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# **THE SOCIO-LEGAL DIMENSIONS OF CORPORATE BANKRUPTCY IN INDIA**

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## **ABSTRACT**

Corporate bankruptcy is a critical aspect of modern economic systems, balancing the interests of creditors, shareholders, employees, and the broader community. In India, the introduction of the IBC<sup>2</sup>, 2016, marked a transformative shift in addressing corporate distress through a structured, time-bound resolution process. This article explores the socio-legal dimensions of corporate bankruptcy, highlighting its multifaceted impacts on stakeholders and the economy.

The discussion begins with an overview of the historical evolution of bankruptcy laws in India, emphasizing the key provisions of the IBC, including the CIRP<sup>3</sup>, liquidation, and the role of the NCLT<sup>4</sup>. It delves into the socio-legal implications of bankruptcy, focusing on job losses, creditor recoveries, shareholder interests, and the impact on local communities. Real-life case studies, such as Jet Airways, illustrate these dimensions, shedding light on the successes and limitations of the IBC framework.

The article also examines social considerations in the bankruptcy process, including public perceptions of corporate failures, the role of corporate governance, and the debate between rehabilitation and liquidation. Challenges in implementing the IBC—such as procedural delays, resource constraints, and judicial overreach—are analysed alongside recent amendments like the inclusion of homebuyers as creditors and the push for cross-border insolvency frameworks.

Concluding with recommendations, the article advocates for a holistic approach to corporate bankruptcy, integrating legal efficiency with social equity. Strengthening protections for employees, enhancing transparency, and drawing lessons from global insolvency practices are

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<sup>2</sup> Insolvency and Bankruptcy Code

<sup>3</sup> Corporate Insolvency Resolution Process

<sup>4</sup> National Company Law Tribunal

essential steps toward creating an inclusive and resilient insolvency framework. By addressing the socio-legal dimensions of corporate bankruptcy, India can foster a fair and sustainable resolution ecosystem that supports both economic growth and social stability.

## INTRODUCTION

Corporate bankruptcy serves as a critical mechanism in the modern economic framework, enabling companies to address financial distress in an orderly manner. It is not merely a resolution process for failing businesses but also a pivotal tool for maintaining economic stability, protecting creditor rights, and fostering entrepreneurship. In the Indian economy, corporate bankruptcy holds immense significance due to the vast number of businesses and the interdependence of industries, creditors, employees, and communities. A robust bankruptcy framework ensures that financial distress is managed efficiently, reducing its ripple effects on the broader economy.<sup>5</sup>

The introduction of the IBC<sup>6</sup>, 2016, marked a transformative shift in India's approach to insolvency resolution. Enacted with the primary objectives of expediting the resolution process, maximizing asset value, and promoting creditor protection, the IBC consolidated multiple fragmented laws into a unified framework. It established a time-bound resolution process, giving priority to creditors' interests while emphasizing the revival of distressed companies over liquidation. The creation of institutions like the NCLT<sup>7</sup> and the IBBI<sup>8</sup> further streamlined the process, making India a more attractive investment destination.<sup>9</sup>

This article aims to delve into the socio-legal dimensions of corporate bankruptcy in India. While the legal framework of the IBC has strengthened the resolution process, its broader impact on stakeholders like employees, creditors, shareholders, and communities cannot be overlooked. The article explores the legal underpinnings of the IBC alongside the economic and social consequences of corporate bankruptcy, shedding light on the interplay between law, society, and business in navigating financial distress.

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<sup>5</sup> Troy Segal, Corporate Bankruptcy: How It Works, What It Means for Investors, INVESTOPEDIA (Jan. 22, 2025, 4:18 PM), <https://www.investopedia.com/articles/01/120501.asp>.

<sup>6</sup> Insolvency and Bankruptcy Code

<sup>7</sup> National Company Law Tribunal

<sup>8</sup> Insolvency and Bankruptcy Board of India

<sup>9</sup> Daizy Chawla and Himanshu Dubey, Unlocking India's economic promise: Can IBC act as a catalyst for expansion? THE ECONOMICS TIME (Jan. 22, 2025, 5:07 PM), <https://economictimes.indiatimes.com/?back=1>.

## OVERVIEW OF CORPORATE BANKRUPTCY IN INDIA

Corporate bankruptcy in India has undergone significant transformation over the years, evolving from a fragmented and inefficient framework to a streamlined, modern system with the enactment of the IBC, 2016. Understanding this evolution requires an examination of the historical context, the need for reform, and the key features of the IBC that have reshaped India's insolvency landscape.

