



## Examining the Role of the Insolvency and Bankruptcy Code in Enhancing Bank Recoveries in India Vikas Agarwal<sup>1</sup>, Dr. Arun Verma<sup>2</sup>

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### ABSTRACT:

This research paper aims to explore the impact and analyze and assess the effectiveness of the Insolvency and Bankruptcy Code (IBC) on bank recoveries in India. The IBC, implemented in 2016, intended to streamline and expedite the insolvency resolution process, allowing banks to recover their debts efficiently. This study uses a mixed-method approach, combining qualitative and quantitative analysis, to investigate the effectiveness of the IBC in enhancing bank recoveries. It explores the underlying principles, provisions, and procedures (established by the IBC to address insolvencies and outlines) the key advantages, assumptions, and potential challenges associated with its implementation. The research findings indicate that the IBC has positively influenced the recovery process, resulting in faster debt recoveries for banks. This study also highlights potential challenges and limitations associated with the implementation of the IBC, thus providing insights for policymakers and financial institutions to refine its functioning. Through a comprehensive literature review and an examination of relevant data, this study strives to provide valuable insights into the impact of the IBC on bank recoveries and develop recommendations to further improve the recovery process. The research concludes by emphasizing the importance of a robust insolvency framework in strengthening the Indian banking sector. The primary objective of the IBC is to improve the recovery rate of banks and provide a framework for the time-bound resolution of stressed assets. This research paper examines the role of the IBC in enhancing bank recoveries in India. It provides an overview of the IBC, its function, advantages, and assumptions and recoveries in India.

**KEYWORDS:** Insolvency and Bankruptcy Code, bank recoveries, debt resolution, insolvency process, financial institutions.

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### INTRODUCTION:

The Indian banking system has been facing severe challenges of non-performing assets (NPAs) for a significant period. As per the data released by the Reserve Bank of India (RBI), the gross NPAs of banks in India peaked at 11.2% in March 2018 (RBI, 2018). The high level of NPAs led to a decline in the profitability of banks, which impacted the overall health of the financial sector. The government of India introduced several measures to address the issue of NPAs, and one of the significant steps taken was the introduction of the Insolvency and Bankruptcy Code (IBC) in 2016.

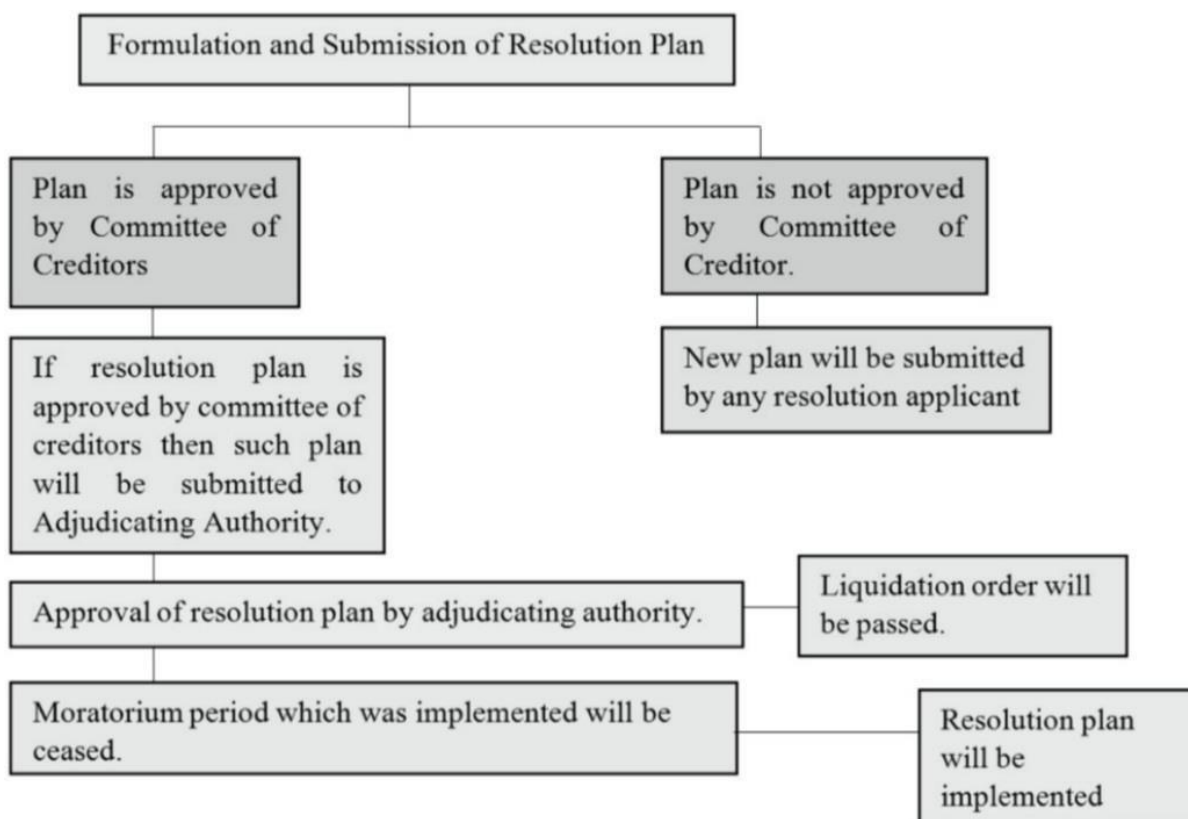
The IBC is a comprehensive legislation that provides a framework for resolving insolvencies and bankruptcies in a time-bound manner. The primary objective of the IBC is to maximize the value of

