



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

INSOLVENCY AND BANKRUPTCY CODE- CIRP PROCESS

NAME: CHITRANSHI GUPTA COURSE: BBA LLB (H)

ABSTRACT:

The Insolvency and Bankruptcy Code (IBC) has emerged as a transformative legislation in India, aiming to address the complex issues surrounding insolvency and bankruptcy proceedings. This paper provides a comprehensive analysis of the IBC, examining its implications, challenges, and potential solutions.

The study begins by contextualizing the need for a robust insolvency framework, highlighting the shortcomings of the previous legal regime and the economic ramifications of ineffective insolvency resolution mechanisms. It then delves into the key provisions of the IBC, including its objectives, procedural framework, and institutional mechanisms.

Drawing on empirical data and case studies, the paper evaluates the impact of the IBC on various stakeholders, including creditors, debtors, insolvency professionals, and the economy. It assesses the effectiveness of the IBC in expediting the resolution process, enhancing creditor recovery rates, and promoting a culture of financial discipline.

Furthermore, the study identifies the challenges and bottlenecks encountered in the implementation of the IBC, such as delays in resolution, capacity constraints, and legal complexities. It explores potential strategies and policy interventions to address these challenges, including streamlining the resolution process, strengthening institutional capacity, and promoting alternative dispute resolution mechanisms.

Finally, the paper concludes with recommendations for policymakers, practitioners, and stakeholders to further strengthen the insolvency framework in India and maximize its effectiveness in promoting economic growth, financial stability, and investor confidence.

INTRODUCTION:

The Insolvency and Bankruptcy Code (IBC) is a significant piece of legislation enacted in India to address the long-standing issue of insolvency and bankruptcy in a more systematic and efficient manner. The IBC was introduced to streamline the insolvency resolution process, provide a time-bound framework for resolving cases of corporate insolvency, and maximize the value of stressed assets.

Here's a brief introduction to the Insolvency and Bankruptcy Code:

Background: Before the enactment of the IBC in 2016, India lacked a comprehensive legal framework for dealing with insolvency and bankruptcy. The existing laws were outdated, fragmented, and often led to prolonged legal battles and delays in resolving insolvency cases.

Objectives: The primary objectives of the IBC are to promote entrepreneurship, facilitate ease of doing business, and ensure timely resolution of insolvency while maximizing the value of assets. It aims to balance the interests of creditors and debtors and promote a culture of financial discipline and responsible lending.

Key Features:

Single Law: The IBC consolidates and amends the laws relating to insolvency resolution of corporate persons, partnership firms, and individuals in a single legislation.

Time-Bound Process: It provides for a time-bound process for insolvency resolution, with strict timelines for each stage of the resolution process to ensure quick and efficient resolution.

Insolvency Professionals (IPs): The code establishes a framework for the appointment of insolvency professionals who play a crucial role in managing the affairs of the insolvent entity during the resolution process.

Insolvency Resolution Process (IRP): The IBC outlines the procedures for initiating insolvency resolution proceedings, including the admission of applications, formation of a committee of creditors, submission of resolution plans, and approval of such plans by the creditors.

Liquidation: In cases where resolution is not feasible, the IBC provides for the initiation of liquidation proceedings to sell the assets of the insolvent entity and distribute the proceeds to creditors in a specified order of priority.

Impact: The implementation of the IBC has led to significant improvements in the resolution of insolvency cases in India. It has increased the recovery rate for creditors, reduced the time taken to resolve insolvency cases, and improved the ease of doing business in the country.

Chapter 1

Establishment, History, and Evolution of CIRP and IBC in India

2.1 Introduction to Insolvency Framework in India

In India, the insolvency framework underwent significant transformations over the years, evolving from a fragmented and archaic system to a modern, comprehensive regime under the Insolvency and Bankruptcy Code (IBC). Before the advent of the IBC, insolvency proceedings were governed by various outdated laws, including the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA), and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDBFI Act).

The insolvency landscape in India was characterized by a lack of coherence, prolonged resolution timelines, and inadequate creditor protection mechanisms. The absence of a unified insolvency law led to inefficiencies, delays, and suboptimal outcomes for creditors, debtors, and the economy at large. The need for a robust and modern insolvency framework was increasingly felt to address these systemic challenges.

International experiences and best practices played a pivotal role in shaping the discourse around insolvency reform in India. Countries with effective insolvency regimes, such as the United States, the United Kingdom, and Australia, served as models for policymakers seeking to modernize India's insolvency laws. Lessons learned from global experiences underscored the importance of timely resolution, creditor rights, and institutional capacity building.

The establishment of the Insolvency Law Committee (ILC) in 2014 marked a significant milestone in India's journey towards insolvency reform. The committee was tasked with reviewing and recommending changes to the existing insolvency framework, with a focus on promoting transparency, efficiency, and creditor recovery. The ILC's recommendations formed the basis for the eventual enactment of the Insolvency and Bankruptcy Code (IBC).

The enactment of the Insolvency and Bankruptcy Code (IBC) in 2016 represented a paradigm shift in India's insolvency landscape. The IBC sought to consolidate and streamline the myriad insolvency laws into a single, comprehensive legislation, thereby providing a coherent and efficient framework for resolving insolvency and bankruptcy cases. The IBC aimed to promote ease of doing business, enhance creditor recovery, and facilitate the resolution of distressed assets.

The IBC introduced several key innovations, including the establishment of the Insolvency and Bankruptcy Board of India (IBBI) as the apex regulatory authority overseeing insolvency proceedings. The IBBI was entrusted with the task of regulating insolvency professionals, adjudicating insolvency cases, and developing a robust ecosystem for insolvency resolution.

Furthermore, the IBC introduced time-bound resolution mechanisms such as the Corporate Insolvency Resolution Process (CIRP) for corporates and the Individual Insolvency Resolution Process (IIRP) for individuals. These processes aimed to expedite the resolution of insolvency cases, maximize the value of distressed assets, and balance the interests of creditors and debtors.¹

¹ IANS, "Reliance Capital COC rejects all bids, decides liquidation: Sources", business-standard.com, November 30, 2022, retrieved November 30, 2022.

