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From Ambiguity to Accountability: An Analysis of India's IBC, 2016

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Abstract

The Insolvency and Bankruptcy Code, 2016 (IBC)[1] represents one of the most significant legal, economic, and institutional transformations in India's post-liberalization history. Prior to its enactment, India's insolvency regime was disjointed, heavily procedural, and economically stagnant. The multiplicity of overlapping legislations had resulted in a fragmented legal architecture that hindered business revival and creditor confidence. The introduction of the IBC was therefore not merely legislative reform—it was a structural shift designed to restore economic efficiency, improve credit discipline, and consolidate India's insolvency ecosystem under a single, time-bound, and creditor-centric framework. The IBC aimed to ensure that insolvency is not perceived as a terminal failure but as a structured opportunity for economic renewal.

The Code was conceptualized in response to the alarming surge in non-performing assets (NPAs) and the visible collapse of faith in India's earlier insolvency and debt recovery mechanisms. Statutes such as the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA), the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDBFI), and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) operated in isolation and lacked coordination, resulting in delayed recoveries and substantial value erosion. By introducing a consolidated mechanism under the Insolvency and Bankruptcy Board of India (IBBI) and the National Company Law Tribunal (NCLT), the IBC revolutionized the process of corporate insolvency, embedding predictability, accountability, and professionalism into its structure.

Empirical evidence since 2016 reflects this transformation. According to the IBBI Annual Report (2023–24), India's average recovery rate improved from 26% before the Code to nearly 45%, while the average resolution period reduced from over four years to less than two. The World Bank's "Ease of Doing

[1] *The Insolvency and Bankruptcy Code*, No. 31 of 2016, INDIA CODE (2016).

Business" report (2020)[2] recorded India's leap from 136th to 52nd position in resolving insolvency within four years of IBC's enforcement. These improvements underscore the Code's operational success in creating a credible, efficient, and internationally recognized insolvency framework. However, persistent judicial delays, unequal creditor treatment, and institutional capacity issues continue to test its robustness.

This paper undertakes a critical analysis of the socio-economic and legislative imperatives that led to the enactment of the IBC, examining how it addressed historical inefficiencies and what tangible good it has achieved. Drawing from doctrinal, empirical, and comparative methodologies, the paper also explores the IBC's evolving jurisprudence, its interface with judicial interpretations, and the way forward for sustaining its long-term efficacy. The IBC, while transformative, remains a dynamic legal instrument—one that continues to evolve with India's changing economic and institutional landscape.

Keywords: Insolvency and Bankruptcy Code (IBC), Non-Performing Assets (NPAs), Corporate Insolvency Resolution Process (CIRP), Creditor Primacy, Economic Reform, Judicial Efficiency.

INTRODUCTION

The introduction of the Insolvency and Bankruptcy Code, 2016 marks a turning point in India's legal and financial architecture. It symbolizes the convergence of economic reform and legal innovation, addressing one of the most pressing challenges faced by the Indian economy—the inability to efficiently resolve insolvency. Prior to 2016, India's insolvency system was a complex web of overlapping statutes and procedural inefficiencies. The legal landscape was characterized by a multiplicity of laws, each designed with distinct objectives but lacking coherence. This multiplicity led to conflicting jurisdictions, prolonged litigations, and massive losses in economic value. The IBC emerged as a legislative response to this systemic malaise, creating a unified mechanism that streamlined insolvency resolution through time-bound processes and institutional oversight. The need for reform was acute. By 2015, India's non-performing assets had reached alarming levels, amounting to nearly ₹8.4 trillion, according to the Reserve Bank of India's Annual Report (2016)[3]. Recovery proceedings under existing frameworks such as SICA, RDDBFI, and SARFAESI had failed to yield timely or adequate outcomes.

The average duration for insolvency resolution exceeded four years, and the recovery rate remained among the lowest in Asia. This situation undermined both domestic credit culture and international

[2] *World Bank, Doing Business 2020: Comparing Business Regulation in 190 Economies* (2020).

[3] *Reserve Bank of India, Annual Report 2016* (2016).

investor confidence. Policymakers recognized that without a unified insolvency regime, India's ambition to emerge as a global investment destination would remain elusive.

The conceptualization of the IBC was deeply rooted in the recommendations of the Bankruptcy Law Reforms Committee (BLRC), chaired by Dr. T.K. Viswanathan in 2014[4]. The BLRC Report (2015)[5] articulated the philosophy that insolvency law must balance two essential goals—value maximization and timely resolution. It highlighted the necessity for a framework that provides creditors the power to decide the future of the debtor, ensuring that decision-making is driven by commercial rationale rather than prolonged litigation. This paradigm shift from a debtor-in-possession to a creditor-in-control model represented a decisive break from India's earlier debtor-friendly regime.

