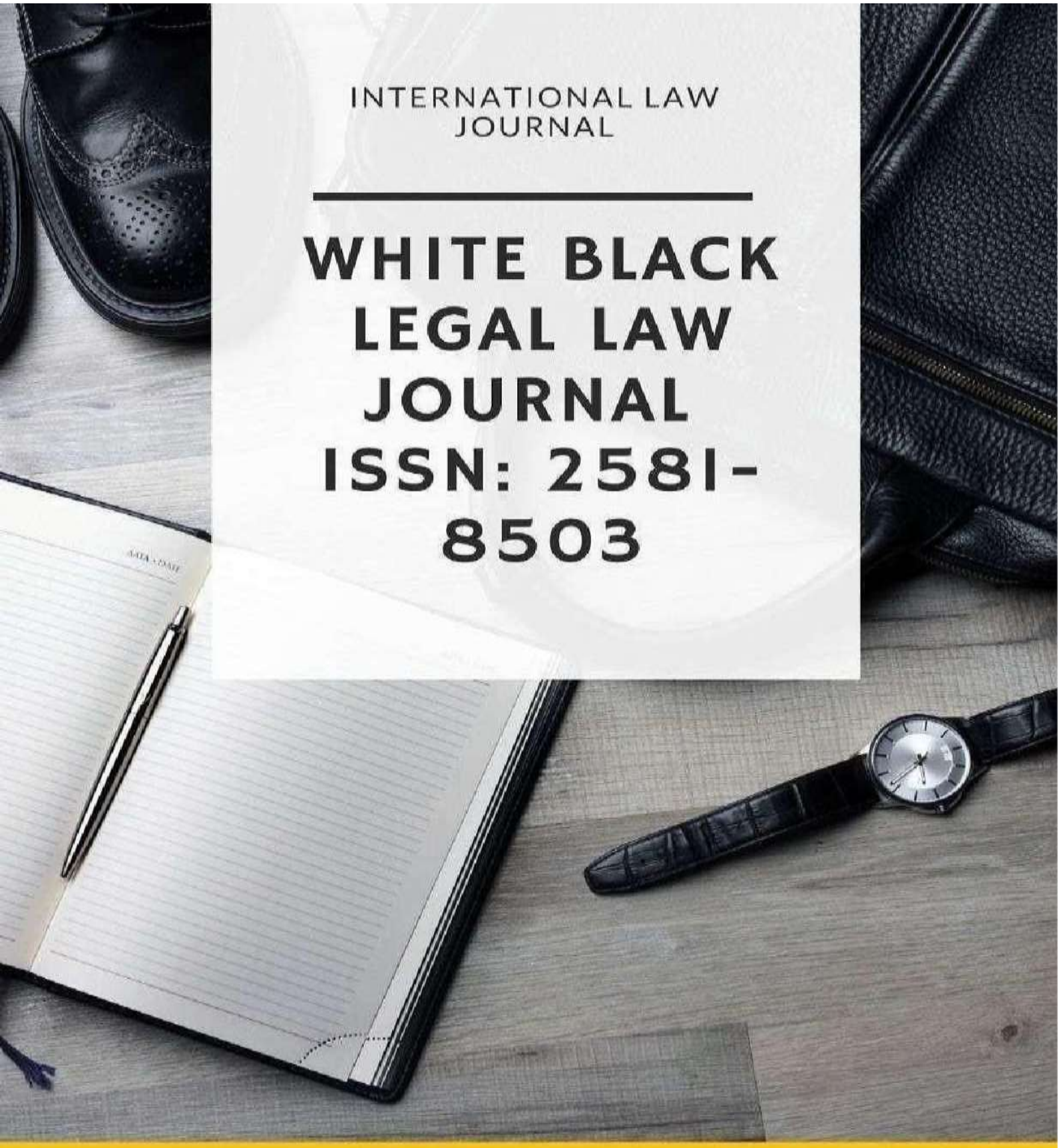

INTERNATIONAL LAW JOURNAL

WHITE BLACK LEGAL LAW JOURNAL

ISSN: 2581-8503

Peer - Reviewed & Refereed Journal

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Volume 3 Issue 2 | Oct 2025 ISSN: 2581-8503

IMPACT OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 ON CORPORATE FINANCE IN INDIA

