LEGAL GAPS IN THE CORPORATE INSOLVENCY RESOLUTION PROCESS UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016: A POST-AMENDMENT STUDY OF THE ACT

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ABSTRACT

The Insolvency and Bankruptcy Code, 2016 (IBC) introduced a time-bound, creditor-in-control Corporate Insolvency Resolution Process (CIRP) to replace India's fragmented and slow pre-IBC insolvency framework. Experience and case laws, such as Vidarbha Industries on admission discretion and Rainbow Papers on the priority of government dues revealed serious legal and practical gaps in CIRP's design. The IBC (Amendment) Act, 2026 responds by making admission mandatory within fourteen days on proof of default and completeness, elevating the evidentiary role of Information Utilities, creating a Creditor-Initiated Insolvency Resolution Process (CIIRP), tightening withdrawal under Section 12A, expanding the Committee of Creditors' role in liquidation, and clarifying that government dues are not automatically secured debt.

Given these mounting tensions, this study shifts its focus toward three critical questions :

1. To what extent do the 2026 amendments resolve earlier doctrinal gaps in CIRP?
2. What new legal and policy concerns emerge from changes to admission, CIIRP, withdrawal and liquidation?
3. How should CIRP be further refined to remain both efficient and fair?

Methodologically, the study adopts a doctrinal and analytical approach: it examines the text of the unamended IBC and the 2026 Amendment, leading judgments, and IBBI and policy reports, supplemented by a desk-based review of aggregate data on timelines and outcomes.

The key argument is that while "IBC 2.0" restores clarity on admission and government-dues priority, it at the same time intensifies creditor dominance, sidelines operational creditors and MSMEs in CIIRP, raises due-process concerns around IU-based admission and also narrows the space for negotiated settlements.

The paper further concludes that the amendment is a step forward, but not a complete solution; some old cracks are filled but new cracks have opened. So as to truly make CIRP both fast and fair, we should tighten safeguards around data, open the new processes to weaker creditors, keep a check on Committee of Creditors (CoC) power in liquidation, and invest in the institutions that run the Code.

Keywords: Corporate Insolvency Resolution Process; Creditor-Initiated Insolvency Resolution Process; Information Utilities; Committee of Creditors.

INTRODUCTION

The Insolvency and Bankruptcy Code, 2016 (IBC) marks a major shift in India's insolvency regime. Before its enactment, the law on corporate distress was scattered across multiple statutes and forums as the different creditors were running to different forums, these multiple statutes included the Sick Industrial Companies (Special Provisions) Act, 1985, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002. While each of these laws addressed specific issues of default, their combined operation resulted in a fragmented and inefficient framework, repeated proceedings and very long delays in resolving genuine insolvency. In simple terms, creditors were scattered everywhere and genuine insolvency often got lost in the noise.

The IBC was enacted to replace this fragmented system with a unified mechanism, thereby marking a turning point in insolvency law. It introduced the Corporate Insolvency Resolution Process (CIRP) as the primary route for dealing with corporate default. Once a company fails to repay its debts above a prescribed threshold, a financial creditor, an operational creditor or even the debtor company itself may file an application before the National Company Law Tribunal (NCLT). If the Tribunal is satisfied that a default has occurred and the application is complete, it admits the case, appoints an interim insolvency professional to take charge of management, imposes a moratorium on other legal proceedings, and constitutes a Committee of Creditors (CoC) made up mainly of financial creditors. The CoC then decides, within the statutory timeframe of 180 days, extendable up to a maximum of 330 days including litigation, whether the company should be rescued through a resolution plan or sent into liquidation.

Nearly a decade after its introduction, the IBC appears to have significantly influenced credit behaviour in India. The threat of being pushed into CIRP has encouraged earlier restructuring and out-of-court settlements, and average recoveries for creditors are generally higher than under the previous framework. Still, the data published by the Insolvency and Bankruptcy Board of India (IBBI) indicates that many CIRP cases continue to exceed the 330-day limit, a significant proportion end in liquidation rather than resolution, and in some big cases creditors recover only a small portion of what they are owed.

