YourLawArticle

Open Access Law Journal, ISSN (O): 3049-0057

Editor-in-Chief – Prof. (Dr.) Amit Kashyap; Publisher – Reet Parihar

The Mirage of Speedy Liquidation: Critical Analysis of the IBC Liquidation Framework

Sanskrati Varshney (4th year BA.LLB) , Lovely Professional University
&
DR. Mohd. Rafiq Dhar (Assistant Professor), School of Law , Lovely Professional University

Published on: 25th October 2025

Abstract

Corporate liquidation is a key area of corporate law intended to address insolvency and safeguard the interests of stakeholders. In India, the liquidation process has developed with legislative reforms, primarily under the Insolvency and Bankruptcy Code, 2016 (IBC), which supplanted dispersed laws to consolidate insolvency resolution and liquidation processes. Legal reforms notwithstanding, practical issues, delays, and pitfalls continue to mar the process, impacting creditors, shareholders, and the overall economic ecosystem. This article critically analyzes the procedures, legal regime, pitfalls, and functional issues of corporate winding-up in India.

Keywords: *Corporate Liquidation, Insolvency and Bankruptcy Code, Liquidator, NCLT, Resolution Professional, Asset Distribution, Judicial Interpretation*

1. INTRODUCTION:

Corporate liquidation is the legal process by which a company winds up its activities, disposes of its assets, settles its liabilities, and hands over the remaining amount to its shareholders. Liquidation can be voluntary, on the initiative of the company, or involuntary, on the initiative of creditors under judicial control. Successful liquidation guarantees creditor protection, reduces fraudulent transactions, and maintains economic value.

In India, corporate liquidation is generally regulated under the Companies Act, 2013 and the Insolvency and Bankruptcy Code (IBC), 2016. The enactment of IBC was a major reform, focusing on time-bound insolvency resolution and liquidation, while consolidating laws spread over various statutes like the Sick Industrial Companies Act (SICA) and the Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI Act).[1]

This article aims to evaluate these challenges comprehensively, exploring the processes, pitfalls, and reforms necessary to strengthen the liquidation framework in India. The research adopts a doctrinal approach supported by empirical insights from **Insolvency and Bankruptcy Board of India (IBBI)** reports, **Supreme Court** decisions, and comparative analyses.[2]

2. OBJECTIVES OF THE STUDY:

The main aim of the current research is to critically evaluate the process, issues, and efficiency of corporate liquidation in India under the Insolvency and Bankruptcy Code, 2016 (IBC). The study will:

i. Study the legal and institutional framework regulating corporate liquidation in India.
ii. Evaluate the role and liabilities of major stakeholders like the Liquidator, Committee of Creditors (CoC), and the NCLT.
iii. Assess the judicial interpretation and functional hurdles in the liquidation process.
iv. Pinpoint pitfalls and procedural inefficiencies that impact timely liquidation.
v. Recommend reform steps and compare India's framework to global best practices.[3]

5. LITERATURE REVIEW:

The law of corporate liquidation in India has come a long way, influenced by both academic thought and legislative change. Early writings, including the Bankruptcy Law Reforms Committee Report (2015), encouraged calls for the inefficiency and tardiness of pre-IBC framework such as the Companies Act, 1956 and Sick Industrial Companies (Special Provisions) Act, 1985 (SICA). The report outlined the necessity of an integrated insolvency regime, culminating in the adoption of the Insolvency and

[1] Insolvency and Bankruptcy Code, No. 31 of 2016, § 53, Acts of Parliament, 2016 (India).
[2] Companies Act, No. 18 of 2013, Acts of Parliament, 2013 (India).
[3] Bankruptcy Law Reforms Committee, *Report of the Bankruptcy Law Reforms Committee* (2015).

Bankruptcy Code, 2016 (IBC).

Researchers such as Anant and Bery (2017) and Sundaresan (2018) studied the way IBC reshaped India's insolvency regime by institutionaling time-bound resolution and reinforcing creditor primacy. At the same time, they found liquidation to remain the predominant outcome in most cases, exposing problems with actual implementation.

Legal scholars like Ravi and Taneja (2020) have written on the procedural challenges encountered by liquidators, valuers, and the NCLT. Empirical research conducted by the Insolvency and Bankruptcy Board of India (IBBI) indicates liquidation, although quicker under the IBC, continues to encounter challenges such as insufficient buyers, depreciation of assets, and judicial delays.

Judicial evolution—especially in the cases of Swiss Ribbons Pvt. Ltd. v. Union of India and Essar Steel India Ltd. v. Satish Kumar Gupta—has been instrumental in defining stakeholder rights and reinforcing the constitutional validity of the Code. Comparative studies by Ghosh (2021) and World Bank Reports also emphasize conforming to international standards such as the U.K. Insolvency Act and American Chapter 7 processes.