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Abstract

The Insolvency and Bankruptcy Code (IBC), 2016, represents a landmark reform in India's economic framework, designed to establish a unified, time-bound mechanism for resolving insolvency and bankruptcy among corporates and individuals. As corporate finance forms the core of business sustainability encompassing financial planning, capital formation, investment, and risk management, the IBC has played a pivotal role in transforming India's financial ecosystem. By enhancing credit flow, strengthening financial discipline, and restoring investor confidence, the Code has contributed to a more resilient and transparent business environment. This study examines the impact of the IBC, 2016, on India's corporate finance landscape, while also addressing the persisting operational and structural challenges that influence its overall effectiveness.

Key Words: *Insolvency And Bankruptcy Code, Corporate Finance, Credit Market, Corporate Restructuring, Financial Discipline*

Introduction

The evolution of insolvency and bankruptcy laws in India has been shaped by colonial legacies, post-independence economic policies, and the eventual realization of the need for a unified, efficient insolvency framework. The Presidency Towns Insolvency Act of 1909 and the Provincial Insolvency Act of 1920 were enacted during the colonial period to regulate individual insolvencies, primarily affecting traders and non-corporate entities. These laws lacked provisions for corporate insolvency and became increasingly inadequate due to procedural inefficiencies and their inability to address the complexities of a modern financial system. Post-independence, India's shift toward a socialist economic model, with state control over major industries, diminished the focus on corporate bankruptcy, as insolvency was perceived as a non-issue. Consequently, bankruptcy laws remained largely unchanged, with

greater emphasis placed on debt recovery rather than restructuring or liquidation. The Companies Act of 1956 and the Industrial Development and Regulation Act of 1951 became the primary legislations governing corporate insolvency, but they were plagued by issues such as delays in adjudication, ineffective liquidators, and limited access to corporate information. The economic stagnation experienced during the Fourth and Fifth Five-Year Plans (1965–1975) led to the enactment of the Sick Industrial Companies Act (SICA) in 1985, which sought to promote industrial revival through restructuring rather than liquidation.[1] However, SICA's implementation was marred by delays and misuse, particularly of Section 22, which allowed companies to stall enforcement actions indefinitely. In the post-liberalization era, efforts to address financial distress intensified, driven by the 1991 economic crisis and the recommendations of the Narasimham Committee. This resulted in the establishment of Debt Recovery Tribunals under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDBFI), and the enactment of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI) in 2002. These measures aimed to strengthen the position of secured creditors and streamline recovery, but they too faced limitations, including case backlogs and misuse of corporate debt restructuring schemes introduced by the RBI in 2001. Despite multiple legislative and institutional interventions, India still lacked a comprehensive insolvency resolution mechanism. Recognizing this gap, the Bankruptcy Law Reforms Committee was formed in 2014, which laid the foundation for the Insolvency and Bankruptcy Code (IBC), enacted in 2016. The IBC consolidated various insolvency laws into a single, coherent framework applicable to individuals, partnerships, and corporate entities. It introduced time-bound resolution processes, empowered professional insolvency practitioners, and designated the National Company Law Tribunal (NCLT) as the adjudicating authority. With its focus on maximizing asset value, promoting entrepreneurship, and balancing the interests of stakeholders, the IBC marked a paradigm shift in India's approach to insolvency and corporate finance, rendering older laws largely obsolete.

Corporate finance encompasses the management of a company's financial activities, including capital budgeting, capital structure, and working capital management. It involves critical decisions related to raising capital, investing in assets, and allocating resources to maximize firm value while managing risk. As a foundational element of business strategy, corporate finance not only supports daily operations but also guides long-term initiatives such as mergers,

[1] K.Lavanya,"History and Evolution of the IBC"3 *IJLSS* 221(2025)

acquisitions, and expansion.[2] In this context, insolvency laws play a fundamental and far-reaching role by shaping the environment in which financial decisions are made. A strong and efficient insolvency regime defines the risks, incentives, and outcomes associated with financial distress. It instills financial discipline, safeguards creditor rights, and facilitates the effective reallocation of capital. By reducing uncertainty and improving recovery prospects, such a framework lowers the cost of credit, enhances access to finance, and promotes healthier investment behaviour ultimately contributing to a more stable and efficient financial system.

