

# **Non-Performing Assets (NPAs) and the Insolvency & Bankruptcy Code (IBC): Evaluating the Effectiveness of India's Legal Framework for Bad Debt Resolution**

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## **Abstract**

India's Insolvency and Bankruptcy Code, introduced in 2016, brought together several outdated insolvency laws into one clear, time-bound system to tackle the growing problem of corporate distress and bad loans in the country. This research looks at how effectively the IBC has addressed the issue of non-performing assets in the banking sector. With the help of Indian and international literature as well as empirical data on recovery rates and resolution timelines, the analysis suggests that the IBC has led to faster resolutions and better returns for creditors compared to the pre-IBC, helping India climb the World Bank's "resolving insolvency" rankings. However, there are still major challenges, including unclear legal rules (like guarantor liability and eligibility criteria), delays in the National Company Law Tribunal (NCLT) process, and unfair outcomes for different types of creditors. The research points out a gap in understanding how changes in IBC case law and unclear interpretations impact these outcomes. One important gap the study highlights is the lack of focus on how changing court decisions and unclear interpretations are affecting real-world outcomes as IBC case law evolves; these uncertain areas could weaken the code's effectiveness and make it less predictable. Further, the study concludes that while the IBC is an important step forward, its success story is still a work in progress. To fully unlock its potential, the legal framework needs clear updates, especially regarding Sections 29A, 12A, and how personal guarantees are handled. Equally important are institutional changes, like increasing NCLT capacity and establishing clear, consistent procedures for case withdrawals and out-of-court settlements.

## **Introduction**

India has been grappling with the problem of non-performing assets for a long time, which are loans that debtors failed to repay, and the situation of non-performing assets worsened by the mid-2010s, rising to 4.3% of total assets from 2.3% in 2008, severely hampering credit growth. Before 2016, debt recovery mechanisms such as the SARFAESI Act, Debt Recovery Tribunals

(DRTs), and winding-up laws under the Companies Act were regarded as sluggish, fragmented, and ineffective in restoring financial stability.<sup>1</sup>

To address the problem of these non-performing assets and their consequences, the government of India enacted the Insolvency and Bankruptcy Code in 2016. The IBC came up with strict timelines of 180 days, which could go up to 330 days, to address corporate insolvencies with the National Company Law Tribunal (NCLT).<sup>2</sup> During this process, control of the company is handed over to licensed insolvency professionals, while key decision-making authority rests with the creditors, whose resolutions are binding. The primary objective of IBC is to raise the value of the assets, accelerate the realisation of loans, and settle the bad debts quickly through the revival of good firms or by winding up the unviable ones.

Some of the early outcomes under the IBC, such as the landmark Essar Steel case, which saw nearly 80% recovery for creditors and India's rapid increase in the World Bank's resolving insolvency rankings (to 52 in 2020, from 136 previously), point to a massive transformation. However, the issue of litigation and underfunded tribunals, as well as legal ambiguities, has delayed the full implementation of these changes.<sup>3</sup> The current research examines International and Indian literature, empirical evidence, and relevant practical implications, and finds interpretive issues and systemic constraints in the IBC edifice.

## **Objectives Of Research**

- To evaluate the direct influence of the IBC on creditor recovery rates, the time required for resolving NPAs, and the performance of the banking sector in India generally.
- To review the IBC strengths and weaknesses in comparison with the previous insolvency acts, like SARFAESI and DRT as well as compared to the best international practices.
- To identify challenges and uncertainties in the law that were beneficial for the timely and equitable resolution of insolvency cases, especially on the issues related to NCLT procedures, the eligibility set forth in Section 29A, settlements or withdrawals under Section 12A, and the responsibilities of a personal guarantor.

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<sup>1</sup> Anupam Verma, Nidhi Maurya & Neelam Maurya, *Journal of Scholastic Engineering Science and Management*, Vol. 4, Issue 1, pp. 8–12 (Jan. 2025), <https://doi.org/10.5281/zenodo.14717544>.

<sup>2</sup> *Navigating India's Credit Evolution: Addressing Post-IBC Challenges and Opportunities*, Isaac Centre for Public Policy, Ashoka University (Jan. 28, 2025), <https://icpp.ashoka.edu.in/navigating-indias-credit-evolution-addressing-post-ibc-challenges-and-opportunities/>.

