YourLawArticle

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

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

Committee Of Creditors (CoC): Decision-Making, Transparency, And Judicial Scrutiny

Usheeka Gulati, 4th year B.B.A.LL.B (Hons.), School of Law, Lovely Professional University

Published on: 3rd November 2025

Abstract

While the Code positions the CoC as a stabilizing force in financial governance, its functioning has sparked debate over how transparent and fair its decision-making actually is, and where courts should intervene. At the centre of this structure is the Committee of Creditors (CoC), which makes crucial commercial decisions throughout the insolvency process. The CoC exercises ultimate discretion over insolvency outcomes, including whether to approve a resolution plan or proceed with liquidation[1] when revival prospects appear unfeasible. Although the Code envisions the CoC as a guardian of financial order and stability, the actions of the CoC raise several questions regarding transparency, fairness, and judicial oversight. Judicial forums increasingly face the challenge of determining the extent to which CoC decisions, once insulated as matters of commercial wisdom, should be scrutinized for procedural fairness.. This paper examines the development of the CoC's decision-making powers, the contours of judicial intervention, and the standards of transparency enshrined within the IBC regime. It argues that a judicious balance between preservation of commercial independence and accountability is necessary to uphold the legitimacy and functional efficacy of the insolvency ecosystem in India.

Keywords: *Committee of Creditors, IBC 2016, Commercial Wisdom, Judicial Intervention, Transparency, Creditor Rights, Corporate Insolvency*

[1] Insolvency and Bankruptcy Code, No. 31 of 2016, § 30(4), § 33(2) (India).

Introduction

The passage of the Insolvency and Bankruptcy Code (IBC) in 2016 marked a turning point in India's financial regulation landscape. The Code aimed to consolidate fragmented laws on insolvency and speed up the resolution process for distressed assets. A central innovation of the IBC was its reallocation of control from defaulting debtors to creditor collectives, thereby enabling financial institutions to direct the resolution trajectory through the CoC. Beyond its administrative character, the CoC was conceptualized as a decision-making forum that applies commercial judgment representative of market interests.

Under Section 21 of the IBC, the CoC consists primarily of financial creditors, with voting rights proportional to their exposure.[2] It is the central body that determines the fate of the corporate debtor in approving a resolution plan, liquidation, or any other type of restructuring mechanism. This framework aligns with global practice, recognizing that those with the greatest financial exposure are typically best positioned to assess the recovery potential of a failing enterprise.

However, such broad authority of the CoC has also created controversies. Questions have been raised on the adequacy of transparency in its decisions and whether or not this discretion should remain outside the purview of judicial review. The judiciary, too, though professing the principle of commercial wisdom, has found it challenging to define its boundaries.Landmark rulings such as *K. Sashidhar v. Indian Overseas Bank* (2019) and *Essar Steel India Ltd. v. Satish Kumar Gupta* (2019) entrenched judicial deference to the CoC's commercial determinations.[3]

The paper examines these tensions in detail. First, it examines the composition and decision-making powers of the CoC within the statutory scheme of the IBC. Second, it traces the doctrinal development of commercial wisdom as embraced by Indian courts and its ramifications for judicial review. Third, it discusses concerns around the transparency and accountability of CoC processes, with particular reference to the problems of information asymmetry and unequal stakeholder representation. Finally, it assesses the judiciary's evolving stance on reviewing CoC decisions through a gradual evolution from strict non-interference toward a more nuanced limited review model.

Situating the CoC not only as a legal institution, but as a constituent element of India's broader experiment with market-driven governance, the balance between autonomy and oversight, efficiency and equity, lies at the heart of this ongoing discourse.

[2] Insolvency and Bankruptcy Code, No. 31 of 2016, § 21 (India).
[3] K. Sashidhar v. Indian Overseas Bank, (2019) 12 SCC 150 (India).