This article examines the extent to which the Insolvency and Bankruptcy Code (2016) has transformed India's corporate finance ecosystem by improving credit flow, fostering financial discipline, and encouraging investment while also assessing the persisting structural challenges.

Corporate Finance And Insolvency Laws

Corporate finance is the backbone of any business organization, focusing on the management of financial resources to maximize shareholder value and ensure long-term growth. It involves strategic decisions related to planning, raising capital, investing funds, and managing financial risks. One of its key components is capital budgeting, which evaluates the profitability and potential of large-scale investments. Tools such as Net Present Value (NPV), Payback Period, Internal Rate of Return (IRR), and Profitability Index (PI) are used to assess project feasibility and ensure optimal capital allocation. Another crucial aspect is working capital management, which deals with short-term assets and liabilities to maintain liquidity and ensure smooth operations. This includes managing accounts receivable and payable, inventory and cash flow effectively. Capital structure decisions determine how a company finances its operations through a mix of equity and debt, balancing risk and cost to maintain an efficient Weighted Average Cost of Capital (WACC). Alongside this, financial risk management plays a vital role in identifying and mitigating various risks such as market, credit, liquidity, and operational risks that could adversely affect financial stability. Furthermore, mergers and acquisitions (M&A) form an essential component of corporate finance by helping companies expand, diversify, and strengthen their market position. This involves valuation, due diligence, and integration processes that ensure financial and operational synergy post-merger. Corporate

[2]What is corporate finance?Meaning,Types,and examples, *available at*: https://www.bajajfinserv.in/corporate-finance (last visited on October 20,2025)

finance, therefore, serves as the foundation of a company's financial health and sustainability.[3]

However, when financial management fails or market conditions deteriorate, insolvency laws come into play. Corporate insolvency law plays an essential role in maintaining the stability and efficiency of an economy. While insolvency traditionally carries negative connotations, a well-designed insolvency framework can in fact promote entrepreneurship, access to finance, innovation, and economic growth. The primary objectives of a corporate insolvency regime are to minimise the destruction of value in situations of financial distress and to ensure that the debtor's assets are put to their most productive use. To minimise the destruction of value, insolvency law provides several mechanisms that protect both debtors and creditors. When companies face temporary financial difficulties, creditors' individual enforcement actions can often destroy the going concern value of a viable business. To prevent this, insolvency laws generally impose a moratorium or automatic stay, which halts creditors' claims and enables a coordinated response. These provisions preserve value for debtors, creditors, and society at large. In addition, insolvency law protects business continuity by preventing the termination of contracts through ipso facto clauses and by prioritising post-petition claims to encourage suppliers and lenders to continue dealing with the distressed firm. In The appointment of insolvency practitioners to supervise or manage proceedings further ensures transparency and reduces opportunistic behaviour.

The second key function of insolvency law is to ensure that a debtor's assets are used in the most efficient way possible. If a business is not viable, its assets should be reallocated to more productive ventures through liquidation. Conversely, if a company is viable but faces temporary financial challenges, insolvency law should facilitate its reorganisation or sale as a going concern. To achieve this, insolvency frameworks create structured forums for negotiation between debtors and creditors, reduce information gaps, and provide legal tools to overcome holdout problems such as allowing majority creditors to bind dissenting minorities to a restructuring plan. These measures reduce transaction costs and promote faster, more effective financial rehabilitation. When effectively implemented, corporate insolvency law contributes significantly to the real economy. It helps preserve jobs, maintain business relationships, and maximise recoveries for creditors. By facilitating the liquidation of unproductive firms, it

[3] Corporate finance:Elements, Types, and Significance, *available at*:https://thealgebragroup.com/corporate-finance/(last visited on October 20, 2025)

ensures that resources are redirected toward more efficient uses. On a broader scale, an efficient insolvency regime enhances confidence in the financial system, prevents domino effects of defaults, and supports overall economic stability. From an ex ante perspective, it encourages both debtors and creditors to engage in productive economic activity debtors are motivated to take responsible business risks, while creditors are more willing to lend at lower costs due to reduced uncertainty.[4]

Therefore, a sound insolvency system is not merely a legal framework for dealing with failure but a vital economic mechanism. It complements corporate finance by ensuring that when businesses face distress, the losses are contained, viable firms are rescued, and the economy as a whole remains dynamic and resilient. Together, corporate finance and insolvency laws form two pillars of the corporate and financial ecosystem one fostering growth and efficient resource use, and the other ensuring stability and recovery in times of financial distress.

