-Standard:** Asset which has remained an NPA for a period of less than or equal to 12 months.

- **Doubtful:** A doubtful asset is one which has remained as a NPA for a period exceeding 12 months. A loan classified as doubtful has all the weaknesses inherent in assets that were classified as sub-standard, with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently-known facts, conditions and values - highly questionable and improbable.
- **Loss:** Loss asset is one where loss has been identified by the bank or its internal or external auditors, or by the RBI inspection, though the amount has not been written off wholly. In other words, such assets are considered uncollectible or of such value that its continuance as a bankable asset is not warranted, although there may be some salvage or recovery value.

1.4. Factors Leading to the Creation of Non-Performing Assets

NPLs arise due to many factors including:

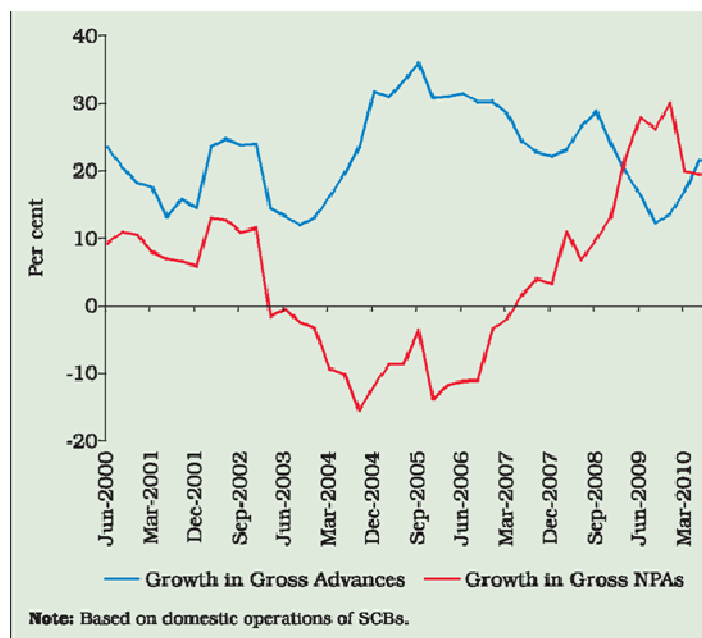
1. Overall performance of the economy
How the economy runs is a very important factor affecting the level of Non-Performing Assets of the banks. When the economy is dim and is in a recessionary phase, the borrowers, mainly commercial ones, find it difficult to repay the loans.
2. Cyclicalities of the businesses
The cyclicalities of the business directly influences the repayment capability of the banks. Thus, it has an impact on the amount of Non -Performing Assets of the banks.
3. Technological obsolescence
The technological obsolescence is a factor that affects the repayment abilities of the manufacturing firms. The efficiency of the manufacturing entity in raising funds impact the repayment abilities of the firm
4. Managerial deficiencies to deal with the changing business environment
This is the most important factor in determining the repayment capability of the borrower.
5. Financial indiscipline and intentional defaults
Intentional default is the biggest reason why non - repayment of loans occurs. Most of the defaulters do not show interest in repayment of the loans.

1.5 Non-Performing Assets in India

India showed a negative growth in percentage of Gross NPAs (the percentage of Gross Advances to the Gross NPAs) from 2003 to 2007. The rate of Gross Advances inked a sharp stride from the 2003 level to 2005, which dropped in 2005. It was followed by a meagre rise (in Gross Advances of Scheduled Commercial Banks), again in 2007. The Gross NPA rose

steadily from March 2007 to June 2009. However, it has shown a receding trend in the first quarter of 2010. (Refer Chart 1).¹

Chart 1: Trends in growth of gross advances and gross NPAs of SCBs



Source: Reserve Bank of India

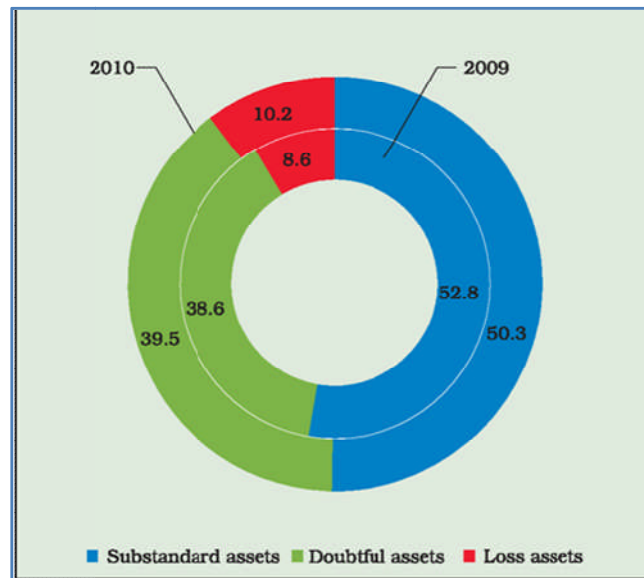
The Gross NPA ratio of SCBs placed at 14.6 per cent at end-March 1999 had declined steadily to 2.25 per cent at end-March 2008. During the crisis year 2008-09, the Gross NPA ratio remained unchanged for Indian banks. However, during 2009-10, the Gross NPA ratio showed an increase to 2.39 per cent (Table 5). After netting out provisions, there was a rise in the net NPA ratio of SCBs from 1.05 per cent at end-March 2009 to 1.12 per cent at end-March 2010. At the bank group level, the Gross NPA ratio was the highest for foreign banks at end-March 2010, followed by private sector banks. On the other hand, it was the lowest for public sector banks. The increase in the Gross NPA ratio between 2009 and 2010 could be seen across all bank groups, except in the case of private sector banks. An increase in the Gross NPA ratio during this period was perceptible for foreign banks (Table 5). Rating agency CRISIL expects Gross NPAs of the Indian banking system to swell to around 5 per cent of the advances in March 2011.

Analysing Table 5, it can be concluded that private sector banks and foreign banks saw a dip in Sub-standard Assets dipped from the 2009 level to 2010. While there is a decrease in the Standard and Sub-standard assets of foreign banks, the doubtful and loss assets of the banks

¹ Tables mentioned have been given as Appendices

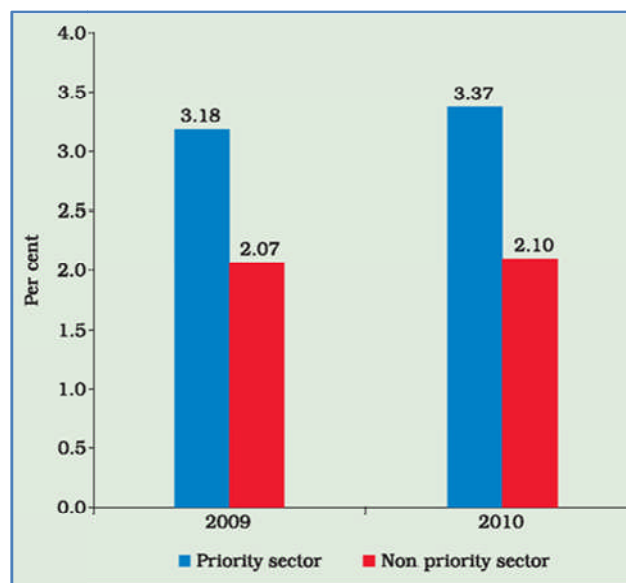
have increased. One factor that has to be identified here is the increase in the distribution of NPAs for Doubtful and Loss-making.

Chart 2: Percentage distribution of NPAs by asset types



Source: Trends and Progress of Banking System in India 2010, Reserve Bank of India

Chart 3: Priority and non-priority sector NPA ratios of domestic banks



Source: Trends and Progress of Banking System in India 2010, Reserve Bank of India

Funds are divided among Priority Sectors² and Non-Priority sectors³. The Priority Sector formed more than half of the total NPA pie till 2008. However, primarily due to agricultural loan waivers and the Debt Waiver Scheme of 2008, the Priority Sector displayed a decline in NPAs. In 2009-10, the share of priority sector in the total NPA jumped. The small scale sector was the driver in the category. Bad loans arising from small-scale industries grew by 65 per cent to ₹12,975 crore in 2009 -10, as against ₹7,874 crore in the previous fiscal. This step up for the priority sector can be attributed to the recessionary economic environment (Refer Table IV.16).

The sectoral NPA ratio increased in 2009-10 for priority sectors as well as non-priority sectors (Refer Chart 8).

