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Insolvency and Bankruptcy Code at 10 and the Road Ahead

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The IBC has achieved significant results but has also shown delays, procedural overemphasis, weak institutional capacity, and an unaddressed personal insolvency framework. The 2026 amendments are welcome, but sustained focus on implementation, predictability, and capacity building is now essential.

These are the concluding lines from the Supreme Court's January 2019 judgment in *Swiss Ribbons v. Union of India* upholding the constitutionality of the Insolvency and Bankruptcy Code, 2016 (IBC). In this judgment, the Court noted that India's ambitious experiment with insolvency law reform in the form of the IBC was turning out to be "largely successful", citing the number of cases that had been resolved and pointing out that the flow of credit from banks as well as other financial institutions to the commercial sector had increased exponentially since the enactment of the new law.

> Despite the law's requirement that a case must be admitted within 14 days of its filing, this process usually takes at least six months and, in some cases, has taken over two years.

Now, on the IBC's 10th anniversary, to what extent has its initial promise held true? As of 31 December 2025, the corporate insolvency resolution process (CIRP) had been initiated for 8,833 Indian companies and limited liability partnerships since the law came into effect, of which 4,002 were resolved in some manner or the other, while 2,952 were referred to liquidation. Non-performing-assets on the balance sheets of scheduled commercial banks, which were at an all-time high of 11.2% in March 2018, were at 2.4% in March 2024.

The IBC has also brought about significant behavioural change. Promoters of large corporates can now no longer rest easy in the face of defaults running to thousands of crores, as admission to the insolvency process under the IBC would mean losing control of their company.

At the same time, the IBC has come under much criticism, with delays topping the list of complaints. Despite the law's requirement that a case must be admitted within 14 days of its filing, this process usually takes at least six months and, in some cases, has taken over two years. While the resolution process is to be completed within a maximum of 330 days, the average time taken is more than 700 days.

In addition to delays, there are concerns about poor judicial decisions that have set back the law, an overemphasis on procedures at the cost of value maximisation and speedy resolution, and the failure of the IBC to develop a vibrant ecosystem for the acquisition of distressed assets.

In India, there is often the question of whether the failure of a law to deliver on its promise is a result of a design flaw or a flaw in implementation. I believe this is a false dichotomy as any design should take into account the implementation conditions on the ground. Yet, in the case of the IBC, I believe it is both these issues in equal measure-a lack of institutional capacity to implement the law and certain design issues that have crept into the law with time. In this article, I try to identify some of the issues and bottlenecks plaguing the IBC.

The law has not been static and has seen several amendments since it was first enacted. The single biggest overhaul to the IBC has been the amendments introduced by the IBC (Amendment) Act, 2026 (henceforth the 2026 Amendments). Many (but not all) of the provisions of the 2026 Amendments came into effect on May 26, 2026. In the latter part of this article, I consider these amendments and the extent to which they address some of the IBC's most significant shortcomings.

Measuring Impact

Measuring the impact of a new law is always a tricky exercise as there are a number of yardsticks that can be used. The IBC is, at its core, a resource allocation law that has several objectives as per its own preamble-time-bound resolution, maximising value, promoting entrepreneurship, improving the availability of credit, and balancing the interests of stakeholders.

> At the same time, when measured against what the IBC was intended to deliver, we do see a significant gap between the law on paper and its implementation.

Most assessments of the IBC have focused on the first two objectives as these are much easier to measure quantitatively, in terms of the number of companies that have been resolved or liquidated, and the percentage of recovery that financial creditors have achieved. Yet looking at these outcomes alone does not provide a full picture as perhaps the best use of the IBC is not to use it at all. In this sense, if the law has resulted in borrower companies exercising greater care to ensure that they do not default on their loans (or address any potential concerns with lenders at the earliest signs of distress), this too would be considered a success of the new law.