2. Literature Review

The Committee of Creditors (CoC) has emerged as a central institution in the Insolvency and Bankruptcy Code, 2016 (IBC), and its functioning has become a topic of significant academic and judicial discourse. The literature surrounding the CoC primarily examines three dimensions, decision-making autonomy, transparency in operations, and the scope of judicial scrutiny.

Scholars such as Shroff and Varottil (2018), and V. Umakanth (2020) have observed that the introduction of the CoC signaled a decisive shift from debtor-in-possession to creditor-in-control, aligning India's insolvency model with international frameworks such as Chapter 11 of the U.S. Bankruptcy Code and the U.K. Insolvency Act, 1986. Studies have emphasized that creditor control improves recovery efficiency and enhances credit discipline. However, critics, including Radhika Haridas (2021) and the Vidhi Centre for Legal Policy (2019), have raised concerns over the lack of accountability and representational fairness within CoC functioning, particularly the exclusion of operational creditors from voting rights.

Judicial interpretations have also shaped much of the literature. Landmark cases such as *K. Sashidhar v. Indian Overseas Bank (2019) and Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta (2019*) are widely cited for establishing the doctrine of commercial wisdom and its non-justiciability. Commentators like Gupta (2020) and Krishnan (2022) note that while these rulings protect market autonomy, they also risk shielding opaque or discriminatory decisions from adequate oversight.

Transparency and ethical conduct in CoC deliberations have become recurring themes in academic discussions. Reports by the Insolvency and Bankruptcy Board of India (IBBI, 2020–2023) and the Indian Institute of Corporate Affairs (IICA) have highlighted procedural lapses, including inadequate disclosures, inconsistent valuation reports, and limited participation of minority creditors. Further, judicial interventions in *Jaypee Infratech Ltd.* (2021*)* and *Vallal RCK v. Siva Industries* (2022) have spurred debate about whether commercial wisdom should be balanced with fiduciary accountability and fairness to non-financial stakeholders.

Comparative analyses in works by World Bank (2021) and UNCITRAL (2020) show that mature insolvency systems ensure both creditor primacy and procedural transparency through standardized voting processes, publication of minutes, and independent oversight mechanisms. India's evolving jurisprudence reflects a gradual convergence toward these principles.

Overall, the literature reveals a consensus that while the CoC has strengthened the efficiency of insolvency proceedings, persistent issues related to transparency, ethical responsibility, and judicial review remain. This paper contributes to the existing scholarship by synthesizing judicial trends and policy developments to evaluate how commercial wisdom can coexist with accountability under the IBC framework.

3. Research Methodology

This research employs a **doctrinal and analytical** methodology, supported by a **qualitative examination** of legislative texts, judicial decisions, and regulatory frameworks under the Insolvency and Bankruptcy Code, 2016. The study relies extensively on **primary legal sources**, including statutory provisions of the IBC (Sections 21, 30, 31, 33), relevant regulations issued by the Insolvency and Bankruptcy Board of India (IBBI), and major judicial pronouncements by the Supreme Court and the National Company Law Appellate Tribunal (NCLAT).

Secondary sources include committee reports such as the Bankruptcy Law Reforms Committee Report (2015), parliamentary debates, IBBI discussion papers, policy reports from NITI Aayog and the Ministry of Corporate Affairs, and scholarly commentaries from peer-reviewed journals. These materials have been systematically analyzed to interpret the legislative intent, policy rationale, and evolving judicial stance toward the CoC's functioning.

The research adopts a **comparative perspective**, referencing insolvency frameworks in the United States, the United Kingdom, and Singapore to contextualize India's creditor-driven model within global standards. Through this comparative lens, the study identifies best practices in balancing creditor autonomy with procedural fairness.

The methodology follows a **doctrinal-historical approach**, tracing the conceptual development of commercial wisdom and judicial restraint through case law evolution, from *K. Sashidhar* (2019) to *Vallal RCK* (2022). Qualitative content analysis has been used to interpret judicial reasoning and regulatory responses, thereby uncovering the interplay between commercial discretion and constitutional principles of fairness.

