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Impact of IBC on Financial Services and Evolving Business Dynamics

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ABSTRACT

The Insolvency and Bankruptcy Code, 2016, was introduced to transform India's credit enforcement landscape by instituting a time-bound, creditor-driven framework for the resolution of corporate distress. This article examines the Code's impact on the banking and financial services sector, assessing whether it has lived up to the objectives envisaged by the Bankruptcy Law Reforms Committee.

The article finds that while the IBC has improved recovery rates, reduced slippages, and altered borrower behaviour, its practical outcomes reflect a structural drift. Approximately 78% of CIRPs have concluded in liquidation, average resolution timelines significantly exceed statutory limits, and the realisations from liquidation remain a fraction of admitted claims. The pre-packaged insolvency mechanism for MSMEs has seen negligible uptake. Simultaneously, IBC is increasingly being deployed as a recovery and negotiation lever rather than as a genuine revival framework.

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The article also explores the behavioural, sectoral, and institutional dimensions of IBC's impact, including its influence on credit policy, contractual structuring, promoter conduct, and the social stigma attached to business failure in India. It cautions against the premature use of IBC as a first-response tool to every default, and argues for a recalibrated approach that preserves the Code's deterrent value while restoring its core purpose: resolution and revival, not expedited recovery.

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I. THE PRE-IBC LANDSCAPE AND THE NEED FOR REFORM

The banking and financial services sector of India forms the backbone of the Indian economy. With over one hundred fifty lakh crore (₹150 lakh crore) in outstanding advances, this sector has driven industrial growth, supported infrastructure development, and nurtured new businesses. However, rising non-performing assets (NPAs), prolonged recovery timelines, and the misuse of outdated laws had created a crisis of confidence in the system before the advent of the Insolvency and Bankruptcy Code (IBC/the Code) in 2016.

Before the implementation of the IBC, Indian banks faced significant challenges in recovering non-performing assets. The primary mechanisms available were the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (**SARFAESI)** Act, Debt Recovery Tribunals (**DRTs**), Lok Adalat and Civil Courts. However, these avenues often led to prolonged recovery periods and low recovery rates. During 2015-2017, the average recovery ratio for Indian banks was around twenty-six-point four per cent (26.4%). Private sector banks achieved a higher recovery rate of forty-one per cent (41.0%), while public sector banks had a lower rate of twenty-five-point one per cent (25.1%).[1]

The loan-recovery system under the earlier legal regime encountered numerous challenges due to the prevailing legal frameworks, which frequently resulted in extended litigation and delayed asset realisation.

[1] Reserve Bank of India, Report on Trend and Progress of Banking in India 2016–17 (2017) https://rbidocs.rbi.org.in/rdocs/Publications/PDFs/4CHA4201700B999F90E3041A28AC7798A6F9F0BA9.PDF accessed 25 March 2026.

Inefficiencies in the system resulted in banks recovering only a fraction of the defaulted amounts. High NPAs and low recovery rates adversely affected banks' profitability and capital adequacy.

As quoted in the Bankruptcy Law Reforms Committee **(BLRC)** Report[2], *"World Bank (2014) reports that the average time to resolve insolvency is four years in India, compared to 0.8 years in Singapore and 1 year in London. Sengupta and Sharma, 2015 compare the number of new cases that file for corporate insolvency in the U.K., which has a robust insolvency law, to the status of cases registered at the BIFR under SICA, 1985, as well as those filed for liquidation under the Companies Act, 1956."*

The introduction of the IBC aimed to address these challenges by providing a more streamlined and time-bound insolvency resolution process, thereby improving recovery rates and the overall health of the banking sector. The Code was envisioned to resolve these challenges by focusing on speed, efficiency, and fairness in insolvency proceedings. It emphasises time-bound resolutions[3], equitable distribution of recoveries[4], and collective decision-making by creditors[5]. While these principles align with the broader goals of financial stability, the practical

[2] Bankruptcy Law Reforms Committee, The Report of the Bankruptcy Law Reforms Committee: Volume I – Rationale and Design (Ministry of Finance, Government of India 2015) para 3.3.1.
[3] As per section 12 of the Code, the resolution process needs to be completed within a period of one hundred and eighty days from the date of admission, which can only be extended for a period not exceeding ninety days.
[4] Section 53 of the Code lays down a waterfall mechanism which prioritises the dues of workmen and that of a secured creditor.
[5] The Committee of Creditor is required to take a collective decision and approve the resolution plan and other important matters by a majority of 66% of the votes.

impact of IBC on financial services has been a mixed bag of achievements and challenges. The IBC's success cannot be measured solely in terms of recovery percentages or resolution timelines. It has initiated a fundamental change in how financial institutions, businesses, and regulators interact. However, as we celebrate its achievements, we must also confront its shortcomings and work towards solutions that are uniquely tailored to India's socio-economic context.

II. WHETHER IBC HAS LIVED UP TO ITS OBJECTIVE?

Based on the data emerging from the IBBI Quarterly Newsletter (October-December 2025), it is evident that while the Insolvency and Bankruptcy Code, 2016, has enabled recoveries for financial creditors in a significant number of cases, recovery was never intended to be the sole or even the dominant objective of the framework. The BLRC Report had clearly visualised the IBC as a value-preserving and enterprise-rescuing legislation, aimed at timely resolution, revival of viable businesses, and providing an orderly exit where revival was not possible.[6] However, the empirical outcomes now point to a structural drift away from that vision.

As of December 2025, nearly seventy eight percent (78%) of Corporate Insolvency Resolution Processes (**CIRPs**) (2,251 out of 2,876 cases with available data) ended in liquidation. A large proportion of these cases were already legacy Board for Industrial and Financial Reconstruction (BIFR) or defunct entities, where economic value had eroded even before admission into CIRP, with assets on average valued at barely five per cent (5%) of the outstanding debt. This underscores that delayed admission

[6] Bankruptcy Law Reforms Committee (n 2).

and prolonged proceedings directly translate into value destruction. Even among cases that proceeded through CIRP, timelines remain a serious concern. The average time taken from Insolvency Commencement Date (**ICD**) to approval of a resolution plan stood at over eight hundred to nine hundred (800–900) days, far exceeding the statutory framework, and pushing several cases into liquidation simply due to process fatigue and diminishing enterprise value.

While resolution plans approved till December 2025 resulted in claims of around rupees three point eight nine (₹3.89) lakh crore rupees being addressed, with realisation to creditors improving over liquidation values in select cases, this success is offset by the broader trend of enterprise attrition. Liquidations have largely translated into asset sales rather than business continuance. Although one hundred seventy-one (171) corporate debtors were sold as going concerns under liquidation, the liquidation realisations of seven thousand and seventeen crore rupees (₹7,017 crore) against admitted claims of two point one zero lakh crore rupees (₹2.10 lakh crore) highlight the sharp value haircut once businesses slip beyond resolution into liquidation. In contrast, aggregate liquidation values remain modest when compared to the economic potential that could have been preserved through timely and effective resolution.