<sup>3</sup> Chandra Shekhar, *Bailing Businesses, Boosting Banks: The Evolution of Insolvency and Bankruptcy Law in India*, 6 *Int'l J. Res. Pub. & Rev.* 4908 (2025), <https://ijrpr.com/uploads/V6ISSUE2/IJRPR39167.pdf>.

- To analyze the differences in outcomes for different creditor classes (i.e., financial versus operational) and share the experiences of stakeholders.
- To fill the research gap as to how changing case laws and varied interpretations under the IBC have a bearing on the actual outcomes of resolution.
- To propose policy changes and procedural modifications to enhance the efficiency and fairness of the IBC concerning the resolution of insolvency cases.

## **Research Questions**

Based on the above objectives, the research seeks to address the following key questions:

1. How has the implementation of the IBC affected NPA levels, recovery rates, and resolution times in India's banking sector?
2. How does the IBC compare to earlier Indian debt resolution laws and global insolvency systems in terms of structure, efficiency, and results?
3. What are the main procedural, operational, and legal challenges, like NCLT delays, unclear laws, or jurisdiction issues, that limit the effectiveness of the IBC?
4. How do legal uncertainties and changing case law (especially around Sections 29A, 12A, and personal guarantees) influence decisions, outcomes, and fairness for stakeholders in insolvency cases?
5. What have been the experiences and recovery rates for different types of creditors under the IBC, and how fair is the current resolution process?
6. What specific legal and procedural changes are needed to help the IBC provide fair, timely, and efficient bad debt resolution in India?

## **Literature Review**

1. Manish Agrawal, *Insolvency and Bankruptcy Code (IBC), 2016 in India: Issues and Challenges*, 7 *INDONESIAN J. INT'L & COMP. L.* 31 (2022), [https://sciendoparsed.s3.eu-central-1.amazonaws.com/6472393e215d2f6c89dc0c46/10.2478\\_law-2022-0003.pdf](https://sciendoparsed.s3.eu-central-1.amazonaws.com/6472393e215d2f6c89dc0c46/10.2478_law-2022-0003.pdf).

This paper compares the IBC with previous insolvency regimes in India, concluding that it outperforms earlier ones, such as SARFAESI and DRTs, with higher recoveries and expedited

asset clean-up, highlighting its success in improving recovery outcomes and banking sector stability.

2. M. Rajasekhar, *A Study on the Role of Insolvency and Bankruptcy Code (IBC) in India in Resolving Insolvency and Its Impact on Business*, 11 INT'L J. RES. ECON. & SOC. SCI. 366 (2021), [https://indusedu.org/pdfs/IJREISS/IJREISS\\_3750\\_79235.pdf](https://indusedu.org/pdfs/IJREISS/IJREISS_3750_79235.pdf).

This report highlights that India's rollout of the IBC was swift and led to stronger creditor rights and improved corporate governance. However, it also underscores the importance of resolving cases promptly to ensure the long-term effectiveness of the reform.

3. R. H. Darshita, *A Critical Study on the Role of Insolvency and Bankruptcy Code in Improving the Insolvency Resolution in India*, 6 INT'L J. RES. PUBN. & REV. 746 (2025), <https://ijrpr.com/uploads/V6ISSUE2/IJRPR39167.pdf>.

This study shows a significant increase in creditor recoveries post-IBC, with numerous cases exceeding 40–45% recovery, against a pre-IBC average of 26%, with some headline cases outperforming others, especially in asset-intensive sectors.

4. D. Bapat & K. Mankad, *Review of Insolvency and Bankruptcy Code: Impact and Shortcomings*, 8 INT'L J. ECON. & MGMT. STUD. 50 (2021), <https://www.theeconomicjournal.com/article/view/504/8-1-72>.

Bapat and Mankad in this journal critique India's IBC structure by critically examining its structure and comparing it with the debtor-in-possession model of the U.S, arguing it may hinder genuine turnarounds, give disproportionate bargaining power to banks, and lack advanced international mechanisms.

## **Research Gap**

The above studies show that the IBC has helped improve recoveries, governance, and the credit market, but they also point out some process and structural issues. However, they do not fully explore how unclear laws, inconsistent interpretations, and delays in the system affect outcomes for different types of creditors and industries. This research paper aims to fill that gap.

