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THE INSOLVENCY AND BANKRUPTCY CODE, 2016: A CRITICAL ANALYSIS OF ITS IMPACT ON CORPORATE DEBT RESOLUTION IN INDIA

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ABSTRACT

This paper critically examines the implications of the Insolvency and Bankruptcy Code, 2016 (IBC), on the resolution of corporate debt in India. It asks if the IBC has improved corporate governance, balanced debtor and creditor interests, raised creditor recoveries, and given time-bound solutions. Doctrinal examination of the IBC and notable court decisions complements empirical data from Insolvency and Bankruptcy Board of India (IBBI) reports and outcome-tracking literature. The results showed that the IBC developed a consistent, creditor-driven resolution mechanism and generated substantial high-value recoveries, yet systematic problems persisted, including litigation-driven delays. and restrictions on tribunals. Unmatched recoveries across creditor categories, insufficient avoidance actions, and incomplete cross-border arrangements. Among the particular adjustments recommended by the study are the adoption of cross-border coordination norms, professionalization of RP, protection of operational creditors, standardized Conflict safeguards, the digitization and capacity-building of courts, and outcome indicators.

KEYWORDS

Insolvency and Bankruptcy Code; corporate insolvency; Committee of Creditors; resolution professional; recovery rates; CIRP timelines; tribunal capacity; corporate governance; restructuring strategy.

INTRODUCTION

Prior to the enactment of the IBC in 2016, India's insolvency system was divided across several laws, including the Sick Industrial Companies (Special Provisions). Recovery of debts owed to banks and financial organizations Act (RDDBFI Act), the winding-up clauses of the Companies Act, and the Sick Industrial Companies Act (SICA) of Protracted and unclear results come from 1985. Methods that frequently failed to protect creditor recoveries or maximize asset value. The legislative force for a single, time-bound insolvency code that would solve the rising number of non-performing assets (NPAs) banks are confronted with, and the rare result. The need to handle these problems inspired debtors-in-possession. Emphasize maximizing value and creditor management.

Among its objectives, the IBC sought to create a time-bound, market-driven resolution architecture and a single unified insolvency law. Headed by financial creditors through the CoC, CIRP for corporate debtors provides institutional instruments, including the Insolvency and Bankruptcy Board of India (IBBI). To guarantee specialized adjudication, a group of licensed experts uses specialized courts (NCLT/NCLAT) and insolvency practitioners (IPs). Early reformers and legislators saw the IBC as a radical move toward controlling promoters, streamlining restructuring, and increasing recovery rates for lending organizations.¹

This study evaluates the IBC's performance in four main spheres: its operational effectiveness and timeliness; its creditor recovery outcomes and distribution; its jurisprudential/institutional growth, corporate governance, and strategic incentives. The analysis uses empirical outcome-tracking projects suggested by leading working groups and the IBBI, legislative terminology, and significant court judgments that have shaped the IBC. The study describes legislative and policy reforms aimed at enhancing the Code's effectiveness while balancing the conflicting demands of debtors, creditors, and other parties. Parties engaged following recognition of its strong and weak points.²

¹ IBC, §§ 5(7) (definition of “corporate debtor”), 5(14) (definition of “financial creditor”), 7–9 (initiation: financial creditor, corporate applicant, operational creditor), 10–11 (moratorium), 17–20 (appointment and role of resolution professional), 21A–31 (Committee of Creditors and voting), 33–35 (liquidation and waterfall).

² Insolvency and Bankruptcy Code, No. 31 of 2016 (India); see generally Bankruptcy Law Reforms Committee, Report (2015) (BLRC recommendations informing the IBC).

The study proceeds as follows. Part I describes the legal system and describes how legislation, case law, and outcome data were chosen. Part II Part III offers an exhaustive case study illustrating the practical dynamics of the IBC and the analytical chapters on operational performance, recovery outcomes, and the influence of corporate governance. Part IV examines the system and offers modifications. A summary of the findings and a statement of the significance of the study mark its completion.