The objective of this methodology is not merely descriptive but evaluative, to critically assess whether the CoC's autonomy under the IBC advances the Code's twin objectives of **value maximization** and **equitable treatment**. The conclusions drawn aim to inform ongoing academic, judicial, and policy

discourse concerning transparency, accountability, and ethical governance in India's insolvency framework.

4. Composition and Powers of the Committee of Creditors (CoC)

The CoC is the decision-making nucleus of the CIRP. It is established under Section 21 of the Insolvency and Bankruptcy Code, 2016, as a body constituted by the IRP, and it is later managed by the RP when confirmed by the CoC itself. Its composition, authority, and voting procedures determine how effectively India's insolvency mechanism operates in practice. Powers vested in the CoC are wide-ranging, yet are embedded in a framework of collective decision-making, fiduciary responsibility, and procedural fairness.

4.1 Composition of the CoC

CoC consists only of financial creditors as defined under Section 5(7) of the IBC.[4] One of the IBC's key design choices is to differentiate between financial and operational creditors, determining who ultimately influences resolution outcomes. Given their expertise in evaluating financial viability, the Code accords financial creditors a predominant role in the decision-making process.

On the other hand, it is usually not the practice for operational creditors-such as suppliers and vendors-to be part of the CoC, except in rare cases where they form the bulk of the debt or when there are no financial creditors at all.

In the CoC, voting rights of creditors are proportionate to the financial exposure of each creditor. For example, under Section 30(4) of the IBC, approval or rejection of a resolution plan would require the affirmative vote of creditors representing at least 66% of the voting share.[5]The two-thirds voting threshold is designed to foster broad creditor consensus while avoiding dominance by a slim majority. The IBC also distinguishes between secured and unsecured creditors, reflecting both repayment hierarchy and respect for existing contracts.

At the same time, however, this structural focus on financial creditors has been criticized for relegating smaller stakeholders to the periphery. In Swiss Ribbons Pvt. Ltd. v. Union of India,[6] The Supreme Court upheld the exclusion of operational creditors from the CoC by holding that the financial creditors are in a better position to assess the restructuring proposals. Simultaneously, however, the Court emphasized

[4] Insolvency and Bankruptcy Code, No. 31 of 2016, § 5(7) (India).
[5] Insolvency and Bankruptcy Code, No. 31 of 2016, § 30(4) (India).
[6] Swiss Ribbons Pvt. Ltd. v. Union of India, (2019) 4 SCC 17 (India).

that the operational creditors should not be left without remedy and should at least receive as much as what would be given to them upon liquidation under Section 30(2)(b). The Court tried to strike a balance between efficiency and fairness, upholding the CoC's structure but reminding decision-makers to consider the position of those without voting rights.

4.2 Powers and Functions of the CoC

The powers of CoC are strategic and supervisory. Once constituted, it assumes almost full control over the debtor's future. The basic functions of CoC will be:

Approval by the RP: The CoC is authorized to appoint the RP under Section 22, who would be responsible for overseeing the CIRP and coordinating all resolution-related processes.

Approval of Resolution Plans: Perhaps its most critical function, under Section 30(4), is to consider and approve resolution plans proposed by eligible resolution applicants. The same gets approved by a 66% majority vote and becomes binding when sanctioned by the Adjudicating Authority, which is the National Company Law Tribunal.

Decision on Liquidation: The CoC, under Section 33(2), may decide by voting for liquidation of the corporate debtor if it concludes that the resolution process is either not viable or has failed.

Extending or withdrawing CIRP: The CoC can seek extensions of the insolvency resolution period under Section 12(2) or recommend withdrawal of proceedings under Section 12A, subject to judicial approval.

Supervision of the RP: The CoC exerts continuing control over the RP by approving expenditures and professional fees, and other procedural decisions so as to ensure transparency and accountability.