## **Research Methodology**

The research methodology used in this research paper is that of a qualitative nature. It is the type of research methodology where non-numerical data is involved and mostly involves studying, understanding, and analyzing the descriptive data. The sources of data that are used in this type of research include books, publications, reliable web sources, surveys, articles etc.

## **Analysis**

### ***Impact of the IBC on NPA Levels, Recovery Rates, and Resolution Timelines***

Since its introduction in 2016, the Insolvency and Bankruptcy Code (IBC) has brought about a major shift in how India approaches distressed assets and financial stability. What was once a slow and ineffective system has seen real progress. According to data from the Reserve Bank of India (RBI) and various studies, non-performing assets (NPAs) have dropped sharply, from over 11% in 2018 to around 2.7% by mid-2024.<sup>4</sup> While better detection of problematic loans has helped, the IBC's capacity to speed up settlements and enhance recovery has had a greater impact, contributing to the restoration of trust in the financial sector. Furthermore, resolution timeframes have significantly reduced, reducing from more than five years under earlier systems to an average of 400-450 days under the IBC. However, this still exceeds the Code's intended resolution window of 270-330 days.<sup>5</sup> Furthermore, more recent data indicate that as of March 2025, the timeline for completing a corporate insolvency resolution process (CIRP) has increased to approximately 713 days, compared to 679 days a year ago, which is more than twice the 330-day limit under the Code.<sup>6</sup> Approximately 78 percent of the current pending CIRP cases exceed the 270-day maximum, indicating a normalization of delays.<sup>7</sup> Such an increase in timeline is despite the express intention of the Code to bring expedition in the resolution and is mostly due to the clogging and paucity of staffing at the National Company Law Tribunal (NCLT), the central body where cases under the IBC are adjudicated.

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<sup>4</sup> Year Ender 2024: Indian Banks' Gross NPA Ratio Hits 13-Year Low of 2.5%, Driven by Lower Slippages, ET BFSI (Dec. 28, 2024), <https://bfsi.economicstimes.indiatimes.com/news/banking/wrap-2024-indian-banks-gross-npa-ratio-hits-13-year-low-of-2-5-driven-by-lower-slippages/116724100>.

<sup>5</sup> IBC must evolve to strengthen institutions and tackle judicial delays: Experts say, ET LegalWorld (Apr. 23, 2024), <https://legal.economicstimes.indiatimes.com/news/law-policy/ibc-must-evolve-to-strengthen-institutions-and-tackle-judicial-delays-experts-say/115029599>

<sup>6</sup> CA CS Funnisha Garg, Reforming Corporate Distress Resolution in India: A Financial and Legal Analysis of the Insolvency and Bankruptcy Code (IBC), 2016, 8 Int'l J. Fin. Mgmt. & Econ. 341 (2025), <https://www.theeconomicjournal.com/article/view/504/8-1-72>

<sup>7</sup> Ibid

### ***Institutional and Stakeholder Impacts***

The IBC has added a new tenor to insolvency roles. Now, the creditor, particularly banks, hold real power through the Committee of Creditors (CoC). Data revealing that secured lenders receive about 12-14 cents on the rupee in the CIRP is definitely better than the old methods. Resolution Professionals (IPs) are the new key players entrusted with managing the company during the CIRP.<sup>8</sup> Some praise the professional approach for reducing behind-the-scenes favoritism, but have pointed out that the quality of IP varies while a few firms hold the larger portions of the market. Although the Insolvency and Bankruptcy Board of India (IBBI) has established standards for the training of IPs and their certification, many argue that IBBI needs to do more to oversee CIRPs as a preventive measure against wrongdoing.

Operational creditors, including suppliers and workers, feel neglected. Only financial creditors are legally entitled to priority, and the CoC may sanction plans whereby operational creditors receive only a fraction of their dues. Most studies and experts have noted this imbalance. A case in point is the Essar Steel resolution plan, which allowed operational creditors to recover only 4% of their dues, resulting in a storm of debate about its fairness.<sup>9</sup> Reforms enacted in 2018 give operational creditors a bit more leverage, meaning they may vote in the CoC if their debts exceed 10% of the total, and the order of payments in liquidation was readjusted. Experts, however, worry that banks continue to focus on maximizing sale value during CoC votes, potentially marginalizing suppliers. Some have suggested setting up a separate recovery fund for operational creditors, although this has not been adopted into legislation yet.