1.6 Importance of Debt Recovery

Speedy debt recovery is importance for the following reasons:

- A bank's money can be termed 'public money'. This is because, in case of Public Sector banks, it is the Government's money that runs the banks and the capital infusion is done by the government. In case of Private Sector Banks, it is the capital of the millions of investors that steers the bank. Moreover the funds of the banks are intended to be served to the general public and for the commercial initiatives that largely influences the people, who depends on it. When money is trapped, a bank faces difficulty in funding projects, which it could earlier do
- NPAs affects the profitability of the bank; hence debt recovery is made essential to ensure that it functions smoothly
- If the bank succumbs to a financial crisis, it will leave the employees, management, and all the stakeholders in the dark
- A large amount of NPA will tarnish the image of the bank, and can discourage investors
- ROI of the bank decreases, if the NPA is not recovered speedily
- Cost of Capital (interest) gets stranded. It is the bank's prime source of income

² Priority Sector includes agricultural activities, export activities, SSI (Small Scale Industries), and small business

³ The Non-Priority Sector included every type of industrial sector, other than the Priority Sector.

2. Objectives

The main objective of this paper is to study remedies available for banks in a Debt Recovery Tribunal.

An in-depth study on the functioning of a Debt Recovery Tribunal is made here. Reasons for the establishment of a Debt Recovery Tribunal and issues that the tribunal faces are subjected to study and to suggest an alternate mechanism to deal with issues and problems pertaining to its efficiency. This study also attempts to suggest methods to ensure speedy recovery proceedings.

3. Methodology

The purpose of this study is to understand the functions of a Debt Recovery Tribunal and the methods banks use in recovering assets -in case the loan is categorised as a Non-Performing Asset. Both primary and secondary data has been used in this regard. Primary data was indispensable since the details concerning regular tasks of the Tribunal and how the system actually works, had to be collected with the help of questions. Primary data is collected using different methods - Observation, Interview and Questionnaire. Of this, the interview method has been given impetus, since the information collected firsthand from the stakeholders of the Tribunal forms a very important part of all the information gathered.

As a part of the research, interviews were conducted with persons closely connected with the Debt Recovery Tribunal. Bank Officers, Tribunal Officials, Advocates with DRT, and KELSA (Kerala Legal Services Authority) Officials were interviewed for the purpose of obtaining information, opinions and facts. Legal officers of two SCBs (Scheduled Commercial Banks) in Kochi were also chosen for the interview. Questions were put to five advocates who deal with regular cases at the Tribunal. The interview method was very useful in understanding the right perception of stakeholders about the Tribunal and its activities. Questions regarding the efficiency of the DRT and the time frame within which the final decree is generally presented were put to the bank officials. They were also asked about the methods adopted for debt recovery, apart from approaching the DRT. A KELSA officer was asked about Lok Adalats conducted by them. The interview method also helped in understanding the roles and responsibilities of the Tribunal staff. To understand better how the Tribunal proceedings took place, the Observation Method was used. Observing Tribunal proceedings was very useful for the purpose. The method also helped understand the state of infrastructure of the Tribunal. The time the Tribunal starts and the average number of cases that it handles up in a day, among other details were recorded with the employment of the aforementioned method.

Apart from the interview method, the questionnaire method was also adopted. A common questionnaire was prepared and handed to selected bank officers and DRT officials. The estimate numbers of cases that are filed in the DRT, the subject matter value of cases being filed in Kerala, who the usual defaulters are, the feasibility of the establishment of a new DRT in Kerala, etc., were some of the questions asked.

Secondary sources of data were used to obtain official information and statistical figures. Secondary data was equally important to convey how the Tribunal can function. Statistical figures regarding Non- Performing Assets were taken from the Reserve Bank of India (RBI) website. Some information was also obtained from DRT officials and officials of the banks taken for the study. Relevant news reports, government proposals and judgements were obtained and have been used in the report to make it comprehensive. The important bare acts, commentaries on them and case laws have been used to bring more clarity to the issue.

Data collection was carried out over a period of two weeks.

4. Issues Identified

- How effective is DRT Ernakulam in recovery proceedings?
- Are banks happy with the working of DRT Ernakulam?
- What are the problems and issues faced by banks in debt recovery proceedings in DRT?
- Ways and methods to improve the efficiency of the DRT

5. Existing Legal Framework

5.1. Before Institution of the Debt Recovery Tribunal

The banks were in a predicament before the advent of the Debt Recovery Tribunal. Debt recovery cases were like other civil cases and had to be filed in ordinary civil courts. Court proceedings were dragged for long periods, at times more than 15 years. This took its toll on the financial health of the banks, as the chunk of the stressed assets got snagged in the litigation. The bank found it very difficult to fund their further advances. This grave situation led the economy into the trajectory of sluggish growth. Industry found it tough to get credit to fund projects. The Government then appointed the Narasimhan Committee⁴, which made a path-breaking recommendation to install tribunals to deal with cases of debt recovery.

5.2. Recovery of Debts Due to Banks and Financial Institutions Act, 1993

The need for a comprehensive law on the recovery of debts was stressed by the Tiwari Committee Report (1981) which stated:

⁴The Report on Banking Reforms, 1991, submitted to the Government of India

“The civil courts are burdened with diverse types of cases. Recovery of dues due to banks and financial institutions is not given any priority by the civil courts. The banks and financial institutions like any other litigants have to go through a process of pursuing the cases for recovery through civil courts for unduly long period”

The Tiwari Committee Report was endorsed by the Narasimhan Committee in 1991. Conforming to the recommendations of Narasimhan Committee; the Government in 1993 enacted the *avant-garde* legislation of Recovery of Debts to Banks and Financial Institutions Act (Popularly known as the RDB Act). The functions of the Debt Recovery Tribunal were governed by the RDB Act. It has to be noted that the Tribunal was set up by an Act of Parliament, which is empowered to do so according to the Article 247 of the Constitution of India. The RDB Act revolutionised the way asset-recovery cases were resolved in India. It has been challenged in various accounts. In 1995, the constitutionality of the DRT was challenged successfully before the Delhi High Court, which held that the Tribunal could not function validly since it did not have any provision for filing counterclaims. Subsequently, the RDB Act was amended and the constitutionality of the amended act was upheld by the Supreme Court. As things stand now, borrowers are entitled to file ‘counterclaims’ under S.19 of the RDB Act.

5.3. What is a Debt Recovery Tribunal

The Tribunal was set up in 1993, as a result of the Recovery of Debts Due to Banks and Financial Institutions Act. It was established to facilitate speedy adjudication of the cases and swift execution of verdicts. These tribunals are the quasi-judicial institutions set up to process the legal suits filed by banks against defaulting borrowers. By March 31, 2003, they had disposed claims worth Rs 314 billion and recovered Rs 79 billion (Articlesbase, 2010). Recovery of dues to the banks had become a serious problem as large sums of public money were blocked because of defaulting borrowers. Such tribunals are supposed to exercise their jurisdiction, power and the authority conferred on them as provided under Chapter III of the Act. Limitations as given under the Limitations Act will apply also to the DRT.

According to Section 18 of the Act, no other court except the High Court and Supreme Court (exercising jurisdiction under Article 226 and Article 227 of the Constitution of India) will have jurisdiction to adjudicate matters concerning recovery of debts due to banks and financial institutions. However, the Tribunal can only take up matters having a value more than ₹10 lakh. Appeals filed against the proceedings initiated by secured creditors under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act can also be taken up by the Debt Recovery Tribunal.

The Central Government has notified 33 tribunals in the following regions. Kolkata with three tribunals, Allahabad, Delhi with three tribunals, Jaipur, Bangalore, Ahmadabad, Guwahati, Patna, Chennai with two tribunals, Mumbai with three tribunals, Hyderabad, Jabalpur, Ernakulam, Chandigarh, Lucknow, Aurangabad, Nagpur, Cuttack, Ranchi, Visakhapatnam and Coimbatore.

5.4. Aim of the Debt Recovery Tribunal

The main focus or aim of the Tribunal is to

- Avoid delay in the adjudication proceeding and expedite adjudication proceedings
- To facilitate speedy recovery of assets

5.5. Constituents of a Debt Recovery Tribunal

A Debt Recovery Tribunal is headed by a Presiding Officer, who acts as the Judge of the Tribunal. It also consists of a number of staff in the Registry. The Registry is responsible for accepting applications and filing of cases with the DRT. The Registry is headed by a Registrar. It is the Registrar's mandate to perform the functions of a Judicial Officer till the case is transferred to the Presiding Officer for the final hearing. The Registrar is assisted by an Assistant Registrar. The Act also accounts for the post of Recovery Officers who are to execute the decree.

