

Examining the Effectiveness of the Insolvency and Bankruptcy Code (IBC): Challenges and Triumphs

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Abstract:

The Insolvency and Bankruptcy Code (IBC), introduced in 2016, aimed to revolutionize India's corporate insolvency resolution framework. This study analyzes the IBC's efficacy, exploring both the challenges it faces ("blockades") and the positive outcomes ("success stories"). We examine the code's background, objectives, and key features, followed by a critical evaluation of its implementation. By understanding both its triumphs and tribulations, this research aims to inform further discourse and potential improvements, ensuring the IBC effectively addresses corporate insolvency in India. This research explores the background, objectives, and key features of the code, followed by a critical evaluation of its implementation. By understanding its nuances, this research aims to contribute to ongoing discourse, identifying potential improvements to ensure the IBC remains a robust tool for addressing corporate insolvency in India. The research will rely solely on secondary sources, including credible news articles and reports. This study delves into the IBC's efficacy, analyzing both challenges and success stories. It explores the background, objectives, and key features of the code, followed by a critical evaluation of its implementation. By understanding its nuances, this research aims to contribute to ongoing discourse, identifying potential improvements to ensure the IBC remains a robust tool for addressing corporate insolvency in India.

Keywords: *Insolvency and Bankruptcy Code (IBC), Corporate Distress Resolution, Blockades, Success Stories, Time-Bound Framework, Creditor Recovery, Investor Confidence*

1. Introduction



A cloud of doom has been hanging over the Indian banking industry lately: an increase in non-performing assets, or bad loans. A loan is classified as non-performing assets (NPAs) by the Reserve Bank of India if interest or principal payments are not collected for a minimum of ninety days. This issue began by impacting individual banks' performance, but it has since snowballed into a serious threat to the stability of the entire financial system and the health of the Indian economy (Gaur & Mohapatra, 2020). Now - a - days India's corporate insolvency system faced challenges prior to 2016, impeding economic growth and deterring investment. To address these issues, the government adopted the Insolvency and Bankruptcy Code (IBC) in 2016. This historic change sought to improve business convenience and encourage investment by streamlining and speeding up the corporate bankruptcy resolution procedure. The IBC simplified bankruptcy procedures, safeguarded small investors, and improved the overall business environment in India.

Despite its successes, such as resolving long-pending cases and boosting creditor recovery rates, the IBC encountered challenges. Concerns arose about the lack of infrastructure and expertise for effective implementation, as well as the high cost of insolvency proceedings. The IBC significantly improved the performance of financially distressed firms, but ongoing monitoring and adjustments are crucial for its continued effectiveness.

The Bankruptcy Law Reforms Committee (BLRC) made it possible for India to have a bankruptcy process that is more efficient. The Insolvency and Bankruptcy Code (IBC) was initially enacted in December 2015, based on their suggestions. By establishing a unified framework for insolvency and bankruptcy, this act simplifies the current legal system. The IBC was approved by the President in May 2016 after it was passed by the Lok Sabha, and it went into force in December of the same year.

The main aim of the legislation is to enhance and modernise the insolvency process. It does this by replacing outdated laws like the Presidency Towns Insolvency Act (1909) and the Provincial Insolvency Act (1920). The IBC also modifies other laws, including the Finance Act (1994), the Customs Act (1962), the Central Excise Act (1944), and the Indian Partnership Act (1932). to strengthen current legislation, such as the Companies Act (2013). Creating a more effective and efficient system for managing insolvency in India is the aim of this comprehensive plan.

This study delves into the IBC's efficacy, analyzing both challenges and success stories. It explores the background, objectives, and key features of the code, followed by a critical evaluation of its implementation. By understanding its nuances, this research aims to contribute to ongoing discourse, identifying potential improvements to ensure the IBC remains a robust tool for addressing corporate insolvency in India.

1.1. India's Bankruptcy & Insolvency Code (IBC): A Comprehensive Overview

Corporate bankruptcy has been revolutionised by India's 2016 bankruptcy and Bankruptcy Code (IBC), which established a simplified, time-bound process. Prioritizing asset value and creditor rights, the IBC fosters a more transparent and efficient system for

resolving financial distress in companies. Let's discuss the overview as under;

A comprehensive legislative framework known as "The Indian government approved the Insolvency and Bankruptcy Code (IBC) in 2016 with the intention of expediting and simplifying the resolution of corporate insolvency. The objective is to optimise asset value while maintaining equilibrium between the interests of investors, borrowers, and creditors.

The Insolvency and Bankruptcy Code (IBC) is a major modification to India's bankruptcy legislation. It is intended to make it easier for companies to restructure their debts and avoid bankruptcy. It is also expected to improve the flow of credit in the Indian economy.

1.1.1. *History:*

Before 2016, India's slow-moving and disjointed bankruptcy procedure impeded the country's economic expansion. The Bankruptcy Law Reforms Committee (BLRC) put forth the IBC in 2015 with the intention of empowering creditors and streamlining the process of collecting debt. Due to India's poor recovery rate (around 20%), lending was discouraged, particularly to risky borrowers, which made this reform imperative. The IBC provides a much-needed framework for banks to manage bad loans effectively and restore a healthy lending environment, which is a timely answer for the Indian economy (Shekhawat, A. 2019). Approved by the Indian Parliament in 2016, the Insolvency and Bankruptcy Code (IBC) addressed the grave problem of non-performing assets (NPAs) that were causing damage to Indian institutions, especially public sector banks (PSUs). In the past, protracted procedures and a complex legal system made debt collection difficult.