In general, the literature identifies a consensus that although the IBC has updated liquidation law, long-standing structural, procedural, and institutional issues still impair its full efficacy.

6. RESEARCH GAP:

Literature recognizes the success of the IBC in integrating India's insolvency regime but points to ongoing issues: procedural delays, divergent valuations, and unavailability of post-liquidation information. Few attempts have been made to study the socio-economic implications of liquidation or its long-run implications for credit markets.

This research, thus, seeks to bridge these gaps through doctrinal and empirical examination, marrying legal interpretation with institutional assessment in evaluating the efficiency and equity of India's corporate liquidation system.

7. RESEARCH METHODOLOGY:

The current research takes a doctrinal and analytical research approach to study the framework of corporate liquidation in India under the Insolvency and Bankruptcy Code, 2016 (IBC). The research depends mainly on secondary sources of data, such as statutes, case laws, government reports, and scholarly articles.

The extent of the study is limited to the liquidation of corporate entities—companies and LLPs—under Part II of the IBC, but not individual insolvency cases. It attempts a critical analysis of the legal provisions, the functioning of the key stakeholders like the Liquidator and NCLT, and the lacunae in the process of implementation.

Primary material consulted are the Insolvency and Bankruptcy Code, 2016, Companies Act, 2013, and important judicial rulings like Swiss Ribbons Pvt. Ltd. v. Union of India, (2019) 4 SCC 17, and Essar Steel India Ltd. v. Satish Kumar Gupta, (2020) 8 SCC 531. Secondary material consulted are books, committee reports like the Bankruptcy Law Reforms Committee Report, 2015, and statistics published by the Insolvency and Bankruptcy Board of India (IBBI).

The study design is descriptive and qualitative focusing on legal interpretation and critical analysis over field-based empirical investigation. Limitations present themselves as a reliance on secondary material, but the reliability is guaranteed through the credibility of official and academic sources.

Generally, the approach seeks to present a systematic and critical evaluation of India's corporate liquidation regime and recommend practical reforms to build stronger insolvency infrastructure.

8. HISTORICAL EVOLUTION OF LIQUIDATION LAWS IN INDIA

The legislative history of corporate liquidation in India reflects a gradual evolution from colonial frameworks to a modern insolvency regime. Each phase demonstrates an incremental attempt to balance creditor recovery with debtor protection.[4]

8.1 Early Framework: Companies Act, 1956

Before the IBC, liquidation of companies was primarily governed by the Companies Act, 1956, particularly under Part VII. Liquidation could be initiated either voluntarily by shareholders or compulsorily by the High Court. The official liquidator, appointed by the Central Government, administered the process. However, the framework suffered from severe procedural inefficiency. Multiple authorities — including Company Courts, the Board for Industrial and Financial Reconstruction (BIFR), and Debt Recovery Tribunals — operated simultaneously, leading to jurisdictional conflicts.[5]

8.2 Sick Industrial Companies (Special Provisions) Act, 1985 (SICA)

The enactment of SICA sought to address industrial sickness by facilitating the rehabilitation of sick companies. The BIFR and Appellate Authority for Industrial and Financial Reconstruction (AAIFR) were established to revive distressed industries. However, the framework's focus on rehabilitation rather than liquidation led to protracted proceedings.

In *NGEF Ltd. v. Chandra Developers (P) Ltd.*, (2005) 8 SCC 219, the Supreme Court highlighted the inconsistency between the Companies Act and SICA, noting that SICA's overriding provisions often paralyzed liquidation processes even when revival was impossible.

The absence of strict timelines, coupled with misuse of protective moratoriums, transformed SICA into

[4] NGEF Ltd. v. Chandra Developers (P) Ltd., (2005) 8 SCC 219.

[5] J. J. Irani Committee, *Report on Company Law* (2005), available at https://www.mca.gov.in.

an instrument for delay rather than recovery.

8.3 The Era of Multiple Overlapping Statutes

The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDBFI Act) established Debt Recovery Tribunals (DRTs) for expeditious debt recovery. Later, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) empowered banks to recover non-performing assets without court intervention.

However, these laws operated parallel to corporate insolvency proceedings, often creating overlapping claims and inconsistent enforcement. The Joint Parliamentary Committee on Stock Market Scam (2002) observed that the absence of a coordinated legal structure hindered economic efficiency and creditor recovery.

8.4 Enactment of the Insolvency and Bankruptcy Code, 2016

The Insolvency and Bankruptcy Code, 2016 emerged as a watershed reform. Enacted with the objective of "consolidating and amending the laws relating to reorganization and insolvency resolution of corporate persons," it integrated the functions of the erstwhile DRTs, Company Law Boards, and BIFR into a single adjudicatory mechanism — the National Company Law Tribunal (NCLT).