5.6. Duties and Powers of the Recovery Officer

- Execute the final decree
- Post the final decree, to realise the debt amount and deposit it back with the bank
- Conduct public auction according to Section 25 to 28 of the RDB Act.
- The merits of the Certificate, or the amounts mentioned in the Certificate cannot be agitated before the Recovery Officer.
- The Recovery Officer does not have the powers to add or remove people whose onus it is to satisfy the certificate. The Recovery Officer can, however, enlarge the area of persons from whom he may attempt to satisfy the Certificate, subject to provisions of the Rules, i.e. the new persons must be holding sums on behalf of the Certificate debtor.

5.7. Duties of the Registrar

- Registry accepts all the original applications and securitisation applications, and files them
- The Registry passes the file to the Registrar, who performs further scrutiny
- He performs the initial functions of the Tribunal in the primary stage of the Course of Action

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- The Registrar has the duty to issue summons, Show-Cause Notices and make the defendants aware of the suit filed against them
 - The Registrar also collects the reply to the issued Show-Cause notices

5.8. Procedures followed by the Debt Recovery Tribunal

- Section 19 of the RDB Act deals with the procedure for filing a case with the DRT
- An application can be filed in the Tribunal on a case, within the jurisdiction of it, on the recovery of debts from a person or an entity
- If two or more banks have a case on the same matter, the latter banks can join the former or first bank (on the filing of application)
- A fee is prescribed by the Act, which shall be paid by the applicant.
 - The minimum fees to file an application is ₹12,000 and the maximum is ₹1,50,000

5.9. DRT Proceedings in a Nutshell

Following are the proceedings for the Tribunal:

1. An original application along with the documents of evidentiary value and the required fees is filed with the Registry.
2. The Registry reviews the application, checks for any flaws, accepts or rejects it.
3. The file then passes to the Registrar for further scrutiny of the application.
4. If the application is registered, a summons is issued by the Registrar.
5. If the defendant does not appear, the case becomes *ex-parte*.
6. Else, the defendant is required to file a Written Statement within 90 days of the summons.
7. Proof-Affidavit is filed by the applicant.
8. A Hearing Date is set by the Registrar under the directions of the Presiding Officer.
9. A Stay Petition may be served by the defendant.
10. Counter-Proof Affidavit is filed by the defendants.
11. Final Hearings on the case will be done
12. The Final Order/Decree is made by the Presiding Officer.
13. A Recovery Certificate made by the Tribunal will be passed on to the Recovery Officer of the Tribunal who has the responsibility of recovering the amount and hand it over to the bank.

5.10. Facts Concerning Procedure Followed by the DRT

- On receipt of an application, the Tribunal shall issue summons, requiring the defendant to show cause within 30 days of the service of summons as to why the relief prayed for should not be granted. S.19 (4).
- A Counter-claim can be filed by the applicant through a written statement against the application and the acts of the applicant, attached with the necessary documents of evidentiary value.
- Sec.19 (12) - The Tribunal shall give an interim order in the form of an injunction, stay or attachment.
- The tribunal can appoint a Receiver.

Section 19 of the RDB Act clearly lines up the procedure to be followed - initially by the applicant and then by the Tribunal in the process of dispensing cases.

5.11. Debt Recovery Appellate Tribunal

The Debt Recovery Appellate Tribunal (DRAT) is also established as a result of the Recovery of Debts due to Banks and Financial Institutions Act, 1993. The DRAT has the appellate jurisdiction on all matters concerning the recovery of debts in India. There are currently 5 DRATs in India. They are in Mumbai, Delhi, Chennai, Kolkata and Allahabad. The Judge in a DRAT is addressed as Chairperson. An appeal can be made against a decision by the DRT within 45 days from the date of passing of the decree, by depositing 75 per cent of the claim or any such amount as fixed by the DRT.

5.12. Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002

It is the SARFAESI Act that brought a greater change in the debt recovery scenario in the country. One of the important changes that SARFAESI has brought is that it allowed the banks (according to Sec.13.4 SARFAESI) to take over possession from the defaulter, without going through the stringent court procedure, once the loan account has been categorised as a Non-Performing Asset.

The SARFAESI Act allows the Secured Creditor to sell or lease the secured asset, or appoint a Receiver to take care of the asset which is classified as a NPA. The bank can take the possession of the secured asset within 60 days of serving the notice to the defaulter with the assistance of the Chief Judicial Magistrate. Under the SARFAESI, if the loan account has been classified as a NPA, the authorised officer from the bank can start the proceedings. The bank can demand the full loan amount be repaid along with interest payments, even if the

borrower has agreed to pay the overdue amount. Rather than regularising the account, the bank seeks that the entire amount be payable and the bank advances are always repayable on demand. But, nothing can stop the bank from halting the proceedings and continuing with the loan account if it has been regularised by the borrower by paying the over-due amount. The SARFAESI Act is applicable for all the Scheduled Commercial Banks. However, Cooperative Banks are not allowed to invoke their powers using SARFAESI after a Supreme Court ruling.⁵

An Amendment was made to the Act, which entitled the borrower to make an application of objection to the authorized officer of the bank before the 60 day notice period allowed by the bank. Supreme Court in *Mardia Chemicals Case*⁶ upheld the Constitutional validity of SARFAESI Act but struck down Sec 17(2) of the Act which provided for the deposit of 75 per cent of the claim before the appeal is admitted by the Tribunal.

After the Supreme Court verdict, an amendment was made to the SARFAESI Act. According to this amendment, the Secured Creditor may be able to take over the possession of the property only if the reasons for non-acceptance of the objection raised by the borrower are furnished to him. If an asset has been taken over by the bank, then an application can be placed before the DRT without any deposits.

The Apex Court also held that the Secured Creditor hear the objection of the defendant or borrower and the reasons for the non-acceptance of the objection be communicated to the defendant.

On receipt of the application of objection, the bank has to reply back, within seven days to the borrower/defaulters explaining why the charges mounted shall persist. However, if the objection is rejected by the bank, the borrower/defaulters is free to approach the High Court by invoking Article 227 of the Constitution. If the rejection to the objection made by the bank is proper and satisfies the Writ Court, then the High Court may reject the writ application.

If the total due amount is not realised by the sale of the secured asset, then the secured creditor is allowed to approach the Debt Recovery Tribunal.

⁵ Greater Bombay Cooperative Bank Ltd. v. United Yarn Tex. Pvt. Ltd. and Ors. 2007 AIR SCW 232

⁶ *Mardia Chemicals Ltd. Etc. Etc vs U.O.I. & Ors. Etc. Etc* 2004. SCC 311

5.13. Types of Applications

Original Application (OA): Original Application is filed by the banks (in their name) with a DRT. The case against a defaulter is brought initially in a DRT using the OA.

Securitisation Application (SA): The Securitisation Application was created after the enactment of SARFAESI Act. SA is filed by the borrower (either in the name of the borrower or in the name of the advocate representing the former).

5.14. Comparison of a DRT with a Civil Court

For the purpose of an in-depth understanding of the Debt Recovery Tribunal, it is necessary to compare the functioning of a DRT with an ordinary Civil Court. Before establishment of DRTs, all asset-recovery cases had to be taken up by the civil courts.

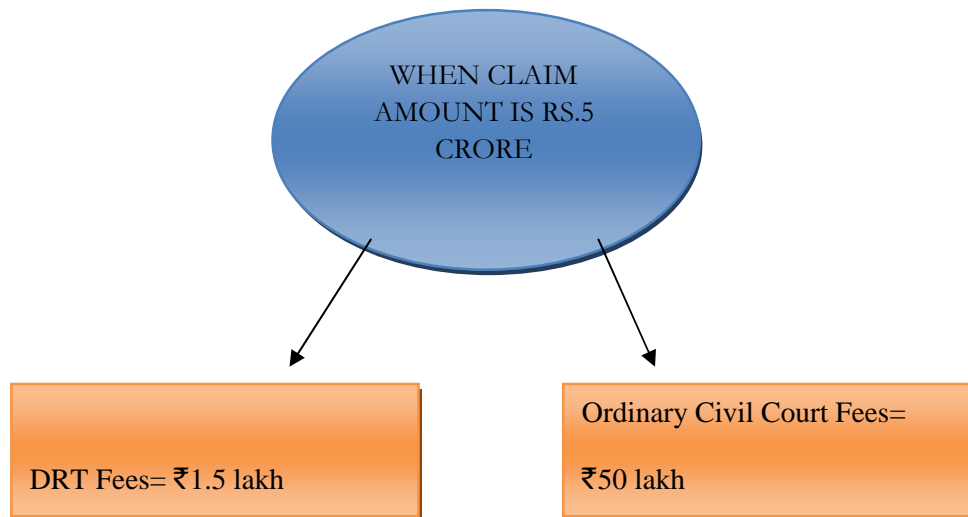
The following table will show the differences between the DRTs and the ordinary Civil Courts.

