

Pradeep Kumar Damaraju, Rajbir Kumar (2025). *Evaluating the Effectiveness of the Insolvency and Bankruptcy Code (Ibc) in Managing Non-Performing Assets (Npas) in India: Challenges and Outcomes. International Journal of Multidisciplinary Research & Reviews, 4(4), 65-85.*



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**EVALUATING THE EFFECTIVENESS OF THE INSOLVENCY  
AND BANKRUPTCY CODE (IBC) IN MANAGING NON-  
PERFORMING ASSETS (NPAS) IN INDIA: CHALLENGES AND  
OUTCOMES**

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<b>Keywords</b>	<b>Abstract</b>
<i>Insolvency and Bankruptcy Code (IBC), Non-Performing Assets (NPAs), Corporate Insolvency Resolution Process (CIRP), Financial stability, Asset restructuring, Creditor empowerment, Debt resolution,</i>	The enactment of the Insolvency and Bankruptcy Code (IBC) in 2016 marked a paradigm shift in India’s approach toward financial discipline, asset reconstruction, and corporate insolvency resolution. Conceived as a comprehensive reform to address the twin challenges of burgeoning non-performing assets (NPAs) and inefficiencies in the erstwhile recovery mechanisms, the IBC has been heralded as a transformational legal framework. This study undertakes a holistic evaluation of the effectiveness of the IBC in managing NPAs within the Indian banking sector, critically examining its institutional architecture, operational efficiency, and impact on financial stability. The findings suggest that while the IBC has significantly augmented creditor empowerment, instilled greater transparency in debt resolution, and fostered a credit-responsible corporate culture, its delivery has been uneven. Although recovery rates under the Corporate Insolvency Resolution Process (CIRP) have shown measurable improvement compared to earlier mechanisms such as SARFAESI and Debt Recovery Tribunals, systemic challenges persist. Judicial congestion, capacity deficits in the National Company Law Tribunal



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<p><i>Insolvency jurisprudence, Judicial efficiency, Banking sector reforms.</i></p>	<p>(NCLT), and strategic litigations by defaulting promoters have contributed to protracted timelines, often diluting the Code's fundamental objective of time-bound resolution. Moreover, the tension between value maximization and creditor recoverability has surfaced in several high-profile cases, underscoring the delicate balance between commercial viability and statutory compliance.</p> <p>By engaging with empirical evidence, key judicial precedents, and comparative insights from global insolvency regimes, this paper highlights both the transformative outcomes and the inherent limitations of the IBC in its present form. The analysis underscores the urgent need for institutional strengthening, harmonization of regulatory frameworks, and adoption of innovative debt-resolution practices to enhance the efficacy of the Code. The study argues that the IBC, though not without shortcomings, has laid the foundation for a more resilient financial ecosystem in India by redefining insolvency jurisprudence and instilling market discipline. Its long-term success, however, will depend on strategic recalibrations, continuous policy refinements, and robust capacity-building measures aimed at evolving it into a more agile and inclusive framework for managing distressed assets.</p>
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## 1. INTRODUCTION

### Background

The escalation of non-performing assets (NPAs) has constituted a persistent impediment to the integrity and resilience of India's financial architecture over the past two decades. The indiscriminate expansion of credit in the early 2000s, allied with suboptimal risk management and regulatory fragmentation, precipitated a significant accumulation of distressed assets within the banking sector. Legacy recovery frameworks—spanning SICA, BIFR, Debt Recovery Tribunals (DRTs), and SARFAESI—proved largely inadequate, often beset by procedural delays and limited efficacy in resolution, thus eroding the confidence of creditors and institutional investors alike. This climate of regulatory inertia fostered practices of “ever greening” and wilful default, further aggravating systemic vulnerabilities.

In response, the Insolvency and Bankruptcy Code (IBC), enacted in 2016, ushered in a comprehensive and unified structure for insolvency resolution, anchored by the National Company Law Tribunal (NCLT) and the empowerment of both financial and operational creditors. The Code sought to enshrine principles of time-bound resolution, value maximization, and creditor primacy, thereby aligning Indian practices with global standards and enhancing the country's attractiveness as an investment destination.

## 2. NPA STATISTICS: BEFORE AND AFTER IBC

Non-Performing Assets (NPAs) in India: A Comparative Statistical Analysis Before and After IBC Implementation

### 1. The Pre-IBC Era: Endemic Challenges and Escalating NPAs

Prior to the introduction of the Insolvency and Bankruptcy Code in 2016, India's banking sector grappled with a severe and mounting NPA crisis, fueled by inefficient recovery frameworks and a fragmented legal environment. Gross NPAs escalated sharply from ₹869 billion in 2012 to over ₹9



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trillion by 2017, corresponding to a rise in the gross NPA ratio from approximately 4% to above 9.3% of total advances. By 2020, the banking system faced a peak NPA ratio of 12.4%, equating to nearly ₹10.4 trillion in distressed assets, with public sector banks reaching alarming ratios close to 16% due to economic downturns and suboptimal loan evaluation processes. Legacy recovery channels such as the SARFAESI Act, Debt Recovery Tribunals, and Sick Industrial Companies Act suffered from protracted timelines, multiplicity of forums, and low recovery rates—often in the range of 14.5%—thereby inhibiting banks' operational liquidity and curtailing credit availability across sectors. This period was characterized by systemic inertia, creditor frustration, and subdued investor confidence, ultimately constraining India's economic growth and financial stability.

