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How The Introduction Of Insolvency And Banking Code, 2016 Brought Changes To Insolvency Law?

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Abstract

The IBC, 2016 is a complete overhaul of the earlier non-existing proper laws for Insolvency in India. Before the IBC, 2016 Insolvency process in India required a lot of different processes to be completed making it an overcomplicated process. The introduction of IBC has made it easier for Corporate Creditor to recollect the money they had invested without actually going through a process which required a lot of distinct aspects that needed to be completed. This research paper shall tell us how the Introduction of IBC, 2016 has helped the Banking laws in India. We shall look at how the Indian Insolvency laws were before the introduction of IBC, 2016. Using doctrinal analysis and data from the Insolvency and Bankruptcy Board of India (IBBI), regulator reports and independent studies, the paper concludes that IBC has materially improved resolution outcomes and creditor recoveries while highlighting operational, procedural and policy gaps that persist.

Keywords: *IBC, 2016, insolvency, liquidation, stakeholder, debtor, creditors, banking*

Introduction:

Before the introduction of IBC, 2016. The Indian insolvency and liquidation were governed under different non uniform laws. The non-uniformity and inconsistency among the laws called for a more uniform and consistent law with a single more market-oriented framework for insolvency and liquidation in India. With goals of maximising asset value, promoting entrepreneurship, improving credit availability and balancing stakeholders' interests eventually bringing more investors and people to the market and helping the economy the grow. The main aim was to bring the whole of insolvency and liquidation laws under one framework making it easier for the people.
The statutory framework and the long title emphasise these goals.

Literature review:

[1]Restructuring of insolvency law and institutions.

Thus, as we should determine how the new insolvency law (IBC) made things any better, the overall conclusion is that prior to 2016 the Indian legal landscape was a mishmash of various regulations, tribunals in disarray and no specific regulator. The IBC then arrived and pushed all that nonsense into a single statute and established specialized forums (NCLT/NCLAT) and IBBI regulator. And it established a licensed type of insolvency practitioners. All this is merely a massive institutional redesign to make the process more pre-emptive and professional. The IBBI explanatory notes and briefings take you through the structure of the code and the reason behind each section. [2]Major literature describes these reforms as institutional capacity-building: the code gathers together regulations, transfers decision making to the commercial creditors (the Committee of Creditors or CoC), injects a moratorium, introduces a time-limited CIRP and provides a waterfall of distribution-all carefully calibrated to maintain value and impose market-led solution.

Discrimination against individuals based on their race is illegal and must be prevented at all times (See the IBBI materials and policy notes to obtain the low-down on it).

[1] The Insolvency and Bankruptcy Code, 2016, No. 31 of 2016, India Code (Ministry of Law and Justice, 28 May 2016).
[2] Insolvency and Bankruptcy Board of India (IBBI), Official Website https://ibbi.gov.in

[3]Creditor primacy, judicial interaction and Committee of Creditors (CoC).

The law literature is concerned with the transition towards creditor primacy and how CoC makes decisions concerning commercial issues. Much of the research in doctrinal studies explores statutory texts, rulebooks, and judicial interpretations of restrictions on judicial interference. The famous Supreme Court case of Swiss Ribbons (2019) is a big one in this respect since it effectively stated that the code is constitutional and the Court must only intervene when unavoidable, which provided the code with a certain degree of stability, as well as the separation of powers. The case is also associated through commentaries with increased legal certainties among market players.

[4]Empirical effects: recoveries, resolutions and timing.

An entire block of study has been devoted to the question of whether the IBC has indeed been successful in creditor recoveries and resolution results, relative to the previous structures.

Recovery and resolution rates. Various empirical and policy studies have found that recoveries on the IBC are superior to recoveries on older mechanisms (BIFR, DRTs, winding-up), although absolute recovery levels differ depending on the industry and type of case. Surveys based on IBBI and agency data demonstrate median/average increases in recovery, regulator and industry reports provide you with the most recent aggregate data. Instead, just as an illustration, IBBI statistics and the recent agency releases reveal recoveries of 30-45 percent range with variation of sample and period; real-estate cases have registered higher recoveries than the liquidation ones.

Resolution or liquidation. A number of articles and IBBI reports report an increase in the proportion of cases submitted to CIRP that achieve commercial settlements (approved plans) instead of liquidation-this is pointing out that the market is in more into turnarounds. Conversely, the literature also raises the concern that still considerable amounts of unresolved cases exist and a visible liquidation quota particularly in some industries.

[5]Task deadlines and ambivalent performance on schedules. The 180/270-day timeline of the code comes under intense discussion. Empirical research demonstrates faster processing time than historical indicators in a significant number of cases, however, they also indicate delays that still exist because of

[3] Swiss Ribbons Pvt. Ltd. and Others v. Union of India (2019) 4 SCC 17 (SC).
[4] Creation of Specialised Tribunals and Regulator (NCLT/NCLAT; IBBI), see IBBI, Handbook on the Insolvency and Bankruptcy Code, 2016 (IBBI Publications 2023).
[5] Insolvency and Bankruptcy Board of India, *Report on the Effectiveness of the Resolution Process* (IBBI, 2022).

litigations, tribunal capacity overload, procedural appeal, the complicated structure of assets and lack of professionalism. Many papers exploit case-level data to demonstrate heterogeneity-- easy cases are solved quickly; big complicated issues are still languishing.