Evolution of Insolvency Regime in India

The evolution of insolvency law in India reflects a long and gradual transformation from colonial era debt recovery mechanisms to a modern, consolidated legal framework under the Insolvency and Bankruptcy Code, 2016. The first bankruptcy legislation in India was enacted in 1828, paving the way for the establishment of insolvency courts in the Presidency Towns of Bombay, Calcutta, and Madras. Before this enactment, creditors were left to their own means to recover debts, often through informal or coercive methods. The Indian Insolvency Act of 1848, an imperial statute passed by the British Parliament, replaced the earlier law and introduced a more comprehensive regime. Initially, commissioners were appointed to handle insolvency affairs, but later, in 1883, courts were empowered to issue "receiving orders" instead of adjudicating orders, marking a significant procedural advancement. Around this time, the Supreme Courts functioning in the Presidency Towns were abolished and replaced by High Courts, which were vested with insolvency jurisdiction.

A major milestone came with the enactment of the Presidency Towns Insolvency Act, 1909, which underwent several amendments over time. In 1916, Section 103A was added to disqualify an insolvent person from holding public offices such as magistrate or positions in

[4]The Role of Corporate Insolvency Law in the Promotion of Economic Growth, *available at*: https://ccla.smu.edu.sg/sgri/blog/2020/07/02/role-corporate-insolvency-law-promotion-economic-growth (last visited on October 27, 2025)

local authorities, preventing misuse of power. Prior to this, the Provincial Insolvency Act, 1907 governed insolvency matters outside the Presidency Towns, though it had many shortcomings.

For the mofussil areas (non-presidency regions), only limited provisions existed under the Civil Procedure Code of 1877. This situation continued until the Provincial Insolvency Act of 1920 replaced the earlier 1907 Act, which was further amended in 1926. Together, the Presidency Towns Insolvency Act and the Provincial Insolvency Act provided the foundational framework for insolvency administration in India, modeled largely on English bankruptcy law. When India attained independence in 1947, both these Acts remained in force. Under the Provincial Insolvency Act, district courts were vested with original jurisdiction in insolvency matters. Section 2(b) defined the "Court" as the principal civil court of original jurisdiction outside the Presidency Towns, while Section 3 empowered state governments to invest subordinate courts with insolvency jurisdiction. The system allowed subordinate courts to exercise concurrent jurisdiction when empowered, while appellate jurisdiction remained with the district court. The state governments had discretion to expand such jurisdiction based on administrative needs and workload distribution.

In the modern era, insolvency has evolved far beyond the simple creditor–debtor conflict. Global developments have reshaped the understanding of insolvency, viewing it not as a moral or criminal failure as in ancient times but as an opportunity for financial restructuring and economic renewal. India has carefully adapted to these international trends, reforming its insolvency framework in stages to address individual insolvency, corporate insolvency, and group insolvency. Cross-border insolvency has also emerged as a critical issue in a globally integrated market economy.

After independence, India lacked a unified insolvency and bankruptcy law. Instead, fragmented statutes governed specific areas, such as the Sick Industrial Companies (Special Provisions) Act, 1985, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, and the Companies Act, 2013. These laws led to multiple overlapping forums, including the Board for Industrial and Financial Reconstruction (BIFR), the Debt Recovery Tribunal (DRT), and the National Company Law Tribunal (NCLT), with respective appellate bodies. Liquidation of companies was handled by High Courts, while individual insolvency continued under the Presidency Towns Insolvency Act of 1909 and the Provincial

Insolvency Act of 1920. However, this fragmented system proved inadequate, inefficient, and prone to significant delays in resolving insolvency cases.

