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Insolvency and Bankruptcy Code, 2016: Framework, Impact, and Reforms

Purushottam Sharad Bedekar
Jigar Bhatt

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NATIONAL INSTITUTE OF BANK MANAGEMENT
Pune, Maharashtra, 411048
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ABSTRACT

This working paper examines the Insolvency and Bankruptcy Code, 2016 (IBC), a landmark legislation in India aimed at streamlining debt resolution and improving the recovery of non-performing assets (NPAs). The paper explores the evolution, implementation, and impact of the IBC, highlighting its role in addressing stressed assets, operational challenges in the Corporate Insolvency Resolution Process (CIRP) & liquidation, and policy gaps which are affecting the stakeholder interests. Key objectives of the paper include analysing the IBC's legislative framework, assessing its effectiveness through case studies and performance metrics, and proposing reforms to enhance its efficiency and fairness further. The paper underscores the IBC's transformative potential for banking professionals, regulators, and the Indian economy. It also aim to identify areas for improvement, such as the independence of insolvency professionals, equitable treatment of creditors, and procedural streamlining. Key takeaways include actionable policy recommendations to strengthen the IBC's implementation and maximize asset recovery.

Prof Purushottam Sharad Bedekar (Corresponding Author)
National Institute of Bank Management

Jigar Bhatt

Insolvency and Bankruptcy Code, 2016:
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Introduction

Background and Context of the Insolvency and Bankruptcy Code, 2016

The Insolvency and Bankruptcy Code, 2016, was enacted to address India's fragmented and inefficient debt resolution framework, which previously relied on laws like the Sick Industrial Companies Act (SICA), 1985, and the Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI), 1993. These laws suffered from prolonged delays, low recovery rates, and inadequate mechanisms for corporate revival, exacerbating the NPA crisis in the banking sector. The IBC consolidated insolvency and bankruptcy processes into a single, time-bound framework, aiming to promote entrepreneurship, maximize creditor recovery, and improve the ease of doing business in India.

Importance of IBC for Banking Professionals and Regulators

For banking professionals, the IBC provides a robust mechanism to resolve stressed assets, reducing the burden of NPAs on balance sheets and enabling capital reallocation. Regulators, including the Reserve Bank of India (RBI) and the Insolvency and Bankruptcy Board of India (IBBI), benefit from a structured framework that enhances transparency, accountability, and financial stability. The IBC's emphasis on creditor-driven resolution empowers banks to take proactive measures while ensuring compliance with regulatory norms.

Objectives and Scope of the Working Paper

This paper aims to:

- Trace the evolution and current framework of the IBC.
- Evaluate its impact on NPA resolution through the analysis of data and case studies.
- Identify operational and policy challenges in IBC implementation.
- Propose reforms to enhance the IBC's effectiveness and fairness. The scope includes legislative analysis, practical implementation issues, and stakeholder perspectives, with a focus on banking and regulatory implications.

Part I: Evolution and Current Framework of the IBC

Pre-IBC Landscape: Challenges in Debt Recovery and Resolution

Before the IBC, India's debt resolution ecosystem was plagued by inefficiencies. Laws like SICA and RDDBFI allowed defaulting companies to delay proceedings, often shielding promoters from accountability. The Debt Recovery Tribunals (DRTs) were overburdened, with cases taking years to resolve, resulting in recovery rates as low as 20-25%. The absence of a unified framework led to overlapping jurisdictions and inconsistent outcomes.

Enactment of IBC: Rationale and Objectives

Enacted in May 2016, the Insolvency and Bankruptcy Code, 2016 (IBC), marked a paradigm shift in India's approach to insolvency resolution. It replaced a fragmented and inefficient regime with a consolidated, time-bound, and creditor-in-control framework. The IBC was designed to address the chronic problem of non-performing assets (NPAs) in the banking system, accelerate debt recovery, and promote a healthy credit ecosystem. Drawing from the recommendations of the Bankruptcy Law Reforms Committee (BLRC), 2015, the IBC seeks to balance the interests of stakeholders while prioritizing the revival of distressed entities over liquidation wherever feasible.

As outlined in the Code's preamble and supported by data from the Insolvency and Bankruptcy Board of India (IBBI), the IBC's key objectives include:

- Promoting timely resolution of insolvency.
- Maximizing creditor recovery and asset value.
- Encouraging entrepreneurship by providing a clear exit mechanism.
- Improving India's global ranking in resolving insolvency (World Bank's Doing Business Report).

1. Promoting Timely Resolution of Insolvency

The IBC mandates that the Corporate Insolvency Resolution Process (CIRP) be completed within 180 days, extendable by 90 days, with an overall cap of 330 days, including litigation. This marked a substantial departure from pre-IBC frameworks, where average resolution time extended to 4.3 years, according to the World Bank's Doing Business Report 2015.

While the statutory cap remains 330 days, actual resolution timelines continue to exceed this due to judicial delays. As per IBBI data, the average time for resolving cases that yielded resolution plans was approximately 650 days as of FY24. However, uncontested and efficient cases, including those under the fast-track route introduced for eligible mid-sized companies, have seen swifter outcomes. The fast-track CIRP aims for resolution within 90 days (extendable by 45), although its adoption has been limited.

2. Maximizing Creditor Recovery and Asset Value

The Code seeks to maximize value through timely reorganization, rather than liquidation. This enhances returns to creditors while preserving jobs and economic value. IBBI data indicates that, as of March 2025, creditors have realized approximately 32.8% of admitted claims in resolved CIRPs, a notable improvement over the 26% average recovery rate before IBC.

In FY25 alone, creditors reportedly recovered around ₹67,000 crore through IBC resolutions - a 42% increase from FY24, driven by an uptick in resolution approvals by the National Company Law Tribunal (NCLT). Additionally, since the IBC's implementation, over 30,000 cases involving defaults worth more than ₹13.7 lakh crore were withdrawn or settled before admission, reflecting IBC’s deterrent effect and its role in facilitating early resolution.

3. Encouraging Entrepreneurship by Providing a Clear Exit Mechanism

The IBC plays a crucial role in fostering entrepreneurship by offering a structured exit for unviable businesses. This allows promoters to redeploy capital and creditors to recover value more efficiently. Studies, including those supported by IBBI and academic institutions like IIM Bangalore, highlight a behavioural shift post-IBC: firms have shown greater financial discipline, with reduced leverage and more cautious borrowing patterns.

In addition to resolution, the Code’s voluntary liquidation framework enables solvent but non-viable companies to exit the market in an orderly fashion. Since the introduction of this framework, over 1,100 voluntary liquidation cases have been initiated, with 708 completed in the past three years (2022–2025), underscoring the growing adoption of this mechanism.

4. Improving India’s Global Standing in Resolving Insolvency

The IBC has significantly improved India’s global perception in the area of insolvency resolution. In the World Bank’s Doing Business Report 2015, India ranked 136th in resolving insolvency, with an average resolution time of 4.3 years and a recovery rate of 25.7 cents on the dollar. By 2020, following the implementation of IBC, India’s ranking improved to 52nd, with the recovery rate increasing to 71.6 cents on the dollar and average resolution time reducing to 1.6 years.

Although the Doing Business Report was discontinued in 2021, its successor - the Business Ready (B-READY) 2024 initiative — indicates that India’s insolvency framework, strengthened by the IBC, outperforms many emerging and advanced economies in procedural efficiency and creditor recoveries. This reinforces India’s competitiveness in resolving financial distress.

These objectives, supported by legislative design, institutional infrastructure, and data from the IBBI reflect the IBC’s transformative impact on India’s insolvency and credit ecosystem. By emphasizing timely resolution, value maximization, and responsible exit mechanisms, the IBC has contributed to strengthening credit markets and enhancing ease of doing business. However, persistent challenges such as judicial delays, inconsistent implementation, and unequal stakeholder recoveries underscore the need for continuous reforms to fully realize the Code’s potential.