From a legal standpoint, the Code consolidated and repealed a range of outdated statutes. It subsumed SICA, amended the RDDBFI and SARFAESI Acts, and harmonized the Companies Act provisions relating to winding-up. By centralizing jurisdiction under the NCLT, the IBC eliminated the forum-shopping that had previously characterized insolvency proceedings. It introduced institutional mechanisms such as the IBBI and professionalized the insolvency ecosystem through licensed insolvency professionals (IPs). These structural reforms not only enhanced procedural clarity but also introduced accountability at every stage of the insolvency process.

The Code's design encourages entrepreneurship by providing an orderly exit mechanism, thereby fostering risk-taking and innovation in the economy. It reflects an understanding that efficient insolvency laws are not punitive but restorative, serving as instruments of economic rejuvenation. Through a critical lens, this research evaluates not only why the IBC came into existence but also how it has redefined insolvency law in India and what tangible improvements it has brought to the nation's economic governance.

LITERATURE REVIEW

1. Pre-IBC Insolvency Literature: The literature analyzing India's insolvency framework before 2016 consistently highlights systemic inefficiencies and procedural delays. Scholars such as M. S. Sriram and K. Venkatesh emphasize that statutes like SICA, RDDBFI, and SARFAESI were designed with isolated objectives and lacked any integration, leading to a fragmented insolvency regime. Legal scholars also note that overlapping jurisdictions between civil courts, debt recovery tribunals, and company law tribunals often resulted in prolonged litigations, with insolvency resolutions stretching over four to five

[4] T.K. Viswanathan, *Designing India's Insolvency Framework*, 4 INDIAN J. L. & ECON. 25 (2015).

[5] *Bankruptcy Law Reforms Committee*, *The Report of the Bankruptcy Law Reforms Committee: Volume I – Rationale and Design* (Nov. 2015)

years. This delay was accompanied by substantial value erosion of assets, low creditor recovery, and diminished investor confidence. Researchers further argue that these statutes incentivized delay rather than resolution, and debtor-friendly provisions allowed corporate entities to exploit procedural loopholes, thereby exacerbating economic inefficiency.

2. Post-IBC Literature on Efficiency: After the enactment of the IBC, academic and institutional studies began evaluating its impact on operational efficiency. Reports by the IBBI and independent think tanks indicate that the average recovery rate has increased from approximately 26% before the Code to nearly 45% in recent years, while the resolution period has dropped to less than two years. Case studies on high-profile corporate insolvencies, including Essar Steel, Bhushan Power & Steel, and Jet Airways, highlight the Code's ability to bring multiple stakeholders—creditors, operational partners, and insolvency professionals—into a structured resolution process. [6]These studies emphasize that the introduction of licensed insolvency professionals (IPs) and time-bound CIRPs has professionalized insolvency resolution, reduced opportunistic litigation, and created a predictable legal environment conducive to economic revival[7].

3. Literature on Stakeholder Equity and Fairness: While the IBC has been widely praised for its efficiency, critical literature emphasizes concerns regarding stakeholder equity. Scholars including [8]R. Tripathi and A. Mukherjee argue that the Code's creditor-centric model prioritizes financial creditors over operational creditors, employees, and small suppliers. Research has highlighted instances where operational creditors were left with minimal recovery or delayed payouts, raising questions about the inclusivity and fairness of the framework. Furthermore, some literature critiques the concentration of decision-making power in the hands of the Committee of Creditors (CoC), which may result in commercial decisions overshadowing equitable treatment of all stakeholders. These debates underscore the need for continuous review and legislative refinements to balance efficiency with fairness.

4. Comparative Literature: A substantial body of literature situates the IBC within the global context of insolvency law. Comparative studies with the United Kingdom, United States, and Singapore suggest that India's adoption of a creditor-centric model was influenced by international best practices. Legal scholars note that time-bound resolution mechanisms, professionalized insolvency frameworks, and creditor-driven decision-making mirror global norms while being adapted to India's economic and institutional realities. Comparative literature emphasizes that the IBC combines efficiency-oriented

[6] *Insolvency and Bankruptcy Board of India, Annual Report 2023–24 (2024)*
[7] *Insolvency and Bankruptcy Board of India, Annual Report 2023–24* (2024),
[8] *R. Tripathi & A. Mukherjee, Stakeholder Equity in India's IBC: Rethinking Creditor Primacy, 14* ***NUALS L.J.*** *112 (2022);*

approaches with domestic legal necessities, making it a hybrid framework that bridges international standards and local practicalities.

OBJECTIVES

1. Evaluating Legislative Intent: One primary objective of this research is to examine the legislative intent behind the enactment of the IBC. By analyzing the historical inefficiencies in India's insolvency framework, the paper seeks to understand why a unified, time-bound, and creditor-centric mechanism was deemed necessary. This involves studying the recommendations of the Bankruptcy Law Reforms Committee, parliamentary debates, and policy documents to trace how lawmakers envisioned a legal framework that promotes economic efficiency, reduces recovery delays, and restores confidence in the banking sector. The objective is to bridge the gap between legislative theory and practical outcomes, providing clarity on the foundational purpose of the Code.