The figures, therefore, reveal a systemic imbalance: creditor recoveries are improving in resolved cases, but the system is simultaneously witnessing a large-scale exit of enterprises through liquidation, often after prolonged delays. This outcome departs from the BLRC's foundational objective of business rejuvenation and efficient exit, as reflected in its observations: "*From the viewpoint of the economy, some*

firms undoubtedly need to be closed down. But many firms possess useful organisational capital. Across a restructuring of liabilities, and in the hands of a new management team and a new set of owners, some of this organisational capital can be protected. The objective of the bankruptcy process is to create a platform for negotiation between creditors and external financiers which can create the possibility of such rearrangements".[7]

As per the Economic Survey of 2025,[8] there is an improvement in asset quality and recovery performance of Scheduled Commercial Banks (**SCBs**). Recovery rates in NPAs have nearly doubled since FY18 from thirteen point two per cent (13.2%) to twenty-six point two per cent in FY 25, while fresh slippages have moderated sharply from seven point one per cent (26.2%) in financial year two thousand eighteen, to one point four per cent in the financial year twenty five (7.1% in FY 18 to 1.4% in FY 25), reflecting stronger underwriting discipline and macroeconomic resilience. Profitability metrics, return on assets, capital buffers and provisioning capacity indicate that banks today are better positioned to absorb stress and support credit growth.

However, the composition of credit growth reveals an important structural shift. Bank lending has increasingly gravitated towards retail, MSMEs and asset-backed exposures, while large corporates are progressively accessing market-based financing through bonds, foreign borrowings and non-bank channels. The rapid growth of non-bank sources of finance and corporate bond issuances underscores the

[7] Para 3.2.3 What can a sound bankruptcy law achieve?.
[8] Ministry of Finance, Economic Survey 2025–26 (January 2026).

reduced dependence of large enterprises on bank credit, even as MSMEs continue to rely predominantly on banks for funding.

Key Banking Sector Indicators – Economic Survey 2025–26[9]

Indicator	FY18	FY24	FY25	FY26 (as on Sept/ Dec 2025)	Observation/ Trend
Recovery rate in NPAs of SCBs	13.2%	28.3%	26.2%	26.2% (FY25 level)	Recovery rate has approximately doubled since FY18, reflecting improved resolution and recovery environment.
Slippage ratio of SCBs (fresh NPAs as % of standard advances)	7.1%	–	1.4%	1.3%	Sharp decline in slippages indicates stronger underwriting standards and improved asset quality.
Recovery rate through IBC	–	28.3%	36.6%	–	Improvement in IBC recovery reflects better outcomes in

[9] Ibid.

Indicator	FY18	FY24	FY25	FY26 (as on Sept/ Dec 2025)	Observation/ Trend
					large-ticket stressed assets.
Recovery rate through SARFAESI	–	25.4%	31.5%	–	SARFAESI continues to complement the insolvency framework in recovery efforts.
Profit After Tax (SCBs) – YoY growth	–	–	+16.9%	+3.8% (YoY as of Sept 2025)	Strong profitability supported by lower NPAs and steady credit growth.
Return on Equity (RoE) – SCBs	–	13.8% (Mar 2024)	13.6% (Mar 2025)	12.5% (Sept 2025)	Marginal moderation, but RoE remains structurally stronger than pre-COVID levels.
Return on Assets (RoA) – SCBs	–	1.4%	1.4%	1.3% (Sept 2025)	Stability in RoA indicates sustained balance-sheet strength.

Indicator	FY18	FY24	FY25	FY26 (as on Sept/ Dec 2025)	Observation/ Trend
YoY growth in outstanding bank credit	–	11.2% (Dec 2024)	–	14.5% (Dec 2025)	Credit growth has strengthened, with December 2025 marking the highest YoY growth in FY26 so far.
Outstanding bank credit (₹ lakh crore)	–	–	–	195.3 (Nov 2025)	Reflects expansion in the banking system balance sheet alongside improving asset quality.

The Economic Survey Report 2025 highlights a structural improvement in asset quality, recovery performance and profitability of SCBs, supported by declining slippages, higher recoveries under IBC and SARFAESI, and renewed momentum in credit growth. Over the past nine years, the IBC has contributed to a discernible behavioural change among borrowers and lenders. The credible threat of loss of control upon default has altered repayment incentives, leading to earlier engagement with lenders and improved settlement behaviour even outside the formal insolvency framework. The report on the Behavioural Impact of IBC[10]

[10] Indian Institute of Management Bangalore, Behavioural Impact of IBC (Centre for Capital Markets and Risk Management, Research Study submitted

notes that "*It appears that firms with high tangibility of assets are not ready to risk the threat of liquidation and the disciplining effect of IBC has brought down the leverage in these firms*".

This is reflected in the improvement in recovery rates under the IBC from approximately fifteen to twenty percent (*15–20%) in the pre-IBC regime to about thirty to thirty two percent (30–32%)*, alongside a significant reduction in resolution timelines from six to eight years (6–8) earlier to about Two and a half to three year (2.5–3) in resolved cases. Secured creditors, in particular, have experienced materially higher recoveries, reinforcing the primacy of credit contracts and the enforcement of creditor rights.

III. LIMITATIONS OF THE IBC IN RECOVERING RECEIVABLES

Based on the data released by the IBBI in its October quarterly report[11], it is evident that a substantial portion of bank dues, particularly those arising from working capital facilities, remains trapped in the receivables of corporate debtors and is seldom realised under the IBC framework, except for those arising out of an award or are against the governmental bodies. By the time CIRP concludes, most trade receivables have already turned into bad debts, and resolution applicants typically ascribe little or no value to such routine receivables while submitting plans.

to Insolvency and Bankruptcy Board of India, 22 May 2025) https://ibbi.gov.in/uploads/whatsnew/1af62766c26f90a284c1fa996faa6e97.pdf accessed 25 March 2026.

[11] Insolvency and Bankruptcy Board of India, Insolvency and Bankruptcy News (October–December 2025).

A similar pattern is visible in group entity and related-party transactions, where, despite a large number of avoidance applications[12] being filed involving significant amounts (as of December 31, 2025, one thousand seven hundred eighty eight (1788) applications have been filed involving an amount of four lakh twenty-eight thousand three hundred fifty-eight rupees and six paise (₹4,28,358.06)[13], outcomes remain limited, with such claims stuck in prolonged litigation without translating into meaningful recoveries. The data on avoidance transactions underscores this gap between the identification of value leakage and actual value recovery.