Judicial decisions have also revealed tension between the Code's original design and its interpretation. The Supreme Court in *Innoventive Industries Ltd. v. ICICI Bank*[1] treated the admission process as largely mechanical; once default is proved and documents are complete, the NCLT should admit the case. However, in *Vidarbha Industries Power Ltd. v. Axis Bank Ltd.*[2], the Court interpreted the word "may" provided in Section 7 to mean as granting broad discretion to NCLT to refuse admission even where default is established, based on broader financial circumstances. In *State Tax Officer v. Rainbow Papers Ltd.*[3], the Court has treated certain statutory dues as secured debt, placing them higher in the liquidation waterfall than many had expected. These judgments created uncertainty regarding two core aspects of the Code; first, the threshold for admission, and second, the ranking of claims.

To address these concerns, the Union Government and Parliament moved towards what many commentators call "IBC 2.0". The Insolvency and Bankruptcy Code (Amendment) Bill, 2025, later enacted as the IBC (Amendment) Act, 2026, brings in many far-reaching changes. For CIRP, the amendment makes admission mandatory when certain objective conditions are met, reinforces the evidentiary value of Information Utility (IU) records, introduces the Creditor-Initiated Insolvency Resolution Process (CIIRP) as an alternative route for specified financial creditors, tightens withdrawal rules, reshapes liquidation around CoC supervision, and clarifies the status of government dues.

In my view, this paper tries to understand whether the 2026 changes actually fix the problems seen in the initial years of the IBC, or whether those problems have only shifted to different parts of the framework instead. The discussion is centred on the Corporate Insolvency Resolution Process (CIRP), because this is the stage at which the structure of the Code, the

[1] (2018) 1 SCC 407 (SC).
[2] 2022 SCC OnLine SC 841.
[3] 2022 SCC OnLine SC 1162.

way courts have interpreted it, and what happens on the ground come together most clearly.

At first glance, the reforms look neat on paper, but once I dug into case law and data, the picture became more complicated.

Methodologically, the paper relies on doctrinal analysis of the original Insolvency Bankruptcy Code and the 2026 Amendment, read together with landmark judgments, official explanations, IBBI data and recent policy and academic commentary. The discussion is organised as follows. **Part II** describes the original CIRP framework and the main legal and practical gaps that emerged in its first nine years. **Part III** explains the key CIRP-related changes introduced by the IBC (Amendment) Act, 2026. **Part IV** examines the extent to which these reforms resolve or create legal gaps, with particular attention to creditor dominance, IU-based admission, CoC-led liquidation and settlement rules. **Part V** offers conclusion and suggestions.

CORPORATE INSOLVENCY RESOLUTION PROCESS (CIRP) UNDER THE UNAMENDED ACT: DESIGN AND EARLY GAPS

A. HOW CORPORATE INSOLVENCY RESOLUTION PROCESS WAS SUPPOSED TO WORK

CIRP was designed as a structured way to "pause" the usual scramble among creditors and provide them a collective forum to decide the company's future. A financial creditor files under Section 7, an operational creditor under Section 9, or the debtor company under Section 10 of the Insolvency and Bankruptcy Code, 2016 after a default above the threshold. If the NCLT is satisfied about the default and the completeness of the application, it admits the case and declares a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016, which stops other suits and enforcement actions.

An Interim Resolution Professional (IRP) takes over management, collects claims and forms the Committee of Creditors (CoC), usually consisting of all financial creditors. The CoC appoints or replaces the Resolution Professional (RP), approves resolution plans by a specified voting share, and can decide to send the company into liquidation if no plan is viable. The law initially provided 180 days for CIRP, extendable by 90 days, with later developments fixing an outer limit of 330 days including litigation.