Insolvency and Bankruptcy code 2016

Recognizing the need for an efficient and unified law, the Bankruptcy Law Reforms Committee (BLRC), chaired by Dr. T.K Viswanathan recommended the creation of a single code. This led to the passage of IBC in May 2016 and its enforcement in December 2016. The Insolvency and Bankruptcy Code of India was enacted to consolidate and amend the existing laws relating to the reorganization and insolvency resolution of corporate persons, partnership firms, and individuals. It aims to ensure a time-bound process for maximizing the value of assets of such entities, while promoting entrepreneurship, ensuring the availability of credit, and balancing the interests of all stakeholders. The Code also provides for an alteration in the order of priority for payment of government dues and the establishment of the Insolvency and Bankruptcy Board of India to regulate insolvency proceedings. Furthermore, it covers all matters connected with and incidental to insolvency and bankruptcy in India.

Objectives of the Insolvency and Bankruptcy Code (IBC), 2016:

The Insolvency and Bankruptcy Code (IBC), 2016 was enacted with the primary objective of consolidating and amending the existing laws relating to insolvency and reorganisation of corporate persons, partnership firms, and individuals in a time-bound manner. As stated in its preamble, the Code seeks to maximise the value of assets of insolvent entities, promote entrepreneurship, and ensure the availability of credit in the economy.

It further aims to balance the interests of all stakeholders, including by altering the order of priority of payments involving government dues, thereby creating a fair and predictable system of debt resolution. A significant institutional reform introduced by the IBC is the establishment of the Insolvency and Bankruptcy Board of India (IBBI), which regulates insolvency professionals, agencies, and information utilities to ensure the proper implementation of the Code. Overall, the objectives of the IBC reflect the government's commitment to fostering a creditor-friendly, transparent, and efficient insolvency framework that encourages business confidence and economic stability.[5]

[5] Overview of the Insolvency and Bankruptcy Code: A Comprehensive summary, *available at*: https://www.taxmann.com/post/blog/overview-of-the-insolvency-and-bankruptcy-code-a-comprehensive-summary(last visited on October 27, 2025)

Key Features of the Insolvency and Bankruptcy Code (IBC), 2016

The Insolvency and Bankruptcy Code, 2016 provides a comprehensive and structured framework for addressing insolvency and bankruptcy issues in a systematic, transparent, and time-bound manner.

Coverage and Adjudicating Authorities: The IBC applies to individuals, companies, limited liability partnerships (LLPs), and partnership firms. It designates specific adjudicating authorities for each category to ensure efficiency and specialisation. For companies and LLPs, the National Company Law Tribunal (NCLT) acts as the adjudicating authority, while for individuals and partnership firms, the Debt Recovery Tribunal (DRT) performs this role. This clear jurisdictional structure ensures consistency in the adjudication of insolvency matters.

Corporate Insolvency Resolution Process (CIRP): The Corporate Insolvency Resolution Process (CIRP) is at the heart of the IBC framework. It can be initiated by any stakeholder, including a debtor, creditor, employee, or firm, upon default. Once admitted by the adjudicating authority, an Insolvency Professional (IP) is appointed to oversee the process, and the management control of the company shifts to the Committee of Creditors (CoC), which operates through the IP. The process determines whether the company will undergo revival or liquidation. During revival, the IP identifies potential buyers, creditors may agree to debt reductions (haircuts), and open bidding is conducted to finalise a resolution plan, which requires approval from at least 75% of the CoC. The process is time-bound, generally lasting 180 days and extendable up to 330 days, ensuring swift and efficient outcomes.

Institutional Framework: The Code establishes a strong institutional framework to regulate and manage the insolvency process. The Insolvency and Bankruptcy Board of India (IBBI) serves as the regulatory authority, overseeing the conduct of insolvency professionals, professional agencies, and information utilities. Insolvency Professionals (IPs) manage the commercial and operational aspects of insolvency proceedings, while Insolvency Professional Agencies (IPAs) develop ethical and professional standards for their members. Information Utilities (IUs) play a vital role in maintaining transparency by collecting, verifying, and disseminating financial information related to debts and defaults.

Special Provisions: The IBC also incorporates special provisions to address complex and

evolving aspects of insolvency. The Code includes a moratorium, which temporarily halts all legal actions and enforcement proceedings against the debtor during the resolution process, protecting the debtor's assets and enabling focused negotiation. Provisions for cross-border insolvency, inspired by the UNCITRAL Model Law, are being developed to handle cases involving foreign assets or creditors, promoting international cooperation.

