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# ASSESSING BOTTLENECKS: CHALLENGES AND PROCEDURAL DELAYS IN IBC IMPLEMENTATION IN INDIA

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## ABSTRACT

This paper critically examines numerous challenges and procedural delays in IBC implementation in India. It provides an overview of provisions related to Insolvency Resolution Process and Liquidation under the Code. It articulates various persisting challenges and delays to IBC implementation in India including but not limited to Overburdened Tribunals, Lack of Infrastructure, Delays in implementation of Resolution Plan, Hierarchy Challenges and Haircuts, Non-Cooperation by erstwhile management, Prolonged Litigation, Lack of Awareness amongst Authorities, Ineffective Pre-Packaged Insolvency Resolution Process, and Flawed Monitoring Committees. The paper provides an in-depth elucidation of these prevailing challenges and also includes various case laws highlighting these persistent challenges in the IBC jurisprudence. The paper further provides an analysis of the Insolvency and Bankruptcy (Amendment) Bill 2025 highlighting its solutions to some of the prevailing challenges in the code including proposed provisions on Group Insolvency, Cross Border Insolvency, The Creditor Initiated Insolvency Resolution Process (CIIRP), Clarification on Security Interest, and Amendments in Liquidation process. However, the Amendment contains several loopholes which needs to be addressed as it does not provide solutions to the basic and persistent challenges prevailing in the code. The paper concludes with various suggestions and reforms that are not addressed neither in the Amendment or in the code.

**Keywords:** Insolvency and Bankruptcy Code, Challenges, Procedural Delays, Loopholes, Overburdened Tribunals.

## 1. INTRODUCTION

The Insolvency and Bankruptcy Code 2016 was codified with the aim of maximising the asset value, time bound resolution, keeping the business of corporate debtor afloat, increasing credit availability, and balancing the stakeholder interest. Previously, laws related to Insolvency and Bankruptcy was fragmented and the procedure was lengthy and time consuming. The Government had set up Bankruptcy Law Reforms Committee headed by T.K. Viswanathan which resulted in the formation of Insolvency and Bankruptcy Code, 2016. The Code, was a major reform in the Insolvency Law framework and it amalgamates various legislations into one single Code. The Code has provisions pertaining to Corporate Insolvency Resolution Process, PPIRP (Pre-Packaged Insolvency Resolution Process) and Liquidation. It aims to maximise the asset value and time bound resolution so that both creditor and debtor do not have to face significant losses. However, the Code has various challenges and issues related to procedural delays. Overburdened tribunals, lack of infrastructure, delays in implementation of resolution plans, haircuts, ineffective PPIRP, lack of awareness amongst authorities, liquidation challenges, and flawed monitoring committees. The Standing Committee on Finance identified plan approval as the second major stage where delays occur. As of April-June 2024, the average time between insolvency commencement and resolution plan approval stands at 761 days. ICRA estimates that the average duration for closing a CIRP yielding a resolution plan increased to 843 days in FY2024 from 831 days in FY 2023. This extended timeline has serious financial consequences, worsening the haircut that creditors must accept from 64% in FY2023 to 73% in FY2024<sup>1</sup>. Lack of adequate NCLT benches and an ever-increasing number of cases before the IBC have stymied the process's swiftness. This could be extremely detrimental to India and also undermines the very purpose of the expedited resolution process<sup>2</sup>. To overcome these challenges there are various proposed solutions including the recent Insolvency and Bankruptcy Amendment Bill 2025 which seeks to resolve some of the challenges. However, the Amendment has several loopholes as it does not address the basic and persistent challenges prevailing in the code. The paper aims to address the issue of challenges and procedural delays in IBC implementation in India. The paper critically examines various challenges prevailing in the code and it also provides an analysis of the Insolvency and Bankruptcy (Amendment) Bill 2025. It further provides various suggestions and reforms which are not addressed.

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<sup>1</sup> Jatin Pal, *CIRP Delays in India: Why 330 Days Timeline Remains a Challenge Under IBC*, 6 Int'l J. Res. Pub. & Rev. 10162, 10164 (2025).

<sup>2</sup> Ranbir Singh & Komal, *IBC Evolution, Learnings and Innovation* 101 (IBBI, 2013).

## 2. LEGAL AND REGULATORY FRAMEWORK

### 2.1 Overview of IBC provisions for Corporate Insolvency Resolution Process

The Insolvency and Bankruptcy Code 2016, is a landmark legislation in the Indian legal context. The Act provides a well structured approach to insolvency process and maximising the asset value. The main aim of IBC is to maximize the asset value of Corporate Debtor. The code laid significant emphasis to the procedure of insolvency resolution rather than liquidation. It focuses on resolution plans and their effective implementation to maximise the value of Corporate Debtor assets and its revival which would eventually lead to economic growth and sustainability of businesses. The Code provides for Corporate Insolvency Resolution Process which provides a well established approach for resolving financial distress among companies. It provides a mechanism for insolvency resolution to maximise the asset value of Corporate Debtor. The CIRP is outlined in Part II of the IBC, specifically under Sections 6 to 32A, and lays down the procedural and substantive aspects of resolving corporate insolvency. It delineates the initiation, moratorium, public announcement, constitution of a Committee of Creditors (CoC), appointment of an interim resolution professional, and the formulation and approval of resolution plans.<sup>3</sup>