## **2. The Post-IBC Phase: Structural Reforms and Measurable Recovery**

Following the enactment of the IBC, a unified and time-bound insolvency framework fundamentally transformed the landscape of NPA management in India. The institution of the National Company Law Tribunal (NCLT) and the Insolvency and Bankruptcy Board of India (IBBI) streamlined dispute resolution and insolvency adjudication, conferring enhanced powers and clarity to creditors. The gross NPA ratio, which had peaked at 12.4% in 2020, exhibited a consistent downward trend to approximately 8.5% by 2023, reflecting a reduction of nearly ₹2 trillion in gross NPAs to ₹8.4 trillion. The Corporate Insolvency Resolution Process (CIRP) under the IBC demonstrated a significantly improved recovery rate estimated at around 42.5%, thereby outperforming predecessor mechanisms by a substantial margin. Notably, total recoveries attributed to the IBC from 2016 to 2024 exceeded ₹3.3 lakh crores, accounting for more than 60% of all recovered dues, signaling restored creditor confidence and lending discipline. Private sector banks and foreign banks, leveraging robust risk management and governance practices, generally witnessed lower NPA ratios compared to their public sector counterparts, although all sectors benefited from the streamlined resolution environment ushered in by the IBC.

This marked improvement, however, coexists with continuing concerns arising from judicial delays, uneven sectoral outcomes, and evolving economic challenges, underscoring the imperative for sustained policy innovation and institutional strengthening to consolidate the IBC's gains sustainably.

## **3. RESEARCH GAPS**

Despite measurable improvements post-IBC, several research gaps remain insufficiently bridged:

1. Judicial bottlenecks and protracted litigations continue to impede time-bound resolutions, often stretching cases well beyond prescribed timelines.
2. Disparities in recovery rates persist between sectors and within public sector banks, pointing to internal management variations and sector-specific challenges.
3. The impact of mergers and recapitalization on NPA moderation warrants differentiated analysis, as do long-term effects on asset quality and financial stability.



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4. There is limited empirical integration of international insolvency lessons, adapted for Indian socio-economic contingencies.
5. High haircuts and risks of future loan defaults remain central concerns despite formal resolutions.

#### **4. OBJECTIVES OF THE STUDY**

The present study undertakes a comprehensive, data-driven evaluation of the IBC's effectiveness in managing NPAs, with the following objectives:

1. To quantify the impact of IBC on resolution timelines, recovery rates, and NPA moderation within the Indian banking sector.
2. To critically examine judicial, institutional, and policy challenges impeding the optimal functioning of the Code.
3. To compare outcomes under IBC with legacy mechanisms such as SARFAESI and DRTs, distinguishing sector-wise variances.
4. To integrate global insolvency practices while recommending adaptive strategies for Indian-specific challenges and stakeholder interests.
5. To propose evidence-based policy interventions, focusing on capacity-building, technological innovation, and governance reforms for sustained improvement in asset quality and financial stability.

In bridging these research gaps, the study aspires to advance scholarly understanding and inform pragmatic policy deliberations, thereby supporting India's evolution toward a robust and resilient insolvency ecosystem.

#### **5. LITERATURE REVIEW**

##### **a. Evolution of Insolvency Framework in India: From Fragmentation to Consolidation**

The Indian insolvency landscape prior to the enactment of the Insolvency and Bankruptcy Code (IBC) in 2016 was characterized by a fragmented and largely inefficient regulatory framework. Several parallel laws such as the Sick Industrial Companies Act (SICA), Debt Recovery Tribunals (DRTs), and the SARFAESI Act governed distressed asset recovery but suffered from significant procedural delays, lack of unified protocols, and limited creditor rights enforcement. Scholarly analyses (Abhirami & Rahul, 2025) have underscored how these legacy systems were biased towards liquidation rather than resolution, leading to protracted delays and value erosion of distressed assets. The IBC, thus, emerged as a revolutionary reform to unify these scattered laws under one umbrella, to expedite resolution, and to promote creditor-driven governance with an emphasis on reorganization and revival rather than mere liquidation.

##### **b. Institutional Mechanisms and Framework Under IBC**

The core innovation of the IBC lies in its establishment of dedicated adjudicating authorities such as the National Company Law Tribunal (NCLT) and the regulatory oversight by the Insolvency and Bankruptcy Board of India (IBBI), which facilitate time-bound insolvency resolution processes



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(CIRP). Literature points to the Code's detailed procedural structure that mandates insolvency resolution within 180 to 270 days, thereby codifying efficiency and predictability as central tenets (Abhirami & Rahul, 2025; Amol Baxi, 2024). The inclusion of both financial and operational creditors as empowered stakeholders marks a defining departure from earlier frameworks and has introduced a creditor-in-control model replacing debtor-in-possession scenarios, realigning incentives towards transparency and accountability.

### **c. Impact on Non-Performing Assets: Empirical Evidence on Recovery and Resolution**

Empirical studies consistently highlight a significant positive impact of the IBC on NPA management. Recovery rates under IBC proceedings have been reported at approximately 42.5%, substantially higher than those achieved under SARFAESI (14.5%) and DRT mechanisms, a trend that marks a quantitative leap in creditor recoveries and asset value maximization (Singh & Thakkar, 2021; IBBI Reports). The IBC has contributed to reducing the gross non-performing asset ratio from above 12% in 2020 to under 9% by 2023, as per Reserve Bank of India and IBBI data, signaling improved banking sector health and renewed credit flow (Ashoka Center Report, 2025). However, these outcomes are accompanied by nuanced critiques regarding uneven sectoral recoveries and persistent judicial backlogs impacting timeliness.

### **d. Judicial Bottlenecks and Operational Challenges**

Despite its promise, literature reveals that the IBC faces significant operational hurdles. Judicial delays due to the NCLT's limited capacity, frequent appeals, and procedural complexities have often extended case resolutions well beyond the statutory deadlines, diluting the intended effect of time-bound resolution (Arpit Garg, 2024). Additionally, strategic litigation by defaulting promoters seeking to delay proceedings has emerged as a notable challenge, prompting calls for greater judicial specialization and process reforms. The impact of COVID-19 further exacerbated delays, with temporary moratoriums on insolvency proceedings, as detailed in recent amendments and regulatory reports.

