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Resolution of Stressed Assets under Insolvency and Bankruptcy Code (IBC): Assessment

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Abstract: The Insolvency and Bankruptcy Code (May 2016) is a game changer in the resolution of non-performing assets (NPAs) of banks in India as it provides a framework for time-bound insolvency resolution with the objective of promoting entrepreneurship and availability of credit while balancing the interests of all stakeholders. There is a paradigm shift under IBC in which creditors take control of the assets of the defaulting debtors, in contrast to the earlier system in which assets remained in the possession of debtors till resolution or liquidation; leading to greater credit discipline among borrowers. While challenges persist, particularly more time taken for resolution/liquidation than the mandated ceiling of 270 days and also large haircuts vis-a-vis admitted claims, the IBC's foundational structure remains sound. As implementation matures and jurisprudence evolves, the IBC is likely to fully realise its transformative potential towards creating an efficient and sound insolvency and bankruptcy framework.

JEL Classification: G00, G33.

Keywords: Bankruptcy, Insolvency, Liquidation.

I. Introduction

A comprehensive bankruptcy system is necessary for having a robust and resilient banking sector[a] as it enables a sound debtor-creditor relationship by protecting the rights of both, by promoting predictability and by ensuring efficient resolution of indebtedness. In this context, the enactment of the Insolvency and Bankruptcy Code (IBC) in May 2016 is construed as a major development in India as its existing[b] legal and institutional system were not found to be effective for dealing with banks' debt default (Government of India, 2015). Before the implementation of the IBC, there existed a fragmented legal framework which resulted in protracted and inefficient insolvency proceedings. Various laws and regulations, each dealing with distinct aspects of insolvency and bankruptcy, co-existed, creating complexities, overlaps and occasional contradictions. IBC, thus, becomes the single law that deals with insolvency and bankruptcy by consolidating and amending various laws relating to reorganisation and insolvency resolution

(Gupta and Singh, 2020). The IBC covers individuals, companies, limited liability partnerships, partnership firms and other legal entities, and is aimed at creating an overarching framework to facilitate the winding up of business or engineering a turnaround or exit. The IBC aims at insolvency resolution in a time-bound manner (maximum 270 days) undertaken by insolvency professionals (IPs). The institutional infrastructure under the IBC rests on four pillars: (a) insolvency professionals; (b) information utilities; (c) adjudicating authorities [National Company Law Tribunal (NCLT)/National Company Law Appellate Tribunal (NCLAT)]; and (d) Insolvency and Bankruptcy Board of India (IBBI). Under the provisions of the IBC, insolvency resolution can be triggered at the first instance of default and the process of insolvency resolution has to be completed within the stipulated time limit.

The IBC broadly meets five principal criteria of an efficient resolution regime (RBI, May 2022 and January 2024a): First, the resolution regime should prioritise going concern status over liquidation. Resolution on a going concern basis is generally more valuable than liquidation of the entity; Second, it should force the creditors to come together and work out a resolution plan that tries to preserve the value by looking at the options to keep the company as a going concern; Third, the resolution regime should ensure a time bound resolution so that value deterioration for the creditors of an insolvent exposure is arrested; Fourth, it must provide clawback of questionable transactions that may have contributed to the financial stress of the defaulting borrower; and Finally, an effective resolution regime should protect the majority creditors from the minority by forcing a 'cramdown' if the majority creditors decision covers a predefined threshold of approval.

On the distribution of proceeds from the sale of assets, the first priority is accorded to the costs of insolvency resolution and liquidation, followed by the secured debt together with workmen's dues for the preceding 24 months. Central and State Governments' dues are ranked lower in priority. The code proposes a paradigm shift from the existing 'debtor in possession' to a 'creditor in control' regime. Priority accorded to secured creditors is advantageous for entities such as banks. When a firm defaults on its debt, control shifts from the shareholders/ promoters to a Committee of Creditors (CoCs) to evaluate proposals from various players about reviving the company or taking it into liquidation. This is a complete departure from the experience under the Sick Industrial Companies Act (1985) under which delays led to erosion in the value of the firm.

