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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

THE NEXT DECADE OF IBC: BALANCING SPEED, VALUE MAXIMIZATION AND STAKEHOLDER INTERESTS IN THE ERA OF STRESSED ASSETS

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Abstract

The Insolvency and Bankruptcy Code (IBC), 2016, fundamentally restructured India's financial architecture by replacing a fragmented legal system with a unified, creditor-centric framework. As the legislation approaches its ten-year milestone, it must reconcile its core objective of rapid resolution with the practical realities of a high-volume "stressed asset" economy. Empirical data suggests a sharp correlation between temporal efficiency and capital preservation; while early resolutions (under 330 days) recover nearly half of the asset value, prolonged litigation exceeding 600 days results in a steep decline in recovery rates to approximately 26%. This divergence underscores the urgent need to address the procedural bottlenecks and judicial backlogs currently hampering the National Company Law Tribunal (NCLT).

This analysis explores the shift from a liquidation-centric mindset to a revival-oriented philosophy, highlighting mechanisms like Section 12A and compromise schemes that allow for corporate survival even at advanced stages of distress. However, the study posits that "value maximization" must not be viewed through a narrow lens of secured creditor returns. Instead, the next phase of the IBC's evolution must adopt a more holistic "going concern" approach that balances the rights of operational creditors, employees, and minority stakeholders against the powers of the Committee of Creditors (CoC).

Ultimately, the future of the IBC depends on institutional scaling and technological integration. By expanding Pre-packaged Insolvency Resolution Processes (PIRP) and leveraging the data-driven oversight of the RBI's Asset Quality Reviews, India can transform the IBC from a reactive recovery mechanism into a proactive engine for corporate regeneration. Such a balanced regulatory

environment is essential for maintaining investor confidence and ensuring long-term financial stability.

Keywords: Stressed Asset Management, value Maximization, Procedural Efficiency, Stakeholder Equity, Corporate Revival

Introduction: A decade of transformation

The Insolvency and Bankruptcy Code¹, a pioneering section of law focused on providing Regulatory efficiency and economic prosperity to the country. The domain of insolvency and bankruptcy includes several key elements like the timeline of Corporate Insolvency Resolution Process (CIRP), Asset value enhancement, Transition from borrower dominance to lender control, exit facilitation, Operational ease and Stakeholder equilibrium.

Since 1980, several endeavours have been enacted to reform India's insolvency framework. But the initiatives were fruitless and exacerbated the complexity of the problem. The array of legislations including SICA², 1985 and RDDBFI³, 1993. SARFAESI⁴ among other, have led to incoherence within the statutory and regulatory structure. The regulatory, legal, and institutional framework of the IBC⁵ was developed based on the holistic assessment of Committee⁶ (2015), facilitated by T.K. Vishwanathan.

Revisiting the IBC after a decade matters. Though there has been a lot of progress since its introduction, the progress and the insights of creditors have not been seamless, despite the legislation's inclination towards creditors. Post-enactment of the legislation, borrowers have often faced a prolonged resolution process due to multiple petitions and counter-petitions. Consequently, very few major cases under the IBC have been resolved within the stipulated 270-day period. To

¹ The Insolvency and Bankruptcy Code 2016

² The Sick Industrial Companies (Special Provisions) Act 1985

³ The Recovery of Debts and Bankruptcy Act 1993

⁴ The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002

⁵ The Insolvency and Bankruptcy Code 2016

⁶ The Bankruptcy law reforms committee

address such delays, the government has recently extended the maximum period for completing the resolution process to 330 days⁷.

The study focuses on how, in the face of growing stressed assets in the economy, the IBC must carefully balance speed, value maximization, and stakeholder interests over the next ten years. Excessive haste may jeopardize fair valuation, due diligence, and the legitimate interests of many stakeholders, including operational creditors, employees, and minority shareholders, even as stringent timetables are necessary to protect asset value and guarantee clarity in the resolution process. Therefore, the IBC's future development must focus on enhancing institutional capacity, increasing the effectiveness of adjudicating authority, and minimizing procedural bottlenecks that cause delays and litigation. Faster yet more efficient resolutions may result from increased use of technology, specialized benches, and pre-packaged insolvency procedures.