The IBC also emphasized the importance of creditor rights and protection, providing creditors with greater

powers and avenues for recovery. It introduced the concept of the Committee of Creditors (CoC) to represent the interests of creditors in the resolution process and empowered them to take critical decisions regarding the fate of the corporate debtor.

In conclusion, the establishment, history, and evolution of the insolvency framework in India reflect a journey of transformation from a fragmented and inefficient system to a modern, comprehensive regime under the Insolvency and Bankruptcy Code (IBC). The IBC represents a significant milestone in India's quest for insolvency reform, laying the foundation for a transparent, efficient, and creditor-friendly insolvency ecosystem.

This transformative journey toward insolvency reform in India was not without its challenges and complexities. Prior to the enactment of the Insolvency and Bankruptcy Code (IBC), the insolvency landscape was marked by a lack of coherence and uniformity, with multiple laws governing different aspects of insolvency and debt recovery. This fragmented approach resulted in prolonged resolution timelines, legal uncertainties, and suboptimal outcomes for creditors and debtors alike.

Moreover, the absence of a modern insolvency framework hindered India's ability to attract investment and foster a conducive business environment. Inefficient debt resolution mechanisms and inadequate creditor protection eroded investor confidence and posed obstacles to economic growth and development. Recognizing the urgent need for reform, policymakers embarked on a journey to modernize India's insolvency laws and align them with international best practices.

The establishment of the Insolvency Law Committee (ILC) in 2014 marked a significant turning point in India's insolvency reform agenda. Comprising experts from diverse fields, the ILC was tasked with conducting a comprehensive review of the existing insolvency framework and proposing recommendations for its overhaul. The committee's deliberations and recommendations laid the groundwork for the eventual enactment of the Insolvency and Bankruptcy Code (IBC) in 2016².

The Insolvency and Bankruptcy Code (IBC) represented a watershed moment in India's insolvency landscape, ushering in a new era of transparency, efficiency, and creditor recovery. The IBC sought to consolidate and streamline the myriad insolvency laws into a single, cohesive legislation, thereby providing a clear and predictable framework for resolving insolvency cases. The code introduced time-bound resolution mechanisms, such as the Corporate Insolvency Resolution Process (CIRP) and the Individual Insolvency Resolution Process (IIRP), to expedite the resolution of distressed assets and maximize creditor recovery.

Furthermore, the IBC emphasized the importance of creditor rights and protection, empowering creditors with greater say in the resolution process. The introduction of the Committee of Creditors (CoC) provided creditors with a forum to collectively negotiate and approve resolution plans, ensuring that their interests were adequately represented and protected. Additionally, the establishment of the Insolvency and Bankruptcy Board of India

(IBBI) as the apex regulatory authority brought greater oversight and accountability to the insolvency process.

In conclusion, the establishment, history, and evolution of the insolvency framework in India reflect a journey of transformation from a fragmented and outdated system to a modern, comprehensive regime under the Insolvency and Bankruptcy Code (IBC). While challenges remain, the IBC represents a significant step forward in India's quest for insolvency reform,

² Mehta, Sangita, "Future Retail lenders select Deloitte backed interim resolution professional to take the company to bankruptcy court", The Economic Times, retrieved April 9, 2022

laying the foundation for a transparent, efficient, and creditor-friendly insolvency ecosystem that fosters economic growth and development.

2.2 Need for Reform: Factors Leading to the Introduction of IBC

In the years leading up to the enactment of the Insolvency and Bankruptcy Code (IBC) in India, the country's insolvency framework faced significant challenges and shortcomings. These deficiencies were exacerbated by a fragmented and outdated legal landscape, characterized by multiple laws governing insolvency and debt recovery proceedings. The lack of coherence and uniformity in the insolvency regime resulted in prolonged resolution timelines, legal uncertainties, and inefficiencies in creditor recovery.

One of the primary factors necessitating insolvency reform in India was the adverse impact of the existing framework on economic growth and development. Inefficient debt resolution mechanisms, coupled with inadequate creditor protection, hindered the flow of credit, stifled entrepreneurship, and hampered the ease of doing business. This created a hostile environment for investment and posed significant obstacles to India's aspirations of becoming a global economic powerhouse.³

Furthermore, the absence of a modern insolvency framework eroded investor confidence and undermined India's attractiveness as an investment destination. Foreign investors, in particular, were wary of the country's complex and cumbersome insolvency laws, which deterred them from committing capital to Indian businesses. The need for a transparent, efficient,

³ Thomas, Chris, "India cenbank moves to begin bankruptcy proceedings against DHFL", nasdaq.com, retrieved December 1, 2019.

and predictable insolvency regime became increasingly apparent as India sought to integrate into the global

economy and attract foreign investment.

International experiences and best practices played a crucial role in shaping the discourse around insolvency reform in India. Countries with robust insolvency regimes, such as the United States, the United Kingdom, and Australia, served as models for policymakers seeking to modernize India's insolvency laws. Lessons learned from global experiences underscored the importance of timely resolution, creditor rights, and institutional capacity building in fostering a conducive business environment.

Moreover, the adverse economic impact of non-performing assets (NPAs) on Indian banks and financial institutions highlighted the urgency of addressing the underlying issues plaguing the insolvency framework. The rising tide of NPAs strained the banking sector, impaired credit growth, and posed systemic risks to the stability of the financial system. Recognizing the need to tackle the NPA crisis head-on, policymakers prioritized insolvency reform as a means to enhance creditor recovery and restore confidence in the banking sector.

The establishment of the Insolvency Law Committee (ILC) in 2014 represented a critical milestone in India's journey towards insolvency reform. Tasked with reviewing and recommending changes to the existing insolvency framework, the ILC brought together experts from diverse fields to chart a path forward. The committee's recommendations formed the basis for the eventual enactment of the Insolvency and Bankruptcy Code (IBC) in 2016, signaling a new dawn for India's insolvency regime.⁴

In conclusion, the need for insolvency reform in India was driven by a confluence of factors, including economic imperatives, global best practices,

⁴Kundu, Shayan Ghosh, Rhik, "Jet will need more capital post-rescue", Mint, October 19, 2020, retrieved October 19, 2020.

and the imperative to address the NPA crisis. The enactment of the Insolvency and Bankruptcy Code (IBC) represented a significant step forward in modernizing India's insolvency laws and fostering a transparent, efficient, and creditor-friendly business environment. While challenges remain, the IBC lays the foundation for a more resilient and dynamic Indian economy in the years to come.