[6]Pre-Pack and process innovation.

The pre-pack (PPIRP) and other fast-track programs by the IBBI available in literature examine the question of whether these programs maintain value in MSMEs and smaller corporations. The initial analytical and case-study research, as well as more recent scholarly articles, explore the nature of the trade-off between speed, transparency, and protection of stakeholders in pre-packs. Other studies discover that pre-packs can save on time and cost but increase governance problems of transparency and creditor involvement.

The Criticisms And The Unwanted Aftereffects.

Notable critical comments in the literature are:

- **[7]Treatment of cross-border creditors: Operational creditor**: There are concerns that operation creditor rules of primacy and CoC voting rules push operation creditors (such as homebuyers) to the fringes of distribution outcomes; more focused protection mechanisms are proposed by scholars and practitioners.
- **[8]Promoter phoenixing and the effects associated with such a plan:** There are those authors who caution on plans to allow promoter to reclaim their control that still casts some doubts on the economics of the deal and fairness. The countermeasures in the code are judicial scrutiny and protection.
- **Cross border insolvency gaps:** A number of articles are asking better cross-border structures to address the problem of multinational debtors- this remains a policy area yet to be addressed.

[6]Insolvency and Bankruptcy Board of India, Pre-Packaged Insolvency Resolution Process Regulations, 2021; see also Indian Institute of Management Ahmedabad (IIMA) and IBBI, Evaluation of PPIRP Mechanism for MSMEs (Working Paper, 2023).
[7] Vinod Kothari and Company, 'Homebuyers as Financial Creditors under the IBC' (2019) https://vinodkothari.com accessed 7 November 2025; Institute of Chartered Accountants of India (ICAI), Treatment of Homebuyers and Operational Creditors under IBC (ICAI, 2020).
[8] Section 29A and Promoter Re-entry Debate, see R Varottil, 'Promoter Ineligibility under the IBC: Policy Rationale and Loopholes' (2020) Indian Journal of Law and Economics 45; also Vinod Kothari & Co, 'Section 29A and the "Phoenixing" Problem' (Blog, 2021) https://vinodkothari.com.

- **Capacity issues and litigation turnover**: Another issue that emerges is that tribunal backlog, insufficient number of experienced insolvency practitioners, and predatory litigation will delay and be expensive.

Objective:

The objective of the research paper was to mainly examine how has the introduction of IBC 2016 has been able to change the ways of insolvency and liquidation in India. Has the effect been a good or a bad one among the competitors in the market?

Research Methodology:

An equal amount of both empirical and doctrinal research methods were used in writing this research paper.

1. **Key legal and institutional changes introduced by IBC**

1.1.A single, consolidated code

The IBC just tapped all the fragmented insolvency laws and crammed them into a single neat statute that includes the corporations, partnerships and individuals. The IBBI addresses all the rules and this has made it much more understandable and provided everyone just a single straightforward way of solving corporate insolvency.

1.2. Corporate Insolvency Resolution Process (CIRP) Time-bound.

The IBC is quite strict concerning time: typically the entire CIRP must be finished within 180 days and one 90 day extension is possible when the court opines. The entire idea is to eliminate procrastination and retain assets that are worth their weight in gold.

1.3.Creditor Committee & Creditor Primacy (Committee of Creditors CoC).

A majority of the big decisions are taken by the Committee of Creditors which, in truth, is a committee of finance-creditors, who dictate on the plan and propose thumbs-up to the professionals working on the case. It replaces the management of whoever happens to be running the company and any revival scheme managed by a random judge, putting the real creditors in the position.

1.4 automatic stay and moratorium of enforcement.

As soon as the CIRP comes into play, the law prevents any litigation or legal action against the company, or in other words, everyone has a moment to get the situation in order.

1.5 Role of NCLT/NCLAT and Resolution Professional (RP)

The IBC established authorised insolvency practitioners and the organisations operating them. It leaves the primary decision-making process to the NCLT, and appeals may be taken to the NCLAT, hence the specialized court staff to this task.

1.6 Preferential treatment, waterfall and changed creditor pecking order.

The IBC implements a waterfall system of the way the money is split, and this alters the order in which the money will be paid first, particularly to those creditors of the operations who will receive the money followed by some bills of the government. That section has generated disputes and courts have been playing with it.

2.Courts of judicial moulding and constitutional approval.

In 2019, the Supreme Court struck a blow in support of the IBC in its decision, Swiss Ribbons Pvt. Ltd. vs. Union of India, which stated that that CoC decision is constitutionally sound and made it clear that the decision made as part of the procedure is usually beyond judicial review in case the procedure is not off-track. It provided some relief that the creditor-first system was a sound legal framework.