- **Initiation of CIRP:** The process of CIRP shall be commenced only after the initiation of CIRP. It can be done by Financial Creditors, Operational Creditors or by Corporate Debtor. Under section 7 of the code, financial creditor can initiate Corporate Insolvency Resolution Process. Operational Creditor can initiate the insolvency resolution process under section 9 and Corporate Debtor can initiate the proceedings under section 10 of the code.
- **Moratorium:** Under section 14 of the code, a moratorium may be statutorily imposed. During the period of moratorium, all the company's operation comes into halt. It protects the Corporate Debtor from any kind of actions that could hinder the resolution process. Moratorium thus acts like a shield to Corporate Debtor during the period of CIRP.
- **Committee of Creditors (CoC):** In the process of CIRP, the role of Committee of Creditors is considered extremely important. The CoC consists of Financial Creditors and performs certain functions including appointment of Resolution Professional, consideration of

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<sup>3</sup> Ganesh Makam, *Regulation of Corporate Insolvency Resolution Process (CIRP) in India: A Critical Analysis*, SSRN Working Paper No. 4706605 (2024).

Resolution plans, financial decision making, replacement or confirmation of resolution professional. A total number of 66 percent votes is required for the approval of resolution plan by CoC. Committee of Creditors is thus important for financial decision making during the process of CIRP.

- **Resolution Professional (Sections 16-25):** The appointment and performance of Resolution Professionals (RPs) are key factors in determining the effectiveness of the insolvency resolution mechanism under the Corporate Insolvency Resolution Process (CIRP) framework. Appointment procedure:
- **Interim Resolution Professional (IRP):** Once the Corporate Insolvency Resolution Process (CIRP) begins, the NCLT appoints an IRP within a time bound tenure. The IRP also assumes control and management of the corporate debtor's affairs under financial stress.
- **Transition to Resolution Professional:** The Committee of Creditors (CoC) for the first time meets the Interim Resolution Professional following the latter's appointment. The CoC also possesses the right to either retain the IRP or appoint a different person as a Resolution Professional. Such a resolution is required to be made by a majority decision and at least 66% of the voting shares represented by the financial creditors.
- **Functions of Resolution Professional:** Including but not limited to verification of claims, conducting creditor meetings, management of corporate debtor's day to day affairs, supervision of moratorium, and scrutiny of resolution plans.
- **Resolution Plan (Section 25-31A):** The resolution plan, which is based on the information memorandum provided during the insolvency resolution process, must be presented to the resolution professional together with an affidavit attesting to eligibility under Section 29A of the IBC. After the committee of creditors (CoC) gives its approval, the resolution plan further gets submitted in the National Company Law Tribunal for final approval thereafter, it becomes legally binding on the corporate debtor and all other stakeholders. Instead of liquidation, the resolution plan's primary goal is structured rehabilitation of corporate debtor.

## 2.2 Liquidation

The process of liquidation is activated if the CIRP fails. The reasons can be countless such as rejection of Resolution Plan by Adjudicating Authority i.e. National Company Law Tribunal,

potential disputes between Financial Creditors and Operational Creditors, and Judicial Delays exceeding the prescribed timeline eventually leads to failure of CIRP.<sup>4</sup> Chapter III of the Insolvency and Bankruptcy Code deals with Liquidation. In the process of Liquidation, a liquidator is appointed by the Adjudicating Authority, National Company Law Tribunal (NCLT) and the major functions of liquidator is to calculate the value of distressed assets of Corporate Debtor and further discharges the various claims of all creditors. Section 53 provides for the following order of payment: payment of insolvency resolution process and liquidation costs; payment towards secured portion of secured creditors (if not realized already u/s 52) and workmen dues; payment to unsecured creditors; payment towards government claims (were above in the hierarchy under Companies Act, 2013) and unsecured portion of secured creditors; preference shareholders; and lastly towards equity shareholders<sup>5</sup>. In the liquidation process the focus transfers from revival of the corporate debtor's business to liquidate the estate or distressed assets of corporate debtor to satisfy various claims by creditors. The concept of liquidation is also called winding up of companies.

