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Balancing Creditors' Rights and Corporate Rescue under the Insolvency and Bankruptcy Code, 2016: A Critical Study of CIRP and Liquidation Mechanisms.

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ABSTRACT:

The Insolvency and Bankruptcy Code 2016 introduced a brand new paradigm to manage companies that find themselves in a bad shape, due to financial difficulties. Before its existence, the Indian economy consisted of various inchoate and inconsistent laws which were responsible for resolving the issues related to insolvency, for example, the Sick Industrial Companies Act, 1985 or the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, etc.. These acts were ineffective and consumed too much time for resolving the cases; they did not help the creditors in getting their dues repaid, nor could they help the company get back on track.

But the Insolvency and Bankruptcy Code 2016 provides a clear, efficient and time-bound system to manage and overcome all such issues of a company. Under this code, a company is provided with two procedures – 1) Corporate Insolvency Resolution Process (CIRP) to save it and bring it back into operation or 2) If all attempts to save it fail, then a process of Liquidation is adopted. The code has made significant efforts towards giving considerable power to creditors through the establishment of the Committee of Creditors (CoC) as the major decision-making body in respect of the company. However, various shortcomings in the code, such as inadequate protection to small-scale creditors of small scale, including individuals and non-financial enterprises, and the increasing trend of liquidation in place of rehabilitation and recovery of the company, have attracted criticism, and these have necessitated an urgent review of the code. While this new framework has initiated a critical transition in India, more refinement and improvement are required for it to reach its fullest potential and ensure economic stability and growth.

This paper deals with the Insolvency and Bankruptcy Code 2016 and its actual working and also examines the provisions related to the committee of creditors, creditors' rights, including those of the financial and operational creditors, challenges encountered and possible areas of improvement of the Insolvency and Bankruptcy Code 2016. The research focuses on understanding how the Insolvency and Bankruptcy Code 2016 has been put into operation and how the potential for improving the efficiency of the code is addressed.

The primary objectives of this research are to analyse the operation of the Insolvency and Bankruptcy Code 2016. The researcher will analyse the operational framework of the code and also examine the position of the Committee of Creditors and the rights of the stakeholders under the Insolvency and Bankruptcy Code 2016. Further, this study is aimed at identifying the emerging problems faced and suggesting remedies for the betterment of the Insolvency and Bankruptcy Code 2016.

Methodology of Research: The research adopts an analytical methodology, which includes the in-depth analysis of the Insolvency and Bankruptcy Code 2016 and various laws related to it. It also focuses on the comparative analysis from the countries that have dealt with insolvency in a similar manner. This research will analyse the strengths and weaknesses of the Insolvency and Bankruptcy Code 2016. Numerous scholars have discussed various provisions of the Insolvency and Bankruptcy Code 2016 and its effects on the Indian economy. Many scholars find this new insolvency code effective in enabling timely resolution of corporate insolvency. But many have cited various inadequacies and areas of improvement, such as over-empowerment of financial creditors and neglect of the rights of operational creditors. Other scholars are of the view that the process time taken under this code for the recovery process is still too long, and also the liquidation rates in place of rehabilitation have increased after its introduction.

The Insolvency and Bankruptcy Code 2016 represents a turning point in the way India deals with companies undergoing financial distress. Previously, multiple disparate and inefficient laws managed corporate insolvency, leading to significant delays and minimal recovery for creditors. While the Code has introduced a welcome time-bound process and significantly empowered financial creditors, there remains a need for refinement to ensure equity and boost economic growth.

The Insolvency and Bankruptcy Code 2016 ushers in a paradigm shift in how India addresses the predicament of financially troubled companies. The pre-IBC era was plagued by fragmented, cumbersome and inefficient insolvency laws such as the Sick Industrial Companies Act, 1985 and Recovery of Debts due to Banks and Financial Institutions Act, 1993, causing protracted delays and significant value erosion. The Code streamlines this process by introducing a single framework and a time-bound procedure under its fold. The Corporate Insolvency Resolution Process (CIRP) is the key mechanism envisaged to revive stressed assets. If CIRP fails, liquidation of the corporate debtor follows. A substantial degree of power has been vested with the creditors through the constitution of the Committee of Creditors (CoC). However, concerns persist regarding the code’s efficacy in protecting smaller creditors, timely resolution, and the tendency to opt for liquidation over rescue, which underscores the need for further evolution of the code to achieve comprehensive insolvency reforms in India.