### Historical Context of Bankruptcy Laws in India Before the IBC

Before the enactment of the IBC, India's insolvency framework was governed by a patchwork of laws, including the Companies Act, 1956, the SICA<sup>10</sup>, the RDDBFI<sup>11</sup>, and the SARFAESI<sup>12</sup>. These laws were disjointed and plagued by inefficiencies, leading to prolonged resolution timelines and poor recovery rates. For instance, under SICA, many companies were declared "sick" but were never effectively rehabilitated, resulting in significant economic losses<sup>13</sup>.

The BIFR<sup>14</sup>, established under SICA, became synonymous with delays and inefficiencies, as cases languished for years without resolution. Similarly, SARFAESI focused primarily on asset recovery for secured creditors, leaving unsecured creditors and other stakeholders at a disadvantage. These inefficiencies underscored the need for a unified and effective insolvency framework.

### The Evolution of Insolvency and Bankruptcy Regulations in India

Recognizing the need for reform, the Indian government introduced the Insolvency and Bankruptcy Code, 2016, to consolidate and streamline the insolvency process. The IBC replaced the existing fragmented framework with a comprehensive law aimed at providing a time-bound mechanism for resolving corporate insolvencies. Its primary objectives were to improve ease of doing business, promote entrepreneurship, and maximize the value of distressed assets.

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<sup>10</sup> Sick Industrial Companies (Special Provisions) Act, 1985

<sup>11</sup> Recovery of Debts Due to Banks and Financial Institutions Act, 1993

<sup>12</sup> Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

<sup>13</sup> Saloni Mathur, Comparative Analysis of the laws on Insolvency before and after the enactment of the Insolvency and the Bankruptcy Code, IPLEADERS BLOG (Jan. 22, 2025, 5:043 PM), <https://blog.ipleaders.in/laws-on-insolvency-before-and-after-the-ibc/>.

<sup>14</sup> Board for Industrial and Financial Reconstruction

## Key Provisions of the Insolvency and Bankruptcy Code, 2016

The IBC introduced several transformative provisions:

1. **Corporate Insolvency Resolution Process (CIRP):** A time-bound process (initially 180 days, extendable to 330 days) for resolving insolvency, emphasizing restructuring over liquidation.
2. **Committee of Creditors (CoC):** Empowering financial creditors to play a central role in approving resolution plans.
3. **Moratorium Period:** Providing a temporary freeze on debt recovery actions during the CIRP to ensure an orderly resolution process.
4. **Liquidation Process:** Defined procedures for liquidation in cases where resolution fails.
5. **Cross-Border Insolvency:** Provisions to address insolvency of multinational companies operating in India.

## The Function of the Insolvency and Bankruptcy Board of India (IBBI)

The IBBI, established under the IBC, serves as the apex regulatory body for insolvency professionals, resolution professionals, and other stakeholders. It oversees the implementation of the IBC and ensures compliance with its provisions. The IBBI also plays a critical role in regulating the ecosystem of insolvency resolution, issuing guidelines, and monitoring the conduct of insolvency professionals to maintain transparency and efficiency.<sup>15</sup>

## LEGAL FRAMEWORK: THE INSOLVENCY AND BANKRUPTCY CODE (IBC), 2016

The Insolvency and Bankruptcy Code (IBC), 2016, stands as a transformative piece of legislation aimed at addressing the longstanding inefficiencies in India's insolvency resolution framework. Enacted to provide a unified and comprehensive legal mechanism, the IBC has introduced a time-bound process to resolve insolvencies, strengthen creditor rights, and enhance the ease of doing business in India<sup>16</sup>.

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<sup>15</sup> Mayashree Acharya, Insolvency and Bankruptcy Board of India, CLEAR TAX (Jan. 22, 2025, 6:13 PM), <https://cleartax.in/s/insolvency-bankruptcy-board-india>.

<sup>16</sup> Diksha Munjal, Explained | The Insolvency and Bankruptcy Code (IBC)- where does it stand today?, THE HINDU (Jan. 22, 2025, 6:48 PM), <https://www.thehindu.com/news/national/explained-what-is-the-insolvency-and-bankruptcy-code-ibc-and-where-does-it-stand-after-more-than-five-years-of-being-in-place/article65969421.ece>.