The key question is whether IBC, which created a conducive institutional environment and an appropriate insolvency system, emerged as an effective tool

in India for improving credit discipline among borrowers, besides faster recovery of banks' stressed assets. The paper makes an attempt to find answers to these questions. Against the above backdrop, Section II covers cross-country practices on insolvency and bankruptcy framework. Section III analyses the performance and outcomes of IBC through various indicators. Section IV provides some suggestions towards further improving the efficacy of IBC going ahead. Conclusion of the paper is given in last section.

II. Cross-Country Practices

Bankruptcy regimes vary across countries, ranging from debtor-friendly ones in France and Italy to creditor-friendly ones in the UK, Sweden and Germany. While reorganisation is generally considered to favour debtors, liquidation primarily protects creditors. The insolvency and the debt resolution regime in the US can be classified as a hybrid one, with well-defined laws and procedures for both liquidation and restructuring. Reorganisation and insolvency resolutions across a few advanced and emerging market economies provide an interesting backdrop for evaluating the Indian initiative. A brief summary on cross-country experiences on bankruptcy practices is set out below:

Parameter	*Description*
Pre-packaged Rescue	The US and the UK allow pre-packaged rescue in which the debtor company and its creditors conclude an agreement for the sale of the company's business prior to the initiation of formal insolvency proceedings. The actual sale is executed on the commencement of the bankruptcy proceedings. *In India, Pre-packaged Insolvency Resolution Process (PPIRP)*[c]*, out-of-court insolvency resolution process, designed primarily for micro, small and medium enterprises (MSMEs), response from them currently seems to be muted (RBI, January 2024b).*
Initiation of Bankruptcy	The US does not require proof of insolvency for a company to undergo rescue procedures under the Bankruptcy Code. In the UK, if a creditor wants to initiate a bankruptcy proceeding, it needs to produce clear evidence that an undisputed amount is due and a statutory demand has to be filed on the debtor. In some countries like Australia, Canada, Greece, Brazil and Russia, creditors may file only for liquidation. In the US, the UK, France, Germany, South Africa and China, creditors may file for both restructuring and liquidation. *In India, a financial creditor, an operational creditor or the corporate debtor itself may initiate the corporate insolvency resolution process on default of Rs.1 crore and above.*
Management of Company	The US follows a debtor-in-possession regime in which the debtor retains management control of the company and has the exclusive right to propose a plan of reorganisation during the first 120 days (Bolton, 2003). In the UK, the administrator takes over the management of the company. The

	administrator plays a central role in the rescue process and has the power to do anything necessary or expedient for the management of the affairs, business and property of the company. *In India, the powers of the board of directors of the corporate debtor are suspended and the adjudicating authority (i.e., NCLT) appoints an interim resolution professional. From that date, the management of the affairs of the corporate debtor vests in the interim resolution professional. A committee of creditors will approve the appointment of the interim resolution professional within 30 days of his/her appointment by the adjudicating authority, and subsequently approved by the committee of creditors with a majority vote of not less than 75 per cent of the creditors by value.*
Rehabilitation Scheme	In the US, each class of impaired creditors needs to consent to the resolution plan through a vote of two-thirds of that class in volume. The US Bankruptcy Code also provides for 'cram down' of dissenting creditors. In the UK, acceptance of the proposal requires a simple majority (by value) of the creditors present and voting. In Germany, the plan needs to be approved by each class of creditors. In France, two committees of creditors plus a bond holders' committee are established. One creditor committee consists of all financial institutions that have a claim against the debtor and the second creditors committee consists of all the major suppliers of the debtor. Consent must be given by each committee and requires approval of two-thirds in value of those creditors who exercise their voting rights. *In India, the resolution professional constitutes a committee of creditors comprising of financial creditors (excluding those that would classify as related parties to the corporate debtor) after evaluating all claims received against the corporate debtor. All material decisions taken by the resolution professionals such as sale of assets, raising interim funding and creation of security interest have to be approved by the creditors' committee. All decisions of the creditors' committee have to be approved with a majority vote of not less than 75 per cent by value of financial creditors.*
Moratorium	In the US, the bankruptcy law provides for an automatic moratorium on the enforcement of claims against the company and its property upon filing of a petition. Similarly, the UK provides for an interim moratorium during the period between the filing of an application to appoint an administrator and the actual appointment. These moratoriums are intended to prevent a race by creditors to collect their claims, which may precipitate liquidation of the company. *In India, the IBC provides for an automatic moratorium of 270 days against any debt recovery actions by the creditors. In Singapore and Brazil, the moratorium holds till the entire resolution plan is approved.*

