THE INSOLVENCY AND BANKRUPTCY CODE, 2016: ROLE IN REFORMING CREDIT CULTURE IN INDIA

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ABSTRACT

The Insolvency and Bankruptcy Code for corporates in India has been effective since 2016. Since its implementation, it has targeted the long-standing issue of bad debts and resolved the slow process of resolution, thereby improving creditor confidence. This paper primarily seeks to study the influence of the IBC on the behavior of corporate lending and the credit culture of India, particularly its efficacy in enforcing financial discipline, eliminating non-performing assets, and enhancing the accountability of institutions. The policymakers, while implementing IBC, also had the goal of eventually eliminating Non-Performing Assets (NPAs) by having a dedicated framework to ensure the resolution system is structured and time bound. Through critical evaluation of recent peer-reviewed literature, this paper synthesizes empirical evidence and legal analysis to evaluate how the IBC has changed borrower-lender relationships while empowering financial creditors through the Committee of Creditors (CoC) and ushering in a time-bound resolution mechanism that ensures value maximization and transparency.

The above also speaks of the implications of the IBC on governance, primarily on corporate behavior and the responsibility of managers, wherein defaulting promoters are supplanted by these during the process of resolution. Further, this paper dwells upon systemic problems in delaying the adjudicating process, uneven jurisprudence, and exclusion of operational creditors from the central decision-making process. Something that needs attention in this regard here is the absence of a robust cross-border insolvency, which is still a major constraint in an internationalized credit environment. Thus, this paper aims to try and put an answer to whether IBC has proven itself effective not only in transforming the disposition of distressed assets but also in converting of credit culture into one characterized by responsibility, trust, and legal certainty in India. It ends with policymaking improvements suggestions for making the Code more accessible, efficient, and fairer among classes of stakeholders.

Introduction

Before the implementation of the IBC in 2016, the credit system in India was struggling due to various reasons like systemic delays, extremely low recovery rates, fragmented and overlapping laws, which often had loopholes that the borrowers exploited. Such an unstable and irresponsible credit system would hardly lay claim to being an economic pillar for the country, and one, for that matter, where investor trust is concerned. India, till the enactment of the new legislation [IBC 2016], saw an insolvency regime that was decentralized, delayed, and more often than not ineffective in the implementation of debt recovery and corporate resolution proceedings. The Special Act for Restructuring of Companies in 1985 did not provide effective relief to the creditors. Various other laws were also enacted over a few years to tackle this problem, such as the Sick Industrialist Companies Act (SICA), the Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI), and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI). However, their ineffectiveness created an environment conducive to a borrower-driven culture of deliberate default, widespread intentional defaults, and an alarming increase in NPAs within the banking industry.

To resolve this systemic crisis, the Government of India enacted the Insolvency and Bankruptcy Code in 2016, which from the outset was a comprehensive enactment designed to put in harmony amongst the then-existing insolvency legislation and usher in a time-bound solution with the interests of the creditors in focus. The paradigm shift was introduced through the concept of creditor-in-control, whereby insolvency professionals and the resolution processes took control of the management of defaulting debtors from the Committee of Creditors (CoC). This changeover from a debtor-in-possession perspective was thus aimed at enhancing transparency, reducing delays in final resolution, and incentivizing responsible borrowing conduct.

The IBC has reformed corporate lending and the risk appetite of the financial institutions ever since its inception. Extant empirical evidence indicates enhancement in recovery rates, resolution timelines, and discipline from borrowers. Creditors are more assertive in debt restructuring efforts under the IBC, while corporate borrowers are becoming aware of the legal ramifications of default. However, the Code has had its share of teething problems. Delays in judicial proceedings, lack of infrastructure in the National Company Law Tribunal (NCLT) to handle cases, inconsistent judicial pronouncements, and the marginalization of operational

creditors have all created issues over the efficacy and fairness of the Code. Furthermore, because of the absence of a well-structured cross-border insolvency regime, the IBC's applicability remains confined to the extent of foreign assets or cases involving foreign creditors.