### 3. PROCEDURAL CHALLENGES AND DELAYS

The Insolvency and Bankruptcy Code, 2016 brought various reforms in the resolution of insolvency. Firstly, the code amended and consolidated various laws related to insolvency and bankruptcy. Previously the laws related to insolvency were fragmented in various other statutes like Companies Act, 2013, SARFAESI Act, RDDBFI Act. All these legislations contained provisions for insolvency but however they are fragmented, inconsistent and sometimes confusing which results in inconsistent Judicial Decisions. After the enactment of Insolvency and Bankruptcy Code the situation now is much better and less complex. The code is dedicated to Insolvency Resolution process and Liquidation. It focuses on creditor friendly approach and maximising the asset value. The code has provisions for Corporate Insolvency Resolution Process (CIRP) in Chapter II of the code. Chapter III has provisions for Liquidation. The Code has resolved much insolvency proceedings till date but there are various challenges which are needed to be addressed. Delays in processing of Insolvency applications, Delays in Resolution Plan, Overburdened Tribunals, Haircuts in recovery rates, lack of Co-ordination amongst the management of Corporate Debtor and Resolution Professional, Disputes within CoC and further new emerging challenges such as lack of Information Utilities, lack of

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<sup>4</sup> Chandan Choubey & Vandana Gupta, *Corporate Insolvency Resolution and Liquidation: Measuring Effectiveness of the IBC Framework*, 6 ShodhKosh: J. Vis. & Performing Arts 119, 122 (2025).

<sup>5</sup> Shasta Gupta, *Resolution vs. Liquidation Under IBC*, 1 Corp. Governance Insight 20, 26 (2019).

knowledge amongst the statutory departments, and lack of technological integration. All these challenges delays implementation of IBC.

**1. Overburdened Tribunals:** One of the most basic and unaddressed challenge is Overburdened Tribunals. According to the code the Adjudicating Authority is National Company Law Tribunal and National Company Law Appellate Tribunal. Both NCLT and NCLAT are burdened with tons of cases and the Judicial capacity to address these cases are far less. Numerous petitions submitted to the National Company Law Tribunal (NCLT) have been delayed at the admission stage for as long as two years. The principal reason for this delay is inadequate human resources, as the NCLT frequently operates at below 50% of its authorized capacity. Such delays impair the efficiency of the process. One of the most significant obstacles in insolvency and debt resolution in India is the time required to finish the procedure. The IBC was designed to speed up resolution, but delays at the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) have been a recurring concern. Long litigation and appeals can drag the process out for years, which is bad for both creditors and debtors. These delays not only impact the recovery rates for creditors but also affect the overall efficiency of the insolvency resolution process<sup>6</sup>. Streamlining the legal procedure and minimizing the backlog in these tribunals are critical<sup>7</sup>. Case Study: Jaypee Infratech Insolvency The Jaypee Infratech case, involving thousands of homebuyers, was initiated under IBC in 2017. However, multiple legal disputes and challenges stretched the resolution process beyond five years, delaying justice for affected stakeholders. Such prolonged cases highlight the need for faster judicial decision-making and improved infrastructure for handling insolvency cases.<sup>8</sup>

**2. Lack of Infrastructure:** The success of the IBC largely depends on the availability of a robust infrastructure to support the resolution process. However, there is a shortage of insolvency professionals, registered valuers, and information utilities, which hinders the smooth functioning of the process<sup>9</sup>. The role Insolvency Professional is of extreme importance in the Corporate Insolvency Resolution Process. The professional's role commences right after

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<sup>6</sup>Shwetang Rajendra Danekar & Sangam Manohar Deve, *The Role of Insolvency and Bankruptcy Code in India: Challenges, Regulations, and Global Comparisons*, 5 Indian J. of Integrated Research in Law 983, 987 (2025).

<sup>7</sup> Ms. Pooja Nakul Maniar & Dr. Roksana Hassanshahi Varashti, *Unveiling Key Challenges In The IBC: A Critical Study Of Loopholes And Structural Issues In India's Insolvency Framework*, 11 Int'l Journal of Environmental Sciences 128, 129 (2025).

<sup>8</sup> Chandra Shekhar, *Bailing Businesses, Boosting Banks: The Evolution of Insolvency and Bankruptcy Law in India*, 6 Int'l J. Research Publ'n & Reviews 4948, 4914 (2025).

<sup>9</sup> Chandra Shekhar & Pallavi Rai, *Impact of IBC, 2016 on Stressed Asset Resolution*, (2024) <https://ssrn.com/abstract=5158566>.

the Moratorium to filing verification of claims, conducting creditor meetings, and manages the corporate debtor's assets. However, in India there is a shortage of insolvency professionals which delays the process. Information Utilities are also important and holds much importance in the resolution process. An information utility is an entity which is registered under Section 210 of the Code, is authorized to carry on the business of IU and is governed and regulated by IBBI as per the provisions of IBBI subject to conditions specifically provided under the Code. A Certificate of Registration ("CoR") is a prerequisite to establish an IU<sup>10</sup>. However, there are shortage of Information Utilities which is a hurdle to insolvency resolution process. Shortage of IU's leads to excess litigations and reduced efficiency. Lack of infrastructure issue also extends to Tribunals across the country. As the number of panels in the National Company Law Tribunal (NCLT) decreased throughout India and the tribunal accepted frivolous applications, the backlog of cases and the length of time it took to dispose of cases by the NCLT increased significantly over time. Furthermore, the absence of the ideal combination of technical and judicial members capable of handling any type of case in any bench results in an excessive workload on a select few benches<sup>11</sup>.