If no resolution plan is approved in time, or if the tribunal rejects all proposed plans, the company goes into liquidation under Chapter III and its assets are sold, with proceeds distributed according to the priority waterfall in Section 53[4].

B. WHAT ACTUALLY HAPPENED: DELAY AND MIXED OUTCOMES

From what I have seen in IBBI reports the data helps to put these concerns in perspective. By 31 March 2023, 6,571 CIRPs had been admitted, but only 678 of them had ended in an approved resolution plan, which is roughly 10 per cent. Around 2,030 cases, or about 31 per cent, had gone into liquidation by the same date, with the remaining matters either ongoing or closed on other grounds. Even where resolution plans were approved, the actual time taken was much longer than the statutory design: the average duration for resolved CIRPs was about 614 days overall, and for the set of cases resolved in 2022–23, the average crossed 800 days, far beyond the outer limit of 330 days. As per latest IBBI data (June 30, 2025), of 6,587 closed CIRP cases, liquidation dominated at 43% (2,824 cases), followed by approved plans at 19% (1,258), highlighting persistent delays and low resolution rates despite timelines.[5] To me, these numbers feel less like an exception and more like a warning sign about how CIRP is actually operating. These figures confirm that delay and liquidation-heavy outcomes are not isolated problems, but a structural feature of how CIRP has been working in practice.

Operational creditors and MSMEs often found themselves in a weak position. They usually had no voting rights in the CoC and sometimes received very small recoveries, which raised questions about fairness and the sustainability of supply chains around distressed companies.

C. ROLE OF KEY JUDGMENTS

Early Supreme Court decisions supported a strict, rule-based reading of the Code. In *Innoventive Industries*, the Court held that NCLT's role at admission is limited to checking whether default has occurred and whether the application is complete, reinforcing a mechanical, default-triggered entry. In *Swiss Ribbons Pvt. Ltd. v. Union of India*[6], the Court upheld the distinction between financial and operational creditors and the central role of the CoC, while emphasising that the process must remain fair and non-arbitrary. In *Committee of*

[4] Insolvency and Bankruptcy Code, 2016, s 53.
[5] Insolvency and Bankruptcy Board of India (data as of 30 June 2025) cited in PRS Legislative Research, The Insolvency and Bankruptcy Code (Amendment) Bill, 2025.
[6] (2019) 4 SCC 17.

Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta[7], the Court stressed that the CoC's "commercial wisdom" in evaluating resolution plans should normally not be second-guessed by courts, except on limited grounds.

Later decisions complicated this picture. *Vidarbha Industries* allowed NCLTs to refuse admission even if default was proven, based on broader considerations such as pending appeals that might improve the debtor's position. *Rainbow Papers* interpreted statutory dues as secured debt in certain contexts, creating uncertainty about how government claims fit into the liquidation waterfall. These decisions suggested that the Code's core principles automatic admission on default and a clear priority structure were more fragile than initially thought.

Overall, these decisions show a clear shift in how admission was understood before and after *Vidarbha*. Before *Vidarbha*, most readers of the Code saw Sections 7 and 9 as creating a straightforward, default-based test: once a financial debt and a clear default were shown on the record, and the paperwork was complete, NCLTs were expected to admit the case, with only limited grounds to refuse. *Vidarbha* disturbed this position by reading the word "may" in Section 7(5)(a)[8] as giving NCLTs broad discretion to deny admission even where default was established, based on a wider assessment of the debtor's situation.

Later benches, however, tried to confine *Vidarbha* to its specific facts and once again stressed a more automatic, default-triggered approach, relying on *Innoventive* and warning tribunals not to turn admission into a mini-trial on merits. The 2026 Amendment, by hard-wiring a default-centric trigger and tying it closely to IU records, can be read as reinforcing this "course-correction", while on the other hand creating new worries about whether debtors, especially smaller ones, will have a real chance to contest IU data at the threshold.