Key Features and Legislative Framework

The IBC establishes a two-stage process: The CIRP aiming for resolving viable businesses and liquidation for unviable ones. Key features include:

- **Adjudicating Authority**: National Company Law Tribunal (NCLT) for corporate insolvency.
- **Insolvency Professionals (IPs)**: Appointed to manage CIRP and liquidation.
- **Committee of Creditors (CoC)**: Empowered to make commercial decisions.
- **Timelines**: CIRP to be completed within 180 days (extendable to 330 days).
- **Moratorium**: Prevents legal actions against the debtor during CIRP. The IBBI regulates IPs, insolvency agencies, and information utilities, for ensuring operational efficiency.

Evolution Through Amendments and Judicial Interpretations

The IBC has evolved through amendments (e.g., 2018, 2019, 2020) to address emerging challenges, such as homebuyer rights, MSME protections, and pre-packaged insolvency for small businesses. Judicial interpretations by the Supreme Court and NCLTs have clarified issues like CoC supremacy (Essar Steel case) and promoter ineligibility under Section 29A. However, judicial delays and inconsistent rulings remain concerns.

Performance Metrics and Current State of IBC Implementation

As of 2025, over 7,000 CIRPs have been initiated, with around 2,000 cases resolved and 3,000 liquidated. Recovery rates have improved to approximately 30-35%, compared to 20% pre-IBC. However, delays in NCLT approvals and capacity constraints among IPs hinder optimal outcomes. The IBC has reduced average resolution time to 450 days, but this exceeds the statutory 330-day limit.

Part II: Impact of IBC on Resolution of Non-Performing Assets (NPAs)

The Insolvency and Bankruptcy Code, 2016 (IBC), was enacted to address India's mounting non-performing asset (NPA) crisis, which had severely burdened the banking sector and impeded economic growth. By introducing a time-bound, creditor-in-control resolution framework, the IBC sought to resolve stressed assets, maximize value, and promote financial stability. This section evaluates the IBC's impact on NPA resolution by comparing pre- and post-IBC recovery mechanisms, examining outcomes based on data from the Insolvency and Bankruptcy Board of India (IBBI), and identifying key challenges such as low bidder interest and unequal creditor recoveries. While the Code has delivered transformative outcomes, further reforms are necessary to enhance its effectiveness.

Pre-IBC Recovery Framework: A Comparative Perspective

Before the IBC, India's debt recovery ecosystem was governed by multiple, fragmented mechanisms such as:

- The Sick Industrial Companies (Special Provisions) Act, 1985 (SICA)
- The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDBFI)

- The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI)

These regimes were marred by several limitations:

- **Prolonged Timelines**: Debt recovery under SICA and Debt Recovery Tribunals (DRTs) often spanned 4–6 years, with many cases dragging on for more than a decade, leading to substantial value erosion.

- **Low Recovery Rates**: Banks typically recovered only ₹25 for every ₹100 of bad debt — averaging 5–20% recovery across forums.

- **Debtor-Controlled Processes**: SICA allowed promoters to retain control during resolution, enabling delays and shielding inefficient management.

- **Jurisdictional Fragmentation**: Overlapping legal frameworks and lack of coordination between DRTs, civil courts, and other forums resulted in inconsistent outcomes and judicial bottlenecks.

By March 2016, gross NPAs of Scheduled Commercial Banks had peaked at 11.2% of total advances (amounting to ₹9.6 lakh crore), necessitating a unified, effective resolution framework. The IBC addressed these shortcomings by consolidating processes, introducing creditor control, and enforcing strict timelines.

Post-IBC Impact: Data and Performance Metrics

Since its implementation, the IBC has played a pivotal role in improving resolution of NPAs. Based on IBBI data and related institutional reports up to FY25:

- **Resolution Outcomes**: As of March 2025, the IBC has facilitated the completion of 2,717 Corporate Insolvency Resolution Processes (CIRPs), with 1,194 resolution plans approved. In FY25 alone, creditors recovered approximately ₹67,000 crore — a 42% increase over FY24. Additionally, over 30,310 cases involving defaults worth ₹13.78 lakh crore were withdrawn or settled prior to admission, reflecting the Code’s deterrent effect.

- **Recovery Rates**: Creditors have realized an average of 32.8% of their admitted claims in resolved CIRPs — significantly higher than the 26% recovery typical of pre-IBC mechanisms. These recoveries also represent 169% of the liquidation value, underscoring the Code’s success in preserving enterprise value. In contrast, SARFAESI and DRT-based mechanisms rarely exceeded 20% recovery.

- **Reduction in NPA Levels**: The IBC, in conjunction with RBI-led asset quality reviews, provisioning norms, and government-backed bank recapitalization, has contributed to a decline in gross NPAs from 11.2% in 2018 to around 3% by March 2024.

- **Behavioral Impact**: A joint 2025 study by IBBI and IIM Bangalore reports that corporate leverage has reduced by 4% post-IBC, with borrowers becoming more disciplined. The fear of losing control during CIRP prompted early settlements of approximately ₹9 lakh crore before formal proceedings.

These indicators reflect the IBC's effectiveness in improving credit recovery, enabling capital recycling, and reducing systemic stress.

Case Studies: Successes and Lessons

Bhushan Steel (2018)

- **Context**: Admitted to CIRP in 2017 with debts of ₹56,000 crore, Bhushan Steel was among the RBI's "Dirty Dozen" accounts referred for resolution.

- **Outcome**: Tata Steel acquired the company for ₹35,200 crore, resulting in a 63% recovery for financial creditors.

- **Impact**: Demonstrated the IBC's ability to timely deliver, large-scale resolutions and preserve operating assets and employment.

Essar Steel (2019)

- **Context**: With outstanding dues of ₹54,000 crore, Essar Steel's resolution was delayed by prolonged litigation, extending to 866 days.

- **Outcome**: ArcelorMittal acquired the company for ₹42,000 crore, resulting in a 78% recovery for financial creditors but only 15% for operational creditors.

- **Impact**: Highlighted the need for equitable treatment among creditor classes and for expediting judicial review processes.

Jet Airways (2021)

- **Context**: Admitted to CIRP in 2019 with ₹8,000 crore in dues, the company suffered substantial value deterioration due to grounding and lack of interim funding.

- **Outcome**: A resolution plan by the Jalan-Kalrock Consortium offered a 12% recovery, but plan implementation has remained uncertain as of mid-2025.

- **Impact**: Exposed the challenges in preserving going concern value and securing interim finance, particularly in sectors with fast-depreciating assets.

Challenges in NPA Resolution Under IBC

Despite notable achievements, the IBC continues to face structural and operational hurdles:

- **Low Net Recoveries**: While average recovery stands at 32.8%, haircuts remain substantial. In FY22, 100 of the 500 resolved cases saw haircuts exceeding 90%.

- **Bidder Reluctance**: Resolution applicant interest remains low in distressed sectors like aviation, textiles, and real estate. Nearly 50% of CIRPs since 2018 have ended in liquidation due to lack of viable resolution plans.

- **Delays in Process**: The average time for resolution now stands at 581 days, while liquidation takes around 654 days — both well beyond the statutory limit of 330 days. Key reasons include NCLT backlogs and litigation by promoters and operational creditors.

- **Operational Creditor Disadvantage**: Operational creditors typically recover less than 10% of their claims, compared to 32.8% for financial creditors, raising questions on fairness and participation incentives for MSMEs and trade creditors.

Addressing Challenges and Enhancing the IBC's Impact

To build on current momentum and address structural issues, the following reforms merit consideration:

- **Reducing Procedural Delays**: Establishing more NCLT benches and digitizing workflows can help reduce the time taken for admission, hearings, and resolution.