A. Pre-Packaged Insolvency: A Framework on Paper

At the same time, the pre-packaged insolvency framework for MSMEs[14] has largely remained on paper. As per IBBI, only seven applications have been admitted in a span of five years, out of which one was withdrawn[15]. Its design introduces additional procedural layers without delivering any real commercial advantage over a normal CIRP or even bilateral restructuring mechanisms such as One Time Settlement (**OTS**)[16] and restructuring[17]. The space for negotiation is, in fact, narrower; any meaningful haircut for financial creditors is tied to mandatory dilution

[12] Avoidance transaction is a term used to describe Preferential, undervalued, Fraudulent, and Extortionate Transactions under the provisions of IBC.
[13] Insolvency and Bankruptcy Board of India, Quarterly Newsletter (October–December 2025) vol 37.
[14] The Central Government introduced the Pre-Pack Resolution Process by way of the Insolvency and Bankruptcy Code (Amendment) Act, 2021 w.e.f. April 4, 2021.
[15] Insolvency and Bankruptcy Board of India, Quarterly Newsletter (n 13) 19.
[16] Reserve Bank of India, Circular No FIDD.MSME & NFS.BC.No.21/06.02.31/2015-16 (17 March 2016).
[17] Framework for Revival and Rehabilitation of MSMEs, 2015.

of promoter shareholding, while any reduction in dues of other creditors triggers a public invitation for competing resolution plans, importing CIRP-like uncertainty into a process meant to be simple and swift. Taken together, these trends show that while the IBC has enabled recoveries in certain large cases, its broader objective of value preservation, business continuity, and timely resolution continues to be undermined by delays, procedural rigidity, and structural constraints that lead to erosion of enterprise value and liquidation rather than revival.

B. IBC as a Recovery-Led Framework

Viewed against the data emerging from CIRP and liquidation outcomes, the working of the IBC increasingly reflects a recovery-led framework rather than a revival-oriented insolvency regime as originally visualised by the BLRC. While CIRP has yielded recoveries for financial creditors in certain cases, the overall picture is marked by long delays in plan approvals, a high incidence of liquidation, and substantial value erosion.

A significant portion of bank exposure, particularly working capital, remains locked in trade receivables, which, as the IBBI data shows, are rarely realised by the time CIRP concludes and are largely ignored by resolution applicants. Similarly, although avoidance transactions involving very large amounts (running into several lakh crores cumulatively, as reflected in IBBI's figures) are identified and challenged, recoveries from such proceedings remain limited due to prolonged litigation and delayed adjudication. Liquidation outcomes are even weaker, with realisations often a small fraction of admitted claims and asset sales leading to the death of enterprises rather than orderly exit or value preservation.

In practice, therefore, the IBC has functioned more as a judicially driven recovery mechanism preferred by banks, despite lower recoveries, over restructuring routes that require commercial decision-making, accountability, and deeper scrutiny of lending failures and group transactions. Over the years, banks have progressively moved from filing routine recovery suits to petitions under IBC. Figures released by IBBI through its October-December 2025 newsletter show that financial creditor accounts for forty-seven-point six seven per cent (47.67%) of total cases filed under IBC, out of which eight per cent (80%) of CIRPs were initiated for default of less than one crore.[18] Revival has largely been confined to a narrow set of large, running enterprises with stable cash flows (out of a total of eight thousand eight hundred twenty-eight (8828) cases filed, resolution happened only in a handful of around eleven hundred (1100) cases), while for the vast majority, the process ends in liquidation[19] after years of delay, defeating the core objective of preserving enterprise value and economic activity.

IV. THE BANKER'S PERSPECTIVE – PROJECT APPRAISAL, RISKS, AND CHALLENGES UNDER IBC

A. Appraisal of a Project for Lending

Financial lending principles and the insolvency framework under the Insolvency and Bankruptcy Code, 2016, operate on a common foundation, i.e. preservation of enterprise value and disciplined risk allocation. The pre-lending assessment of viability, cash flows and

[18] Insolvency and Bankruptcy Board of India, Quarterly Newsletter (n 13) 9.
[19] As per Quarterly Newsletter of IBBI for October-December 2025- Volume 37, cases around two thousand nine hundred fifty-two (2952) ended up in liquidation.

repayment capacity is mirrored in the IBC's design, which seeks to resolve stress in a time-bound manner to maximise value for stakeholders. This alignment has important legal implications as the Code reinforces the commercial primacy of financial creditors by vesting decision-making in the Committee of Creditors, where banks and financial institutions, as dominant financial creditors, determine the fate of the enterprise. The framework, thus, translates traditional credit discipline into a collective, statutory mechanism, protecting the time value of money, preventing fragmented recoveries, and enabling commercially driven resolution of viable businesses.

Thus, the principles of financial lending and insolvency law are complementary, ensuring both creditor security and business viability. Time-bound resolutions help lenders maintain the time value of money. Collective action prevents chaotic recoveries, safeguarding secured creditors' interests. Banks and Financial Institutions (**FIs**) are the largest group of Financial Creditors (**FCs)** under the IBC. Their role in the Committee of Creditors (**CoC**) is pivotal in approving resolution plans and deciding on liquidation or restructuring.

B. Default, Financial Stress, and the Triggering of Insolvency

Default is central to both financial services and the insolvency framework under the Code. Under Section 7 of the Code, the occurrence of a "default" is the sole trigger for initiation of the insolvency process, marking a clear shift from the earlier "inability to pay" standard under the Companies Act regime to a **default-based test**. The Hon'ble

Supreme Court in *Innoventive Industries Ltd. v. ICICI Bank*[20] and subsequently in *E.S. Krishnamurthy v. Bharath Hi Tech Builders Pvt. Ltd*[21]. has affirmed that once default is established, the Adjudicating Authority is required to admit the application, subject only to limited checks.

For financial institutions, default has immediate and tangible consequences, loss of interest income, which is the primary profit driver, and increased provisioning requirements under RBI norms. The IBC framework, by linking insolvency initiation strictly to default, provides a timely and objective mechanism for addressing financial stress. Resolution under the Code, thus, becomes a structured pathway for dealing with NPAs, enabling banks to preserve value and clean up their balance sheets in a time-bound manner.

C. Impact on Financial Policies

IBC has also cast its influence on financial institutions' credit policies, which is now visible as the focus shifts to secured lending to ensure recoverability. Preference for borrowers with stronger financials and lower risk. As per the Reserve Bank of India's *Financial Stability Report (December 2025)*, the share of secured borrowings in NBFC funding has shown consistent increase from sixty point eight percent (60.8%) to sixty one point four percent (61.4%) in upper layer NBFCs and from thirty-nine point six per cent to forty point one per cent (39.6% to 40.1%) on an aggregate basis between September 2024 and September 2025,

[20] Innoventive Industries Ltd v ICICI Bank (2017) Civil Appeals Nos 8337–8338 of 2017 (SC).
[21] Committee of Creditors of Essar Steel India Ltd v Satish Kumar Gupta (2021) Civil Appeal No 3325 of 2020 (SC).

indicating a gradual but definite shift towards security-backed exposures. This is perhaps influenced by the fact that secured creditors benefit from priority ranking in liquidation (Section 53 of the IBC[22]), enhanced protections for secured transactions, which ensure that financial institutions can better safeguard their interests in distressed situations.