**3. Delays in implementation of Resolution Plan:** One of the major challenges in the code is delays in implementation of approved resolution plan. In most cases the timelines for the implementation of the Resolution Plan have become a roadblock to fulfilling the objective of the Code. Since, there is no stipulated time period mentioned in the Code, there is a lack of consistency in judicial approaches surrounding delays<sup>12</sup>. In the code there is no stipulated time period mentioned to implement the Resolution Plan which leads to ambiguity in Courts and Stakeholders as well. Judicial decisions are also inconsistent due to this issue. In the case of *Kridhan Infrastructure (P) Ltd. v. Venkatesan Sankaranarayan* (2021) 6 SCC 94 the Supreme Court said that Resolution Applicant must be fair in its dealings. In this matter, the Resolution Applicant submitted a Resolution Plan for a company going into insolvency proceedings. The NCLT approved the plan but however the Successful Resolution Applicant (SRA) failed to implement the plan. The NCLT ordered for Liquidation however the Resolution Applicant went to NCLAT and further requested sometime to implement the plan and NCLAT accepted it and

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<sup>10</sup> Vallari Dubey, *First Information Utility Set Up under IBC*, Vinod Kothari Consultants (Sept. 2017), <https://vinodkothari.com/2017/09/first-information-utility-set-up-under-ibc/>. .

<sup>11</sup> Siddharth Sivaselvam & Sonika Bhardwaj, *Assessing and Unravelling the Challenges Faced in the Prevailing Corporate Insolvency Resolution Process in India*, 5 Indian J. of Law & Legal Res. 5924, 5937 (2024).

<sup>12</sup> Dinesh Eedi & Guru Charan, *Delays in Implementation of Resolution Plan under IBC: A Growing Concern*, Bar & Bench (Aug. 14 2025, 3.02 PM) <https://www.barandbench.com/view-point/delays-in-implementation-of-resolution-plan-under-ibc-a-growing-concern>.

gave time to Resolution Applicant but again the R.A. failed to implement the plan and NCLAT upheld liquidation. The matter went to Supreme Court and the Hon'ble Supreme Court upheld NCLAT decision. The court said time is the essence of the code and this is delaying the process of insolvency resolution. However, the Supreme Court in the matter of Kalyani Transco v. Bhushan Power & Steel Ltd.,<sup>2025 SCC Online SC 1010</sup>, rejected the resolution plan of JSW Steel and ordered for liquidation process in the code. The Court cited various reasons for rejecting the resolution plan such as CoC failed to exercise commercial wisdom, resolution professional did not duly discharge his duties. However, the Supreme Court in the matter of Punjab National Bank v. Kalyani Transco & Ors., R.P. (C) No. 1432-/2025 said that Bhushan Power and Steel case requires a review. Absence of a prescribed timeline for implementation of resolution plan under the code invites ambiguity to the parties and courts which further delays the insolvency resolution process. This is one of the major challenges which needs to be addressed.

**4. Hierarchy challenges and Haircuts:** The Insolvency and Bankruptcy Code follow a Creditor Hierarchy approach in which Financial Creditors are given priority over operational creditors. The basic reason for this is to establish a payment schedule. In practice there are a lot of disputes between Financial Creditors and Operational Creditors. There are disagreements within Financial Creditors also in CoC. In cases settled under the IBC, recovery rates have been comparatively low, and creditors have taken large haircuts. Each delayed day is proven to be a loss for creditors and all other stakeholders and majorly the CIRP process does not complete in the prescribed timeline provided in the code and eventually there are delays which leads to significant Haircuts and low recovery rates. The courts have often granted stay orders which delay the timeline for the time-bound resolution process. As a result, the CD's value also decreases with an increase in time, giving rise to huge haircuts.<sup>13</sup>

**5. Liquidation Challenges:** The IBC lays focus on resolution compared to liquidation, a considerable number of cases are invariably reaching liquidation. The delays in the cases of *Jet Airways* and *DHFL* have increased the litigation complexities and hampered expeditious restructuring<sup>14</sup>. The liquidation procedure in India is inefficient and delayed, resulting in

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<sup>13</sup> Simran Lunagariya & Priyanshi Jain, *Rising Haircuts: A Death Knell for the IBC?*, IndiaCorpLaw (Mar. 31, 2022), <https://indiacorplaw.in/2022/03/31/rising-haircuts-a-death-knell-for-the-ibc/>.

<sup>14</sup> Tushar Mishra, *Eight years of IBC: Triumphs, trials and the road ahead*, Bar & Bench (Mar. 14, 2025, 6.20 PM), <https://www.barandbench.com/columns/eight-years-of-ibc-triumphs-trials-and-the-road-ahead>.

reduced recovery rates for creditors<sup>15</sup>. Various challenges such as delayed procedure, overburdened courts, frivolous petitions make liquidation process a big challenge in the insolvency framework.