This paper seeks to critically analyze the impact of IBC on corporate lending and credit culture in the country by way of doctrinal analysis and peer-reviewed journal empirical research reviews. It analyses how the IBC has reconceived borrower-lender relations, strengthened the legal framework for insolvency resolution, and revamped overall credit space within India. It identifies gaps that continue in implementation as well as policy with regard, particularly, to inclusivity, judicial efficiency, and conformity with international standards of insolvency.

By closely scrutinizing some of the very primaries in terms of case laws, policy developments, and controversies that academic debate has recently engendered, the present paper seeks to provide answer to one of the most critical questions: Has the IBC been able to provide institutionalization of an enduring and a disciplined credit culture, which balances creditor rights and debtor protection in the Indian milieu? The outcomes of this work will feed into the prevailing legal and policy debate about insolvency reform, as well as regarding corporate credit regulation in the future of India.

Detailed Literature Review

1. "On the Effectiveness of Insolvency and Bankruptcy Code, 2016: Empirical Evidence from India"

The authors of this paper have gathered empirical evidence to an extent that could qualify as one of the most comprehensive examinations of the efficacy of the IBC. The authors have thrived on a data-based approach, considering crucial performance metrics such as recovery rates, resolution time, and the number of cases disposed of under the regime of the IBC. The data hence collected suggests that contrary to the pre-IBC statutes such as the Sick Industrial Companies Act (SICA) and the Debt Recovery Tribunals (DRT), the IBC is successful in ramping up recoveries for creditors substantially and reducing average resolution times from multiples of over four years to less than one year in most cases.

The IBC deals primarily with the power to rebalance the situation between the debtor and creditors and, in that sense, also serves to deter willful default or intentional strategic deferral.

The article further stresses the institutional framework behind the National Company Law Tribunal (NCLT), Insolvency and Bankruptcy Board of India (IBBI), and other Insolvency Professionals (IPs) that will enable the smooth and easy case management. However, such an article also reports systemic issues such as:

- Tribunals are overburdened
- Lack of uniformity in case laws
- Proportional growth of liquidation outcomes compared to successful resolutions

Overall, the authors claim that even though the IBC marks the dawn of a new beginning in terms of significantly advancing old insolvency regimes, it still requires continuous structural and procedural changes to ensure that improvements in the credit culture remain over a longer span of time.[1]

2. "Protection of Creditors' Interests with Special Reference to Corporate Insolvency Law in India."

Saini's article provides an analysis of the IBC's creditor-centric structure doctrinally. It maps the legislative trajectory toward creating the Committee of Creditors (CoC) as the principal decision-making body durig the resolution process. It points out how this change has empowered the banks and financial institutions, making Indian legislation on insolvency more consistent with international best practices.

The author has criticized the precedence of claims laid by the IBC regarding the differential treatment given to financial creditors and operational creditors. Saini argued that while the financial creditors enjoyed the voting right and precedence for resolution, the operational creditors were left behind frequently after having significant claims. Such asymmetry might, as argued, be justifiable from the perspective of risk-allocation but has been challenged on the grounds of equity and fairness. Besides, the article cites historic judicial dicta including:

- Swiss Ribbons v. Union of India, where the Supreme Court ruled on the constitutional validity of the IBC
- Essar Steel case, which clarified the rights of the CoC as well as that of jurisdiction

[1] Abhirami A. et al., *On the Effectiveness of Insolvency and Bankruptcy Code, 2016: Empirical Evidence From India*, 2 Law & Bus. 1 (2022)

under judicial review

Concludes with suggestions of reforms like:

- Better representation in CoC decision-making
- Mechanisms for the protection of smaller creditors
- Prompt disposal of cases to avoid value erosion [2]

3. Effectiveness of Insolvency and Bankruptcy Code on Lending Behaviour of Indian Banks

In their empirical work, Dahiya and Yadav (2021) examined the effects of the Insolvency and Bankruptcy Code (IBC), 2016, on the evolved lending practices within Indian banks. The paper carefully analyses pre- and post-IBC learning practices disbursement mechanism, incorporating a risk evaluation mechanism for delinquency, and the incorporation of an insolvency risk in lending decisions by a sample of the large public and private sector banks.