The Code introduced the Corporate Insolvency Resolution Process (CIRP) as the primary mechanism for revival, with liquidation as the ultimate step when revival efforts fail. It incorporated a creditor-in-control model, replacing the earlier debtor-in-possession approach. The time-bound nature of the IBC — 180 days (extendable to 330 days) — represented a paradigm shift aimed at improving India's global insolvency ranking under the World Bank's Ease of Doing Business Index.

In *Swiss Ribbons Pvt. Ltd. v. Union of India*, (2019) 4 SCC 17, the Supreme Court upheld the constitutionality of the IBC, recognizing liquidation as a legitimate outcome consistent with the Code's objective of maximizing value and ensuring equitable treatment among stakeholders.[6]

8.5 The Post-IBC Developments

Since the IBC's implementation, several amendments — including the Insolvency and Bankruptcy (Amendment) Acts of 2018, 2019, and 2021 — have refined the liquidation process. Notably, the 2021 Amendment introduced the concept of pre-packaged insolvency resolution for MSMEs, aiming to accelerate proceedings and minimize liquidation delays.[7]

9. LEGAL FRAMEWORK FOR CORPORATE INSOLVENCY AND LIQUIDATION

9.1 Insolvency and Bankruptcy Code, 2016

Enacted to consolidate and amend the laws on insolvency and bankruptcy

Aims:

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

[7] *Insolvency and Bankruptcy Board of India*, *Annual Report 2024*, https://www.ibbi.gov.in.

Ensure time-bound resolution

Encourage entrepreneurship and availability of credit

Strike balance between interests of creditors and debtors

9.2 Principal Authorities under the IBC

- Insolvency and Bankruptcy Board of India (IBBI)

Regulatory and supervisory body

Powers: Registration, regulation, and discipline of Insolvency Professionals (IPs), Insolvency Professional Agencies (IPAs), and Information Utilities (IUs)

- National Company Law Tribunal (NCLT)

Adjudicating authority for corporate liquidation and insolvency

- Adjudicating Process

NCLT orders trigger corporate insolvency resolution process (CIRP) or liquidation

9.3 Applicability and Scope

Applicable to corporate debtors, partnership firms, LLPs, individuals

Thresholds for triggering corporate insolvency (financial default of ₹1 lakh and above)

Exclusions: Financial service providers under specific RBI regulations

10. CORPORATE LIQUIDATION PROCESS (STEP-BY-STEP)

The corporate liquidation process under the Insolvency and Bankruptcy Code (IBC), 2016 is time-bound, process-oriented, and creditor-focussed so as to ensure the value of corporate assets is protected and maximized for stakeholders. The process can be comprehended in various sequential steps:

i. Initiation of Corporate Insolvency Resolution Process (CIRP)

The process starts when a financial creditor, operational creditor, or corporate debtor approaches the NCLT with a petition.

The petition needs to prove a default of ₹1 lakh or above, and supporting papers.

Upon admission, CIRP is commenced, and a Section 14 automatic moratorium takes effect, stopping ongoing proceedings against the debtor.[8]

ii. Moratorium

This legal moratorium stops creditors from filing or pursuing suits, enforcing guarantees, or taking possession of the debtor's properties.

[8] Arun Kumar & Deepa P., *The Role of the Liquidator under IBC: An Analytical Appraisal*, 12 NALSAR L. Rev. 345 (2020).

Purpose: Preserve the assets of the debtor and provide a venue for an orderly resolution.

Example: In CIRP of Jet Airways, moratorium ensured that operations were stabilized while the resolution plan was being assessed.[9]

iii. Interim Management

An Interim Resolution Professional (IRP) is appointed to oversee day-to-day operations and take care of asset protection.

IRP duties comprise confirmation of claims, setting up of Committee of Creditors (CoC), and filing of periodic reports with NCLT.

iv. Formation of Committee of Creditors (CoC) and Voting

CoC consists of financial creditors whose aggregate voting percentage makes resolution plans and significant operational decisions.

For approval of a resolution plan, ≥66% majority is needed, which guarantees collective creditor agreement.

v. Resolution Plan Analysis

Resolution applicants file plans outlining repayment, restructuring, or revival of operations.

NCLT analyzes the compliance of the plan with the law, feasibility, fairness, and viability.

Upon approval, it avoids liquidation and guarantees business continuity.

vi. Liquidation (in case CIRP fails)

When CIRP does not provide a viable plan, NCLT orders liquidation.

A liquidator is tasked with sale of assets, realization of dues, and distribution of proceeds.

All the creditors are notified, and claims are scrutinized to facilitate orderly liquidation.

vii. Distribution of Assets

- Priority under Section 53:
- Insolvency resolution expense and liquidation expense
- Secured financial creditors
- Unsecured financial creditors
- Operational creditors
- Government dues (taxes, statutory dues)
- Equity shareholders
- Liquidator files a final report with NCLT.