**6. Lack of Cooperation from Corporate Debtor's Management:** S.19 of the IBC imposes an obligation on former employees, promoters, and anyone who previously held management positions including ex-directors to assist the IRP in managing the affairs of the corporate debtor ('CD') during the insolvency proceedings. If cooperation is not forthcoming, s. 19(2) of the IBC empowers the resolution professional ('RP') to seek intervention from the AA i.e., the National Company Law Tribunal ('NCLT'). The NCLT can then issue an order compelling these individuals to comply with the RP's requests. A successful insolvency resolution hinges on the RP's ability to fulfil multiple tasks simultaneously. For the RP to achieve this, cooperation from former directors and management personnel is critical, including providing complete access to their accounts, details, and information related to the company in the CIRP<sup>16</sup>. In practice it is difficult for the RP to get assistance from management which leads to the issue of non-cooperation from management. The NCLT in the case of *Ashwini Mehra v. Vinod Kumar Dandona*<sup>[1]</sup> observed that the statutory auditor of the CD is also under an obligation as per s. 19 of the IBC to furnish the documents/information as required by the RP<sup>17</sup>.

**7. Prolonged Litigation:** Various stakeholders frequently submit several interlocutory applications to address different issues during the CIRP. It takes time to decide on these applications because the procedure must adhere to legal requirements and guarantee equity for all parties. The CIRP or even liquidation is consequently delayed. Stakeholders frequently submit unnecessary or frivolous applications in an effort to delay or interfere with the Code's resolution procedure.

**8. Avoidance Transaction Issue:** A large sum of INR 370942 crores is involved in 1237 incidents of avoidance transactions. However, just 293 cases have been resolved, with a pitiful return of INR 6599 crores. Notably, INR 5500 crores of the recovered sum are from a single case involving Jaypee Infra, in which a mortgage of land in favour of the

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<sup>15</sup> Maniar & Varashti, *supra* note 7, at 132

<sup>16</sup> Maarij Ahmad, *Cooperating with Resolution Professionals: A Cornerstone of Effective Resolution*, *Metalegal* (Apr. 27, 2024), <https://www.metalegal.in/post/cooperating-with-resolution-professionals-a-cornerstone-of-effective-resolution>.

<sup>17</sup> *Id*

banks was set aside. This suggests that outside of big cases recovery is low, showing inefficiencies in addressing avoidance transactions<sup>18</sup>.

**9. Ineffective PPIRP:** PPIRP (Pre Packaged Insolvency Resolution Process) is a mechanism inserted in the IBC Code through Insolvency and Bankruptcy (Amendment) ordinance 2021. PPIRP is a process of out of court settlement between default debtor and creditor before approaching formal insolvency proceedings under the code. It shall be bear in minds that PPIRP is only available to MSME'S (Ministry of Micro, Small and Medium Enterprises) registered under the MSME'S Act 2006. Sole purpose of PPIRP is fast and efficient resolution of distressed companies and secondly to reduce the burden on Adjudicating Authorities, however these objectives are not achieved and hence PPIRP is failed to achieve its necessary purpose. Major reasons include, the involvement of Adjudicating Authorities during the whole procedure. PPIRP, on paper is an informal process but in practice there is an involvement of NCLT during the procedure, right from filing an application to approval of resolution plan. PPIRP is based on "debtor in possession" approach which is fundamentally different from formal insolvency proceedings and this may lead to frivolous outcomes and wilful conduct from default promoters. It can also lead to lack of transparency since default promoters are in possession of company's assets. In the process of PPIRP, there are several conflicts within the CoC which hampers its objective to swiftly resolve the matter before going into formal insolvency proceedings. Due to all these reasons the stipulated timeline of PPIRP (120 days) is not achieved and hence it may lead to further litigation. It is important to note that PPIRP is for MSME's registered under the MSME's Act but in India most MSME's are not registered hence they cannot initiate the proceedings legally. The concept which was introduced for MSMEs failed to tailor the needs of MSMEs in India as indicated by the meagre number of 11 admitted PPIRPs since its inception, of which only 4 of them had their resolution plan accepted and only 2 of the PPIRPs were concluded within a timeline of 120 days<sup>19</sup>. India lacks a robust framework for pre-packaged insolvency, resulting in delays and risks. Establishing clear norms and laws for pre-packaged insolvency will assist address this issue and speed up debt resolution<sup>20</sup>.

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<sup>18</sup> Maniar, & Varashti, *supra* note 7 at 132.

<sup>19</sup> Kanishka Agrawal & Saurav Singh, *Critical Analysis of Pre-Packaged Insolvency Resolution Process under IBC*, IBC Laws (Apr. 16, 2024), <https://ibclaw.in/critical-analysis-of-pre-packaged-insolvency-resolution-process-under-ibc-by-kanishka-agrawal-and-saurav-singh/>.

<sup>20</sup> Maniar & Varashti, *supra* note 7 at 132.

**10. Flawed Monitoring Committees:** Despite its good intentions, the Supreme Court's proposal for a statutory monitoring committee in insolvency cases may not have much of an impact. Although requiring such committees under Regulation 38(4) guarantees organized oversight, the actors who have occasionally weakened the process in the past includes creditors, resolution applicants, and professionals are ultimately responsible for their efficacy. Although monitoring committees establish a structured environment for cooperation, accountability, and reporting, they are unable to prevent delays, dishonest creditor behaviour, or the resolution applicant's lack of sincerity on their own. Although they might assist in bringing issues to the attention of NCLT and NCLAT sooner, they are unable to significantly alter the motivations or actions of stakeholders. Therefore, without more robust accountability measures, the reform may not significantly enhance settlement results, even though it is a good procedural protection.