In practice, during insolvency, During the CIRP, the CoC functions analogously to a temporary governing board, directing major financial and strategic decisions until resolution: determining the economic destiny of the entity amidst the recovery interests of creditors with the wider goal of preservation of enterprise value.

4.3 The Nature of CoC's Decision-Making Power

While the Code gives great autonomy to the CoC, such autonomy is not absolute. Its decisions must conform to the statutory scheme, particularly Sections 30(2) and 31, which require that resolution plans comply with the law, provide for priority payments, and safeguard the interests of all stakeholders. The

CoC is thus not a free agent but a fiduciary body acting in good faith and for the collective benefit of creditors.

While upholding this proposition, the Supreme Court held, in the case of K. Sashidhar v. Indian Overseas Bank (2019), that the CoC's "commercial wisdom" to accept or reject a resolution plan is non-justiciable and that courts cannot sit in substitution for the views of creditors. It also clarified that immunity would encompass only commercial decisions and not procedural impropriety or illegality. In the subsequent cases, as in Essar Steel India Ltd. v. Satish Kumar Gupta (2019), the Courts have also highlighted that while an Adjudicating Authority cannot interfere into commercial wisdom, it will have the jurisdiction over the subject to ensure that CoC decisions work within the principles of fairness and equity envisioned by the Code.

4.4 Accountability and Ethical Dimensions

With the IBC gaining maturity, there is growing recognition of the need to exercise the powers of the CoC with integrity and transparency. In this direction, the IBBI has issued numerous circulars on disclosure requirements, voting transparency, and model evaluation matrices for the resolution plan. Courts too have started to recognize that CoC members owe a fiduciary duty not just to their represented institution but to all stakeholders. The judgment in Vallal RCK v. Siva Industries and Holdings Ltd. (2022)[7] has underlined that discretion exercised by the CoC should not be arbitrary and should be guided by the twin goals of value maximisation and fair distribution.

This growing jurisprudence has come to represent a transition of the CoC from a purely creditor-driven body to a quasi-fiduciary institution committed to wider economic and ethical imperatives. The body is no longer a site of financial bargaining but represents a sensitive interface between market logic and public interest.

5. Doctrine of Commercial Wisdom

The idea of ‘commercial wisdom’ underpins much of India’s insolvency framework within the IBC. Judicial practice generally accords primacy to the CoC’s financial assessments, acknowledging the superior market insight of creditors compared to judicial authorities. This doctrine was judicially evolved to balance two competing imperatives-the need for speedy, market-driven resolutions and the constitutional expectation of fairness and accountability in decision-making.

[7] Vallal RCK v. Siva Indus. & Holdings Ltd., (2022) 8 SCC 105 (India).

5.1 Conceptual Foundation

The IBC is built on the premise that insolvency is mainly an economic issue that demands business judgment rather than judicial intervention. Since the CoC is made up of financial creditors, it draws on members who understand market realities and have a vested interest in recovering the maximum value possible. As a result, courts generally restrict their role to checking whether procedures and laws were followed, rather than questioning the business merits of the CoC's choices.

Similar principles operate internationally, for instance under the UK's Insolvency Act of 1986 and the US Chapter 11 framework, whereby courts have traditionally refrained from second-guessing the business decisions of creditors' committees.[8] By adopting a similar stance, India's IBC has aligned domestic insolvency processes with international standards of commercial autonomy.

5.2 Evolution through Judicial Interpretation

The doctrine of commercial wisdom did not arrive directly from the text of the IBC; it was judicially propounded through a line of decisions of the Supreme Court, which successively defined its contours.

(a) K. Sashidhar v. Indian Overseas Bank (2019)

This landmark judgment marked the first such instance when the non-justiciability of CoC decisions was affirmatively held.[9] In *K. Sashidhar*, the Supreme Court clarified that once a resolution plan is duly rejected by the requisite majority, neither the NCLT nor the NCLAT may reassess the commercial merits of that choice. Justice A.M. Khanwilkar stated thus that the legislature intended to leave the determination of commercial viability entirely to the CoC, recognizing that courts lack the institutional capacity to evaluate such economic choices.