KEYWORDS:

Bankruptcy Code; Corporate Insolvency Resolution Process; CIRP; Liquidation; Creditors' Rights; Corporate Rescue; Resolution Plan; Committee of Creditors; Financial Creditors; Operational Creditors; Insolvency Law; Corporate Rehabilitation.

RESEARCH OBJECTIVES:

THE insolvency and Bankruptcy Code 2016 was promulgated in India with the objective of implementing an effective mechanism that ensures timely resolution of insolvency and bankruptcy issues. This research paper aims to explain the working of the Code and identify possible areas of its improvement. The study aims to analyse the operating mechanism of the Insolvency and Bankruptcy Code, the role played by the committee of creditors in determining the fate of the corporate debtor, and rights of the various stakeholders including financial and operational creditors under this law. More precisely, the present study will aim to:1. To analyse the structure and underlying philosophy of the Insolvency and Bankruptcy Code, 2016;2. To investigate the effectiveness of the Corporate Insolvency Resolution Process in achieving resolution for an insolvent entity;3. To critically examine the level of protection provided to operational creditors under the Insolvency and Bankruptcy Code, 2016;4. To examine the efficacy of corporate rescue provisions under the Code, and to determine whether resolution is preferred over other objectives;5. To assess the impact and consequences of the liquidation process under the Code on stakeholders, including creditors, employees, and shareholders;6. To evaluate landmark case laws that have significantly influenced the interpretation and application of the Code;7. To identify the existing challenges, limitations and new trends in corporate insolvency resolution and liquidation; and8. To provide policy recommendations that would strike a balance between creditors' recovery and business revival in India's insolvency regime.

RESEARCH METHODOLOGY

The research adopts an analytical research methodology wherein the Insolvency and Bankruptcy Code, 2016, along with other statutes and regulations in place related to this matter, are critically analysed. The researcher will further conduct a comparative study by considering approaches taken by various countries in resolving their respective insolvency issues. The chosen research methodology is the most appropriate for this study because of its ability to investigate the structure of the law and the crucial role of the Committee of Creditors. This method will help the researcher in highlighting shortcomings in the code and suggesting measures to improve the code's effectiveness.

LITERATURE REVIEW:

A variety of research papers and scholarly articles have explored the significance of the Insolvency and Bankruptcy Code 2016 on the economy of India. Though the code is hailed as a landmark in enabling timely resolution of corporate insolvency, a plethora of scholars and academic writers have highlighted challenges and opportunities for its better functioning. Many of the writers opine that the code significantly empowers financial creditors but is deficient in protecting the rights of operational creditors. Some scholars express concern about the slow nature of the judicial process in resolving insolvency cases even after enactment of the Code, and in such situations, liquidation has been preferred over other forms of resolution.

INTRODUCTION:

The Insolvency and Bankruptcy Code 2016 heralded a new epoch in the annals of corporate insolvency resolution in India.[1] Prior to the Code, a multiplicity of complex, ineffective and

[1] Insolvency and Bankruptcy Code, No. 31 of 2016, Acts of Parliament, 2016 (India).

time-consuming laws governed the process.[2] The Code, with its overarching principles, aimed to provide a timely, effective and single-point solution for the resolution of corporate insolvency. The IBC provided for a time-bound mechanism to ensure a fresh start for distressed companies while empowering financial creditors to a significant extent. However, with its practical application, certain concerns have surfaced concerning the adequate representation of small creditors and the prevailing practice of liquidation rather than revival, indicating that further evolution is necessary for the code to achieve its full potential and facilitate robust economic growth.

Government of India had acknowledged the economic problems plaguing the country and decided to enact a robust framework for insolvency and bankruptcy. Therefore, in the year 2014, a Bankruptcy Law Reforms Committee was set up.[3] The committee recommended adoption of an insolvency regime along the lines of other countries to fast-track recovery for distressed companies and ensure a level playing field for lenders, while keeping businesses afloat that have a viable future.

The Insolvency and Bankruptcy Code, 2016 was enacted on the recommendations of the above-mentioned committee and had brought a sea change in the hitherto insolvency mechanism. Now, in case of distress, the control of affairs of a company is taken over by the lenders. The previous management is divested of all control, and a professional resolution plan would be put into place, if any value is left, by a Committee of Creditors.