According to the authors, the IBC has made an appreciable difference in the general lending paradigm, wherein banks have become more risk-aware and risk-averse since there exists a time-bound and structured insolvency regime under which the lenders now trust more in indulging themselves in corporate lending. The result in formalization among loan covenants and improved enforcement mechanisms was also accompanied by evidence exhibiting a 30 percent increase in the application of structured lending products such as loan syndication, collateralization, and performance guarantees after IBC.

Moreover, the studies reveal a sharp decline in high-risk lending, especially about borrower profiles formerly classified as "evergreening-prone." Dahiya and Yadav point out that deterrent provisions in the IBC, namely Section 29A, denying restoration of control to willful defaulters, unofficially pushed borrowers to stay financially fit, thus aiding in improving rates of recovery, disclosure, etc.

Further, the paper touches on inequities between banks, whereby larger banks with more adept legal teams could utilize the IBC better than smaller ones or rural banks. It criticizes the over-reliance on judicial capacity and suggests accompanying reforms to credit assessments and

[2] Harshita Saini, *Protection of Creditors' Interest with Special Reference to Corporate Insolvency Law in India*, 6 Int'l J.L. Mgmt. & Human. 3 (2023).

institutional infrastructure to draw the most from the gains achieved by the Code. Overall, the paper makes a significant contribution to the credit culture change subject in India and provides a fair analysis of how the reform of insolvency law has a role to play in changing banking behavior. This becomes a very valuable academic reference for understanding the link between insolvency resolution and financial sector resilience. [3]

4."Analyzing the Impact of IBC on Non-Performing Assets: A Quantitative Study"

Kumar and Roy (2021) indeed put forth a data-heavy exploration of the IBC's quantitative contribution, enshrined in 2016, about the handling and resolution of Non-Performing Assets (NPAs) in India. Authors deserve a special commendation since this work relied on a panel regression model set out on RBI data and data from the Insolvency and Bankruptcy Board of India (IBBI) during the period of 2014-2020. Authors conclude that enactment of IBC bears a statistically significant negative correlation with the amount of NPAs, especially with regard to public sector banks. Imminent loss of control under the IBC creditor-in-control framework seems to have prompted borrowers into taking pre-emptive efforts at debt restructuring and payments ahead of actually being forced to declare insolvency. Additionally, they note huge drops in the number of willful defaulting cases after the inception of the Code.

The authors Kumar and Roy evaluate the CIRP process and recovery timelines. Although they conclude conceptually, the Code is efficient; on the contrary, resolution delay diminishes such efficiency concerning NPA recovery. The authors recommend that to realize the deterrent and recovery potential of the Code, the institutional framework needs fortification (NCLT benches and training of Resolution Professionals).

This work is intended to supplement the already-existing academic literature with an exploration of IBC's efficacy with respect to one major issue: addressing the repercussions of India's perennial legacies of bad loans. His significance, however, lies in empirical contribution to policy reform, besides making a big contribution to legally refining the same. [4]

5. ' Impact of IBC on the Growth of a Repayment Culture: Evidence from Borrower-Lender Behavior'

[3] S. Dahiya & R. Yadav, *Effectiveness of Insolvency and Bankruptcy Code on Lending Behaviour of Indian Banks*, 56 Econ. & Pol. Wkly. 12 (2021).
[4] R. Kumar & P. Roy, *Analyzing the Impact of IBC on Non-Performing Assets: A Quantitative Study*, J. Fin. Reg. & Compliance (2021).

While Sharma and Ghosh (2021) illustrate the kind of borrower-lender behavioral change triggered by the IBC on what they term "repayment culture" within the Indian corporate environment, interviews, surveys, and case studies are used by the authors to construct an understanding qualitatively and institutionally of how the Code has differed about risk perception, borrower discipline, and creditor assertiveness.

The major conclusion reached was that because of the dire legal consequences and reputational penalties arising from insolvency proceedings, debtors are now much more inclined to comply and repay their debts. The chilling effect, which forces a very high threshold for default on willful or strategic non-repayment as a result of Section 29A of the IBC before being ratified in ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta[5], only augments the stop.