D. Impact on the Financial Services Landscape

The IBC has significantly reshaped the financial services landscape in the banking industry, particularly in industrial and commercial lending. While the framework has strengthened creditor rights and recovery mechanisms, it has also led to increased costs and operational complexities in monitoring borrower accounts. Post-IBC, banks have institutionalised dedicated stressed asset resolution verticals at branch, zonal and head office levels, often supported by external legal, financial and technical experts, to deal with insolvency proceedings and resolution processes[23].

Further, regulatory emphasis on early recognition of stress, prevention of diversion of funds, and fraud monitoring has necessitated enhanced supervision of borrowers' financial health, stock statements, receivables and cash flows. This has translated into increased frequency of monitoring visits, tighter control mechanisms and higher deployment of

[22] Section 53 of the Code puts workmen's dues and dues of a secured creditor at par and over and above other creditors.
[23] Reserve Bank of India, Prudential Framework for Resolution of Stressed Assets (7 June 2019).; see also annual disclosures of public sector banks evidencing creation of specialised stressed asset management verticals.

managerial and executive resources.[24] In effect, while the IBC has improved resolution outcomes, it has also shifted the operational burden towards more intensive credit monitoring and risk management practices.

While IBC has streamlined resolutions, challenges remain in addressing unresolved legal positions, recovery of receivables, prioritisation of statutory dues, valuation of collateral, and avoidance transactions. As a result, financial institutions are adapting with stricter due diligence norms, enhanced monitoring frameworks, and sector-specific strategies to mitigate risks and align with evolving industry practices.

Simultaneously, the fear of losing control over companies has discouraged wilful defaults, leading to better repayment behaviour among borrowers.[25] Promoters now face disqualification under **Section 29A**,[26] ensuring only credible entities participate in resolution processes.

E. Transformation of Credit and Risk Policies

The behavioural impact of IBC is also visible in ex-ante credit behaviour. Empirical evidence cited in the Economic Survey, including the IIM

[24] Reserve Bank of India, Master Directions on Frauds – Classification and Reporting, which require enhanced monitoring, early warning signals and continuous supervision of borrower accounts.

[25] As per Chapter II: Financial Institutions: Soundness and Resilience of the Financial Stability Report 2025 of RBI, PSBs and FBs continued improvement in asset quality. At the aggregate level, the GNPA ratio of SCBs has declined to a fresh multi-decadal low of 2.2 per cent, and their NNPA ratio remained at a record low of 0.5 per cent.

[26] Section 29A of the Code, inter alia, disqualify an entity from participating and submitting a resolution plan who has been declared as wilful defaulter in terms of RBI Guidelines.

Bangalore study[27], shows a measurable improvement in credit discipline: a decline in overdue corporate loan ratios from 8 per cent in 2018 to about 5 per cent in 2024, faster transitions of accounts from default to normal status, and a reduction of approximately 0.96 percentage points[28] in net NPA accretion attributable to the implementation of IBC. These effects suggest that the Code's influence extends beyond cases formally admitted into CIRP, functioning as a deterrent against strategic default.

The pervasive influence of the IBC has also reshaped credit underwriting and risk assessment frameworks across sectors. Lenders, suppliers, and counterparties now evaluate transactions through the lens of insolvency survivability rather than mere repayment capacity.

From the creditor's perspective, this has translated into a more structured approach to risk, with emphasis on:

1. ensuring that claims are appropriately secured, legally enforceable and aligned with priority under the IBC waterfall;
2. avoiding transaction structures that may be susceptible to recharacterisation or challenge during CIRP or liquidation, including on grounds of preferential, undervalued or fraudulent transactions;
3. and incorporating sectoral recovery trends and historical resolution outcomes as a key input in credit appraisal and exposure decisions.

[27] Indian Institute of Management Bangalore (n 10).
[28] Ibid.

Borrowers, on the other hand, are acutely aware that a single default can precipitate insolvency proceedings with irreversible consequences. This has incentivised greater financial discipline, early engagement with creditors, and preference for bilateral restructuring over formal insolvency. At the same time, it has heightened reputational sensitivity, particularly for promoter-driven and closely held enterprises.

F. Net Effect: Discipline with Distortions

Taken together, the IBC has succeeded in instilling credit discipline and curbing strategic defaults. However, its increasing use as a recovery and negotiation tool, rather than a resolution framework, has also introduced distortions. The threat of insolvency has become a bargaining instrument, often deployed without regard to enterprise viability or systemic value preservation. This is visible in the filing of applications by the operational creditors (OCs), as per the data disclosed in the IBBI[29] OCs account for forty-six-point zero eight per cent (46.08%) of cases filed under IBC. This is even though OCs stand lower down the waterfall after workmen, secured creditors, employees, unsecured financial creditors, etc. However, the use of the threat of initiation has worked well, as around one thousand two hundred sixty (1260) CIRPs were withdrawn post-filing, presumably on account of a settlement reached between the parties.

This evolving dynamic calls for the need for a calibrated application of the Code, one that retains its deterrent effect while ensuring that insolvency remains a measure of last resort, aligned with its foundational

[29] Insolvency and Bankruptcy Board of India, Quarterly Newsletter (n 13) 9.

objective of resolution and revival, rather than functioning as an expedited recovery mechanism.

V. CHALLENGES IN RECOVERY AND UNSETTLED LEGAL POSITIONS

However, challenges for the financial institutions emanate from the unresolved status of statutory dues (*though some changes are proposed in the definition of the term secured interest by way of the Amendment Bill of 2025*), as highlighted in multiple cases, creating inconsistencies in the waterfall mechanism.

1. **Receivables**, often the primary security for working capital finance, face recovery challenges as high bad debts reduce their realisable value, and further delays in addressing avoidance transactions also adversely affect creditor recoveries.
2. **Preferential and Avoidance Transactions:** The framework under IBC for preferential transactions and fraudulent trading lacks swift mechanisms for recovery, causing prolonged delays.
3. **Liquidation Challenges:** Liquidation often results in value erosion due to the non-recoverability of certain assets. Assignments at the CIRP stage remain impractical as banks lack clear operational guidelines for asset transfers during insolvency.
4. **Global and Cross-Border Challenges:** Promoters siphoning money outside India remains a critical gap, as IBC lacks mechanisms to trace and recover such assets effectively. Cross-border insolvency frameworks are yet to be fully integrated, leaving Indian creditors vulnerable in global insolvency cases.