One of the biggest reform initiatives to date is the Insolvency and Bankruptcy Code (IBC) passed in 2016, it replaced a web of outdated laws with a unified framework. This streamlined process empowers creditors to initiate insolvency proceedings, aiming for faster resolutions within a set timeframe. The IBC prioritizes reviving distressed companies while ensuring fair liquidation if revival isn't feasible. This landmark legislation marked a significant shift towards a more efficient and transparent system for tackling corporate insolvency in India.

1.1.2. *Legal Framework:*

A. A groundbreaking law, The Insolvency and Bankruptcy Code (IBC), 2016 provided a whole new legislative framework for corporate insolvency and bankruptcy in India. It does not, however, function in a vacuum. The sources of this code's authority are:

For insolvency and bankruptcy procedures in India, the Act of 2016 Creating the Insolvency and Bankruptcy Code, this act is the principal legislative legislation that describes the principles, guidelines, and processes.

Relevant provisions of the Indian Constitution: The IBC finds support and legitimacy within the broader framework of the Indian Constitution. This includes,



but is not limited to, the following articles:

Article 14: Equal protection under the law and equality before the law are guaranteed.

Article 19(1)(g): The freedom to engage in any profession, trade, or business in India is firmly protected by it.

Article 300A: This Article empowering the Indian Parliament to enact laws on bankruptcy and insolvency.

B. Amendment Act 2021 of the Insolvency and Bankruptcy Code

In August 2021, the Indian Parliament passed the IBC Amendment Act, 2021. This act introduces a number of significant amendments to the original IBC, which was passed in 2016, including:

Pre-packaged Insolvency Resolution Process: - The goal of this new procedure is to speed up the resolution process for MSMEs (micro, small, and medium-sized businesses) that are having financial difficulties.

Increased minimum threshold for initiating CIRP: Instead of requiring a minimum default amount of Rs. 1 lakh, the Corporate Insolvency Resolution Process (CIRP) now demands Rs. 1 crore in order to be commenced against a firm. This change aimed to reduce the burden on the system by filtering out smaller defaults.

Clarification on timelines for completion of CIRP: The amendment clarified the timelines for completing CIRP, the goal is to make the process more streamlined and efficient.

Strengthening the role of Information Utilities (IUs): The act further emphasizes the role of IUs in facilitating information exchange and transparency in the insolvency process.

Overall, the IBC Amendment Act, 2021 seeks to further improve the efficiency and effectiveness of the existing insolvency framework in India, particularly by:

- Providing a faster resolution option for smaller businesses through PIRP.
- Focusing resources on more significant financial distress cases through the increased threshold for CIRP.
- Ensuring greater clarity and predictability in the timeline for resolving insolvency cases.
- Enhancing transparency and information flow within the process.

1.1.3. Principles of the IBC:

The core principles underpinning the IBC are:

- a) Time-bound process:** This code mandates a time-bound framework for resolving various insolvency cases, and intending to finish the full procedure within a



maximum duration of 330 days, with the possibility of extension in exceptional circumstances.

- b) **Creditor-driven:** Unlike the previous system, the IBC empowers creditors to take the initiative in initiating insolvency proceedings.
- c) **Maximization of value:** The code places a strong emphasis on increasing the corporate debtors' asset values for the good of all parties involved, with a preference for revival if feasible.
- d) **Transparency and efficiency:** The IBC promotes transparency and efficiency through mechanisms like insolvency professionals and information utilities.

1.1.4. **Global Context of IBC 2016:**

Under the 2016 Insolvency and Bankruptcy Code (IBC), there isn't a single legislation that stands alone. It's a part of a global trend towards standardising and expediting the handling of insolvency. Economic advancement was hampered by the slow and opaque prior system in India. The IBC seeks to resolve disputes more quickly and transparently; it draws inspiration from global models such as the UNCITRAL framework. Its emphasis on deadlines and creditor involvement also complies with the successful insolvency regimes in the US and the UK. The IBC represents India's dedication to a contemporary insolvency system that promotes.

1.2. **Objectives of Study**

This research investigates the Insolvency and Bankruptcy Code (IBC) through a multi-faceted lens, aiming to:

1. To evaluate the effectiveness of the Insolvency and Bankruptcy Code in resolving corporate insolvency in India.
2. To identify the key challenges ("blockades") hindering the smooth implementation of the IBC.
3. To examine the positive outcomes ("success stories") achieved through the IBC.

2. **Review of Literatures**

The bankruptcy and Bankruptcy Code (IBC), which was implemented in 2016, significantly changed the corporate bankruptcy environment in India. In order to present a summary of the topics and conclusions related to the IBC, this review synthesises important literature. According to **Swaminathan (2024)** claims that before the Insolvency and Bankruptcy Code was passed in 2016, NPA resolution was impeded by a disjointed legal framework. Multiple, overlapping insolvency laws created confusion and delays. This was intended to be addressed by offering a single, time-bound structure for resolving the insolvency problems. **Das, (2024)** said that, the IBC empowers creditors through collective decision-making and streamlines procedures, potentially leading to faster recovery of bad loans for banks. It also promotes a healthier credit culture and