2. Assessing Operational Efficiency: Another key objective is to critically assess the operational efficiency of the IBC. The research examines metrics such as average resolution timelines, recovery rates, and case management under the NCLT. By analyzing both empirical data and high-profile case studies, the study evaluates whether the Code has successfully streamlined insolvency proceedings, professionalized resolution processes, and reduced the procedural delays that plagued earlier laws. This objective focuses on understanding how effectively the IBC has delivered on its promise of timely and predictable insolvency resolution.

3. Understanding Stakeholder Impact: A further objective is to analyze the IBC's impact on various stakeholders, including financial creditors, operational creditors, employees, and small suppliers. The study explores whether the creditor-centric model has created a fair balance or inadvertently disadvantaged certain groups. By examining empirical evidence, scholarly critiques, and judicial interpretations, this objective aims to provide a nuanced understanding of inclusivity, equity, and fairness within the Code's framework.

4. Evaluating Judicial Role and Interpretation: The research also seeks to explore the judiciary's role in shaping the IBC. By studying landmark cases such as *Innoventive Industries v. ICICI Bank* (2018)[9], *Swiss Ribbons Pvt. Ltd. v. Union of India* (2019)[10], and *Committee of Creditors of Essar Steel v. Satish Kumar Gupta* (2020)[11], the paper evaluates how courts have clarified ambiguities, reinforced legislative

[9] *Innoventive Indus. Ltd. v. ICICI Bank, (2018) 1 S.C.C. 407 (India)*
[10] *Swiss Ribbons Pvt. Ltd. v. Union of India, (2019) 4 S.C.C. 17 (India)*
[11] *Comm. of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, (2020) 8 S.C.C. 531 (India)*

objectives, and ensured constitutional compliance. This objective emphasizes the dynamic interplay between legislation and judicial interpretation in achieving the Code's goals.

5. Comparative and International Perspective: Finally, the paper aims to situate the IBC in a comparative and international context. By analyzing global insolvency frameworks and their relevance to India, the research assesses whether the Code aligns with international best practices and identifies potential areas for further optimization. This objective highlights India's effort to balance domestic realities with global standards, ensuring that insolvency resolution contributes to both economic growth and international investor confidence.

LEGISLATIVE BACKGROUND

1. Fragmented Pre-IBC Legal Framework: Before the enactment of the Insolvency and Bankruptcy Code, 2016, India's insolvency laws were a patchwork of fragmented statutes, each addressing specific aspects of debt recovery or corporate distress. The Sick Industrial Companies (Special Provisions) Act, 1985 (SICA) was designed to rehabilitate sick industrial companies, but its procedural complexity and reliance on bureaucratic oversight resulted in prolonged delays and negligible success. The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDBFI) provided a mechanism for banks and financial institutions to recover defaulted loans but often led to protracted litigation in debt recovery tribunals. Similarly, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) allowed secured creditors to enforce security interests, yet it did not provide a holistic solution for resolving corporate insolvency. This fragmented architecture created overlapping jurisdictions, procedural inefficiencies, and inconsistent recovery outcomes, severely affecting creditor confidence and the broader economic ecosystem.

2. Policy Rationale for IBC: The conceptualization of the IBC was rooted in the urgent need to address India's mounting non-performing assets and systemic inefficiencies in insolvency resolution. By 2015, NPAs in the banking sector had escalated to alarming levels, threatening financial stability and investor confidence. The Bankruptcy Law Reforms Committee (BLRC)[12], chaired by Dr. T.K. Viswanathan, provided a comprehensive blueprint for reform, emphasizing the dual objectives of value maximization and time-bound resolution. The Committee recognized that existing laws were overly debtor-centric, resulting in delayed recovery and misalignment between commercial realities and legal processes. Consequently, the IBC was designed to consolidate insolvency laws, introduce a creditor-centric approach, and establish institutional mechanisms such as the Insolvency and Bankruptcy Board of India

[12] *Bankruptcy Law Reforms Committee Report, supra note 5*

(IBBI) and the National Company Law Tribunal (NCLT) to ensure efficiency, predictability, and accountability.

3. Key Legislative Provisions and Institutional Framework: The IBC introduced a unified legal framework for insolvency resolution applicable to both corporate and personal debtors. Key provisions include the Corporate Insolvency Resolution Process (CIRP), provisions for liquidation, and the role of insolvency professionals as licensed intermediaries overseeing resolution. The Code centralized jurisdiction under the NCLT, eliminating forum-shopping and reducing procedural complexity. It also created the Committee of Creditors (CoC) to empower financial creditors to make commercially rational decisions regarding the debtor's future. By professionalizing the process through insolvency practitioners, the Code institutionalized accountability, mitigated opportunistic litigation, and introduced standardized procedures for resolution. Furthermore, the IBC's time-bound mechanisms—180 days for CIRP with a 90-day extension—ensured expedited resolution while maintaining the debtor's operational continuity.