However, the Court underlined that the CoC has to operate within the four corners of the Code, especially sections 30(2) and 31(1), which mandate the resolution plans to conform to the law and equitably treat all the interests of stakeholders. Thus, while commercial discretion is immune from judicial substitution, it is not immune from judicial supervision when it transgresses statutory boundaries.

(b) Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta (2019)

[8] Insolvency Act 1986, c. 45 (UK).
[9] K. Sashidhar v. Indian Overseas Bank, (2019) 12 SCC 150 (India).

In Essar Steel, the Supreme Court elaborated the doctrine further to recognize that the CoC's decisions should balance value maximization and equitable distribution.[10] The Court explained that, even as the CoC enjoys "commercial primacy," it cannot arbitrarily discriminate between similarly placed creditors. Very importantly, the Court explained that the role of the Adjudicating Authority is one of limited review, confined to ensuring the resolution plan meets the mandatory requirements under Section 30(2) for payment of operational creditors and complies with applicable laws.

The judgment has highlighted that The IBC's efficacy depends on maintaining equilibrium between the CoC's commercial autonomy and a limited yet substantive scope of judicial oversight to curb misuse of discretion.

(c) Subsequent Developments: Pragmatic Refinement Subsequent rulings such as Maharashtra Seamless Ltd. v. Padmanabhan Venkatesh (2020)[11], Kalpraj Dharamshi v. Kotak Investment Advisors Ltd. (2021)[12], and Vallal RCK v. Siva Industries and Holdings Ltd. (2022)[13] reaffirmed the doctrine while expanding its ethical and procedural dimensions. The Court in Vallal RCK also observed that decisions of the CoC must be "reasoned and informed by fairness." This language marked a subtle shift from absolute non-interference to a more calibrated doctrine: judicial deference, conditioned on rationality.

5.3 Rationale for Judicial Deference

The rationale underlying judicial deference is institutional competence and efficiency. Insolvency proceedings are time-sensitive; Frequent court intervention could slow proceedings and reduce the value of assets under resolution. On the other hand, the CoC operates under strict timelines and economic incentives commensurate with the IBC's objectives of value maximization and timely resolution.

Furthermore, judicial review of commercial decisions might encourage a moral hazard: creditors might be reluctant to take decisive action for fear of possible litigation. Hence, limited intervention provides certainty, predictability, and market confidence in the resolution regime.

This is, however, not an absolute rule. The judiciary reserves the right to review cases of procedural unfairness, conflict of interest, or failure to adhere to statutory requirements. For example, judicial interference is not only justified but also essential to uphold the rule of law, as well as prevent economic

[10] Comm. of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, (2020) 8 SCC 531 (India).
[11] Maharashtra Seamless Ltd. v. Padmanabhan Venkatesh, (2020) 11 SCC 467 (India).
[12] Kalpraj Dharamshi v. Kotak Inv. Advisors Ltd., (2021) 10 SCC 401 (India).
[13] Vallal RCK v. Siva Indus. & Holdings Ltd., (2022) 8 SCC 105 (India).

injustice, in cases where the CoC has acted in bad faith or intentionally disregarded material information affecting other stakeholders.

5.4 Critiques and Concerns

While the doctrine of commercial wisdom is core to the efficiency of the IBC, it is not without its critics. Academic scholars and practitioners claim that excessive judicial deference may facilitate obfuscation or self-serving decisions by dominant creditors, especially in cases where the CoC is dominated by public sector banks. There are also claims of information asymmetry, lack of standard metrics to evaluate resolution plans, and inefficient representation for operational creditors and minority lenders.

These structural flaws have the potential to turn commercial wisdom into commercial dominance. Lack of detailed reasoning in CoC meeting minutes and secrecy around voting have at times invited accusations of arbitrariness, damaging stakeholder confidence.