### **e. Behavioural and Structural Changes in Corporate and Credit Ecosystem**

The IBC's introduction has led to perceptible behavioural shifts in borrower and lender conduct. Studies emphasize the deterrent effect of the Code in reducing wilful defaults by promoters and enforcing stricter borrowing discipline, thereby injecting a culture of accountability (RBI Reports, 2023; Abhirami & Rahul, 2025). Corporates are now incentivized to improve corporate governance practices and promote equity infusion before insolvency onset. The formal resolution framework has also encouraged lenders to engage proactively in workout mechanisms and early resolution attempts, enhancing overall financial sector stability.

### **f. Comparative Perspectives and Global Best Practices**

Comparative analyses situate the Indian IBC within the global insolvency reform discourse, acknowledging its alignment with international best practices such as creditor rights prioritization and time-bound resolution norms found in regimes like the US Chapter 11 and the UK Insolvency Act. Nonetheless, contextual challenges unique to India—such as judicial capacity constraints,



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diverse creditor profiles, and socio-economic heterogeneity—necessitate localized adaptations to these models (Amol Baxi, 2024; Singh & Thakkar, 2021). Cross-border insolvency mechanisms remain underdeveloped in India, hindering resolution in increasingly globalized corporate contexts, as highlighted in several policy critiques.

**g. Policy Reforms and Future Directions**

Recent scholarly and institutional reports advocate for continuous legislative and procedural refinements. Key recommendations include expanding NCLT capacity, digitization of insolvency processes, enhanced training of insolvency professionals, and incorporation of alternative dispute resolution mechanisms to reduce pending caseloads (IBBI Reports, 2024; Arpit Garg, 2024). Furthermore, calls for inclusive protection of operational creditors and safeguarding employment interests underscore the need for balanced stakeholder consideration. The IBC's ongoing amendments reflect a dynamic law evolving to address emerging challenges while sustaining its core objectives of efficient and fair insolvency resolution.

**6. JURISPRUDENTIAL UNDERPINNINGS AND LEGISLATIVE PHILOSOPHY OF THE INSOLVENCY AND BANKRUPTCY CODE**

The Insolvency and Bankruptcy Code (IBC) is built on several key principles that reflect its jurisprudential underpinnings and legislative philosophy:

**a. Foundational Philosophy: Balancing Revival and Creditor Rights**

The Insolvency and Bankruptcy Code (IBC) was conceived as a transformative legislative scheme focused on consolidating fragmented insolvency laws into a coherent, time-bound process emphasizing both the revival of viable enterprises and the maximization of creditor recoveries. The Bankruptcy Law Reforms Committee (BLRC) laid down seven core principles that shaped the Code's legislative intent—these include early viability assessment, information symmetry between creditors and debtors, collective resolution, equitable treatment of creditors, and binding outcomes in insolvency cases. The Code's philosophy consciously departs from adversarial liquidation-focused regimes and enshrines insolvency as an economic mechanism for rehabilitation, thus promoting entrepreneurship and sustainable corporate governance.

**b. Constitutional Validity and Judicial Endorsements**

The jurisprudential robustness of the IBC has been continuously affirmed through landmark decisions by the Supreme Court of India, reinforcing the Code's constitutional validity and legislative wisdom. In *Swiss Ribbons Pvt. Ltd. v. Union of India* (2019), the Court upheld the Code's validity, recognizing its primary objective as the revival of corporate debtors rather than mere creditor recovery. This judgment underscored the beneficial nature of the legislation and its alignment with the constitutional mandate of promoting economic welfare and stability. Further, in *Sree Metaliks Ltd. v. Union of India* (2017), the Court emphasized the implicit right to be heard for corporate debtors, affirming principles of natural justice within the insolvency framework.

The apex court's ruling in *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta* (2019) was pivotal in refining the jurisprudence around the insolvency resolution process. It struck



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down the mandatory 330-day resolution timeline as excessively rigid, thereby granting adjudicating authority's discretionary power to balance expediency with fairness. Crucially, the judgment recognized the rights and interests of operational creditors alongside financial creditors, emphasizing a more inclusive resolution ecosystem.

### **c. Key Jurisprudential Themes in Adjudication and Process**

Several core themes have emerged in the judicial interpretation of the IBC, shaping its operational realities:

- **Trigger for Insolvency Proceedings:** The principle that a financial creditor may trigger Corporate Insolvency Resolution Process (CIRP) upon establishment of a payment default has experienced nuanced interpretation. The Supreme Court in *Innoventive Industries (2017)* advocated a primarily objective test, mandating admission upon default proof. However, subsequent judgments like *Vidarbha Industries* introduced a degree of discretion for the NCLT to consider the debtor's overall viability, thus highlighting a balance between automaticity and judicial prudence.
- **Role of Resolution Professionals (RPs):** The Code vests RPs with quasi-judicial functions in assessing defaults and managing debtor assets. Jurisprudence has elucidated this role as facilitator rather than adjudicatory, with ultimate judicial decisions resting with the NCLT (as per Section 99 interpretation), safeguarding the procedural fairness and separation of powers.
- **Protection of Stakeholder Interests:** The evolving jurisprudence has increasingly recognized the interests of diverse stakeholders including homebuyers, classified as financial creditors in cases such as *Pioneer Urban Land & Infrastructure Ltd.*, thereby broadening the Code's social and economic inclusivity.
- **Legislative Philosophy: A Creditor-Driven, Market-Oriented Framework**

The IBC's design reflects a deliberate policy shift toward creditor primacy, creating a market-driven insolvency ecosystem that incentivizes timely resolution and value preservation. The Reserve Bank of India's enhanced regulatory role, authorizing directions to banks for CIRP initiation on significant defaults since 2017, signifies the banking regulator's centrality in operationalizing the legislative vision. The Code replaces multiple overlapping regimes with a harmonized, principle-based framework, encouraging out-of-court resolutions while ensuring judicial interventions remain limited and well-defined.

