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# **EFFICACY OF THE INSOLVENCY AND BANKRUPTCY CODE WITH RESPECT TO CORPORATE INSOLVENCY RESOLUTION: AN ANALYSIS OF THE PERIOD 2016–2020**

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## **Abstract**

The Insolvency and Bankruptcy Code (IBC), 2016 represents a transformative shift in India's approach to corporate insolvency resolution. Within four years of its enactment, the Code fundamentally altered the landscape of corporate distress management, establishing creditor-controlled resolution mechanisms with time-bound processes and institutional professionalization. This research paper examines the efficacy of the IBC during the formative period of 2016–2020 by analyzing recovery rates, resolution timelines, behavioral impacts, and institutional effectiveness. Drawing on official IBBI data, World Bank assessments, and comparative analyses with the pre-IBC regime, the study concludes that the Code achieved substantial improvements in creditor recovery, resolution timelines, and international competitiveness, while simultaneously revealing structural challenges that warranted continued refinement.

**Keywords:** Insolvency, Corporate Distress, CIRP, Recovery Rates, Creditor Empowerment, Legal Reform.

## **1. Introduction**

Corporate insolvency—the inability of a company to meet its financial obligations to creditors—represents a critical challenge for any modern economy. Prior to 2016, India's insolvency framework was characterized by fragmented legislation, protracted resolution timelines, low recovery rates, and limited mechanisms for promoting corporate revival. The Sick Industrial Companies (Special Provisions) Act, 1985 (SICA), the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI), and provisions within the Companies Act, 1956 and 2013, collectively failed to provide an efficient, market-based resolution process.

The enactment of the Insolvency and Bankruptcy Code (IBC), 2016, marked a paradigm shift. Commencing operations on 1st December 2016, the IBC introduced a unified, time-bound, creditor-in-control mechanism for resolving corporate insolvency through the Corporate Insolvency Resolution Process (CIRP). Over the period 2016–2020, the Code underwent significant implementation, institutional development, and judicial interpretation. This paper examines the efficacy of the IBC during this critical foundational period, assessing whether and to what extent it achieved its stated objectives of maximizing asset value, promoting corporate revival, enabling creditor recovery, and fostering disciplined lending behavior.

The central research question is: To what extent did the IBC improve the efficacy of corporate insolvency resolution in India during 2016–2020 as measured by recovery rates, resolution timelines, creditor empowerment, and international competitiveness?

## 2. Legislative Framework and Objectives of the IBC

### 2.1 Structural Design of the IBC

The IBC, 2016 is grounded in three core principles: (1) creditor-in-control through the Committee of Creditors (CoC); (2) time-bound resolution (180 days, extendable to 330 days); and (3) market-driven processes for selecting resolution applicants and determining asset allocation.

The Code provides three primary mechanisms for corporate distress management:

1. **Corporate Insolvency Resolution Process (CIRP):** A market-driven process allowing corporate debtors to restructure and return to profitability under new management while existing stakeholders negotiate outcomes through a creditor-controlled committee.
2. **Liquidation:** An alternative for unviable firms, prioritizing orderly asset disposition and equitable distribution to creditors according to statutory preference.
3. **Voluntary Liquidation:** An expedited exit mechanism for entities choosing to wind up operations.

### 2.2 Stated Objectives

The preamble and Section 3 of the IBC articulate four primary objectives:

- **Revival and Continuity:** Rescue viable businesses by preserving going-concern value and maintaining employment and productive capacity.
- **Value Maximization:** Ensure that distressed assets are deployed to their most efficient use, whether through reorganization or liquidation.

- **Creditor Empowerment:** Replace debtor-friendly or State-controlled mechanisms with market-based creditor decision-making through the CoC, fundamentally shifting bargaining power.
- **Promoting Entrepreneurship:** Enable "honest" business failures to exit quickly, reducing stigma and encouraging risk-taking in competitive markets.

These objectives reflect a deliberate pivot from earlier regimes that prioritized debtor interests, State control, or creditor litigation toward a market-mediated, time-bound system.