These have been assuaged by courts by promoting transparency and record-keeping: Jaypee Infratech Ltd. (2021) - The Supreme Court held that the CoC must give sufficient reasons so that the illegality can be effectively reviewed by the courts without entering the commercial domain.

5.5 Emerging Balance: Wisdom with Accountability

The evolving case law indicates a balanced model, one that values the CoC's financial discretion but still demands adherence to fairness and transparency. This approach accords with the broader shift in administrative law from judicial restraint to proportionate oversight, ensuring that commercial decisions are not in violation of the Code's objectives or public interest.

In other words, the doctrine of commercial wisdom encapsulates a philosophy of bounded autonomy. It invests creditors with decisive control but anchors that control in procedural equity and ethical responsibility. The judiciary, in turn, acts as a constitutional sentinel, ensuring that commercial freedom does not degenerate into financial arbitrariness.

6. Transparency and Accountability Mechanisms in CoC Functioning

No insolvency framework can function effectively without transparency as a guiding principle, ensuring that all participants understand how and why decisions are made. As a central decision-maker, the CoC carries a significant duty of trust and fairness under the IBC, empowered to decide the fate of corporate debtors. Such a position of authority necessarily attracts a commensurate duty of fairness, transparency, and accountability. The integrity of the CoC's decisions, whether it approves the resolution plan, goes

for liquidation, or modifies the terms, is contingent on its commercial wisdom as much as on the transparency of its deliberations and inclusivity of processes.

6.1 Concept of Transparency in the IBC Context

In the legal and economic sense, transparency would denote open, informed, and reasoned decision-making so that all stakeholders understand what the basis of the outcomes is. The IBC conceives of the CoC as a quasi-fiduciary body, not a private consortium of creditors that acts solely for self-interest. This expectation emanates from the public nature of insolvency proceedings and the wide-ranging economic consequence those tend to create.

Transparency under the IBC operates at three levels:

Procedural transparency: that the entire CIRP process is carried out with due notice, participation, and record of proceedings;

Information transparency: providing complete and accurate data regarding the financial health of the debtor;

Decision transparency: recording and disclosing the reasoning behind the major CoC resolutions, including voting outcomes and plan evaluations.

The Code is supplemented by regulations framed by the Insolvency and Bankruptcy Board of India, laying out various requirements that seek to embed transparency in each stage of the insolvency process.

6.2 Regulatory Safeguards for CoC Accountability

Several regulatory provisions and circulars strengthen the responsibility of the CoC toward transparency in functioning. The CIRP Regulations, 2016, issued by the IBBI, mandate the following practices:

Information Memorandum Disclosure (Regulation 36): The RP is responsible for preparing and circulating a detailed information memorandum to all CoC members so that fair distribution of financial and operational data takes place.

Minutes of Meetings (Regulation 25): This requires that every meeting held by the CoC be properly recorded; the minutes must include discussion issues, dissenting views, and the result of voting.

Evaluation Matrix under Regulation 39: The RP shall submit an unbiased evaluation matrix, pre-approved by the CoC, that would ensure a transparent evaluation of competing resolution plans.

Disclosure of Interests (Regulation 16A): This requires members of the CoC declaring their interest, if any, to ensure fair deliberations.

Additionally, the circular dated 12 March 2021 by IBBI directed resolution professionals to maintain complete digital records of CoC meetings and voting. Although this may be largely procedural, this gives significant room for accountability because it allows for post-facto verification of decisions if challenged before judicial forums.

6.3 Judicial Emphasis on Transparency

Judicial interpretations have consistently underscored transparency as intrinsic to both constitutional principles of fairness and the statutory objectives of the IBC. In the case of Swiss Ribbons Pvt. Ltd. v. Union of India, 2019, the Supreme Court explained that since the IBC process is quasi-judicial, the process must uphold principles of natural justice-such as fair notice and reasoned decision-making. It held that transparency is not only vital to safeguard the interests of minority creditors but also necessary to maintain public trust in the insolvency regime.