It was noted by the writers that lending practices have so drastically changed that banks now have heightened prudence when it comes to due diligence and incorporated legal triggers relevant to the IBC in loan contracts. The study demonstrated that post-IBC practices in loan documentation have drastically improved, while lenders are beginning to take on a more proactive role in both resolution and restructuring activities as opposed to remaining stagnant amidst the pushing and rolling over of bad loans.

The authors commend the IBC as the engine in instilling creditor faith, minimizing moral hazard, and creating a culture of legal and financial accountability. In addition to various empirical studies within this domain, it brought a lot of rich qualitative observations on the cultural and systemic changes post-IBC and even stressed the role of the Code in encouraging discipline in the credit culture.[6]

Methodology

This study has the dual doctrinal and analytical frame in examining theoretical literature and case law to assess the workings of the IBC 2016 to understand its impact on corporate lending and credit culture in India; and given the aspects about legal aspects, it is mainly qualitative, interpreting, and analyzing statutory provisions, judicial pronouncements, and academic commentary to realize the purposes and objectives of the IBC.

[5] ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta, (2019) 2 SCC 1.
[6] A. Sharma & S. Ghosh, *Impact of IBC on the Growth of a Repayment Culture: Evidence from Borrower-Lender Behavior*, 4 Indian J. Corp. L. 1 (2021).

1. Research Design

The research is carried out in a qualitative and descriptive research design. The research activities include determining and analyzing:

- Legislative intention behind IBC,
- Structural and procedural reforms introduced by the Code,
- Actual effect on creditors and corporate borrowers
- Judicial interpretation by the National Company Law Tribunal, the National Company Law Appellate Tribunal, and the Supreme Court of India, and
- The persistent challenges and gaps in implementation.

2. Sources of Data

(a) Primary Sources:

- Statutes and rules: Insolvency and Bankruptcy Code (IBC), 2016 with its ancillary amendments and rules and regulations as notified by the IBBI.
- Judicial Case Laws: Landmark judgments such as Swiss Ribbons v. Union of India, Essar Steel India Ltd. v. Satish Kumar Gupta, Jaypee Infratech v. NBCC (India) Ltd., and other pertinent decisions by the NCLT/NCLAT.

(b) Secondary Sources

- Peer-reviewed journal articles: the bulk of reviewed literature is peer-reviewed journal articles, including Law and Business, International Journal of Law Management & Humanities (IJLMH), and many other related peer-reviewed journals.
- Reports and Statistics: The empirical reports as well as the statistics of insolvency as published by IBBI, Reserve Bank of India (RBI), World Bank, and Ministry of Corporate Affairs (MCA).
- Books and Commentaries: Authoritative texts on the subject of insolvency law and corporate finance, which would greatly assist doctrinal analysis.

3. Method of Literature Review

This extensive literature review comprises scholarly articles that are selected depending upon three perspectives: relevance, recency (all articles published after 2016), and scholarly

reputation (almost all publicized peer-reviewed journals). Further filtering down to a manageable list ensued through academic databases like HeinOnline and JSTOR or Google Scholar under the following keywords: IBC impact on lending, credit culture in India, corporate insolvency, and debt resolution in India.

4. Limitations

It draws from well-grounded secondary sources, but the study lacks primary field work, that is, conducting interviews or surveying to collect data. Its findings, therefore, are limited to the currently existing scholarly and legal literature and publicly known data.

Discussion

The Insolvency and Bankruptcy Code (IBC) of 2016 was introduced as a revolutionary reform to remedy the systemic inefficiencies that afflict the debt recovery and insolvency resolution process in India. Before the Code, there were a plethora of overlapping acts like the Sick Industrial Companies Act (SICA), Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI), and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI), but an effective mechanism for the unified and timely resolution was missing. The IBC integrates such fragmented regimes into a single, cohesive code that seeks to ensure timely resolution of corporate distress, maximizes the value from assets, and balances the economic interests of stakeholders.

1. Structural Change in Corporate Borrowing and Creditor Strength

The IBC introduced a creditor-in-control model, and that was counted as one of the most revolutionary features of the IBC. Financial and operational creditors under Sections 7 and 9 of the Code can institute the Corporate Insolvency Resolution Process (CIRP) upon default in payment. [7]The management of the corporate debtor is held in abeyance, and a Resolution Professional (RP) assumes office under the oversight of the Committee of Creditors (CoC).