## Objectives of the IBC

The primary objectives of the IBC include:

1. **Time-Bound Resolution:** The IBC emphasizes a speedy resolution process to avoid prolonged insolvency cases. The stipulated timeline for completing the Corporate Insolvency Resolution Process CIRP<sup>17</sup> is 180 days, extendable to 330 days under exceptional circumstances.
2. **Maximization of Asset Value:** By focusing on early intervention and resolution, the IBC aims to prevent the erosion of asset value.
3. **Balancing Stakeholder Interests:** The IBC ensures equitable treatment of stakeholders, particularly creditors, employees, and shareholders.
4. **Creditor-Centric Approach:** Unlike earlier frameworks that favoured debtors, the IBC prioritizes the rights of creditors, especially financial creditors.
5. **Encouraging Entrepreneurship:** By providing a mechanism for failing businesses to exit efficiently, the IBC fosters a culture of entrepreneurship and innovation.

## Key Provisions of the IBC

The IBC introduced several groundbreaking provisions that redefined insolvency resolution in India:

1. **Corporate Insolvency Resolution Process (CIRP)<sup>18</sup>:**
  - CIRP is the central feature of the IBC, enabling creditors or debtors to initiate insolvency proceedings against defaulting companies.
  - During CIRP, a moratorium period is declared, halting all recovery and litigation proceedings against the debtor to ensure a smooth resolution process.
  - A Resolution Professional (RP) is appointed to oversee the process, manage the debtor's operations, and prepare a resolution plan.
  - The Committee of Creditors (CoC), comprising financial creditors, plays a pivotal role in evaluating and approving the resolution plan.
2. **Liquidation Process:**
  - If no resolution plan is approved within the prescribed timeline, the company enters liquidation.
  - The liquidator sells the assets of the company, and the proceeds are distributed as per the waterfall mechanism, prioritizing secured creditors, employees, and

<sup>17</sup> Corporate Insolvency Resolution Process

<sup>18</sup> GROW, <https://groww.in/blog/what-is-corporate-insolvency-resolution-process> (last visited Jan. 22, 2025).

operational creditors.

**3. Voluntary Insolvency:**

- The IBC allows solvent companies to initiate voluntary insolvency proceedings, offering a structured exit mechanism for businesses.

**4. Pre-Packaged Insolvency Resolution (Pre-Packs):**

- A recently introduced feature under the IBC for MSMEs, pre-packs offer a hybrid resolution process, combining the benefits of informal negotiations with the legal sanctity of the IBC framework.

### **Role of the National Company Law Tribunal (NCLT) and Adjudicating Authorities**

The National Company Law Tribunal (NCLT) is the primary adjudicating authority under the IBC for corporate insolvency cases. Its role includes:

- Admission or rejection of insolvency applications filed by creditors or debtors.
- Appointing Resolution Professionals and overseeing the CIRP.
- Approving or rejecting resolution plans submitted by the CoC.
- Adjudicating disputes arising during the insolvency process.

The National Company Law Appellate Tribunal (NCLAT) serves as the appellate authority for decisions made by the NCLT. The Supreme Court of India may receive more appeals.

### **Impact of the IBC**

Since its enactment, the IBC has significantly improved India's insolvency resolution ecosystem. By ensuring a structured, time-bound process and prioritizing creditor rights, it has enhanced recovery rates and boosted investor confidence. The World Bank's Ease of Doing Business Report has consistently acknowledged the IBC's contribution to improving India's insolvency resolution ranking.

## **SOCIO-LEGAL IMPACTS OF CORPORATE BANKRUPTCY**

Corporate bankruptcy, while primarily a financial and legal phenomenon, carries significant socio-economic consequences. Beyond its effect on business operations, bankruptcy impacts employees, creditors, shareholders, investors, and the broader community. The Insolvency and Bankruptcy Code (IBC), 2016, seeks to address these challenges through a structured framework, but its implementation often highlights the intersection of legal mechanisms and

societal repercussions.<sup>19</sup>

### **Impact on Employees**

Employees are among the most vulnerable stakeholders during corporate bankruptcy. Job losses and layoffs often accompany insolvency proceedings as companies struggle to remain viable or enter liquidation. For employees, the sudden loss of income can lead to financial insecurity, skill obsolescence, and difficulties in securing new employment.