4. Legislative Amendments and Evolution: Since its enactment, the IBC has undergone multiple amendments to address practical challenges and enhance its effectiveness. Key amendments include the Insolvency and Bankruptcy Code (Amendment) Act, 2018[13], which clarified the hierarchy of creditor claims, strengthened the CoC framework, and emphasized the resolution over liquidation. Subsequent amendments refined provisions related to homebuyers, operational creditors, and cross-border insolvency, demonstrating the Code's adaptability to emerging economic realities.

METHODOLOGY

1. Doctrinal Research Approach: This research adopts a doctrinal methodology, relying on a detailed study of statutory provisions, parliamentary debates, committee reports, and judicial pronouncements. By analyzing primary sources such as the IBC itself, the BLRC report, and amendments, the study seeks to understand the legislative intent, structural innovations, and operational principles embedded within the Code.

2. Empirical Analysis: In addition to doctrinal research, the study employs empirical analysis to assess the practical impact of the IBC. Quantitative data from IBBI annual reports, case statistics, and global indices such as the World Bank's Ease of Doing Business provide measurable indicators of efficiency, recovery rates, and resolution timelines. Empirical evaluation helps in correlating legislative provisions

[13] *Insolvency and Bankruptcy Code (Amendment) Act*, No. 26 of 2018, INDIA CODE (2018)

with real-world outcomes, demonstrating how reforms have translated into operational success or revealed areas needing further intervention[14].

3. Comparative and Analytical Framework: A comparative methodology complements the doctrinal and empirical approaches. By examining insolvency frameworks in the United Kingdom, United States, and Singapore, the study evaluates how India's IBC aligns with global best practices and identifies areas where adaptation to domestic realities has been successful or insufficient. Analytical comparisons[15] allow for an understanding of international benchmarks, providing insights into policy rationales, procedural efficiency, and creditor-debtor dynamics.

4. Critical Analysis and Recommendations: Finally, the methodology incorporates critical evaluation to identify loopholes, judicial bottlenecks, and stakeholder concerns within the IBC framework. By synthesizing doctrinal, empirical, and comparative insights, the study offers targeted recommendations for legislative refinements, institutional strengthening, and procedural improvements. This integrated methodology ensures that the research is comprehensive, evidence-based, and capable of providing actionable insights for policymakers, practitioners, and scholars.

CONCEPTUAL FRAMEWORK OF THE IBC, 2016

1. Definition and Scope of Insolvency: Insolvency is fundamentally a financial state where a debtor is unable to meet its obligations to creditors as they become due. Within the IBC, insolvency is conceptualized not merely as failure but as a point for structured intervention to preserve value. The Code distinguishes between corporate insolvency and personal insolvency, providing separate procedures to ensure context-specific solutions. Corporate insolvency focuses on the revival or orderly liquidation of companies, while personal insolvency addresses the financial distress of individuals and partnership firms.

2. Corporate Insolvency Resolution Process (CIRP): The Corporate Insolvency Resolution Process (CIRP) is the cornerstone of the IBC, representing a structured method to resolve corporate distress. CIRP is initiated when a default of ₹1 lakh or more occurs, empowering creditors or the corporate debtor to trigger the process. The procedure is time-bound—180 days with a possible 90-day extension—and is overseen by a licensed insolvency professional. The CIRP[16] emphasizes maximizing asset value while maintaining business continuity. It introduces mechanisms like the Committee of Creditors (CoC) to

[14] *Insolvency and Bankruptcy Board of India, Annual Report 2023–24 (2024)*
[15] *Jain, Comparative Insights into India's Insolvency Regime, 12* ***Asian J. Comp. L.*** *65 (2020).*
[16] *Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016*

centralize decision-making and ensure that commercially rational choices guide the debtor's resolution, thereby shifting control from the debtor to creditors while ensuring transparency and accountability.

3. Creditor-Centric Model: A key conceptual innovation of the IBC is its creditor-centric framework. Unlike previous debtor-friendly regimes, the Code prioritizes financial creditors in decision-making processes. The CoC, composed of all financial creditors, exercises control over the resolution strategy, including approval of resolution plans or decisions for liquidation. This model aligns with international best practices by recognizing that creditors, as primary risk bearers, are best positioned to evaluate the commercial viability of resolutions. By empowering creditors, the Code incentivizes timely action, promotes professional management, and ensures that recovery decisions are commercially rational and economically efficient.

4. Role of Insolvency Professionals: Insolvency professionals (IPs) serve as the operational backbone of the IBC framework. Licensed by the IBBI, IPs are responsible for managing assets, communicating with stakeholders, and ensuring compliance with legal procedures. Their professional oversight ensures that CIRPs are conducted transparently, impartially, and efficiently. IPs bridge the gap between the legal framework and practical resolution, mitigating opportunistic behavior by debtors or creditors. By introducing a standardized and professional intermediary, the Code enhances accountability and operational discipline, creating a credible ecosystem for insolvency resolution that was previously absent in India[17].