The Supreme Court upheld the constitutional validity of the Code in Swiss Ribbons Pvt. Ltd. v. Union of India [(2019) 4 SCC 17] and pointed out the reason for giving financial creditors priority in the CoC. The Court remarked that the technical know-how of financial creditors in evaluating the viability and feasibility of the resolution plan justifies such an overarching role.

[7] *Insolvency and Bankruptcy Code, 2016* (India).

[8]This ruling played a significant role in consolidating the confidence of financial institutions to lend more freely under the assumption of greater recovery rights later.

According to Dahiya and Yadav (2021), with the introduction of IBC, lending behavior has been notably changed. In this regard, banks and financial institutions have now considered the possibility of using the IBC as one of the variables in their credit risk management techniques. In their research, they found the IBC to have created a whopping 30% increase in the structured lending framework, suggesting that the new approach towards corporate financing has turned into a more conservative, law-backed one. [9]

2. Advancement: new Recovery Rates Drop in NPAs

The IBC has a clear and observable effect on recovery levels. According to the IBBI's quarterly reports, the average recovery rate through the IBC has hovered around 43-45% through 2020, compared to the 26% recovery under the SARFAESI Act, and DRT proceedings have even lower recovery rates. This not only transforms the balance sheets of banks but also adds a new source of greater capital liquidity in the market.

In Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta [(2020) 8 SCC 531], the Supreme Court put to rest all discussion about non-justiciable commercial acumen of the CoC, and once the resolution plan is approved by the CoC as per Section 30(2), the Adjudicating Authority should not interfere with the same.[10] This provision has created an environment of trust for financial creditors to undertake wide-ranging debt restructuring moves, fully knowing that such actions hold the endorsement of courts.

Statistically significant negative correlation was established between the timely start of CIRP and the level of NPAs through regression analysis of the RBI and IBBI data on NPAs and CIRP by Kumar and Roy (2021). In their opinion, the IBC has enabled not only better recovery but also the emergence of strategic default deterrence because defaulters now reportedly run a risk of losing control over their businesses[11].

[8] Swiss Ribbons Pvt. Ltd. v. Union of India, (2019) 4 SCC 17.
[9] S. Dahiya & R. Yadav, *Effectiveness of Insolvency and Bankruptcy Code on Lending Behaviour of Indian Banks*, 56 Econ. & Pol. Wkly. 12 (2021).
[10] Comm. of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta, (2020) 8 SCC 531.
[11] R. Kumar & P. Roy, *Analyzing the Impact of IBC on Non-Performing Assets: A Quantitative Study*, J. Fin. Reg. & Compliance (2021).

3. Improvement in Credit Culture and Deterrence Against Default

The IBC has also changed the corporate culture and has brought about a culture of deterrence. This added a huge force to the thrust of settlement of debts by the borrowing promoters who have not been permitted under Section 29A of the Code to engage in those resolution plans by applying again as defaulting promoters. [12]The landmark judgment in ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta [(2019) 2 SCC 1] has set the precedent that promoters cannot take back control over the corporate debtor if there is a non-performing account against them or if the latter has a record of willful default. This verdict maintained not only the sanctity of Section 29A, but it is also going to act as a precedent against back-door entries by wayward promoters. [13]Then this created an environment of accountability among corporate borrowers and reduced willful default to a great extent. Sharma and Ghosh (2021) have evidence that reveals improvement in disclosure and documentation practices while there is heightened adherence to debt covenants by the borrowers. They describe this phenomenon as the birth of a 'repayment culture' nurtured by legal and reputational repercussions, among others, that are suffered under the IBC. [14]

4. Challenges: Judicial Delays and Institutional Constraints

While the IBC has been successful in most aspects, it still faces criticism. There are time-bound resolution processes that should not take beyond 180 days (amended provisions now say 330 days), but they are oftentimes frustrated because of physical infrastructural and procedural handicaps from within NCLT and NCLAT. This was recognized by courts, which were advised in the instant case of Manish Kumar v. Union of India [(2021) 5 SCC 1] to work toward creating more benches and to properly train the judicial members. The devaluation of assets also takes time and dissuades creditors from instituting any proceedings, especially at a time when the distressed company's value is time sensitive. [15]