#### **4. WAY AHEAD: CHANGES AND REFORMS**

The Insolvency and Bankruptcy Code, 2016 was enacted to maximise the value of assets of Corporate Debtor and to maintain the business of Corporate Debtor afloat. The Code, brought different set of fragmented laws related to insolvency into one dedicated code. The code includes provisions related to formal insolvency proceedings or Corporate Insolvency Resolution Process and Liquidation. It also includes provisions related to PPIRP which is applicable to MSME's in India. The code does resolve many insolvency cases and there were many successful resolution plans implemented accordingly but however, there were many challenges prevailing in the code which also needs to be addressed. Prolonged processing of insolvency applications, delays in resolution plans, poor recovery rates and haircuts, poor PPIRP mechanism and lack of infrastructure which includes over burdened Tribunals. To address these challenges many reforms were discussed in different government meetings and stakeholders meeting. These reforms include, increasing the capacity of Tribunals, reduce excessive Judicial intervention, enhance more ADR solutions to speed up resolution process etc. The recent Insolvency and Bankruptcy Amendment Bill, 2025 seeks to resolve some of the prevailing and persistent challenges.

##### **4.1 Analysis of Insolvency and Bankruptcy Amendment Bill, 2025**

On 12<sup>th</sup> August, 2025 the Government introduced the IBC Amendment Bill 2025 in Lok Sabha. The Bill proposed changes in the Insolvency and Bankruptcy Code, 2016. The bill was tabled in the Lok Sabha and it was addressed by the Hon'ble Finance Minister. The changes include

mandatory timelines to accept or reject the insolvency proceedings, Group Insolvency Frameworks, Cross border insolvency, out of court settlement provisions, PPIRP for larger firms etc. It is important to shed light on various changes in the Bill.

**1. Clarification on Security Interest:** The Hon'ble Supreme Court of India in the case of *State Tax Officer v. Rainbow Papers Ltd. (2022)* held that government dues shall be treated as secured debts under Section 3 (30) of IBC. The Judgment created chaos in the insolvency framework and potentially disrupted the waterfall mechanism under section 53 placing government claims over secured creditors. The IBC Amendment Bill, 2025 addresses this ambiguity by introducing a clear explanation under Section 3(30), stating that a 'security interest' arises only from a mutual agreement between parties and cannot be automatically conferred by statutory provisions. This legislative clarification restores the original intent of the IBC, to prioritize secured creditors over government dues in the distribution of liquidation proceeds<sup>21</sup>. The Amendment brings clarity and relief for secured creditors.

**2. Creditor Initiated Insolvency Resolution Process (CIIRP):** The Insolvency and Bankruptcy Amendment Bill 2025 brought CIIRP mechanism under Chapter IV-A, Sections 58A to 58K. The CIIRP, which can be initiated by Financial Creditors and 51 percent of such Creditors must agree to initiate the process. The whole procedure of CIIRP shall be conducted within 150 days and only one time extension of 45 days is allowed which is subject to voting by CoC. Specific Creditors must inform Corporate Debtors and the Corporate Debtor may file its objections to the Adjudicating Authority. The CD may get a time period of 30 days to make representations. CIIRP is a Creditor initiated process and most importantly it is an out of court settlement procedure. It helps creditors regain their capital without significant haircuts. If the CIIRP fails or there is a scenario of resolution plan not getting approved then the Adjudicating Authority shall order for CIRP procedure under the Code.

**3. Group Insolvency:** India lacks a group insolvency framework as there was no provision for group insolvency in the IBC, 2016. To overcome this problem the 2025 Amendment comes up with a solution of Group Insolvency Framework. The Bill empowers the central government to prescribe rules for insolvency proceedings against two or more

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<sup>21</sup> Sanskruti Jinwal & Yashodhara Burmon Roy, *Decoding the IBC Amendment Bill, 2025—Key Reforms and Implications for Stakeholders*, Mondaq (Aug. 25, 2025), <https://www.mondaq.com/india/insolvencybankruptcy/1669334/decoding-the-ibc-amendment-bill-2025-key-reforms-and-implications-for-stakeholders>.

corporate debtors that form part of a group. These rules will specify details such as a common NCLT bench for proceedings, appointing a common resolution professional, and forming a joint CoC<sup>22</sup>.

**4. Cross Border Insolvency:** The IBC 2016 did not have provisions for Cross Border Insolvency and after the enactment of the Code, during subsequent years the Government and various stakeholders felt need for provisions related to cross border insolvency framework. The IBC Amendment Bill 2025 includes provisions for Cross Border Insolvency. Under Section 240C, The Bill provides the Central Government to prescribe rules for administering and conducting cross-border insolvency proceedings. The proposal includes designation of special benches to deal with cross-border insolvency cases<sup>23</sup>.