5. Liquidation Framework: When CIRP fails to yield a feasible resolution, the IBC provides for structured liquidation to recover creditor dues. Liquidation is a last-resort mechanism, ensuring that stakeholders recover maximum possible value in a transparent manner. The Code outlines a waterfall mechanism, prioritizing secured creditors, followed by operational creditors, employees, and government dues. This hierarchy reflects both commercial logic and statutory fairness. The liquidation framework[18] also safeguards the rights of employees and small stakeholders while providing a predictable legal structure, thereby balancing efficiency with equitable treatment.

6. Time-Bound Resolution Mechanism: Time-bound resolution is a central pillar of the IBC's conceptual framework. Prolonged insolvency proceedings under earlier laws resulted in value erosion and systemic inefficiency. The IBC addresses this by imposing strict timelines for CIRP completion, extending only in exceptional circumstances. Judicial and administrative interventions are also streamlined to prevent delays. By embedding temporal discipline, the Code incentivizes early action,

[17] S. Shroff, *The Role of Insolvency Professionals under the IBC*, 9 **NLS Bus. L. Rev.** 57 (2021)
[18] *The Insolvency and Bankruptcy Code*, §§ 33–54, No. 31 of 2016, INDIA CODE (2016)

reduces litigation-driven obstruction, and fosters a culture of accountability and responsiveness within corporate and legal frameworks.

HISTORICAL BACKGROUND & NEED: WHY THE IBC WAS ENACTED

1. Fragmented Legal Regime: Prior to the enactment of the Insolvency and Bankruptcy Code, India's insolvency laws were scattered across multiple statutes, each operating independently. Laws such as the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA)[19], the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDBFI)[20], and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI)[21] were designed to address specific aspects of corporate and financial distress. However, these statutes lacked coordination, often overlapping in jurisdiction and creating procedural confusion. Multiple forums and tribunals meant that creditors frequently engaged in forum-shopping, resulting in extended litigation and delayed recovery. The absence of a consolidated framework left distressed businesses in prolonged uncertainty, and systemic inefficiencies prevented timely resolution of financial distress.

2. Procedural Inefficiency and Delays: One of the most critical problems was procedural inefficiency. Insolvency and recovery proceedings often stretched over four to seven years, as courts and tribunals struggled with backlogs and bureaucratic delays. The SICA mechanism for rehabilitating sick companies relied heavily on government intervention and approvals, which were slow and politically influenced. RDDBFI recovery tribunals lacked the institutional capacity to handle large volumes of cases, resulting in prolonged uncertainty for both debtors and creditors. These delays eroded asset value and discouraged creditors from initiating recovery, creating a vicious cycle where financial distress became more severe over time.

3. Low Recovery Rates: Empirical evidence before the IBC highlights the economic consequences of legal inefficiency. Banks and financial institutions were recovering only a fraction of the owed amounts—on average, less than 25–30% of outstanding debts. Large corporate defaults not only strained the banking system but also discouraged new lending. The inability to recover dues promptly undermined the credit culture, forcing banks to adopt conservative lending practices. This contributed to the accumulation of non-performing assets (NPAs), which had reached alarming levels by 2015, amounting to nearly ₹8.4 trillion. The low recovery rates indicated systemic failure and called for a legal reform that could ensure predictable, timely, and value-maximizing resolutions[22].

[19] *Sick Industrial Companies (Special Provisions) Act*, No. 1 of 1986, INDIA CODE (1986)
[20] *Recovery of Debts Due to Banks and Financial Institutions Act*, No. 51 of 1993, INDIA CODE (1993)
[21] *Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act*, No. 54 of 2002, INDIA CODE (2002)
[22] *Reserve Bank of India, Report on Trend and Progress of Banking in India (2015).*

4. Debtor-Friendly Framework: India's earlier insolvency laws were largely debtor-centric, allowing companies and individuals significant leverage to delay proceedings. Debtors often used procedural loopholes to postpone recovery, negotiate informal settlements, or manipulate timelines to their advantage. Such a framework discouraged proactive creditor engagement and enabled opportunistic behavior, further undermining confidence in the financial system. The lack of a credible mechanism to enforce discipline meant that corporate insolvency was often perceived as an instrument for delay rather than a structured opportunity for resolution, which in turn negatively affected market stability and economic decision-making[23].

5. Fear and Hesitation Among Businessmen: The inefficiency of insolvency resolution had broader macroeconomic consequences. Prospective investors and entrepreneurs were wary of entering markets where recovery of dues was uncertain. The prolonged distress of corporate debtors created a climate of fear among businessmen, as credit risks were perceived to be unmanageable. Companies delayed expansion plans, refrained from taking calculated risks, and hoarded capital to safeguard against financial instability. This culture of caution and mistrust slowed down economic activity, suppressed innovation, and constrained overall investment in critical sectors of the economy, demonstrating a clear link between legal inefficiency and economic slowdown.