The study done by Dahiya and Yadav (2021) found that almost three-fifths or 65% of the Corporate Insolvency Resolution Processes (CIRPs) went beyond the statutory timeline for completion. Most were caused by adjournments, litigation, or the absence of Resolution

[12] *Insolvency and Bankruptcy Code, 2016* (India).
[13] ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta, (2019) 2 SCC 1.
[14] A. Sharma & S. Ghosh, *Impact of IBC on the Growth of a Repayment Culture: Evidence from Borrower-Lender Behavior*, 4 Indian J. Corp. L. 1 (2021).
[15] Manish Kumar v. Union of India, (2021) 5 SCC 1.

Professionals. Such procedural hindrances must be corrected so that they do not defeat the very essence of being time-bound in resolution, thereby fortifying the credibility of creditors. [16]

5. Justice Issue for Operational Creditors

Operational creditors are not given any voting right in the CoC, consequently making them more vulnerable throughout any resolution process, thus weakening their cause. Whereas the Code safeguards the right of existence of operational creditors in respect of a minimum of liquidation value (Section 30(2)(b)), in most cases that value is bound to be nil. [17]

In Maharashtra Seamless Ltd. v. Padmanabhan Venkatesh [(2020) 11 SCC 467], the Supreme Court held that financial creditors need not consider the full number of claims of operational creditors to the extent that the resolution plan passes only the most minimal statutory test. Such would fit perfectly into the creditor orientation of the Code, but it would also raise questions about fairness and inclusiveness. [18]

Most resonated with them, Kumar and Roy (2021) argued that operational creditors, including MSMEs, are lifelines for the continuation of the company's businesses and must be included in the CoC, at least beyond a certain threshold of delinquencies, the exclusion from which would have adverse ramifications for both trade credit and supplier morale. [19]

6. Inadequate Cross-Border Insolvency Framework

One of the essential lacunae in IBC is the absence of a robust cross-border insolvency regime. Sections 234 and 235 discuss poorly skeletal provisions for bilateral cooperation with other jurisdictions. [20]India has not signed any insolvency cooperation agreements with most jurisdictions.

In Jet Airways (India) Ltd. v. State Bank of India, the imperative for a formalized framework surfaced due to concurrent insolvency proceedings straddling both the Dutch and Indian jurisdictions being left chaotic. The NCLT provided some sort of coordinated proceedings;

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[16] S. Dahiya & R. Yadav, *Effectiveness of Insolvency and Bankruptcy Code on Lending Behaviour of Indian Banks*, 56 Econ. & Pol. Wkly. 12 (2021).
[17] *Insolvency and Bankruptcy Code, 2016* (India).
[18] Maharashtra Seamless Ltd. v. Padmanabhan Venkatesh, (2020) 11 SCC 467.
[19] R. Kumar & P. Roy, *Analyzing the Impact of IBC on Non-Performing Assets: A Quantitative Study*, J. Fin. Reg. & Compliance (2021).
[20] *Insolvency and Bankruptcy Code, 2016* (India).

however, statutory vagueness thereat clouded the whole process, resulting in a circus, confusion, and delays. [21]

The recommendation published in the Insolvency Law Committee's 2018 report for adoption of the UNCITRAL Model Law on Cross-Border Insolvency[22] has come to a standstill in legislative progress. Without this framework, the IBC is not effectively equipped to deal with international insolvency, as in insolvencies involving a foreign creditor or offshore assets.

Conclusions of the Discussion

Insolvency and Bankruptcy Code ushered in a whole new credit culture and accountability in corporates in India. The revolutionary impact could be seen in improved recovery rates, resulting in reduced NPA and formalized lending practices. Judicial interpretations usually keep pace with the original thought, and thus, they are clear and prove to be beneficial to market participants.