From a legal standpoint, the IBC recognizes employees as operational creditors, entitling them to claims for unpaid wages and salaries. The waterfall mechanism under Section 53 of the IBC prioritizes dues owed to secured creditors, followed by unpaid wages of employees for the preceding 24 months. However, employees often face delays in receiving compensation, and their claims may be reduced or overlooked if the company's assets are insufficient.

To address these challenges, stronger safeguards could include dedicated funds or priority payment mechanisms for employees. Additionally, retraining programs and unemployment benefits could mitigate the socio-economic fallout of job losses.

### **Impact on Creditors**

The IBC prioritizes creditors' rights, shifting India's insolvency framework from a debtor-friendly system to a creditor-centric approach. Creditors are classified into three categories:

- 1. Financial Creditors:** Banks and financial institutions who provide loans.
- 2. Operational Creditors:** Entities providing goods or services.
- 3. Unsecured Creditors:** Lenders without collateral backing their claims.

The Committee of Creditors (CoC), comprising financial creditors, holds significant decision-making power in the resolution process, including approving resolution plans. Operational creditors, although included in the framework, often receive lower recoveries compared to financial creditors.

While the IBC ensures that creditors have legal recourse to recover dues, the lengthy process and the possibility of asset value erosion during resolution often diminish their chances of full recovery. Moreover, unsecured creditors, such as small vendors and suppliers, frequently bear

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<sup>19</sup> Shreya Patel, Economic and Social Impacts of Insolvency and Bankruptcy Laws in India, LAW BHOOMI (Jan. 23, 2025, 1:13 PM), <https://lawbhoomi.com/economic-and-social-impacts-of-insolvency-and-bankruptcy-laws-in-india/>

the brunt of losses, impacting their operations and financial stability.<sup>20</sup>

### **Impact on Shareholders and Investors**

Shareholders and investors also face adverse consequences during corporate bankruptcy. For equity shareholders, the value of their investments often diminishes significantly, as creditors are given priority in recovering dues during the resolution or liquidation process. Investors in distressed companies frequently lose confidence, leading to a drop in market capitalization and broader market volatility.

Despite these challenges, the IBC provides mechanisms to protect investors by promoting transparency and accountability in insolvency proceedings. For example, resolution plans are required to ensure that the company remains a viable entity, preserving shareholder interests whenever possible. However, in cases of liquidation, shareholders often receive no returns, reflecting their position at the bottom of the waterfall mechanism<sup>21</sup>.

### **Impact on Local Communities**

The bankruptcy of large corporations can have profound social consequences for local communities, particularly in regions dependent on a single industry or employer. Plant closures and downsizing result in widespread unemployment, reduced household incomes, and weakened local economies. The social fabric of these communities is often disrupted, leading to increased poverty, migration, and social unrest.

Environmental concerns also arise in cases where bankrupt companies fail to address the ecological impact of their operations, leaving behind polluted sites or unfulfilled corporate social responsibility (CSR) commitments. Legal provisions for environmental liabilities during insolvency remain underdeveloped, exacerbating these issues.

## **SOCIAL CONSIDERATIONS IN THE BANKRUPTCY PROCESS**

Corporate bankruptcy is not just a financial or legal event but also a social phenomenon that impacts perceptions, governance practices, and broader societal welfare. The stigma associated

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<sup>20</sup> Shreya Patel, Economic and Social Impacts of Insolvency and Bankruptcy Laws in India, LAW BHOOMI (Jan. 23, 2025, 1:13 PM), <https://lawbhoomi.com/economic-and-social-impacts-of-insolvency-and-bankruptcy-laws-in-india/>

<sup>21</sup> STUDY.COM, <https://study.com/academy/lesson/how-corporate-bankruptcy-affects-shareholders.html> (last visited Jan. 23, 2025).

with corporate failures, the role of governance in averting insolvency, and the ongoing debate between rehabilitation and liquidation reflect the complex interplay between law and society in the bankruptcy process.

### **Public Perception of Corporate Failures**

In many societies, corporate bankruptcy carries a significant stigma, often viewed as a sign of mismanagement, incompetence, or dishonesty. This perception can harm the reputation of companies, their leadership, and their employees, creating challenges for future ventures. In India, where family-owned businesses dominate, corporate failure is often seen as a personal failure, intensifying the social and cultural repercussions.