Another reason that numbers alone may not explain the success or failure of the IBC is that aspects such as recovery rates are affected by factors outside of the IBC. For example, a number of the early cases were legacy cases where defaults and significant value erosion had occurred several years before admission to the insolvency process. If these companies invariably ended up in liquidation or provided single-digit recoveries for creditors, this has more to do with the economic and financial unviability of these businesses than the success or failure of the law.

Nevertheless, even if incomplete, quantitative outcomes are a good place to start because time-bound resolution and maximising value are likely to eventually contribute to promoting entrepreneurship (by making exit easier) and improving access to credit (by providing greater predictability on the process and timeline for recovery in the worst-case scenario). However, as I argue later in this article, balancing the interests of stakeholders is one area in which the law-both in terms of design and policy emphasis-has not lived up to expectations. This is evident in areas such as the treatment of operational creditors (like vendors and suppliers) under the IBC and the absence of any policy push to operationalise the framework for personal insolvency law.

So, what do the numbers tell us? Approximately, Rs. 12 lakh crore of debt has been resolved through about 1,300 resolution plans under the IBC. Further, more than 30,000 debtor companies resolved their distressed debt through settlements outside of the IBC, evidence of the behavioural change discussed earlier. Recovery rates for scheduled commercial banks are at approximately 30% under the IBC, significantly higher than other recovery and enforcement mechanisms.

In December 2025, S&P Global Ratings formally upgraded India's insolvency regime from "Group C" to "Group B", observing that average recovery rates have improved from 15-20% under the old regime to approximately 30% under the IBC, and that resolution timelines have come down from six to eight years to about two years. The IBC has, thus, clearly done better in terms of recovery and resolution than the patchwork of laws that preceded it. It is also worth noting that the Ministry of Corporate Affairs as well as the regulator, the Insolvency and Bankruptcy Board of India (IBBI), have closely monitored the impact and implementation of the law and have attempted to recommend course corrections along the way.

At the same time, when measured against what the IBC was intended to deliver, we do see a significant gap between the law on paper and its implementation. For example, while time periods to resolution might have improved vis-à-vis the prior regime, the average resolution still takes more than 700 days to be completed, a far cry from the 330-day time limit imposed under the law. The following section considers some of the key challenges that the IBC faces.

The Challenges

Institutional capacity of the National Company Law Tribunals: While there was much focus on passing the landmark insolvency legislation, there have been limited attempts to improve the institutional capacity needed for its implementation. This issue has been particularly conspicuous at the National Company Law Tribunals (NCLTs) and the National Company Law Appellate Tribunals (NCLATs). The NCLTs serve as the adjudicating authority for cases under the IBC as well as for disputes and matters under the Companies Act, 2013. There are now 16 benches of the NCLT across the country, with a total sanctioned strength of 63 members.

> Recently, the Supreme Court took suo moto cognisance of the systemic delays of NCLTs in approving resolution plans and termed the situation as "grim", suggesting that all stakeholders are well aware of this issue.

For much of the time that the IBC has been in existence, the NCLT benches have not functioned at full capacity. As a consequence, members often have double duty, having to sit on multiple benches. A member might, thus, hear cases before the Hyderabad Bench up to lunch time and hear cases before the Ahmedabad Bench via video conferencing in the post-lunch session. What this obviously means that many benches do not function for the full day.

Even after most vacancies were largely filled in February 2025, it is important to note that the sanctioned bench strength of the NCLTs has not changed since the inception of the IBC despite a huge increase in the volume of cases. An in-depth study into the functioning of the NCLTs and NCLATs found that there were approximately 510 complex IBC cases pending before each judge of the NCLT as of March 2025. Recently, the Supreme Court took suo moto cognisance of the systemic delays of NCLTs in approving resolution plans and termed the situation as "grim", suggesting that all stakeholders are well aware of this issue.

Delays, however, are not solely due to capacity constraints of the NCLTs. Several stakeholders in the IBC ecosystem are responsible for delays at different points in the process. We turn to these other issues now.