In Jaypee Infratech Ltd. 2021, the Court instructed that CoC deliberations, particularly in cases involving a large public interest, must be conducted in a manner so as to leave traceability of reasoning.[14] Similarly, the NCLAT, in Binani Industries Ltd. v. Bank of Baroda 2018, noticed that the CoC has to give reasons as to why one resolution plan is being accepted and the others are rejected so that such decisions are not arbitrary and not from extraneous factors.

In essence, transparency and accountability are at the core of how the CoC should operate. Absence of disclosure or reasoned documentation may attract judicial intervention not as an exercise of reviewing commercial judgment but for ensuring procedural fairness.

6.4 Ethical and Fiduciary Dimensions

Beyond strict legal compliance, the CoC's transparency requirements are essentially anchored in moral responsibility. As a representative collective that includes both public financial institutions and private lenders, the CoC commands power that directly impinges on employees, investors, and, aggregately, the economy. The Supreme Court in Vallal RCK v. Siva Industries and Holdings Ltd. (2022) articulated this moral dimension when it held that members of the CoC act in a "fiduciary capacity" and must exercise

[14] Jaypee Infratech Ltd. v. NBCC (India) Ltd., (2021) 10 SCC 681 (India).

their discretion to achieve the twin objectives of the Code: value maximization and distribution equitably.[15]

The CoC's fiduciary responsibility encompasses key ethical duties:

- Duty of Care: This means that before voting, all relevant information should be carefully examined.
- Loyalty: Act with regard to the collective interest of the creditors, not for personal benefit.
- Duty of Fair Dealing: To accord fair treatment to operational creditors and minority stakeholders, consistent with statutory protections.
- Viewing the CoC through a fiduciary perspective highlights its duty to balance business efficiency with fairness and procedural integrity.

6.5 Challenges to Ensuring Transparency

Despite strong regulatory and judicial frameworks, transparency in the CoC functioning continues to face practical difficulties. Key challenges include:

Information Asymmetry: The resolution professionals and majority creditors often have better financial information, thus placing the minority or dissenting members at a disadvantage.

Lack of transparency in valuation practices: selective disclosure of valuation reports or without context may lead to disputes on the question of fairness.

Dominance of PSBs: In many instances, PSBs, driven by bureaucratic incentives, may opt for early liquidation rather than long-term resolution at the cost of objective assessment.

Limited Access by Operational Creditors: Exclusion from voting restricts their ability to question irregularities even when their interests are substantially affected.

These challenges thus indicate that what is most required is codified transparency standards and independent oversight mechanisms, so that CoC decisions reflect the spirit of the IBC rather than institutional convenience.

6.6 Emerging Reforms and Best Practices

To enhance transparency, some recent reforms and recommendations include the following:

[15] Vallal RCK v. Siva Indus. & Holdings Ltd., (2022) 8 SCC 105 (India).

It has recommended the establishment of a Central Insolvency Data Repository to enable access to anonymized data on resolution outcomes and voting patterns by relevant stakeholders.

The introduction of standardized voting templates and digital platforms has improved traceability, reducing procedural disputes.

Academic and policy experts have favored the presence of independent observers or minority creditors' representatives in CoC meetings to prevent domination by big lenders.

Enhanced disclosure requirements regarding resolution applicants, including beneficial ownership and financial capacity, will be put in place to prevent collusive behaviors.

Such steps reflect the growing recognition that transparency is not merely procedural but structural; it builds legitimacy, ensures fairness, and fosters trust in the insolvency ecosystem.

In other words, in many ways, transparency and accountability give the CoC its ethical grounding and operational credibility. Even as the doctrine of commercial wisdom insulates the CoC from undue judicial intervention, transparency functions as a safeguard, preventing the doctrine of commercial wisdom from devolving into an instrument of opacity or arbitrariness. It is this equipment that lends credibility to the IBC-where commercial efficiency coexists with moral clarity.