Table 1: Difference between Debt Recovery Tribunal and an Ordinary Civil Court

<i>Sl.No</i>	<i>Categories of Difference</i>	<i>Debt Recovery Tribunal</i>	<i>Ordinary Civil Court</i>
1.	Procedure	Easy It is easy to file an application with a DRT. The absence of delays in filing an application makes it easy for the parties in filing a case in DRT.	Comparatively difficult Civil Courts having jurisdiction in many matters other than cases concerning recovery of debts. Hence it takes a very long time to file applications.
2.	Court Fees	Cheap The maximum amount the Tribunal can extract as fees is ₹1,50,000 and the minimum amount is ₹12000. After ₹10 lakh, each lakh will add ₹1000 in the fees.	Depends on the amount of claim involved The fees are determined as a percentage of the total claim. Fees differ between different Civil Courts. The fees for claims exceeding ₹50 lakh will

			exceed the maximum fees fixed by the DRT.
3.	Time	Less Time Main objective of the Tribunal is to assure speedy recovery proceedings and expeditious adjudication of asset-recovery cases	Takes a lot of time The Civil Court due to the huge pendency of cases took long time to dispense justice in the debt-recovery issues.
4.	Refund	Refund of the Court Fee is not possible in a DRT	The Civil Court allows court fee refunds at certain occasions.

Chart 4: How Fees Change in Case of DRT and a Civil Court



The chart above clearly shows the degree of difference that will come in fees for a Civil Court and a DRT Court.

5.15. Background Facts

The banking sector in our country is challenged by the increasing Non-Performing Assets. The NPA of Public Sector Banks (PSB) has increased 30.1 per cent to ₹57,301 crore in 2009-10 from ₹44,039 crore in 2008-09 (Reserve Bank of India, 2010). Despite the existence of various methods for debt-recovery, NPAs have been shooting up. There is an increase in the *Gross NPA as per cent to Gross Advances* of the public-sector banks, i.e., from 1.97 per cent in 2008-09 to 2.19 per cent in 2009-10. The RBI has expressed its concern over the t the

mounting of NPA. “Management of NPAs by banks remains an area of concern, particularly, due to the likelihood of deterioration in the quality of restructured advances,” RBI stated in its annual report *The Trend and Progress of Banking in India 2010*. Apart from the increase in NPA ratio, there was also deterioration in the distribution of NPAs of commercial banks between 2009 and 2010. This was evident from an increase in the percentage of loss-making and doubtful assets of scheduled commercial banks (SCBs), which represented the lower end of the NPA spectrum. The shift in the distribution of NPAs in favour of doubtful and loss-making assets was more prominent in the case of foreign and new private sector banks as compared to public sector banks.

Although the DRTs were established for expedient tackling of the problem of NPAs and speedy disposal of debt-recovery cases, it has been identified that even in DRTs cases are dragging on for extended periods of time. Legal officers of both the banks included in the study stated that cases ran for a very long period time in Ernakulam Debt Recovery Tribunal. It is the Supreme Court’s mandate that the Original Application has to be settled within a span of 6 months from the date on which the application has been accepted by the Tribunal. The Securitisation Application (SA) has to be settled within 2 to 4 months.⁷

However, the Ernakulam DRT has not been able to follow the Apex court’s direction owing to the volume of cases it has to deal with. On an average each case runs for 2 years.⁸ The bank officials estimated that about 10 per cent of the total OA applications become ex-parte.⁹

“Many advocates exploit the loopholes of the Act, and plead for stays and injunctions which they easily achieve. This further adds to the piling up of cases,” the Legal Officer of the bank remarked. He added that the Tribunal has to be strict in scrutinising the Stay Petitions.

A bank official who was interviewed said that it takes three months to just number the Original Application and record it. The Tribunal in Kerala, as he said, faces a problem of serious staff shortage. This was confirmed by a lawyer¹ who opined that the DRT Ernakulam needs at least 20 more members on its staff. He added that cases initiated in 2002 are still not done with.

It has been found that the defaulters turning up before the Tribunals are SMEs and Individuals. Commercial and Housing loans show the maximum number of payment defaults.¹⁰

⁷ Section 17(5) of the SARFAESI Act

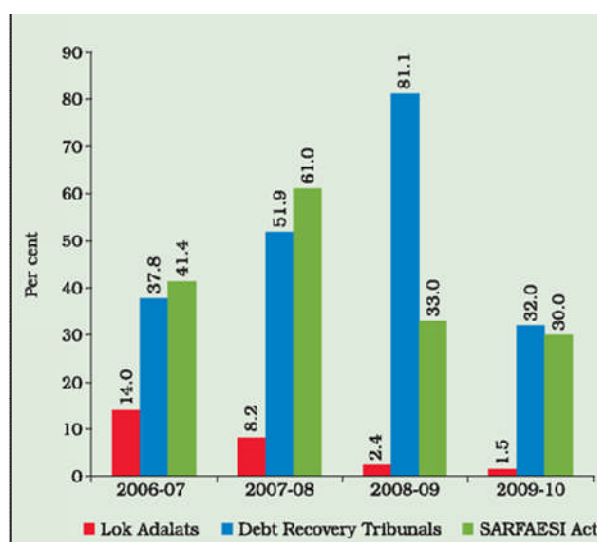
⁸ An excerpt from a personal interview conducted with a bank’s Legal Officer on December 8, 2010.

⁹ An excerpt from a personal interview conducted with a DRT official on December 8, 2010.

¹⁰ An excerpt from a personal interview conducted with a bank’s Legal Officer on December 8, 2010.

The maximum number of commercial loan defaulters is in Ernakulam district due to the density of the SMEs and also due to the accessibility of commercial loans in the district.

Chart 5: Amount of NPAs recovered as per cent of NPAs involved under various recovery channels



Source: Reserve Bank of India

5.16. Figures

The Chart 5 shows that DRTs have been very fruitful in recovering claims. The figure of the claims involved with DRT gradually increased from the FY of 2006-07 to 2008-09, i.e. for three consecutive years till the FY 2009-10 which showcased a steep fall in the recoveries through DRT. The year characterises a general fall in the recovery of secured assets using all the methods of recoveries available for banks and financial institutions.

Recoveries through Lok Adalats have shown a constant fall since FY 2006 -07. This shows that neither Tribunals¹¹ nor banks prefer Lok Adalats.

It has been a close race between SARFAESI Act and DRTs in picking up the largest share of contribution to the banks in recovery criteria. The direct act of taking possession of the secured asset of the defaulter is still the preferred method for banks in India.

Table 2: AN ANALYSIS OF THE EFFICIENCY OF the DEBT RECOVERY TRIBUNAL (By studying the disposal-rate of the applications filed in a year)

¹¹ DRT in certain cases refer cases to Lok Adalats.

<i>Sl. No</i>	<i>Total number of OA (Original Applications) filed in 2010</i>	<i>Number of OA (Original Applications) disposed in 2010</i>	<i>Percentage of Column 2 to Column 1</i>
1.	502 Nos.	312 Nos.	62.151%
	<i>Total number of SA (Securitization Applications) filed in 2010</i>	<i>Number of SA (Securitization Applications) disposed in 2010</i>	<i>Percentage of Column 2 to Column 1</i>
2.	730 Nos.	287 Nos.	39.31%
	<i>Total number of Appeals filed in 2010</i>	<i>Number of Appeals disposed in 2010</i>	<i>Percentage of Column 2 to Column 1</i>
3.	41 Nos.	11 Nos.	26.82%

Source: Compiled following details received from DRT Ernakulam officials.

The table above shows how efficiently the Debt Recovery Tribunals are functioning.