Overregulation and judicial setbacks: Any insolvency regime needs to strike a balance between speedy resolution and fair process. Time is of the essence as the value of distressed assets depletes rapidly with time and, therefore, a significant factor that potential bidders are likely to consider when bidding for distressed assets under the IBC is the time taken for resolution. At the same time, the resolution process needs to provide for fairness and transparency to give bidders and creditors certainty and confidence in the process. Over time, unfortunately, the IBC has moved too much in the direction of procedural requirements over speedy resolution.

One example of this is the voluminous compliance requirements to which insolvency professionals are subject. Many insolvency professionals spend all their time filing forms and meeting compliance requirements, leaving them little time or inclination to focus on turning around the distressed business. This also raises a broader question about the role of the resolution professional: is it to ensure that the resolution process is carried out in accordance with the law, or is it to facilitate and improve the chances of speedy resolution and value maximisation? At present, the system seems to favour the former at the expense of the latter.

> This judgment could have wider implications for insolvency proceedings in other sectors where the debtor's principal asset is the right to use a natural resource, such as mining, offshore drilling permits, or toll road concessions.

This overregulation and sticking too much to the letter rather than the spirit of the law has spilled over to the judiciary as well. A prime example of this was the Supreme Court's judgment of May 2025 in the insolvency proceedings of Bhushan Power and Steel Ltd. where the court initially overturned the NCLT's order approving JSW Steel's resolution plan for the acquisition of Bhushan Power and Steel, several years after the NCLT had approved the plan. The reason provided was various non-compliances in the process by the resolution professional and the successful resolution applicant.

Regardless of the merits of these claims, reversing an approved resolution plan many years later is a huge blow to transaction certainty and is likely to deter other potential resolution applicants from acquiring assets under the IBC. (It should be noted that the Supreme Court's judgment raised alarm bells from a number of stakeholders, causing the court itself to self-correct and reverse the previous judgment of the two-judge bench a few months later.)

An even more recent example, which could have significant implications for telecom sector insolvencies, is the Supreme Court's judgment in the insolvency proceedings of the Aircel companies. Here, after examining the interplay between the IBC and the regulatory framework governing the telecom sector, the Court held that a telecom service provider's (TSP's) licence to use spectrum does not constitute an asset that can be subjected to IBC proceedings. The NCLAT had previously held that spectrum usage rights were an intangible asset of the TSP, which could be transferred through the insolvency resolution process.

This judgment effectively makes the resolution of a TSP through the IBC a near impossibility. If TSPs can no longer transfer their most valuable assets (their spectrum usage rights) through the insolvency resolution process, liquidation would be the only option for an insolvent TSP.

Apart from TSPs, this judgment could have wider implications for insolvency proceedings in other sectors where the debtor's principal asset is the right to use a natural resource, such as mining, offshore drilling permits, or toll road concessions. Judgments such as these are a cautionary tale that insolvency resolutions, particularly in highly regulated sectors, could throw up many complexities and courts must tread carefully to ensure that the very possibility of resolution is not compromised by the decision.

Role of the Committee of Creditors: One of the key principles on which the IBC is built is the commercial wisdom of the financial creditors of the debtor company that typically form the committee of creditors (CoC). The CoC is given full leeway (within the bounds of the law) to decide on the feasibility and viability of a resolution plan, the distribution to stakeholders, and, most importantly,

whether a particular corporate debtor should be revived or liquidated. A number of court judgments have upheld this principle of the CoC's commercial wisdom and that courts cannot go into the merits of a resolution plan as long as it complies with the legal requirements of the IBC.[1]

> There have also been situations that suggest confidential details pertaining to the fair value and liquidation value of the debtor company have been leaked.

This principle of the supremacy of the commercial wisdom of the CoC works well in theory and we certainly do not want courts and tribunals to decide on questions of economic viability and turn around. Yet, in practice, CoCs have generally not covered themselves in glory. In particular, financial creditors take very long to make decisions and generally have tended to focus more on short-term recovery rather than the possibility of turnaround of the debtor company in the long term.