- **Encouraging Bidder Participation**: Incentives such as tax relief, easier financing norms, and ARC tie-ups may attract a broader pool of resolution applicants.

- **Stakeholder Equity**: Revisiting Section 53 of the Code to introduce minimum thresholds for operational creditor recoveries can improve fairness and enhance trust.

- **Boosting Interim Finance**: Introducing structured interim finance frameworks backed by government guarantees can help preserve enterprise value and attract better resolution offers.

The IBC has fundamentally reshaped the insolvency landscape in India. It has helped reduce gross NPAs from 11.2% in 2018 to around 3% by 2024, improved average recovery rates to 32.8%, and enabled pre-admission settlements of over ₹13.78 lakh crore. While case studies such as Bhushan Steel and Essar Steel illustrate the Code's capacity to resolve large NPAs effectively, experiences like Jet Airways underscore the need for reform in interim finance and value preservation.

High haircuts, stakeholder inequities, and procedural inefficiencies continue to limit the Code's full potential. Addressing these gaps through targeted reforms can further empower the IBC to strengthen the banking sector, reduce systemic risk, and support India's long-term financial resilience.

Part III: Practical Aspects and Implementation Challenges

The Insolvency and Bankruptcy Code, 2016 (IBC), has established a robust framework for resolving non-performing assets (NPAs) and promoting financial stability, as discussed in Part II. However, its implementation faces significant operational and practical challenges that hinder its effectiveness in delivering time-bound, value-maximizing resolutions as envisaged by the Code. This section examines key hurdles in the Corporate Insolvency Resolution Process (CIRP) and liquidation, including delays in claim verification and classification, challenges in information management and due diligence, the effectiveness of CoC and Stakeholder Consultation Committee (SCC) meetings, balancing stakeholder interests, and adherence to statutory timelines. It also analyzes factors limiting optimal debt resolution, such as valuation disputes, legal and procedural complexities, and capacity constraints among Insolvency Professionals (IPs) and other participants. Data from the Insolvency and Bankruptcy Board of India (IBBI) and case studies underscore these challenges, highlighting the need for reforms to strengthen IBC implementation.

Operational Hurdles in CIRP and Liquidation

Delays in Claim Verification and Classification

The verification and classification of creditor claims is a critical step in CIRP, as it determines voting rights in the CoC and distribution priorities under Section 53. However, delays in this process are common:

- Resolution professionals (RPs) often face challenges verifying claims due to incomplete documentation or disputes, particularly from operational creditors like MSMEs. IBBI data (March 2025) indicates that claim verification takes an average of 60–90 days, despite Regulation 13 of the CIRP Regulations prescribing a 14-day timeline.
- Discrepancies in claim amounts or classifications (e.g., secured vs. unsecured) lead to litigation, further delaying CIRPs. For instance, in the Essar Steel case (2019), claim disputes extended the CIRP by over 200 days.
- These delays disrupt CoC formation and resolution plan approvals, contributing to 60% of CIRPs exceeding the 330-day limit (IBBI, 2025).

Challenges in Information Management and Due Diligence

Effective information management is essential for RPs to conduct due diligence and prepare resolution plans. However:

- Many corporate debtors fail to maintain centralized and reliable financial records, complicating due diligence. IBBI reports that 40% of CIRPs face delays due to inadequate information, increasing costs by 10–15%.
- Despite the establishment of Information Utilities (IUs) such as NeSL, adoption remains low. Only 25% of CIRPs fully utilized IU data for claim verification by December 2024 (IBBI).
- Poor information management leads to valuation disputes and delays in inviting resolution plans, reducing bidder confidence and recovery rates.

Effectiveness of CoC and SCC Meetings

- Financial creditors' control under the 66% voting threshold often marginalizes operational creditors. In the Jet Airways case (2021), objections from operational creditors delayed resolution due to perceived prioritization of financial creditors.
- Coordination issues and frequent disagreements within CoCs, especially regarding interim finance or resolution plans, delay decisions. IBBI data shows 30% of CoC meetings face adjournments due to lack of consensus.

Balancing Stakeholder Interests and Decision-Making

- Operational creditors typically recover less than 10% of their claims compared to 32.8% for financial creditors (IBBI, 2025), as evidenced in Essar Steel where operational creditors received only 15%.
- Promoters often challenge CIRPs through litigation under Section 29A, delaying resolutions. In Amtek Auto (2020), such litigation extended the process by 150 days.
- Imbalanced decision-making erodes stakeholder trust and increases legal costs, weakening confidence in the IBC's equitable treatment framework.

Adherence to Timelines and Reducing Procedural Delays

- Over 20,000 pending cases at NCLT benches in 2025 cause delays in CIRP admissions (average 60 days) and resolution plan approvals (90 days).
- Promoter challenges and inter-creditor disputes contribute to average resolution timelines of 581 days for CIRPs and 654 days for liquidations (IBBI, 2025).
- Delays result in asset value erosion, with over 40% of liquidated entities experiencing value decline exceeding 40%.

Factors Limiting Optimal Debt Resolution

Valuation Issues and Asset Maximization

- Discrepancies between RP valuations and bidder expectations reduce resolution plan approvals. In Alok Industries (2019), bids reflected only 20% of book value due to valuation disputes.
- Many CIRPs lack interim finance, leading to asset deterioration. IBBI notes that 50% of CIRPs without interim finance end in liquidation.
- Low valuations contribute to high average haircuts (68%), undermining the Code's objective of value maximization.

Legal and Procedural Complexities

- Promoter litigation under Section 29A and creditor disputes delay processes. IBBI (2025) estimates 25% of CIRPs encounter legal complications.
- Differing interpretations across NCLT benches regarding CoC powers continue to create uncertainty, despite the Swiss Ribbons (2019) ruling affirming CoC primacy.
- These complexities increase costs, lengthen timelines, and discourage resolution applicants.

Capacity Constraints Among Resolution Professionals and Participants

- With only 4,000 registered IPs in 2025, many lack experience handling complex CIRPs, resulting in procedural errors and delays.
- Operational creditors, particularly MSMEs, often lack the legal and financial resources to effectively engage in CIRPs, limiting their influence.

- IBBI data indicates that around 20% of CIRPs experience delays attributable to IP errors or insufficient stakeholder preparedness.

The IBC's implementation continues to face significant operational and practical challenges, undermining its core objectives of time-bound resolution and value maximization. Persistent delays in claim verification, poor information management, limited stakeholder coordination, and procedural inefficiencies inflate costs and reduce recovery potential. Additional concerns around valuation mismatches, legal uncertainties, and capacity constraints hinder optimal debt resolution. Addressing these issues through targeted reforms—such as enhancing IP capacity, streamlining procedures, ensuring greater stakeholder inclusivity, and improving access to interim finance—will be crucial. Such steps are essential to realize the full potential of the IBC and support the long-term stability of India's financial and insolvency ecosystem.

Part IV: Policy Reforms for Enhanced IBC Implementation

The Insolvency and Bankruptcy Code, 2016 (IBC) has significantly reshaped India's insolvency landscape, yet persistent challenges in its implementation hinder its full potential. Issues such as compromised insolvency professional independence, inequitable treatment of stakeholders, asset value erosion, and procedural delays undermine the IBC's objectives of timely resolution and value maximization. This section proposes targeted policy reforms to address these gaps, focusing on strengthening the fairness, efficiency, and inclusivity of the Corporate Insolvency Resolution Process (CIRP) and liquidation. By revisiting critical aspects of the IBC's framework, these reforms aim to enhance recovery rates, rebuild stakeholder trust, and align the IBC with global best practices, thereby supporting the banking sector and India's economic growth, as well.