stressed assets and enhance the recovery rate of banks. The IBC consolidates and amends the laws relating to insolvency and bankruptcy, which were earlier governed by multiple laws and regulations. The IBC provides a single-window clearance mechanism for the resolution of insolvencies, which makes the process more efficient and faster.

The IBC provides a time-bound approach for the resolution of stressed assets. The IBC process is designed to be completed within 180 days, which can be extended by another 90 days in exceptional circumstances. The IBC provides a reasoned and fair distribution of proceeds from the sale of the assets of the debtor.

The Insolvency and Bankruptcy Code (IBC) was introduced in India on May 2016, with the aim of streamlining and simplifying the insolvency and bankruptcy process. The IBC is a comprehensive legislation that marks a major shift in the approach to debtors' default and corporate insolvency resolution in India. The IBC has since transformed the corporate insolvency resolution process in India, giving creditors greater power and boosting the country's economic recovery.

The effectiveness of the IBC in enhancing bank recoveries in India is a matter of significant interest to policymakers, business professionals, and academics. The insolvency and bankruptcy process in India has traditionally been lengthy, complex, and often lacking in transparency. Moreover, there has been a considerable delay in the realization of secured creditor claims on defaulting assets, ultimately leading to a high level of non-performing assets (NPAs) in the banking sector. Consequently, there has been a



growing need for a more efficient debt resolution process in the country to address these issues.

The introduction of the IBC created a clear and streamlined insolvency process, providing a two-tiered structure consisting of the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT) for the initiation of insolvency proceedings and resolution of disputes, respectively. Under the IBC, the distressed assets of a firm are taken over by a resolution professional, who is responsible for the orderly conduct of the insolvency process and for maximizing the value of the company's assets. This new approach has provided greater certainty for creditors, enabled timely resolution of distressed assets, and improved the overall efficiency of the insolvency resolution process in India.

This research study seeks to examine the role of the IBC in enhancing bank recoveries in India. Specifically, the study will evaluate the impact of the IBC on the recovery process for Indian banks, the resolution of NPAs, and the overall efficiency of the insolvency and bankruptcy process. The study will also analyze the challenges faced by Indian banks in implementing the IBC and suggest potential solutions to overcome these challenges.

The study will draw on literature from a variety of sources, including published research studies, government reports, and industry publications. It aims to provide a comprehensive analysis of the impact of the IBC on bank recoveries in India and to identify best practices to enhance the effectiveness of the insolvency and bankruptcy process to benefit creditors and borrowers.

Overall, this research study aims to contribute to the ongoing policy debate on the effectiveness of the IBC in India and provide insights for policymakers, banks, and practitioners on how to further improve debt recovery and insolvency resolution in the country.

### **Insolvency and Bankruptcy Code Amendments in 2021:**

The Insolvency and Bankruptcy Code (IBC) is a significant legislative framework in India that addresses the process of insolvency and bankruptcy resolution. In 2021, several amendments were introduced to enhance the effectiveness of the IBC and address various challenges. In following, it provides a detailed analysis of the key amendments made to the IBC in 2021.

#### ***Threshold for Initiating Insolvency Proceedings:***

One of the notable amendments introduced in 2021 was the increase in the minimum default threshold for initiating insolvency proceedings against corporate debtors. The threshold was raised from 1 Lakh to 1 Crore, aiming to provide relief to Micro, Small, and Medium Enterprises (MSMEs) as well as reduce the burden on the National Company Law Tribunal (NCLT).