LEGAL FRAMEWORK AND METHODOLOGY

THE LEGAL STRUCTURE

The IBC sets up an integrated insolvency and bankruptcy system that distinguishes personal and company insolvencies from the resolution of corporate insolvency and liquidation.³ Because they enable financial and operational creditors to initiate insolvency proceedings, the Corporate Insolvency Resolution Process (CIRP) provisions of the Code are important. and business borrowers, who are vulnerable to threshold defaults. The Code sets up a waterfall for the distribution of proceeds upon liquidation and vests the Committee of Creditors (CoC) with the power to make decisions, mostly comprising financial creditors. It also establishes deadlines—180 days for CIRP, which can authorize resolution experts (RPs) to manage the affairs of corporate debtors during moratoriums. under some circumstances, be extended by 90 days. In contrast, the National Company Law Tribunal and Appellate Tribunal are managing appeals review and expert adjudication, respectively.⁴

Some of the statutory duties, the supremacy of the CoC's business judgment in approving resolution plans, and the moratorium forbidding creditor activities during CIRP are some of those. The primary legislative revisions and obligations for promoters and RPs include avoidance provisions for illegal, undervalued, and preferential transactions. Judicial interpretation has

³ Insolvency and Bankruptcy Code, No. 31 of 2016 (India), §§ 5, 7–11, 17–20, 21A–31, 33–35.

⁴ See Insolvency and Bankruptcy Code, § 60 (NCLT jurisdiction); § 61 (NCLAT appellate jurisdiction); Insolvency and Bankruptcy Board of India Act, 2016 (IBBI constitution and regulatory mandate).

established several basic components of the Code's operation, including entrance standards, promoter eligibility to bid, and the relative responsibilities of the NCLT and the CoC.⁵

METHODOLOGY

This research employs a combination of doctrinal and empirical approaches. The doctrinal element investigates original sources, including the IBC law and revisions, the IBBI regulations, and a few notable court decisions from the Supreme Court and NCLT that clarify the key provisions of the Code. The article relies on officially outcome-tracking efforts recommended by the IBBI's working group as well as publicly available ones in order to support empirical claims. CIRP schedules, resolution outcomes, and liquidation recoveries are gathered by IBBI. Official data, as well as recent working papers and analytical reviews, provide comparative measures and sector insights illuminating the variety of outcomes seen among corporate examples.⁶

Landmark Supreme Court and NCLT/NCLAT decisions that have greatly influenced the understanding of admission criteria, CoC takes precedence in the criteria for selection of case law. Primacy, avoidance techniques, and promoter participation rights. For empirical evidence where available, official IBBI datasets and government-commissioned outcome frameworks are given preference; peer-reviewed research and reliable Secondary sources, including working papers, are used where official datasets are missing. The analytical framework judges results in light of legislative goals: time-bound resolution, value maximization, and creditor protections. Inconsistent data granularity, delays in official datasets, and the evolving legal landscape that may follow some empirical studies are among the limitations.⁷

ANALYSIS

A. OPERATIONAL PERFORMANCE AND TIMELINES

⁵ IBC §§ 43–51 (avoidance provisions); IBC § 29A (ineligibility of certain persons to be resolution applicants).

⁶ See IBBI Working Group report, *supra* note 16 (discussion of data limitations); see also peer-reviewed empirical studies and NIBM working papers.

⁷ IBC § 12A (time periods for completion of CIRP).

Meant to speed action and reduce asset deterioration, the 270-day legislative schedule of the IBC (180 days with one 90-day extension). A minority of cases have shown observable gains, including the outcome of several well-known CIRPs within statutory deadlines and the availability of an obvious practical use. Among creditors and market-based bidding processes, the timetable has sped up coordination. The official outcome monitoring programs advised by the IBBI have emphasized the need for regular metrics to evaluate elapsed time over admission, resolution plan approval, and execution phases.