D. IDENTIFIED LEGAL GAPS

Writers and policymakers have pointed out that, even before the 2026 changes, the CIRP model under the IBC had some clear weaknesses.

First, there was an **admission gap**. After the decision in *Vidarbha*, NCLTs were no longer bound to admit a Section 7 application simply because a default was proved and the paperwork

[7] (2020) 8 SCC 531.
[8] Insolvency and Bankruptcy Code, 2016, s 7(5)(a).

was complete. This took away the earlier, almost automatic rule for admission and made the entry into CIRP less predictable for creditors and debtors.

Secondly, there was a **priority gap**. The ruling in *Rainbow Papers* created confusion about where government dues should stand in the liquidation waterfall when compared to secured creditors. This uncertainty about the ranking of claims understandably worried financial lenders.

Thirdly, there was a **participation gap**. Operational creditors and MSMEs, who are directly affected by insolvency, had very limited say in the decision-making process. In most cases they were not part of the Committee of Creditors and could not influence the final outcome, even when their own recoveries were at stake.

Finally, there was a **performance gap**. Although the Code laid down strict timelines for completing CIRP, in practice many cases took much longer and the results, in terms of actual resolutions, often did not match the expectations created by the statute.

These four gaps are the backdrop against which the 2026 amendment has to be understood.

THE INSOLVENCY & BANKRUPTCY CODE (AMENDMENT) ACT, 2026: WHAT CHANGES FOR CIRP?

A. LEGISLATIVE INTENT

The Insolvency and Bankruptcy Code (Amendment) Act, 2026 responds to nine years of CIRP implementation challenges identified in *Vidarbha* (admission discretion) and *Rainbow Papers* (government dues priority). The Select Committee Report (17 December 2025), after 23 sittings, 29 stakeholder depositions (IBBI, NCLT, CII, SBI), and 394 suggestions, affirmed Parliament's original intent for mandatory default-based admission, consensual security interest only (excluding statutory charges), and CIIRP for MSMEs to reduce delays (average 614 days), boost resolutions (19% rate), and restore creditor primacy while incorporating global best practices. This parliamentary scrutiny overruled judicial expansions, hard-wiring *Innoventive's* mechanical admission standard.[9]

[9] Lok Sabha Secretariat, Report of the Select Committee on the Insolvency and Bankruptcy Code (Amendment) Bill, 2025* (HC 2025, SCIBC No 01) Ch I, paras 1.3-1.6, Ch II clause 2, 4 [pages 1-19, 46-52] accessed 17 April 2026 [file:289].

B. ADMISSION: FROM DISCRETION TO OBLIGATION

The amendment amends the admission provisions for financial and operational creditor applications so that NCLT must admit an application if three conditions are met:

1. There is a default above the prescribed threshold.

2. The application is complete in terms of required documents and details.

3. There is no disciplinary proceeding pending against the proposed insolvency professional.

The tribunal is required to pass an admission order within fourteen days or record reasons for any delay. This language is widely seen as reversing *Vidarbha* by narrowing NCLT's discretion and re-establishing the default-based admission standard.

The amendment also strengthens the role of Information Utilities. IU records of default become the primary or conclusive proof for admission, reducing debate at the threshold.

C. CREDITOR-INITIATED INSOLVENCY RESOLUTION PROCESS (CIIRP): A NEW ROUTE FOR CERTAIN CREDITORS

The Creditor-Initiated Insolvency Resolution Process (CIIRP) is introduced as a parallel track for specified financial creditors, such as regulated financial institutions notified by the government. CIIRP allows these creditors and the debtor to commence a structured resolution process without immediately going through the full CIRP machinery, while retaining features such as an insolvency professional and defined timelines. CIIRP is designed to be faster (with an outer limit around 150 days plus a short extension), and if it does not succeed, the case can be converted into regular CIRP. Commentators present it as a tool to allow sophisticated creditors to engineer quicker restructurings, while still operating under IBC discipline. However, CIIRP is not open to operational creditors, and its detailed rules on the participation of other stakeholders are still evolving.