Revisiting the Independence of Insolvency Professionals

The Insolvency and Bankruptcy Code, 2016 relies heavily on the role of Insolvency Professionals (IPs) to manage the Corporate Insolvency Resolution Process (CIRP) and liquidation proceedings. IPs are entrusted with critical responsibilities, including managing the corporate debtor's operations, verifying creditor claims, facilitating Committee of Creditors (CoC) meetings, and ensuring compliance with statutory timelines. However, the current framework permits the creditor institutions, particularly financial creditors, to replace an IP appointed by the adjudicating authority (National Company Law Tribunal, NCLT) under Section 22 of the IBC without documenting any objective reason behind proposing the replacement of NCLT Appointed IP. This provision raises significant concerns about the independence of IPs, as creditor-driven replacements may compromise impartiality and undermine the fairness and effectiveness of the resolution process.

Creditor Influence and Its Implications

Under the IBC, the CoC, dominated by financial creditors, holds the authority to replace an IP with a simple majority vote (66% as per Section 22). While this mechanism aims to ensure accountability, it inadvertently allows creditors, often major banks or financial institutions with a vested interest in the outcome, to influence the selection of IPs. Since these institutions are typically responsible for lending decisions that contributed to the corporate debtor's non-performing asset (NPA) status, their ability to replace IPs raises questions about conflict of interests. For instance, creditors may prefer IPs who align with their recovery objectives, potentially sidelining the interests of other stakeholders, such as operational creditors, employees, or minority shareholders.

The lack of true independence can manifest in several ways:

- **Biased Decision-Making:** IPs may be obligated prioritize the interests of dominant financial creditors, such as approving resolution plans that maximize short-term recovery at the expense of long-term value preservation or equitable distribution.

- **Erosion of Trust:** The perception of creditor influence undermines the confidence of operational creditors and other stakeholders in the CIRP, leading to disputes and delays.

- **Inconsistent Resolution Outcomes:** IPs influenced by creditors may expedite or skew processes to favour the specific outcomes, compromising the IBC's objective of maximizing asset value for all stakeholders.

As per the practice, it is observed that in most of the cases, where IP is appointed by NCLT, lead financial creditor proposes for the replacement of the IP with a reason that as per their policy, they need to appoint a professional, who is already there on their panel of Insolvency Professional. When IBBI is already maintaining a panel of Insolvency Professional which is having robust checks and balances of each Insolvency Professional before admitting them on their panel, followed by regular annual as well as ongoing review of their activities/actions and regulatory compliances, and post that, every six monthly such panel is submitted with NCLT. The approach of Financial Institution of replacing the IP with their preferred IP, without valid reasons for such replacements fuels suspicions of creditor-driven motives. Case studies, such as the resolution of certain large corporate debtors, reveal instances where IP replacements coincided with shifts in resolution strategies favouring major financial creditors, highlighting the need for reform.

Impact on Effectiveness and Fairness of CIRP and Liquidation

The effectiveness of CIRP and liquidation hinges on the IP's ability to act as an impartial intermediary. Creditor-driven IP replacements can disrupt this balance, leading to:

- **Delays in Resolution:** IP changes disrupt continuity, requiring new IPs to familiarize themselves with complex cases, thus extending timelines beyond the IBC's 330-day limit. IBBI data shows that cases with IP replacements take, on average, 20% longer time for resolution.

- **Reduced Recovery Rates:** IPs under creditor influence may prioritize quick recovery over value maximization through resolution, leading to suboptimal asset sales or liquidations.

- **Unfair Treatment of other Stakeholders:** Operational creditors, who rank lower in the IBC's priority waterfall under Section 53, often receive negligible recoveries when IPs prioritize financial creditors' interests. This results in the inequity between financial and operational creditors, undermining the IBC's goal of balanced stakeholder outcomes.

Proposals for Safeguarding IP Independence

To address these challenges and enhance the IBC's implementation, the following reforms are proposed to safeguard the independence of IPs and ensure a transparent, balanced resolution process:

1. Strengthening IBBI Oversight:

- The IBBI should establish stricter guidelines for IP replacements, requiring CoCs to provide detailed, evidence-based justifications for such replacements (e.g., documented instances of any misconduct or incompetence, any other valid reasons).
- Introduce mandatory IBBI approval for IP replacements to prevent arbitrary changes, ensuring that only qualified and impartial IPs are appointed.
- Implement a performance audit system for IPs, conducted by the IBBI, to assess their adherence to ethical and professional standards.

2. Limiting CoC Powers to Replace IPs:

- Amend Section 22 of the IBC to restrict CoC authority to replace IPs unless supported by a supermajority (e.g., 75% vote) and validated by the NCLT. This would deter frivolous or biased replacements.
- Introduce a cooling-off period after an IP's appointment (e.g., 90 days) during which replacements are prohibited, allowing IPs to establish processes without immediate creditor pressure.

3. Enhancing IP Accountability and Training:

- Develop a standardized code of conduct for IPs, enforced by the IBBI, emphasizing neutrality and stakeholder inclusivity.
- Mandate continuous practical professional development programs for IPs to address capacity constraints and improve their ability to handle complex CIRPs independently.
- Financial Institutions should be mandated to use the panel of IPs maintained by IBBI instead of their internal panel, to minimize creditor influence in the selection process. However, the Banks/FI should be allowed to have due diligence on the proposed IP based on their own experience as well as track record.

4. **Transparency in IP Appointments and Replacements:**

    - Require public disclosure of reasons for IP replacements, including CoC voting records and justifications, to enhance accountability and deter undue influence.

    - Establish an independent review committee under the NCLT to investigate complaints if any against IPs and ensure fair handling of stakeholder grievances.

5. **Balancing Stakeholder Representation:**

    - Include representatives of operational creditors or other stakeholders in CoC discussions on IP replacements to ensure broader perspectives are considered.

    - Encourage NCLTs to scrutinize CoC decisions on IP replacements, particularly in cases with significant public interest or diverse stakeholder groups.

The independence of IPs is critical to the IBC's success in delivering fair, efficient, and value-maximizing resolutions. While the current framework empowers creditors to drive the resolution process, the ability to replace IPs risks undermining impartiality and stakeholder trust. By strengthening IBBI oversight, limiting arbitrary replacements, enhancing IP accountability, and promoting transparency, the IBC can better achieve its objectives of equitable resolution and financial stability. These reforms will ensure that IPs operate as neutral facilitators, balancing the interests of all stakeholders while adhering to the IBC's time-bound and value-focused ethos.

Safeguarding Stakeholder Interests: Balancing Financial and Operational Creditors

The Insolvency and Bankruptcy Code, 2016 aims to maximize the value of distressed assets while ensuring a fair resolution process for all stakeholders. However, the priority structure under Section 53 of the IBC, which governs the distribution of proceeds in liquidation and influences resolution plans in the Corporate Insolvency Resolution Process, has created a significant imbalance between financial and operational creditors. This section examines Section 53's impact, highlights the disproportionate disadvantages faced by operational creditors, contrasts these with the advantages enjoyed by financial creditors, and proposes policy reforms to achieve a more equitable distribution of resolution proceeds.

Examination of Section 53 and Its Impact on Stakeholder Priorities

Section 53 of the IBC establishes a waterfall mechanism for distributing proceeds in liquidation, which also shapes the allocation in CIRP resolution plans. The priority order is as follows:

1. Insolvency resolution process costs and liquidation costs.

2. Workmen's dues (for the preceding 24 months) and secured creditors who relinquish their security interest.

3. Employee wages and dues (for the preceding 12 months).

4. Financial debts owed to unsecured creditors.

5. Operational creditors (including government dues) and workmen/employee dues beyond the specified periods.

6. Preference shareholders, surplus to equity shareholders, or other residual claims.

This structure prioritizes financial creditors (e.g., banks and financial institutions) over operational creditors (e.g., suppliers, vendors, service providers), who rank lower in the hierarchy. In practice, resolution plans approved by the Committee of Creditors (CoC), dominated by financial creditors, often allocate minimal or no proceeds to operational creditors, as financial creditors seek to maximize their recovery. Data from the Insolvency and Bankruptcy Board of India (IBBI) as of 2025 shows that operational creditors received less than 10% of their admitted claims in resolved CIRPs, compared to 30-35% for financial creditors. This disparity undermines the IBC's objective of fostering a balanced ecosystem for all stakeholders.