Furthermore, the need for insolvency reform was underscored by the imperative to enhance the ease of doing business in India. The World Bank's Doing Business report consistently highlighted the inefficiencies and complexities of India's insolvency framework, ranking the country low in terms of resolving insolvency. This unfavorable ranking not only deterred foreign investment but also hindered domestic entrepreneurship and economic growth. Recognizing the correlation between a robust insolvency regime and economic competitiveness, policymakers prioritized the overhaul of India's insolvency laws.

In addition to economic considerations, the need for insolvency reform was driven by social and ethical imperatives. The protracted nature of insolvency proceedings often resulted in significant hardships for debtors,

creditors, and other stakeholders. Delays in debt resolution led to prolonged uncertainty, loss of value, and erosion of trust in the legal system. Addressing these challenges required a holistic approach that balanced the interests of all stakeholders and promoted fairness, transparency, and accountability in the insolvency process.

Moreover, the need for insolvency reform was underscored by the imperative to align India's legal framework with international standards and best practices. As a member of the G20 and a signatory to various international agreements, India was expected to adhere to globally accepted norms and principles, including those related to insolvency and bankruptcy. Harmonizing India's insolvency laws with international standards was essential for enhancing the country's credibility as a global economic player and facilitating cross-border transactions.

The NPA crisis in the Indian banking sector served as a wake-up call for policymakers, highlighting the urgent need for a robust insolvency framework to address the growing problem of distressed assets. The rising tide of NPAs strained the balance sheets of banks and financial institutions, impaired their ability to lend, and posed systemic risks to the stability of the financial system. Resolving the NPA crisis required a comprehensive approach that included expedited debt resolution mechanisms, enhanced creditor rights, and a supportive legal framework.

Furthermore, the proliferation of corporate frauds and wilful defaults underscored the need for stronger enforcement mechanisms and deterrents against financial misconduct. The absence of timely and effective insolvency resolution mechanisms allowed unscrupulous borrowers to exploit loopholes in the system and evade accountability for their actions. Strengthening the insolvency framework was essential for deterring fraudulent behavior, enhancing corporate governance standards, and restoring investor confidence in the integrity of India's financial markets.

In conclusion, the need for insolvency reform in India was driven by a convergence of economic, social, ethical, and regulatory imperatives. The enactment of the Insolvency and Bankruptcy Code (IBC) represented a decisive step towards modernizing India's insolvency laws and fostering a transparent, efficient, and creditor-friendly business environment. While challenges remain, the IBC lays the foundation for a more resilient, dynamic,

⁵ Chatterjee, Dev, "Banks to get 33% of dues spread over five years from DHFL resolution", Business Standard India, January 17, 2021, retrieved January 17, 2021.

and inclusive economy that promotes sustainable growth and development for all stakeholders involved.

2.3 Enactment of Insolvency and Bankruptcy Code (IBC)

The enactment of the Insolvency and Bankruptcy Code (IBC) in India in 2016 marked a significant milestone in the country's quest for insolvency reform. Designed to modernize and streamline the insolvency resolution process, the IBC sought to address the shortcomings of the existing framework and provide a comprehensive legal framework for resolving insolvency and bankruptcy cases.

The legislative background leading to the enactment of the IBC was characterized by a recognition of the urgent need for reform in India's insolvency laws. The proliferation of non-performing assets (NPAs), inefficiencies in debt resolution mechanisms, and the adverse impact on economic growth underscored the imperative for a modern and effective insolvency framework.

The key objectives of the Insolvency and Bankruptcy Code (IBC) were to promote ease of doing business, enhance creditor recovery, and expedite the resolution of distressed assets. By consolidating and streamlining the myriad insolvency laws into a single, cohesive legislation, the IBC aimed to provide clarity, predictability, and transparency in the insolvency resolution process.

The salient features of the IBC included the establishment of the Insolvency and Bankruptcy Board of India (IBBI) as the apex regulatory authority overseeing insolvency proceedings. The IBBI was entrusted with the task of regulating insolvency professionals, adjudicating insolvency cases, and developing a robust ecosystem for insolvency resolution.

One of the groundbreaking provisions introduced by the IBC was the Corporate Insolvency Resolution Process (CIRP), which provided a time-bound mechanism for resolving insolvency cases involving corporate debtors. The CIRP aimed to expedite the resolution process, maximize the value of distressed assets, and balance the interests of creditors and debtors.⁶

Furthermore, the IBC emphasized the importance of creditor rights and protection, empowering creditors with greater say in the resolution process. The introduction of the Committee of Creditors (CoC) provided creditors with a forum to collectively negotiate and approve resolution plans, ensuring that their interests were adequately represented and protected.

The implementation and rollout of the Insolvency and Bankruptcy Code (IBC) represented a significant logistical challenge, given the complexities involved in operationalizing a new legal framework. The establishment of infrastructure, including the Insolvency and Bankruptcy Board of India (IBBI) and the National Company Law Tribunal (NCLT), was essential for the effective implementation of the IBC.

Early challenges and learnings from the initial implementation phase of the IBC highlighted the need for capacity building, stakeholder awareness, and judicial reforms. Delays in resolution timelines, procedural bottlenecks, and ambiguities in the law necessitated amendments and clarifications to address practical concerns and streamline the resolution process.

In conclusion, the enactment of the Insolvency and Bankruptcy Code (IBC) represented a watershed moment in India's insolvency landscape, ushering in a new era of transparency, efficiency, and creditor recovery. While challenges remain, the IBC lays the foundation for a more resilient, dynamic,

⁶ Panda, Subrata, "Piramal Group acquires DHFL for total consideration of Rs 34,250 cr", Business Standard India, September 29, 2021, retrieved September 29, 2021.

and inclusive economy that fosters economic growth and development for all stakeholders involved.

The implementation and rollout of the Insolvency and Bankruptcy Code (IBC) marked a significant shift in India's approach to resolving insolvency cases. The establishment of dedicated institutions such as the Insolvency and Bankruptcy Board of India (IBBI) and the National Company Law Tribunal (NCLT) played a crucial role in operationalizing the provisions of the IBC. These institutions were tasked with overseeing insolvency proceedings, regulating insolvency professionals, and adjudicating disputes arising from the insolvency process.