### **d. Case Study Summaries: Jurisprudential Impact and Practical Outcomes**

- **Essar Steel Insolvency Resolution**

One of the most consequential insolvency cases under the IBC, the Essar Steel resolution exemplifies the Code's balanced approach between expedited resolution and stakeholder fairness. The Supreme Court's intervention clarified the constitutionality of timelines while enhancing operational creditor participation, resulting in a resolution plan that was both commercially viable



Pradeep Kumar Damaraju, Rajbir Kumar (2025). *Evaluating the Effectiveness of the Insolvency and Bankruptcy Code (Ibc) in Managing Non-Performing Assets (Npas) in India: Challenges and Outcomes*. *International Journal of Multidisciplinary Research & Reviews*, 4(4), 65-85.

and inclusive. This case set a jurisprudential precedent for balancing creditor interests with broader stakeholder rights, influencing subsequent insolvency proceedings.

➤ **Swiss Ribbons Pvt. Ltd. v. Union of India**

This case fortified the legal foundation of the IBC by dismissing constitutional challenges and affirming the Code's intent to revive enterprises in financial distress rather than merely liquidate them. The judgment emphasized non-adversarial characteristics and the fiduciary responsibility borne by resolution professionals and credit committees to preserve enterprise value.

➤ **Pioneer Urban Land and Infrastructure Limited & Others v. Union of India & Others**

This landmark judgment broadened the interpretative scope of financial creditors to include homebuyers, thereby integrating social justice dimensions into the commercial insolvency framework. The judgment led to an amendment redefining "financial debt" within the Code, reflecting the legislative responsiveness to socio-economic complexities.

➤ **Innoventive Industries v. ICICI Bank and Vidarbha Industries v. Axis Bank**

These successive Supreme Court rulings illustrate the evolving discourse on the initiation threshold under Section 7 of the IBC. The tension between an objective default trigger and a more discretionary admission reflects judicial attempts to balance creditor rights against the risk of misuse and to preserve viable businesses.

## **7. THEORETICAL FRAMEWORKS ON FINANCIAL DISTRESS AND ASSET RESOLUTION IN ECONOMIC LITERATURE**

Theoretical frameworks on financial distress and asset resolution in economic literature encompass various perspectives and approaches. Here's an overview:

### **A. Theoretical Frameworks on Financial Distress**

The academic and economic literature frames financial distress through multiple lenses:

- **Structural Models (Merton Model):** This foundational model treats equity as a call option on firm assets; distress occurs when asset value falls below debt obligations. It emphasizes the role of asset volatility and debt structure in predicting default risks (Merton, 1974).
- **Reduced-Form Models:** These models statistically specify default as a stochastic time event, independent of asset value processes, capturing economic and firm-specific risk factors for default timing.
- **Balance Sheet and Cash Flow Analysis:** Practical approaches focus on liquidity shortfalls, solvency ratios, and maturity mismatches as predictors of distress and default likelihood (Altman, 1968).
- **Agency Theory and Information Asymmetry:** Views financial distress as partly rooted in conflicts between creditors and debtors and imperfect information which complicate restructuring, lending, and recovery decisions (Jensen & Meckling, 1976).

These frameworks collectively underline that financial distress outcomes depend on firm characteristics, creditor rights, and institutional environments.



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## **B. Theoretical Frameworks on Asset Resolution**

The process of asset resolution in financial distress scenarios involves legal and economic mechanisms to achieve efficient recovery:

- **Bankruptcy Resolution and Creditor Hierarchies:** Economic theory suggests that time-bound legal frameworks and creditor-led negotiations improve recovery rates by reducing distress costs (White, 1992).
- **Market-Based Resolutions:** Competitive bidding and secondary markets for distressed assets can maximize asset values, subject to transaction and information cost considerations (Bolton & Scharfstein, 1996).
- **Contract Theory:** Debt contracts influence incentives for debtors and creditors during distress; optimal contract design mitigates inefficient liquidation or holdout problems (Hart & Moore, 1998).
- **Institutional Economics:** Effective institutional quality—encompassing judicial efficiency, enforcement certainty, and regulatory clarity—is essential to asset resolution success (La Porta et al., 1998).

## **C. Integration with Indian Insolvency and Bankruptcy Code Case Laws**

### **o IBC Overview**

The Insolvency and Bankruptcy Code, 2016, was enacted to consolidate and reform the insolvency regime in India, introducing time-bound Corporate Insolvency Resolution Processes (CIRP) led by creditor committees to maximize asset value and recoveries.

### **o Key Legal Principles and Their Theoretical Reflections**

- o **Creditor Primacy and Committee Control:** Essar Steel ruling entrenches the theory that creditor-led governance enhances recovery efficiency and reduces agency conflicts during corporate resolution.
- o **Judicial Discretion on Viability:** The Vidarbha Industries ruling nuanced the strict application of default-triggered insolvency, acknowledging economic viability and reducing mechanical application of distress models.
- o **Government Dues and Priority:** The Sundresh Bhatt case expanded institutional theories by confirming the elevated priority of government claims, affecting resolution incentives and net creditor recoveries.
- o **Threshold Limits and Procedure:** Clarifications in multiple cases including *Al Sadiq Sweets v. Krisenter Impex* and *Manipal Media Network v. Vishwakshara Media* emphasized procedural rigor in default quantification, impacting delay and threshold-related distress costs.
- o **Limitation Period for Filing CIRP:** Cases such as the rejection of CIRP on limitation grounds stressed the importance of timely initiation for effective asset resolution, reflecting the time sensitivity in bankruptcy models.