### 3. Pre-IBC Insolvency Framework: Performance Baseline

#### 3.1 Limitations of the Legacy System

Understanding IBC efficacy requires establishing a baseline of pre-2016 performance. The pre-IBC regime suffered from well-documented deficiencies:

- **Fragmented Legal Framework:** Multiple laws with overlapping jurisdictions and conflicting procedures created confusion and incentivized forum-shopping. Creditors could pursue recovery through DRTs (Debt Recovery Tribunals), Lok Adalats, SARFAESI auctions, civil courts, or the BIFR (Board for Industrial and Financial Reconstruction) under SICA, each with distinct procedures and timelines.
- **Protracted Resolution:** SICA cases typically consumed 4–5 years or longer, during which asset values deteriorated substantially. Under DRT regimes, recovery timelines exceeded 10 years in many cases.
- **Low Recovery Rates:** The World Bank's Doing Business Report (DBR) estimated that creditors recovered approximately 26.5 cents on the dollar in India pre-IBC, ranking India 108th globally on the "resolving insolvency" parameter in 2017–2018.
- **Debtor-Friendly Bias:** SICA's rehabilitation focus, promoter protections, and State-led BIFR adjudication created moral hazard, discouraging creditor action and enabling strategic defaults.
- **High Recovery Costs:** Recovery through multiple mechanisms was expensive, with procedural delays inflating costs and reducing net creditor recovery significantly.

### 4. CIRP Implementation and Quantitative Outcomes (2016–2020)

#### 4.1 CIRP Initiation and Admission Data

By 31 March 2020, the IBBI reported significant process uptake:

- **Total CIRPs Admitted:** 3,847 corporate debtors were admitted into CIRP between

December 2016 and March 2020.

- **Monthly Admission Trends:** Admissions grew steadily, peaking in 2018–2019 and then moderating, reflecting both pent-up demand and learning effects as stakeholders adapted to the new regime.
- **Sectoral Distribution:** Manufacturing accounted for the largest share (~35%), followed by real estate (~15%), construction (~12%), and wholesale/retail trade (~8%). Financial services were excluded from CIRP analysis due to distinct resolution regimes.

## 4.2 CIRP Outcomes and Resolution Rates (2016–2020)

By 31 March 2020, of the 3,847 admitted CIRPs, the distribution of outcomes was:

- **Successful Resolutions:** 236 CIRPs concluded with approved resolution plans (6.1% of admissions).
- **Liquidations:** 932 CIRPs ended in liquidation orders (24.2% of admissions).
- **Withdrawn CIRPs:** 259 applications were withdrawn (6.7% of admissions), typically reflecting pre-admission settlements.
- **Ongoing CIRPs:** 1,964 cases remained in process as of 31 March 2020 (51% of admissions).
- **Voluntary Liquidations:** An additional 682 companies initiated voluntary liquidation outside CIRP.

This distribution reveals several important patterns: (1) successful resolution required multiple amendments to the Code and regulatory refinements, resulting in lower initial success rates; (2) liquidation was frequent, suggesting many firms entered CIRP too late for viable rescue; and (3) a substantial "ongoing" cohort indicated that timelines, while improved relative to pre-IBC regimes, frequently exceeded statutory mandates.

## 4.3 Recovery Rates and Financial Outcomes

### 4.3.1 Absolute Recovery Data

IBBI data on 236 successful resolutions (as of 31 March 2019) showed:

- **Admitted Financial Creditor Claims:** ₹2,15,799 crore
- **Realizable Value of Assets at CIRP Admission:** ₹54,367 crore
- **Amount Realized for Financial Creditors:** ₹1,15,991 crore, representing **213% of liquidation value**
- **Recovery Rate (% of Claims):** Approximately 54% of admitted financial creditor

claims

Compared to liquidation where creditors typically recovered ₹100 of liquidation value, resolution generated ₹122 crore of "excess recovery," demonstrating going-concern premiums.

#### 4.3.2 Comparative Recovery Metrics

The World Bank's Doing Business Report 2020 synthesized IBC outcomes:

- **Recovery Rate:** 71.6 cents on the dollar (up from 26.5 cents pre-IBC), representing a **170% improvement**
- **Resolution Time:** 1.6 years average (down from 4.3 years under legacy regimes)
- **Cost of Resolution:** Less than 1% of liquidation value, substantially lower than pre-IBC processes
- **Global Ranking:** India improved 56 places, from 108th (2017–2018) to 52nd (2019–2020) on the World Bank's "resolving insolvency" parameter

#### 4.3.3 Time Value Adjusted Recovery

A detailed study of 431 resolved firms found that after adjusting for the time value of money (using a 7% discount rate), the recovery rates were:

- **Financial Creditors:** Approximately 35% (after time adjustment), down marginally from 38.5% nominal recovery
- **Operational Creditors:** Approximately 22% (after time adjustment)

This analysis underscores that while nominal recovery improved substantially, the time taken for resolution partially offset these gains. Nevertheless, time-adjusted recovery rates in CIRP remained significantly higher than under pre-IBC mechanisms.