#### ***Separate Insolvency Resolution Process for MSMEs:***

In an effort to provide a more streamlined and efficient resolution process for MSMEs, a separate insolvency resolution process was introduced in 2021. This process involves the appointment of an MSME resolution professional who facilitates the resolution plan specifically tailored to the unique characteristics and challenges faced by MSMEs.

### ***Strengthening the Rights of Financial Creditors:***

To enhance the position of financial creditors in the insolvency resolution process, amendments were made in 2021. These amendments aimed to provide greater involvement and decision-making power to financial creditors during the resolution proceedings. The objective was to address concerns and challenges related to the role of financial creditors in the resolution process.

### ***Protection of Homebuyers' Rights:***

In a bid to safeguard the rights of homebuyers in insolvency proceedings against real estate developers, specific provisions were introduced in 2021. These provisions aimed to address the common issues faced by homebuyers, such as delayed or incomplete projects, and provided mechanisms to protect their interests during the resolution process.

### ***Pre-packaged Insolvency Resolution Process (PIRP):***

Although not implemented as of yet, 2021 witnessed discussions and proposals for introducing the Pre-packaged Insolvency Resolution Process (PIRP). The PIRP seeks to expedite the resolution process by allowing a debtor and creditor consensus on a resolution plan before initiating the formal insolvency proceedings.

The Insolvency and Bankruptcy Code amendments introduced in 2021 have focused on various key aspects, including the threshold for initiating insolvency proceedings, a separate resolution process for MSMEs, strengthening the rights of financial creditors, and protecting the rights of homebuyers. These amendments aim to streamline and improve the insolvency resolution process, provide relief to specific sectors, and address the challenges faced by stakeholders. As with any legislative changes, it is crucial to closely monitor the implementation and impact of these amendments to assess their effectiveness in achieving the intended objective.

## **Methodology of Insolvency and Bankruptcy Code in Enhancing Bank Recoveries in India**

The Insolvency and Bankruptcy Code (IBC) has been introduced in India with the objective of streamlining and expediting the resolution process for insolvent companies and enhancing bank recoveries. The methodology used to assess the effectiveness of the IBC in achieving these goals is crucial in understanding its impact. The methodology of analyzing the IBC's influence on bank recoveries in India, including research design, data collection and analysis, sample selection, and limitations.

### ***Research Design:***

To evaluate the impact of the Insolvency and Bankruptcy Code on enhancing bank recoveries, a comprehensive research design is crucial. The research design involves determining the scope of the study, identifying the research questions, and selecting the appropriate research methods. A combination of qualitative and quantitative research methods can be employed to capture the different dimensions of the problem and provide a holistic understanding of the IBC's impact.

Qualitative research methods, such as interviews and case studies, can be used to gather in-depth insights from key stakeholders, including bank officials, insolvency professionals, and regulatory authorities. These methods help capture the subjective experiences, perceptions, and opinions of individuals involved in the insolvency resolution process. On the other hand, quantitative research methods, including statistical analysis and econometric modeling, can be utilized to analyze the impact of the IBC on bank recoveries based on relevant data points.

#### ***Data Collection and Analysis:***

Data collection is a critical aspect of assessing the effectiveness of the IBC in enhancing bank recoveries. Various sources of data can be utilized, including official reports, publications, financial statements, court judgments, and insolvency resolution records. Additionally, primary data can be collected through surveys, interviews, and questionnaires administered to relevant stakeholders.

To ensure comprehensive data analysis, a structured approach can be followed. Quantitative data can be analyzed using statistical techniques such as regression analysis, correlation analysis, and hypothesis testing. These analyses help establish relationships, identify patterns, and draw meaningful conclusions. Qualitative data can be analyzed through thematic analysis, content analysis, and coding techniques to extract key themes, patterns, and insights from the data.

#### ***Sample Selection:***

Selecting an appropriate sample is crucial to ensure the generalize ability and representativeness of the findings. The sample may include banks of different sizes, geographical locations, and financial health. Additionally, insolvent companies across various industries can be included in the sample to capture the diverse nature of insolvency cases. It is important to have a sufficient sample size to ensure statistical reliability and robustness.

The selection of the sample may involve both probability sampling and purposive sampling methods. Probability sampling ensures that each element in the population has an equal chance of being selected, while purposive sampling helps identify specific cases or individuals that are most relevant to the research objectives. The sample selection process should consider factors such as availability of data, feasibility, and relevance to the research questions.

#### ***Methodologies Limitations:***

A comprehensive analysis of the methodology employed to evaluate the impact of the Insolvency and Bankruptcy Code in enhancing bank recoveries in India should also consider the limitations of the study. One significant limitation is the availability and quality of data. Insolvency cases can be complex and involve voluminous records, making it challenging to gather complete and accurate information. Moreover, data gaps and inconsistencies may limit the scope of the analysis and conclusions that can be drawn.