Source: Report on Trend and Progress of Banking in India, 2016-17, Page 56-59, RBI; Monthly Bulletin, January 2024b, RBI; and Bolton, Patrick 2003.

III. Performance and Outcomes of IBC

Corporate Insolvency Resolution Process (CIRP)

Since IBC came into force effective December 1, 2016, 8,303 Corporate Insolvency Resolution Process (CIRP) were initiated till end-March 2025, of which, the

maximum CIRPs were initiated by operational creditors (47 per cent), followed by financial creditors (46.9 per cent) and corporate debtors (6.2 per cent). Among sectoral distribution of corporate debtors under CIRP, manufacturing sector triggered the highest number of CIRPs, followed by real estate, construction, and wholesale & retail trade.

CIRP Closure by Resolution Plans/Liquidation

As on March 31, 2025, 77 per cent of CIRPs were closed, of which, the majority were closed through liquidation process (33 per cent), while only 14 per cent of CIRPs were closed through resolution plan (Table 1). Liquidation could be an efficient mode of resolution for debtors in default for long time wherein the scope for revival of the enterprise is low and liquidation value exceeded resolution value. As such, the number of liquidation orders should be seen as a natural step towards efficient reallocation of resources rather than an adverse consequence of IBC itself (Gupta and Singh, 2020). Creditors (FCs, OCs, CDs and FiSPs) have realised Rs.3.89 lakh crore under the IBC resolution plans[d] till end-March 2025, which is 170.1 per cent of the liquidation value of underlying assets and 32.8 per cent of their admitted claims (Table 2). Creditors through liquidation process realised 6 per cent of their admitted claims.

Table 1: CIRP Cases Status (as on March 31, 2025)

(Per cent)

Item	*FCs*	*OCs*	*CDs*	*FiSPs*	*Total*
1. Total CIRP Cases Closed (a+b+c+d)	71	83	78	-	77
(a) Closure by Appeal/Review/Settled	10	22	2	-	15
(b) Closure by Withdrawal under Section 12A	9	21	2	-	14
(c) Closure by Approval of Resolution Plan	19	10	16	80	14
(d) Closure by Commencement of Liquidation	33	30	58	-	33
2. Ongoing CIRP	29	17	22	20	23
Total (1+2)	**100**	**100**	**100**	**100**	**100**

-: Nil. FCs: Financial Creditors. FiSPs: Financial Service Providers.
OCs: Operational Creditors. CDs: Corporate Debtors.
Source: Authors' computation (based on Insolvency and Bankruptcy Board of India (IBBI), Quarterly Newsletter, January-March 2025, Table 2, Page 11).