## 5. Efficacy Dimensions: Beyond Quantitative Metrics

### 5.1 Timeline Adherence and Procedural Efficiency

While the statutory mandate required resolution within 180 days (extendable to 330 days), empirical data revealed:

- **Average CIRP Duration (Resolution Cases):** Approximately 375 days (12.5 months) by 31 March 2019, exceeding statutory timelines in many cases.
- **Average CIRP Duration (Liquidation Cases):** Approximately 309 days, generally within statutory bounds.
- **Primary Causes of Delay:** Litigation challenges at NCLT/NCLAT levels, claim verification bottlenecks, tribunal capacity constraints, and extended deliberations within the CoC.

Despite exceeding nominal timelines, resolution timelines represented a dramatic improvement over pre-IBC processes, where similar cases required 4–10 years.

## 5.2 Behavioral Changes and Systemic Impacts

Beyond quantitative metrics, the IBC catalyzed important behavioral shifts:

### 5.2.1 Debtor Behavior

The credible threat of CIRP—particularly loss of management control and equity dilution—fundamentally altered promoter behavior:

- **Early Settlement:** Thousands of defaulters settled at early stages of distress (at imminence of default, post-default, or post-notice), before CIRP admission, recovering substantial sums for creditors outside formal process.
- **Reduced Strategic Default:** The erstwhile "defaulters' paradise" eroded as consequences became tangible and immediate.
- **Improved Credit Discipline:** Banks reported increased reluctance to extend credit to high-risk entities and tighter lending standards, reducing the incidence of unhinged leverage.

### 5.2.2 Creditor Behavior

The CoC mechanism empowered creditors materially:

- **Shift from Litigation to Negotiation:** Creditors increasingly pursued resolution through negotiated CoC decisions rather than protracted court battles.
- **Preference for Going-Concern Sales:** Resolution plans typically contemplated sale of businesses as going concerns rather than asset piecemeal liquidation, preserving operational value.
- **Professional Risk Assessment:** Banks and creditors professionalized internal processes for monitoring and early intervention, reducing NPA progression.

### 5.2.3 Banking System Recovery

RBI data demonstrated that IBC contributed materially to NPA recovery:

- **Recovery Share:** In 2019–2020, recovery through IBC constituted more than 50% of total NPA recovery by scheduled commercial banks, exceeding traditional mechanisms (DRTs, Lok Adalats, SARFAESI).
- **Incremental Recovery:** The average recovery through IBC (approximately 45.5% in 2019–2020) exceeded recovery through DRT (approximately 30%), Lok Adalat (approximately 20%), and SARFAESI processes (approximately 35%).

### 5.3 Institutional Development and Ecosystem Creation

The IBC necessitated creation of an entirely new institutional ecosystem:

#### 5.3.1 Insolvency Professionals (IPs)

By 31 March 2020:

- **Registered IPs:** 3,009 insolvency professionals across the country
- **Training and Standardization:** Continuing Professional Education (CPE) mandates ensured ongoing competence development
- **Emerging Expertise:** IPs developed specialized knowledge in valuation, stakeholder management, creditor negotiations, and operational preservation

#### 5.3.2 Registered Valuers (RVs)

By 31 March 2020:

- **Registered Valuers:** 3,030 registered valuers, creating a professional cadre for enterprise valuation
- **Valuation Standardization:** Introduction of Valuation Standards and International Valuation Standards (IVS) principles ensured transparency and credibility in asset valuations
- **Critical Role:** Valuers provided reference points for CoC deliberations and creditor decisions on enterprise viability

#### 5.3.3 Information Utilities (IUs)

The establishment of Information Utilities addressed information asymmetry:

- **Credit Information Standardization:** IUs aggregated financial creditor data to establish defaults and facilitate claim verification
- **Reduced Disputes:** Co-verification protocols reduced disagreements over admitted claims
- **First Institutional Innovation:** IU framework was novel globally, directly addressing insolvency-specific information gaps

### 5.4 International Competitiveness

The World Bank's Doing Business rankings demonstrated quantifiable improvements in India's global competitiveness on insolvency metrics:

- **Ranking Movement:** India improved 56 places (from 108th to 52nd) on the "resolving insolvency" parameter between 2017 and 2020.
- **Single Largest Contribution:** The insolvency parameter was identified as the single

largest contributor to India's overall Ease of Doing Business ranking improvement to 63rd globally in 2019–2020.

- **Regional Leadership:** India became the best performer in South Asia on resolving insolvency metrics by 2020.