A. Recovery and Value Realisation under the IBC: An Assessment based on IBBI Quarterly Review (October – December 2025)

A key metric for evaluating the success of the Insolvency and Bankruptcy Code, 2016, lies not merely in creditor recoveries, but in the extent to which the framework achieves timely resolution, preserves enterprise value, and facilitates revival as envisaged by the BLRC.

The data published by the Insolvency and Bankruptcy Board of India in its October 2025 Quarterly Review[30] presents a sobering picture, one where recoveries have occurred, but largely at the cost of prolonged timelines, value erosion, and liquidation-driven exits rather than sustainable turnaround.

i. Claims Admitted versus Realisation in Resolved CIRPs

As per the IBBI data till December 2025, 1,300 CIRPs have yielded approved resolution plans. The total admitted claims in these cases aggregate to approximately rupees eight point three nine (₹8.39) lakh crore, against which creditors have realised rupees three point five eight (₹3.58) lakh crore under resolution plans. This translates into an average recovery of around 42.7% of admitted claims.

However, when viewed alongside the broader universe of admitted claims across all CIRPs, the picture remains uneven. A substantial portion of the admitted debt remains unrealised, reflecting that recoveries are concentrated in a limited subset of cases, primarily large, asset-heavy, or running enterprises.

[30] Insolvency and Bankruptcy Board of India (n 11).

ii. CIRP Recoveries vis-à-vis Liquidation Value

The comparative advantage of CIRP over liquidation is evident in percentage terms. Creditors in resolved CIRPs have realised approximately one hundred and seventy per cent of the liquidation value (₹3.58 lakh crore realisation against the liquidation value of about ₹2.10 lakh crore). This reinforces the proposition that resolution delivers superior outcomes compared to liquidation.

That said, this statistical superiority must be read with caution. The improvement over liquidation value often stems from distressed baseline valuations, rather than robust value creation through operational revival.

iii. Liquidation Outcomes and Value Erosion

The October 2025 data shows that two thousand nine hundred and fifty-two CIRPs have ended in liquidation orders, of which final reports have been submitted in one thousand six hundred and thirteen cases. The aggregate admitted claims in closed liquidation cases exceed four-point five lakh crore rupees (₹4.5 lakh crore), whereas total realisation stands at approximately sixteen thousand nine hundred and forty crore rupees (₹16,940 crore), translating into a recovery of less than four per cent (4%) of admitted claims.

Even when measured against liquidation value, the outcomes remain weak. The liquidation value of assets in closed cases stood at around eighteen thousand four hundred and eighty-seven crore rupees (₹18,487 crore), marginally higher than the realised value, underscoring severe value attrition during the process.

Critically, around seventy-eight per cent (78%) of companies entering liquidation were already defunct or previously referred to the Board for Industrial and Financial Reconstruction (BIFR), with assets valued, on average, at around five to six per cent (5–6%) of outstanding debt at the time of admission, indicating that value destruction had substantially occurred even before invocation of the Insolvency and Bankruptcy Code.

iv. Delays and their Impact on Value

The IBBI October-December 2025 Newsletter highlights systemic delays across both resolution and liquidation stages:

1. Seventy per cent (76%) of ongoing CIRPs have crossed two hundred seventy (270) days, well beyond statutory timelines.
2. A significant proportion of liquidation processes continue for over two to three years, with one thousand three hundred thirty-nine (1,339) liquidations still ongoing.
3. Delays at the NCLT level in approving resolution plans and passing liquidation orders, despite CoC approval, continue to erode asset value and diminish recovery prospects.

These delays dilute the core promise of the IBC as a time-bound resolution framework and convert it, in practice, into a slow judicial recovery process.

v. Unrealised Value in Receivables and Avoidance Transactions

A substantial quantum of bank dues, particularly arising from working capital exposure, remains locked in trade receivables. In most CIRPs, bidders either ascribe negligible value to such receivables or exclude

them altogether, recognising that by the time resolution concludes, these receivables have largely turned irrecoverable.

Similarly, while one thousand seven hundred eighty-eight (1,788) avoidance transaction applications involving amounts exceeding four point two eight lakh crore rupees (₹4.28 lakh crore) have been filed till December 2025, outcomes remain limited. A large number of these applications continue to remain pending, resulting in value being theoretically identified but practically unrecovered, especially in cases involving group entities and related parties.

vi. Liquidation as the Dominant Exit, not Revival

The reasons for liquidation further highlight structural limitations:

1. Over seventy-five per cent (75%) of liquidation orders were passed because no resolution plan was received.
2. Only a marginal number of cases saw liquidation due to rejection or contravention of resolution plans.
3. Sale as a going concern, arguably the closest alternative to revival, was achieved in only one hundred seventy-one (171) cases, against total liquidations exceeding two thousand nine hundred (2,900).

This demonstrates that liquidation has become the default exit route rather than a measure of last resort.

vii. Pre-Packaged Insolvency: Promise Unfulfilled

The MSME Pre-Packaged Insolvency Resolution Process (**PPIRP**), introduced in 2021, has remained largely on paper. As of December

2025, only 17 applications had been admitted, with resolution plans approved in around 10 cases.

The framework suffers from inherent constraints: additional procedural layers, restricted scope for commercial negotiation, compulsory promoter dilution linked to financial creditor haircuts, and mandatory public invitation upon modification of non-financial creditor claims. These features import CIRP-like uncertainties without offering commensurate benefits in cost.

VI. IMPACT OF THE IBC ACROSS SECTORS

The Insolvency and Bankruptcy Code has undoubtedly altered the credit enforcement landscape in India. However, a close reading of the IBBI Quarterly Report (October-December 2025) shows that its impact has been uneven across sectors, with outcomes driven less by legal design and more by sectoral asset profiles, cash-flow resilience, and the stage at which stress is addressed.

A. Manufacturing and Asset-Heavy Sectors

Manufacturing continues to dominate the CIRP universe. As per the October 2025 data, manufacturing accounts for approximately forty-seven per cent (47%) of CIRPs, resulting in resolution plans and around 40% of cases entering liquidation. This sector has benefited the most from the IBC framework because tangible assets, plants, machinery, land, and captive infrastructure provide a salvageable value base. This is reflected in the fact that realisation under resolution plans remains significantly higher than liquidation value, even though timelines are

stretched. Banks, therefore, increasingly prefer resolution in asset-heavy sectors, often through consortium approaches to distribute risk.