We take a disposal rate 70 per cent as the benchmark. By analysing the data given above, we can make a formulation that the Tribunal's performance is mediocre in disposing Original Applications. Only 62 per cent of the Original Applications have been disposed. The disposal rate of OA can be termed satisfactory when we compare it with that of Securitisation Application and that of Appeals. The rate of disposal of Securitisation Applications as well as Appeals is way below optimum.

5.17. Role of Lok Adalats in Asset Recovery

Lok Adalats formed as under Legal Service Authority Act, 1987 provide a means by which banks can be assured of asset-recovery. Banks, apart from fighting it out in the Tribunal also try to engage in out-of court settlements. At times, it is the Tribunal itself that refers the case to the Lok Adalat. The Lok Adalats are conducted by the State Legal Service Authorities for ensuring speedy settlement. To understand the effectiveness of Lok Adalats in the debt-recovery scenario, data was collated from the Kerala State Legal Service Authority (KELSA).

In the year 2010, Lok Adalats were constituted two times- In February-March and in November in Ernakulam.

The following are the details of the cases disposed and taken up by the Lok Adalat.

Table 3: Table indicating the number of cases taken up and settled by Lok Adalats

<i>Date</i>	<i>Number of Cases taken up by the Lok Adalat (1)</i>	<i>Number of Cases settled by the Lok Adalat (2)</i>	<i>Amount Awarded (3)</i>	<i>Percentage of Column 2 To Column 1 (4)</i>
20.2.2010&				
3.3.2010	44 Nos. (DRT)	20Nos.	Rs. 5.28 Crore	45.45%
	84 Nos. (HC+ DRT)	18 Nos.	Rs. 3.08 Crore	21.42%
6.11.2010				

<i>Date</i>	<i>Number of Pre-suits taken up by the Lok Adalat (1)</i>	<i>Number of Pre-suits settled by the Lok Adalat (2)</i>	<i>Amount Awarded (3)</i>	<i>Percentage of Column 2 To Column 1 (4)</i>
20.2.2010&				
3.3.2010	8 Nos.	5 Nos.	Rs.72.25 lakh	62.5%
6.11.2010	24 Nos.	9 Nos.	Rs.2.18 Crore	37.5%

Of the two Adalats conducted on three days, it has been identified that pre-suits got disposed more than the cases referred by the Tribunal and the High Court.¹²

The KELSA officer stated that banks are frequent in approaching Lok Adalats, but Adalats are constituted rarely. The officer added that a portion of the cases that have not been settled were due to the absence of one of the parties. Settlements could not be reached in some cases due to the obduracy of the involved parties.¹³

The interview with the Legal Officer of another bank, chosen for the study, quoted that almost 30-50 per cent of the total number of cases initiated by the bank in 2010 had a total claim amount of more than Rs.1 Crore. Out of the 41 OAs the bank filed in the DRT, only 15 were disposed. “About 15 per cent of the cases get set-aside, apart from the 10 per cent cases that become *ex-parte*”, she said. Out of the 33 cases referred to or applied as pre-suit to the Lok Adalat, 21 got settled in 2010.¹⁴ So, the rate of settlement of cases at the Lok Adalat for the chosen bank is better than the rate of disposal of Securitisation Application in a DRT and almost same as that of the Original Applications.

¹² The High Court can assume jurisdiction by invoking the Articles 226 & 227 of the Constitution.

¹³ Excerpts from a personal interview conducted with an officer with KELSA.

¹⁴ Till 2010 December. The status of other cases was unknown at the date of collection of data.

6. Findings

- **Huge Backlog of Cases in DRT**

A majority of the Original Applications made with the Debt Recovery Tribunals gets dragged for more than one year. They usually run for two to three years.¹⁵ There are some cases that have dragged on for more than three years.

Out of the total 1,243 applications (OA +SA +Appeals) filed in 2010, 610 were disposed. This would mean that disposal rate of the Tribunal is just below the half-way mark (49.07 per cent). According to an article in the Bangalore Mirror, 51 cases get disposed every month. The national average in monthly disposal rate is 50. DRT Kerala is just above the national average.

Since the establishment of the Debt Recovery Tribunal in Kerala in 1999, 4,620 OAs and 2,031 SAs have been filed. The bank officers and the advocates in the Tribunal estimated that since its inception, as on December 2010, around 2,000-2,200 cases would be pending with the Tribunal.¹⁶ By taking into consideration the disposal-rate that has been shown by the Tribunal in 2010, we can assume that around 1,600-1,800 OAs would be awaiting disposal before the Tribunal.¹⁷ The number of SAs pending could be between 1,200 and 1,300.

- **Shortage of Staff**

Advocates at the DRT and bank officials agreed that there is a dearth of staff at the DRT, Kerala. “Kerala DRT is short of at least 20 staff members now”, an exclusive DRT advocate said, who opined that the shortage also can be a reason for slow pace of matters in DRT.¹⁸

- **Approval for Stay Petitions**

Approval of stay-petitions without much examination can also be identified as a reason for delays in the cases. The Tribunal has granted petition for stay filed by the borrowers in a majority of the cases.¹⁹ Frequent adjournments, *ex-parte* stays are also responsible for the long delays in the proceedings. Parties also plead for more time for payment of the dues, which the Tribunal allows at times.

¹⁵ Generalizing from the opinions gathered through personal interviews with the stakeholders of DRT.

¹⁶ The exact figure of pending cases in the Debt Recovery Tribunal could not be collected.

¹⁸ Excerpts from a personal interview conducted with an exclusive DRT lawyer on December 17, 2010.

¹⁹ Excerpts from a personal interview conducted with a Bank’s Legal Officer on December 15, 2010.

A case was illustrated by the bank officer who was interviewed for the study. “Even to record a case three months were taken. For issuing summons another one month will be taken. And after the filing of Proof-Affidavit and Counter-Proof Affidavit, a date will be posted for initial hearing. There can be many Stay orders and Adjournments in the meantime. More than one hearing will take place. Time is lost here too. A final hearing will be fixed on a later date. Thus, it has become quite evident that more than six months will be taken to adjudicate a case.

The Bank has generally been unhappy with the functioning of Ernakulam Debt Recovery Tribunal.

6.1. Debt-recovery Cases at High Courts

High-Courts also can assume jurisdiction over debt-recovery cases by applying Articles 226 and 227 of the Constitution. Appeals against the orders of DRT are made in the High Court as well. It has been found that High Court Judges do not encourage debt-recovery cases and that the High Court refers the matter back to the DRT or if it is an appeal, to the Debt Recovery Appellate Tribunal.

7. Possible Solutions

7.1. Suggestions to Improve the Efficiency of the Debt Recovery Tribunal

- **Accountability**

High Courts do not have supervisory jurisdiction over the Debt Recovery Tribunal in the state. However a writ petition can be filed in the High Court against an order/decreed of the Debt Recovery Tribunal. So, as a matter of fact, the Debt Recovery Tribunal does not have any accountability what so ever to any public office. There is no mechanism in place to ensure that the cases at the Tribunal be disposed in a timely manner.

As a matter of fact, there is an added need for ensuring accountability for the Tribunal.

Given below are some suggestions to improve the system

- Publication of a report on the number of cases disposed and comparing it with the national average would encourage the Presiding Officer to adjudicate the matter quickly. J J Spigelman²⁰ (2001) in a paper states the judicial accountability by publication of pertinent information, by comparison with

²⁰Spigelman, J J, is the Chief Justice of New South Wales, Australia

other courts may assist courts to improve the efficiency of their own management and their internal planning.

- Performance indicators of the adjudicating officer may be used to improve the efficiency of the overall system.
- The task of reviewing the Annual Report of each Debt Recovery Tribunal should be given to the Debt Recovery Appellate Tribunal. DRAT has been identified as a competent body to review the efficiency of the Debt Recovery Tribunal, by perceiving that the review process will be done effectively only when it is carried out by a body which has inner knowledge of the Debt-Recovery Scenario in the country. The DRAT should look into the reason for the backlog of cases and see to it that the speedy recovery is assured.

- **Staffing**

The duty to appoint staff at the Tribunal lies with the Ministry of Finance. Timely appointments have to be made by the ministry to ensure smooth functioning of the Tribunal. Also, the ministry must ensure that only individuals with a fine understanding of the law and debt recovery scenario be appointed to key posts, such as the Registrar and Presiding Officer.