Such stigmas can discourage entrepreneurs from taking risks, which is detrimental to innovation and economic growth. The Insolvency and Bankruptcy Code (IBC), 2016, aims to change this narrative by providing a structured framework for resolving financial distress. The focus on resolution and rehabilitation rather than punitive measures seeks to normalize corporate restructuring as a legitimate business strategy. Public awareness campaigns and greater transparency in insolvency proceedings can further reduce the stigma and foster a culture that supports business recovery<sup>22</sup>.

### **Role of Corporate Governance in Preventing Bankruptcy**

Weak corporate governance is often a critical factor in corporate bankruptcies. Poor oversight, lack of accountability, unethical practices, and mismanagement can lead companies into financial distress. Cases such as Satyam Computers and Jet Airways highlight how governance failures, including fraudulent reporting and misallocation of funds, have contributed to insolvency<sup>23</sup>.

Robust corporate governance practices are essential for financial stability and investor confidence. Key measures to prevent bankruptcy through improved governance include:

- **Strengthening Board Oversight:** Independent directors must actively monitor

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<sup>22</sup> Emanuele Colonnelli and Niels J. Gormsen, Public's Perception of Large Corporations Has Direct Impact on the Public Support of Corporate Bailouts, PROMARKET (Jan. 23, 2025, 4:17 PM), <https://www.promarket.org/2021/03/15/public-perception-corporations-support-bailouts/>.

<sup>23</sup> Jo Ellis, How corporate governance can prevent fraud and corruption, THE CORPORATE GOVERNANCE INSTITUTE (Jan. 23, 2025, 4:17 PM), <https://www.thecorporategovernanceinstitute.com/insights/guides/how-corporate-governance-can-prevent-fraud-and-corruption/?srsltid=AfmBOoqB7hNhvpQscC536rIFXVhrZqVJNSyqHHO0H7bfkEKeNueH3bs5>.

financial and operational performance.

- **Transparency and Accountability:** Timely and accurate financial disclosures should be mandatory to identify and address risks early.
- **Risk Management Frameworks:** Companies should implement systems to assess and mitigate financial risks proactively.
- **Legal Reforms:** The IBC encourages better governance by holding directors and key management accountable for decisions leading to insolvency. Provisions like wrongful trading and fraudulent preferences act as deterrents against negligent or unethical practices.

The ongoing evolution of governance regulations, including initiatives by the SEBI<sup>24</sup>, aims to enhance corporate accountability and reduce the risk of financial distress.

### Rehabilitation vs. Liquidation<sup>25</sup>

One of the most debated social considerations in the bankruptcy process is whether distressed companies should be rehabilitated or liquidated. The choice between these options has far-reaching implications for employment, creditors, and regional economies.

- **Rehabilitation:** Restructuring a financially distressed company preserves jobs, prevents the erosion of skills, and supports local economies. For example, under the IBC's<sup>26</sup>, CIRP<sup>27</sup>, the focus is on formulating resolution plans that allow the company to continue as a going concern. Rehabilitation aligns with the social objective of minimizing disruption and maintaining economic stability.
- **Liquidation:** While liquidation provides a clear pathway to recover creditors' dues, it often results in massive job losses and the collapse of dependent local economies. The social costs of liquidation include increased unemployment, migration, and the loss of regional economic anchors.

The IBC attempts to strike a balance between these approaches by prioritizing resolution over liquidation. However, the success of this strategy depends on timely intervention, effective resolution plans, and the active participation of stakeholders.

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<sup>24</sup> Securities and Exchange Board of India

<sup>25</sup> Emily Norris, Chapter 7 vs. Chapter 11: What's the Difference?, INVESTOPEDIA (Jan. 23, 2025, 6:32 PM), <https://www.investopedia.com/ask/answers/differences-between-chapter-7-and-chapter-11/>.

<sup>26</sup> Insolvency and Bankruptcy Code

<sup>27</sup> Corporate Insolvency Resolution Process

## CHALLENGES IN THE IMPLEMENTATION OF THE IBC

The Insolvency and Bankruptcy Code (IBC), 2016, has been a transformative legal reform in India, providing a robust framework for the resolution of financial distress. However, the practical implementation of the IBC has faced several challenges, including procedural delays, resource constraints, and criticisms regarding its fairness and effectiveness. These challenges not only hinder the timely resolution of insolvencies but also raise questions about the broader objectives of the Code<sup>28</sup>.