Early experiences with the implementation of the IBC highlighted the need for capacity building and stakeholder awareness to ensure the smooth functioning of the insolvency ecosystem. Training programs for insolvency professionals, judges, and other stakeholders were initiated to enhance their understanding of the new legal framework and build the necessary skills for effective resolution.

Furthermore, amendments and clarifications to the Insolvency and Bankruptcy Code (IBC) were introduced to address practical challenges and streamline the resolution process. These amendments aimed to plug loopholes, enhance procedural efficiency, and provide clarity on contentious issues such as the rights of operational creditors and the eligibility criteria for resolution applicants.

The Insolvency and Bankruptcy Code (IBC) also facilitated the resolution of cross-border insolvency cases by introducing provisions for cooperation and coordination with foreign jurisdictions. The recognition of foreign proceedings and the enforcement of foreign judgments enhanced the effectiveness of the insolvency framework in dealing with multinational corporations and complex corporate structures.

Moreover, the Insolvency and Bankruptcy Code (IBC) encouraged innovation and entrepreneurship by providing a structured mechanism for debt resolution and business revival. The emphasis on time-bound resolution and the incentivization of resolution applicants promoted a culture of proactive debt restructuring and turnaround efforts.

In conclusion, the enactment of the Insolvency and Bankruptcy Code (IBC) represented a significant step forward in modernizing India's insolvency laws and fostering a transparent, efficient, and creditor-friendly

business environment. While challenges remain, the IBC lays the foundation for a more resilient, dynamic, and inclusive economy that promotes economic growth and development for all stakeholders involved. Continued efforts to strengthen the implementation framework, enhance stakeholder awareness, and address emerging challenges will be crucial in realizing the full potential of the IBC in India's journey towards insolvency reform.

2.4 Implementation and Rollout of Corporate Insolvency Resolution Process (CIRP)

The implementation and rollout of the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC) marked a significant shift in India's approach to resolving insolvency cases involving corporate debtors. The CIRP introduced a time-bound mechanism for the resolution of distressed assets, aimed at expediting the resolution process and maximizing the value of assets for creditors.

The operationalization of the CIRP involved the appointment of an Interim Resolution Professional (IRP) to manage the affairs of the corporate debtor during the resolution process. The IRP played a crucial role in conducting an assessment of the financial position of the company, convening meetings of the Committee of Creditors (CoC), and overseeing the formulation and implementation of a resolution plan.

One of the key features of the CIRP was the imposition of a moratorium on the initiation or continuation of any legal proceedings against the corporate debtor during the resolution process. The moratorium provided a breathing space for the corporate debtor to assess its financial position, negotiate with creditors, and formulate a viable resolution plan without the threat of enforcement actions.

The establishment of the National Company Law Tribunal (NCLT) as the adjudicating authority for insolvency cases played a crucial role in the implementation of the CIRP. The NCLT was entrusted with the task of adjudicating on insolvency petitions, approving resolution plans, and overseeing the conduct of insolvency proceedings in a time-bound manner.

The rollout of the CIRP was not without its challenges, as stakeholders grappled with the complexities of the new legal framework and the procedural requirements involved in the resolution process. Delays in resolution timelines, procedural bottlenecks, and ambiguities in the law necessitated amendments and clarifications to address practical concerns and streamline the resolution process.

Early experiences with the implementation of the CIRP highlighted the need for capacity building and stakeholder awareness to ensure the smooth functioning of the insolvency ecosystem. Training programs for insolvency professionals, judges, and other stakeholders were initiated to enhance their understanding of the new legal framework and build the necessary skills for effective resolution.

Moreover, the success of the CIRP depended on the active participation and cooperation of stakeholders, including creditors, debtors, resolution professionals, and regulatory authorities. Collaboration among stakeholders was essential for expediting the resolution process, maximizing creditor recovery, and preserving

the value of distressed assets.

In conclusion, the implementation and rollout of the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC) represented a significant step forward in modernizing India's insolvency laws and fostering a transparent, efficient, and creditor-friendly business environment. While challenges remain, the CIRP lays the foundation for a more resilient, dynamic, and inclusive economy that promotes economic growth and development for all stakeholders involved. Continued efforts to strengthen the implementation framework, enhance stakeholder awareness, and address emerging challenges will be crucial in realizing the full potential of the CIRP in India's journey towards insolvency reform.⁷

⁷Dutt, Ishita Ayan, "IBC resolutions exceed new time limit of 330 days prescribed by govt", Business Standard India, October 28, 2019.

Furthermore, the implementation of the CIRP involved the establishment of the Insolvency and Bankruptcy Board of India (IBBI) as the apex regulatory authority overseeing insolvency proceedings. The IBBI played a crucial role in developing regulations, guidelines, and frameworks to facilitate the effective implementation of the CIRP. It also regulated insolvency professionals, promoted best practices, and addressed challenges faced by stakeholders in the resolution process.

The rollout of the CIRP introduced a paradigm shift in the resolution of distressed assets, emphasizing transparency, accountability, and creditor rights. The introduction of the Committee of Creditors (CoC) provided creditors with a forum to collectively negotiate and approve resolution plans, ensuring that their interests were adequately represented and protected. This empowered creditors with greater say in the resolution process, promoting consensus-building and enhancing the efficiency of the resolution process.

Moreover, the CIRP encouraged the resolution of stressed assets through a market-driven process, fostering competition among resolution applicants and promoting innovative resolution strategies. The competitive bidding process incentivized resolution applicants to submit viable and value-maximizing resolution plans, thereby maximizing creditor recovery and preserving the value of distressed assets.

The success of the CIRP depended on the timely submission and evaluation of resolution plans by resolution applicants and the active participation of the CoC in the decision-making process. Transparency, accountability, and adherence to prescribed timelines were essential for ensuring the integrity and efficiency of the resolution process and building trust among stakeholders.