Conclusion

The CoC stands at the centre of India's IBC, marking a shift from debtor-led to creditor-controlled insolvency processes. The Code sought to ensure timely resolution by vesting decision-making power in financial creditors, maximizing the value of assets, and maintaining financial discipline in the market. However, over time, it has been seen that such untrammeled supremacy of creditors would indeed vitiate the very principles of justice and efficiency which the IBC was designed to uphold when not tempered with transparency, equity, and judicial oversight.

The jurisprudence around the CoC has developed considerably since the enactment of the Code. In K. Sashidhar v. Indian Overseas Bank judicial interpretation has evolved to limit court scrutiny over CoC's financial choices, reinforcing the creditor-centric model envisioned by the IBC. except on limited grounds, recognizing creditors' autonomy in financial decisions. This doctrine was reiterated in the Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta[16], where the Court highlighted that the Adjudicating Authority cannot interfere with the merits of CoC's commercial decisions.

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

However, the same judgment had emphasized that such decisions must conform to fairness, equality, and the objectives of the IBC, thereby establishing that judicial scrutiny, while limited, is not extinguished.[17]

Subsequent cases, including Jaypee Infratech Ltd. v. NBCC (India) Ltd. and IDBI Bank v. Jaypee Infratech Ltd.[18], further refined this balance by reiterating that CoC decisions must not be arbitrary or discriminatory, especially toward operational creditors or homebuyers.[19] Courts have made it clear that transparency and accountability are not antithetical to commercial wisdom but, as a matter of fact, constitute the sine qua non for sustaining its legitimacy. Hence, the role of the judiciary has emerged not as an intruder but as a sentinel that ensures the CoC functions within the letter and spirit of the law.

From the point of view of governance, three basic tenets underpin the effectiveness of the CoC: informed decision-making, inclusiveness, and ethical accountability. Creditors, as decision-makers, bear a quasi-fiduciary duty not only to their financial recoveries but to the greater good of the economic system. As the IBC gains maturity, it becomes clear that simple majority voting cannot take the place of well-considered determinations. The resolution process needs to incorporate professional judgment, sectoral data, and fair negotiation mechanisms. Voting rationales and conflict of interest disclosures should be made part of the CoC process for increasing investor confidence and judicial credibility.

The push for digitization under initiatives such as the e-IBC platform provides a route toward a transparent insolvency regime. Digital tracking of resolution timelines, electronic voting, and structured minutes of CoC meetings can minimize human bias and enhance regulatory oversight. The IBBI has already begun introducing reforms that require detailed disclosures with respect to CoC composition, voting patterns, and the reasoning behind rejecting or approving resolution plans. Such moves demonstrate a trend toward procedural accountability sans dilution of creditor autonomy.

Dominance of large financial institutions in the CoC, marginalization of operational creditors, and limited participation of homebuyers and small lenders raise equity concerns. Besides, there is a clear possibility that the strategic misuse of voting power and information asymmetry may compromise fair outcomes. In this respect, the resolution process has to move away from being purely creditor-driven to one that is sensitive to the needs of the stakeholders-a model that marries financial pragmatism with distributive justice.

[17] K. Sashidhar v. Indian Overseas Bank, (2019) 12 SCC 150 (India).
[18] IDBI Bank v. Jaypee Infratech Ltd., (2023) 1 SCC 401 (India).
[19] Jaypee Infratech Ltd. v. NBCC (India) Ltd., (2021) 10 SCC 681 (India).

In sum, the CoC is a source of both strength and vulnerability in India's insolvency regime. The effectiveness of the CoC ultimately depends on striking an equilibrium between creditor autonomy and appropriate legal supervision. Its future trajectory under the IBC will be determined by how well it embraces transparency, inclusiveness, and ethical accountability. The judiciary's challenge lies in safeguarding legality and equity while respecting creditor discretion, thereby sustaining the legitimacy of insolvency outcomes. In the end, the CoC's role extends beyond resolving insolvencies, it must embody the IBC's vision of ethical governance and economic fairness.