### Challenges in Implementation

#### 1. Delays in Proceedings:

While the IBC mandates a time-bound resolution process of 180 days, extendable up to 330 days, many cases exceed this timeline. Factors contributing to delays include:

- **Judicial Backlogs:** NCLT<sup>29</sup>, which adjudicates insolvency cases, faces an overwhelming caseload, compounded by a shortage of judges and benches.
- **Complex Cases:** Larger corporate insolvencies, such as those involving conglomerates, require extensive evaluation and negotiation, prolonging the process.
- **Multiple Appeals:** Frequent appeals to the NCLAT<sup>30</sup> and the Supreme Court contribute to delays in finalizing resolutions.

#### 2. Limited Resources:

- **Resolution Professionals (RPs):** The success of the CIRP<sup>31</sup> depends on skilled RPs who manage the process and prepare resolution plans. However, India has an underdeveloped market for RPs, with many lacking the experience and resources to handle large or complex cases.
- **Infrastructure Shortages:** The NCLT's infrastructure, including manpower, technology, and logistical support, remains inadequate to handle the volume of cases efficiently.

#### 3. Underdeveloped Secondary Market:

A robust market for distressed assets is essential for effective resolution. However, India's secondary market for such assets is still in its infancy, limiting options for

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<sup>28</sup> M.S. Bushra Tungekar, Challenges of Interpretation of Insolvency and Bankruptcy Code, 2016, IPLEAFDERS, (Jan. 23, 2025, 7:21 PM), <https://blog.iplayers.in/challenges-interpretation-insolvency-bankruptcy-code-2016/>.

<sup>29</sup> National Company Law Tribunal

<sup>30</sup> National Company Law Appellate Tribunal

<sup>31</sup> Corporate Insolvency Resolution Process

bidders and resolution applicants. This impacts the recovery rate and often forces creditors to settle for suboptimal outcomes.

### **Criticisms of the IBC<sup>32</sup> Process**

#### **1. Favouring Large Creditors:**

The IBC prioritizes financial creditors, such as banks and financial institutions, over operational creditors (e.g., suppliers and employees). This creditor hierarchy often leads to operational creditors receiving a fraction of their dues, raising concerns about fairness.

For example, in cases like **Essar Steel**, operational creditors criticized the resolution plan for disproportionately favouring financial creditors.

#### **2. Challenges in Fairness of Resolution Plans:**

Resolution plans are often criticized for undervaluing assets, resulting in significant haircuts for creditors. In some cases, resolution applicants propose plans that prioritize short-term gains over the long-term viability of the company, undermining the objective of maintaining the business as a going concern.

#### **3. Judicial Delays:**

The process often gets bogged down in judicial interventions, such as challenges to the admission of insolvency petitions, disputes over resolution plans, and objections to liquidation orders. These delays erode the value of assets, reducing recoveries for creditors.

## **REFORMS AND FUTURE DIRECTIONS**

The Insolvency and Bankruptcy Code (IBC), 2016, has been a transformative framework for corporate insolvency resolution in India. However, to keep pace with evolving economic and social realities, the IBC has undergone several amendments and continues to demand further reforms. This section discusses recent amendments, proposes improvements for the bankruptcy framework, and explores lessons India can draw from global insolvency practices.

### **Recent Amendments and Their Socio-Legal Impact**

#### **1. Homebuyers as Financial Creditors:**

- The 2018 Amendment to the IBC recognized homebuyers as financial creditors,

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<sup>32</sup> Insolvency and Bankruptcy Code

enabling them to initiate insolvency proceedings against defaulting real estate developers. This reform empowered homebuyers, who were previously considered unsecured creditors, ensuring their participation in the Committee of Creditors (CoC) and giving them a voice in the resolution process.

- **Impact:** This change has provided much-needed protection to homebuyers, addressing concerns of social equity and fairness in insolvency cases involving the real estate sector. However, the inclusion of numerous individual creditors in the CoC has added complexity to decision-making.

## 2. Pre-Packaged Insolvency Resolution Process (PIRP):

- Introduced in 2021, PIRP is designed for micro, small, and medium enterprises (MSMEs). It allows for a faster and less costly resolution process by enabling debtors to negotiate a resolution plan with creditors before initiating insolvency proceedings.
- **Impact:** This reform has supported MSMEs, which are vital to India's economy, by providing a streamlined and debtor-friendly process.

## 3. Cross-Border Insolvency:

- India is working toward adopting the UNCITRAL Model Law on Cross-Border Insolvency, which would provide a framework for dealing with insolvency cases involving assets and creditors in multiple jurisdictions.
- **Impact:** This reform is crucial for India's integration into the global economy, ensuring better coordination in cross-border insolvency cases and increasing investor confidence.