**5. No Prolonged Processing of Insolvency Applications:** Under the IBC Amendment Bill 2025, it states that minimum records from various financial institutions is deemed sufficient for proof of default and NCLT shall admit or reject the application within 14 days. The Bill enforces a strict timeline for admitting an application therefore it reduces further delays in the procedure.

**6. Amendments in Liquidation:** The Bill empowers the CoC to: (i) supervise the liquidation process, and (ii) replace the liquidator<sup>24</sup>. The Bill adds that NCLT must pass the order for liquidation within 30 days from the date of the application or intimation. It also specifies that liquidation proceedings must be completed in 180 days, extendable by up to 90 days. Under the Code, a company may apply for voluntary liquidation. The Bill specifies that voluntary liquidation proceedings must be completed within one year<sup>25</sup>.

**7. Amendments in Avoidance Transaction:** The Bill proposes to expand the ambit of this section to cover other Avoidance Transactions. In other words, if any Avoidance Transaction has occurred and the liquidator or the resolution professional, as the case may be, has not reported it to the Adjudicating Authority, then a creditor, either by itself or jointly with

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<sup>22</sup> *The Insolvency and Bankruptcy Code (Amendment) Bill, 2025*, PRS Legislative Research (Aug. 12, 2025), <https://prsindia.org/billtrack/the-insolvency-and-bankruptcy-code-amendment-bill-2025>.

<sup>23</sup> Cyril Amarchand Mangaldas, *Client Alert: The Insolvency and Bankruptcy Code (Amendment) Bill, 2025* (Aug. 14, 2025), <https://www.cyrilshroff.com/wp-content/uploads/2025/08/Client-Alert-The-Insolvency-and-Bankruptcy-Code-1408.pdf>.

<sup>24</sup> *The Insolvency and Bankruptcy Code (Amendment) Bill, 2025*, PRS Legislative Research (Aug. 12, 2025) <https://prsindia.org/billtrack/the-insolvency-and-bankruptcy-code-amendment-bill-2025>.

<sup>25</sup> *Id*

other creditors, a member, or a partner of the corporate debtor, as the case may be, may make an application to the Adjudicating Authority to pass suitable orders<sup>26</sup>. The amendment has widened the period for reviewing suspicious or wrongful transactions (such as preferential, undervalued or fraudulent transfers). Earlier, this review period was counted only from the date the insolvency process was formally admitted. Now, the look back period can also cover the time before admission starting from when the insolvency application is filed<sup>27</sup>.

**8. Other Significant Modifications:** Modifications include, penalties for filing vexatious proceedings before the National Company Law Tribunal. It is an offence with hefty fines up to 2 crore rupees. The bill also provides changes to PPIRP mechanism and in the proposed bill PPIRP is now extendable to larger firms. The Bill also strengthens creditor initiation approach and now creditors can access into personal guarantor's assets. The sale of one or more of the assets of the corporate debtor is now expressly covered under clause (26) of Section 5, which earlier restricted the restructuring processes to merger, amalgamation, and demerger.

These are several significant changes brought in the IBC (Amendment) Bill 2025. The bill aims to reduce persistent challenges prevailing in the code. The inclusion of Group Insolvency Framework, Cross Border Insolvency provisions, reducing legal ambiguities by amending Section 3 (30) of the Code overturning SC's Judgment in Rainbow papers case the bill provides solutions to the challenges. However, the proposed bill does not fully resolve the persistent challenges and there are many issues which remained untouched or it does not provide proper solutions to those issues. There are certain limitations of the Bill which needs to be discussed. These are as follows:

#### 4.2 Limitations of Insolvency and Bankruptcy Amendment Bill, 2025

- **Absence of Institutional Reforms:** The Bill lacks institutional reforms, there are no proposals to increase the capacity in the National Company Law Tribunal and National Company Law Appellate Tribunal which are the prime reasons for delay in the IBC framework. The Court directed that vacancies in NCLT/NCLAT be filled "*on a war footing*" with dedicated

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<sup>26</sup> Ergo — IBC Amendment Bill — 23 August 2025, Khaitan & Co., at 7.56 (Aug. 2025), <https://www.khaitanco.com/sites/default/files/2025-08/Ergo%20-%20IBC%20Amendment%20Bill%20-%2023%20August%202025.pdf>.

<sup>27</sup> PwC India, *Key Changes in the Insolvency and Bankruptcy Code (Amendment) Bill, 2025* 5 (Aug. 2025), <https://www.pwc.in/assets/pdfs/pwc-highlights-ibc-amendment-bill-2025-2.pdf>.

IBC benches and additional strength<sup>28</sup>. There are no provisions for a commercial bench dedicated to IBC cases. The new IBC Amendment Bill 2025 is silent on this major issue.