Ratio of Resolution to Liquidation Orders

A number of initiatives have been taken to improve the outcomes of the IBC such as monitoring of cases pending for admission and ongoing CIRPs, besides putting in place an effective mechanisms for real-time sharing of information regarding applications for the initiation of CIRP with the information utility

Table 2: Outcome of CIRP Cases (as on March 31, 2025)

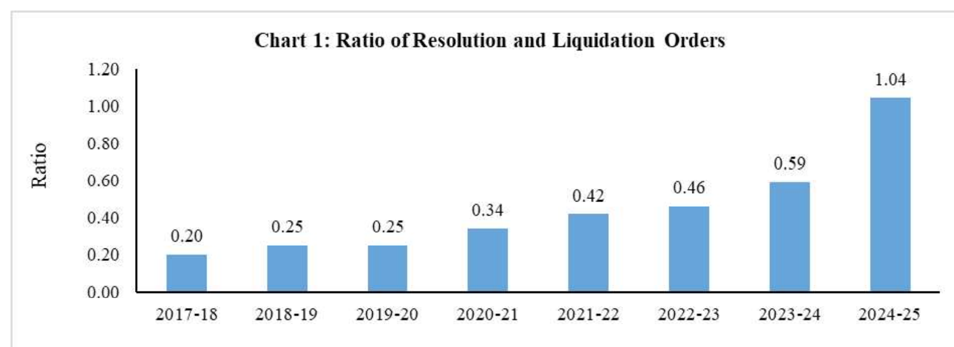
Item	*Description*	*FCs*	*OCs*	*CDs*	*FiSPs*	*Total*
1. CIRP Yielding Resolution Plans	(a) Realisation by Creditors as % of Liquidation Value (%)	187.0	128.0	144.9	134.9	170.1
	(b) Realisation by Creditors as % of Claims (%)	33.2	25.2	18.1	41.4	32.8
	(c) Average Time Taken for Closure of CIRP (Days)	723	724	577	677	713
2. CIRP Yielding Liquidations	(a) Liquidation Value as % of Claims (%)	5.3	8.2	8.1	-	6.0
	(b) Average Time Taken for Order of Liquidation (Days)	518	511	455	-	508

-: Nil.
Source: IBBI, Quarterly Newsletter, January-March 2025, Table 2, Page 11.

(IU), which resulted in increase in NCLT approved resolutions and the admission of cases initiated by FCs. Further, over the years more companies are being resolved under IBC and the number of liquidations are gradually coming down as reflected in the improved ratio of number of cases ending with resolution *vis-à-vis* cases in which liquidation are ordered (Chart 1). Further, out of 1,194 CIRP cases disposed-off through resolution plans during 2016-17 to 2024-25, 60 per cent (708 CIRP cases) resolutions were achieved during 2022-23 to 2024-25, reflecting the effectiveness of the legal framework in facilitating the revival of insolvent businesses.

Amount Realised through IBC

With the behavioural change in borrowers towards better credit discipline in the IBC regime, a large number of debtors are settling their dues before start of insolvency proceedings. The credible 'threat of insolvency' under the IBC has



Note: Data for 2024-25 are average of ratios of four quarters.
Source: IBBI, Quarterly Newsletter, January-March 2025, Figure A, Page 3.

strengthened the negotiating powers of creditors, in the absence of which it is most likely that those defaults would have lingered for much longer, resulting in erosion of value of underlying assets. The IBC should, therefore, be seen as an instrument for preserving economic value of underlying assets through effective resolution or unlocking of capital, which is stuck in unviable businesses; rather than considering IBC merely a loan recovery instrument. As at end-March 2025, around 30,310 cases with underlying default value of Rs.13.78 lakh crore were settled pre-admission to CIRP (Table 3). Post-admission to CIRP, around 4,502 cases were disposed-off with realised amount of Rs.5.02 lakh crore, of which, around 1,194 cases through resolution plan (Rs.3.89 lakh crore), and 878 cases completed through liquidation process (Rs.9,330 crore) with 90.6 per cent of the liquidation value (Table 4).