3.Observable results and signs of improvement.

3.1 Rise in the resolutions and rise in recovery rates.

Following the IBC entrance into the scene, it has wiped out tonnes of pre-admission deals and has made more companies slip into commercial resolutions plans than ever. IBBI and other analysts recorded settlements and more than 1,000 approved plans since 2016. Research and regulator statistics give creditors a lot more to be pleased about now had a credit rating house such as ICRA and even better returns on cases of the resolution plan in the past, and the Finance Ministry folks have been spewing out statistics that show that the real estate payments are rising somewhere on the charts.

3.2 Resolution and liquidation ratio change.

According to the most recent statistics, the situation has changed by reversing the trend, more cases are resolved through plans rather than directly to liquidation, which is not the case with the old days. Media articles published in 2024-25 are reporting that the resolution cases are more than the liquidation cases in the admitted CIRP, which signifies the IBC becoming more experienced and makes the bidders more interested.

3.3 Time and efficiency - ambivalent results.

Although strict time constraints are imposed by the IBC, a significant portion of the cases continues to exceed their deadline due to court battles, shaky assets and shortage of resources in the tribunal and among the RPs. Nevertheless, the turn around is now much better than the olden days, particularly when you have good bidders and binding restructuring benefits. Industry reports and annual statistics created by the IBBI ensure that the highs and lows remain in the limelight.

4.Far-reaching economic and market impacts.

4.1 Discipline of creditors and pricing credit.

Since the IBC has a real time clock and better opportunities of a refund, creditors are becoming more stringent and clear which means that there is room to better price and also have tougher lending regulations. It pushes lenders to work early-out and pay close attention to borrowers.

4.2 Pre-admission settlements and out-of-court settlement.

A major lesson is that people are now settling before they are officially admitted, creditors and debtors are looking to strike before a court instead of trying litigation. The figures of IBBI indicate that quite a number of cases are tied up prior to formal admission being delivered and as such the IBC does not encourage them to prolong the process.

5.Critiques, restrictions and limitations.

5.1 Tribunal capacity and delay.

Delays occur even against the fixed schedules due to lawyers engaging in court-jockeying on the higher courts, the backlog at NCLT, and RPs failing to handle complex litigation at a pace they could. Scholars and regulators constantly accuse the institutions of being weakened.

5.2 Homebuyers and operating creditor issues.

Homebuyers and other ops creditors continue to allege that the CoC voting and stringent creditor primacy slight snubs them in some instances. Lawmakers and regulators still have to address the need to protect their interests.

5.3 International insolvency and complex corporate groups.

The IBC itself is yet to have a full-blown cross-border structure (think UNCITRAL style). When you are working with multinationals and foreign entities, it patches wrongly, and it is only possible to scrape a finite amount of value in a big group dealings.

6.Amendments, policy reactions and regulatory development.

IBC has been adjusted much since 2018, and the IBBI takes new regulations to even the situation. Consider the 2021 Pre -Pack regulations: they are all about speed-up of the SMEs. The regulators continue to make changes in order to eliminate red-tape and provide more explicit guidance. The IBC remains a living document as it is influenced by new legislation and more clarified rules and decisions of the courts.

7. Policy recommendations

Based on observed outcomes and persistent challenges, recommended measures include:

- Strengthening NCLT/NCLAT capacity (more benches, trained members) to reduce procedural delays.
- Expanding professional capacity (train more insolvency professionals and insolvency professional entities).
- Improving mechanisms for protection and representation of operational creditors (homebuyers), including clearer priority rules where appropriate.
- Introducing or strengthening cross-border insolvency arrangements to handle multinational groups.
- Encouraging early out-of-court workouts combined with transparent processes to preserve value while protecting minority stakeholders.
- Data transparency and continued monitoring: publish more granular recovery/time-to-resolution metrics to guide policy.
- These steps would help sustain the gains realized by IBC while addressing operational bottlenecks.

Conclusion:

The research paper helps in proving that the IBC 2016 has definitely made it easier for insolvency and liquidation of companies. The introduction of the Insolvency and Bankruptcy Code (IBC), 2016 has fundamentally transformed India's insolvency landscape by replacing a fragmented and inefficient legal framework with a unified, time-bound, and creditor-oriented mechanism. Before the enactment of the

IBC, insolvency laws such as the Sick Industrial Companies Act (SICA), the Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI), and the SARFAESI Act operated independently, leading to delays, conflicting jurisdictions, and minimal recovery for creditors. The IBC consolidated these provisions into a single comprehensive law, thereby creating a coherent and efficient system for resolving insolvency and bankruptcy cases.

Through the establishment of the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT), the Code introduced a streamlined adjudicatory process. It also shifted control from debtors to creditors, emphasizing resolution rather than liquidation. The introduction of key features such as the moratorium period, time-bound Corporate

Insolvency Resolution Process (CIRP), and the empowerment of the Committee of Creditors (CoC) have enhanced the speed, transparency, and fairness of insolvency proceedings.