B. Infrastructure and EPC-Driven Businesses

Infrastructure cases present structural challenges under IBC. While admitted claims are large, resolution outcomes remain limited due to long gestation periods, regulatory dependencies, concession risks, and incomplete projects. The IBBI data shows that a substantial number of infrastructures CIRPs eventually drift into liquidation or prolonged CIRP without meaningful value realisation. Delays in approvals, land acquisition issues, and counterparty disputes often mean that by the time insolvency is triggered, the economic value is already impaired. As a result, lenders are increasingly reluctant to rely solely on IBC for infrastructure recovery and are reverting to bilateral restructuring, RBI frameworks, or asset-level exits, where feasible.

C. Real Estate Sector

Real estate continues to be a complex outlier. While the Code recognises homebuyers as financial creditors, the December 2025 data shows that real estate accounts for nearly nineteen per cent (19%) of liquidation commencements, despite being a sector where resolution was expected to be more effective. The inclusion of thousands of homebuyers in the Committee of Creditors often results in fragmented decision-making and delayed approvals. From a lender's perspective, recoveries are frequently diluted as resolution plans prioritise project completion over debt recovery. Consequently, banks have become more cautious, insisting on ring-fenced escrow structures, milestone-linked disbursements, and

tighter monitoring, rather than relying on post-default insolvency resolution.

D. Services, Aviation, Hospitality and Asset-Light Businesses

Service-oriented sectors such as aviation, hospitality, logistics, and IT face inherent disadvantages under the IBC due to the absence of hard assets. The Jet Airways insolvency remains emblematic, where employee dues, regulatory claims and intangible assets such as slots and brand value complicated resolution.

IBBI data reflect that such sectors are over-represented in liquidation and withdrawals, as bidders are unwilling to ascribe value to receivables, goodwill, or contingent cash flows. Financial institutions, learning from these outcomes, now focus far more on cash-flow underwriting, sponsor guarantees, and exit covenants, rather than relying on insolvency as a fallback.

E. MSMEs: High Volume, Low Revival

MSMEs constitute a significant proportion of insolvency admissions, but the IBBI October-December 2025 report reinforces that revival through IBC remains limited. Most MSME cases entering CIRP are already defunct, asset-stripped, or burdened with unresolved statutory liabilities. The much-touted Pre-Packaged Insolvency Resolution Process has failed to gain traction.

F. Cross-Sectoral Challenges Highlighted by the Data

The IBBI data brings out certain systemic issues cutting across sectors:

1. **High liquidation outcomes**: Around seventy-eight per cent (78%) of CIRPs ending in liquidation relate to defunct or BIFR-legacy companies, where asset value had already eroded to about five to six per cent (5–6%) of outstanding debt before admission.
2. **Receivables remain largely unrealised**: Working capital receivables and group-company dues, often forming a significant part of bank exposure, rarely translate into recovery, as bidders discount them heavily.
3. **Avoidance transactions remain stuck**: Although over one thousand seven hundred (1,700) avoidance applications involving more than four point two eight lakh crore rupees (₹4.28 lakh crore) have been filed, realisations from these proceedings remain minimal due to delays, litigation, and enforcement bottlenecks.
4. **Timelines continue to slip**: The average time for resolution plan approval now exceeds six hundred fifty (650) days, and liquidation closures often run well beyond statutory limits, resulting in further value erosion.

VII. IBC AS A RECOVERY TOOL MORE THAN A REVIVAL FRAMEWORK

Although the IBC was originally envisaged as a framework for the resolution and revival of distressed businesses, its practical deployment reflects a discernible departure from that objective. As reflected in recent IBBI data, approximately forty six percent (46%) of CIRPs are initiated by operational creditors, many of whom seek recovery of relatively modest dues rather than long-term restructuring. Additionally,

withdrawals under Section 12A, following settlements after admission, account for nearly one-sixth of total CIRPs.

These trends suggest that insolvency proceedings are increasingly being used as a negotiating lever rather than as a collective resolution mechanism. While settlements are not inherently undesirable, their frequency post-admission underscores how the Code is often deployed to compel payment rather than to revive distressed enterprises, blurring the line between insolvency resolution and judicial recovery.

A. Contractual Safeguards in the Shadow of Insolvency

In response to the heightened insolvency risk landscape, businesses have begun re-engineering contractual structures to mitigate exposure under the IBC. There is a clear movement towards front-loading protections at the transaction stage rather than relying on post-default remedies.

Common safeguards now include:

1. Asset-backed structuring of credit and advances, including charge creation, escrow mechanisms, and ring-fencing of receivables.
2. Tighter default triggers and milestone-based obligations, aimed at preventing technical or inadvertent defaults that could be weaponised.
3. Clearly defined consequences for delays or breaches, including step-in rights, termination rights, and accelerated repayment obligations.

These contractual adjustments reflect a pragmatic recognition that once insolvency is triggered, commercial control is largely ceded to a judicial process with uncertain timelines and outcomes.

VIII. CHANGING THE NARRATIVE AROUND BUSINESS FAILURE AND INSOLVENCY

A. Promoter Behaviour and the Social Stigma of Failure

The response of promoters to insolvency situations often complicates the resolution process, not only for creditors but also for the promoters themselves. In the Indian context, business failure is rarely viewed as a neutral economic outcome. Instead, the identity of the promoter is deeply intertwined with the enterprise, particularly in family-owned and closely held businesses. Insolvency is therefore perceived not merely as a commercial setback but as a personal, social, and reputational failure.

This emotional and social linkage creates strong resistance to acknowledging distress at an early stage. Promoters tend to persist with failing ventures well beyond economic viability, driven by fear of social judgment, loss of standing, and erosion of personal credibility. Even where liquidation or an orderly exit would preserve residual value, promoters often cling to control, delaying corrective action and exacerbating value erosion.

Such behaviour is not necessarily driven by malicious intent. Rather, it reflects the absence of a cultural acceptance of failure as an inherent risk of entrepreneurship. Unlike mature insolvency jurisdictions, where failure is often treated as part of the business cycle, Indian promoters

operate under an environment where insolvency is viewed as a moral indictment rather than an economic outcome.

B. Media Narrative and Public Perception

This stigma is reinforced by the manner in which business failures are portrayed in public discourse. Insolvency is frequently reduced to questions of promoter competence or integrity, with limited acknowledgement of external and structural factors such as sectoral downturns, regulatory shocks, policy uncertainty, global commodity cycles, or unforeseen disruptions.

The dominant narrative tends to personalise failure, attributing outcomes to individual fault rather than systemic stress. This discourages timely engagement with creditors and formal resolution mechanisms, as promoters fear that any admission of distress will permanently damage their credibility, irrespective of the merits of their case.

C. Regulatory and Banking Practices: Reinforcing the Stigma

Regulatory and banking responses to default have further entrenched this fear-based environment. While strong measures are essential to address wilful default, diversion of funds, and fraud, their broad and sometimes mechanical application has blurred the distinction between deliberate misconduct and genuine business failure.