Table 3: Pre and Post-admission Case Disposal and Amount Realisation (as at end-March 2025)

Item	*Number*	*Impact (Amount Realised, Rs. Crore)*
1. Pre-admission Case Disposal	30,310	13,78,423
2. Post-admission Case Disposal (a+b+c)	4,502	5,02,040
(a) Resolution	1,194	3,88,904
(b) Settled/Withdrawn/Closed	2,430	1,03,806
(c) Liquidation Completed	878	9,330
3. Total Case Disposal (1+2)	34,812	18,80,463

Source: IBBI, Quarterly Newsletter, January-March 2025, Table II, Page 3.

Table 4: Closure of Liquidation Process

(Number)

Liquidation Status	*Total (as on March 31, 2025)*
1. Initiated	2,758
2. Final Report Submitted	1,374
3. Ongoing Process	1,384
4. Total Closed Cases (a+b+c)	878
(a) Closed by Dissolution	766
(b) Closed by Going Concern Sale	98
(c) Closed by Compromise/Arrangement	14
5. Total Admitted Amount for Closed Cases (Rs. Crore)	2,57,017
(a) Liquidation Value (Rs. Crore)	10,302
(b) Total Realised Amount (Rs. Crore)	9,330 (90.6)

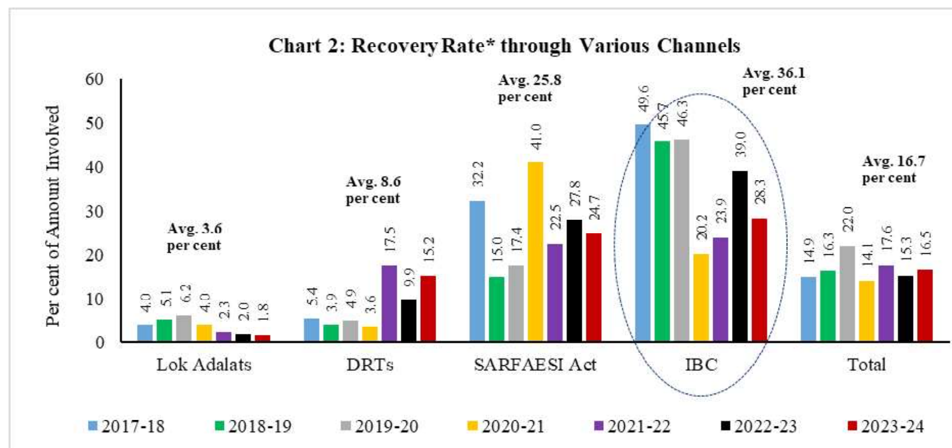
Note: Figure in parenthesis indicates realised amount in per cent as against liquidation value.
Source: IBBI, Quarterly Newsletter, January-March 2025, Table 8, Page 15.

The Central Government enacted the Insolvency and Bankruptcy Code (Amendment) Act, 2021, introducing the Pre-packaged Insolvency Resolution Process (PPIRP) for corporate MSMEs. Currently, the response towards its adoption among MSMEs, however, seems to be relatively muted.[e] As on March 31, 2025, 14 applications were admitted, of which, one application was withdrawn and resolution plans for eight cases were approved (IBBI, Quarterly Newsletter, January-March 2025, Page 19).

The recovery rates (*i.e.,* amount recovered as ratio to amount involved) for stressed assets yielded by major resolution mechanisms on an average was higher at 36.1 per cent through IBC during 2017-18 to 2023-24, followed by SARFAESI (25.8 per cent), debt recovery tribunal (DRT) [8.6 per cent] and *Lok Adalats* (3.6 per cent) [Chart 2]. Further, the IBC emerged as the dominant recovery channel for SCBs, accounting for on an average 46 per cent of total recoveries made during 2017-18 to 2023-24 (Table 5). As cases referred for recovery under various mechanisms grew considerably both in volume and value terms over time, there is a need to strengthen and expand the supportive infrastructure for faster resolution of CIRPs under the IBC.