Persistent Challenges in speed and efficiency

The IBC has changed radically insolvency resolution framework for stressed assets by formally presenting a time-bound operations that balances the interest of creditors and debtors, while ensuring the flow of viable businesses. The establishment of IBC not only offers a way for enhanced recovery, but also tackles long-established issues with creditor-debtor relationship. Needless to say, that IBC has resolved the problem of non-performing assets (NPA) that creates a major obstacle for banks and financial institutions⁸.

Under the IBC⁹, cases resolved in 330 days yielded a 49% retrieval rate, whereas cases taking 330–600 days, brings out a 36% asset retrieval rate. In disparity, Resolutions extending over 600 days yielded a significantly lesser retrieval rate of 26%¹⁰.

⁷ Saket Hishikar, A Concise History of Bankruptcy, Insolvency, and Debt Restructuring Laws in India (Vol.45 Issue 2)

⁸ Kanishk Chaudhry, Uncoding the Code: A guide to the Indian Insolvency & Bankruptcy Code 2016 (1st edn, 2024)

⁹ The Insolvency and Bankruptcy Code 2016

¹⁰ TOI Business experts, Reforms needed to boost speed, recovery rates and Judicial efficiency of India Insolvency and Bankruptcy Framework, October 3, 2024

Legal challenges, adjournments, promoter objections, and heavy caseloads at the NCLT have extended timelines beyond the statutory 180–90-day limits. The lack of an integrated negotiation platform for creditors and promoters has further delayed proceedings. As of June 2024, 68% of cases have extended beyond 270 days, the average resolution time stretches to 685 days, and liquidation processes conclude in 499 days, which is far exceeding the 330-day threshold and thereby jeopardizing asset value and reducing creditor recoveries¹¹.

Value Maximization: From Liquidation to Revival

With the introduction of the IBC, 2016, India witnessed an outstanding shift from a recovery-oriented to a resolution-driven insolvency regime, focusing to conserve viable businesses, maximize asset value, and protect stakeholder interests. However, the way of revival remains complex, particularly in instances where companies have ventured into the liquidation phase¹².

Regulation 2B¹³, IBBI (Liquidation Process) Regulations¹⁴, conserves the applicability of Section 230¹⁵ of the Companies Act, 2013¹⁶, thereby authorizing the revival through a scheme of compromise or arrangement even during the liquidation stage. Additionally, Section 12A¹⁷, introduced in 2018, permits the removal of insolvency proceedings with the assent of 90% of the Committee of Creditors (CoC), providing a means to exit insolvency after its admission. When taken as a whole, these clauses demonstrate the legislature's intention to give resolution and revival precedence over liquidation, even in later stages of the bankruptcy procedure¹⁸.

The definition of revival is heavily influenced by elements like investor protection, legal stability, creditor trust, and commercial viability. Even though distressed asset platforms and special

¹¹ TOI Business experts, Reforms needed to boost speed, recovery rates and Judicial efficiency of India Insolvency and Bankruptcy Framework, October 3, 2024

¹² Abishanth BS and Jyotirmoy Banerjee, A Critical Study on the Revival of Indian Companies from Liquidation to Resurgence (Vol 4 Issue 3) Art.72

¹³ Insolvency and Bankruptcy board of India (Liquidation Process) Regulations 2016

¹⁴ Insolvency and Bankruptcy board of India (Liquidation Process) Regulations 2016

¹⁵ Companies act 2013

¹⁶ Companies act 2013

¹⁷ The Insolvency and Bankruptcy Code 2016

¹⁸ Abishanth BS and Jyotirmoy Banerjee, A Critical Study on the Revival of Indian Companies from Liquidation to Resurgence (Vol 4 Issue 3) Art.72

situation funds are slowly taking off in India, the ecosystem still faces difficulties because of unclear regulations and a lack of efficient processes¹⁹.