There have also been situations that suggest confidential details pertaining to the fair value and liquidation value of the debtor company have been leaked. The resolution plan of the Videocon group of companies, which involved financial creditors taking a haircut of more than 95% and where the difference between the liquidation value and the bid value of the successful resolution applicant was very small, is one such case.[2] Only a few examples of such allegations are required to erode public confidence in the sanctity of the process.

Concerns over the conduct of the CoC have led to one of the amendments in the 2026 Amendments, which empowers the IBBI to formulate a code of conduct for the CoC. Yet it is not clear whether such a code of conduct would lead to significantly improved decision-making.

The issues appear to lie with the banking regulatory system at large. Regulatory structures such as the provisioning requirements under the Reserve Bank of India's prudential framework, as well as the decision-making processes of commercial banks and financial institutions often do not favour bringing companies into the IBC at the earliest signs of distress or making quick decisions with a long-term view. This is an example of how one may, at times, have to look outside the IBC to understand some of the reasons why the law has not worked as planned.

An insolvency law that excludes more than it includes: An underemphasised concern with the IBC's operation is that, to date, it has only been operationalised for companies and limited liability partnerships, and for individuals to the extent they are personal guarantors of companies or limited liability partnerships in insolvency. For all other individuals, the IBC's provisions on personal insolvency are yet to come into effect and are likely to require significant amendments before they can be notified.

What this means is that there is no insolvency law, not only for individuals, but also for sole proprietorships and partnership firms, which are the forms in which a vast number of businesses in India function today. It is unfortunate that, while other aspects of the IBC have received much attention from the government and regulators, the absence of an implementable framework for personal insolvency remains unaddressed.

Amendments of 2026

Since its enactment, the IBC has evolved not only through judicial interpretation, regulations, and market practice, but also through legislative amendments. The early years of the IBC, between 2016 to 2021, saw six sets of amendments to the new legislation. There was then a hiatus until the 2026 Amendments, which represent the single biggest overhaul of the IBC to date.

The 2026 Amendments fall into three buckets. First, are clarifications or minor changes to the law, many of which appear to be a response to judicial decisions that the Government believed were not aligned to the broader goals of the IBC. One such example is the much-criticised decision of the Supreme Court in *Vidarbha Industries Power Limited v. Axis Bank Limited*, where the court had read the use of the term "may" in the statute to mean that the tribunal had the discretion to admit or reject an insolvency application even in the face of clear evidence of debt and default.

The 2026 Amendments have put an end to this confusion by replacing the word "may" with "shall" to clarify that the NCLT is obligated to admit a debtor into insolvency if the requirements of the existence of a debt, a default, and a completed application are satisfied. There are a number of such examples and it is worth noting that the 2026 Amendments use the term "it is clarified" 18 times, suggesting that many of the changes appear to be intended to clean up interpretational issues that crept in through judicial decisions.

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The second are changes intended to address bottlenecks in the implementation of the law, reduce overlaps and redundancies, and crack down on delays. For example, the 2026 Amendments now require the tribunal to record reasons for any application that is not admitted within the stipulated 14-day period from filing. Another area of delay, that relates to the NCLT's approval of a resolution plan, has been addressed by imposing a requirement for the tribunal to approve a resolution plan within 30 days of the resolution professional making an application for such approval.

Further, the amendments now allow for approval of a resolution plan in a bifurcated manner, where the tribunal may first approve the plan and subsequently the manner of distribution to various categories of creditors. The idea behind this amendment is to ensure that the implementation of a resolution plan (which involves the successful resolution applicant taking over the business and operations of the debtor company) is not delayed due to disputes among creditors on the inter se distribution of the payments being offered by the successful resolution applicant. In this author's view, while this amendment might appear to facilitate speedy implementation, it is very unlikely to work in practice because creditors will be reluctant to approve a plan while issues of distribution of payments still remain open.