facilitates business restructuring, benefitting the broader economy. While the IBC represents a positive step, its effectiveness in tackling NPAs remains under evaluation. While initial data suggests some improvement in NPA reduction (refer to your research for specific data and citations), challenges like delays in the resolution process and complexities in specific sectors persist (India Ratings and Research, 2023). **Pardhasaradhi (2022)** highlights the IBC's philosophy of balancing stakeholders' interests and maximizing asset value. The shift from debtor-driven to creditor-driven mechanisms and the supportive pillars within and outside the IBC have facilitated successful implementation. As per **Kavitha, D. (2022)** India's pre-packaged bankruptcy procedures can improve the settlement of insolvencies involving small and medium-sized businesses, but only if the country's institutional bankruptcy framework is reinforced. The research paper by **Singh (2020)** discusses pre-packaged bankruptcy, a concept used in the USA and UK but not yet included in India's insolvency system. The author argues that while the Insolvency and Bankruptcy Code (IBC) has helped, there's room for improvement, and pre-packaged bankruptcy could be beneficial. The paper explores how this insolvency process would work in India, including the potential challenges and advantages of its introduction. **Gupta and Tripathi (2021)** address challenges related to disputed claims in corporate insolvency under the IBC. They trace the jurisprudential development related to claims, emphasizing the evolving nature of insolvency laws. **Modani (2021)** examines the IBC's role in streamlining India's bankruptcy framework, emphasizing benefits for creditors, small investors, and businesses. The focus is on preventing non-performing assets, protecting interests, and expediting resolutions. **Parker (2020)** does a literature analysis and analyses the recent introduction of the Corporate Insolvency Resolution Process (CIRP) in India under the Insolvency and Bankruptcy Code (IBC) 2016. The author draws attention to the transition from several concurrent insolvency acts to a single IBC framework, simplifying processes previously overseen by the Companies Act (2013), the Sick Industrial Companies (SIC) Act (1985), the Recovery of Debt Due to Banks and Financial Institutions Act (1993), and the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act (2002). This consolidation aimed to address longstanding issues of protracted cases and offered a robust mechanism for corporate revival. Parker emphasizes the IBC's role in facilitating genuine company rehabilitation and restructuring, drawing comparisons to administration procedures in Australia and the UK. Unlike those debtor-in-possession models, the IBC vests control in a third-party Resolution Professional who formulates a restructuring plan for creditor approval within strict timeframes. The article also highlights the IBC's emphasis on empowering creditors, both international and local. According to **Bose et al. (2020)**, the

IBC has a favourable effect on financially troubled enterprises. It has been demonstrated to increase credit availability and lower debt financing costs, particularly for larger, more recently established, and more collateralized businesses. **Gupta (2019)** views the IBC as a significant shift, acknowledging its potential to improve the credit ecosystem but noting challenges such as undue leniency on timelines and concerns about creditor treatment. **Kumari (2019)** decodes the IBC's implications, addressing its consolidation of laws,

practical and legal implications, and effectiveness in insolvency resolution. The paper suggests improvements for better implementation. **Padhye (2018)** explores the IBC's significance in mitigating credit risk and achieving dual objectives of debt recovery and company revival. It focuses on empowering diverse creditors and provides an overview of past bankruptcy laws. **Tandon and Tandon (2018)** analyze the paradigm shift brought about by the IBC in India's debt-recovery scenario. The IBC's time-bound and effective bankruptcy resolution is explored, emphasizing its impact on the banking business and handling insolvency situations.

The above review of literatures highlighted the Insolvency and Bankruptcy Code 2016 as a positive step toward resolving corporate insolvency in India. However, it emphasizes the need to assess its actual impact on Non-Performing Asset (NPA) recovery after seven years of implementation. This evaluation is crucial to understand the effectiveness of the IBC in tackling this critical financial challenge. By analyzing factors like NPA reduction rates, resolution timelines, and company revival success rates, we can gain valuable insights into how well the IBC is working. Additionally, exploring challenges faced during implementation and areas for improvement can help refine the code for even greater effectiveness.

3. Research Methodology

Utilizing a secondary data research technique, this study examines the effects of India's Insolvency and Bankruptcy Code 2016. The study draws on a diverse body of literature, including academic articles, legal analyses, and empirical studies, to synthesize existing knowledge on the IBC's effectiveness in corporate insolvency resolution. The secondary data sources encompass publications spanning various disciplines, such as law, economics, and finance, allowing for a comprehensive review of key themes and findings. This approach facilitates a nuanced understanding of the IBC's transformative role, challenges, and positive outcomes, contributing to the ongoing discourse on its implications for India's corporate insolvency landscape.

4. Success Stories of the IBC in India: Breathing New Life into Companies

For Indian banks, non-performing assets (NPAs) represent a significant obstacle. Although the government and the Reserve Bank of India (RBI) have tried a number of approaches to lower non-performing assets (NPAs), their results haven't always been satisfactory. An overview of the Gross NPA status for the Indian scheduled commercial banks can be seen in the following table.

TABLE 1: GROSS NPAS AS PER CENT OF GROSS ADVANCES

Year	Gross Advances	Gross NPA	Gross NPA (in %)
2022-23	1,90,50,500	5,71,515	3.0
2021-22	1,27,50,006	7,43,653	5.8

2020-21	1,13,99,608	8,35,138	7.3
2019-20	1,09,18,918	8,99,803	8.2
2018-19	1,02,94,463	9,36,474	9.1
2017-18	92,66,210	10,39,679	11.2
2016-17	84,92,565	7,91,791	9.3
2015-16	81,73,121	6,11,947	7.5

Source: Reserve Bank of India

Interpretation: We found contradictory trends in the Gross NPA by studying the preceding table. From 2015–16 to 2017–18, Gross Non-Performing Assets (NPAs) grew dramatically. However, as a proportion of Gross Advances, they have since declined, reaching 3.0% (approximately) in 2022–23 from a peak of 11.2 percent in the 2017–18 financial year. The IBC, 2016's adoption is probably to blame for this reduction. The study suggests that there has been some progress in managing non-performing assets (NPAs) in relation to total advances; however, the Gross NPAs' absolute value has not decreased steadily, indicating that there are still difficulties in reducing Gross NPAs.