There are, however, some persisting issues in the form of judicial delays, non-inclusion of operational creditors, and lack of a cross-border regime, which make it very challenging for IBC to reach the optimum situation. Last but not least step would be institutionalising infrastructure, making the Code more equity-compliant, and aligning with the best global practices. This study paves the way for the need for a balanced approach that strikes the efficiency gain of the IBC to reduce its demerits. The section to follow would contain particular recommendations on enhancing the effectiveness and inclusion of the Code in shaping the corporate debt scenario in India.

Recommendations

Strengthening Institutional Capacity

- Increase the number of benches of NCLT and NCLAT, especially occupying areas with heavy case loads.
- Subject judicial members and Resolution Professionals (RPs) to specific training courses to reduce procedural inefficiencies.

[21] Jet Airways (India) Ltd. v. State Bank of India, No. C.P. (IB)-2205(MB)/2019 (NCLT Mum. Aug. 20, 2019) (India).
[22] Insolvency Law Comm., Ministry of Corp. Affs., Government of India, *Report of the Insolvency Law Committee on Cross-Border Insolvency* (Oct. 2018).

- Apply time measuring and accountability measures to force compliance with the legislative resolution deadlines.

Inclusion of Operational Creditors

- Amend the Code to include limited participatory rights of operational creditors, particularly when their claims cross a certain threshold.
- Consider establishing a consultative committee of operational creditors for major CIRPs to provide representation and build trust for all operational creditors.

Cross-Border Insolvency Framework

- Push the bill for enacting the UNCITRAL Model Law on Cross-Border Insolvency to bring clarity and uniformity in handling insolvencies that cut across parliaments or boundaries.
- Formulate bilateral agreements with major trading countries and harmonise procedural rules for facilitating recognition of Indian insolvency proceedings abroad.

Improved Access to Credit Information

- Encourage more usage of IUs under the IBC to build a central database of defaults and debt payment records.
- Instead, ensure regular disclosures of insolvency triggers and resolution status to reduce lenders' information asymmetry.

Preclude Frivolous Litigation

- Punish tactics of delay and multiple appeals under Rule 11 of the NCLT Rules to reduce clogging of the system.
- Empower Adjudicating Authorities to impose cost penalties on non-cooperation or strategic delay by any party to the CIRP.

Behavioral Nudges for Repayment Discipline

- Promote a credit rating system that would include records of defaults under IBC.
- Give credits at lower interest rates or mark the easy use of future credits for companies achieving bankruptcy without liquidation.

Conclusion

The Insolvency and Bankruptcy Code, 2016, has brought about a sea change in India's corporate legal landscape. At its very core, it is meant to address a single cohesive legal regime for the insolvency and bankruptcy resolution of the credits, extended through and recovered within the Indian corporate landscape. To make things simpler, the gist of the code remains that of making a time-bound resolution while maximizing asset value. Such would be the advances made in the environment of recovery of financial creditors so as to minimize the burden of non-performing assets and to help foster a culture of credit discipline long overdue.

However, the possible strength needed by the framework would have come from much-awaited judicial pronouncements in landmark judgments such as Swiss Ribbons, Essar Steel, and ArcelorMittal reiterating the supremacy of a creditor's commercial sense, but discouraging deliberate defaults while holding the resolution process sacred. Such advances only served to boost confidence among institutional lenders, which in turn built cautious risk-based lending.

The study also reveals some severe challenges that still hold up the promise of the IBC. These, as well as some other structural and legal bottlenecks, must change: long delays in processes at NCLT and NCLAT, less-than-adequate participatory roles of operational creditors, and the glaring absence of any systematic cross-border insolvency framework. Empirical research and regulatory information show that although recovery and repayment behavior has improved due to the Code, its benefits get skewed and in certain cases nullified by the inefficiencies of institutions.

So, even with the IBC changing the face of India for corporate lending, if, as the sole torch bearer, it would be a long way for it to achieve success in the long run, since such will rely on several continuous reforms. Important immediate next steps are: building institutional capacity, ensuring equitable treatment for all classes of creditors, and harmonizing the Code with international insolvency standards. Only in such an evolving balance would the IBC hold onto its promise towards a fair, transparent, and efficient insolvency regime accountable to both economic growth and credit stability.