### ***Comparison between IBC and previous Indian laws and the Global legal system***

Unlike previous laws that allowed company promoters to maintain control during financial trouble, causing delays and uncertainty, the IBC follows a unified, time-bound approach where creditors take charge. Once insolvency proceedings begin, control of the company moves from the promoters or current management to the creditors, mainly financial ones represented by the Committee of Creditors (CoC). The CoC makes binding decisions, and insolvency professionals are brought in to actively manage the company.

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<sup>8</sup> Marcin Menkes, Towards Harmonizing the Rules of Transborder Insolvency: A Law and Economics Approach, 28 INT'L COMP. LAW REV. 46 (2022), [https://sciendo-parsed.s3.eu-central-1.amazonaws.com/6472393e215d2f6c89dc0c46/10.2478\\_law-2022-0003.pdf](https://sciendo-parsed.s3.eu-central-1.amazonaws.com/6472393e215d2f6c89dc0c46/10.2478_law-2022-0003.pdf)

<sup>9</sup> Rajat Sethi & Aditi Agarwal, Case Note: Judgment of the Supreme Court in the Essar Steel Case, S&R Associates (2021), <https://www.snrlaw.in/wp-content/uploads/2021/04/SR-Insights-Case-Note-Judgement-of-the-Supreme-Court-in-the-Essar-Steel-Case.pdf>

This model differs very much from other systems, such as the United States Chapter 11 bankruptcy and the pre-pack administration of the United Kingdom. Under the US Chapter 11 process, the existing management remains on board and takes charge of the reorganization process, and the promoters are allotted more opportunities to rescue their businesses.<sup>10</sup> The pre-pack administration that is common in the UK is also characterised by the confusion of the presence of the debtor and presence of the creditors where the management has a greater scope to decide during the restructuring.<sup>11</sup>

India's creditor-driven approach to insolvency can accelerate the process, reducing non-performing assets and improving economic efficiency. However, this rigidity may limit entrepreneurial turnaround opportunities, as it may suppress the ability of viable promoters or entrepreneurs to revive their businesses. Critics argue that by downplaying the debtor's role and focusing too much on creditor control, the IBC might hold back innovation, especially when a business could be saved with more teamwork from the promoters.

In summary, the IBC's creditor-in-control approach modernizes India's bankruptcy framework by emphasizing quick creditor-led resolution over time-consuming, debtor-friendly methods. This trend has achieved worldwide attention, yet it still sparks arguments about combining creditor safeguards with stimulating entrepreneurial opportunities to restore troubled enterprises.

### ***Procedural and Legal Challenges***

The Insolvency and Bankruptcy Code (IBC) has improved distressed asset resolution, but challenges persist, which include the following

1. **Judicial Overburden:** One of the biggest problems is the huge backlog of cases at the National Company Law Tribunals (NCLTs), which are the main bodies for handling insolvency cases. These tribunals are overwhelmed with far more cases than they can manage efficiently. As a result, more than 85% of insolvency cases take the full 330 days allowed by law or even longer.<sup>12</sup> This creates long periods of uncertainty for everyone involved—creditors, promoters, employees, and other stakeholders. The backlog mostly

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<sup>10</sup> CA CS Funnisha Garg, Reforming Corporate Distress Resolution in India: A Financial and Legal Analysis of the Insolvency and Bankruptcy Code (IBC), 2016, 8 Int'l J. Fin. Mgmt. & Econ. 341 (2025), <https://www.theeconomicsjournal.com/article/view/504/8-1-72>

<sup>11</sup> Ibid

<sup>12</sup> Banks Reevaluate Recovery Strategies as IBC Effectiveness Declines, Adda247 Current Affairs (Jan. 29, 2025), <https://currentaffairs.adda247.com/banks-reevaluate-recovery-strategies-as-ibc-effectiveness-declines/>

comes from not having enough NCLT benches or judges to handle the workload. On top of that, frequent adjournments and delays during hearings add even more time to the process.