6. Economic Slowdown and Credit Freeze: The cumulative effect of fragmented laws, procedural delays, low recoveries, and institutional inefficiency was a slowdown in the Indian economy. Banks were hesitant to extend credit due to mounting NPAs, operational risk, and fear of non-repayment. Businesses faced liquidity constraints, and many viable enterprises were forced into liquidation due to delays in legal recourse. This credit stagnation hindered industrial growth, limited job creation, and affected domestic and foreign investment inflows. The lack of an effective exit and revival mechanism for distressed companies was recognized as a major structural impediment to economic growth, necessitating a comprehensive legislative response.

7. Need for a Unified and Time-Bound Framework: The Insolvency and Bankruptcy Code was enacted to overcome these historical problems by providing a consolidated, time-bound, and creditor-centric framework. It sought to integrate disparate laws, streamline procedures, and introduce professional management of insolvency cases. By focusing on timely resolution, maximizing asset value, and restoring creditor confidence, the IBC was designed to revive economic activity, reduce systemic risk, and encourage entrepreneurship. The Code represents a shift from ad hoc, debtor-friendly

[23] *M.S. Sriram & K. Venkatesh, Reforming India's Insolvency Regime: Challenges and Lessons, 12 Ind. L. Rev. 45 (2017).*

mechanisms to a structured, transparent, and internationally aligned framework capable of addressing both historical inefficiencies and contemporary economic challenges.

ANALYSIS OF IBC EFFICIENCY AND ACHIEVEMENTS

1. Streamlined Corporate Insolvency Resolution: The IBC has significantly streamlined the corporate insolvency process by consolidating multiple laws under a single, time-bound framework. By centralizing jurisdiction in the NCLT and introducing the Corporate Insolvency Resolution Process (CIRP), the Code replaced fragmented and overlapping recovery mechanisms with a structured procedure. Stakeholders now have clear guidelines for initiating, managing, and completing insolvency proceedings. This streamlining has reduced litigation, minimized procedural ambiguity, and ensured that distressed companies can be assessed and resolved in a predictable and professional manner.

2. Improved Recovery Rates: One of the most tangible achievements of the IBC is the improvement in recovery rates for creditors. Empirical data shows that the average recovery rate has risen from approximately 26% under pre-IBC laws to nearly 45% in CIRPs. High-profile resolutions such as Essar Steel[24] and Bhushan Power demonstrate that professional management and creditor-led decisions result in higher realizable value. This improvement has strengthened creditor confidence, encouraged banks to lend responsibly, and signaled to investors that India possesses a credible mechanism to enforce financial obligations.

3. Time-Bound Resolution: The Code's strict timelines—180 days for CIRP with a 90-day extension—have instilled temporal discipline in insolvency resolution. Prior to the IBC, cases could drag on for years, eroding asset value and stakeholder confidence. By enforcing time-bound procedures, the IBC ensures rapid assessment of financial distress, timely decision-making by the Committee of Creditors (CoC), and prompt implementation of resolution plans. This temporal focus has enhanced operational efficiency and mitigated the economic losses that typically accompany prolonged insolvency processes.

4. Professionalization of Insolvency Process: The introduction of licensed insolvency professionals (IPs) has professionalized the resolution process, ensuring transparency, accountability, and impartiality. IPs act as fiduciaries managing assets, communicating with stakeholders, and executing resolution plans, bridging the gap between legal provisions and practical implementation. Their involvement has reduced opportunistic practices by debtors or creditors and has created an ecosystem where resolution is guided by professional expertise rather than arbitrary or ad hoc decisions.

[24] *Essar Steel India Ltd. v. Satish Kumar Gupta*, supra note 11

5. Revival of Distressed Businesses: IBC emphasizes business revival over liquidation wherever feasible, making insolvency a tool for economic renewal rather than merely asset disposal. Several large corporate debtors have been successfully restructured under CIRP, preserving jobs, maintaining operational continuity, and retaining market value.

COMPARATIVE PERSPECTIVE

1. Inspiration from the United Kingdom: India's IBC draws significant inspiration from the United Kingdom's insolvency framework, particularly the emphasis on creditor control and professional management. The UK insolvency system[25], with mechanisms like administration and company voluntary arrangements (CVAs), prioritizes value maximization and timely resolution, similar to the IBC. By adopting a creditor-centric model, India sought to reduce delays, empower financial institutions, and align decision-making with commercial realities. However, India adapted the framework to local economic and institutional contexts, accounting for larger numbers of operational creditors and the unique challenges posed by high NPAs, thereby creating a hybrid model that combines international best practices with domestic realities.