## 6. Challenges and Limitations (2016–2020)

Despite significant achievements, several challenges constrained full realization of IBC objectives during this period:

### 6.1 High Liquidation Rates

A notable proportion of CIRPs (~24%) ended in liquidation rather than successful resolution:

- **Late Entry Problem:** Many firms entered CIRP only after severe asset erosion, reducing viability for reorganization.
- **Inadequate Resolution Applicants:** Limited qualified resolution applicants constrained CoC options, making liquidation the default outcome in many cases.
- **Moral Hazard Reduction:** While high liquidation rates reflected market discipline, they also suggested that the threat of liquidation was often realized, raising concerns about rescue feasibility.

### 6.2 Procedural and Institutional Bottlenecks

- **NCLT Capacity Constraints:** Overwhelmed National Company Law Tribunals caused delays exceeding statutory timelines in many cases.
- **Litigation Burden:** Frequent challenges at NCLT and NCLAT levels protracted timelines, imposing additional costs on estates.
- **Claim Verification Delays:** Complex claim verification processes involving multiple creditors and stakeholders extended resolution periods.

### 6.3 Distributional Concerns

The resolution framework raised questions about fairness among creditor classes:

- **Operational Creditor Subordination:** The preference for financial creditor control within the CoC resulted in lower recovery rates for operational creditors (~22%) relative to financial creditors (~35%).
- **Equity Creditor Losses:** Existing equity holders typically suffered complete

elimination, creating tensions regarding enterprise control and future incentives.

#### 6.4 Post-Resolution Financing Challenges

A subsequent study (covering 2016–2022) found that post-resolution firms faced persistent financing obstacles:

- **Limited Credit Access:** Only approximately 33% of resolved firms obtained bank financing post-resolution; among those who did, only 40% found terms reasonable.
- **Higher Cost of Capital:** Resolution firms faced elevated borrowing costs, restricting growth investments.
- **Working Capital Constraints:** Resolved firms reported difficulty securing adequate working capital, impeding operational scaling.

#### 6.5 Heterogeneous Outcomes Across Sectors

Recovery rates varied substantially by industry sector:

- **Highest Recovery:** Hotels and Restaurants (~60%), Construction (~55%), and service sectors showed surprisingly high recovery rates, challenging the assumption that asset-heavy industries would have higher recovery.
- **Lowest Recovery:** Electricity, Gas, and Water Supply (~15%) and Transport, Storage, and Communications (~18%) sectors exhibited weak recovery, reflecting infrastructural leverage, regulatory constraints, or market saturation.

### 7. Post-Resolution Performance Analysis

While the research period nominally ended in 2020, subsequent analysis of firms resolved during 2016–2020 (with performance tracked through 2022) revealed important insights on resolution efficacy:

#### 7.1 Firm Performance Metrics

Among 431 resolved firms analyzed post-resolution:

- **Sales Growth:** Average sales increased 76% within three years post-resolution.
- **Operational Profitability:** Operating margins improved from negative 33% at bankruptcy to positive 4% by three years post-resolution, indicating operational breakeven achievement.
- **Employment:** Listed resolved firms increased average employee expenses by ~50%

and showed substantial aggregate employment growth.

- **Capital Investment:** CAPEX increased approximately 130% in three years post-resolution, reflecting confidence in growth prospects.
- **Liquidity:** Current ratio improved from 1.01 at bankruptcy to 1.83 three years post-resolution, an 80% improvement.
- **Leverage:** Debt-to-EBITDA ratios showed improvement, converging toward industry benchmarks by year three.

## 7.2 Market Recognition

Market capitalization trends validated post-resolution recovery:

- **Individual Firm Valuation:** Listed resolved firms showed significant revival in average market valuations post-resolution.
- **Aggregate Market Cap:** Total market valuation of listed resolved firms increased from approximately ₹2 lakh crore pre-resolution to ₹6 lakh crore post-resolution, indicating market recognition of recovery potential.

## 7.3 Stakeholder Satisfaction

Survey responses from resolved firms (conducted post-2020 but covering 2016–2020 resolutions):

- **Process Satisfaction:** Approximately 75% of surveyed firms were satisfied with post-resolution productivity levels.
- **Plan Achievement:** Only approximately 50% achieved financial projections outlined in resolution plans, indicating ambitious projections or implementation challenges.
- **Creditor Repayment:** Most firms repaid creditors as per resolution plans, demonstrating commitment to obligations.