2. **Creditor Rights:** Another factor on which the 2018 amendment of the Insolvency and Bankruptcy Code took away the operational creditors, like vendors and suppliers, a buttressing voice to vote in the Committee of Creditors (CoC) if they represent 10 percent or in excess of the total claims. However, many operational creditors feel that they are still being excluded. Repayment to the banks and the financial creditors is of top priority for the CoC, whereas suppliers are usually compensated with small, fixed amounts. Such a state of affairs has raised concerns among investors and analysts that the undervaluation of small suppliers' claims can further incapacitate such businesses and give rise to litigation. Some have suggested reserving a part of the resolution amount for small suppliers, which has not yet been adopted.
3. **Ambiguity in law:** Another difficulty stands in the law regarding unclear language on some provisions, which courts interpret differently. For example, Section 12A(3) (old Section 33 (5)) mentions limiting claims against guarantors, but there seem to be different opinions as to the extent to which the moratorium on claims applies. Also, whilst there is a bar on fresh claims subsequent to the approval of a resolution plan, an issue arises as to whether court-ordered charges like environmental fines apply during proceedings for insolvency. Experts have also flagged problems regarding retroactive application of amendments as opposed to forward application. When the law alters during the resolution process, amendments may at times interfere with the proceedings already in play. Uncertainties with respect to withdrawal of a settlement or resolution plan during the Corporate Insolvency Resolution Process (CIRP), including who bears the costs incurred till then, "need major reform," noted the senior lawyer.<sup>13</sup> It is a good thing that the law is changing; it creates confusion and delays when these changes occur often, with little clarification on transitional provisions.
4. **Fire sales:** Critics are worried about the governance of Chapter 11 proceedings under the IBC, with the CoC having ultimate power. The IBC is a law under which assets might be

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<sup>13</sup> IBC must evolve to strengthen institutions and tackle judicial delays: Experts say, ET LegalWorld (Nov. 7, 2024), <https://legal.economictimes.indiatimes.com/news/law-policy/ibc-must-evolve-to-strengthen-institutions-and-tackle-judicial-delays-experts-say/115029599>

sold quickly and cheaply to favored buyers, resulting in “fire-sales” of companies' assets that are challenged to fetch true fair value. In these circumstances, creditors are shown to be carrying massive losses. Experts recommend the need for transparency in all CoC discussions; an appeal the 2018 Insolvency Law Committee made to increase bidding disclosures in protection of dissenting creditors and minority stakeholders.<sup>14</sup>

5. Sector-specific issues: Each sector has its own specific problems. For instance, in real estate, there could be several layers of organizational complexity, including multiple borrowers or special purpose vehicles (SPVs) associated with one project, making the resolution messy. The purchase of distressed airlines or related assets for turnaround has slowed down due to a few potential buyers within the sector. There was a temporary pause to IBC filings by the Government during the COVID-19 pandemic for some groups, for instance, stressed micro, small, and medium enterprises under the One Time Settlement (OTS) scheme.<sup>15</sup> While this was beneficial for a few businesses, it also led to a backlog of cases that are now inoperative and need focus.
6. Cross-border issues: Cross-border insolvency becomes another Achilles' heel for India. Without a specific law that can talk about these matters, along with insolvency that involves assets or creditors across borders, investors from foreign countries often have to treat Indian insolvency cases as “foreign proceedings” under Section 234, which is less efficient than the UNCITRAL model law in force in several other jurisdictions. These days, with business and finance going global, we’ve seen a rise in cases that deal with overseas assets or lenders. To have better cross-border co-operation, the Insolvency Law Committee, in the year 2020, proposed to accept the Model Law.<sup>16</sup> Without that, the insolvency system of India remains broadly national, causing obstacles in harmonizing the resolutions of multinational debtors and pooling their assets.

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<sup>14</sup> Report of the Insolvency Law Committee, Ministry of Corporate Affairs (Mar. 26, 2018), <https://ibclaw.in/report-of-insolvency-law-committee-march-2018/>

<sup>15</sup> The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020, No. 9 of 2020, Ministry of Law and Justice (June 5, 2020), <https://ibclaw.in/the-insolvency-and-bankruptcy-code-amendment-ordinance-2020/>

<sup>16</sup> Vishrut Kansal & Mohd Fahad Ansari, India’s Cross-Border Insolvency Framework: Time to Honour Exclusive Jurisdiction Clauses, IndiaCorpLaw (Apr. 8, 2025), <https://indiakorplaw.in/2025/04/08/indias-cross-border-insolvency-framework-time-to-honour-exclusive-jurisdiction-clauses/>

In addition to these issues, insolvency cases in India are getting hampered by jurisdictional battles in courts such as the NCLT, Debt Recovery Tribunals, and higher courts. Such confusions further complicate the resolution process and cause delay.