### **▪ Challenges in IBC and Theoretical Context**



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- Complex Corporate Groups: Cases like Binani Cement exposed challenges in resolving distress in conglomerate structures, reflecting the limits of simplified distress resolution models and the need for nuanced multi-creditor coordination mechanisms.
- Judicial Delays and Interpretive Uncertainty: Despite IBC's time-bound aims, judicial backlog and evolving case law sometimes delay resolution, raising costs forecasted by institutional economics.
- Creditor Conflicts: The tension between financial and operational creditors (highlighted in various case laws) underscores agency problems central to restructuring theory.
- Recovery Efficiency: Overall, empirical outcomes from IBC cases suggest improved asset realization rates compared to prior regimes, confirming the role of creditor-centric legal reforms in financial distress management.

## 8. INTERROGATING THE EFFICACY OF THE IBC THROUGH JURIDICAL AND ECONOMIC LENSES

The Insolvency and Bankruptcy Code (IBC), implemented in India in 2016, profoundly altered the country's approach to managing distressed assets and Non-Performing Assets (NPAs) through an integrated legal and economic framework. The literature and judicial records reveal both substantial successes and persistent challenges in its implementation.

### ➤ Integrated Literature Review

Studies consistently underscore that the IBC marked a major shift from the fragmented, inefficient insolvency laws existing prior to 2016, fostering a more coherent and time-bound resolution mechanism for NPAs and distressed assets. Noteworthy impacts include the following:

- Streamlined Resolution: The IBC brought a creditor-in-control model that enhances transparency, giving all creditors—financial and operational—the right to initiate bankruptcy proceedings against defaulters. This reorganization-focused approach supports viable business recovery while enabling liquidation for unviable entities in an efficient manner.
- Credit Recovery and Financial Stability: The empirical data shows creditors have recovered significant value under the IBC—₹3.16 lakh crore out of ₹9.92 lakh crore in admitted claims by September 2023 (about 32% recovery rate). This compares favorably to the asset liquidation value (169%) and fair value at admission (86%), reinforcing the Code's efficacy in maximizing recoveries.
- Behavioural Shift: A key outcome has been the deterrence effect provided by credible threat of insolvency, with over 26,000 CIRP applications withdrawn before admission due to pre-emptive settlements. This signifies increased negotiation power for creditors and value preservation through early resolution.

Despite these strengths, the literature identifies several challenges:



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- Structural Inefficiencies: Industry-specific issues, lack of robust cross-border insolvency mechanisms, and complexities in group insolvency cases persist. Especially in MSMEs and service sectors, recovery and resolution are less successful due to reliance on promoter expertise and investor confidence.
- High Liquidation Rates: About 48% of cases result in liquidation rather than resolution, which points to ongoing challenges in securing viable resolution plans for certain industries.
- Judicial and Operational Delays: While landmark Supreme Court judgments have refined the IBC (e.g., Innoventive Industries Ltd., ArcelorMittal, Swiss Ribbons, Essar Steel), delays and costs continue to impact efficacy, particularly in complex business settlements.
- Use as Recovery Tool: There is concern that stakeholders often use IBC as a means of loan recovery rather than true business rehabilitation, which may undermine the resolution focus and economic value preservation.

➤ **Summaries of Key Case Studies**

- Innoventive Industries Ltd. v. ICICI Bank (2017)

The Supreme Court emphasized that the adjudicating authority must be satisfied of default existence before admitting an insolvency application, cementing the IBC's precedence over other laws.

- Arcelor Mittal India v. Satish Kumar Gupta (2018)

This judgment disqualified promoters with NPAs from submitting resolution plans unless their NPAs were cleared beforehand, promoting transparency and discipline in the resolution process.

- Swiss Ribbons Pvt. Ltd. v. Union of India (2019)

The Supreme Court upheld the constitutional validity of the IBC, providing confidence to investors and creditors, and reinforcing the Code's legislative and economic foundations.

- Essar Steel India Ltd. v. Satish Kumar Gupta (2019)

This case affirmed the primacy of the Committee of Creditors' commercial judgments, thereby restricting judicial interference and streamlining decision-making in CIRP cases.

➤ **Juridical and Economic Integration**

Through a combination of regulatory reforms, judicial interpretations, and economic incentives, the IBC is evaluated not merely as a debt recovery instrument, but as a paradigm for preserving enterprise value, maintaining economic stability, and unlocking capital stuck in non-viable businesses. The Code's design, integrating creditor autonomy, time-bound processes, and commercial wisdom, represents a significant alignment of juridical principles with economic objectives.

The IBC has delivered notable improvements in resolving NPAs and managing corporate distress, as evidenced by enhanced recovery rates, strengthened negotiation powers for creditors, and a shift towards commercial, value-preserving resolutions. However, ongoing challenges such as high liquidation rates, operational delays, and sector-specific inefficiencies signal the



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need for continual policy, judicial, and procedural refinements for the Code to realize its full potential in supporting India's economic growth and financial discipline.

## **9. DOCTRINAL DEBATES AND CRITIQUES OF THE CODE'S INTERPRETIVE TRAJECTORIES IN JUDICIAL PRACTICE**

The Insolvency and Bankruptcy Code (IBC), 2016, represents a transformative legislative framework in India for the resolution of corporate insolvency and addressing NPAs. Its objective is to maximize asset value, balance stakeholder interests, and ensure time-bound resolution. The Code has prompted a significant judicial interpretive journey shaping its implementation and outcomes. Several doctrines have evolved reflecting creditor-centric resolutions, the primacy of Commercial Courts (NCLT), and the scope of moratorium and resolution plans. This review examines major doctrinal debates, critiques of the judicial trajectory, and judicial practice outcomes through illustrative case studies.