D. WITHDRAWAL AND COC-SUPERVISED LIQUIDATION

The amendment tightens the withdrawal of CIRP after admission, building on Section 12A. It requires a higher voting threshold in the CoC and stricter timing and procedural conditions to approve withdrawal, with the stated objective of preventing misuse of CIRP as a pressure tactic or bargaining chip. Liquidation is reshaped to give the CoC a more proactive role. The CoC can recommend the appointment or replacement of the liquidator and supervise key decisions, while the law introduces firmer timelines to complete the liquidation process.

E. GOVERNMENT DUES IN THE WATERFALL

The amendment clarifies that statutory dues owed to the government and local authorities do not automatically become secured debt merely because a law creates a charge, unless there is a security interest that meets the IBC's definition. This clarification effectively re-positions government dues below secured creditors in the Section 53 waterfall, addressing the uncertainty arising from *Rainbow Papers* and aligning more closely with international insolvency norms.

WHAT GAPS REMAIN OR EMERGE AFTER THE AMENDMENT?

The amendments discussed in the previous part clearly fix some doctrinal issues from earlier, especially on admission and government dues ranking. However, they create or leave open a new set of issues. This part highlights the main areas where concerns still arise.

A. ADMISSION AND INFORMATION UTILITY (IU) DATA: SPEED VERSUS FAIRNESS

Making admission mandatory within fourteen days and relying heavily on Information Utility (IU) records is clearly aimed at making CIRP faster and more predictable. Yet, this approach raises important concerns. Many smaller companies, and even some larger ones, may not have complete or updated information with IUs because of cost, lack of awareness, or the gradual pace at which IU usage has spread in the market.

If such IU records are treated as conclusive proof of default, these debtors can find themselves pushed into CIRP very quickly, with little practical opportunity to challenge errors in the data.

In other words, a company could end up in CIRP because of a wrong or outdated entry, before it even understands what exactly has gone wrong on the IU portal.

NCLTs are also already burdened with heavy dockets. To meet the new fourteen-day deadline, benches may feel compelled to lean almost entirely on IU records, which further cuts down the room to examine genuine objections. But relying so heavily on IU data, especially with such tight 14-day deadlines, means smaller debtors might not get a real chance to fix mistakes in their records. While the objective is to ensure speed and certainty in the process, the practical reality may be different for smaller or less sophisticated debtors. They may not always have the resources or awareness to keep such records accurate or to challenge them effectively within a limited time. In my view, this creates a situation where procedural efficiency may come at the cost of meaningful participation, particularly for those who are already at a disadvantage.

B. CREDITOR-INITIATED INSOLVENCY RESOLUTION PROCESS (CIIRP): EFFICIENT FOR SOME, EXCLUSIVE FOR OTHERS

The new Creditor-Initiated Insolvency Resolution Process (CIIRP) gives specified financial creditors a potentially very useful instrument to negotiate restructurings in a structured but more flexible way than full CIRP. The drawback is that only notified financial institutions can start CIIRP; operational creditors and most MSMEs have no direct access to this route and limited say in how it is conducted. The PRS brief similarly notes this limitation to 'select financial institutions specified by the central government', potentially prioritising certain creditors. This further entrenches the hierarchy between financial and operational creditors that the Supreme Court accepted in *Swiss Ribbons*, but which has been widely criticized in academic writing.

If, in practice, CIIRP becomes the favoured pathway in large cases, smaller stakeholders may be reduced to spectators. They may learn of the process and its terms only after the main bargaining is over. The design of CIIRP appears to favour certain creditors, particularly financial creditors who are better positioned to initiate and control the process. While this may improve coordination and reduce delays, it also raises concerns about inclusivity. Operational creditors and MSMEs may find themselves with limited influence, even when their interests are significantly affected.