Data on corporate insolvency resolutions under the Insolvency and Bankruptcy Board of India, it does not categorize data specifically as "success stories." However, they do provide data on the number of cases filed, admitted into insolvency resolution process (CIRP), resolved, and withdrawn/settled. Here's a glimpse into this data:

Table 2: Year-wise Data on Corporate Insolvency Resolutions under IBC (as of March 31, 2023):

(Number)

Year Quarter /	CIRPs at the beginning of the Period	Admitted	Closure by				CIRPs at the end of the Period
			Appeal /Review/ Settled	Withdra wal under Section 12A	Approval of Resoluti on Plan	Comme ncemen t of Liquida tion	
2016- 17	0	37	1	0	0	0	36
2017- 18	36	707	95	0	19	91	538
2018-19	538	1157	155	97	77	304	1062
2019 -	1062	1989	343	216	133	540	1819



20							
2020 - 21	1819	537	89	162	121	350	1634
2021 - 22	1634	891	116	184	147	342	1736
2022 - 23	1736	1261	172	200	184	409	2032
Apr - Jun, 2023	2032	247	36	44	42	96	2061
Jul - Sep, 2023	2061	232	46	44	85	117	2001
Total	NA	7058	1053	947	808	2249	2001

Source: Compilation from the NCLT website and IP filing.

Notes: Under these CIRPs, there are 6784 CDs. One CD has been transferred directly to resolution from the Board for Industrial and Financial Reconstruction (BIFR); this is not included.

The table outlines Year-wise Information on Corporate Bankruptcy Goals under IBC from 2016-17 to 2022-23 and 2023-24. At first, in 2016-17, just 37 cases entered the IBC framework. This number saw a huge year-on-year rise, arriving at 707 by 2017-18. Notwithstanding, there was a plunge in enrolled cases during 2020-21 to 2022-23. This can be credited to the High Court forced hang on bankruptcy goals because of Coronavirus, alongside an adjustment of the base limit for conceding cases under the IBC (from Rs. 1 lakh to Rs. 1 crore). As far as recuperation rates, the IBC by and large accomplished more than 40%, with exemptions during the difficult long stretches of the Coronavirus pandemic.

Table 3: Sectoral Distribution of CIRPs as on September 30, 2023

Sector	No. of CIRPs						Ongoing
	Admitted	Closed				Total	
		Appeal/Review/ Settled	Withdrawal under Section 12 A	Approval of Resolution Plan	Commencement of Liquidation		
Manufacturing	2708	363	370	388	928	2049	639
Food, Beverages & Tobacco Products	355	44	46	45	125	260	95
Chemicals & Chemical Products	289	47	50	41	82	220	69
Electrical Machinery & Apparatus	192	23	21	14	82	140	52
Fabricated Metal Products	143	20	26	18	48	112	31
Machinery & Equipment	292	53	47	30	94	224	68
Textiles, Leather & Apparel Products	466	56	66	52	187	361	105
Wood, Rubber, Plastic & Paper Products	314	40	45	52	105	242	72
Basic Metals	458	53	39	107	146	345	113
Others	199	27	30	29	59	145	54
Real Estate, Renting & Business Activities	1508	282	230	118	414	1044	464
Real Estate Activities	414	89	55	35	68	247	167
Computer and related activities	204	25	35	13	73	146	58
Research and Development	9	2	2	1	1	6	3
Other Business Activities	881	166	138	69	272	645	236
Construction	811	152	120	89	166	527	284
Wholesale & Retail Trade	698	91	68	57	292	508	190
Hotels & Restaurants	149	26	24	21	39	110	39
Electricity & Others	199	26	18	41	74	159	40
Transport, Storage & Communications	195	21	22	15	78	136	59
Others	790	92	95	79	258	524	266
Total	7058	1053	947	808	2249	5057	2001

Note: The distribution follows the National Industrial Classification (NIC 2004) and is based on the CIN of the CDs.

Interpretation:

1. The number of cases filed fluctuated significantly over the years, with a noticeable rise in 2017 and 2022.
2. The percentage of cases admitted into CIRP compared to filed cases generally shows a downward trend, indicating stricter scrutiny at the admission stage.
3. The number of cases resolved demonstrates a decrease over time, potentially due to several factors like complex cases taking longer and ongoing amendments to the IBC.
4. Cases withdrawn/settled also show a rise, potentially reflecting negotiated settlements outside the formal CIRP process.

Table-4: Amount of Recoveries as Performance of IBC

Year	No of Cases Registered	Amount Involved	Amount Recovered	Percentage
2016-17	37	-	-	-



2017-18	707	9,929	4,926	49.6
2018-19	1157	1,45,457	66,440	45.7
2019-20	1989	2,24,935	1,04,117	46.3
2020-21	537	1,35,319	27,311	20.2
2021-22	891	1,97,959	47,409	23.9
2022-23	1261	1,33,930 5	53,968	40.3

Source: Reserve Bank of India (RBI)

The statistics about non-performing asset (NPA) recovery under the IBC for the fiscal years 2016–17 through 2022–23 is presented in the above table. Thirty-seven cases in regard to the IBC during the 2016–17 fiscal year were reported in the underlying component of the IBC presentation. There were 707 enrolled cases in the ensuing fiscal year, 2017–18. Based on the study, we can see that the overall number of cases filed has grown year on year, with the exception of fiscal years 2020-21. This is because the Hon'ble High Court of India ordered that the filing of bankruptcy be halted owing to the coronavirus and changed the maximum amount that may be accepted under IBC'2016 for the recovery of non-performing assets from Rs. 1 lakh to Rs. 1 crore. With the exception of two test years during the coronavirus epidemic, the IBC has recovered at rates of 40 percent or above.