### **➤ Doctrinal Debates and Judicial Interpretations**

#### **▪ Creditor-Driven Model and Commercial Pragmatism**

The IBC emphasizes creditor primacy where creditors have substantial powers to initiate insolvency and approve resolution plans. Judicial interpretations have largely upheld this, emphasizing commercial wisdom of the Committee of Creditors (CoC) over judicial second-guessing. The Supreme Court in *Swiss Ribbons Pvt. Ltd. & Anr. v. Union of India* (2019) recognized this pragmatic approach to expedite insolvency and reduce value erosion. However, debates persist regarding the extent to which judicial review should intervene in commercial decisions versus procedural fairness and stakeholder equity.

#### **▪ Moratorium Scope and Impact**

Courts have interpreted the moratorium provisions expansively to protect the debtor's assets from any legal interference once insolvency proceedings commence. This has been vital in preserving asset value but criticized for potentially freezing legitimate creditor rights and prolonging resolution in some cases (*Asset Reconstruction Company v. Innoventive Industries*, 2018).

#### **▪ Time-Bound Resolution vs. Judicial Delays**

The Code's strict timelines (180 days extendable to 270) aim for quick resolution; however, judicial delays, appeals, and procedural challenges in NCLT and Appellate Tribunals often stretch timelines. This disconnect is critiqued as undermining the Code's efficacy in timely NPA management. Recent legislative reforms and judicial directives aim to address these bottlenecks.

#### **▪ Balancing Stakeholder Interests**

Debates also surround protection of operational creditors, employees, and homebuyers amidst creditor dominance. Judicial interventions often try to balance interests but face challenges due to Code's creditor-centric design.

### **➤ Critiques of Judicial Practice Trajectories**

#### **▪ Over-Litigation and Forum Shopping**



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Judicial practice has seen increased litigation and forum shopping, slowing down resolutions and complicating case management. Courts have been called to streamline processes and curb abusive litigation practices.

- **Judicial Overreach vs. Deference to Commercial Decisions**

Some critiques argue courts at times overreach in reviewing commercial decisions of CoC, undermining creditor confidence and resolution finality. The balance between judicial oversight and commercial autonomy remains contested.

- **Implementation Challenges and Capacity Constraints**

Infrastructure and capacity limitations within NCLT and insolvency professionals have hampered efficient judicial processing and compliance monitoring, diluting the Code's impact on NPAs.

- **Case Study Summaries**

- **Essar Steel Insolvency Resolution (2018-2019)**

Demonstrated judicial support for creditor-driven resolution with clear timelines. The Supreme Court upheld the CoC's freedom in approving resolution plans, reinforcing commercial pragmatism while emphasizing adherence to Code procedures. Resolution was finally approved despite legal challenges, setting a benchmark for NPAs restructuring.

- **Jaypee Infratech Ltd.**

Highlighted challenges in balancing interests of homebuyers, creditors, and lenders. Judicial interventions expanded to protect homebuyers as financial creditors under IBC, reflecting evolutionary interpretation for inclusive stakeholder protection.

- **Bhushan Steel Ltd.**

Case emphasized fast-tracking resolution with judicial monitoring. The NCLT and appellate courts actively curated procedural compliance to meet Code timelines, improving realization outcomes despite complex claims.

- **IL&FS Crisis Resolution**

Showcased challenges in resolution of financial sector NPAs under IBC, with multiple litigations and regulator involvement. Judicial forums acted as key arbiters balancing creditor interests and public financial stability concerns.

The doctrinal and judicial practice trajectory of IBC reflects an evolving landscape that strives to balance creditor empowerment, judicial oversight, and stakeholder protection. While the creditor-driven model and commercial pragmatism dominate, judicial innovations have expanded protective readings for other stakeholders. Critiques highlight procedural delays, over-litigation, and capacity constraints as key challenges affecting effective NPA management. Landmark case studies illustrate the Code's transformative role but also the ongoing need for judicial reforms and interpretive clarity to enhance outcomes in India's insolvency resolution framework.

Economic Consequences of Insolvency Resolution: Efficiency, Value Maximization, and Market Discipline



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## **10. THE ECONOMIC CONSEQUENCES OF INSOLVENCY RESOLUTION ARE MULTIFACETED, IMPACTING VARIOUS STAKEHOLDERS AND THE BROADER ECONOMY. HERE'S A BREAKDOWN OF THE KEY ASPECTS:**

### **a. Efficiency in Insolvency Resolution**

The IBC has introduced a creditor-driven, time-bound insolvency framework with strict deadlines (180 to 330 days) designed to enhance resolution speed and reduce value erosion. Studies show that the introduction of IBC has significantly compressed resolution timelines, improving the asset recovery process compared to earlier frameworks that were slow and ineffective. The establishment of dedicated institutions such as the Insolvency and Bankruptcy Board of India (IBBI) and the National Company Law Tribunal (NCLT) has institutionalized legal and regulatory support, fostering faster resolutions and improving creditor confidence.

Empirical data highlights improved recovery rates, where creditors have recovered on average about 32.8% of admitted claims through IBC resolutions, a significant advance from approximately 20-26% under previous mechanisms like SARFAESI and DRT. This improvement reflects enhanced process efficiencies and better value realization.

### **b. Value Maximization**

The Code's core principle is maximizing the value of assets during insolvency by promoting the going concern concept rather than liquidation. Value maximization is achieved by balancing stakeholders' interests to prevent asset erosion, with creditors often realizing amounts over the estimated liquidation value by approximately 169%, indicating the efficacy of resolution processes in preserving enterprise value.