[9] Shubham Jain & Aakriti Saxena, *Time-bound Liquidation: A Mirage or a Reality under the IBC*, 8 Indian J. Corp. L. Stud. 97 (2021)

The corporate debtor is removed from the registry.[10]

Example: In Bhushan Steel Ltd., liquidation was completed after asset realization and repayment to creditors, establishing a benchmark for large corporate liquidations.

11. STAKEHOLDER ROLES (LIQUIDATOR, COC, NCLT, CREDITORS)

Stakeholder roles determine the effectiveness and justice of the liquidation process:

11.1 Liquidator

Functions as a fiduciary to the creditors to ensure assets are sold at fair market value.

Critical functions: identification of assets, verification of claims, legal adherence, reporting to NCLT, and distribution of funds.

Example: In Essar Steel, liquidators oversaw several auctions and settlements with transparency.[11]

11.2 Committee of Creditors (CoC)

Has the right to decide on resolution plans and appointments under IRP.

Voting thresholds protect the majority agreement, avoiding disputes.

Risks: prevalence of large financial creditors can push operational creditors to the periphery.

11.3 National Company Law Tribunal (NCLT)

Adjudicating authority overseeing CIRP and liquidation.

Responsibilities: scrutinize petitions, sanction/reject resolution plans, and ensure moratorium compliance.

Protects judicial oversight to avoid biased resolutions.

11.4 Creditors

Financial creditors: Preferential repayment, have overbearing voting powers in CoC.

Operational creditors: Paid second; changes seek to increase their say in CoC decisions.

Equity shareholders: Residual claimants; they profit only after payment to all creditors.[12]

12. JUDICIAL DEVELOPMENTS AND CASE ANALYSIS

Judicial pronouncements have defined corporate liquidation standards:

i. Innoventive Industries Ltd. v. ICICI Bank (2018)

Supreme Court reaffirmed strict compliance with CIRP timeframes (180 days + 90-day extension).[13]

Emphasized consequences of delay: depreciation in asset value and dissatisfaction of creditors.

ii. Swiss Ribbons Pvt. Ltd. v. Union of India (2019)

Constitutionality of IBC reaffirmed.

---

[10] Ravi S. Hegde, *The Insolvency and Bankruptcy Code: A New Dawn in Corporate Insolvency Law*, 59 J. Indian L. Inst. 211 (2017).

[11] Rachna Sharma, *Worker Rights in Liquidation: Balancing Equity and Efficiency*, 14 Indian J. Indus. L. 143 (2022).

[12] M. L. Tannan, *Banking Law and Practice in India* (1999).

[13] *Innoventive Industries Ltd. v. ICICI Bank*, (2018) 1 SCC 407.

Confirmed CoC powers and protection to operational creditors.

iii. Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors. (2019)

Facilitated transparency in related-party resolution plans and Reiterated fiduciary duty of liquidators and CoC[14].

iv. Jet Airways Ltd. CIRP

Challenges of multi-creditor coordination brought into focus requirement for structured decision-making and professional expertise.

13. COMPARATIVE INTERNATIONAL FRAMEWORKS (UK, US, SINGAPORE)

India's corporate liquidation framework under the IBC can be improved by learning from international experiences. These cross-country comparisons bring to the forefront different approaches to insolvency, such as restructuring-first models, creditor protection mechanisms, and efficiency-oriented reforms.

13.1 United States: Chapter 11 Bankruptcy

Overview:

US Chapter 11 Bankruptcy Code prioritizes restructuring over liquidation, permitting troubled companies to remain in business under a debtor-in-possession (DIP) model.

Key Features:

- Debtor retains control: The company's management continues operations but must seek court approval for major decisions.
- Automatic stay: Similar to India's moratorium, halts creditor actions.
- Creditor committees: Unsecured creditors can form committees to influence restructuring plans.
- Plan approval: Requires acceptance by creditors and court confirmation, ensuring feasibility and fairness.

Example:

The General Motors (GM) Chapter 11 case, 2009, enabled GM to restructure, shed liabilities, and re-emerge as a viable player. Shareholders lost equity, while creditors were partially paid.

Lessons for India:

- Focus on business continuance instead of liquidation in the near term.
- Stringent interaction with all classes of creditors, not just financial ones.
- Supervision by the courts to ensure accountability and workability of plans.[15]

13.2 United Kingdom: Administration and Company Voluntary Arrangements (CVA)

[14] *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors.*, (2019) 16 SCC 479.
[15] Philip R. Wood, *Comparative Insolvency Law* (Sweet & Maxwell 2019).

Overview:

UK insolvency legislation emphasizes rescue rather than liquidation, based on preservation of business activity and employment in conjunction with creditor negotiation.

Most important Mechanisms:

Administration:

An administrator, a licensed insolvency practitioner, assumes management.

Objective:

- To rescue the company as a going concern or to maximize assets.
- Company Voluntary Arrangement (CVA):
- A company and its creditors agree on a restructuring plan.
- Must be approved by 75% (by value) of the creditors.
- Provides flexibility of payment timetable and deferral of debt.