Protecting Stakeholder Interests: Beyond Creditors

Insolvency and Bankruptcy Code²⁰ of 2016 provide priority to creditor collection and time-bound resolution. However, true value preservation calls for a more thorough strategy to protect all stakeholders, including shareholders, clients, operational creditors, and employees. While operational creditors frequently receive minor returns, employees face uncertainty about their livelihoods. Recent changes and court orders advocate a "going concern"²¹ strategy and require equitable sharing under resolution plans in order to solve this.

The Era of stressed assets: Adapting to new realities

An architecture for the revival of stressed assets was released by the RBI in February 2014. The creation of the CRILC²², which tracked all bank exposures above ₹50 million, was a crucial component of the reform framework.

The RBI, then introduced the Asset Quality Review²³ in 2015–16, assigning external auditors to look into: (i) violations of loan classification guidelines, (ii) cases of evergreening, and (iii) loan-related assumptions and recoverability. With the help of CRILC data, the AQR made it easier to evaluate non-performing assets (NPAs) realistically and identified a number of issue loans that had not been identified before. On February 12, 2018, the Reserve Bank of India released a circular replacing all previous scheme-specific restructuring frameworks with a single, time-bound method for resolving stressed assets in light of the Insolvency and Bankruptcy Code²⁴ (IBC)²⁵.

¹⁹ Abishanth BS and Jyotirmoy Banerjee, A Critical Study on the Revival of Indian Companies from Liquidation to Resurgence (Vol 4 Issue 3) Art.72

²⁰ The Insolvency and Bankruptcy Code 2016

²¹ Pramod Srihari, Going Concern: Meaning and Relevance in the IBC, July 2024, pg.19

²² Central Repository of Information on Large Credits

²³ The AQR used off-site data extensively and compared the quality of these loan assets against applicable RBI norms. The banks were advised about the position that emerged from the review, along with a recommendation to adjust impairments in their books appropriately.

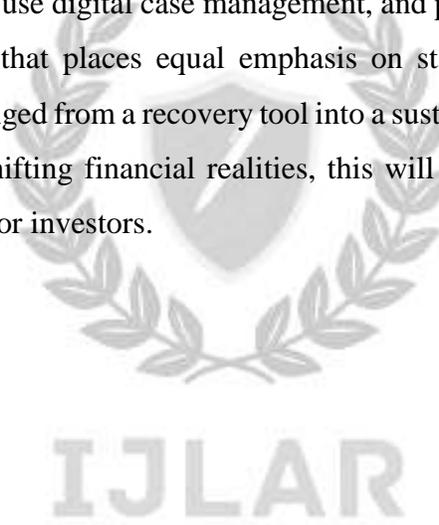
²⁴ The Insolvency and Bankruptcy Code 2016

²⁵ Rakesh Mohan and Partha Ray, The Roller Coaster Ride of Non-performing Assets in Indian Banking, CSEP working paper 2022, January 2022

Through the acquisition and restructuring of bad loans, Asset Reconstruction Companies²⁶ (ARCs) are essential in the revival of stressed assets. Preventive measures including stronger credit monitoring, early warning systems, and cautious lending standards are also intended to prevent future NPA accumulation and guarantee financial stability.

Conclusion: Charting the road Ahead

Enhancing institutional efficiency, boosting creditor trust, and guaranteeing equitable stakeholder outcomes must be the main priorities of the Insolvency and Bankruptcy Code²⁷ (IBC) tenth year. Although the Code has changed the insolvency landscape in India, issues with enforcement, valuation, and delay still exist. In the future, it will be essential to increase NCLT capacity, incorporate pre-pack methods, use digital case management, and promote responsible lending. By adopting a balanced strategy that places equal emphasis on stakeholder protection and value maximization, IBC can be changed from a recovery tool into a sustainable framework for corporate regeneration. In the face of shifting financial realities, this will enhance India's reputation as a strong and welcoming nation for investors.

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²⁶ Jaiwani, M. Chopra, and R. Bhardwaj, A Systematic Review and Bibliometric Analysis of Asset Reconstruction Companies: A Panacea or A Plight for Non-Performing Assets, Asia-Pac Finance Markets 2025

²⁷ The Insolvency and Bankruptcy Code 2016