Recovery of stressed assets also improved through Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests (SARFAESI) Act. Apart from vigorous efforts by banks for speedier recovery, amending the SARFAESI Act to bring in a provision of three months' imprisonment in case the borrower does not provide asset details and for the lender to get possession of mortgaged property within 30 days, may have

Chart 2: Recovery Rate* through Various Channels



*: Amount recovered during the year, which could be with reference to cases during the year as well as earlier years.

Source: Report on Trend and Progress of Banking in India, Chapter IV, RBI (Various Issues).

contributed to better recovery. Further, low recovery through *Lok Adalats* and DRTs partly indicative of growing traction of the IBC mechanism for resolution of stressed assets.

Table 5: Recovery as Per cent of Total Recovery (end-March)

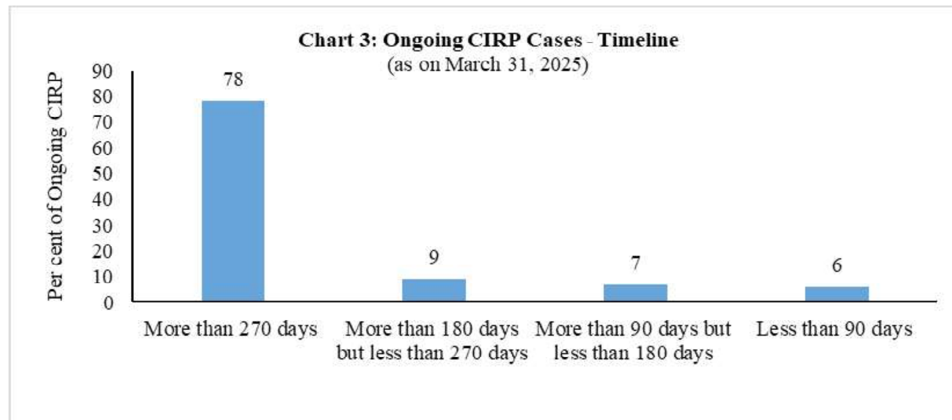
(Per cent)

Year	*Lok Adalats*	*DRTs*	*SARFAESI Act*	*IBC*	*Total*
2017-18	4.5	17.9	65.4	12.2	100
2018-19	2.3	8.9	32.8	56.0	100
2019-20	2.8	6.5	22.5	68.2	100
2020-21	1.7	12.6	43.1	42.5	100
2021-22	3.1	13.4	30.5	52.9	100
2022-23	2.9	30.9	24.1	42.1	100
2023-24	3.4	16.8	31.6	48.1	100
Average	3.0	15.3	35.7	46.0	100

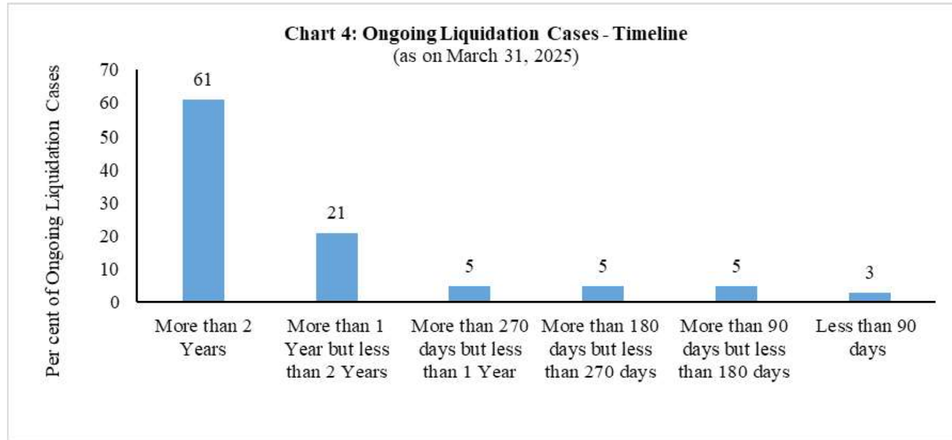
Source: Authors' computation (based on Report on Trend and Progress of Banking in India, Chapter IV, RBI, Various Issues).