One of the key objectives of the Insolvency and Bankruptcy Code is to promote time-bound resolutions of distressed companies in a way that value maximisation of the company's assets occurs. In other words, rather than simply liquidating the company, the focus is to revive distressed assets which have value. The apex court has, on numerous occasions, acknowledged that the main object is rehabilitation of companies, and not just closure.

Insolvency and Bankruptcy Code offers a mechanism for resolution of financial distress by corporate persons, namely: 'Corporate Insolvency Resolution Process'. The aim is to rescue the companies as a going concern through a time-bound process. If the company is beyond redemption, it should go in for an organised liquidation process.

However, despite the strides made by the Insolvency and Bankruptcy Code, some lacunas persist. The perceived lenders' dominance and little say for Operational Creditors; lengthy litigation; higher liquidation outcomes as against resolution; high value corporate entries; et cetera remain as pertinent concerns. This research endeavours to critically examine the functional outcomes of the Insolvency and Bankruptcy Code; evaluate its shortcomings and to identify avenues for its potential improvement in an Indian context.

EVOLUTION OF INSOLVENCY LAW IN INDIA

[2] Sick Industrial Companies (Special Provisions) Act, No. 1 of 1986, Acts of Parliament, 1986 (India); Recovery of Debts Due to Banks and Financial Institutions Act, No. 51 of 1993, Acts of Parliament, 1993 (India).

[3] Bankruptcy Law Reforms Committee, Ministry of Finance, Government of India, *The Report of the Bankruptcy Law Reforms Committee* (2015).

Insolvency law in India has a chequered history marked by several changes and developments. Early attempts were not adequate for addressing the economic problems in the country and had several deficiencies to deal with the issues of company distress and timely revival. The new regime for insolvency in the country under the Insolvency and Bankruptcy Code, 2016, which draws upon International practices and principles for resolution, recovery and orderly liquidation, has replaced fragmented and dated insolvency laws.

To alleviate the financial hardships of ailing industrial units, an important law was introduced in the year 1985. It aimed at enabling companies to meet their liabilities and rehabilitate themselves through prompt measures. This Act unfortunately could not deliver satisfactory results as it was a time-consuming procedure with numerous flaws. In many cases, sick companies utilized it to defer the payment of their debts.

Subsequently, an action was taken up on a parallel track for recovering the outstanding payments due to lenders from companies owing them money. Special courts were constituted for expeditious disposal of these cases. However, this initiative, like the earlier legislation on sick industrial units, did not result in saving the distressed entities.

Further attempts were made in 2002 in terms of creating an effective regime to assist companies having financial stakes in distressed entities. This legislation allowed such companies to gain control over the assets of defaulting firms without the need to initiate judicial proceedings. Nevertheless, this was still largely aimed at maximising the economic return on the investment and not at aiding companies to restructure their operations and continue to exist.

By 2010, the banking sector in India faced immense challenges with a growing volume of non-performing assets (NPAs). Existing legislation had failed to address the crisis of mounting corporate debt, and financial institutions were suffering huge losses. Recognising the urgent need for a robust solution, the Indian government appointed another committee to devise an effective law based on the principles of speed, fairness and to cater to companies experiencing financial difficulties. The Insolvency and Bankruptcy Code, 2016, inspired by this committee's recommendations, established a unified framework to deal with insolvency cases, ushering in a significant transformation from the previous approach. This new code aims not only to facilitate recovery of funds for lenders but also to provide an opportunity for the revival of viable businesses.

Overall, India has progressed significantly in the field of insolvency law. Its journey has evolved from a slow and ineffective system to a modern, efficient, and proactive framework designed to promote a healthy business ecosystem.

OBJECTIVES AND PRINCIPLES OF THE INSOLVENCY AND BANKRUPTCY CODE 2016:

The Insolvency and Bankruptcy Code 2016 was enacted with the primary objective of facilitating a time-bound resolution of stressed assets and entities, rather than resorting to liquidation.[4] It aims to promote a robust mechanism for rescuing companies from financial

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[4] Insolvency and Bankruptcy Code, 2016, pmbl.; § 20.

distress by offering a quicker, more efficient, and fair resolution process. Furthermore, it intends to establish a structured framework for recovering outstanding debts by lenders and stakeholders involved with insolvent entities. The core principles that underpin this code include: Maximizing the value of the assets of the Corporate Debtor; Balancing the interests of all stakeholders by giving them a voice in the process; and ensuring timely resolution, which is crucial to prevent erosion of the company's value. A significant principle embedded within the code is that the proceedings under this code should have the effect of encouraging the revival of the company rather than winding it up. As the Supreme Court has held on numerous occasions, the ultimate aim of the Insolvency and Bankruptcy Code, 2016, is not the destruction of the corporate debtor, but the creation or destruction, as the case may be, with a view to maximizing the value of the enterprise.[5]