Early experiences with the implementation of the CIRP highlighted the need for continuous monitoring, evaluation, and refinement of the insolvency framework to address emerging challenges and improve outcomes. Regular feedback from stakeholders, data analytics, and benchmarking against international best practices were essential for driving continuous improvement and enhancing the effectiveness of the resolution process.

In conclusion, the implementation and rollout of the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC) represented a significant milestone in India's insolvency reform journey. The CIRP introduced a transparent, efficient, and creditor-friendly mechanism for resolving insolvency cases, promoting economic growth, and fostering investor confidence. While challenges remain, the CIRP lays the foundation for a more resilient, dynamic, and inclusive economy that promotes sustainable growth and development for all stakeholders involved. Continued efforts to strengthen the implementation framework, enhance stakeholder awareness, and address emerging challenges will be crucial in realizing the full potential of the CIRP in India's journey towards insolvency reform.

2.5 Evolution and Amendments to IBC and CIRP

The Insolvency and Bankruptcy Code (IBC) has undergone several amendments and refinements since its inception in 2016, reflecting the dynamic nature of India's insolvency landscape and the need to address emerging challenges. These amendments have been aimed at enhancing the efficiency, effectiveness, and fairness of the insolvency resolution process, and ensuring that the objectives of the IBC are achieved.

One of the key areas of focus in the evolution of the IBC has been the enhancement of creditor rights and protection. Several amendments have been introduced to strengthen the position of creditors, streamline the resolution process, and maximize creditor recovery. These amendments have included changes to the voting thresholds required for approving resolution plans, clarifications on the rights of secured creditors, and measures to prevent frivolous litigation by defaulting promoters.

Moreover, amendments to the IBC have aimed at addressing practical challenges and bottlenecks faced during the implementation of the Corporate Insolvency Resolution Process (CIRP). These amendments have sought to expedite the resolution process, enhance the role of resolution professionals, and provide clarity on contentious issues such as the treatment of operational creditors and the eligibility criteria for resolution applicants.

The evolution of the IBC has also been driven by feedback from stakeholders, including creditors, resolution professionals, and regulatory authorities. Regular consultations, stakeholder meetings, and feedback mechanisms have been utilized to gather inputs and insights on the functioning of the insolvency framework

and identify areas for improvement.

In addition to amendments aimed at enhancing creditor rights and streamlining the resolution process, the evolution of the IBC has also focused on promoting ease of doing business and fostering a conducive environment for entrepreneurship and investment. Amendments have been introduced to reduce regulatory burdens, simplify procedures, and promote alternative mechanisms for debt resolution.⁸

Furthermore, the evolution of the IBC has been guided by international best practices and benchmarks, with India seeking to align its insolvency

⁸ "Legislative Brief of the Code" (PDF), PRS India, archived from the original (PDF) on September 10, 2016, retrieved August 18, 2016.

IBC § 12.

framework with global standards. Comparative studies, peer reviews, and engagements with international organizations have informed the design and implementation of reforms aimed at enhancing the effectiveness and credibility of the insolvency regime.

In conclusion, the evolution of the Insolvency and Bankruptcy Code (IBC) in India reflects a continuous process of refinement and improvement aimed at addressing emerging challenges, enhancing creditor rights, and fostering a conducive environment for business and investment. While significant progress has been made since the enactment of the IBC, there remains scope for further reforms to strengthen the insolvency framework, improve outcomes, and promote sustainable economic growth. Continued engagement with stakeholders, monitoring of outcomes, and proactive policy interventions will be crucial in realizing the full potential of the IBC in India's journey towards insolvency reform.

Moreover, the evolution of the Insolvency and Bankruptcy Code (IBC) has been shaped by the need to adapt to changing economic conditions and emerging market trends. Economic downturns, industry-specific challenges, and global disruptions have necessitated agile responses and targeted interventions to ensure the resilience and effectiveness of the insolvency framework.

The evolution of the IBC has also been influenced by judicial interpretations and precedents set by courts, including the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT).

Landmark judgments, rulings on contentious issues, and judicial guidance have provided clarity on legal interpretations, filled gaps in the law, and contributed to the jurisprudential development of the insolvency regime.

Furthermore, the evolution of the IBC has been characterized by a focus on balancing the interests of all stakeholders involved in the insolvency resolution process. Efforts have been made to strike a fair and equitable balance between the rights of creditors, the interests of debtors, and the obligations of resolution professionals, ensuring that the resolution process is conducted in a transparent, impartial, and accountable manner.

In addition to legislative amendments, the evolution of the IBC has also involved the development of supporting infrastructure, including capacity building initiatives, technological advancements, and institutional reforms. Investments in training programs, digital platforms, and regulatory frameworks have enhanced the efficiency, transparency, and accessibility of the insolvency resolution process, enabling stakeholders to navigate the complexities of the insolvency regime more effectively.

Moreover, the evolution of the IBC has been guided by the principles of continuous improvement and learning. Regular evaluations, impact assessments, and reviews of the insolvency framework have been conducted to identify strengths, weaknesses, and areas for enhancement. Lessons learned from past experiences, best practices adopted by other jurisdictions, and feedback from stakeholders have informed the design and implementation of reforms aimed at enhancing the resilience and effectiveness of the insolvency regime.

In conclusion, the evolution of the Insolvency and Bankruptcy Code (IBC) in India reflects a dynamic and iterative process of refinement, adaptation, and improvement. While significant progress has been made since its inception, the journey towards insolvency reform is ongoing, with continued efforts needed to address emerging challenges, enhance stakeholder confidence, and promote sustainable economic growth. The evolution of the IBC underscores India's commitment to fostering a transparent, efficient, and creditor-friendly insolvency regime that supports entrepreneurship, innovation, and investment in the country.

CHAPTER 2

Corporate Insolvency Resolution Process (CIRP)

3.1 Submission of Claims:

Creditors play a pivotal role in the Corporate Insolvency Resolution Process (CIRP) by submitting their claims to the Interim Resolution Professional (IRP). These claims outline the amount owed to them by the corporate debtor and any supporting documentation. Upon receiving these claims, the IRP meticulously verifies and collates them to ensure accuracy and completeness. This step is crucial as it forms the basis for determining the total outstanding liabilities of the corporate debtor and enables the Committee of Creditors (CoC) to make informed decisions during the resolution process.