Despite structural clarity, operational barriers abound. Approval has often been given to actual problems, including valuation arguments, admission lawsuits, forensic investigations into illegal transfers, and the need for extensions beyond the legal limit. To go over complex resolution techniques with several creditor groups. Capacity constraints in courts have caused listing delays, and stay orders in collateral fora have complicated deadline enforcement. Furthermore, although it is needed to create breathing room, the moratorium has sometimes produced paradoxical results when operational creditors—that is, suppliers—run into cash-flow problems. which has resulted in more petitions before the court. tribunals and piecemeal litigation hinder CIRP's development.

Empirical studies have revealed that cases settled by resolution have an average CIRP length less than that of pre-IBC. though aggregate data conceal great variation, techniques exist. Cases including more sophisticated internal group restructurings, companies with significant assets but little cash, or foreign conflicts generally take longer, while Commercial interest and clearly apparent asset value sometimes lead to quicker resolutions of simpler, bigger matters. Particularly, the role of RPs in controlling the debtor as a going concern, the procedural structure has certainly quickened the debtor's operations. Centralized decision-making by the CoC and business decisions, but it also calls for more institutional resources to prevent judicial backlogs from becoming a limiting problem.⁸

B. OUTCOMES FOR CREDITORS AND RECOVERIES

⁸ *Innoventive Indus. Ltd. v. ICICI Bank & Anr.*, (2018) 1 S.C.C. 407 (discussing admission standard under Section 7); see also *ArcelorMittal* judgment on judicial review and CoC deference.

Better creditor recoveries than those under past systems were the chief policy argument of the IBC. In theory, the CoC's authority given to financial creditors and the Code's waterfall system assist in aligning incentives for fast, value-maximizing outcomes. According to case studies and IBBI monitoring, financial creditors frequently make recoveries under prolonged liquidation systems that are higher than what would have been feasible. shows measurable recoveries in several CIRPs. Recovery rates, nevertheless, vary considerably across creditor categories and situations.

Secured financial creditors usually do better because of priority claims and the ability to influence the path of resolution. By contrast, buyers and unsecured and operational creditors—who have lately been classified as financial creditors under some laws—have had reduced recoveries and dividend percentage. Sometimes, prioritizing maximizing returns to secured creditors over sustaining operational continuity, the CoC's financial computations benefit employees, suppliers, and other creditors, hence leading to distributional trade-offs. Furthermore, fairness has been improved by the promise of promoter ineligibility to bid unless past defaults are cleared, which has judicial backing in significant cases. In other situations, it reduced the number of possible bidders; others have a pool of qualified applicants for resolution that could result in fewer recovery rates and a less competitive environment.

A major caution regarding liquidation results is that, historically, liquidation recoveries have been poor in instances of failed resolution because of asset fire sales, legal costs, and coordination failures. Although the Code aims to preserve going-concern value via resolution, recoveries frequently fall short of covering the claims upon liquidation, hence challenging the efficacy of the solution. measures for pre-CIRP preservation and rewards for operational creditors. Overall, the IBC has improved the creditor coordination mechanics and set out more precise distributional rules, but differential recovery throughout creditor categories and industries underlines the need for a calibrated policy to protect weak stakeholders and align incentives.

C. CORPORATE GOVERNANCE AND STRATEGIC EFFECT

By giving market-based solutions priority and exposing builders to the potential of losing control, the IBC created a mechanism for regulatory discipline missing in earlier regimes. The Code's avoidance rules, which enable analysis of preferential, undervalued, and fraudulent transactions, improve accountability and could help stop asset-stripping before insolvency. Clarifications by

judges on the extent of avoidance measures and the requirements for fraudulent conveyance have helped to lower the possibility of abuse and increase recoveries.

Promoter strategies have developed. CIRP and loss of managerial authority have spurred prompt creditor talks, recapitalization projects, and, in some cases, prepackaged remedies. Promoters have, however, used defensive litigation and procedural ambiguities to delay the commencement of CIRP or permissions, which is evidence of strategic court action causing expenses and decreasing asset value. The emergence of professional RPs and the market power of CoCs has moved the location of negotiation power in favor of creditors. is in line with the direction. The Code raises normative concerns about the balance between rescue culture and creditors' preferences since it emphasizes them.