Average Time Taken for Closure of CIRP

The average time taken for closure of CIRP through resolution plans and liquidation was 713 days and 508 days, respectively, far exceeding the upper limit of 270 days under the IBC resolution scheme (Table 2). Further, 78 per cent of ongoing CIRPs exceeded 270 days and 61 per cent of ongoing liquidation cases have exceeded 2 years (Charts 3 and 4). Such long delays in resolution plan/liquidation, substantially eroding the value of underlying assets, are due to multiple factors such as evolving IBC related jurisprudence, litigatory tactics adopted by some corporate debtors, lack of effective coordination among the creditors and bottlenecks in the judicial infrastructure, among others.



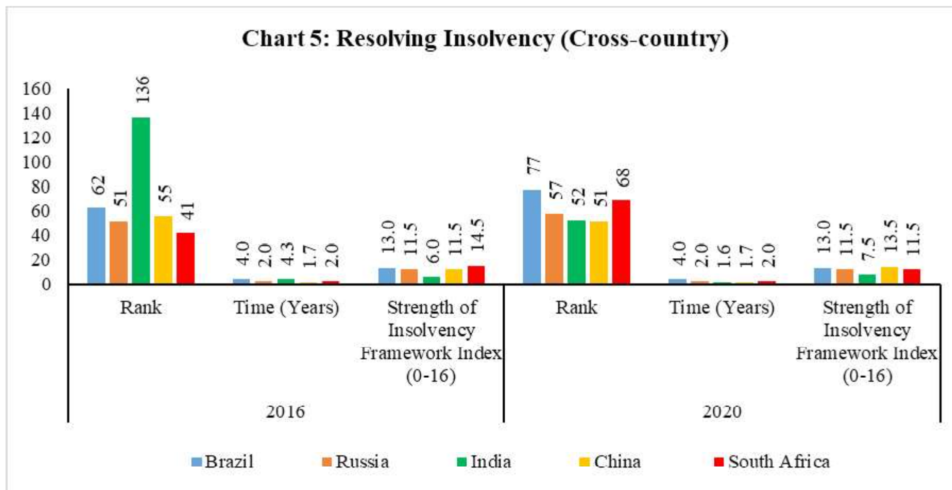
Source: IBBI, Quarterly Newsletter, January-March 2025, Figure 8, Page 12.



Source: IBBI, Quarterly Newsletter, January-March 2025, Figure 11, Page 16.

Strength of Insolvency Framework

One of the important enablers of faster economic growth is the ease of doing business. An orderly resolution framework facilitates in the ease of doing business through multiple ways such as smoother exit, reduces capital erosion and enhances efficient recycling of capital and also instils confidence in investors by providing a transparent and predictable process for handling financial distress (Adalet McGowan, et al., 2016 and Cirmizi, et al., 2010). After the introduction of IBC, India's resolving insolvency rank improved considerably in the World Bank's Ease of Doing Business Index (Chart 5).



Source: Doing Business Report (2016 and 2020), World Bank.

IV. A Way Forward

Some of the suggestions towards further improving the efficiency of IBC process going forward are as follows (RBI, January 2024a, January 2024b and December 2024):

First, businesses rely on credit for their operations and expansion. Orderly resolution and credit cost are interlinked elements within the financial ecosystem. The expected loss is a key factor that determines this credit cost. Expected loss in turn is driven by the 'probability of default' and more pertinently to today's context on resolution, the 'loss given default (LGD)'. Therefore, there is a need to make resolution process efficient to minimise the LGD;

Second, at the resolution stage, as major creditors, banks participate in the Committee of Creditors (CoCs) which is entrusted with critical decisions regarding the resolution process. Given the time bound nature of the process, the CoCs need to act with a sense of purpose making a pragmatic assessment of available options and deciding swiftly. Therefore, banks need to ensure that their nominees are empowered with adequate authority and experience. Their active involvement in sharing of information, evaluating and approving resolution plans as well as collaboration with resolution professionals and other stakeholders is imperative in ensuring timely resolution;