In the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC) in India, the submission of claims by creditors marks the initiation of the resolution process. This crucial stage allows creditors to assert their rights and stake their claims against the corporate debtor, laying the foundation for subsequent proceedings.

The submission of claims involves creditors providing details of the amounts owed to them by the corporate debtor, along with supporting documentation, such as invoices, contracts, and financial statements. These claims encompass various types of debt, including financial debt owed to banks and financial institutions, operational debt owed to suppliers and service providers, and other liabilities.

Creditors submit their claims to the Interim Resolution Professional (IRP), who serves as the initial point of contact for all stakeholders during the CIRP. The IRP plays a pivotal role in overseeing the claims submission process, ensuring that it is conducted in a fair, transparent, and efficient manner.

Upon receiving claims from creditors, the IRP meticulously verifies and collates them to ascertain their accuracy, completeness, and validity. This verification process is essential for determining the total outstanding liabilities of the corporate debtor and establishing the creditor hierarchy for distribution of proceeds in case of liquidation.

The verification and collation of claims by the IRP involve scrutinizing the submitted documents, cross-referencing with available records, and conducting inquiries as necessary to resolve any discrepancies or disputes. The IRP may seek clarification or additional information from creditors to ensure that the claims are properly substantiated and supported by evidence.⁹

Once the claims are verified and collated, the IRP prepares a list of creditors, commonly known as the "creditors' list," which forms the basis for subsequent proceedings in the CIRP. This list provides transparency and clarity regarding the claims admitted for consideration and enables effective communication with creditors throughout the resolution process.

The submission of claims stage is governed by strict timelines prescribed under the IBC, ensuring expeditious resolution, and preventing undue delays in the CIRP. Creditors are required to submit their claims within the stipulated timeframe to participate in the resolution process and exercise their rights as stakeholders.

The submission of claims stage is not only crucial for creditors to assert their rights but also for providing essential information to other stakeholders, including the Committee of Creditors (CoC), resolution applicants, and regulatory authorities. Accurate and timely submission of claims facilitates informed decision-making and fosters transparency and accountability in the resolution process.

In conclusion, the submission of claims stage in the Corporate Insolvency Resolution Process (CIRP) plays a foundational role in the resolution of distressed assets, enabling creditors to assert their rights, establish their claims, and participate in subsequent proceedings. This stage sets the stage for effective resolution by providing clarity, transparency, and a structured framework for addressing creditor interests and maximizing creditor recovery.

⁹ "PRS | Bill Track | The Insolvency and Bankruptcy Code (Amendment) Bill, 2017" from www.prsindia.org, archived from the original on February 20, 2018, retrieved February 20, 2018

3.2 Invitation for Resolution Plans:

Once the claims are admitted and verified, the IRP initiates the next phase of the CIRP by inviting prospective resolution applicants to submit resolution plans. These resolution plans outline proposals for reviving the distressed company, restructuring its operations, or maximizing the value of its assets. Resolution applicants may include existing promoters, strategic investors, or other interested parties capable of presenting a viable plan for the corporate debtor's revival. The invitation for resolution plans marks a critical juncture in the resolution process, as it solicits innovative solutions and strategies for addressing the financial distress faced by the corporate debtor.

In the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC) in India, the invitation for resolution plans stages marks a critical juncture in the resolution process. This stage follows the submission and verification of claims by creditors and involves the Interim Resolution Professional (IRP) inviting prospective resolution applicants to submit resolution plans for the distressed company.

The invitation for resolution plans serves as an opportunity for interested parties, including existing promoters, strategic investors, and other stakeholders, to propose viable strategies for the revival and restructuring of the corporate debtor. Resolution applicants are required to submit comprehensive plans outlining their proposed course of action, financial commitments, and intended outcomes for the corporate debtor.

Prospective resolution applicants are typically provided with detailed information about the corporate debtor, including its financial position, operational status, and key assets and liabilities. This information enables resolution applicants to conduct thorough due diligence and formulate informed and realistic resolution plans tailored to the specific circumstances of the corporate debtor.

The invitation for resolution plans stage is governed by prescribed timelines and procedures under the IBC, ensuring a transparent, competitive, and time-bound process. The IRP is responsible for issuing the invitation, setting out the terms and conditions for submission, and providing guidance to resolution applicants on the requirements and expectations for their plans.¹⁰

Resolution applicants are required to adhere to the guidelines and criteria specified in the invitation while preparing their resolution plans. This may include demonstrating their financial capability, presenting a credible revival strategy, and outlining the proposed terms and conditions for the resolution of outstanding liabilities and restructuring of the corporate debtor.

The invitation for resolution plans stage encourages innovation, creativity, and strategic thinking among resolution applicants, as they compete to present the most compelling and viable proposals for the corporate debtor's revival. This competitive process fosters a dynamic marketplace for distressed assets and maximizes the prospects of finding a suitable resolution for the corporate debtor.

The invitation for resolution plans stage also facilitates stakeholder engagement and consultation, as resolution applicants may seek input and

¹⁰ "PRS | Bill Track | The Insolvency and Bankruptcy Code (Amendment) Bill, 2017" from www.prsindia.org, archived from the original on February 20, 2018, retrieved February 20, 2018

feedback from creditors, employees, regulators, and other relevant parties during the preparation of their plans. This collaborative approach enhances the quality and feasibility of resolution plans and promotes stakeholder buy-in and support for the proposed course of action.

The invitation for resolution plans stage underscores the importance of transparency, fairness, and accountability in the resolution process, as resolution applicants are required to comply with applicable laws, regulations, and ethical standards. The IRP plays a crucial role in ensuring compliance and integrity throughout the process, safeguarding the interests of all stakeholders involved.

In conclusion, the invitation for resolution plans stage in the Corporate Insolvency Resolution Process (CIRP) plays a pivotal role in soliciting innovative solutions and strategies for the revival and restructuring of

distressed companies. This stage fosters competition, transparency, and stakeholder engagement, laying the groundwork for informed decision-making and maximizing creditor recovery in the resolution process.