Institutions' professionalization has had varying degrees of success. Even though the IBBI's regulatory supervision has set conduct standards and raised IP expectations, questions regarding conflicts of interest, RP independence, and capacity remain. Successful governance outcomes call on all of these elements: careful RP performance, clear bidding practices, and judicial backup for carrying out corporate judgments. In instances when these elements do not coincide, the IBC's governance commitment is only partly met; in cases when they do, corporate governance is enhanced post-resolution by better monitoring and capital allocation.

CASE STUDY: ESSAR STEEL RESOLUTION

Best shown via the Essar Steel bankruptcy and settlement tale are the IBC dynamics. Essar's argument included significant creditor claims, complex corporate structure, and high-stakes auctions. Following a fierce tendering process, the CoC accepted a resolution strategy; however, the approval of the plan was challenged all the way to the Supreme Court, which affirmed the CoC's business. Sagacity in establishing the guidelines for legal review. While stressing that there should be little judicial intervention in CoC decisions, the Supreme Court gave procedural fairness and obedience to legislative goals top priority. The ultimate result set legal criteria for CoC priority and promotor participation guidelines, which led to much more creditor recoveries than would have been practicable through liquidation.

Essar exemplifies the main advantages of the IBC: the ability of specialized courts and appellate tribunals, market-led resolution, and better recoveries in a high-value corporate. setting to perfect

the rules of engagement. The case also exposed friction points: extended litigation during the CIRP process increased costs and hampered implementation; judicial clarification was required for inter-creditor conflicts; and whether operational creditors and other non-financial stakeholders played a role in distributional outcomes was still debatable. Although the Essar result highlighted the need for judicial oversight, it also bolstered creditor confidence. Regarding institutionalizing best practices and resolving uncertainties impeding efficient execution, clarity could be absolutely necessary.⁹

CRITICAL EVALUATION AND POLICY RECOMMENDATIONS

SYNTHESIS OF STRENGTHS AND WEAKNESSES

Few could doubt that the IBC set a single legal framework that centered insolvency settlement on creditor-led, time-bound, market-driven processes. It produced prominent solutions supporting the structure of the Code, developed a skilled group of RPs, and made insolvency findings more obvious. Nevertheless, there are a number of limitations on the full achievement of legislative targets, including unequal recovery rates, bureaucratic delays brought about by tribunal capacity. litigation, lack of protection for operating creditors, unsatisfactory cross-border insolvency processes for debtors with numerous jurisdictions, enforcement challenges with avoidance measures, and staff.¹⁰

CONCRETE REFORMS

1. SIMPLIFYING PROCESSES AND INSTITUTIONS

- Reduce the burden on tribunals and increase capacity by digitizing listing and case management systems and refining admissions, intermediate, and statutory deadlines case management processes. orders and a desire to limit nuisance lawsuits help with the adjudication backlog.

⁹ Essar Steel India Ltd. (Corporate Debtor) v. Satish Kumar Gupta (IRP) & Ors., NCLT/NCLAT/Supreme Court proceedings (selected orders and reports).

¹⁰ IBBI Working Group report, supra note 16; see also empirical critiques in NIBM working papers.

- To prevent lengthy delays while shielding creditors from intended misrepresentation, set up more explicit procedural rules for forensic examinations and valuation conflicts.¹¹

2 - IMPROVING THE COMPETENCE AND INDEPENDENCE OF RESOLUTION PROFESSIONALS.

- Improve the selection criteria, continuous training, and conflict-of-interest rules for RPs; set up an open assignment and rotation process to reduce concentration issues and boost competency in complex restructurings.