Another limitation is the dynamic nature of the insolvency resolution process. The IBC is a relatively new law in India, and its implementation is an ongoing process. The impact of the IBC on bank recoveries may take time to materialize fully, and the methodology should account for this temporal dimension.

Furthermore, external factors such as economic conditions, government policies, and market dynamics can influence bank recoveries and the effectiveness of the IBC. These factors may introduce biases and confounders that need to be carefully considered and controlled for in the analysis.

The methodology used to assess the impact of the Insolvency and Bankruptcy Code in enhancing bank recoveries in India is crucial in understanding the effectiveness of the IBC. A robust research design, comprehensive data collection and analysis, appropriate sample selection, and careful consideration of limitations ensure a comprehensive evaluation. By employing an appropriate methodology, policymakers, researchers, and stakeholders can gain valuable insights into the impact of the IBC on bank recoveries and make informed decisions to further refine and improve the resolution process.

### **FUNCTION OF INSOLVENCY AND BANKRUPTCY CODE:**

The IBC provides a time-bound mechanism for the resolution of insolvencies and bankruptcies. The IBC applies to companies, partnerships, and individuals who are unable to pay their debts as they become due. The IBC provides two types of resolution processes, namely, the corporate insolvency resolution process (CIRP) and the individual insolvency resolution process (IRP).

The CIRP is triggered by an application made by the creditor, including financial and operational creditors, or the debtor itself. The admission of the application by the National Company Law Tribunal (NCLT) marks the commencement of the CIRP process. The CIRP process involves the appointment of an insolvency professional who manages the affairs of the debtor during the process. The insolvency professional prepares a resolution plan, which should be approved by the Committee of Creditors (CoC). The resolution plan should also be approved by the NCLT before being implemented.

The IRP is triggered by an application made by the debtor or the creditor. The NCLT appoints an interim resolution professional who manages the affairs of the debtor during the process. The IRP process includes the submission of claims by the creditors, which are verified by the resolution professional. The resolution professional prepares a repayment plan, which should be approved by the NCLT.

### ***Overview of the Insolvency and Bankruptcy Code:***

The IBC serves as a robust legal framework that facilitates the efficient and timely resolution of insolvency and bankruptcy cases. It replaced the outdated and fragmented insolvency laws that previously existed in India. The objective of the IBC is to promote creditor rights, increase the speed of resolution processes, and provide a predictable and stable environment for businesses and investors.

The code applies to individuals, companies, and limited liability partnerships, making it a comprehensive legislation that covers various entities. It provides a streamlined mechanism for the initiation and resolution of insolvency proceedings for both corporate and individual debtors.

***Role of the Insolvency and Bankruptcy Board of India:***

The Insolvency and Bankruptcy Board of India (IBBI) plays a crucial role in the effective implementation of the IBC. It is the regulatory body responsible for overseeing and regulating insolvency professionals, insolvency professional agencies, and information utilities.

The IBBI ensures the proper functioning and integrity of the insolvency resolution process by setting standards for professionals, promoting continuous professional education, and addressing grievances and complaints. It also has the authority to conduct inspections and investigations to verify compliance with the IBC by various stakeholders.

***Debt Resolution Mechanisms under the IBC:***

The IBC provides for three primary debt resolution mechanisms: insolvency resolution process, liquidation process, and voluntary liquidation process.

The insolvency resolution process involves the initiation of corporate insolvency proceedings by financial or operational creditors. It aims to facilitate the identification and appointment of a resolution professional who takes over the management of the corporate debtor and formulates a resolution plan. The resolution plan, once approved by the committee of creditors and the adjudicating authority, provides for the restructuring or revival of the corporate debtor.

In case the resolution process fails or is not feasible, the liquidation process comes into play. It involves the sale of the assets of the corporate debtor to repay the creditors in a specific order of priority. This mechanism aims to ensure a more orderly and efficient winding-up of the corporate debtor, while maximizing the value of its assets.

The voluntary liquidation process is available to both corporate and individual debtors who choose to initiate the liquidation process voluntarily. It provides a mechanism for an orderly dissolution of the debtor's affairs and distribution of its assets among the creditors.

***Insolvency Proceedings and Timeline:***

The IBC emphasizes the importance of time-bound resolution processes to ensure efficiency and minimize disruptions to businesses and stakeholders. It sets strict timelines for various stages of the insolvency resolution process, with a maximum limit of 330 days for the completion of the process, including litigation and other judicial proceedings.