THE CORPORATE INSOLVENCY RESOLUTION PROCESS (CIRP):

The corporate insolvency resolution process, or CIRP, is a plan for struggling businesses. It's basically how you help them get out of a slump! Everything is presided over by a court and involves plenty of parties – shareholders and creditors included.[6]

Anyone from the business or any creditor can bring about this process. It involves filing a petition before the court highlighting the company's current trouble and their need for assistance. The court reviews these petitions to assess a truly dire situation. If so, it officially embarks upon the insolvency process. The firm's various assets are locked down, and a separate individual is assigned the duty of taking care of its affairs. This individual is designated the Interim Resolution Professional.

The Interim Resolution Professional will catalogue each asset and liability that the business possesses. Following that, discussions with company creditors and shareholders are held in an effort to figure out its future. The stakeholders will subsequently vote to decide between adopting a remedial approach and liquidation of the company. In the former, the business is given a fighting chance to get back on its feet. Should the latter path be chosen, the company's various assets would be auctioned. Any revenue generated from this auction would then be utilised for settling debts, with the company ceasing to exist.

The CIRP is a section of the Insolvency and Bankruptcy Code aimed at helping businesses overcome difficulties while ensuring a just treatment for everyone involved and preventing a waste of assets. The Supreme Court has continuously emphasised the importance of CIRP for rescuing viable businesses, safeguarding employees' jobs, and maximising creditor recovery, as evidenced by successful cases like Essar Steel and Bhushan Steel. However, obstacles persist, including judicial delays, lack of decisiveness by responsible parties, and divergent opinions among stakeholders, all of which impede rescue efforts and may lead to premature closures.

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[5] *Swiss Ribbons Pvt. Ltd. v. Union of India*, (2019) 4 SCC 17.

[6] Insolvency and Bankruptcy Code, 2016, §§ 6–32A.

[7]Despite these challenges, CIRP remains a crucial element of India's insolvency landscape, a superior alternative to earlier inefficient systems, and aligned with the Supreme Court's objective of fostering business rescue as expressed in the Insolvency and Bankruptcy Code.

THE RIGHTS OF FINANCIAL AND OPERATIONAL CREDITORS:

THE Insolvency and Bankruptcy Code (IBC) draws a distinction between financial creditors (such as banks) and operational creditors (those who supply goods or services). The IBC bestows more leverage upon financial creditors due to their greater expertise in evaluating investment risks and the viability of recovery plans[8]. Consequently, they hold decisive votes on key matters, including accepting restructuring plans. Operational creditors, while empowered to initiate insolvency proceedings, typically lack voting rights in decision-making, unless no financial creditors exist. This has drawn criticism, especially from small suppliers and vendors who can incur substantial losses and often lack influence in such scenarios. The Supreme Court has deemed this differentiation justifiable, citing financial creditors' superior assessment skills while advocating for fair treatment and protection of operational creditors' interests.[9]

RESCUE UNDER CIRP:

THE fundamental objective of CIRP is to revive troubled companies, as opposed to liquidating them to recover dues. The IBC recognises the benefit of saving viable enterprises for all involved parties. Common causes of bankruptcy include liquidity shortages and mismanagement, which, if addressed, can lead to a company's resurgence. CIRP provides a mechanism for this, involving professional management and a rescue plan, which may include debt reduction, equity infusion, or management restructuring. A successful rescue offers mutual advantages: creditors can recoup more than from liquidation, employees retain employment, and suppliers maintain business relationships. The Supreme Court views company rescue as the ultimate goal of the IBC, with CIRP being its most effective instrument, as demonstrated by successful rehabilitations of Essar Steel and Bhushan Steel, where significant creditor recovery was achieved. [10]Nevertheless, challenges such as process delays and inter-creditor disputes can compromise recovery prospects and potentially lead to closure.

CREDITOR COMMITTEE AND THE DOCTRINE OF COMMERCIAL WISDOM:

The Creditor Committee is constituted to manage and monitor the company during and after the insolvency process. The Committee is authorised to appoint insolvency professionals to manage

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[7] Insolvency and Bankruptcy Code, 2016, §§ 17–18.