The IBC has ushered in a new era for resolving corporate insolvency in India. Here's a look at some positive outcomes,

- ***Protects small investors, and improves business ease in India:*** The Insolvency and Bankruptcy Code (IBC) addresses a critical gap in India's financial landscape. Before the IBC, filing for bankruptcy was a lengthy and cumbersome process, hindering economic efficiency. The IBC streamlines this process, aiming for faster resolutions that benefit the economy (Modani, M. 2021). Furthermore, the code prioritizes protecting small investors and making it easier to do business in India. This improves the country's ease of doing business ranking. By facilitating quicker resolutions, the IBC also helps prevent loans from turning into non-performing assets (NPAs) for creditors. Additionally, it offers a chance for justice for shareholders by allowing for business restructuring and revival within a set timeframe. Ultimately, the IBC acts as a single, comprehensive law, providing a safety net for deserving companies facing unforeseen circumstances.
- ***Faster Resolutions and Improved Recovery Rates:*** The IBC's time-bound process has led to faster resolution of insolvency cases. For instance, the case of **Binani Cement Ltd. (2020)**: A resolution plan was authorised by the National Company



Law Tribunal (NCLT) in 270 days, demonstrating the IBC's time-bound process and optimising value recovery for creditors. The NCLT Ahmedabad bench's decision in this case serves as an example of how quickly and effectively cases can be handled under the IBC.

- ***Revival of Distressed Companies:*** The IBC's primary goal is to restore functioning enterprises. The resolution of Electrosteel Steels Ltd. (2018): This case was determined by the Hon'ble Supreme Court of India, and it emphasises the need of restoring profitable business. Electrosteel Steels was successfully revived under new ownership, demonstrating the IBC's ability to breathe new life into distressed companies.
- ***Increased Access to Credit:*** Improved creditor rights under the IBC have incentivized banks to lend to stressed companies. The continued efforts in the Essar Steel Ltd. case, which is being handled by the NCLT, demonstrate the enhanced creditor rights under the IBC, even though a resolution for Essar Steel is still pending. These expanded rights encourage banks to lend to financially troubled businesses, which could eventually open up credit for the industry. In addition to being a historic IBC case, this one shows the highest returns—nearly 85%—that lenders have ever realised on the INR 49,000 crore debt of the corporation. The Reserve Bank of India (RBI) first named 12 corporations to be sent to the NCLT for resolution, including Essar Steel. August 2017 saw the matter brought before NCLT, and November 2019 saw the European steel giant
- ***Transparency and Deterrence:*** Transparency, protocol, and a strong framework are some of the ways that the Insolvency and Bankruptcy Code of 2016 seeks to transform the filing process. By radically altering the fundamental elements of bankruptcy, it provides financially troubled businesses with a much-needed chance for recovery (Bang, V., Bhansali, S., Doshi, D., & Vedak, A. 2019). The NCLT's ruling in the Jaypee Infratech case from 2017 underscores the IBC's emphasis on transparency. The code has the power to reveal poor management, like that of Jaypee Infratech, and open the door to a just conclusion that is advantageous to all parties involved.
- ***Pre-Packaged Insolvency Resolution Process:*** - Although pre-packaged bankruptcy, commonly referred to as "Pre-packs," was first introduced in the US and the UK, it has not yet been appropriately incorporated into the bankruptcy laws of India. While stressed asset data have improved under the most current Insolvency and Bankruptcy Code, 2016, there is still need for improvement, including the introduction of Pre-packs, since the Act still has teething issues (Singh, H. 2020). Pre-Packaged Insolvency, which solves potential challenges and concerns while complementing the present CIRP framework, is a viable alternative bankruptcy resolution framework in India (Kumar, S. & Jain, V. 2022).
- ***Personal Guarantee to Corporate Debtors:*** A new rule permitting insolvency procedures against personal guarantors of corporate creditors was implemented by the Indian government in 2019. The Supreme Court acknowledged this distinction



in the **Union of India v. Lalit Kumar Jain case**. The court concluded that because of their intimate connection to the businesses they guarantee, personal guarantors should be given special consideration under the Insolvency and Bankruptcy Code (IBC).

- **Corporate Insolvency Resolution Process Under IBC 2016:** The IBC 2016 consolidates various insolvency laws, providing a robust mechanism for company rehabilitation and restructuring, while giving substantial power to financial creditors.
- **Formation of Committee of Creditors (CoC) under IBC:** Throughout the Corporate Insolvency Resolution Process (CIRP) of a firm, the Committee of Creditors (CoC) performs the functions of a board of directors. They have the power to make decisions that will affect the debtor's future under the Insolvency and Bankruptcy Code (IBC). The person appointed by the court to supervise the CIRP and carry out the judgements made by the CoC is known as the Resolution Professional. Notably, the CoC has the power to examine and accept a resolution plan for the corporation; however, the Adjudicating Authority must provide final approval before this approval can be granted. According to sections 30 and 31 of the Code, courts all over India have repeatedly emphasised how crucial the CoC's business judgement is in directing the corporate debtor's journey through CIRP.

Beyond individual cases, bankruptcy laws play a crucial role in the economy. They enable the efficient allocation of capital by allowing it to move from struggling businesses to more productive ones, promoting economic growth and entrepreneurship.

Additionally, they offer a framework for fair debt restructuring between debtors and creditors.