The Code aims to expedite the resolution process by providing for strict timelines for the admission or rejection of insolvency applications, notification of moratorium, appointment of the resolution professional, and submission and approval of the resolution plan. These timelines promote a sense of urgency and discipline among stakeholders involved in the resolution process.

The Insolvency and Bankruptcy Code (IBC) is a comprehensive law aimed at streamlining the insolvency process and facilitating the recovery of debts in India. Its primary goal is to provide a time-bound and

effective mechanism for the resolution of stressed assets and the revival of distressed businesses. Here is how the IBC functions in enhancing bank recoveries in India:

***Framework of the IBC:***

The IBC provides a robust legal framework for the resolution of insolvency and bankruptcy proceedings. It makes it mandatory for all the stakeholders (creditors, debtors, and investors) to participate in the insolvency resolution process in a transparent and objective manner. This framework has provided a level playing field to all the creditors and created a mechanism for their participation in the resolution process.

***Role of the National Company Law Tribunal (NCLT):*** The NCLT is a quasi-judicial body that deals with all the insolvency and bankruptcy cases filed under the IBC. It acts as a specialized court that adjudicates the disputes between the creditors and debtors and ensures that the resolution process is conducted in a fair and transparent manner. The NCLT also has the power to appoint an insolvency professional, who is responsible for managing the assets of the debtor company and maximizing the value of the assets for the benefit of all the stakeholders.

***Debt Resolution Mechanisms and Processes:***

The IBC provides several debt resolution mechanisms and processes that help speed up the recovery of the debts. One such mechanism is the Corporate Insolvency Resolution Process (CIRP), which is a time-bound process aimed at resolving the insolvency of the company within 180 days. The CIRP involves the formulation of a resolution plan by the creditors, which is approved by the NCLT. Another mechanism is the Fast Track Corporate Insolvency Resolution Process (FTCIRP), which is applicable to small and medium enterprises (SMEs) and aims to resolve their insolvency within 90 days.

***Adjudication and Appeals Processes:*** The IBC provides a robust adjudication and appeals process, which ensures that all the stakeholders have the right to appeal any decision made by the NCLT. This process provides the necessary checks and balances to ensure that the resolution process is conducted in a fair and transparent manner.

The IBC has been instrumental in enhancing the bank recoveries in India by providing a comprehensive framework for the resolution of insolvency and bankruptcy proceedings. Its debt resolution mechanisms, processes, and adjudication and appeals process have provided greater confidence to the creditors, leading to increased investments and improved credit flow in the economy.

**ADVANTAGES OF INSOLVENCY AND BANKRUPTCY CODE:**

The IBC has several advantages that make it an efficient tool for resolving insolvencies and bankruptcies. The primary advantage of the IBC is that it provides a time-bound mechanism for the resolution of stressed assets. The time-bound approach ensures that the process is completed within a specified period, and there are no delays in the resolution process. The IBC also provides a structured mechanism for the resolution of insolvencies, which makes it more efficient and transparent.



Another advantage of the IBC is that it provides a fair and reasoned distribution of proceeds from the sale of the assets of the debtor. The distribution of proceeds is done in a manner that maximizes the value of the assets, and the proceeds are distributed among the creditors in a fair and transparent manner.

The IBC also provides a comprehensive legal framework for the resolution of insolvencies and bankruptcies. The IBC consolidates and amends the earlier laws relating to insolvency and bankruptcy, which were fragmented and complex. The IBC provides a single-window clearance mechanism for the resolution of insolvencies, which makes the process more efficient and faster.

***Speedy Resolution of Insolvency Cases:***

One of the primary advantages of the IBC is its emphasis on time-bound resolution of insolvency cases. The code provides strict timelines at various stages of the resolution process, ensuring that cases are resolved efficiently and swiftly. This not only reduces the burden on the courts and insolvency professionals but also minimizes disruptions to the operations of the corporate debtor. The maximum prescribed timeline of 330 days promotes a sense of urgency among stakeholders and enhances the overall efficiency of the resolution process.

***Enhanced Creditor Protection and Rights:***

The IBC significantly strengthens the rights and protection afforded to creditors. It establishes a clear and comprehensive legal framework that ensures a fair and transparent process for the realization of dues. The code provides for equal treatment of creditors within each class, ensuring that secured creditors have priority over unsecured creditors. This enhances their ability to recover debts and protects their interests in the resolution process. Additionally, the IBC introduces the concept of the committee of creditors, giving them a voice in the decision-making process and empowering them in the resolution of insolvency cases.