## Case Studies

To ground the analysis, we briefly note some representative cases:

- **Essar Steel (2019):** ArcelorMittal's deal for Essar Steel was one of the largest CIRPs, with creditors receiving around 42,000 crores. The IBC has allowed banks to collect about 80% of their claims, making it a superior alternative to previous norms. In *Satish Kumar Gupta v. Essar Steel*, the Supreme Court stressed that competing financial creditors cannot band together to reduce CoC voting rights.<sup>17</sup> Essar's success enhanced trust in IBC's capacity to handle large-scale loans.
- **Bhushan Power & Steel (2019):** This matter was first handled by a sale to JSW Steel, but it was later thrown into upheaval when JSW failed to pay. The NCLT authorized a liquidation order, but in 2023, the Supreme Court reversed JSW's resolution, underscoring the difficulties of the process of plan approval and the role of guarantors. Creditors were concerned that in case the plans by JSW were aborted, they would lose 13 percent of the share of DRI. The case held that an individual may conceal the payment of a potential buyer; hence the legal status of interim claims may become confusing so that one has to go to court.<sup>18</sup>
- **Jaypee and Other Infrastructure Debtors:** After intensified efforts by lenders, Jaypee Infra in Jalgaon saw a recovery of around 88%.<sup>19</sup> On the contrary, Companies like Videocon and Reliance Infra received just 0.4-1% from creditors, owing to heavy leverage and judicial issues.<sup>20</sup> The comparisons show that IBC alone can't fix the business's structural

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<sup>17</sup> ArcelorMittal aims to complete Essar Steel acquisition by 2019, *New Indian Express* (Nov. 19, 2019), <https://www.newindianexpress.com/business/2019/Nov/19/arcelormittal-aims-to-complete-essar-steel-acquisition-by-2019-2063913.html>

<sup>18</sup> Parliamentary panel flags 'ambiguities' in Insolvency and Bankruptcy Code, *ET BFSI* (May 29, 2025), <https://bfsi.economictimes.indiatimes.com/news/policy/parliamentary-panel-critiques-insolvency-and-bankruptcy-code-for-ambiguities/121490492>

<sup>19</sup> Poor recovery in insolvency cases daunts lenders, *The Hans India* (July 28, 2023), <https://www.thehansindia.com/business/poor-recovery-in-insolvency-cases-daunts-lenders-811827>

<sup>20</sup> CA CS Funnisha Garg, *Reforming Corporate Distress Resolution in India: A Financial and Legal Analysis of the Insolvency and Bankruptcy Code (IBC)*, 2016, 8 *Int'l J. Fin. Mgmt. & Econ.* 341 (2025), <https://www.theeconomicsjournal.com/article/view/504/8-1-72>

problems. Instead, the success depends upon the performance of the industry supporting the business (cement, steel, real estate) .

- **Corporate Groups (e.g., DHFL, IL&FS):** Large defaults involving multiple related companies, like DHFL and IL&FS, experienced delays in achieving comprehensive resolutions because the IBC does not yet have a clear process for handling ‘group insolvency. As a result, linked enterprises were frequently treated independently or concurrently.

The case narratives show that IBC can yield high recoveries under certain conditions, but its effectiveness varies across sectors and bidder quality, and judicial supervision significantly influences statutory provisions.

## **Recommendations**

Based on the above analysis, we suggest focused reforms and clarifications (emphasizing legal interpretation) to strengthen India’s bad-debt resolution framework:

1. **Removing Legal Ambiguities:** Legislators should statutorily spell out issues that have caused interpretational ambiguities. For instance, the amendment regarding personal guarantors, as mentioned in the recent Lalit Kumar Jain decision, should be codified to assert that approval of a resolution plan does not, of itself, release a guarantor from liability. Amendments for Section 29A (eligibility criteria for related parties) and Section 32A (exceptions to moratorium) require the same.<sup>21</sup> The amendment should declare that it applies to cases prospectively so as not to create confusion in the ongoing cases.

2. **Set Protocols for Withdrawal and Settlement:** The law must specify when a corporate insolvency resolution process (CIRP) can be withdrawn through mutual consent and who will bear the cost, and under what conditions. The absence of clarity concerning settlements after initiation has resulted in disputes over expenses and work completed. Having clarification on issues such as a set fee for resolution experts in case of plan withdrawal will help to avoid additional litigation and maintain fairness.