## 8. Comparative Analysis: IBC vs. Pre-IBC Framework

A structured comparison illuminates IBC efficacy:

Metric	Pre-IBC (SICA/DRT Era)	IBC (2016–2020)	Improvement
Recovery Rate	~26.5 cents/dollar	~71.6 cents/dollar	<b>170%</b>

Average Resolution Time	4–5+ years	1.6 years (average)	<b>60–75% reduction</b>
Resolution Cost	3–5% of estate	<1% of liquidation value	<b>60–80% reduction</b>
Process Control	State/Debtor	Creditor-in-Control	<b>Paradigm shift</b>
Global Ranking (DBR)	108th	52nd	<b>56 places</b>
Creditor Empowerment	Limited	Substantial (CoC)	<b>Fundamental change</b>
Firm Revival Potential	Low	Moderate-High (going concern)	<b>Significant improvement</b>

## 9. Critical Discussion: Efficacy Assessment

### 9.1 Quantitative Efficacy

On quantitative metrics, the IBC demonstrated substantial efficacy:

- 1. Recovery Enhancement:** The ~170% improvement in recovery rates represents a transformative shift from pre-IBC outcomes, reflecting both higher nominal recoveries and shorter timelines enabling value preservation.
- 2. Timeline Reduction:** While average CIRP timelines (12–15 months) exceeded statutory mandates (330 days maximum), the improvement relative to 4–5 year pre-IBC timelines was dramatic and consequential.
- 3. Institutional Capacity:** The creation of 3,000+ IPs, 3,000+ RVs, and specialized information utilities represented unprecedented institutional scaling, professionalizing what had been ad-hoc arrangements.

### 9.2 Qualitative Efficacy

Beyond numbers, qualitative efficacy demonstrated multifaceted improvements:

- 1. Behavioral Transformation:** The shift from strategic default to early settlement, from promoter control to creditor decision-making, and from litigation to negotiation represented fundamental reorientation of stakeholder incentives.
- 2. Going-Concern Preservation:** The IBC's emphasis on business continuity rather than

asset liquidation preserved organizational capital, employment, and supplier relationships, externalizing benefits beyond creditors.

- 3. Market-Based Mechanisms:** Substitution of market processes (CoC voting, competitive bidding for resolution plans) for State discretion enhanced legitimacy and reduced capture risks.

### 9.3 Remaining Limitations

Despite achievements, efficacy remained constrained by:

- 1. Incomplete Asset Preservation:** High liquidation rates (~24%) and median losses of ~46% for financial creditors suggested that while recovery improved relative to pre-IBC, substantial value destruction persisted.
- 2. Institutional Bottlenecks:** NCLT capacity constraints, frequent litigation, and procedural delays partially offset theoretical efficiency gains.
- 3. Unequal Distributional Outcomes:** Operational creditors, employees, and suppliers recovered less than financial creditors, raising fairness concerns.
- 4. Post-Resolution Challenges:** Persistent financing difficulties for resolved firms and modest achievement of projected plans indicated that resolution was a beginning, not a final destination.

## 10. Conclusion

The Insolvency and Bankruptcy Code, 2016, achieved substantial improvements in corporate insolvency efficacy during the formative period of 2016–2020. Measured by recovery rates, timelines, institutional development, global competitiveness, and behavioral impacts, the Code represented a transformative reform that fundamentally repositioned corporate distress management from a protracted, State-mediated, debtor-friendly regime to a market-driven, creditor-controlled, time-bound system.

The doubling of recovery rates from 26.5 to 71.6 cents on the dollar, the reduction of average resolution timelines from 4–5 years to 1.6 years, and the creation of a professional insolvency ecosystem demonstrated tangible efficacy. Beyond quantitative metrics, the IBC catalyzed behavioral changes that reduced strategic default, incentivized early creditor action, and improved credit discipline across the banking system. The Code's elevation of India's global competitiveness ranking by 56 places on the World Bank's insolvency metric testified to its effectiveness as a policy reform.

However, the period 2016–2020 also revealed challenges that constrained full realization of IBC potential: high liquidation rates reflecting late firm entry, institutional bottlenecks at adjudicating authorities, distributional asymmetries favoring financial over operational creditors, and persistent post-resolution financing difficulties. These limitations were addressable through targeted institutional strengthening, procedural refinement, and stakeholder capacity building—dynamics that evolved beyond 2020.

In balance, the IBC during 2016–2020 succeeded in establishing a workable, substantially improved framework for corporate insolvency resolution in India. Future research should track whether institutional maturation, procedural refinements, and evolving jurisprudence further enhanced efficacy in subsequent periods, addressing identified limitations while consolidating demonstrated improvements.

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