- **Issues in CIIRP:** The new mechanism of Creditor Initiated Insolvency Resolution Process may manifest litigation rather than settlement. In the Bill it has been laid down that Creditor must inform about CIIRP to Corporate Debtor and CD may file its objections to the Adjudicating Authority. In practice, the CD will surely file its objections to Adjudicating Authority hence there is a big chance of delay in the process of resolution. Past experience under SARFAESI, SICA, and IBC shows that promoters routinely challenge creditor action at every stage, leading to protracted delays. The absence of judicial vetting before admission will invite constitutional challenges and procedural disputes, potentially making CIIRP more contentious and costlier for creditors<sup>29</sup>.
- **Combining the Assets of Personal Guarantors:** The asset pool may be increased by including personal guarantor assets in the corporate debtor's resolution process, but it may also lead to disagreements among secured creditors. Despite the Insolvency Law Committee's repeated recommendations, the bill fails to address inter se priority disputes that arise when a lender with sole security over a guarantor's asset refuses to share value with other creditors.
- **Conditions in Section 12 A:** The Amendment's proposal to bar withdrawal until CoC approval hereby restricting settlement under the code. This will reduce settlement and it reduces the ability of Debtors directly settling with individual creditors.
- **Issues in Statutory timelines:** The Amendment seeks to enforce a strict 14 day timeline for accepting or rejecting an insolvency application. It is quite understood and also witnessed in the past that whatever timeframe is given in the code, the Judiciary still retains discretionary powers and it can record reasons in writing if in case no order is passed within 14 days. The amendment does provide a timeline but the parties can use delay tactics for delaying the proceedings.

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<sup>28</sup> S. N. Thyagarajan, *Real estate insolvency resolution should be project specific, not against entire corporate debtor: Supreme Court*, Bar & Bench (Sept. 13, 2025 2.12 PM), <https://www.barandbench.com/news/litigation/real-estate-insolvency-resolution-should-be-project-specific-as-a-rule-supreme-court>.

<sup>29</sup> Mukesh Chand, *IBC Amendment Bill 2025: Litigation Risks Missed*, LinkedIn (Aug. 14, 2025), <https://www.linkedin.com/pulse/ibc-amendment-bill-2025-litigation-risks-missed-mukesh-chand-q8avf>.

- **No timelines for Implementation of Resolution Plan:** The IBC Amendment Bill 2025 lacks statutory timelines for Implementation of approved resolution plans. This issue is also a prolonged one which results in delays and inconsistent Judicial rulings.
- **Need for more Information Utilities:** The proposed bill does not have provisions for increasing the number of IU's instead it elevates its position as conclusive proof in case of default. In India, there is only one IU and there are extremely high number of pending proceedings, hence there is an immediate need to increase the number of IUs in the country.

## **5. SUGGESTED REFORMS**

The IBC Amendment Bill 2025, is a significant step in reducing the challenges in the code and to some extent it does provides a compelling approach to reduce some challenges. The bill gives legal clarities and reduces ambiguities. It resolves the ambiguity created in Rainbow Papers case and also provides strict timelines in the code to reduce delays and litigation. However, there are many unresolved challenges in the code which needs to be addressed:

**1. Infrastructural Reforms:** Since the enactment of IBC, there are structural issues prevailing in the code which needs to be addressed. Issues relating to lack of infrastructure and overburdened Tribunals which leads to procedural delays and increases litigation. Capacities should be increased in NCLT and NCLAT moreover dedicated benches are needed to resolve IBC cases. The Government should set up a committee to increase the capacity in NCLT and NCLAT.

**2. Genuine Pre Packaged and CIIRP Model:** There should be new rules or amendments relating to minimal judicial interference in PPIRP and CIIRP.

**3. Need for more Information Utilities:** There should be new Information Utility (IU's) to open in India which will help in the overall process and thereby reduces litigation.

**4. Need for Commercially Knowledgeable Benches:** Reforms are required to lay emphasis on dedicated benches for IBC matters with a commercially knowledgeable mind. The Insolvency and Bankruptcy Code is a technical legislation so commercial knowledge is required and reforms are needed to dedicate special benches with commercial expertise.

**5. Need for Awareness:** Measures should be taken by Government and IBBI to educate

statutory authorities and agencies about the IBC Code.

**6. Minimal Judicial Interference:** Reforms are required in the code to reduce Adjudicatory Authority role in the Insolvency Resolution process to further reduce litigation.

## **6. CONCLUSION**

The research paper finds that while the Insolvency and Bankruptcy Code (IBC) has been a landmark reform of India's insolvency regime, severe bottlenecks remain in its actual implementation, including overburdened tribunals, infrastructural deficits, procedural delays, ineffective pre-pack , monitoring mechanisms, and prolong litigation. The 2025 Amendment Bill introduces significant enhancements like clearances regarding security interest, creditor-driven insolvency, group and cross-border insolvency regimes, and tighter timelines while still leaving vital basic issues unaddressed especially regarding judicial backlog, institutional changes, and delay in implementation. Moving forward, the paper suggests a concerted attention to structural reforms including augmenting tribunal capacity, setting up dedicated benches, strengthening infrastructure, multiplying information utilities, and reducing unjustified judicial intervention in order to unlock the IBC's full potential as a time bound and efficient resolution regime. Only by addressing these core gaps, India can ensure the Code's original promise of swift, value maximizing corporate insolvency process.