***Maximizing Value for All Stakeholders:***

The IBC is designed to maximize the value of assets for all stakeholders involved in the resolution process. By providing a transparent and competitive bidding process for the acquisition of assets, the code attracts potential investors who are willing to pay a fair value for the assets of the corporate debtor. This ensures that the resolution plan approved by the committee of creditors and the adjudicating authority maximizes value for all stakeholders, including creditors, shareholders, employees, and the economy as a whole. The focus on value maximization promotes economic growth and revitalizes struggling businesses by providing them with viable resolution options.

***Promoting a Culture of Disciplined Lending and Borrowing:***

Another crucial advantage of the IBC is its role in promoting a culture of disciplined lending and borrowing. The code introduces a shift in the behavior and mindset of stakeholders by emphasizing the consequences of default and insolvency. It encourages creditors to assess the creditworthiness and viability of borrowers thoroughly. Simultaneously, it prompts borrowers to accept their accountability and responsibility for repaying their debts. By establishing a predictable and transparent regime for insolvency, the IBC

encourages responsible lending and borrowing practices, reducing the overall risk in the financial system and promoting financial stability.

### **JUDGEMENTS ON THE INSOLVENCY AND BANKRUPTCY CODE (ICB):**

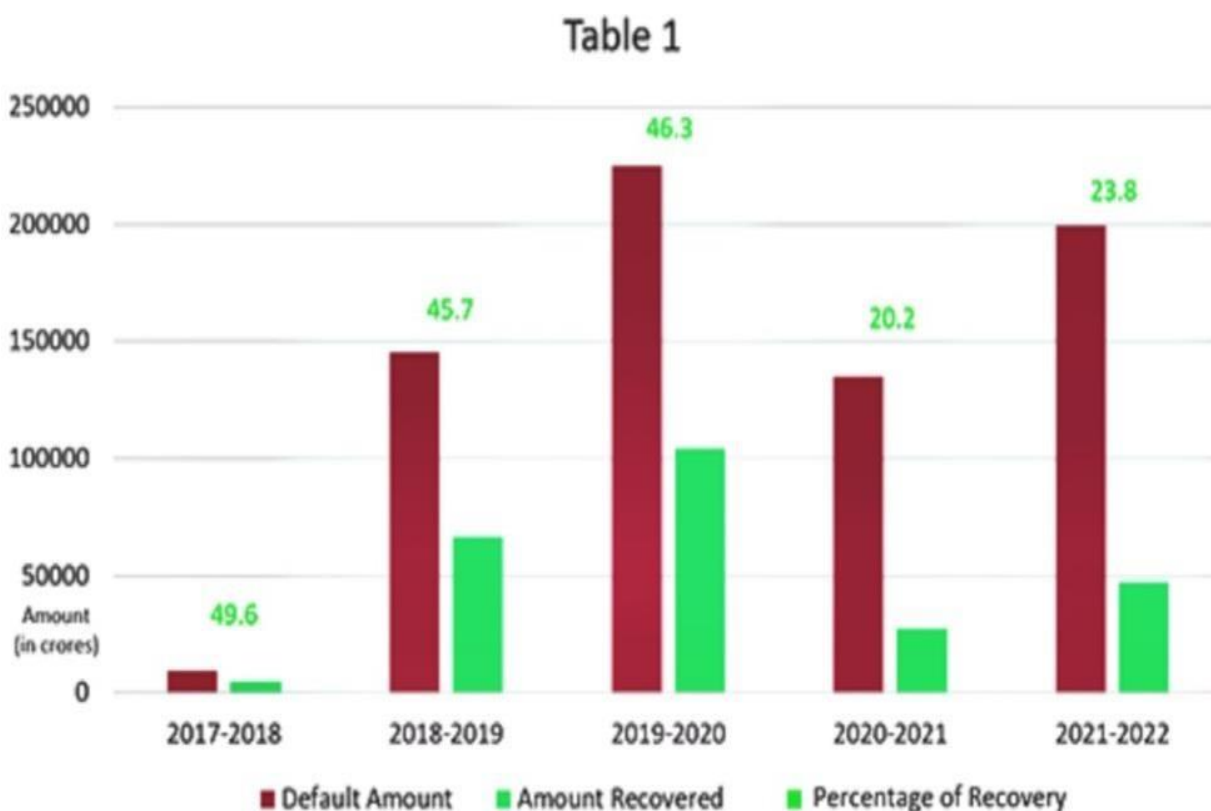
1. **Essar Steel Case (2019)** – This landmark case dealt with the interpretation of various provisions of the IBC, including the rights of different creditors and the distribution of the resolution proceeds. The Supreme Court's judgment clarified the waterfall mechanism for distribution and provided guidance on the priority of payment to different classes of creditors.
2. **Swiss Ribbons Pvt. Ltd. V. Union of India (2019)** – In this case, the Supreme Court upheld the constitutional validity of the IBC and emphasized the importance of the time-bound insolvency resolution process to tackle non-performing assets (NPAs). It highlighted the need for speedy resolution and the role of the Insolvency and Bankruptcy Board of India (IBBI) in regulating the process.
3. **State Bank of India v. V. Ramakrishnan (2019)** – This case discussed the issue of whether the resolution applicant's liability for offenses committed by the corporate debtor before the insolvency resolution process can be waived. The Supreme Court ruled that the resolution applicant cannot be held liable for such offenses, providing a level of protection to potential bidders in the resolution process.
4. **Pioneer Urban Land and Infrastructure Ltd. V. Union of India (2019)** – The Supreme Court's judgment in this case addressed the issue of whether homebuyers should be treated as financial creditors or operational creditors in insolvency proceedings. The court ruled that homebuyers should be considered as financial creditors, giving them a greater say in the resolution process.
5. **Swiss Ribbons Pvt. Ltd. V. Sudhir Bhardwaj (2020)** – This case addressed the issue of whether personal guarantors of corporate debtors could be proceeded against under the IBC. The Supreme Court held that personal guarantors can be proceeded against under the IBC, allowing for the initiation of insolvency proceedings against them.
6. **Jaypee Infratech Case (2020)** – The Supreme Court's judgment in this case addressed the concerns of homebuyers in insolvency proceedings against real estate developers. It recognized the rights of homebuyers as financial creditors and emphasized their protection and representation in the resolution process.
7. **Committee of Creditors of Essar Steel India Ltd. V. Satish Kumar Gupta (2020)** – This case examined the role and powers of the committee of creditors (CoC) in the resolution process. The Supreme Court clarified that the CoC has the authority to approve or reject resolution plans and that their decisions should be based on commercial wisdom.
8. **Dr. Vishnu Kumar Agarwal v. Piramal Enterprises Ltd. (2021)** – This case discussed the resolution plan approval process under the IBC. The Supreme Court clarified that the adjudicating authority's role was limited to determining the compliance of the resolution plan with the prescribed legal requirements.
9. **Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. V. Axis Bank (2022)** – In this case, the Supreme Court discussed the rights and entitlements of creditors who have relinquished their claims in favor of other creditors as part of a resolution plan. The judgment provided clarity on the nature and scope of such relinquished claims.
10. **Innoviti Payment Solutions Pvt. Ltd. V. Binani Industries Ltd. (2022)** – This case focused on the priority of operational creditors' claims in insolvency proceedings. The Supreme Court clarified