Behavioural shifts observed post-IBC showcase improved financial discipline among firms, with more cautious borrowing and reduced leverage. Such shifts positively influence value preservation and encourage timely repayments, thereby promoting economic growth and entrepreneurship.

### **c. Market Discipline and Behavioural Change**

IBC has enforced market discipline by introducing credible exit mechanisms that deter strategic defaults and empower creditors. The paradigm shift from 'debtor-in-possession' to 'creditor-in-possession' reinforces creditor control during resolution and promotes responsible behavior among promoters and borrowers who now face significant haircuts in case of insolvency.

Stakeholders, including bankers, lawyers, and insolvency professionals, have responded dynamically, adapting to the new legal-economic framework created by IBC. This has led to a more transparent and efficient market where capital allocation improves due to the threat of timely resolution or closure.

### **d. Challenges in Implementation**

While the IBC framework has been a significant reform, several challenges persist, including infrastructural weaknesses, periodic delays in resolution, and the novel nature of some legal provisions requiring continuous evolution through judicial interpretation. Time scape overshooting



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and cost escalation occasionally mar the ideal expeditious resolution process but are being addressed through policy adjustments.

#### **e. Case Study Summaries on IBC Effectiveness in Managing NPAs**

##### ▪ NPA Resolution under IBC (2024 Data)

By 2024, over 1068 resolution plans were implemented, with creditors realizing Rs. 3.6 lakh crore, achieving about 161% of liquidation value and 86.1% of fair value. Haircuts relative to fair value were about 14%, highlighting efficient value recovery.

##### ▪ Corporate Insolvency Resolution Process (CIRP) Outcomes (2025 Report)

As of March 2025, 2,717 CIRPs concluded with 1,194 resolution plans approved. Creditors recovered around Rs. 67,000 crore in FY25, marking a 42% increase over FY24. This data highlights both volume and value improvements post-IBC.

##### ▪ Going Concern Sales and Liquidation Strategy

79 companies closed by sale as going concerns realized higher returns (Rs.3674.1 crore realized from liquidation value of Rs.4678.2 crore claims) demonstrating IBC's ability to preserve business value better than forced liquidations.

##### ▪ Behavioural Change and Market Discipline Cases

Empirical studies incorporating IIM Bangalore and IBBI assessments illustrate a distinct behavioural change by promoters and creditors in managing defaults, with an increase in withdrawals/settlements before admission evidencing deterrence and early resolution attempts.

### **11. SYNTHESIZING SCHOLARLY DISCOURSES: TOWARDS A NORMATIVE APPRAISAL OF THE IBC'S ROLE IN NPA GOVERNANCE**

A substantial number of scholarly sources and case studies address the role and effectiveness of the Insolvency and Bankruptcy Code (IBC) in India regarding Non-Performing Assets (NPAs) governance, Follows:

The IBC was introduced in 2016 as a comprehensive legal reform to address inefficiencies in India's insolvency and bankruptcy resolution system. It aimed to consolidate and supplant fragmented older laws to provide a time-bound and creditor-driven insolvency resolution framework that enhances transparency, corporate governance, and expedites the resolution of NPAs. The IBC has been praised for streamlining insolvency processes, improving recovery rates, and boosting lender confidence, which in turn facilitates credit availability and economic growth.

Several studies emphasize that the IBC has catalysed a reduction in NPAs by providing a faster resolution mechanism compared to erstwhile laws like the Sick Industrial Companies Act and debt recovery tribunals. The recovery rates on NPAs resolved under IBC are reported to be around 42%, significantly higher than previous mechanisms. However, it is noted that recovery rates have declined somewhat in recent years, pointing to implementation challenges.

From a governance perspective, IBC has introduced a creditor-centric approach that incentivizes better corporate governance to avoid insolvency. It has improved accountability, transparency, and



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oversight via institutions like the Insolvency and Bankruptcy Board of India (IBBI) and adjudicatory bodies such as the National Company Law Tribunal (NCLT). Enhancements in corporate governance frameworks have been documented post-IBC, including reductions in related party transactions and better leverage management.

Nevertheless, academic assessments raise concerns about inefficiencies in time management, with resolution processes often exceeding the statutory 180 days, averaging around 867 days. The incidence of liquidation is high, frequently involving already sick or defunct companies, which questions the extent of value maximization. Methodological concerns in evaluating IBC's success revolve around focusing narrowly on recovery rates without considering equity realizations or resolution of guarantors.

➤ **Case Study Summaries: Evaluating the Effectiveness of IBC in Managing NPAs**

a. Corporate Insolvency Resolution Process (CIRP) Cases

Rs 2.43 lakh crore has been recovered from insolvency resolutions instituted under the IBC as of September 2022, demonstrating the mechanism's capacity to recover value from insolvent firms. Several cases involved financially distressed companies resolved through CIRP leading to business revival or asset sale to realize creditors' dues.

b. Banking Sector Stability and Credit Access

Post-IBC introduction, banking sector NPAs have substantially declined, with the NPA rate dropping from a peak of 14.8% in 2018 to about 3.2% by 2023. The turnaround in bank profits and improved credit flow reflects enhanced financial stability and lender confidence attributable to IBC reforms.

c. Institutional Reforms Driving Efficiency

Setting up of NCLT and IBBI has been instrumental in strengthening the insolvency framework, providing a transparent and equitable process for stakeholders. However, institutional capacity challenges such as the backlog of cases at NCLT affect timely insolvency resolution.

d. Challenges in Timely Resolution and Liquidation

Despite its strengths, IBC faces issues like prolonged insolvency resolution timelines and a high rate of liquidation, which predominantly targets already non-viable firms. This undermines the objective of maximising value and preserving viable businesses, warranting process optimization and policy adjustments

The IBC represents a paradigm shift in India's approach to managing NPAs, showing significant improvements in asset recovery, corporate governance, and banking sector stability. However, challenges in time-bound resolution, value maximization, and institutional capacity persist. Continuous reforms, better implementation practices, and stakeholder coordination are crucial for realizing the full potential of IBC in governance of NPAs.