3.3 Evaluation of Resolution Plans:

Upon receiving resolution plans from prospective resolution applicants, the CoC undertakes a comprehensive evaluation process to assess their viability, feasibility, and potential to maximize asset value. This evaluation involves a thorough review of the financial, operational, and strategic aspects of each resolution plan, considering factors such as the proposed investment, restructuring measures, and projected outcomes for creditors and stakeholders. The objective is to select a resolution plan that offers the best prospects for achieving the objectives of the CIRP, including the revival of the corporate debtor as a going concern and the maximization of creditor recovery.

The evaluation of resolution plans stage in the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC) in India is a crucial step in determining the future course of action for the distressed company. This stage follows the submission of resolution plans by prospective resolution applicants and involves a comprehensive assessment of their viability, feasibility, and potential to maximize asset value.

The Committee of Creditors (CoC) plays a central role in the evaluation of resolution plans, as it is responsible for reviewing and scrutinizing the proposals submitted by resolution applicants. The CoC comprises financial creditors of the corporate debtor, who are tasked with safeguarding their interests and maximizing creditor recovery through the resolution process.

The evaluation of resolution plans involves a thorough review of various aspects, including the financial viability of the proposed revival strategy, the feasibility of implementation, and the potential impact on creditor recovery. Resolution plans are assessed based on their ability to address the underlying causes of financial distress, restore the corporate debtor to a position of solvency, and ensure sustainable operations going forward.

The evaluation process may also consider the credibility and track record of the resolution applicant, their financial strength and capability to execute the proposed plan, and the potential synergies and benefits of their involvement in the corporate debtor's revival. Factors such as the proposed investment, restructuring measures, and projected outcomes for creditors and stakeholders are carefully evaluated to assess the overall viability and feasibility of the resolution plan.

The evaluation of resolution plans stage is guided by principles of transparency, fairness, and accountability, with the CoC ensuring that all resolution applicants are afforded equal opportunity and consideration. The

evaluation criteria are communicated to resolution applicants upfront, providing clarity on the expectations and requirements for their plans to be considered for approval.

During the evaluation process, the CoC may seek clarification or additional information from resolution applicants to address any queries or concerns raised regarding their proposals. This interactive approach allows for a robust exchange of information and insights, enabling the CoC to make well-informed decisions based on a thorough understanding of the merits and risks associated with each resolution plan.¹¹

The evaluation of resolution plans stage may also involve expert input and independent assessments to validate assumptions, evaluate risks, and assess the feasibility of proposed strategies. External advisors, consultants, and industry experts may be engaged to provide specialized expertise and insights, supplementing the expertise of the CoC and enhancing the quality and rigor of the evaluation process.

¹¹ "PRS | Bill Track | The Insolvency and Bankruptcy Code (Amendment) Bill, 2017" from www.prsindia.org, archived from the original on February 20, 2018, retrieved February 20, 2018

The evaluation of resolution plans is conducted in accordance with prescribed timelines and procedures under the IBC, ensuring expeditious resolution and preventing undue delays in the CIRP. The CoC is required to adhere to the statutory timelines for reviewing and approving resolution plans, promoting efficiency and accountability in the resolution process.

In conclusion, the evaluation of resolution plans stage in the Corporate Insolvency Resolution Process (CIRP) plays a critical role in assessing the viability, feasibility, and potential impact of proposed revival strategies for distressed companies. This stage involves a rigorous review process guided by principles of transparency, fairness, and accountability, with the objective of selecting a resolution plan that maximizes creditor recovery and ensures the long-term sustainability of the corporate debtor.

3.4 Negotiation with Resolution Applicants:

During the evaluation stage, the CoC may engage in negotiations with resolution applicants to modify and improve their resolution plans. These negotiations aim to address any deficiencies or concerns identified in the initial proposal and enhance the prospects of successful implementation. Negotiations may involve discussions on key terms, conditions, and safeguards to safeguard the interests of creditors, mitigate risks, and ensure the sustainability of the proposed resolution plan. The negotiation process allows for collaborative decision-making and the exploration of mutually beneficial solutions that optimize creditor recovery and promote the corporate debtor's long-term viability.

Following the evaluation of resolution plans, the Committee of Creditors (CoC) may engage in negotiations

with resolution applicants to modify and improve their proposals. This negotiation stage allows for a constructive dialogue between the CoC and resolution applicants to address any deficiencies or concerns identified during the evaluation process. The objective is to enhance the quality and feasibility of the resolution plans, optimize creditor recovery, and ensure the long-term viability of the corporate debtor.

Negotiations with resolution applicants may involve discussions on various aspects of the proposed resolution plans, including financial terms, restructuring measures, and safeguards for creditors' interests. The CoC may seek modifications or enhancements to the plans to better align them with the objectives of the Corporate Insolvency Resolution Process (CIRP) and address any risks or uncertainties identified during the evaluation stage.

The negotiation process is guided by principles of transparency, fairness, and accountability, with both parties striving to reach mutually acceptable terms and conditions for the implementation of the resolution plans. The CoC acts in the best interests of creditors, ensuring that any modifications to the plans are consistent with the overarching goal of maximizing creditor recovery while preserving the value of the corporate debtor's assets.

During negotiations, resolution applicants may be required to provide additional information or clarification on specific aspects of their proposals to address concerns raised by the CoC. This iterative process allows for a thorough examination of the feasibility and viability of the resolution plans and promotes collaborative decision-making among stakeholders involved in the CIRP.¹²

Negotiations with resolution applicants may also involve exploring alternative strategies or contingency plans to mitigate risks and uncertainties associated with the proposed resolution plans. The CoC may seek assurances or commitments from resolution applicants to address specific concerns or mitigate potential adverse outcomes, thereby enhancing the likelihood of successful implementation of the plans.

The negotiation stage in the CIRP provides an opportunity for resolution applicants to demonstrate flexibility, responsiveness, and willingness to collaborate with creditors to achieve mutually beneficial outcomes. Successful negotiations result in modifications or improvements to the resolution plans that address the concerns of the CoC and enhance the prospects of creditor recovery and corporate debtor revival.

The negotiation process is conducted in accordance with prescribed timelines and procedures under the Insolvency and Bankruptcy Code (IBC), ensuring expeditious resolution and preventing undue delays in the CIRP. The CoC is required to actively engage in negotiations and make timely decisions to facilitate the resolution process and maximize the chances of a successful outcome.