Illustration:

The Northern Rock bank administration in 2007 maintained operations, contained systemic risk, and prevented outright liquidation.

Takeaways for India:

- Pre-packaged arrangements allow restructuring on a prompt basis (like India's PPIRP).
- Preserves jobs and allows for smoother business continuity.
- Lessens judicial time spent, keeping value dilution minimal.[16]

13.3 Singapore: Insolvency, Restructuring, and Dissolution Act

Overview:

Singapore's 2017 act harmonizes insolvency legislation and encourages pre-packaged and early restructuring, as per world best practices.

Key Features:

- Pre-packaged insolvency: Enables firms to submit restructuring plans prior to formal insolvency.
- Time-bound resolution: Curbs delay in approval and implementation of plans.
- Cross-border coordination: Acknowledges foreign claims and assets, enhancing investor confidence.

Illustration:

Asian Co. Ltd. (hypothetical example for reference) benefited from pre-packaged insolvency allowing the firm to restructure in 60 days, with recovery of creditors and business continuity.

[16] *UNCITRAL Model Law on Cross-Border Insolvency*, G.A. Res. 52/158, U.N. Doc. A/RES/52/158 (Jan. 30, 1998).

India's lessons:

- PPIRP under IBC for MSMEs follows Singapore's model.
- Focuses on speed, efficiency, and protection of stakeholders.
- Digital claims verification and asset realization platforms enhance transparency.[17]

13.4 Comparative Observations for India

Business Rescue vs. Liquidation:

US and UK models emphasize rescue of viable businesses, while classic Indian IBC process came with a greater focus on creditor-activated liquidation.

IBC reforms such as PPIRP are filling this gap, particularly for MSMEs.[18]

Stakeholder Participation:

US and UK models ensure financial as well as operational creditors are given a voice in the resolution plans.

India's CoC is presently controlled by financial creditors but is soon to be joined by operational creditors through amendments.

Time-bound Processes:

Singapore and the UK impose tight timelines for approval and implementation, diminishing value erosion.

Indian IBC timelines are enhancing but continue to suffer judicial delays in practice.

Technology and Transparency:

Jurisdictions overseas rely more and more on digital platforms for claims, valuation, and auctions.

India is implementing Information Utilities (IUs) and e-auctions but needs wider integration.

Analysis

By comparing India's corporate liquidation process to that in the US, UK, and Singapore, a number of lessons are brought out:

Emphasis on early restructuring over instant liquidation enhances value recovery.

Stakeholder representation inclusive of financial as well as operational creditors ensures equitable outcomes.

Time-bound and transparent processes are critical for maintaining asset value and investor faith.

Implementation of pre-packaged solutions and digital infrastructure maximizes efficiency, minimizes litigation, and simplifies resolution.

Conclusion of Section 5

Though India's IBC has set a strong framework, incorporating global best practices—particularly

[17] Insolvency, Restructuring and Dissolution Act 2018 (Singapore).
[18] Insolvency Act 1986, c. 45 (U.K.).

business continuity emphasis, increased stakeholder participation, and digitalization—will improve corporate liquidation results and make India compliant with international standards.

14. PITFALLS AND OPERATIONAL CHALLENGES

Even after the Insolvency and Bankruptcy Code (IBC), 2016 introduced large reforms in India's corporate insolvency system, multiple procedural and structural challenges have been persistently hindering the efficiency and goals of the corporate liquidation process. These problems tend to stem from judicial delay, institutional capacity issues, valuation disputes, and creditor imbalance.[19]

14.1 Judicial Delay and Procedural Bottlenecks

Judicial delay is perhaps one of the most recurring challenges in corporate liquidation.

The IBC lays down a deadline of 270 days (180 days + 90-day extension) for the closure of the Corporate Insolvency Resolution Process (CIRP). Yet, most cases have lasted longer than the statutory timeframe.

Causes of delay:

- Congested NCLT benches.
- Recurrence of adjournments.
- Complexity in procedures to verify claims and appeals to NCLAT and Supreme Court.
- For example, in the Bhushan Power & Steel Ltd. case, liquidation took several years because of several litigations and disputes over asset valuation and investigation of fraud.
- Impact: Delayed resolution results in loss of asset value, creditor dissatisfaction, and weakened investor confidence.

14.2 Disproportionate Treatment of Operational Creditors

The IBC's creditor pecking order under Section 53 ranks operational creditors lower than financial creditors in repayment order.

This typically results in much lower recoveries for the employees, vendors, and suppliers.

Even when operational creditors are key to business survival, they have no representation in the Committee of Creditors (CoC) unless specifically allowed by the NCLT.

Illustration: While upholding the differential treatment in favor of operational as opposed to financial creditors, the Supreme Court stressed fairness and proportionality in the Essar Steel judgment.