## CASE STUDIES: CORPORATE BANKRUPTCY IN INDIA

Real-life corporate bankruptcy cases in India highlight the practical implications of the Insolvency and Bankruptcy Code (IBC), 2016, and its socio-legal impacts. High-profile insolvencies like Jet Airways have not only tested the IBC framework but also brought attention to the broader repercussions on employees, creditors, shareholders, and communities.

### Jet Airways: The Fall of an Aviation Giant<sup>33</sup>

#### Background:

Jet Airways, once India's largest private airline, halted operations in 2019 due to mounting

<sup>33</sup> THE INDIAN EXPRESS, <https://indianexpress.com/article/business/aviation/jet-airways-liquidation-story-india-airline-9658686/> (last visited Jan. 24, 2025).

debt of over ₹8,000 crore. The insolvency process was initiated under the IBC, and the Jalan-Kalrock Consortium was approved as the new owners. However, delays in the implementation of the resolution plan have hindered Jet Airways' revival.

### **Social and Legal Outcomes:**

#### **1. For Employees:**

- Jet Airways' grounding led to over 20,000 job losses, causing financial distress to employees.
- While the resolution plan proposed partial payments to employees, many are still awaiting settlements.

#### **2. For Creditors:**

- Financial creditors agreed to a resolution plan offering significant haircuts, recovering only a fraction of their claims.
- Operational creditors, including airports and suppliers, were disproportionately affected, receiving negligible recoveries.

#### **3. For Shareholders:**

- Shareholders faced complete erosion of their investments, reflecting the risks associated with equity in a distressed company.

#### **4. For Communities:**

- The airline's shutdown disrupted regional connectivity and impacted ancillary industries, such as travel and hospitality.

### **Key Legal Takeaway:**

The case exposed the limitations of the IBC in handling complex service-sector bankruptcies, where revival is crucial but challenging due to the dependence on operational continuity and market conditions.

### **Analysis of Impacts**

#### **1. Employees:**

In both cases, the resolution process failed to adequately address employee interests. While Essar Steel ensured continuity of operations, Jet Airways' employees suffered significant financial and emotional stress due to job losses. This highlights the need for stronger legal protections for employees in insolvency cases.

#### **2. Creditors:**

- Financial creditors benefited from the IBC's framework, as seen in Essar Steel's high recovery rate.

- However, operational creditors often bear the brunt, with recoveries being minimal or delayed, as evident in both cases.

### 3. Shareholders:

Corporate bankruptcy cases typically result in the complete loss of shareholder value, emphasizing the risks of investing in financially unstable companies.

### 4. Communities:

- Essar Steel's successful resolution preserved economic activity, whereas Jet Airways' collapse led to significant regional economic disruptions.
- This underlines the social importance of timely and effective resolutions to prevent broader economic fallout.

## CONCLUSION

Corporate bankruptcy in India represents a complex interplay of legal frameworks and social consequences. The Insolvency and Bankruptcy Code (IBC), 2016, has revolutionized insolvency resolution by providing a structured and time-bound mechanism that prioritizes creditor recoveries and economic efficiency. However, the socio-legal dimensions of corporate bankruptcy reveal critical challenges that extend beyond legal resolutions, impacting employees, creditors, shareholders, and local communities.

A key takeaway from India's experience is the delicate balance between legal solutions and social consequences. While the IBC has streamlined insolvency processes and enhanced creditor confidence, its impact on vulnerable stakeholders like employees and operational creditors remains a concern. Similarly, large-scale bankruptcies often lead to job losses, economic disruptions, and regional instabilities, which highlight the need to consider the broader societal repercussions of corporate failures.

To ensure a just and fair process, India must adopt a more holistic approach to bankruptcy laws—one that integrates legal efficiency with social equity. This includes strengthening protections for employees, ensuring fair treatment for operational creditors, and fostering mechanisms that prioritize rehabilitation over liquidation wherever possible. Drawing lessons from global best practices can further enhance the framework's inclusivity and effectiveness. Ultimately, a well-rounded insolvency system should not only serve as a tool for economic recovery but also promote social stability, ensuring that the resolution of corporate distress benefits all stakeholders equitably. By addressing these socio-legal dimensions, India can create a resilient and inclusive insolvency ecosystem that supports sustainable economic growth.