[8] Insolvency and Bankruptcy Code, 2016, §§ 5(7), 5(20).

[9] *Swiss Ribbons Pvt. Ltd. v. Union of India*, (2019) 4 SCC 17.

[10] *Comm. of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*, (2020) 8 SCC 531.

the business and vote on all major decisions related to the rescue and revival of a distressed company. For the approval of a corporate resolution plan (CRP) to rescue the business. Creditor Committee holds tremendous sway and holds decision-making power, which not only affects the company in distress but also has profound implications on all stakeholders such as creditors, employees and shareholders etc. A “creditor committee” means a committee of financial creditors or such operational creditor that is authorised to vote in the committee, which is established by the relevant creditor group and is given charge of representing such group as per the rules made by the committee. The Committee represents various stakeholder groups and includes financial creditors or a percentage, which has been determined according to rules as approved, is the operational creditor or a part thereof.. The Doctrine of Commercial Wisdom: The doctrine of commercial wisdom posits that decisions taken by the creditors, including a creditors' committee appointed in terms of a statutory scheme as in the case of the IBC, are to be given due regard, unless the same are not in good faith or are illegal or violate statutory provisions.[11] It requires judicial restraint against interference unless the resolution plan adopted is patently unfair, not in consonance with public policy and thus not legal or as is stated in a few judgments, 'so perverse that a reasonable person can't pass or could not approve that resolution plan'. We have often been told by the apex court about the significance of this principle to enable financial creditors to exercise rights to rescue. Advantages of Doctrine of Commercial Wisdom It streamlines the insolvency proceedings as the adjudicatory mechanism refrains from intruding into commercial aspects of viability of a resolution plan; encourages creditors to adopt a commercial rationale in their decision; fosters healthy recovery rates. On the other hand, there are arguments of its misuse wherein a dominant Creditors’ Committee may make commercially unwise choices for a business, that too without much accountability.

CHALLENGES IN BALANCING CREDITORS RIGHTS AND CORPORATE RESCUE:

Despite improvements to the Indian insolvency regime with the IBC, the road to truly effective resolution still poses a challenge. Challenges remain with the IBC and its execution: delays in processes, delays in execution and the rise in liquidation; it becomes all the more difficult to rescue any viable unit in these cases. The rise in liquidations reflects a problem either with the IBC regime's resolution processes, its delays, or in the operational readiness of key players and infrastructure that enable it. Another issue is ensuring appropriate balance between the rights of creditors to maximise their recovery and the imperative to rescue corporations. This balancing is not always straightforward.[12]The SC observed that a principal objective under the Code is to maximise the value of assets of a corporate debtor; this might not always lead to saving a company in distress and might result in eventual liquidation of a company, but this would lead to maximising value. Other hurdles include lack of a clear international insolvency framework, delays due to pending proceedings and challenges before the National Company Law Tribunals, shortage of well-trained professionals and ineffective valuation mechanisms. In short, although

[11] *K. Sashidhar v. Indian Overseas Bank*, (2019) 12 SCC 150.

[12] *Comm. of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*, (2020) 8 SCC 531.

the IBC is a step in the right direction, there remain several issues to contend with in order to make the Indian insolvency and bankruptcy framework even more robust and effective.

THE IBC: FACING MAJOR HURDLE-LIQUIDATION BOUNGE

Insolvency and Bankruptcy Code, 2016 is now at the crossroads: it is experiencing a significant number of insolvencies, culminating in liquidation as against rescue or resolution. The prompt action required under the IBC for revival/rescue of a stressed company and creditors' role in its operation are being dwarfed by the spiralling liquidation. The company in distress enters Insolvency proceedings generally at an already deteriorated economic position, with insufficient room for resuscitation. Financial and operational creditors have different roles. Financial creditors have more powers in voting, on other hand, operational creditors lack a decisive voice on creditor committee decisions despite their significant exposure from company finances. It becomes difficult for the operational creditors to recover their debt amounts as a result. National Company Law Tribunal (NCLT) has to contend with a backlog, resulting in prolonged delay, which impacts resolution efficiency and resource realisation. Enhancement and expansion of these tribunals will significantly facilitate their effective functioning in reducing burden and thus enhance overall efficacy of insolvency regime. Cross- border insolvencies continue to pose a challenge; the Indian legal system requires a coherent framework to handle cases with cross-border complexities. Effective international cooperation and reciprocal arrangements are essential. Effectiveness of the whole regime also depends on several external factors like capacity and quality of the resolution professionals, integrity of business valuations, and willingness of new investors. Lack of performance in any of these would hurt creditor recovery and value maximisation goals. So we have miles to cover till India's insolvency landscape fully fulfils the promise of resolving insolvency and stimulating the economy in the direction hoped when IBC was launched.