- **Disproportionate Low Recovery Rates**: Since operational creditors rank below financial creditors in Section 53, their claims are often extinguished or settled at negligible amounts in resolution plans.

- **Lack of Voting Power in CoC**: Unlike financial creditors, operational creditors have no participation rights in the CoC unless their debt exceeds 10% of the total admitted claim (Regulation 16, IBBI CIRP Regulations). Further, even if their claim exceeds 10% of total admitted claim, they can only observe the proceedings of CoC and have no right to vote on any of the agenda/resolutions. This excludes them from influencing resolution plans, leaving their interests unrepresented.

- **Economic Vulnerability**: Many operational creditors are MSMEs with limited financial resilience. Non-recovery of dues can lead to their insolvency, creating a cascading effect on the supply chain and economy. IBBI reports indicate that 20% of MSME insolvencies are triggered by unpaid dues from larger corporate debtors.

- **Extinguishment of Claims**: Under Section 30(2)(b), resolution plans need only provide operational creditors with the liquidation value (often minimal), leading to significant haircuts or complete write-offs of their claims.

These disadvantages erode trust in the IBC among operational creditors, discouraging their participation in the corporate debtor's supply chain and hindering economic stability.

Disadvantage Faced by Operational Creditors

Operational creditors, typically small and medium enterprises (MSMEs), suppliers, or service providers, face significant disadvantages under the IBC due to the extinguishment of claims:

Financial Creditors' Advantage

Financial creditors, primarily banks and non-banking financial companies (NBFCs), enjoy significant advantages under the IBC:

- **Priority in Distribution**: Secured financial creditors rank high in the Section 53 waterfall, ensuring substantial recoveries even in liquidation scenarios.
- **CoC Dominance**: Financial creditors control the CoC, which approves resolution plans and makes key commercial decisions. This allows them to prioritize their recovery over other stakeholders.
- **Capital and Regulatory Support**: Backed by strong capital bases and government/regulatory support (e.g., RBI's prudential norms, recapitalization schemes), financial creditors can absorb losses better than operational creditors, giving them leverage in negotiations.
- **Access to Information and Resources**: Financial creditors have superior access to the corporate debtor's financial data and legal resources, enabling them to influence resolution outcomes effectively.

While these advantages align with the IBC's creditor-driven model, they exacerbate inequities, as financial creditors' recoveries often come at the expense of operational creditors.

Need for Policy Reforms

The disproportionate treatment of operational creditors undermines the IBC's goal of fostering a fair and inclusive insolvency ecosystem. Policy reforms are essential to:

- Enhance trust among operational creditors, ensuring their continued participation in corporate supply chains.
- Mitigate the economic ripple effects of MSME insolvencies caused by non-recovery of dues.
- Align the IBC with global best practices, such as the UNCITRAL Model Law, which emphasizes equitable treatment of creditors.
- Promote long-term financial stability by balancing stakeholder interests.

Possible Frameworks for Balancing Financial and Operational Creditors

1. **Revising the Priority Structure Under Section 53**:
    - Amend Section 53 to elevate operational creditors' priority, ensuring a minimum percentage of their admitted claims is paid in resolution plans, subject to available proceeds especially when Resolution Plan is above Liquidation Value, the amount proposed beyond liquidation value should

be utilised towards additional payment to the Operational Creditors and not as per current provisions of Section 53.

- Introduce a carve-out for MSME operational creditors, guaranteeing payment equivalent to financial creditors' pro-rata share in CIRPs, recognizing their economic vulnerability.

2. **Enhancing CoC Representation for Operational Creditors**:

   - Amend CIRP Regulations to mandate operational creditor representation in the CoC, even with non-voting observer status, to ensure their concerns are voiced.

   - Require CoCs to justify resolution plans that allocate less than a threshold percentage to operational creditors, subject to NCLT scrutiny.

3. **Minimum Payment Guarantees in Resolution Plans**:

   - Strengthen Section 30(2)(b) to mandate that resolution plans provide operational creditors with a minimum of the higher of liquidation value or a fixed percentage of admitted claims.

   - Introduce a "fairness test" for resolution plans, requiring NCLTs to reject plans that disproportionately disadvantage operational creditors unless justified by exceptional circumstances.

4. **Interim Relief for Operational Creditors**:

   - Create a distressed creditor fund, supported by government or IBBI contributions, to provide interim payments to MSME operational creditors pending resolution. This would mitigate their financial distress and prevent secondary insolvencies.

   - Allow operational creditors to seek NCLT intervention for interim payments in cases of undue delay or CoC bias, subject to verification of claims.

5. **Transparency and Accountability in Resolution Plans**:

   - Mandate public disclosure of resolution plan details, including allocations to financial and operational creditors, to enhance accountability and deter biased distributions.

   - Require CoCs to conduct impact assessments of resolution plans on operational creditors, particularly MSMEs, and document these in IBBI filings.

6. **Judicial Oversight and Precedents**:

- Encourage NCLTs to adopt stricter scrutiny of resolution plans that marginalize operational creditors.

- Develop guidelines for NCLTs to balance commercial wisdom of CoCs with fairness to operational creditors, ensuring judicial consistency.

Balancing the interests of financial and operational creditors is critical to the IBC's long-term success and credibility. While financial creditors' dominance reflects their economic significance, the marginalization of operational creditors threatens economic stability and stakeholder trust. By revising Section 53, enhancing CoC inclusivity, ensuring minimum payments, and strengthening judicial oversight, the IBC can achieve a more equitable distribution of resolution proceeds. These reforms will foster a resilient insolvency ecosystem, support MSMEs, and align the IBC with its overarching goal of maximizing value for all stakeholders while promoting financial stability.

Enhancing Value Preservation and Improvement of the Corporate Debtor

The Insolvency and Bankruptcy Code, 2016 aims to maximize the value of a corporate debtor's assets through the Corporate Insolvency Resolution Process and, if necessary, liquidation. Preserving and enhancing the value of these assets is critical to achieving higher recovery rates for creditors and ensuring the corporate debtor's viability as a going concern or its attractiveness in liquidation. However, challenges such as inadequate maintenance, lack of interim financing, and procedural constraints often lead to value erosion, undermining the IBC's objectives. This section explores the importance of asset preservation, the need for targeted spending, the challenges in securing interim finance, the impact on valuation, and policy interventions to safeguard and enhance asset value.

Importance of Preserving and Enhancing Asset Value

The IBC's core objective, as outlined in its preamble, is to maximize the value of assets for all stakeholders, including creditors, employees, and shareholders. During CIRP, maintaining the corporate debtor as a going concern is prioritized to attract resolution applicants who can revive the business. In liquidation, preserving asset value ensures higher realization for creditors. Value preservation involves:

- **Operational Continuity:** Ensuring the corporate debtor's operations continue seamlessly to maintain customer contracts, supply chains, and workforce stability.
- **Physical Asset Maintenance:** Preventing depreciation of tangible assets (e.g., machinery, infrastructure) through regular upkeep and repairs.
- **Intangible Asset Protection:** Safeguarding intellectual property, brand value, and goodwill, which are critical for resolution applicants assessing the debtor's potential.

Failure to preserve assets leads to severe value impairment, reducing recovery rates and deterring prospective resolution applicants. For instance, data of 2025 indicates that in 30% of liquidated cases, asset values depreciated by over 40% due to neglect during CIRP, resulting in recovery rates below 20% for creditors.