Third, the success of IBC hinges on the expertise and proficiency of skilled resolution professionals. They need to be equipped with a thorough knowledge of the law as well as have a sound understanding of the nuances of finance apart from strong negotiation and management skills. The IBBI and Indian Banks Association may continue conducting various programmes to impart the specialised skills and knowledge required for resolution professionals for effective capacity enhancement;

Fourth, there is a need to invest in building the capacity of adjudicating authorities such as NCLT and NCLAT to handle an increasing caseload efficiently. Adequate staffing, training and infrastructure of these institutions are necessary for expeditious resolution. Efforts could also be made to reduce delays at the admission stage itself as well as rationalising the processes. Innovative technology-based solutions may also be explored to facilitate faster disposal of cases;

Fifth, parties involved in insolvency proceedings do file appeals and review petitions challenging lower court decisions. While there is no objection to any party seeking legitimate legal recourse, these proceedings have often been used as delaying tactics by defaulting borrowers and have significantly contributed to delays in the resolution timeline. It is assumed that as the law matures, judicial

interpretation and precedents would emerge to help navigate the nuances, ultimately reducing delays in future; and

Finally, there is a need to look at resolution of conglomerates and addressing resolution of corporate groups. Very often such groups have intricate corporate structure with inter-connected related party relationship that add to the complexity and become a hurdle in individual entity resolution. Similarly, there is unfinished agenda of a comprehensive resolution framework for financial service providers such as banks, non-banking financial companies and insurance companies. In the absence of an IBC like legislative framework for resolution of financial institutions, the IBC has been used for resolution of NBFCs.

V. Conclusion

The IBC was enacted to fill the legal void felt by the absence of a comprehensive insolvency law. The IBC introduced a paradigm shift in the landscape of insolvency and bankruptcy proceedings in India, bringing in a more structured, institutionalised and time-sensitive approach to resolving financial distress. The IBC facilitates corporate insolvency resolution through the formation of a Committee of Creditors (CoC) and a structured liquidation process if resolution is not achieved within the specified time, thus contributing to a more streamlined and transparent system. The IBC is a landmark legislation, transforming the insolvency and resolution framework, leading to a visible improvement in the credit discipline (not merely seen as a recovery instrument) as evident from the considerable decline[f] in NPAs and increased resolutions even before the admission stage. In terms of resolving insolvency smoothly for ease of doing business, according to the World Bank's Report, India' rank improved significantly from 136 in 2016 to 52 in 2020. Further, some of the suggested measures going forward are likely to further strengthen the IBC, including timeliness of the resolution process, resulting in a more robust and resilient financial system.

Acknowledgement

Views expressed by authors in the paper are entirely personal and not of the institutions they belong

Notes

a. Scheduled commercial banks (SCBs) continued to record improvement in their asset quality, with gross NPA ratio declining to multi-decadal lows of 2.3 per cent in 2024-25.

b. Winding up provisions of the Companies Act (1956), Indian Contract Act (1872), Sick Industrial Companies (Special Provisions) Act (1985), Recovery of Debts due to Banks and Financial Institutions Act (1993), and Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act (2002).

c. It allows for the formulation of a resolution plan by the corporate debtor and its creditors before formal insolvency proceedings begin, aiming for a quicker, more cost-effective and less disruptive resolution compared to the standard corporate insolvency resolution process (CIRP).

d. Resolution plans on an average are yielding 93.41 per cent of fair value of the corporate debtors (CDs) at the time of admission into IBC (IBBI, Quarterly Newsletter, January-March 2025, Page 3).

e. One reason could be the hesitancy on the part of the financial creditors (FCs) in approving the proposals under this mechanism, wherein the haircut is perceived as voluntary (RBI, January 2024b).

f. Can be attributed to multiple factors, including introduction of IBC.

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