It can be argued that the framework, in its current form, does not fully balance efficiency with fairness, and risks sidelining stakeholders who are equally impacted by the outcome. In my view, the current framework does not adequately balance efficiency with fairness, particularly when operational creditors and MSMEs remain largely excluded from meaningful participation.

From a student's perspective, I find this especially worrying for MSMEs that already struggle with information and bargaining power.

C. COMMITTEE OF CREDITORS (COC) LED LIQUIDATION: CONCENTRATED POWER AND EQUALITY CONCERNS

After the amendment, the Committee of Creditors is not central only at the resolution stage; it also plays a key role in liquidation. This can certainly help in making commercial decisions faster such as whether to sell the business as a going concern or in parts and may improve realizations. But it also means that concentrated decision-making power lies with secured financial creditors, while other affected parties such as operational creditors, employees and government departments have much weaker voices.

Choices about how to structure the sale, which bids to entertain, and how aggressively to pursue recoveries can produce very different outcomes for different groups. If these choices are made by a body in which some stakeholders have almost no representation, and there are no clear transparency standards or meaningful, albeit limited, judicial review for manifest unfairness, liquidation outcomes can systematically favour the majority group in the CoC. This may also raise concerns under Article 14 particularly in relation to arbitrariness and the basic requirement of fairness that underpins natural justice. In other words, even if the process is formally compliant with the statute, the underlying distribution of voice and benefit may still be unequal in a way that constitutional law should take seriously.

D. NARROWER WITHDRAWAL AND SETTLEMENT SPACE

The tightening of withdrawal rules after admission responds to a real worry: that some parties were using CIRP mainly as leverage to extract better terms and then settling out. However, it is equally true that early settlements are often the most efficient outcome in insolvency. This echoes PRS concerns that narrowing the withdrawal window – now only after CoC constitution and before first resolution plan invitation, requiring 90% approval – discourages early out-of-court settlements, which accounted for 18% of closures.[10] They can preserve jobs, protect

[10] PRS Legislative Research, The Insolvency and Bankruptcy Code (Amendment) Bill, 2025: Legislative Brief (12 August 2025).

business relationships, and reduce the overall cost of distress.

If the law and practice make it too hard to withdraw even when a genuine, value-enhancing settlement is available, parties may be forced to stay in CIRP longer than necessary. This can destroy value rather than preserve it, and increase transaction costs for all involved. The current framework does not clearly distinguish between opportunistic withdrawals that should be discouraged and bona fide settlements that should be encouraged. That lack of nuance is itself a legal gap.

E. INSTITUTIONAL CAPACITY AND THE IMPLEMENTATION GAP

Finally, the impact of these legal changes cannot be understood without looking at institutional capacity. NCLTs, insolvency professionals and IUs are the pillars on which CIRP rests. Over time, more benches have been added and familiarity with the IBC has improved, but official data and commentary still point to significant pendency at NCLTs and uneven adoption and data quality in IUs.

In such a setting, a statutory fourteen-day admission limit may often remain more of an aspiration than a reality. Similarly, if IU usage is patchy or creditors are slow in filing information, granting conclusive evidentiary value to IU records can become problematic. In simple terms, there is still an "implementation gap" between what the amended Code says and what the institutions administering it are currently capable of delivering. That gap must be acknowledged if the assessment of "IBC 2.0" is to be realistic rather than purely on paper. From what I've seen in IBBI reports and NCLT orders, this institutional weakness is actually the biggest hurdle to making IBC reforms work in practice.

CONCLUSION AND SUGGESTIONS

A. CONCLUSIONS

This paper has looked at the 2026 IBC amendment against nine years of actual experience with CIRP. The discussion shows Parliament trying to tackle some of the biggest problems that had cropped up: the uncertainty after *Vidarbha* about when NCLTs should admit cases, the confusion from *Rainbow Papers* over government dues in the waterfall, and the ongoing frustration with cases dragging far beyond timelines and patchy use of Information Utilities. By bringing back a clear default-based admission rule, fixing the position of government claims, and giving IUs a stronger evidentiary role, the amendment definitely sharpens the doctrinal edges and goes back to many of the Code's original ideas.