Need for Targeted Spending on Maintenance and Improvement

Targeted spending on maintenance, preservation, and improvement of assets is essential to avoid value erosion. This includes:

- **Routine Maintenance:** Funding repairs for machinery, facilities, or IT infrastructure to maintain operational efficiency.
- **Preservation of Critical Assets:** Allocating funds to protect perishable or time-sensitive assets, such as inventory or leased properties, to prevent losses.
- **Value-Enhancing Investments:** Strategic investments, such as upgrading technology or settling critical vendor dues, to improve the debtor's attractiveness to resolution applicants.

Without such spending, assets deteriorate, reducing the corporate debtor's marketability. For example, in the *Jet Airways* resolution process (2019-2021), the lack of maintenance funding led to grounded aircraft losing significant value, contributing to the failure of the CIRP and eventual liquidation at a low recovery rate.

Challenges in Securing Interim Finance

Interim finance, as provided under Section 5(15) of the IBC, is critical for funding operations, maintenance, and improvements during CIRP. However, securing such finance faces significant challenges:

- **Reluctance of Financial Creditors:** Financial creditors, who dominate the Committee of Creditors (CoC), are often hesitant to approve interim finance due to concerns about additional exposure and uncertain recovery. Reports show that interim finance was approved in only 15% of CIRPs between 2020 and 2025.
- **Risk Aversion:** Lenders perceive interim finance as high-risk, given the corporate debtor's distressed state and the priority of repayment (super-priority under Section 53, but subordinate to insolvency costs).
- **Lack of Market Incentives:** Unlike developed insolvency regimes (e.g., Chapter 11 in the US), the IBC lacks incentives like tax benefits or guarantees to encourage interim financing, deterring external lenders to take additional exposures although it may result in value maximisation.
- **CoC Decision-Making Delays:** Prolonged CoC deliberations and disagreements over the quantum and purpose of interim finance delay funding, exacerbating asset deterioration.

Impact of Lack of Interim Finance on Valuation

The absence of interim finance significantly impacts the corporate debtor's valuation, as prospective resolution applicants assess the debtor in its existing state rather than its potential improved state:

- **Lower Resolution Plan Values:** Resolution applicants base their bids on the debtor's current operational and asset condition, often discounting offers due to visible deterioration. For instance, in the *Alok Industries* CIRP, the lack of maintenance funding led to bids reflecting only 20% of the debtor's book value.

- **Reduced Going Concern Value:** Without funds to sustain operations, the debtor may lose key contracts, customers, or employees, diminishing its viability as a going concern.

- **Non utilisation of legal recourse available for recovery to Corporate Debtor:** Many companies undergoing CIRP or Liquidation Process has outstanding balances recoverable from its Debtors. However, due to non-availability of liquid funds, IP is unable to initiate legal actions against those debtors for putting best effort for recovery. Legal actions against Debtors of the Corporate Debtor would certainly add value in recovery efforts, however, it would require incurring certain cost for which Interim Finnane is essential.

- **Liquidation Bias:** In cases where interim finance is unavailable, CIRPs are more likely to fail, pushing the debtor toward liquidation, where assets are sold at distressed prices. Data indicates that 40% of CIRPs failing to secure interim finance ended in liquidation.

- **Stakeholder Losses:** Lower valuations result in reduced recoveries for all creditors, particularly operational creditors, who rank lower in the Section 53 waterfall.

Policy Interventions to Encourage Interim Financing and Safeguard Asset Value

To address these challenges and enhance value preservation, the following policy interventions are proposed:

1. **Incentivizing Interim Financing:**

    - Introduce tax incentives or exemptions for lenders providing interim finance, similar to models in the US Bankruptcy Code, to offset perceived risks.

    - Create a government-backed guarantee scheme, managed by the IBBI or a public financial institution, to partially secure interim finance, encouraging banks and NBFCs to participate.

    - Allow interim finance providers to claim a higher priority in the Section 53 waterfall, above insolvency costs, to enhance repayment certainty.

2. **Streamlining CoC Approval for Interim Finance:**

    - Amend CIRP Regulations to mandate CoC decisions on interim finance within a fixed timeline (e.g., 14 days) to prevent delays.

    - Require CoCs to document and disclose reasons for rejecting interim finance proposals, ensuring transparency and accountability.

- Empower Resolution Professionals (RPs) to seek NCLT approval for interim finance in cases of CoC deadlock, bypassing prolonged deliberations.

3. **Creating a Distressed Asset Fund:**

    - Establish an IBBI-administered distressed asset fund to provide interim finance for critical maintenance and operational expenses in CIRPs, particularly for MSMEs and strategically important debtors.

    - Fund this through contributions from financial institutions, government grants, or a small levy on resolved CIRPs, ensuring sustainability.

4. **Mandatory Asset Preservation Plans:**

    - Require RPs to submit an asset preservation plan within 30 days of CIRP initiation, outlining maintenance and improvement needs, subject to CoC and NCLT approval.

    - Mandate minimum spending on critical asset maintenance (e.g., 5% of admitted claims) to prevent value erosion, funded through interim finance or debtor's cash flows.

5. **Judicial Oversight and Guidelines:**

    - Encourage NCLTs to scrutinize resolution plans that fail to address asset preservation, rejecting plans that undervalue the debtor, due to neglect during CIRP.

    - Issue IBBI guidelines for RPs to prioritize value-enhancing measures, such as settling key vendor dues or upgrading critical infrastructure, during CIRP.

6. **Promoting Market-Based Solutions:**

    - Encourage private distressed asset funds to participate in interim financing by offering regulatory clarity and streamlined approval processes.

    - Facilitate public-private partnerships to pool resources for interim finance, particularly for large corporate debtors with systemic importance.

Enhancing the preservation and improvement of the corporate debtor's assets is pivotal to achieving the IBC's goal of value maximization. The lack of interim finance and inadequate maintenance lead to significant value erosion, reducing recoveries and deterring resolution applicants. By incentivizing interim financing, streamlining CoC approvals, creating dedicated funds, and enforcing asset preservation plans, the IBC can ensure that the assets of the corporate debtors are presented to resolution applicants in their optimal state. These reforms will enhance recovery rates, support stakeholder interests, and strengthen the IBC's role in fostering economic resilience and financial stability.

Streamlining Legal and Procedural Frameworks

The Insolvency and Bankruptcy Code, 2016 emphasizes time-bound resolution to maximize asset value and ensure financial stability. However, procedural inefficiencies, reliance on outdated legal practices, and delays in adjudicatory processes often undermine the IBC's strict timelines, particularly the 330-day limit for the Corporate Insolvency Resolution Process. Streamlining legal and procedural frameworks is essential to enhance efficiency, reduce costs, and align with the IBC's objective of expeditious resolution. This section explores reforms to transition to digital-first procedures, expedite the exchange of pleadings, and reduce procedural delays, ensuring the IBC delivers timely and effective outcomes for stakeholders.

Transitioning to Digital-First Procedures

The IBC, through regulations issued by the Insolvency and Bankruptcy Board of India (IBBI), already encourages electronic communication, such as email and virtual platforms, for notices, filings, and stakeholder interactions. However, inconsistent adoption across stakeholders and adjudicating authorities (National Company Law Tribunals, NCLTs) leads to inefficiencies. Transitioning to a fully digital-first approach can significantly enhance procedural efficiency.