Critique: This systemic imbalance dissuades small vendors and suppliers from dealing with financially troubled companies.[20]

14.3 Asset Valuation and Realization Issues

Correct asset valuation is core to the liquidation process but still remains an issue in India.

---

[19] A. Verma, *The Economic Impact of the Insolvency and Bankruptcy Code: An Empirical Analysis*, SSRN (2025).

[20] Chandan Choubey & Vandana Gupta, *Measuring Effectiveness of the IBC Framework*, *Granthaalayah J. Arts* (2025).

Most corporate assets—particularly in manufacturing, aviation, or property businesses—are specialized or illiquid assets without comparable market information.

Valuation differences between liquidators and creditors frequently slow asset sales.

Auctions at times may receive low bids because of poor market reach or absence of buyer confidence.

Case Example: During the Jet Airways CIRP, the valuation of aviation assets (aircraft leases, routes, and slots) was found to be extremely challenging, resulting in under-realization and creditor loss.

14.4 Coordination Among Multiple Regulators

Corporate liquidation often overlaps with other regulatory schemes, such as:

- SEBI (for listed companies),
- RBI (for financial creditors and NBFCs),
- Income Tax Department, and
- Labour authorities (for worker dues).
- The failure of smooth coordination between such bodies results in jurisdictional conflicts and procedural delays.

Example: The Income Tax Department clearance delay in some liquidation cases has been hindering timely distribution of proceeds.[21]

14.5 Collusive or Fraudulent Resolutions

Cases of fraudulent, collusive, or related-party resolutions weaken public confidence in the process.

Some promoters try to retrieve control over their properties through proxy bidders or affiliated entities.

Though Section 29A of the IBC prevents wilful defaulters from returning, enforcement is incoherent.

Illustration: The Amtek Auto case highlighted loopholes where promoters indirectly took part in bidding via related parties.

14.6 Institutional Capacity and Professional Competence

There is a lack of trained Insolvency Professionals (IPs), especially in hard cases, multi-sectoral.

Lack of forensic and valuation expertise results in inefficiencies and conflicts.

Most NCLT benches suffer from a critical shortage of members and administrative personnel, thereby lengthening the overall process period.

15. REFORMS AND RECOMMENDATIONS

Based on the aforementioned challenges, India now needs to shift from a reactive liquidation system to a preventive, technology-driven, and harmonized globally insolvency ecosystem.

The following reforms are essential to enhance the efficiency, transparency, and inclusiveness of

[21] K. Ritika, *Effectiveness of Second Amendment to Indian Insolvency Law*, *Dartmouth L.J.* (2025).

corporate liquidation.[22]

15.1 Expansion of Pre-Packaged Insolvency (PPIRP)

Launched in 2021 for Micro, Small, and Medium Enterprises (MSMEs), PPIRP permits debtors and creditors to come to an agreement regarding a resolution plan prior to initiation of formal insolvency proceedings.

PPIRP compresses the time period to 90 days, upholds value and continuity.

Recommendation: Apply PPIRP to large companies and permit hybrid forms fusing voluntary and creditor-driven processes.

Benefit: Reduces court delays, upholds jobs, and promotes early financial restructuring.[23]

15.2 Technological Integration and Digitalization

Digital platforms can revolutionize claim verification, valuation, and auction processes:

Information Utilities (IUs) must be digitized in full for clean claim tracking.

AI-based valuation systems can provide indicative fair asset prices with predictive analytics.

E-auction websites must be linked with government and banking databases to facilitate authentic bidders and real-time enforceability.

Example: Singapore's e-filing and computerized insolvency management system significantly minimized liquidation timelines and enhanced recovery rates.

15.3 Empowering Operational Creditors

Reforms are required to deal with the power imbalance between operational and financial creditors.

Grant operational creditors voting rights in CoC meetings beyond a specified threshold (e.g., claims above 10% of total debt).

Enforce minimum guaranteed repayment ratios on operational creditors to provide for equity.

Grant priority to workers' and employees' dues in the repayment structure to provide for social security.

Reasoning: Equitable treatment fosters trust and maintains the business environment by covering suppliers and workers.

15.4 Enhancing Judicial and Institutional Capability

Enhance NCLT benches and appoint trained judicial and technical members.

Capacity-building initiatives for Insolvency Professionals (IPs), valuers, and forensic auditors.

Create specific IBC appellate benches to avoid backlog at NCLAT.

Facilitate utilization of alternate dispute resolution (ADR) for lower-value claims during liquidation.

Outcome: Quicker adjudication, lower litigation costs, and enhanced institutional credibility.

---

[22] A. Srivastava, *Creditor Rights and Innovation: Evidence from a Quasi-Experiment*, 15 J. Indian Fin. & Bus. L. 45 (2025).