Key practices contributing to this include:

1. **Wilful Defaulter Classification**: Originally intended to target borrowers who have the capacity to pay but

intentionally default, the wilful defaulter framework is often applied without adequate differentiation between intent and outcome. Once imposed, the label effectively forecloses future access to credit and entrepreneurial activity, irrespective of subsequent conduct.

2. **Premature Fraud Allegations**: In several cases, defaults are accompanied by early fraud tagging, sometimes based on audit observations or procedural lapses rather than demonstrable mens rea. This has severe consequences, including criminal proceedings, regulatory action, and permanent reputational damage—often before commercial issues are fully examined.
3. **Public Naming and Coercive Measures**: Practices such as publication of defaulters' names, circulation of photographs, issuance of lookout circulars, and travel restrictions are designed as deterrents but operate indiscriminately. These measures tend to conflate failure with wrongdoing and impose social penalties disproportionate to the underlying conduct.
4. **Institutional Risk Aversion Driven by Oversight Agencies**: Heightened scrutiny by vigilance bodies and investigative agencies has materially altered banking behaviour. Decisions relating to restructuring, compromise settlements, or haircuts are often viewed through the lens of post-facto accountability rather than commercial merit. This has encouraged a punitive, defensive approach to defaults, reducing the willingness of lenders to support revival even in viable cases.

D. Consequences for Insolvency Outcomes

Collectively, these factors create an environment where promoters perceive insolvency as an irreversible personal defeat rather than a commercial reset. The result is delayed filings, erosion of enterprise value, resistance to transparent resolution, and an over-reliance on litigation and enforcement.

Instead of facilitating early resolution and orderly exits, central objectives of the IBC, the prevailing narrative and regulatory approach incentivise denial, delay, and defensive conduct. This not only undermines value maximisation but also discourages risk-taking and genuine entrepreneurship.

E. Need for a Reframed Approach

For the insolvency ecosystem to mature, there must be a conscious shift in how business failure is understood and addressed. A clear distinction must be drawn between fraudulent conduct and commercial failure, and regulatory responses must reflect proportionality and context.

Unless insolvency is de-stigmatised and treated as a legitimate economic process rather than a personal indictment, the objectives of timely resolution, value preservation, and business revival will remain difficult to achieve, regardless of statutory design.

It is critical to distinguish between genuine business failures arising from economic or operational challenges and deliberate defaults driven by fraudulent intentions. Factors leading to genuine failures may include economic downturns or recessions, disruptions in supply chains or

market conditions and technological obsolescence or regulatory changes, etc.

On the other hand, deliberate defaults involve a clear intent to defraud or misuse funds. Sweeping punitive measures fail to make this distinction, unfairly penalising promoters who acted in good faith. Things are getting further complicated as the Tribunal seeks to expand the scope of section 5(8) (f) of IBC, which deals with the definition of the financial debt to cover transactions that are not in the nature of a debt transaction.

IX. A PREMATURE STRIKE – THE RISKS OF USING IBC AS A DEFAULT RESPONSE TO FIRST DEFAULT

It is seen that many policymakers are recommending the use of IBC as the first instance of default. IBC was envisioned as a mechanism to address corporate insolvency and promote the resolution of distressed entities. However, advocacy by policymakers urging banks to file insolvency applications immediately upon the first instance of default is a deeply concerning proposition. This approach, while seemingly proactive, risks destabilising not only the IBC ecosystem but also the broader banking and business environment.

The IBC framework is already grappling with capacity constraints. The system is burdened by a large volume of unresolved cases, many of which drag on far beyond the prescribed three-hundred-thirty-day (330) timeline. If banks begin filing cases at the first instance of default, hundreds of new cases will be added every quarter, further overwhelming an already strained ecosystem. The National Company Law Tribunals lack the requisite manpower and technical expertise to process such an

influx effectively. This deluge could lead to a slowdown in the adjudication process, frustrating the very purpose of the IBC, timely resolution and leading to premature death of many enterprises.

A. Temporary Defaults Are Not Insolvency

Not all defaults signify insolvency. Many defaults occur due to operational or business-related challenges, such as delays in receivables or supply chain disruptions. These are often temporary phenomena that can be resolved during the next working capital cycle. Treating such instances as insolvency events requiring IBC intervention is an overreach. Forcing businesses into insolvency proceedings for short-term cash flow mismatches risks destroying otherwise viable enterprises and discourages entrepreneurship.

B. Existing Banking Mechanisms Address Defaults

India's banking sector already has well-established mechanisms to handle defaults. The Reserve Bank of India (**RBI**) provides a structured framework for restructuring stressed assets, including schemes like the Prudential Framework for Resolution of Stressed Assets and the Strategic Debt Restructuring mechanism. These frameworks have been successfully used by banks to address defaults while keeping businesses operational. Furthermore, mechanisms such as one-time settlements, debt refinancing, and consensual restructuring provide sufficient tools to address financial distress without invoking the IBC. Additionally, filing of cases even before the account turns into NPA will force the Banks to make provisioning as per Prudential Norms of RBI, thereby eroding their profitability and capital, which is not at all desirable. Therefore, IBBI

should leave the matter to banks as they understand banking better and also know how to handle situations which arise on account of defaults.

C. IBC is Not a Cure-All

Additionally, IBC is not, and should not be, a catch-all solution for every default. It is a specialised mechanism meant for resolving deep financial distress or corporate insolvency where revival through conventional means is no longer viable. Its use should be limited to cases of severe financial stress that cannot be resolved through the regular banking and restructuring processes. Applying the IBC indiscriminately as the first response to default undermines its intended purpose and dilutes its effectiveness.

D. The Cost of Overuse

Triggering insolvency proceedings on the first default will not only overburden the IBC framework but also erode trust between borrowers and lenders. Once admitted under an insolvency process, existing customers simply withdraw; no financier will provide finance to an insolvency company, and the business usually suffers for want of customers and financial support. On the other hand, the value of assets erodes at a much faster pace if they remain underutilised, overheads keep burgeoning, the enterprise sinks under the weight of costs and additional burden of bearing the cost of RPs, their professional team, and other costs associated therewith. From a lender's perspective, pursuing every default through the IBC increases litigation costs and reduces recovery efficiency.

E. Repercussions for the Banking System

Banks need to assess defaults on a case-by-case basis, considering the underlying causes and the borrower's potential to recover. Filing insolvency applications for every default will disrupt the normal operations of the banking system. It could discourage lending to businesses perceived as high-risk, stifle innovation, and lead to credit contraction in key sectors of the economy. Policymakers need to recognise that not all financial distress requires insolvency intervention. A calibrated approach is essential. Banks should focus on identifying signs of financial stress early and engaging with borrowers to resolve issues before they escalate. Expanding and improving restructuring tools can provide a sustainable path for businesses to overcome financial difficulties without invoking insolvency. The IBC should remain a mechanism of last resort, used only when all other avenues have been exhausted, and the business is no longer viable.