- To improve transparency, define performance benchmarks and demand mandatory revelation of RP pay and case costs.¹²

3 - PRESERVING EQUILIBRIUM AMONG VARIOUS CREDITOR GROUPS WHILE SAFEGUARDING OPERATIONAL CREDITORS

- Consider creating regulated legal changes to the waterfall or voting shares to ensure that operational creditors and workers' claims are fairly represented in the plan's design while still maintaining CoC business discretion where recovery efficiency is demonstrably higher.

- Prioritize expedited intermediate aid for crucial operational suppliers to prevent supply chain interruptions that could result in liquidation.¹³

4 - IMPROVING THE OPENNESS OF OUTCOME INDICATORS AND DATA

- To track efficacy, efficiency, and effectiveness, and publish periodic dashboards broken down by industry, use standardized outcome metrics advised by the IBBI working group. creditor groups and case size to inform policy and academic review.

5-CROSS-BORDER COORDINATION AND AVOIDANCE STRATEGIES ABOUND

¹¹ See policy recommendations in IBBI Working Group report, supra note 16, and BLRC recommendations.

¹² IBBI consultation papers on RP regulation (2022–2023).

¹³ Policy proposals in law-review literature and IBBI discussion papers on operational creditor protection.

- Using bilateral or multilateral frameworks, implement UNCITRAL Model Law-compatible measures to solve multijurisdictional resolutions, asset location issues, and foreign process acceptance.
- Enhance investigative legal systems and agency cooperation to expedite avoidance behavior cases, reduce asset depletion, and boost clawback recoveries.¹⁴

6--ENCOURAGE EARLY RESTRUCTURING AND PRE-PACKS

- To speed consensual restructurings and lower the cost, and make formal a pre-packaged insolvency path with protections for openness and creditor protection. stigma linked with official bankruptcy: CIRP, drawing from global best practices.¹⁵

IMPLEMENTATION CONSIDERATIONS

Reforms should give fairness and speed priority, hence preserving the control of the CoC over business decisions. Based on robust data, every modification to the law has to be thoughtfully evaluated and should be backed by training for panels, RPs, and inspectors.

CONCLUSION

Without question, the Insolvency and Bankruptcy Code of 2016 (IBC) has changed India's business debt resolution environment. Setting a creditor-driven, time-bound, and market-oriented approach to insolvency through the unifying approach helps to represent a significant break from the debtor-friendly governments of the past. of varied regulations into one frame. Based on the Corporate Insolvency Resolution Process (CIRP), the supremacy of the Committee of Creditors (CoC), and the operation of insolvency experts, has created a clearer and consistent path to alleviate financial difficulty. Important jurisprudential light has been shed by landmark cases such as ArcelorMittal

¹⁴ IBBI, Report of the Working Group on Tracking Outcomes, supra note 16.

¹⁵ Ministry of Corporate Affairs, Draft Cross-Border Insolvency Framework (2020); UNCITRAL Model Law on Cross-Border Insolvency (as comparative guide).

and Essar Steel in addition to challenging the Code. Principles include financial prudence of creditors, prohibitions on promoters, and the degree of judicial review.¹⁶

Empirical evidence reveals that the IBC has improved financial creditor recovery rates, especially in large sum cases, and has lowered the average length of time utilized to handle bankruptcy instead than conventional approaches. Improved procedural transparency and accountability have come from a statutory moratorium, avoidance rules, and a set liquidation waterfall. Moreover, early negotiations and restructuring projects have been driven by the risk of losing control of the firm, so fostering a culture of financial discipline and creative problem-solving.¹⁷

The implementation of the Code has not been without problems, either. Procedural delays—mostly caused by too aggressive legal tactics and overloaded courts—still hinder the aim of fast settlement. The uneven treatment of operating creditors, the limited success of avoidance measures, and the absence of a complete cross-border insolvency network. Moreover, concerns regarding the autonomy and competence of resolution experts and the lack of standardized outcome indicators have questioned the uniformity, as well as the justice of the resolution process.¹⁸

Correcting these problems calls for particular changes. Professionalizing the insolvency sector, increasing tribunal capacity, protecting at-risk creditor groups, and adopting worldwide best standards for cross-border coordination may all help to greatly improve the efficacy of the Code. Implementation of pre-packaged insolvency procedures, more resolution outcome transparency, and well-considered adjustments to strike a balance among stakeholder interests will strengthen the foundation of the IBC.¹⁹ Recent empirical tracking by the IBBI and independent studies continues to inform practical reforms and underpins the recommendations that follow.