- **Close Examination of Stay Petitions**

Stay Petitions have to be analysed carefully before being accepted. Allowing Stay Petitions to a large number of the cases has been determined as one of the reasons for the piling up of cases in the DRT. Adjournment should also be strictly regulated. If the Debt Recovery Tribunals were to grant adjournments in the same manner as the Civil Courts, then the very purpose of setting up of the Debt Recovery Tribunals would be defeated.

- **Starting of More Than One DRT in Kerala**

The Ernakulam DRT has shown a disposal rate of almost 49 per cent. This would mean that the DRT is displaying a pendency rate of 51 per cent which is alarming. The RDB Act and SARFAESI Act have remained silent on the appointment of a 2nd Presiding Officer in a Debt Recovery Tribunal. No other DRT in India has more than one Presiding Officer. Appointment of more than one Presiding Officer in Ernakulam would be a plausible option since starting of one more DRT would cost the exchequer dearly. In Central Administrative Tribunals in India, there is more than one Judge who adjudicate the

7.2. Suggestions to Improve the Debt Recovery Scenario in the Country

7.2.1. Time Bound Disposal of Cases

Though the Court has to dispose an OA within six months, and a SA within two months from the date of its admission, this has not been followed by the Tribunals in India in many situations.

The government has to make sure that time-bound disposal of the cases is done mandatorily by adding the clause in the Act and making it a law. Even though the SARFAESI Act has mandated the Debt Recovery Tribunals to settle the Original Applications within six months, this is not obeyed strictly. Efforts have to be taken to ensure this.

8. Conclusion

From the study conducted it has been ascertained that the cases get delayed inordinately in a Debt Recovery Tribunal much against the spirit and motive of its very establishment. Banks have expressed their dissatisfaction with the system that was instituted to ensure speedy recovery. The number of claims in litigation is quite large and changes should be made urgently to revamp the existing model. Unless the system is overhauled, the rate of pendency at the Tribunal will rise unrestrained. Such a state of affairs will seriously put the banking system in doldrums.

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Appendix

Table 4: Trends in Non-performing Assets - Bank Group-wise

(All amounts in crore rupees)

Item	Public sector banks	Nationalised banks	SBI Group	Private sector banks	Old private sector banks	New private sector banks	Foreign banks	Scheduled commercial banks
1	2	3	4	5	6	7	8	9
Gross NPAs								
Closing balance for 2008-09	44,957	26,543	18,413	16,926	3,072	13,854	6,444	68,328
Opening balance for 2009-10	44,957	26,543	18,413	16,889	3,072	13,817	6,437	68,283
Addition during 2009-10	44,818	29,701	15,116	11,651	2,833	8,817	9,205	65,674
Recovered during 2009-10	26,946	18,966	7,980	6,498	1,686	4,811	5,513	38,957
Written off during 2009-10	2,902	884	2,017	4,402	597	3,805	2,948	10,253
Closing balance for 2009-10	59,926	36,395	23,532	17,639	3,622	14,017	7,180	84,747
Gross NPAs as per cent of Gross Advances								
2008-09	1.97	1.73	2.46	2.89	2.36	3.05	3.80	2.25
2009-10	2.19	1.95	2.70	2.74	2.32	2.87	4.29	2.39
Net NPAs								
Closing balance for 2008-09	21,155	10,286	10,869	7,412	1,159	6,252	2,996	31,564
Closing balance for 2009-10	29,644	16,813	12,831	6,506	1,271	5,234	2,975	39,126
Net NPAs as per cent of Net Advances								
2008-09	0.94	0.68	1.47	1.29	0.90	1.40	1.81	1.05
2009-10	1.10	0.91	1.50	1.03	0.83	1.09	1.82	1.12
<p>Note: 1) Closing balance for 2008-09 does not match with opening balance for 2009-10 for private sector and foreign banks as some of these banks have reported opening balance for NPAs after reducing interest suspense from the closing balance of NPAs of the previous year in accordance with the RBI circular <DBOD.No.BP.BC.46/21.04.048/2009-10> dated September 24, 2009.</p> <p>2) *- Includes IDBI Bank Ltd.</p> <p>Source: Balance Sheets of respective banks.</p>								

Source: Reserve Bank of India

**Table 5: Classification of Loan Assets - Bank Group-wise
(At end March 2010)**

(All amounts in crore rupees)

Bank group	Year	(Amount in T crore)							
		Standard assets		Sub-standard assets		Doubtful assets		Loss assets	
		Amount	Per cent *	Amount	Per cent *	Amount	Per cent *	Amount	Per cent *
1	2	3	4	5	6	7	8	9	10
1 Public sector banks	2009	22,37,556	97.99	20,603	0.90	21,019	0.92	4,296	0.19
	2010	26,73,534	97.81	28,791	1.05	25,383	0.93	5,750	0.21
1.1 Nationalised banks	2009	15,08,798	98.25	11,086	0.72	13,306	0.87	2,412	0.16
	2010	18,27,061	98.05	18,520	0.99	15,034	0.81	2,841	0.15
1.2 SBI Group	2009	7,28,758	97.44	9,517	1.27	7,713	1.03	1,884	0.25
	2010	8,46,473	97.30	10,271	1.18	10,349	1.19	2,909	0.33
2 Private sector banks	2009	5,68,093	97.10	10,592	1.81	5,035	0.86	1,345	0.23
	2010	6,26,472	97.27	8,842	1.37	6,590	1.02	2,166	0.34
2.1 Old private sector banks	2009	1,27,280	97.64	1,334	1.02	1,327	1.02	411	0.32
	2010	1,52,745	97.69	1,395	0.89	1,637	1.05	580	0.37
2.2 New private sector banks	2009	4,40,813	96.94	9,258	2.04	3,708	0.82	934	0.21
	2010	4,73,727	97.13	7,447	1.53	4,953	1.02	1,586	0.33
3 Foreign banks	2009	1,62,422	95.70	5,874	3.46	1,004	0.59	416	0.25
	2010	1,60,311	95.74	4,929	2.94	1,440	0.86	758	0.45
Scheduled commercial banks	2009	29,68,070	97.69	37,069	1.22	27,058	0.89	6,056	0.20
	2010	34,60,318	97.61	42,561	1.20	33,412	0.94	8,674	0.24

Note: 1) Constituent items may not add up to the total due to rounding off.
2) * : As per cent to total advances.
3) **: Includes IDBI Bank Ltd.

Source : DSB Returns (BSA) submitted by respective banks.

Source: Reserve Bank of India

Table 6: Sector-wise NPAs of Domestic Banks*
(As at end March 2010)

(All amounts in crore rupees)

Bank group	Priority sector		Of which Agriculture industries		Of which, Small scale		Of which, Others		Public sector		Non-priority sector		Total NPAs	
	Amt.	Per cent	Amt.	Per cent	Amt.	Per cent	Amt.	Per cent	Amt.	Per cent	Amt.	Per cent	Amt.	Per cent
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Public sector banks													
2009	24,318	55.2	5,708	13.0	6,984	15.9	11,626	26.4	474	1.1	19,251	43.7	44,042	100.0
2010	30,848	53.8	8,330	14.5	11,537	20.1	10,981	19.2	524	0.9	25,929	45.3	57,301	100.0
	Nationalised banks													
2009	15,871	60.6	3,707	14.2	4,958	18.9	7,206	27.5	297	1.1	10,001	38.2	26,169	100.0
2010	19,908	56.1	5,741	16.2	8,668	24.4	5,499	15.5	280	0.8	15,283	43.1	35,470	100.0
	SBI group													
2009	8,447	47.3	2,001	11.2	2,026	11.3	4,420	24.7	177	1.0	9,250	51.8	17,874	100.0
2010	10,940	50.1	2,589	11.9	2,869	13.1	5,482	25.1	244	1.1	10,646	48.8	21,831	100.0
	Private sector banks													
2009	3,641	21.6	1,441	8.5	666	3.9	1,533	9.1	75	0.4	13,172	78.0	16,888	100.0
2010	4,792	27.6	2,023	11.6	1,139	6.6	1,630	9.4	-	-	12,592	72.4	17,384	100.0
	Old private sector banks													
2009	1,234	40.2	263	8.6	303	9.9	667	21.7	-	-	1,839	59.8	3,072	100.0
2010	1,613	44.7	269	7.4	475	13.2	869	24.1	-	-	1,999	55.3	3,612	100.0
	New private sector banks													
2009	2,407	17.4	1,178	8.5	363	2.6	866	6.3	75	0.5	11,334	82.0	13,815	100.0
2010	3,179	23.1	1,754	12.7	664	4.8	760	5.5	-	-	10,594	76.9	13,772	100.0
	All domestic SCBs													
2009	27,958	45.9	7,149	11.7	7,650	12.6	13,159	21.6	549	0.9	32,423	53.2	60,930	100.0
2010	35,640	47.7	10,353	13.9	12,676	17.0	12,611	16.9	524	0.7	38,522	51.6	74,685	100.0
Note:	1) * : Excluding foreign banks.													
	2) - : Nil/negligible													
	3) Amt. – Amount; Per cent – Per cent of total NPAs.													
	4) **- includes IDBI Bank Ltd.													