Using the IBC as an immediate response to every default is akin to wielding a hammer for every problem, regardless of its nature. Such an approach will not only harm businesses and the banking sector but also undermine the IBC itself. Policymakers must adopt a nuanced perspective, ensuring that the IBC remains a tool for addressing genuine insolvency while promoting the growth and resilience of the broader economy. Default is not always a sign of failure, and not every default demands the intervention of an insolvency framework. Instead, a balanced strategy that leverages existing tools and preserves the sanctity of the IBC is the need of the hour.

X. EVALUATING THE BLRC VISION AGAINST THE PRESENT REALITY OF THE IBC

The Bankruptcy Law Reforms Committee Report[31] provided the intellectual and policy foundation for the Insolvency and Bankruptcy Code, 2016. It was conceived as a decisive break from India's fragmented and creditor-unfriendly insolvency regime, with the central objective of early intervention, value preservation, and enterprise revival, rather than mere debt recovery. The BLRC visualised insolvency as a time-bound, market-driven process where commercial outcomes would be determined by creditors, supported, but not dominated, by judicial oversight.

Nearly a decade into the IBC's implementation, the outcomes present a mixed picture of structural success and functional underperformance. While several core pillars of the BLRC framework have been formally implemented, their practical impact has been diluted by delays, behavioural distortions, and institutional constraints.

A. Time-Bound Resolution: Vision vs. Reality

One of the BLRC's most critical recommendations was strict adherence to timelines, with insolvency resolution to be completed within one hundred eighty (180) days, extendable by a further ninety (90) days. This discipline was intended to prevent value erosion and force early commercial decisions.

[31] Bankruptcy Law Reforms Committee (n 2)

In practice, despite the statutory outer limit of three hundred thirty (330) days introduced later (including litigation), average resolution timelines now exceed four hundred (400) days, with a significant number of cases extending well beyond this period due to admission delays, procedural bottlenecks, and prolonged litigation at various stages. Less than half of CIRPs conclude within the prescribed timelines. This divergence from the BLRC vision has had a direct impact on asset values, business continuity, and stakeholder confidence.

B. Value Preservation and Recovery Outcomes

On paper, the IBC has delivered better recovery outcomes than pre-IBC regimes. As per IBBI data, creditors have realised roughly around thirty to thirty-five per cent (31–35%) of admitted claims in resolved CIRPs, a marked improvement over the earlier recovery mechanism. Further, recoveries under resolution plans are consistently higher than liquidation values, often exceeding liquidation benchmarks by more than one hundred fifty per cent (150%), underscoring the theoretical strength of the resolution-first approach.

However, this improvement must be viewed in context. A substantial portion of recoveries is concentrated in a limited number of large, asset-heavy cases. At a system level, value erosion remains severe, particularly where delays push viable businesses into liquidation. Large volumes of receivables, working capital assets, and avoidance recoveries remain unrealised, diluting the net economic impact of the process.

C. Creditor-Driven Resolution and Its Limits

The BLRC Report correctly placed financial creditors at the centre of the insolvency framework, recognising their capacity to assess commercial viability and take informed decisions. This design has been faithfully implemented, with the Committee of Creditors exercising decisive control over resolution outcomes.

At the same time, the near exclusion of operational creditors from decision-making has created an imbalance. While operational creditors can trigger insolvency, their recoveries in most cases are negligible. This has encouraged tactical filings by operational creditors as a pressure mechanism rather than as a step toward resolution, reinforcing the perception of IBC as a recovery tool.

D. Resolution Professionals and Institutional Capacity

The BLRC envisaged Resolution Professionals as neutral, competent managers overseeing insolvency processes with speed and transparency. While the RP framework is now firmly embedded, challenges persist around quality, accountability, and sectoral expertise.

Further, shortages of NCLT benches, prolonged vacancies, and registry inefficiencies have diluted the effectiveness of the entire ecosystem. Judicial delays at admission, plan approval, and liquidation stages undermine the very discipline the BLRC sought to introduce.

E. Liquidation: A Systemic Drift

Liquidation was intended by the BLRC as a last resort, applicable only where revival was demonstrably impossible. Yet, a significant proportion

of CIRPs now end in liquidation, with the overwhelming majority of these cases receiving no resolution plan at all.

F. MSMEs and the Pre-Pack Framework

The BLRC emphasised the need for simplified insolvency mechanisms for smaller enterprises. While fast-track CIRP and later the MSME pre-pack framework were introduced, uptake has been negligible.

The pre-pack regime, in particular, has failed to gain traction due to procedural density, constrained commercial flexibility, and a lack of clear incentives when compared with normal CIRP or RBI-led restructuring frameworks. Instead of simplifying resolution, pre-packs have imported CIRP-like uncertainties without delivering corresponding benefits.

G. Information Utilities and Market Infrastructure

Information Utilities were intended to reduce disputes, speed up admissions, and eliminate information asymmetry. While National E-Governance Services Limited (**NeSL**) is operational and filings are mandatory in theory, actual reliance on IUs remains uneven, and their potential remains largely underutilised in adjudication and creditor decision-making.

H. Ease of Doing Business and Market Confidence

The IBC did contribute to a significant improvement in India's global insolvency rankings before the World Bank discontinued the Doing Business Index. The World Bank, as per its statement released on 21st September 2021, has since discontinued the Doing Business Index. However, domestic outcomes suggest that improved creditor rights have

not yet translated into deeper bond markets or broader risk-based lending, particularly outside large corporates.

I. The Case for an India-Centric Recalibration

The IBC has unquestionably strengthened India's insolvency framework. However, mechanical transplantation of global insolvency models cannot succeed without adaptation to India's legal culture, business behaviour, and institutional capacity.

IBC governs a narrow slice of commercial relationships, largely insolvency situations, yet it is increasingly invoked to resolve disputes that are fundamentally contractual or commercial in nature. Allowing insolvency law to override commercial intent or re-characterise transactions beyond their agreed terms risks legal uncertainty and systemic distortion. Tribunals must resist the temptation to rewrite contracts or expand IBC into domains governed by settled commercial law.

Finally, the banking system must address the structural drivers that encourage over-reliance on IBC as a defensive shield against post-facto scrutiny. Strong internal accountability frameworks and confidence in commercial decision-making are essential to reduce this reflexive dependence on judicial processes.

To realise the BLRC's original vision, India must move beyond formal compliance and address behavioural, institutional, and cultural constraints. A balanced approach, where insolvency law complements, rather than supplants, commercial law, will be critical to building a sustainable ecosystem for resolution, exit, and economic renewal.