¹⁶ See cross-cutting implementation recommendations in IBBI reports and BLRC.

¹⁷ See IBC Preamble and legislative history; BLRC Report (2015).

¹⁸ IBBI Working Group report, *supra* note 16; see also recent empirical literature.

¹⁹ See policy literature on pre-packs and cross-border coordination (IBBI/Ministry consultation papers; UNCITRAL resources).

In essence, the IBC has made great strides in altering the insolvency scene in India, yet continuous development, institutional growth, and stakeholder cooperation are essential for its long-term viability. The Code has to evolve to account for the complexities of modern corporate finance while preserving its basic objectives of maximizing value, protecting creditors, and guaranteeing economic stability. As India's bankruptcy process evolves, the IBC marks a legal crossroads and an ongoing project. It calls for continuous change and close management.¹

¹ REFERENCE

1.¹ IBC, §§ 5(7) (definition of “corporate debtor”), 5(14) (definition of “financial creditor”), 7–9 (initiation: financial creditor, corporate applicant, operational creditor), 10–11 (moratorium), 17–20 (appointment and role of resolution professional), 21A–31 (Committee of Creditors and voting), 33–35 (liquidation and waterfall).

2.¹ Insolvency and Bankruptcy Code, No. 31 of 2016 (India); see generally Bankruptcy Law Reforms Committee, Report (2015) (BLRC recommendations informing the IBC).

3.¹ Insolvency and Bankruptcy Code, No. 31 of 2016 (India), §§ 5, 7–11, 17–20, 21A–31, 33–35.

4.¹ See Insolvency and Bankruptcy Code, § 60 (NCLT jurisdiction); § 61 (NCLAT appellate jurisdiction); Insolvency and Bankruptcy Board of India Act, 2016 (IBBI constitution and regulatory mandate).

5.¹ IBC §§ 43–51 (avoidance provisions); IBC § 29A (ineligibility of certain persons to be resolution applicants).

⁶. See IBBI Working Group report, *supra* note 16 (discussion of data limitations); see also peer-reviewed empirical studies and NIBM working papers.

7.¹ IBC § 12A (time periods for completion of CIRP).

8.¹ *Innoventive Indus. Ltd. v. ICICI Bank & Anr.*, (2018) 1 S.C.C. 407 (discussing admission standard under Section 7); see also *ArcelorMittal* judgment on judicial review and CoC deference.

9.ⁱ Essar Steel India Ltd. (Corporate Debtor) v. Satish Kumar Gupta (IRP) & Ors., NCLT/NCLAT/Supreme Court proceedings (selected orders and reports).

10.ⁱ IBBI Working Group report, supra note 16; see also empirical critiques in NIBM working papers.

11.ⁱ See policy recommendations in IBBI Working Group report, supra note 16, and BLRC recommendations.

12.ⁱ IBBI consultation papers on RP regulation (2022–2023).

13.ⁱ Policy proposals in law-review literature and IBBI discussion papers on operational creditor protection.

14.ⁱ IBBI, Report of the Working Group on Tracking Outcomes, supra note 16.

15.ⁱ Ministry of Corporate Affairs, Draft Cross-Border Insolvency Framework (2020); UNCITRAL Model Law on Cross-Border Insolvency (as comparative guide).

15.ⁱ See cross-cutting implementation recommendations in IBBI reports and BLRC.

16.ⁱ See IBC Preamble and legislative history; BLRC Report (2015).

17.ⁱ IBBI Working Group report, supra note 16; see also recent empirical literature.

18.ⁱ See policy literature on pre-packs and cross-border coordination (IBBI/Ministry consultation papers; UNCITRAL resources).