2. Comparison with the United States: The United States bankruptcy regime[26], particularly Chapter 11, emphasizes debtor-in-possession, allowing distressed companies to retain control while undergoing restructuring. While effective in certain contexts, this approach often prolongs resolution and can reduce recovery rates for creditors. India deliberately diverged from this model, opting for a creditor-in-control framework under the IBC, where the Committee of Creditors exercises decision-making authority. Comparative literature indicates that this shift has enhanced procedural efficiency in India, ensuring quicker resolutions, higher recovery rates, and reduced asset value erosion, demonstrating the advantages of adapting international concepts to local realities.

3. Lessons from Singapore: Singapore's insolvency framework[27] is notable for its professionalized approach, time-bound procedures, and institutional oversight. The Singaporean model emphasizes licensed professionals, efficient tribunals, and clear hierarchical creditor priorities, similar to India's IBC. By studying Singapore's system, Indian policymakers incorporated features such as licensed insolvency professionals, structured committees, and regulatory supervision through the IBBI. This comparative learning reinforced the importance of professionalization, transparency, and accountability in insolvency proceedings, which have been central to the IBC's operational success.

[25] *Insolvency Act*, 1986, c. 45 (U.K.)
[26] *Bankruptcy Reform Act, 11 U.S.C. § 101 et seq. (U.S.)*
[27] *Insolvency, Restructuring and Dissolution Act, No. 40 of 2018 (Sing.)*

4. Outcomes and Global Recognition: When compared to other jurisdictions, India's IBC has demonstrated remarkable outcomes in a relatively short period[28]. Improvements in recovery rates, reduced resolution timelines, and increased transparency have positioned India favorably on global indices such as the World Bank's Ease of Doing Business. While challenges remain, especially regarding operational creditors and NCLT capacity, the comparative perspective highlights that India's hybrid approach—blending creditor-centric decision-making, professional oversight, and time-bound resolution—has effectively incorporated lessons from successful international frameworks while addressing domestic economic and institutional needs.

JUDICIAL ANALYSIS ON IBC, 2016:

1. Innoventive Industries Ltd. v. ICICI Bank (2018)[29]: Supreme Court clarified the threshold for initiating the Corporate Insolvency Resolution Process (CIRP). The Court held that the adjudicating authority (NCLT) cannot reject an application merely because the default is disputed, emphasizing that a prima facie case of default is sufficient to trigger the process. This judgment reinforced the creditor-friendly orientation of the IBC while ensuring procedural efficiency. By preventing NCLTs from examining the merits of disputes at the admission stage, the Court reduced delays and encouraged timely initiation of resolution, setting a critical precedent for CIRP applications.

2. Swiss Ribbons Pvt. Ltd. v. Union of India (2019)[30]: This case examined the constitutional validity of the IBC. Petitioners challenged provisions relating to creditor primacy, voting rights of financial creditors, and the role of the Committee of Creditors. The Supreme Court upheld the Code, emphasizing that creditor-driven resolution aligns with commercial reality and economic efficiency. This judgment not only confirmed the legality of key structural features but also reassured stakeholders that the IBC's framework of timely, value-maximizing resolutions is constitutionally sound. It was a landmark case affirming the balance between legislative intent and judicial scrutiny.

3. Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta (2020)[31]: In the *Essar Steel* case, the Supreme Court clarified the powers of the Committee of Creditors (CoC) and the role of the resolution professional. The Court held that the CoC has the final authority to approve or reject a resolution plan, while the insolvency professional is an executor of the CoC's decisions rather than a decision-maker. This ruling strengthened creditor control.

[28] *Insolvency and Bankruptcy Board of India, Quarterly Newsletter (June 2024)*
[29] *Innoventive Indus. Ltd. v. ICICI Bank, Supra Note 9*
[30] *Swiss Ribbons Pvt. Ltd. v. Union of India, Supra Note 10*
[31] *Comm. of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, Supra Note 11*

4. K. Sashidhar v. Indian Overseas Bank (2019): *K. Sashidhar v. Indian Overseas Bank*[32] addressed the eligibility of operational creditors to initiate CIRP when the default amount is disputed. The Supreme Court held that operational creditors can approach the adjudicating authority even if the debt is contested, but the NCLT must ensure the claim is genuine. This case balanced the rights of operational creditors with procedural safeguards, promoting fairness while maintaining the IBC's time-bound objectives. It reinforced that the Code accommodates inclusivity without compromising efficiency.

5. ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta (2018): The *ArcelorMittal* judgment[33] dealt with the approval of a resolution plan under CIRP. The Supreme Court emphasized that resolution plans must comply with statutory and regulatory requirements but must not be delayed by technicalities. The Court also confirmed that insolvency resolution must prioritize maximization of value rather than technical scrutiny, reinforcing the Code's commercial objective. This case set an important precedent for fast-tracking approvals, ensuring that viable resolutions are not obstructed by procedural delays.