The positive trend in NPA reduction is expected to continue in FY24. Several factors are likely at play, including improved asset quality on the bank's books. Additionally, scheduled commercial banks (SCBs) are likely maintaining a significant buffer of provisions, which can act as a shock absorber against potential loan defaults.

5. Obstacles and Difficulties with the Bankruptcy Code and Insolvency:

Since the Bankruptcy Code and Insolvency of 2016 was put into effect, debt collection in India has significantly improved, but its effectiveness in achieving time-bound and effective bankruptcy resolution remains a challenge (Tandon, D., & Tandon, N. 2018). The Bankruptcy Code and insolvency (IBC), while lauded for its efforts to streamline corporate insolvency resolution, has faced certain challenges and criticisms, which can be seen as "blockades" hindering its smooth functioning. Here are some of them:

- a. **Long Litigation:** While the IBC aims for time-bound resolution, delays due to complex legal issues and litigation can extend the process, impacting its effectiveness.
- b. **Lack of skilled professionals:** The efficient implementation of IBC requires



insolvency professionals (IPs) and other experts with specialized skills. However, the initial shortage of such professionals and concerns about their quality have posed challenges.

- c. ***Inadequate infrastructure:*** The IBC framework relies on a robust infrastructure, including dedicated courts and tribunals. Initial limitations in this area, along with backlogs in existing courts, have contributed to delays.
- d. ***Challenges in dealing with cross-border insolvency:*** The IBC primarily focuses on domestic cases. Handling complex situations involving companies with assets or liabilities across borders remains an evolving area.
- e. ***Concerns over haircuts:*** Creditors sometimes face situations where they receive a lower amount than what they are owed, termed a "haircut." While this is an inevitable aspect of insolvency resolution, finding the right balance to protect creditor interests remains a challenge.
- f. ***Addressing the issue of wilful defaulters:*** While the IBC framework aims to tackle genuine financial distress, it is crucial to deter and effectively address situations involving wilful defaults and fraudulent practices.

It's important to note that the IBC is a continually evolving framework, and various stakeholders, including the government and regulatory bodies, are working towards addressing these challenges and improving its effectiveness.

6. Moving Forward: Addressing Blockades

To address the above blockades and enhance the IBC's efficacy, several approaches can be considered:

- ***Continuous Monitoring and Refinement:*** Regularly evaluating the IBC's effectiveness and making necessary refinements based on data and stakeholder feedback can be crucial.
- ***Strengthening Dispute Resolution Mechanisms:*** Streamlining and expediting the resolution of disputed claims through robust mechanisms is essential.
- ***Promoting Efficient Implementation:*** Ensuring efficient implementation across all levels, from legal frameworks to institutional capacity, is vital.
- ***Addressing Systemic Issues:*** Tackling the root causes of stressed assets through broader economic and financial reforms is necessary for long-term sustainability.

While the IBC has demonstrably improved aspects of India's corporate insolvency landscape, it's an evolving framework that requires continuous evaluation and refinement to address blockades and enhance its overall efficacy. A collaborative effort involving various stakeholders, including policymakers, legal professionals, financial institutions, and businesses, is crucial for achieving the IBC's full potential in fostering a healthy and efficient credit ecosystem.

7. Suggestions for Improving the Insolvency and Bankruptcy Code (IBC):



A multifaceted strategy is required to maximise the efficacy of the IBC:-

- 1) ***Continuous monitoring and improvement:*** Regularly evaluating the IBC's performance based on data and stakeholder feedback allows for identifying areas that require improvement. Targeted adjustments based on these insights can then be implemented to enhance the code's effectiveness.
- 2) ***Efficient dispute resolution:*** Streamlining claim resolution processes and expediting the handling of disputed claims is crucial. This can significantly reduce delays and uncertainties within the insolvency process.
- 3) ***Effective implementation:*** Ensuring a clear and consistent legal framework, adequate infrastructure, and well-trained professionals to handle IBC cases is key to efficient implementation.
- 4) ***Addressing systemic issues:*** Long-term success requires tackling the root causes of stressed assets, such as excessive borrowing, inadequate loan assessment practices, and external economic shocks, through broader economic and financial reforms.

7. Conclusions:

The Insolvency and Bankruptcy Code (IBC) stands as a landmark reform in India's economic history. This framework improves the general business environment in a number of ways and is strongly tied to the ease of doing business. The IBC helps failing businesses by bolstering creditor rights and halting capital loss while boosting investor confidence in the economy. IBC has a track record of increasing NPL recovery rates and changing India's credit culture since 2016. Even while the government and the Reserve Bank of India (RBI) are actively striving to tighten the law, there is still opportunity for improvement, especially in terms of accelerating the resolution process. While IBC has a proven track record of improving aspects of India's corporate insolvency environment, continuous evaluation and improvement is critical to its continued success. To maximize the effectiveness of the code, it is important to address the current hurdles of complexity, timelines and implementation. Achieving IBC's full potential requires a collaborative effort involving policymakers, lawyers, financial institutions and corporations, all working together to promote a healthy and efficient credit ecosystem in India.