[23] S. Agarwal, *Creditor-Controlled Insolvency and Firm Financing*, 17 J. Corp. Fin. 101 (2023).

17.5 Increasing Transparency and Governance

Quarterly mandatory public disclosure of liquidation updates and realized values.

Severe penalties for default, concealment, or fraudulent action by liquidators or creditors.

Real-time monitoring of liquidation cases via a central IBC dashboard operated by IBBI.

Objective: Strengthen public trust and assure accountability through the process.

15.6 Cross-Border Insolvency Harmonization

With the economy becoming more global, several Indian businesses own foreign assets, subsidiaries, or creditors.India needs to implement the UNCITRAL Model Law on Cross-Border Insolvency, which eases recognition of foreign proceedings and mutual cooperation among international courts.

Implement mutual agreements with major jurisdictions like Singapore, the UK, and the US.

Benefit: Makes liquidation of multinational entities easier and raises investor confidence.

Example: In the case of Jet Airways, coordination issues between Indian and Dutch courts highlighted the imperative for a structured cross-border framework.

15.7 Alignment with Financial Regulation and Corporate Governance

Align IBC with SEBI, RBI, and Companies Act provisions to provide plug-and-play regulatory clearance.

Foster early-warning systems within corporate governance frameworks to detect financial distress before default is imminent.

Result: Prevents unnecessary insolvencies and promotes an enforcement compliance culture.[24]

16, CONCLUSION

Enactment of the Insolvency and Bankruptcy Code, 2016 (IBC) has certainly brought a revolutionary change to India's corporate legal regime, substituting an archaic and disorganized regime of insolvency legislation with an integrated, time-bound, and creditor-friendly framework. Prior to the IBC, India's insolvency framework was marred by procedural lags, conflicting jurisdictions, and a lack of accountability, resulting in asset value dilution and loss of creditor trust. The IBC was thus conceived as an economic reform as well as a legal one—firmly grounded on the concepts of value maximization, fair distribution, and revival of stressed enterprises wherever feasible.

Time and again, the Code has shown remarkable improvement in providing a systematic, transparent, and institutionally backed mechanism for dealing with corporate distress. It has established specialized institutions like the Insolvency and Bankruptcy Board of India (IBBI) and the National Company Law Tribunal (NCLT), as well as professionalization of Insolvency Professionals (IPs), which together

[24] A. Gupta, *A Paradigm Shift within Insolvency Laws in India*, 8 Copenhagen J. Asian Stud. 45 (2020).

constitute the operational spine of India's insolvency framework. These institutional innovations have brought a measure of procedural rigor and fiscal prudence that was missing from the pre-IBC era. In addition, judicial interpretation—specifically through landmark judgments like Swiss Ribbons Pvt. Ltd. v. Union of India and ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta—has strengthened the Code's goals while clarifying vexed questions relating to the rights of creditors and the Committee of Creditors (CoC). The judiciary has thereby not just acted as a legitimate adjudicatory authority but also as a constitutional custodian of the spirit of the Code, insulating commercial efficiency against arbitrariness and ensuring fairness and justice.

However, in spite of these successes, the process of liquidation under the IBC continues to be plagued by practical and institutional issues that have so far prevented its complete realization. Overt delays, uneven valuations of assets, poor infrastructure, and shortfalls in judicial capacity have repeatedly resulted in outcomes that are inversely the Code's vision of timely resolution and protection of value. The discriminatory treatment of operational creditors under Section 53 has also caused disgruntlement among small suppliers and workers who survive on fair recoveries. In addition, liquidation processes in India still grapple with coordination issues on multiple regulatory fronts—SEBI, RBI, and tax authorities—resulting in jurisdictional overlaps that water down efficiency. These challenges are aggravated by the lack of Insolvency Professionals and technical specialists, their absence delaying verification of claims and valuation exercises. The outcome is a procedure that, though theoretically sound, frequently does not impart practical justice in a timely manner.[25]

In comparison, other jurisdictions like the United Kingdom, the United States, and Singapore offer lessons in efficiency and creativity. The UK model focuses on early intervention and administrative liquidation; the US system in Chapter 11 promotes reorganization more than liquidation; and Singapore's technology-based insolvency law facilitates speed, transparency, and creditor confidence. For India, the system continues to be dependent on judicial intervention, which renders it susceptible to procedural gridlocks and litigation. The lack of a robust cross-border insolvency framework also constrains India to deal with multinational corporate collapse effectively—a deficiency which can be met by the implementation of the UNCITRAL Model Law on Cross-Border Insolvency.[26]

India will need to take a forward-looking and reformist approach to the liquidation of corporations in the future. An extension of the Pre-Packaged Insolvency Resolution Process (PPIRP) to larger corporate debtors may allow early, consensual restructuring and minimize court reliance. Digital integration through AI-based valuation, e-auction platforms, and real-time data tracking would significantly

[25] Amol Baxi, *India's Experience in Insolvency Laws: Learnings for the Global South*, Research & Information System for Developing Countries (2024).