- **Emphasis on Existing Digital Preferences:**
    - The IBBI's CIRP Regulations (e.g., Regulation 6) allow public announcements and creditor communications via email and electronic platforms. However, many Resolution Professionals (RPs) and stakeholders still rely on physical notices due to lack of familiarity or perceived concerns about legal validity.
    - Virtual Committee of Creditors (CoC) meetings, permitted under Regulation 18, have increased since the COVID-19 pandemic, but their adoption remains uneven, particularly in smaller cases or regions with limited digital infrastructure.
    - IBBI's Information Utilities (IUs), such as NeSL, facilitate electronic storage and verification of claims, but their integration into routine CIRP processes is underutilized.
- **Minimizing Reliance on Physical Notices and In-Person Interactions:**
    - Physical notices, such as newspaper publications or courier-based communications, are time-consuming and costly. For example, data of 2025 indicates that public announcement costs account for 5-10% of CIRP expenses in smaller cases.
    - In-person hearings at NCLTs often lead to adjournments due to scheduling conflicts or logistical challenges, delaying critical approvals like resolution plans.

- A digital-first approach, leveraging email, secure portals, and video conferencing, can reduce costs by up to 20% and save 10-15 days per CIRP, according to estimates.

- **Proposed Reforms:**
  - Mandate exclusive use of electronic communication for all CIRP-related notices, including public announcements, creditor intimations, and CoC meeting invitations, with physical notices as a fallback only for stakeholders without digital access.
  - Expand IBBI's IU infrastructure to create a centralized digital platform for all CIRP filings, communications, and document sharing, ensuring real-time access for RPs, CoC members, and NCLTs.
  - Standardize virtual hearings and CoC meetings across all NCLT benches, supported by dedicated IT infrastructure and training for stakeholders to ensure seamless adoption. Physical filing of Applications before NCLT should be dispensed with.

Expediting the Exchange of Pleadings

The exchange of pleadings—such as notices, applications, affidavits, replies, and rejoinders—remains a significant source of delay in IBC proceedings. Conventional practices rooted in traditional litigation frameworks conflict with the IBC's time-bound ethos, leading to prolonged disputes and procedural bottlenecks.

- **Challenges with Conventional Practices:**
  - Serving notices through physical means (e.g., registered post or Registered ADs) often takes 3-10 days, delaying subsequent adjudication of matters.
  - Filing affidavits and allowing lengthy timelines for replies and rejoinders (often 15-30 days) extends disputes, particularly in contentious CIRPs involving multiple stakeholders.
  - Inconsistent adherence to IBBI's Model Timelines (e.g., Regulation 40A) results in delays, with 60% of CIRPs exceeding the 330-day limit, as per IBBI's 2025 report.

- **Promoting Quicker Turnaround via Digital Platforms:**
  - Digital platforms like NeSL can enable near-instantaneous service of notices and filings, reducing turnaround time to 1-2 days.
  - Electronic case management systems, like those used in Singapore's insolvency framework, allow real-time tracking of pleadings and automated reminders for deadlines, would considerably help in improving compliance.

- Secure portals can streamline document submission, ensuring all stakeholders have simultaneous access to pleadings, reducing disputes over non-delivery.

- **Proposed Reforms:**
  - Amend CIRP Regulations to mandate electronic service of all pleadings via IBBI-approved platforms, with proof of delivery (e.g., email read receipts) deemed sufficient for legal purposes, eliminating submission of service affidavits by applicants.
  - Introduce strict timelines for pleadings: 5 days for filing applications, 7 days for replies, and 3 days for rejoinders, with extensions granted only in exceptional cases by NCLTs.
  - Develop a standardized e-filing portal integrated with IUs, allowing RPs and creditors to submit and access pleadings, with automated notifications to ensure compliance with deadlines.

Reducing Procedural Delays

Time-consuming court procedures, including frequent adjournments and inconsistent NCLT practices, significantly hinder the IBC's timelines. As of 2025, data indicates that NCLT approvals for CIRP initiation and resolution plans take an average of 60-90 days, contributing to 40% of CIRPs exceeding the statutory timeline.

- **Challenges with Court Procedures:**
  - Overburdened NCLT benches, with a backlog of over 20,000 cases in 2025, lead to frequent adjournments due to scheduling conflicts or incomplete filings.
  - Inconsistent interpretation of IBC provisions across NCLT benches results in delays, as stakeholders seek clarifications or appeals to the National Company Law Appellate Tribunal (NCLAT).
  - Lengthy hearings for routine matters, such as claim verifications or interim finance approvals, consume time that could be allocated to substantive resolution efforts.

- **Establishing Clear, Shorter Deadlines:**
  - Fixed deadlines for NCLT actions (e.g., 14 days for CIRP admission, 30 days for resolution plan approval) can reduce delays, as seen in global benchmarks like the UK's Insolvency Act. Further, benches should be dedicated for adjudication of Resolution Plan, as delay in adjudication of Resolution Plan and non-committed timelines for getting approval on CoC approved Resolution Plan is discouraging prospecting acquirers from participating in the CIRP as Resolution Applicants.

    - Streamlined procedures, such as pre-hearing document reviews, can minimize adjournments caused by incomplete submissions.

- **Proposed Reforms:**
    - Dedicated NCLT benches and specialized insolvency judges to handle CIRP Admissions and Resolution Plan matters exclusively.
    - Mandate pre-hearing compliance checks by NCLT registries to ensure complete filings, minimizing adjournments due to procedural errors.
    - Introduce statutory deadlines for NCLT actions: For example, 14 days for CIRP admission, 21 days for resolution plan approvals, and 7 days for routine applications, with mandatory reporting of delays to the IBBI. Further, NCLT Registry should be made accountable for not listing of matters within 7 days from filing of applications.
    - Develop a unified NCLT case management system to track IBC cases, prioritize time-sensitive matters, and provide real-time updates to stakeholders.

Streamlining legal and procedural frameworks is critical to aligning the IBC with its time-bound objectives. By transitioning to digital-first procedures, expediting the exchange of pleadings, and reducing procedural delays, the IBC can achieve greater efficiency, lower costs, and faster resolutions. Mandating electronic communications, enforcing strict pleading timelines, and enhancing NCLT capacity will minimize bottlenecks and ensure compliance with the 330-day CIRP limit. These reforms will strengthen stakeholder confidence, improve recovery rates, and reinforce the IBC's role as a cornerstone of India's financial and economic framework.

7. Conclusion and Way Forward

The Insolvency and Bankruptcy Code, 2016 has transformed India's debt resolution landscape by introducing a time-bound, creditor-driven framework to address non-performing assets (NPAs) and promote financial stability. However, challenges in implementation, including issues with insolvency professional (IP) independence, inequities in stakeholder treatment, asset value erosion, and procedural delays, highlight the need for targeted reforms to fully realize the IBC's potential. This working paper has analysed these challenges and proposed policy interventions to enhance the IBC's effectiveness, fairness, and efficiency. This concluding section synthesizes key insights, outlines future prospects for the IBC and the banking sector, and provides actionable recommendations for policy and practice to strengthen the insolvency ecosystem.

Key Insights and Learnings

The analysis of the IBC's framework and implementation reveals several critical insights:

- **Independence of Insolvency Professionals:** The ability of the Committee of Creditors (CoC), dominated by financial creditors, to replace IPs under Section 22 raises concerns about impartiality. This practice risks biased decision-making, delays in the Corporate Insolvency Resolution Process (CIRP), and reduced stakeholder trust. Strengthening IP independence is essential for fair and effective resolutions.

- **Balancing Stakeholder Interests:** Section 53's priority waterfall disproportionately disadvantages operational creditors, who recover less than 10% of admitted claims compared to 30-35% for financial creditors. This inequity, coupled with operational creditors' lack of CoC voting rights, undermines the IBC's goal of equitable treatment and threatens the economic stability of MSMEs, which face secondary insolvencies due to non-recovery of dues.

- **Value Preservation Challenges:** The lack of interim finance, driven by financial creditors' reluctance and inadequate incentives, leads to significant asset value erosion, with 30% of liquidated cases seeing over 40% depreciation. This reduces recovery rates and deters resolution applicants, pushing more cases toward liquidation rather than revival as going concerns.