Source: Reserve Bank of India

Table 7: NPAs of SCBs recovered through various channels

(All amounts in crore rupees)

Recovery channel	2008-09				2009-10			
	No. of cases referred	Amount involved	Amount recovered*	Col. (4) as % of Col. (3)	No. of cases referred	Amount involved	Amount recovered*	Col.(8) as % of Col.(7)
1	2	3	4	5	6	7	8	9
i) Lok Adalats	5,48,308	4,023	96	2.4	7,78,833	7,235	112	1.5
ii) Debt Recovery Tribunals	2,004	4,130	3,348	81.1	6,019	9,797	3,133	32.0
iii) SARFAESI Act	61,760 [#]	12,067	3,982	33.0	78,366 [#]	14,249	4,269	30.0

Note: 1) *: Refers to amount recovered during the given year, which could be with reference to cases referred during the given year as well as during the earlier years.
2) #: Number of notices issued.

Source: Reserve Bank of India

Table 8: Non-Performing Assets of Public Sector Performing Assets of Public Sector Banks
(As at end March 2010)

(All amounts in crore rupees)

															(Amount in ₹ crore)
Sr. No.	Name of the Bank	Priority Sector NPAs		Of which, Agriculture		Of which, Small Scale Industries		Of which, Others		Public Sector NPAs		Non-Priority Sector NPAs		Total NPAs	
		Amount	Per cent to total	Amount	Per cent to total	Amount	Per cent to total	Amount	Per cent to total	Amount	Per cent to total	Amount	Per cent to total		
														15 = (3+11+13)	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	
	Public Sector Banks	30,848	53.8	8,330	14.5	11,537	20.1	10,981	19.2	524	0.9	25,929	45.3	57,301	
	Nationalised Banks	19,908	56.1	5,741	16.2	8,668	24.4	5,499	15.5	280	0.8	15,283	43.1	35,470	
1.	Allahabad Bank	713	58.4	215	17.6	311	25.4	187	15.3	119	9.8	389	31.9	1,221	
2.	Andhra Bank	218	44.7	26	5.4	66	13.5	126	25.9	-	-	270	55.3	488	
3.	Bank of Baroda	1,444	65.8	636	29.0	530	24.1	279	12.7	85	3.9	667	30.4	2,196	
4.	Bank of India	2,147	47.9	490	10.9	1,360	30.4	297	6.6	18	0.4	2,317	51.7	4,481	
5.	Bank of Maharashtra	795	65.7	232	19.2	363	30.0	200	16.6	-	-	415	34.3	1,210	
6.	Canara Bank	1,423	56.8	462	18.4	394	15.7	568	22.7	-	-	1,081	43.2	2,505	
7.	Central Bank of India	1,658	67.5	421	17.1	922	37.5	315	12.8	8	0.3	792	32.2	2,458	
8.	Corporation Bank	398	61.1	122	18.7	79	12.1	197	30.3	-	-	253	38.9	651	
9.	Dena Bank	379	59.0	83	13.0	74	11.5	222	34.6	-	-	263	41.0	642	
10.	Indian Bank	249	54.2	55	12.0	163	35.5	31	6.7	-	-	210	45.8	459	
11.	Indian Overseas Bank	1,192	34.6	276	8.0	606	17.6	310	9.0	2	-	2,248	65.3	3,442	
12.	Oriental Bank of Commerce	911	62.0	276	18.8	385	26.2	250	17.0	-	-	558	38.0	1,469	
13.	Punjab and Sind Bank	138	67.1	42	20.4	85	41.2	11	5.5	-	-	68	32.9	206	
14.	Punjab National Bank	2,471	76.9	977	30.4	1,165	36.3	328	10.2	4	0.1	739	23.0	3,214	
15.	Syndicate Bank	1,091	54.4	176	8.8	238	11.9	677	33.8	12	0.6	902	45.0	2,005	
16.	UCO Bank	976	58.6	289	17.4	339	20.4	348	20.9	15	0.9	674	40.5	1,665	
17.	Union Bank of India	1,632	61.3	369	13.9	895	33.6	367	13.8	-	-	1,032	38.7	2,664	
18.	United Bank of India	894	65.1	204	14.9	283	20.6	407	29.6	-	-	478	34.9	1,372	
19.	Vijaya Bank	394	39.6	93	9.4	190	19.1	110	11.1	17	1.7	583	58.7	994	
20.	IDBI Bank Ltd.	785	36.9	297	13.9	221	10.4	267	12.6	-	-	1,344	63.1	2,129	
	State Bank Group	10,940	50.1	2,589	11.9	2,869	13.1	5,482	25.1	244	1.1	10,646	48.8	21,831	
21.	State Bank of Bikaner and Jaipur	269	43.9	7	1.1	124	20.2	139	22.6	-	-	343	56.1	612	
22.	State Bank of Hyderabad	290	44.9	55	8.4	102	15.8	134	20.7	-	-	356	55.1	646	
23.	State Bank of India	9,073	50.9	2,322	13.0	2,168	12.2	4,583	25.7	235	1.3	8,529	47.8	17,836	
24.	State Bank of Indore	210	42.6	19	3.8	57	11.6	134	27.1	-	-	283	57.4	493	
25.	State Bank of Mysore	291	49.0	43	7.2	120	20.1	129	21.6	3	0.5	301	50.5	595	
26.	State Bank of Patiala	543	54.0	119	11.8	212	21.1	212	21.1	-	-	463	46.0	1,007	
27.	State Bank of Travancore	264	41.1	25	3.8	87	13.6	152.00	23.7	6	1.0	372	57.9	642	

-: Nil/Negligible.

Source : Off-site returns (domestic).

Source: Reserve Bank of India

**Table 9: Non-Performing Assets of Private Sector Banks - Sector wise
(As at end March
2010)**

(All amounts in crore rupees)