The Code provides for fast-track insolvency resolution for small and unlisted companies with limited assets, which must be completed within 90 to 180 days. Furthermore, the IBC (Amendment) Act, 2021 introduced pre-packaged insolvency for micro, small, and medium enterprises (MSMEs), allowing a quicker and less disruptive resolution process tailored to smaller businesses.[6]

Impact of Insolvency and Bankruptcy Code, 2016 on Corporate Finance

The Insolvency and Bankruptcy Code (IBC), 2016, has significantly transformed India's corporate finance landscape by strengthening financial discipline, empowering creditors, and making the resolution of distressed companies more efficient. It has increased creditor recovery rates, reduced non-performing assets (NPAs), and encouraged early settlement of distressed assets, resulting in improved market liquidity, greater investor confidence, and more effective corporate restructuring.[7]

- **Strengthening Creditor Rights and Recovery Rates:** The IBC grants operational and financial creditors the authority to initiate insolvency proceedings, ensuring a more equitable and transparent resolution process. This empowerment has led to a marked rise in recovery rates and expedited settlements, enhancing trust in the financial system.
- **Promoting Financial Discipline and Transparency:** By introducing a structured, time-bound mechanism for resolving defaults, the IBC has reduced willful defaults and encouraged prudent financial behavior among companies. It has also increased transparency, reduced procedural delays, and improved accountability in the management of distressed assets.

[6]Insolvency and Bankruptcy Code:Key provisions,Structure and More, *available at* :https://thelegalschool.in/blog/insolvency-and-bankruptcy-code (last visited on October 27, 2025)
[7] Nawlani Bharti Hemant, Dr.Roundal Sitaram Rangnath"Literature review on the impact of IBC on companies ", 8 *IJRCS* 21 (2024)

- **Facilitating Corporate Restructuring and Turnaround**: The Code promotes corporate restructuring and business revival rather than liquidation, allowing financially troubled firms to reorganize operations and regain profitability. This creditor-centric and time-bound approach has improved efficiency and outcomes.
- **Enhancing the Banking Sector**: For public sector banks burdened with bad loans, the IBC has been instrumental in cleaning balance sheets. Faster resolutions have released locked capital, enabling banks to redirect funds toward productive investments and strengthen overall financial stability.

Challenges

Notwithstanding its significant achievements, the Insolvency and Bankruptcy Code (IBC), 2016, continues to face several practical and operational challenges. These issues arise primarily from implementation gaps, stakeholder imbalances, and structural inefficiencies that hinder the Code from fully achieving its intended objectives.

- **Delays in the Resolution Process:** Despite the statutory deadline of 180 days extendable up to 330 days many cases exceed this timeframe due to frequent litigation, inadequate infrastructure, and procedural bottlenecks. Such delays undermine the code's core objective of ensuring a time-bound resolution and erode confidence in the system's efficiency.[8]
- **High Haircuts for Creditors:** In several high-profile cases, creditors have faced substantial losses, often recovering only a small fraction of their dues. These large "haircuts" have raised concerns about the fairness and effectiveness of the resolution process, particularly when distressed companies are sold at significantly reduced valuations.
- **Inequality Among Stakeholders**: The current framework tends to favour secured creditors, giving them greater control over the resolution process while limiting the influence of operational creditors. This imbalance has led to perceptions of inequity among stakeholders.
- **Uncertainty in Corporate Revival:** Prolonged legal proceedings and procedural delays have reduced investor interest in distressed assets, making it harder to revive companies as viable going concerns.

[8] Challenges on Adhereing to Strict timelines under IBC, *available at*: https://www.taxmann.com/research/ibc/top-story/105010000000016556/challenges-on-adhering-to-strict-timelines-under-ibc-experts-opinion (last visited on October 27, 2025)

Conclusions and Suggestions

By boosting lender confidence and facilitating quicker bad debt recovery, the Insolvency and Bankruptcy Code (IBC) has radically changed India's credit and financial environment. Its focus on predictability and transparency has prompted investment in troubled businesses, enabling successful companies to carry on. The IBC has greatly enhanced risk management, encouraged effective capital restructuring throughout the economy, and reinforced financial discipline with its time-bound and structured framework. But to reach its full potential, it will need to be continuously improved by adding more NCLT benches, adhering strictly to deadlines, and improving coordination between regulatory bodies. By taking these actions, the IBC can maintain its position as a potent tool for corporate revitalization and financial reform in India.