The third and final category is perhaps the most interesting, and relates to new processes that had been absent from the IBC. The amendments include enabling provisions for the Central Government to frame rules for group insolvency-that is, to frame processes for dealing with the insolvencies of companies that are part of the same enterprise group-and for cross-border insolvency, two areas that have been conspicuous by their absence from the IBC. While steps to finally introduce group insolvency and cross-border insolvency are welcome, it is disappointing that the 2026 Amendments provide very little detail on the substance of these provisions, most of which have been left to delegated legislation.

The most innovative of the new processes introduced by the 2026 Amendments is a resolution process that is an alternative to the standard CIRP under the IBC. Termed the "creditor-initiated insolvency resolution process" or CIIRP, this involves certain features common to prepackaged insolvencies in other countries.

Two critical differences between the CIIRP and the CIRP are that the CIIRP can only be initiated by specific classes of financial creditors and that the debtor does not lose control of the business during the process. The CIIRP is intended to promote early detection and resolution of stress by having the majority of the resolution process take place between debtor and creditor and outside of the formal insolvency process monitored by the NCLT. The introduction of the CIIRP is perhaps an acknowledgement that the creditor-in-control process under the CIRP may not suit all situations and that the CIIRP might be a more efficient and less disruptive process for debt resolution in cases where there is consensus between debtor and creditors.

How far are these amendments likely to go in addressing the issues that have been plaguing the IBC? The new processes are certainly welcome as are many of the attempts to streamline the resolution and liquidation processes. It would be particularly interesting to see if the CIIRP is taken up more readily by creditors and potential resolution applicants.

Similarly, the renewed emphasis on timelines is helpful, considering that delays are one of the biggest concerns with the IBC's functioning. Introducing strict timelines in a law is not always as effective as intended because the consequence for not meeting timelines is unclear. Nevertheless, the emphasis of the 2026 Amendments on timelines should, it is hoped, have a signalling effect for the tribunals as well as other stakeholders.

> The amendments could have partially rolled back Section 29A and distinguished between promoters who had committed fraud or malfeasance and those whose business had failed for a host of other reasons.

However, the amendments do not make the bold changes that have also been the subject of much discussion. Soon after the IBC was enacted, the Government, through an amendment, introduced Section 29A of the IBC, which effectively bars promoters of debtor companies from bidding for their assets in insolvency. This was perhaps a necessary introduction at the time the IBC was enacted given the widespread concern over promoters misusing the IBC to gain back control over their companies at a discounted price.

But, today, with the non-performing asset (NPA) crisis largely behind us and the primary concern being speedy resolution and maximising value, keeping promoters out of the process may only make resolutions less likely. Promoters who are, by law, kept out of the process are also much less likely to extend their cooperation to the resolution professional and CoC, which means that these stakeholders cannot benefit from their institutional knowledge when trying to turn around the company.

The amendments could have partially rolled back Section 29A and relaxed certain barriers that effectively (even if this is not explicitly stated) prevent promoters from being resolution applicants in light of their relationship with the debtor company. Amendments to the IBC in 2017 relaxed two of the ineligibility criteria under Section 29A - NPAs and unpaid guarantees - for the MSME sector, and the 2026 Amendments could have potentially relaxed these criteria for a wider pool of debtor companies.

Yet another significant absence in the 2026 Amendments is that they do nothing to address the enormous lacuna on the personal insolvency front.

At the end of the day, legislative amendments, while helpful, can only go so far in addressing the challenges the IBC has faced to date. The biggest of these are the lack of institutional capacity of the tribunals, which needs to be urgently addressed. One would also hope that this next phase of the IBC brings about a more stable jurisprudence because it is telling that a number of the changes made through the 2026 Amendments are to reverse or clarify judicial decisions.

The 2026 Amendments are certainly a good start towards the course correction and improvements that the IBC needs. It is now time to focus on institutional capacity building and ensuring that implementation of the law brings in more predictability and certainty to all stakeholders.

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Footnotes:

1 See, for example, Committee of Creditors of Essar Steel Ltd. v. Satish Kumar Gupta, AIRONLINE 2019 SC 1494, (2019).

2 C.P. Chandrasekhar, "The Strange Case of Videocon's Insolvency", Frontline, 8 August 2021.