CRITICAL ANALYSIS:

The Insolvency and Bankruptcy Code has revolutionised the Indian insolvency framework from a slow, cumbersome, and fragmented process with poor recovery rates to a more organised, efficient, and time-bound mechanism. Its strengths lie in empowering creditors, promoting financial discipline, and enhancing credit market confidence. The creditor-centric approach has led to better recoveries in some high-profile cases, signalling effectiveness. However, the Code cannot be viewed solely through the lens of recovery. Its objectives extend to business rescue, value maximisation, preserving employment, and efficiently reallocating economic resources. The growing trend of liquidations indicates that aspects of the rescue mechanism may be failing, and the Code's social and economic goals are not being fully realised. The doctrine of commercial wisdom has undoubtedly sped up decision-making by reducing judicial intervention. Yet, its unchecked application may compromise accountability and potentially overlook the interests of less powerful stakeholders like operational creditors, employees, and minority shareholders, who can bear significant losses even when financial creditors recover their dues. Delays in adhering to timelines not only hinder the goal of time-bound resolution but also risk turning potentially viable businesses into liquidation cases, negating the Code's purpose of rescue. Efficient resolution proceedings are critical for long-term credibility and success of the insolvency framework. While the IBC marks a significant advancement, the persistent conflict between creditor recovery and corporate rescue calls for a more balanced approach. The Code must evolve to foster both outcomes rather than prioritising one over the other.

SUGGESTIONS AND REFORMS:

To achieve a better balance between creditor rights and corporate rescue, the following reforms can be undertaken: First, enhance the capacity of National Company Law Tribunals (NCLTs) through expansion and appointment of more judges and technical members to expedite proceedings and preserve asset value. Second, promote early resolution strategies, such as pre-packaged insolvency and cross-border insolvency mechanisms, to prevent the escalation of financial distress into inevitable liquidation. Third, strengthen protections and representation for operational creditors to ensure a more equitable distribution of powers within the Creditor Committee, recognising their vital contribution to business operations. Fourth, adopt a comprehensive legal framework for cross-border insolvency that aligns with international best practices to streamline complex international disputes. Fifth, invest in comprehensive training for insolvency professionals and improve valuation methodologies to enhance the accuracy and reliability of resolution plans. Sixth, regulatory bodies should monitor liquidation trends closely and identify and address any barriers hindering corporate rescue.

CONCLUSION:

The Insolvency and Bankruptcy Code 2016 is a groundbreaking reform which is revolutionising India's insolvency and bankruptcy regime. The Code has provided a consolidated regime, a time-bound resolution process and empowered creditors by giving them an effective recovery mechanism, thereby fostering Financial discipline in the economy.TheCorporate InsolvencyResolution Process is the backbone of the Code and attempts to save stressed, non-performing, but viable units from collapsing. Through creditor involvement, competent and experienced management and appropriate resolutions the CIRP aims to provide an opportunity for maximum possible value and business continuity and liquidation provides an orderly mechanism for an unviable business to make an exit. The core issue that this study attempts to address is balancing the protection of the rights of the creditor and ensuring a successful corporate rescue for non-viable but worthwhile businesses. While the Insolvency and Bankruptcy Code has given increased powers and capabilities to creditors, leading to greater recoveries, it has remained imbalanced on various fronts due to the issue of delayed process, unequal stakeholder treatment, higher liquidation rates and a diminished space for operational creditors in resolution. The Courts are constantly reiterating the Code's vision of resolution but are conscious about the will of the creditors to make decisions; however, insolvency law must develop to ensure that this focus on creditor recovery does not impede the goal of saving useful and profitable enterprises. In sum, the success of the Code, in the long run, would depend on finding the right balance between financial accountability on the one hand and corporate rescue on the other so that a robust insolvency system serves the Indian economy, promoting investment and economic growth, preserving employment, and supporting healthy commercial activity and development.[13]

[13] Insolvency and Bankruptcy Board of India, *IBC: Idea, Design and Evolution* (2024).