- **Procedural Inefficiencies:** Despite the IBC's emphasis on digital communication, reliance on physical notices and lengthy pleading timelines contributes to delays, with 60% of CIRPs exceeding the 330-day limit. Overburdened NCLT benches and inconsistent practices further exacerbate procedural bottlenecks, increasing costs and undermining the IBC's time-bound ethos.

These insights underscore the need for systemic reforms to address structural and operational gaps, ensuring the IBC delivers on its objectives of maximizing value, promoting entrepreneurship, and enhancing financial stability.

Future Prospects for IBC and the Banking Sector

The IBC holds immense potential to strengthen India's banking sector and broader economy, provided its challenges are addressed. Future prospects include:

- **Improved NPA Resolution:** By implementing reforms to enhance IP independence, balance stakeholder interests, preserve asset value, and streamline procedures, the IBC can achieve higher recovery rates (potentially exceeding 50%) and reduce the NPA burden on banks, freeing up capital for lending and economic growth.

- **Enhanced Financial Stability:** A more equitable and efficient IBC will foster trust among stakeholders, particularly MSMEs, ensuring their continued participation in corporate supply chains and reducing secondary insolvencies. This will strengthen the banking sector's resilience and align with the Reserve Bank of India's (RBI) financial stability goals.

- **Global Competitiveness:** Streamlining the IBC will improve India's ranking in the World Bank's Doing Business Index for resolving insolvency, attracting foreign investment and reinforcing India's position as a business-friendly destination. As of 2025, India ranks 52nd globally, but targeted reforms could elevate it to the top 30.

- **Digital Transformation:** A digital-first IBC ecosystem, supported by robust Information Utilities (IUs) and e-filing platforms, can set a global benchmark for insolvency resolution, reducing costs and timelines, while enhancing transparency.

- **Support for MSMEs and Economic Growth:** Reforms prioritizing operational creditors and interim financing will bolster MSMEs, which contribute 30% to India's GDP and 45% to employment (MSME Ministry, 2025). This will drive inclusive economic growth and reduce systemic risks in the banking sector.

Recommendations for Policy and Practice

To address the identified challenges and realize these prospects, the following recommendations are proposed for policymakers, regulators, and practitioners:

1. **Strengthen IP Independence:**

    - Amend Section 22 to require a 75% CoC supermajority and NCLT approval for IP replacements, supported by evidence-based justifications.

    - Utilising IBBI-administered centralized pool for IP assignments by Financial Institutions and conduct regular performance audits to ensure neutrality and accountability.

    - Mandate public disclosure of CoC voting records and reasons for IP replacements to enhance transparency.

2. **Promote Equitable Stakeholder Treatment:**

    - Revise Section 53 to guarantee operational creditors a minimum of 20% of admitted claims in resolution plans, with a carve-out for MSMEs to match financial creditors' pro-rata recovery.

    - Grant operational creditors non-voting observer status in CoC meetings and require NCLTs to reject resolution plans that disproportionately marginalize them.

    - Create an IBBI-managed distressed creditor fund to provide interim payments to MSME operational creditors, mitigating financial distress during CIRPs.

3. **Enhance Asset Value Preservation:**

    - Introduce tax incentives and government-backed guarantees for interim finance providers to encourage funding for asset maintenance and improvements.

    - Mandate RPs to submit asset preservation plans within 30 days of CIRP initiation, with minimum spending requirements (e.g., 5% of admitted claims) funded via interim finance or debtor cash flows.

- Establish an IBBI-administered distressed asset fund to support critical maintenance of assets during CIRPs, particularly for MSMEs and systemically important debtors.

4. Streamline Legal and Procedural Frameworks:

- Mandate exclusive use of electronic communication for CIRP notices and filings via a centralized IBBI platform, reducing costs and delays by up to 20%.
- Physical filling of Applications before NCLT should be eliminated.
- Enforce strict pleading timelines (5 days for applications, 7 days for replies, 3 days for rejoinders) and develop an e-filing portal integrated with IUs for real-time access.

5. Foster Stakeholder Collaboration and Capacity Building:

- Launch IBBI-led training programs for RPs, CoC members, and NCLT staff to enhance expertise in digital processes, asset preservation, and equitable resolution strategies.
- Encourage public-private partnerships to fund interim finance and distressed asset initiatives, leveraging private capital to support IBC implementation.

Way Forward

The IBC has laid a strong foundation for resolving distressed assets and revitalizing India's banking sector, but its success depends on addressing systemic challenges through targeted reforms. By ensuring IP independence, balancing stakeholder interests, preserving asset value, and streamlining procedures, the IBC can achieve higher recovery rates, reduce resolution timelines, and foster an inclusive insolvency ecosystem. Policymakers, including the IBBI, RBI, and Ministry of Corporate Affairs, should prioritize these reforms to align the IBC with global best practices and India's economic aspirations. For banking professionals and regulators, adopting these recommendations will enhance operational efficiency, rebuild stakeholder trust, and unlock the IBC's transformative potential. As India aims for a $5 trillion economy, a robust and equitable IBC will be a cornerstone of financial stability and sustainable growth.

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This section compiles all sources referenced in the working paper. The references include statutory texts, regulatory reports from the Insolvency and Bankruptcy Board of India (IBBI) and Reserve Bank of India (RBI), judicial precedents from the Supreme Court and National Company Law Tribunal/Appellate Tribunal (NCLT/NCLAT), academic and policy literature, and reputable news sources. All data, such as recovery rates, CIRP timelines, and NPA statistics, are sourced from publications up to March 2025, ensuring accuracy and relevance. The citations are formatted in APA style, adapted for clarity, to support the working paper's analysis of the IBC's evolution, impact, challenges, and proposed reforms.

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- The Economic Times. (2024, December 15). *IBC facilitates ₹13.78 lakh crore in pre-admission settlements*. Retrieved from https://economictimes.indiatimes.com

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- **Notes**

Data Verification: All statistical data cited in the working paper are sourced from IBBI publications, including:

- Recovery rates: 32.8% for financial creditors, <10% for operational creditors (IBBI, Quarterly Newsletter, January-March 2025).
- CIRP timelines: 581 days for resolutions, 654 days for liquidations; 60% exceed 330-day limit (IBBI, 2025).
- Pre-admission settlements: ₹13.78 lakh crore across 30,310 cases by December 2024 (IBBI, Statistical Update, December 2024).
- NPA reduction: 11.2% (2018) to 2.8% (2024) (RBI, Financial Stability Report, June 2024).
- Corporate leverage reduction: 4% post-IBC (IBBI-IIM Bangalore, 2025).
- IP replacements: 15% of CIRPs; claim verification delays: 60-90 days; IU adoption: 25% (IBBI, 2025).
- Asset depreciation: 40% in liquidated cases; 50% of CIRPs without interim finance end in liquidation (IBBI, 2025).

Judicial Precedents: *Swiss Ribbons* (2019) and *Essar Steel* (2019) support discussions on CoC supremacy and stakeholder equity (Parts II, III, IV). *Bhushan Steel* (2018), *Jet Airways* (2021), *Alok Industries* (2019), and *Amtek Auto* (2020) illustrate NPA resolution and implementation challenges (Parts II, III).

Global Context: World Bank's Doing Business 2020 (India's ranking: 136th in 2015 to 52nd in 2020) and B-READY 2024 reports validate IBC's global impact (Part I, Conclusion).

Academic and Policy: BLRC (2015) underpins IBC's rationale (Part I); Datta (2020) and Sengupta & Sharma (2019) provide analytical depth (Parts II, IV).

News Sources: Supplement IBBI data with recent updates (e.g., Business Standard, The Economic Times) for NPA resolutions and settlements (Part II).

- All sources are publicly accessible, verified for accuracy, and cover the working paper's scope up to June 30, 2025.

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