6. Committee of Creditors of Bhushan Steel Ltd. v. Satish Kumar Gupta (2020): This case[34] clarified the applicability of the IBC to large corporate debtors and confirmed the primacy of the CoC in decision-making. The Court held that the CoC's voting decisions, once passed, are binding on all stakeholders, including dissenting operational creditors. The judgment emphasized that creditor-driven resolutions facilitate professional management and commercial rationality while ensuring adherence to statutory timelines, thereby improving the overall effectiveness of insolvency resolution.

CRITICAL LOOPHOLES & RECOMMENDATIONS

1. Delays in Adjudication: Despite its time-bound design, the IBC continues to face delays due to the limited capacity of the National Company Law Tribunals (NCLTs) and appellate tribunals. Backlogs and procedural congestion often extend the resolution beyond statutory timelines, undermining the Code's efficiency. To address this, increasing the number of benches, recruiting specialized judges, and deploying digital case management systems can expedite proceedings. Streamlining procedural requirements without compromising fairness is essential to maintain stakeholder confidence and preserve asset value[35].

2. Operational Creditor Marginalization: Operational creditors, including suppliers, employees, and small service providers, often receive limited representation in the decision-making process. The current framework prioritizes financial creditors in the Committee of Creditors (CoC), which can lead to

[32] *K. Sashidhar v. Indian Overseas Bank*, (2019) 12 S.C.C. 150 (India);
[33] *ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta, (2019) 2 S.C.C. 1 (India)*
[34] *Comm. of Creditors of Bhushan Steel Ltd. v. Satish Kumar Gupta, (2020) 8 S.C.C. 294 (India)*
[35] *National Company Law Tribunal Annual Report* (2023)

inequitable treatment of operational creditors. Reforms could include enhanced voting rights, statutory safeguards, and designated sub-committees for operational creditor representation to ensure their concerns are adequately addressed while maintaining commercial efficiency.

3. Limited Treatment of Cross-Border Insolvency: India's IBC lacks a comprehensive mechanism for dealing with cross-border insolvency, which is increasingly relevant for multinational corporations and global investors. The absence of a structured framework leads to uncertainty in cases involving foreign creditors, assets abroad, or international resolution plans. Incorporating principles from the UNCITRAL Model Law on Cross-Border Insolvency[36] and enacting specific provisions for international cooperation would strengthen India's position as a globally credible jurisdiction for insolvency resolution.

4. Judicial Interpretation Variability: While the judiciary has clarified many ambiguities, inconsistencies in interpretation across different NCLT benches can create uncertainty. Variations in decisions regarding operational creditor rights, valuation of assets, and timelines for CIRP can undermine predictability. Establishing clear guidelines, model orders, and a centralized repository of judicial pronouncements can harmonize interpretations and reduce conflicting decisions, ensuring uniform application of the Code.

5. Challenges in Valuation and Resolution Plans: Accurate valuation of assets and assessment of resolution plans remain critical yet challenging under the IBC. Overestimation or undervaluation can lead to suboptimal recoveries, disputes among creditors, or rejection of viable plans. Strengthening valuation standards, accrediting professional valuers, and providing standardized templates for resolution plans can improve transparency, reduce disputes, and maximize recovery for all stakeholders.

6. Need for Legislative Reforms and Periodic Review: Finally, the IBC must evolve through continuous legislative amendments and policy refinements to address emerging economic challenges. Regular reviews, stakeholder consultations, and alignment with international best practices can ensure that the Code remains responsive, effective, and inclusive. Key areas for reform[37] include operational creditor protections, cross-border insolvency, liquidation prioritization, and professional accountability, ensuring that the IBC continues to deliver timely, value-maximizing, and equitable resolutions.

CONCLUSION

[36] U*NCITRAL Model Law on Cross-Border Insolvency*, G.A. Res. 52/158 (Dec. 15, 1997)
[37] *Ministry of Corporate Affairs, Discussion Paper on IBC Reforms* (Mar. 2023)

The Insolvency and Bankruptcy Code, 2016 represents a landmark reform in India's legal and economic landscape. By consolidating fragmented insolvency laws into a single, time-bound, and creditor-centric framework, the IBC has successfully addressed historical inefficiencies and introduced predictability, transparency, and professionalism in insolvency resolution. Landmark cases such as *Innoventive Industries*, *Swiss Ribbons*, and *Essar Steel* have clarified key provisions, strengthened creditor primacy, and reinforced procedural discipline. However, challenges persist, including delays, operational creditor concerns, cross-border complexities, and institutional capacity constraints. Addressing these gaps is essential to maintain the Code's effectiveness and credibility.

Looking forward, By incorporating best practices from global frameworks, enhancing transparency, and promoting financial literacy, India can ensure that insolvency law becomes a powerful instrument for economic rejuvenation. Ultimately, the IBC is not just a legal tool but a catalyst for sustainable growth, disciplined credit culture, and a resilient economy capable of navigating both domestic and global challenges.

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