But the analysis here also shows that "IBC 2.0" is not just about fixing old gaps it's opened up new tensions too. Mandatory admission driven by IU records can create real due-process problems for debtors, especially smaller ones who may not get a proper chance to correct data errors in time. CIIRP hands certain financial creditors a fast-track restructuring option, but operational creditors and MSMEs are left watching from the sidelines. CoC-led liquidation and stricter withdrawal rules address genuine issues of delay and abuse, yet they also concentrate power further with majority creditors and can squeeze out sensible settlements unless transparency and some judicial oversight are built in.

What follows from all this is that the 2026 amendment is a necessary step forward, but nowhere near a complete answer. It clears up important ambiguities and should boost creditor confidence, but it won't automatically make CIRP both consistently fast *and* fair. That depends on how NCLTs, insolvency professionals, creditors, and IUs actually handle these new rules day-to-day, and whether regulators step in with safeguards for IU data, more inclusive processes for weaker stakeholders, and stronger institutional capacity. In that sense, we should treat this amendment not as a final solution but as the starting point for the next round of debate about what India's insolvency system should really look like.

B. SUGGESTIONS

On the basis of the discussion above, a few focused changes can be suggested to deal with the remaining gaps, without disturbing the core gains of the 2026 amendment.

1. Safeguards for IU-based admission

If IU records are going to play such a central role at the admission stage, the Code and regulations should clearly spell out how a debtor can challenge or correct those records. There should be fixed timelines for IUs and NCLTs to consider such objections, and admission based mainly on IU data should only happen after the debtor has been given proper notice and an effective opportunity to point out errors or gaps in the record.

2. Making CIIRP more inclusive

CIIRP is useful, but at present it is almost entirely in the hands of selected financial creditors.

At minimum, significant operational creditors especially those with large claims or who provide essential supplies—should receive information about the process and have limited participation rights. The law should also require a basic level of disclosure and fair treatment in CIIRP, on the same lines as full CIRP, so that other stakeholders are not completely sidelined.

3. Introducing checks and transparency in CoC-led liquidation

Where liquidation is conducted under the close supervision of the CoC, some transparency and control mechanisms are necessary. Important documents such as valuation reports, the overall liquidation strategy and major decisions approved by the CoC should be placed on record, subject to reasonable confidentiality protections. In exceptional cases of obvious discrimination or plainly irrational decisions, NCLTs should be able to step in and correct the outcome.

4. Balancing withdrawal and settlement

The law should draw a clearer line between abusive withdrawals and genuine settlements. Guidelines can be framed which require NCLTs and CoCs to look at factors like the timing of the settlement, its impact on non-consenting creditors and the proportion of payment. For early-stage withdrawals where prejudice to the creditor body is minimal, a more flexible voting threshold or a different rule could be considered.

5. Strengthening institutions and monitoring outcomes

Finally, any legal reform will only work as well as the institutions that implement it. There is a continuing need to improve NCLT infrastructure, add benches, invest in training and technology, and encourage more consistent and timely use of IUs across lenders. Regular, publicly available studies should also be commissioned to track how the amendment is affecting timelines, resolution rates and recoveries, so that further changes can be based on evidence rather than guesswork.

While the recent changes aim to address delays and improve the overall functioning of the insolvency process, their impact will depend on how they operate in practice. A more nuanced approach would be desirable one that retains efficiency while ensuring that fairness and accessibility are not compromised. To me, the real issue is not just law, but how institutions actually function. That is something I have seen repeatedly while reading NCLT orders and IBBI reports.

In practice, this could create difficulties for smaller stakeholders who are not equally equipped to navigate the process, and this concern deserves closer attention going forward.