(As at end-March 2010)														
														(Amount in ₹ crore)
Sr. No.	Name of the Bank	Priority Sector NPAs		Of which, Agriculture		Of which, Small Scale Industries		Of which, Others		Public Sector NPAs		Non-Priority Sector NPAs		Total NPAs
		Amount	Per cent to total	Amount	Per cent to total	Amount	Per cent to total	Amount	Per cent to total	Amount	Per cent to total	Amount	Per cent to total	Amount
														15 = (3+11+13)
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Private Sector Banks	4,792	27.6	2,023	11.6	1,139	6.6	1,630	9.4	-	-	12,592	72.4	17,384
	Old Private Sector Banks	1,613	44.7	269	7.4	475	13.2	869	24.1	-	-	1,999	55.3	3,612
1.	Bank of Rajasthan Ltd.	61	20.9	7	2.5	42	14.4	12	4.1	-	-	232	79.1	294
2.	Catholic Syrian Bank Ltd.	62	41.7	7	4.6	32	21.4	23	15.7	-	-	87	58.3	149
3.	City Union Bank Ltd.	41	44.2	16	17.1	9	9.7	16	17.3	-	-	52	55.8	94
4.	Dhanalakshmi Bank Ltd.	35	45.6	4	5.3	6	7.3	26	33.0	-	-	42	54.4	78
5.	Federal Bank Ltd.	440	53.6	65	8.0	18	2.2	356	43.4	-	-	381	46.4	821
6.	ING Vysya Bank Ltd.	65	29.2	36	16.1	23	10.3	6	2.8	-	-	159	70.8	224
7.	Jammu and Kashmir Bank Ltd.	286	61.8	32	7.0	54	11.7	199	43.2	-	-	176	38.2	462
8.	Karnataka Bank Ltd.	324	59.0	51	9.2	172	31.2	102	18.6	-	-	225	41.0	550
9.	Karur Vysya Bank Ltd.	68	29.0	7	2.9	53	22.7	8	3.4	-	-	167	71.0	235
10.	Lakshmi Vilas Bank Ltd.	58	17.8	10	3.1	15	4.5	33	10.1	-	-	267	82.2	325
11.	Nainital Bank Ltd.	17	73.4	8	34.9	2	9.2	7	29.4	-	-	6	26.6	23
12.	Ratnakar Bank Ltd.	18	65.0	2	8.6	10	35.6	6	20.8	-	-	10	35.0	28
13.	SBI Commercial and International Bank Ltd.	2	62.4	-	-	-	-	2	62.4	-	-	1	37.6	3
14.	South Indian Bank Ltd.	88	41.7	12	5.7	27	12.9	49	23.0	-	-	123	58.3	211
15.	Tamilnad Mercantile Bank Ltd.	46	40.2	10	9.0	12	10.6	24	20.6	-	-	69	59.8	115
	New Private Sector Banks	3,179	23.1	1,754	12.7	664	4.8	760	5.5	-	-	10,594	76.9	13,772
16.	Axis Bank Ltd.	528	40.8	248	19.1	140	10.8	141	10.9	-	-	767	59.2	1,295
17.	Development Credit Bank Ltd.	68	21.2	14	4.3	52	16.2	3	0.8	-	-	251	78.8	319
18.	HDFC Bank Ltd.	400	22.1	110	6.1	276	15.3	14	0.8	-	-	1,407	77.9	1,807
19.	ICICI Bank Ltd.	1,946	21.0	1303	14.1	50	0.5	593	6.4	-	-	7,321	79.0	9,267
20.	IndusInd Bank Ltd.	84	33.0	31	12.0	46	18.1	8	3.0	-	-	171	67.0	255
21.	Kotak Mahindra Bank Ltd.	152	-	49	6.5	100	13.0	2	0.3	-	-	616	80.2	767
22.	Yes Bank Ltd.	-	-	-	-	-	-	-	-	-	-	60	100.0	60

-: Nil/Negligible.

Source : Off-site returns (domestic).

Source: Reserve Bank of India

**Table 10: Non-Performing Assets of Foreign Banks - Sector wise
(As at end March
2010)**

(All amounts in crore rupees)

(As at end-March 2010)															(Amount in ₹ crore)
Sr. No.	Name of the Bank	Priority Sector NPAs		Of which, Agriculture		Of which, Small Scale Industries		Of which, Others		Public Sector NPAs		Non-Priority Sector NPAs		Total NPAs	
		Amount	Per cent to total	Amount	Per cent to total	Amount	Per cent to total	Amount	Per cent to total	Amount	Per cent to total	Amount	Per cent to total	15 = (3+11+13)	
1	Foreign Banks	1170	16.4	-	-	299	4.2	871	12.2	-	-	5956	83.6	7,125	
1.	AB Bank Ltd.	-	-	-	-	-	-	-	-	-	-	-	-	-	
2.	Abu Dhabi Commercial Bank Ltd.	5	35.6	-	-	5	35.6	-	-	-	-	9	64.4	14	
3.	American Express Banking Corp.	-	-	-	-	-	-	-	-	-	-	17	100.0	17	
4.	Antwerp Diamond Bank NV	100	100.0	-	-	49	49.6	50	50.4	-	-	-	-	100	
5.	BNP Paribas	1	0.7	-	-	-	-	1	0.7	-	-	68	99.3	68	
6.	Bank of America N.T. & S.A.	-	-	-	-	-	-	-	-	-	-	1	100.0	1	
7.	Bank of Bahrain & Kuwait B.S.C.	-	-	-	-	-	-	-	-	-	-	13	100.0	13	
8.	Bank of Ceylon	1	46.4	-	-	1	31.9	0	14.4	-	-	1	53.6	2	
9.	Bank of Nova Scotia	10	100.0	-	-	10	100.0	0	0	-	-	-	-	10	
10.	Barclays Bank PLC	124	8.7	-	-	103	7.3	20	1.4	-	-	1,298	91.3	1,422	
11.	Chinatrust Commercial Bank	-	-	-	-	-	-	-	-	-	-	3	100.0	3	
12.	Citibank N.A.	46	3.6	-	-	-	-	46	3.6	-	-	1,230	96.4	1,275	
13.	Commonwealth Bank of Australia	-	-	-	-	-	-	-	-	-	-	-	-	-	
14.	Credit Agricole Corporate and Investment	-	-	-	-	-	-	-	-	-	-	277	100.0	277	
15.	Deutsche Bank (Asia)	14	5.4	-	-	8	2.9	7	2.5	-	-	247	94.6	261	
16.	Development Bank of Singapore Ltd	-	-	-	-	-	-	-	-	-	-	76	100.0	76	
17.	FirstRand Bank	-	-	-	-	-	-	-	-	-	-	0	0.0	0	
18.	HSBC Ltd.	484	28.7	-	-	122	7.3	361	21.5	-	-	1,200	71.3	1,683	
19.	JPMorgan Chase Bank	-	-	-	-	-	-	-	-	-	-	95	100.0	95	
20.	JSC VTB Bank	-	-	-	-	-	-	-	-	-	-	0	0.0	0	
21.	Krung Thai Bank Public Co. Ltd.	-	-	-	-	-	-	-	-	-	-	0	0.0	0	
22.	Mashreqbank PSC	0.0	87.5	-	-	-	12.5	0	75.0	-	-	0	12.5	0	
23.	Mizuho Corporate Bank Ltd.	6	100.0	-	-	-	-	6	100.0	-	-	0	0.0	6	
24.	Oman International Bank S.A.O.G.	-	-	-	-	-	-	-	-	-	-	0	0.0	0	
25.	Shinhan Bank	-	-	-	-	-	-	-	-	-	-	0	0.0	0	
26.	Societe Generale	1	100.0	-	-	-	-	1	100.0	-	-	0	0.0	1	
27.	Sonali Bank	-	-	-	-	-	-	-	-	-	-	1	100.0	1	
28.	Standard Chartered Bank	351	32.0	-	-	1	0.1	350	32.0	-	-	745	68.0	1,096	
29.	State Bank of Mauritius Ltd.	-	-	-	-	-	-	-	-	-	-	19	100.0	19	
30.	The Bank of Tokyo-Mitsubishi UFJ,Ltd.	-	-	-	-	-	-	-	-	-	-	0	0.0	0	
31.	The Royal Bank of Scotland N V	28	4.1	-	-	-	-	28	4.1	-	-	657	95.9	685	
32.	UBS AG	-	-	-	-	-	-	-	-	-	-	-	-	-	

-: Nil/Negligible.

Note: In case of sector-wise gross NPAs of foreign banks, export trade have been added to NPAs of other priority sectors and non priority sector NPAs have been adjusted accordingly. Source: Off-site returns (domestic).

Source: Reserve Bank of India

Table 11: Court Fees to be paid in Debt Recovery Tribunal

Sl No.	Nature of Application	Amount of Fee payable
1.	Application for recovery of debts due under section 19(1) or section 19(2) of the Act (a) Where amount of debt due is Rs 10 lakh (b) Where the amount of debt due is above ₹. 10 lakh	₹. 12 000/- ₹. 12 000/- plus ₹. 1 000/- for every one lakh rupees of debt due or part thereof in excess of ₹. 10/- lakh subject to a maximum of ₹. 1 50 000/-
2.	Application to counter claim under section 19(8) of the Act-- (a) Where the amount of claim made is up to ₹. 10 lakh (b) Where the amount of claim made is above ₹. 10 lakh	₹. 12 000/- ₹. 12 000/- plus ₹. 1 000/- for every one lakh rupees or part thereof in excess of ₹. 10 lakh subject to a maximum of ₹. 1 50 000/-.
3.	Application for Review including review application in respect of the counter claim (a) against an interim order (b) against a final order excluding review for correction of clerical or arithmetical mistakes	₹. 125/- -50% of fee payable at rates as applicable on the applications under section 19(1) or 19(8) of the Act subject to a maximum of ₹. 15 000/-
4.	Application for interlocutory order	₹. 250/-
5.	Appeals against orders of the Recovery Officer If the amount appealed against is (i) less than ₹. 10 lakh (ii) ₹. 10 lakh or more but less than Rs. 30 lakh (iii) ₹. 30 lakh or more	₹. 12 000/- ₹. 20 000/- ₹. 30 000
6.	Vakalatnama	₹. 5/-