[26] *Reuters*, *Indian Court's Reversal of $2.3 Billion Deal Casts Shadow on Bankruptcy Law* (May 8, 2025).

enhance transparency and minimize human error. Likewise, empowering operational creditors with participatory rights and ensuring minimum payout thresholds would create a more equitable insolvency environment. Institutional strengthening—through additional NCLT benches, trained judicial officers, and continuous capacity-building programs for insolvency professionals—remains imperative. These changes, combined with better regulatory coordination and better mechanisms of governance, can make liquidation a vibrant instrument of economic rebirth from the current ponderous formality.

It is only when the process achieves a balance between efficiency and empathy, and between commercial results and constitutional justice, that the IBC can realize its vision of being not just an insolvency law but a holistic framework for economic justice and sustainable development in India's corporate ecosystem.[27]

[27] *The Economic Times*, *Recovery in Realty Cases via IBC Hits 44.7%, Says FM Nirmala Sitharaman* (Aug. 15, 2025).

17. REFERENCES:

Books

1. **R. K. Gupta**, *Corporate Insolvency and Bankruptcy Code: A Comprehensive Guide* (LexisNexis 2023).
2. **M. S. Sahoo & Anuradha Guru**, *Indian Insolvency Law* (Vikalpa 2020).

Journal Articles

3. **M. P. Ram Mohan**, Section 29A of India's Insolvency and Bankruptcy Code, 2022, 31 *Int'l Insolvency Rev.* 377 (2022).
4. **A. Srivastava**, Creditor Rights and Innovation: Evidence from a Quasi-Experiment, 15 *J. Indian Fin. & Bus. L.* 45 (2025).
5. **S. Agarwal**, Creditor-Controlled Insolvency and Firm Financing, 17 *J. Corp. Fin.* 101 (2023).
6. **S. Deb**, Corporate Ownership and Insolvency Law: An Evidence-Based Analysis, 29 *Asia Pac. J. Bus. L.* 112 (2024).
7. **M. P. Ram Mohan**, Environmental Claims under Indian Insolvency Law: Concepts and Challenges, 59 *Tex. Int'l L.J.* 1 (2023).
8. **C. Shekhar**, The Evolution of Insolvency and Bankruptcy Law in India, 45 *Vikalpa* 69 (2025).
9. **A. Gupta**, A Paradigm Shift within Insolvency Laws in India, 8 *Copenhagen J. Asian Stud.* 45 (2020).
10. **M. P. Ram Mohan**, Pushing the Conceptual Limits of the Indian Insolvency Regime, 15 *Colum. J. Asian L.* 123 (2020).

Reports

11. **Insolvency and Bankruptcy Board of India**, Annual Report 2024, available at https://www.ibbi.gov.in.
12. **J. J. Irani Committee**, Report on Company Law (2005), available at https://www.mca.gov.in.
13. **Amol Baxi**, India's Experience in Insolvency Laws: Learnings for the Global South, *Research and Information System for Developing Countries* (2024), available at https://www.ris.org.in

News Articles

14. **Reuters**, Indian Court's Reversal of $2.3 Billion Deal Casts Shadow on Bankruptcy Law, *Reuters* (May 8, 2025), available at https://www.reuters.com/world/india/indian-courts-reversal-23-billion-deal-casts-shadow-bankruptcy-law-2025-05-08

15. **The Economic Times**, Recovery in Realty Cases via IBC Hits 44.7%, Says FM Nirmala Sitharaman, *The Economic Times* (August 15, 2025), available at https://economictimes.indiatimes.com/news/india/recovery-in-realty-cases-via-ibc-hits-44-7-says-fm-nirmala-sitharaman/articleshow/122982641.cms.

Case Law

16. *Essar Steel India Ltd. v. Satish Kumar Gupta*, (2020) 8 SCC 531.

17. *Logix Infrastructure Ltd. v. Experts Realty Professionals*, NCLAT, Order dated August 20, 2025.

18. *Byju's v. Glas Trust*, Supreme Court of India, Order dated October 23, 2024.

Academic Working Papers

19. **A. Verma**, The Economic Impact of the Insolvency and Bankruptcy Code: An Empirical Analysis, *SSRN* (2025), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5107333.

20. **Chandan Choubey & Dr. Vandana Gupta**, Measuring Effectiveness of the IBC Framework, *Granthaalayah* (2025), available at https://www.granthaalayahpublication.org/Arts Journal/ShodhKosh/article/download/6286/5767/32838

21. **K. Ritika**, Effectiveness of Second Amendment to Indian Insolvency Law, *Dartmouth LawJournal* (2025), available at https://dartmouthlawjournal.org/api/v1/articles/18848-effectiveness-of-second-amendment-to-indian-insolvency-law.pdf.