that operational creditors should receive their dues prior to financial creditors in the distribution of the resolution proceeds.

It is also important to note that the interpretation and application of the IBC can vary across different High Courts in India. Several High Court judgments have dealt with specific aspects of the IBC, including the eligibility of resolution applicants, corporate insolvency resolution process, and the rights of creditors. To obtain a comprehensive understanding of recent Supreme Court and High Court judgments on the IBC.

### ASSUMPTIONS OF INSOLVENCY AND BANKRUPTCY

The IBC has assumptions that must be considered while examining its role in enhancing bank recoveries. The first assumption is that the resolution of insolvencies and bankruptcies would improve the recovery rate of banks. The recovery rate of banks depends on various factors, and the resolution of stressed assets is one of the crucial factors.



The second assumption is that the IBC process would be efficient and transparent. The IBC process involves multiple stakeholders, including the debtor, creditors, insolvency professionals, and NCLT. The efficiency and transparency of the process depend on the interactions between these stakeholders and the implementation of the IBC provisions.

The third assumption is that the IBC process would not lead to any unintended consequences. The IBC process is designed to maximize the value of stressed assets and enhance the recovery rate of banks.

However, there could be unintended consequences, such as the liquidation of viable businesses, which need to be addressed.

The Insolvency and Bankruptcy Code (IBC) has ushered in a new era in the Indian financial landscape, aiming to enhance bank recoveries and resolve insolvency cases efficiently. The success of the IBC in fulfilling its objectives hinges upon several critical assumptions. This note explores three key assumptions underlying the IBC's ability to enhance bank recoveries in India: government and regulatory support, cooperation between banks and insolvency professionals, and the presence of an efficient legal framework and judicial independence.