References

- <https://www.ibbi.gov.in/>
- <https://ibbi.gov.in/en/legal-framework/act>
- <https://ibbi.gov.in/uploads/whatsnew/2456194a119394217a926e595b537437.pdf>
- Data compiled from IBBI Quarterly Newsletter for July-September; 2023
- Zhil'tsova, Y., & Strakhov, V. (2021). Formulating a stand-alone paradigm of the concepts Bankruptcy and Insolvency of legal entities. *International Accounting*. <https://doi.org/10.24891/IA.24.7.826>.
- Singh, V. (2021). Modern Corporate Insolvency Regime in India: A Review. *Social Science Research Network*. <https://doi.org/10.2139/SSRN.3766210>.
- Gupta, S., & Tripathi, I. (2021). Treatment of Disputed Claims in Corporate Insolvency: Evolving Jurisprudence. *Bankruptcy*. <https://doi.org/10.2139/ssrn.3910991>.
- Modani, M. (2021). Insolvency and Bankruptcy Code 2016. *Corporate Governance Educator: Courses*. <https://doi.org/10.2139/ssrn.3859110>.
- Bose, U., Filomeni, S., & Mallick, S. (2020). Does bankruptcy law improve the fate of distressed firms? The role of credit channels. *Journal of Corporate Finance*. <https://doi.org/10.1016/j.jcorpfin.2020.101836>.
- Gopalakrishnan, B., & Mohapatra, S. (2020). Insolvency regimes and firms' default risk under economic uncertainty and shocks. *Economic Modelling*. <https://doi.org/10.1016/J.ECONMOD.2020.06.005>.
- Gupta, A. (2019). Insolvency and Bankruptcy Code, 2016: A Paradigm Shift within Insolvency Laws in India. *The Copenhagen Journal of Asian Studies*. <https://doi.org/10.22439/CJAS.V36I2.5650>.
- Kumari, P. (2019). Decoding the Insolvency Laws in India. *India Law eJournal*. <https://doi.org/10.2139/ssrn.3604190>.
- Padhye, A. (2018). INSOLVENCY AND BANKRUPTCY CODE: A CHANGING EPITOME. *Abhinav-National Monthly Refereed Journal Of Research In Commerce & Management*, 7, 109-117.
- Tandon, D., & Tandon, N. (2018). Drifts in Banking Business and Deepening Losses Amidst the Insolvency and Bankruptcy Code, 2016. *Business Governance and Society*. https://doi.org/10.1007/978-3-319-94613-9_9.
- Bhatt, M., & Panda, R. (2017). Managing NPAs of Indian Banks: recent developments. *FIIB Business Review*, 6(4), 10–19. <https://doi.org/10.1177/24552658201704022>.
- Das, S. (2024). Insolvency & Bankruptcy Code – Towards Achieving Full Potential: Keynote Address by Shri Shaktikanta Das, Governor, Reserve Bank of India. In

Conference on

- Resolution of Stressed Assets and Insolvency and Bankruptcy Code (IBC) – organized by CAFRAL, Mumbai
- Gaur, D., & Mohapatra, D. R. (2020). The nexus of economic growth, priority sector lending and non-performing assets: case of Indian banking sector. *South Asian Journal of Business Studies*, 10(1), 70–90. <https://doi.org/10.1108/sajbs-01-2020-00104>.
- Singh, R., & Thakkar, H. (2021). Settlements and resolutions under the Insolvency and Bankruptcy Code: Assessing the Impact of COVID-19. *The Indian Economic Journal*, 69(3), 568–583. <https://doi.org/10.1177/00194662211013218>
- Swaminathan, J. (2024). Resolution of Stressed Assets and IBC – the Future Road Map [Speech]. Conference on Resolution of Stressed Assets and IBC, organized by CAFRAL, Mumbai.
- Vishwanathan, N. S. (2018, April 18). It is not business as usual for lenders and borrowers [Speech]. National Institute of Bank Management, Pune.
- World Bank Group. (2020). Economy profile India: Doing Business 2020. World Bank. <https://www.doingbusiness.org/content/dam/doingBusiness/country/i/india/IND.pdf>.
- Pardhasaradhi, D. (2022). IBC - Philosophy, Process & Ecosystem: A Review. *INTERNATIONAL JOURNAL OF SCIENTIFIC RESEARCH IN ENGINEERING AND MANAGEMENT*. <https://doi.org/10.55041/ijssrem11820>.
- Chadha, N., & Gangopadhyay, S. (2019). Efficient priority rules and the Indian IBC. *FEN: Other International Corporate Finance (Topic)*. <https://doi.org/10.2139/ssrn.3424354>.
- Jose, J., Herwadkar, S., Bilantu, P., & Razak, S. (2020). Does Greater Creditor Protection Affect Firm Borrowings? Evidence from IBC. *Margin: The Journal of Applied Economic Research*, 14, 212 - 225. <https://doi.org/10.1177/0973801020904484>.
- Baxi, A. (2023). Interim Finance in Creditor-Oriented Bankruptcy Codes: A Study in the Context of Insolvency & Bankruptcy Code, India. *Vikalpa*, 48, 189 - 205. <https://doi.org/10.1177/02560909221150689>.
- Bang, V., Bhansali, S., Doshi, D., & Vedak, A. (2019). Study of the Insolvency and Bankruptcy Code 2016. , 221-233. <https://doi.org/10.33771/iibm.v4i1-2.1082>.
- Srivastava, P., Kumar, M., & Verma, R. (2021). Performance Analysis and Liquidation Preference under Insolvency and Bankruptcy Code in India. *Journal of University of Shanghai for Science and Technology*. <https://doi.org/10.51201/jusst/21/08413>.
- A. (2020). A Study on Implementation of Insolvency and Bankruptcy Code (Ibc),



2016 and its Benefits to Stakeholders. Solid State Technology, 1353-1357.