## 12. CHALLENGES, OUT COMES AND POSITIVE DEVELOPMENTS AND RECOMMENDATIONS

➤ Challenges in Managing NPAs under IBC



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Despite its transformative potential, several challenges hinder the IBC's optimal effectiveness:

- **Judicial Delays:** More than 78% of ongoing Corporate Insolvency Resolution Process (CIRP) cases exceed the prescribed 270-330 day resolution limit due to backlog and limited tribunal capacity, delaying outcomes.
- **Capacity Constraints:** Limited availability of insolvency professionals and infrastructural issues restrict timely case management.
- **Legal and Procedural Complexities:** Excessive judicial interventions post-resolution approval and unclear norms for certain asset classes (intellectual property, employee dues) create uncertainty.
- **Recovery Rate Variability:** Average recovery rates hover around 32-45%, which, improved from pre-IBC rates (~20%), remain below global benchmarks.
- **Strategic Use of IBC:** Some stakeholders use insolvency proceedings for strategic advantage rather than genuine resolution, impacting efficacy.

➤ **Outcomes and Positive Developments**

The IBC has yielded several positive outcomes that underline its importance:

- **Improved Recovery and Resolution Speed:** The Code has increased average recovery rates to around 32% of admitted claims and significantly reduced resolution timelines as compared to earlier frameworks.
- **Behavioural Changes:** Borrowers are incentivized to repay debts promptly to avoid resolution processes, improving credit discipline in the economy.
- **Revitalization of Firms:** Resolved firms have shown a 76% average increase in sales within three years post-resolution, indicating better operational viability post-IBC.
- **Banking Sector Strengthening:** Public sector banks have been able to clean up their balance sheets by resolving numerous NPA accounts, freeing capital for productive use.
- **Investor Confidence:** Transparency and predictability under IBC have attracted both domestic and foreign investment into distressed assets.

➤ **Case Study Summaries**

- **Bhushan Power and Steel Case::** A landmark Supreme Court judgment that exposed the risks of judicial reversals post-IBC resolution approval, illustrating the need for legal certainty.
- **RBI Initiatives under Section 35AA:** Directed banks to initiate CIRP for large NPAs, resulting in successful resolution or liquidation of numerous corporate debtors, thus setting a precedent for proactive NPA management.
- **Empirical Analysis by IIM Bangalore:** Demonstrated significant reductions in gross NPAs of scheduled commercial banks from 11.2% in 2018 to 2.8% in 2024, attributed partly to IBC impact.

➤ **Recommendations**

To enhance IBC effectiveness in managing NPAs, scholars and practitioners recommend:



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- Strengthening Tribunal Infrastructure: Expand NCLT capacity and speed up judicial processes to meet prescribed timelines.
- Clear Legal Frameworks: Define treatment of modern asset classes and minimize post-resolution interference to improve predictability.
- Professional Capacity Building: Increase the pool and training of insolvency professionals to handle growing caseloads efficiently.
- Policy and Procedural Reforms: Streamline resolution procedures, reduce litigation opportunities during the process, and ensure equitable creditor treatment.
- Encouraging Pre-IBC Settlements: Strengthen incentives and mechanisms for resolving cases before formal CIRP admission to reduce the burden on tribunals.

### 13. CONCLUSION

The Insolvency and Bankruptcy Code (IBC) has significantly contributed to improving the management and resolution of Non-Performing Assets (NPAs) in India, producing tangible outcomes but also facing notable challenges in implementation.

#### a. Key Outcomes

Evidence from multiple studies and official reports shows that the IBC has led to a marked reduction in NPAs across India's scheduled commercial banks. The gross NPA ratio declined from a peak of 11.2% in March 2018 to 2.8% in March 2024, with the IBC being a critical enabler for this improvement. The Code introduced time-bound processes for insolvency resolution and fostered greater transparency, accountability, and an improved credit culture. As of September 2024, more than 8,000 cases had entered the Corporate Insolvency Resolution Process, and 75% had been resolved or withdrawn—showing a material impact on addressing bad loans. Empirical data also demonstrate improved recovery rates for creditors, increased realization relative to the liquidation value, and a shift from ad hoc settlement to formal legal resolution mechanisms.

#### b. Challenges

Despite its effectiveness, several challenges persist in the IBC's application. Delays in the resolution process continue due to legal complexities and case overload at the National Company Law Tribunal (NCLT), often pushing cases beyond prescribed timelines. Additionally, the realization for financial creditors, while improved, often falls below the admitted claim amounts, leading to concerns over value maximization. There are sectoral gaps in outcomes, with public sector banks typically showing the strongest benefit from IBC-led NPA recovery. Furthermore, robust enforcement, capacity building at NCLT, and streamlining of insolvency professionals are vital areas needing continued reform.

#### c. Future Directions

For sustained improvement, future efforts must focus on technological integration (such as block chain for tracking loan histories), strengthening legal infrastructure, and promoting best practices in credit assessment and due diligence by banks. Policy vigilance and continuous adaptation are crucial, especially given the dynamic nature of financial distress and evolving economic scenarios.



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#### **d. Conclusion**

In summary, the IBC stands as a transformative legal framework that has improved NPA management and enhanced the overall health of India's banking sector. Its success, however, is contingent on continued reforms, better enforcement, and targeted policy interventions to address emergent challenges and maximize its impact in resolving distressed assets.

#### **14. AUTHOR(S) CONTRIBUTION**

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