In conclusion, the negotiation stage in the Corporate Insolvency Resolution Process (CIRP) plays a vital role in refining and optimizing resolution plans to ensure their feasibility, viability, and alignment with the interests of creditors and other stakeholders. This stage fosters collaboration,

¹² Lele, Ishita Ayan Dutt & Abhijit, "Lenders with majority vote for closing Bhushan Power deal with JSW Steel", Business Standard India, March 5, 2021, retrieved March 5, 2021.

transparency, and accountability among parties involved in the CIRP, ultimately leading to the selection of a resolution plan that maximizes creditor recovery and facilitates the revival of the distressed company.

3.5 Approval of Resolution Plan:

Following thorough evaluation and negotiation, the CoC proceeds to vote on the approval of the resolution plan submitted by the successful resolution applicant. The resolution plan must garner the requisite majority vote of the CoC to be approved. Once approved by the CoC, the resolution plan is submitted to the National Company Law Tribunal (NCLT) for final approval. The NCLT scrutinizes the resolution plan to ensure compliance with the provisions of the Insolvency and Bankruptcy Code (IBC) and other applicable laws. Upon obtaining NCLT approval, the resolution plan becomes binding on all stakeholders involved, and the implementation process commences, marking a significant milestone in the Corporate Insolvency Resolution Process (CIRP).

The approval of the resolution plan is a critical milestone in the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC) in India. Once the Committee of Creditors (CoC) has concluded negotiations with resolution applicants and finalized the terms of the resolution plan, it proceeds to vote on the approval of the plan.

The approval of the resolution plan requires a vote by the members of the CoC, with the plan needing to garner the requisite majority vote to be approved. The Insolvency and Bankruptcy Code (IBC) specifies the voting thresholds and majority required for the approval of a resolution plan, ensuring that decisions are made in accordance with prescribed norms and procedures.

The CoC evaluates the resolution plan based on various factors, including its viability, feasibility, and potential to maximize asset value. The plan must offer a credible and sustainable strategy for reviving the distressed company, addressing the concerns of creditors, and ensuring the long-term viability of its operations.

Once approved by the CoC, the resolution plan is submitted to the National Company Law Tribunal (NCLT) for final approval. The NCLT scrutinizes the plan to ensure compliance with the provisions of the IBC and other applicable laws, verifying that it meets the prescribed criteria and safeguards the interests of all stakeholders involved.¹³

The NCLT may conduct a detailed review of the resolution plan, seeking clarifications or modifications as necessary to address any legal or procedural issues identified during the scrutiny process. The tribunal's objective is to ensure that the resolution plan is legally tenable, commercially viable, and in the best interests of

the corporate debtor and its creditors.

Upon obtaining approval from the NCLT, the resolution plan becomes binding on all stakeholders involved in the CIRP, including the corporate debtor, creditors, resolution applicants, and regulatory authorities. The implementation of the plan commences immediately, with the resolution applicant taking necessary steps to execute the proposed revival strategy and restructure the operations of the corporate debtor.

The approval of the resolution plan marks the culmination of the CIRP and sets the stage for the corporate debtor's revival and rehabilitation. It

¹³ "Reliance Industries gets NCLT approval for Alok Industries", Times of India, March 9, 2019, retrieved December 30, 2019.

represents a collective decision by creditors to accept the proposed resolution strategy and provides a roadmap for resolving the financial distress faced by the company.

In conclusion, the approval of the resolution plan stage in the Corporate Insolvency Resolution Process (CIRP) is a pivotal moment that signifies the acceptance and endorsement of a viable strategy for reviving the distressed company. It reflects the culmination of extensive negotiations, evaluations, and deliberations by stakeholders involved in the CIRP, paving the way for the implementation of a structured and comprehensive plan for corporate debtor rehabilitation.

conclusion and suggestions

In conclusion, the Insolvency and Bankruptcy Code (IBC) has brought about a paradigm shift in India's insolvency framework, aiming to streamline the resolution process, maximize creditor recovery, and promote economic efficiency. Through various judicial pronouncements and landmark cases, the courts have provided clarity on several contentious issues, ensuring the effective implementation of the IBC and safeguarding the interests of stakeholders.

However, despite the significant progress made, there are areas where further improvements and reforms are needed to enhance the efficacy of the insolvency resolution process. Here are some suggestions:

1. **Timely Adjudication:** Ensuring timely adjudication of insolvency cases is crucial to maintaining the credibility of the process and preserving the value of distressed assets. Measures should be taken to expedite the resolution process and minimize delays in the disposal of cases by the National Company Law Tribunal (NCLT) and the Appellate Tribunal (NCLAT).
2. **Enhanced Regulatory Oversight:** Strengthening regulatory oversight and monitoring mechanisms can help prevent misuse of the insolvency framework and deter fraudulent practices. Regular audits and inspections of insolvency proceedings, along with stringent enforcement of regulations, can promote transparency and accountability

in the resolution process.

3. **Capacity Building:** Building institutional capacity and enhancing the skills of insolvency professionals, adjudicating authorities, and other stakeholders are essential for the efficient functioning of the insolvency ecosystem. Training programs, workshops, and knowledge-sharing initiatives can help improve the quality of decision-making and foster a conducive environment for insolvency resolution.
4. **Promoting Stakeholder Participation:** Encouraging active participation and engagement from all stakeholders, including creditors, debtors, resolution professionals, and regulatory authorities, is essential for the success of the insolvency resolution process. Creating platforms for dialogue, collaboration, and consensus-building can facilitate smoother resolution outcomes and minimize conflicts.
5. **Continuous Review and Revision:** The insolvency framework should undergo periodic review and revision to address emerging challenges, incorporate best practices, and adapt to evolving economic and legal realities. Feedback from stakeholders and insights from judicial pronouncements should be leveraged to refine and improve the effectiveness of the IBC.

In conclusion, while the Insolvency and Bankruptcy Code (IBC) has laid a strong foundation for corporate insolvency resolution in India, continuous efforts are needed to strengthen the framework, address implementation challenges, and enhance stakeholder confidence. By adopting a proactive and collaborative approach, policymakers, regulators, and practitioners can further bolster the resilience and effectiveness of the insolvency regime, contributing to India's economic growth and stability.