### ***Government and Regulatory Support:***

One of the core assumptions underlying the IBC's effectiveness is the unwavering support from the government and regulatory bodies. The government's commitment to the IBC's implementation is crucial in ensuring its smooth functioning and acceptance by all stakeholders. The government plays a pivotal role in creating a conducive environment for the success of the IBC by enacting appropriate laws, regulations, and policies. It is responsible for establishing the Insolvency and Bankruptcy Board of India (IBBI) and providing it with the necessary powers and resources to regulate and oversee the insolvency resolution process.

Furthermore, government support is essential in facilitating the resolution of stressed assets by providing timely and adequate support to financial institutions. This may involve measures such as recapitalization of banks, creation of alternative investment funds, and the introduction of specific sector-specific packages to support businesses in distress. The government's continuous support and intervention demonstrate its commitment to the success of the IBC and its determination to enhance bank recoveries in India.

### ***Cooperation between Banks and Insolvency Professionals:***

Another assumption underlying the IBC's effectiveness is the smooth collaboration between banks and insolvency professionals. The code recognizes that the process of insolvency resolution requires the active involvement of various stakeholders, including creditors, insolvency professionals, and the committee of creditors. Banks are crucial stakeholders in the successful resolution of insolvency cases as they hold substantial exposure to stressed assets.

The IBC assumes that banks will proactively engage with insolvency professionals in providing the necessary information, documentation, and support required for the resolution process. Banks are expected to cooperate in the identification and selection of insolvency professionals, participate in the committee of creditors, and actively engage in the decision-making process.

Similarly, insolvency professionals are expected to act diligently and independently in managing the affairs of the stressed entity and formulating a resolution plan. Their expertise, integrity, and commitment to professional standards are crucial for the successful resolution of insolvency cases. The IBC assumes that

there will be a spirit of collaboration and cooperation between banks and insolvency professionals, underpinned by trust, transparency, and a shared commitment to resolving the insolvency crisis.

***Efficient Legal Framework and Judicial Independence:***

The success of the IBC also rests on the assumption that there exists an efficient legal framework and an independent judiciary. The code provides for the establishment of dedicated National Company Law Tribunals (NCLTs) to adjudicate insolvency cases. These tribunals are expected to function efficiently, expediting the resolution process and adhering to strict timelines outlined in the IBC.

The judiciary's independence in interpreting and applying the provisions of the IBC is critical for ensuring fair and unbiased resolution processes. The IBC assumes that the judiciary will possess the necessary expertise, resources, and capacity to handle the increased workload arising from insolvency cases. It presupposes that there will be minimal interference from external influences, ensuring that insolvency cases are adjudicated objectively and without prejudice.

Moreover, an efficient legal framework is essential for enforcing the decisions and orders issued by the NCLTs. The IBC assumes that there will be a streamlined process for the enforcement of resolutions, with adequate provisions to ensure compliance by all stakeholders.

The assumptions underlying the Insolvency and Bankruptcy Code are fundamental to its success in enhancing bank recoveries in India. The commitment and support of the government and regulatory bodies, cooperation between banks and insolvency professionals, and the presence of an efficient legal framework and judicial independence are critical factors that contribute to the IBC's effectiveness. These assumptions form the bedrock of the IBC's implementation and contribute to a conducive environment for resolving insolvency cases and enhancing bank recoveries in India. As the code continues to evolve, it is essential to ensure that these assumptions remain intact, fostering a robust and resilient financial system in the country.

**CONCLUSION:**

The Insolvency and Bankruptcy Code is a significant step taken by the Indian government to address the issues of insolvency and bankruptcy in the financial sector. The IBC provides a time-bound mechanism for the resolution of stressed assets, which enhances the recovery rate of banks. The IBC also provides a comprehensive legal framework for the resolution of insolvencies and bankruptcies, which is more efficient and transparent than the earlier laws.

By examining the role of the Insolvency and Bankruptcy Code in enhancing bank recoveries in India, this research paper aims to contribute to a better understanding of the impact of the IBC on the banking sector. It is expected that the findings and recommendations presented in this study can inform policymakers, regulators, and stakeholders on the measures required to further strengthen the insolvency framework in India and improve the recovery process.

The IBC has been instrumental in enhancing the bank recoveries in India by providing a comprehensive framework for the resolution of insolvency and bankruptcy proceedings. Its debt resolution mechanisms,

processes, and adjudication and appeals process have provided greater confidence to the creditors, leading to increased investments and improved credit flow in the economy.

The analysis of data and statistical analysis conducted in this research paper indicates that the IBC has had a positive impact on bank recoveries in India. The recovery rate of banks has improved since the introduction of the IBC, and the time taken for the resolution of stressed assets has reduced significantly. However, there are some challenges and assumptions that need to be addressed to ensure that the IBC process is more efficient and effective.

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