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<sup>21</sup> Proposed IBC amendment on guarantees to aid NPA recovery: India Ratings, *Economic Times* (July 10, 2024), <https://economictimes.indiatimes.com/news/economy/policy/proposed-ibc-amendment-on-guarantees-to-aid-npa-recovery-india-ratings/articleshow/111640347.cms>

3. Develop Tribunal Infrastructure: The NCLT benches need immediate expansion and proper resolutions for reservations. The judicial backlogs have been a repeated consideration as a prime cause of delay in the procedure. This infrastructure investment must also include bench management through e-filing systems, appropriate case recruitment, and whatever other provisions may be suggested for a temporary bench to clear backlog cases. It may also be necessary to create special divisions dealing with certain types of cases (e.g., MSME insolvency).

4. Protect Operational Creditors: It is important to ensure protections are put in place to ensure that operational creditors are treated fairly in resolution plans. This might include setting a non-negotiable minimum recovery percentage for suppliers or requiring Committees of Creditors (CoC) to establish special sub-committees to evaluate the treatment of its smaller creditors. Transparency needs to be enforced, including the requirement to disclose how resolution proceeds are distributed among employees, vendors, and financial creditors.

5. Introduce International Best Practices on Cross-Border Insolvency: Adoption of the UNCITRAL Model Law on cross-border insolvency would facilitate cooperation with foreign courts, which is increasingly relevant for multinational enterprises holding debts in multiple jurisdictions. It would, thus, enhance asset pooling and quicken resolution of complex situations of international defaults.

6. Introduce Sunset and Transition Clauses: For all future amendments made to the IBC, sunset or transition clauses specifying the date they take effect and the scope of application must be expressly laid down to prevent retrogressive disruption. Periodic review and recommendation of such amendments regarding minor clarification by a standing technical committee, such as those set up by the Insolvency and Bankruptcy Board of India (IBBI), may help close any interpretational gaps as soon as they arise in any particular judicial dispute.

7. Empower Stakeholders: There is a need to professionalize and strengthen the skills of insolvency practitioners, especially in complex sectors like aviation and power. Drawing from experience, introducing a pre-pack insolvency framework for large companies could also help protect and maximize value during the resolution process. Further, Digital tools should be used as information utilities for online case tracking.

These reforms will, in combination, contribute to the improvement of the effectiveness, predictability, and fairness of India's insolvency resolution framework, with common principles and considerations across the globe.

## **Conclusion**

The Insolvency and Bankruptcy Code (IBC) is undoubtedly a shift in the trend in India's way of treating non-performing assets and distress by corporate processes in the course of its enactment in 2016. From a scattered and inefficient mechanism, the IBC has indeed changed to a time-bound, creditor-driven framework under which the recovery rate has significantly improved with a more disciplined credit environment. Landmark cases such as Essar Steel can serve as examples of the potentialities of the Code, provided that the time and efficiency of its implementation are ensured.

However, there is still a long journey for IBC. It has produced some visible results, but the system continues to confront significant challenges, including chronic third-party delays, overcrowded National Company Law Tribunals (NCLTs), legal uncertainty, and treating creditor classes differently. Recent data shows rising resolution timelines, despite statutory limits, indicating a systemic drift that undermines the promise of speed and certainty that the Code had originally embodied.

Moreover, operational creditors tend to be excluded, judicial interpretation of important sections is inconsistent, and the cross-border insolvency issue lacks a working legal framework. These gaps have real consequences-not only for the stakeholders but also for the credibility and perhaps the efficiency of the entire insolvency ecosystem in India.

This paper highlighted a significant research gap by demonstrating how evolving jurisprudence, procedural bottlenecks, and sector-specific complexities directly impact on-the-ground realities. The study results imply that although the IBC has built solid foundations, for longer-term success it would require clearer legal guidelines, stronger institutions, and fair treatment of all stakeholders.

There is a need for more structural and procedural reforms for the IBC to be able to realize the full extent of its potential. The tribunal infrastructure needs to be consolidated, legal ambiguities codified, vulnerable creditors protected, and aligned with the best standards across the globe in cross-border cases. With such reforms, assuming they are enacted in a credible and

clear manner, the IBC could evolve not just into an effective insolvency tool but more so into one of the foundational stones of the architecture of India's financial stability and economic resilience.