- Sane, R. (2019). The Way Forward for Personal Insolvency in the Indian Insolvency and Bankruptcy Code. Emerging Markets: Finance eJournal. <https://doi.org/10.2139/SSRN.3309470>.
- Ayilyath, M. (2019). Roadblocks Under Insolvency and Bankruptcy Code, 2016 – Need for Capacity Building. LSN: Bankruptcy (Topic). <https://doi.org/10.2139/ssrn.3440479>.
- Kaveri, V. (2018). Insolvency and Bankruptcy Code: Bankers' Perspectives. Journal of Commerce and Management Thought, 9, 319-337. <https://doi.org/10.5958/0976-478X.2018.00023.X>.
- SHRIVASTAVA, M. (2023). PIVOTAL ROLE OF RESOLUTION PROFESSIONAL IN CIRP UNDER IBC. Russian Law Journal. <https://doi.org/10.52783/rlj.v11i3.2137>.
- Narwaria, Y., & Biswal, P. (2022). PRE PACKED INSOLVENCY MECHANISM UNDER INSOLVENCY AND BANKRUPTCY CODE. Dogo Rangang Research Journal. <https://doi.org/10.36893/drsr.2022.v12i10n02.115-119>.
- Khare, U. (2021). Insolvency in Real Estate: A Difficult Balancing Act. CGN: Other Corporate Governance: Bankruptcy. <https://doi.org/10.2139/ssrn.3911840>.
- Kamalnath, A. (2019). Corporate Insolvency Resolution Law in India – A Proposal to Overcome the 'Initiation Problem'. Bankruptcy.
- Agrawal, A. (2020). Liquidation As Going Concern Under Insolvency and Bankruptcy Law. Law & Society: Private Law - Financial Law eJournal. <https://doi.org/10.2139/ssrn.3527389>.
- Mohan, M., & Raj, V. (2021). Insolvency Set Offs in India: A Comparative Perspective. Law & Society: Private Law - Financial Law eJournal. <https://doi.org/10.2139/ssrn.3864014>.
- Kumar, A. (2023). POSITION OF OPERATIONAL CREDITORS: IN REGARD TO CIRP AND LIQUIDATION. International Journal of Legal Developments & Allied Issues. <https://doi.org/10.55662/ijldai.2023.9202>.
- Sharma, N., & Vyas, R. (2017). The Insolvency and Bankruptcy Code, 2016: Insolvency Professional Agency. India Law eJournal.
- Mohan, M., & Raj, V. (2021). Section 29A of India's Insolvency and Bankruptcy Code: an instance of hard cases making bad law?. Journal of Corporate Law Studies, 22, 365 - 390. <https://doi.org/10.1080/14735970.2022.2083771>.
- Abidi, Q. (2021). The Indian Bankruptcy Law Experience. SSRN Electronic Journal. <https://doi.org/10.2139/ssrn.3813804>.
- Shekhawat, A. (2019). Insolvency and Bankruptcy Code. LSN: Bankruptcy (Topic).



<https://doi.org/10.2139/ssrn.3488537>.

- Kumar, S., & Jain, V. (2022). Pre-Packaged Insolvency: Exploring an Alternative Framework for Bankruptcy Resolution in India. ECS Transactions. <https://doi.org/10.1149/10701.4129ecst>.
- Narwaria, Y., & Biswal, P. (2022). PRE PACKED INSOLVENCY MECHANISM UNDER INSOLVENCY AND BANKRUPTCY CODE. Dogo Rangsang Research Journal. <https://doi.org/10.36893/drser.2022.v12i10n02.115-119>.
- Khare, U. (2021). Insolvency in Real Estate: A Difficult Balancing Act. CGN: Other Corporate Governance: Bankruptcy. <https://doi.org/10.2139/ssrn.3911840>.
- Kamalnath, A. (2019). Corporate Insolvency Resolution Law in India – A Proposal to Overcome the ‘Initiation Problem’. Bankruptcy.
- Agrawal, A. (2020). Liquidation As Going Concern Under Insolvency and Bankruptcy Law. Law & Society: Private Law - Financial Law eJournal. <https://doi.org/10.2139/ssrn.3527389>.
- Mohan, M., & Raj, V. (2021). Insolvency Set Offs in India: A Comparative Perspective. Law & Society: Private Law - Financial Law eJournal. <https://doi.org/10.2139/ssrn.3864014>.
- Kumar, A. (2023). POSITION OF OPERATIONAL CREDITORS: IN REGARD TO CIRP AND LIQUIDATION. International Journal of Legal Developments & Allied Issues. <https://doi.org/10.55662/ijldai.2023.9202>.
- Sharma, N., & Vyas, R. (2017). The Insolvency and Bankruptcy Code, 2016: Insolvency Professional Agency. India Law eJournal.
- Mohan, M., & Raj, V. (2021). Section 29A of India’s Insolvency and Bankruptcy Code: an instance of hard cases making bad law?. Journal of Corporate Law Studies, 22, 365 - 390. <https://doi.org/10.1080/14735970.2022.2083771>.
- Abidi, Q. (2021). The Indian Bankruptcy Law Experience. SSRN Electronic Journal. <https://doi.org/10.2139/ssrn.3813804>.
- Shekhawat, A. (2019). Insolvency and Bankruptcy Code. LSN: Bankruptcy (Topic). <https://doi.org/10.2139/ssrn.3488537>.
- Kumar, S., & Jain, V. (2022). Pre-Packaged Insolvency: Exploring an Alternative Framework for Bankruptcy Resolution in India. ECS Transactions. <https://doi.org/10.1149/10701.4129ecst>.
- Singh, H. (2020). Pre-packaged Insolvency in India: Lessons from USA and UK. CGN: Insolvency & Reorganization Law (Sub-Topic). <https://doi.org/10.2139/ssrn.3518287>.
- Parker, A. (2020). Corporate Insolvency Resolution Process Under IBC 2016. Corporate Governance & Law eJournal. <https://doi.org/10.2139/ssrn.3619061>.