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An Analytical Study on NCLT's Power and Restrictions under the Insolvency and Bankruptcy Code

Devendra Saikumar[*] *& Yamini Reddy*[* *]

ABSTRACT

The current insolvency system in India can be traced back to the period of colonial authority. The framework has experienced several revisions over the past two centuries, resulting in a multitude of overlapping and contradictory decisions made by the adjudicating bodies. There were many attempts made in the past to reorganise the sick industries, and make the process time-efficient through reconciliation of various Acts such as the Companies Act, 2013, RDDBFI Act, and SARFAESI Act. However, these efforts fell short of expectations, prompting the legislature to introduce the IBC Code. One of the primary objectives of the Code is to ensure a time-bound resolution process. To achieve this, quasi-judicial bodies like the NCLT have been vested with extensive jurisdictional powers over all aspects of the CIRP and corporate debtors. The paper is structured into two parts. The first part focuses on significant amendments regarding the powers of courts and tribunals in resolving insolvency disputes throughout India's legal history, leading to the current bankruptcy framework. The second part

[*] Devendra Saikumar is an Advocate and is currently pursuing LLM in Insolvency and Bankruptcy Laws at NALSAR University of Law, Hyderabad.
[* *] Yamini Reddy is a law graduate from National Law University, Visakhapatnam and is currently pursuing LLM in Insolvency and Bankruptcy Laws at NALSAR University of Law, Hyderabad.

examines how the objectives of the Insolvency and Bankruptcy Code have been achieved by empowering quasi-judicial authorities to determine the future of insolvent companies.

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I. HISTORICAL EVOLUTION OF INSOLVENCY COURTS: JURISDICTION & PROCEDURES

The insolvency law in India is based on the English law. The understanding of the need for a legal framework to deal with insolvency first emerged in India's three Presidency towns of Bombay, Calcutta, and Madras during British colonialism, when they were engaged in trade and commerce. The initial regulations on insolvency are outlined in Sections 23 and 24 of the Government of India Act, 1800[1], the Indian Insolvency Act, 1848[2], and the Presidency-towns Insolvency Act, 1909.[3]

The Presidency-towns Insolvency Act, 1909, remained in force in Bombay, Calcutta, and Madras, governing insolvency proceedings for individuals, partnerships, and groups of individuals. In 1828, legislation was enacted to establish insolvency courts in these Presidency towns, primarily to assist those unable to repay their debts.[4] These courts functioned both as independent courts and appellate bodies. If individuals were dissatisfied with the rulings of these courts, they had the option to appeal to the Supreme Court, which held the authority to review and transfer cases it deemed reasonable and significant.

The Supreme Court delegated the responsibility of overseeing the insolvency courts to its officials, one of whom was referred to as a "common appointee." Before 1907, there was no legal framework

[1] Statute 9 of the Government of India Act 1828.
[2] The Indian Insolvency Act, 1848.
[3] The Presidency Towns Act, 1909.
[4] The Provincial Insolvency Act, 1920.

specifically addressing insolvency outside the Presidency towns. To address this gap, the Provincial Insolvency Act of 1907 was enacted, which was later replaced by the Provincial Insolvency Act of 1920.

These two legislations were in force until recently, when they were repealed by the new code.[5] The Concurrent List of the Indian Constitution, enacted in 1950, included definitions for bankruptcy and insolvency, while the Union List addressed the formation, regulation, and winding up of corporations. In line with this, the Parliament passed the Companies Act of 1956, granting it jurisdiction over these matters. The Act covered all aspects of a company's business, including its liquidation. However, it did not define insolvency and bankruptcy, instead focusing on an individual's "inability to pay debts."[6] Enacted during the early stages of India's industrialization, the Act prioritized the payment of workers and government dues over secured creditors. The Companies Act was re-enacted in 2013, with many provisions closely resembling those introduced in the 2002 amendment.

Following independence, the government made initial steps to prioritise the establishment of industrial sectors to stimulate the economy. This endeavour necessitated significant financial investments. The government channelled these investments through large Development Financing Institutions ("**DFIs**"), established to promote industrial growth, as was common in other developing countries. DFIs served as

[5] Insolvency and Bankruptcy Code 2016.
[6] The Companies Act 1956.

key decision-making bodies, and in exchange for providing funding, they were granted board seats in the companies they financed.[7].

This led to a subsequent inequitable allocation of economic resources. The Sick Industrial Companies Act ("**SICA**"), enacted in 1985, aimed to identify and revive industrial enterprises that were classified as sick. The establishment of the Board of Industrial and Financial Reconstruction ("**BIFR**") and the Appellate Authority for Industrial and Financial Reconstruction was intended to provide support for the Act. The SICA was the inaugural legislation that largely focused on corporate reorganisation.

An inherent limitation of SICA was its exclusive applicability to sick industrial enterprises, thereby excluding trade, service, and other commercial entities. Moreover, it imposed certain restrictions, including its inapplicability to non-industrial firms or small and ancillary businesses. The Companies Act Amendment of 2003 was designed to revoke SICA; however, the notification of this Amendment faced delays due to legal complexities.

In 2001, the RBI formed the Advisory Group on Bankruptcy Laws, which provided many proposals for modifications to the bankruptcy legislation. One particularly noteworthy suggestion was the consolidation of various bankruptcy court statutes into a single unified code.

[7] 'Development finance institutions and private sector development' OECD, <https://www.oecd.org/>

Prior to the implementation of the Insolvency and Bankruptcy Code ("**IBC**"), India did not have a comprehensive legislation that dealt with the complexities of financially troubled firms. A variety of laws, each applicable to particular situations, businesses, or groups of lenders, complicated the legal framework. SICA had a **specific objective of exclusively rehabilitating industrial enterprises, whilst the Companies Act**, 1956 dealt with the **processes of liquidation and winding-up**. Simultaneously, legislations such as the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("**SARFAESI**") and *Recovery of Debts Due to Banks and Financial Institutions* Act ("**RDBFI**") have facilitated the ability of financial institutions to enforce security and recover debts. The fragmented legal system led to delays, confusion, and conflicts among the various laws and forums. Additionally, many of these legislations, such as SICA, failed to facilitate timely restructuring while balancing the interests of both creditors and debtors. India's consistent poor performance in the World Bank's Ease of Doing Business Index, particularly in terms of resolving insolvencies, highlights these difficulties.

A. Need of new Consolidated law- IBC 2016

While there were several factors contributing to the establishment of the new IBC Code, this paper focuses specifically on the jurisdictional issues that prompted its creation.

There are many instances of overlapping jurisdictions between the Companies Act, 1956, and the SARFAESI Act. In the case of ***Transcore***

v. Union of India,[8] the court ruled that the RDDBFI Act takes precedence over the SARFAESI Act, asserting a complementary jurisdiction. Similarly, in ***Kingfisher Airlines v. State Bank of India***,[9] the court found that the RDBFI legislation had overlapping jurisdiction with the Companies Act, 1956, and the SARFAESI Act. Although the SARFAESI Act was intended to have a dominant role in addressing company winding-up issues, it ultimately fell short. Furthermore, the average time required to settle a debt under the Act was around 2 to 4 years, undermining the intended efficiency of the resolution process and hindering a company's potential for revival.

Despite the RDBFI Act's significant authority, there are several discrepancies in the law concerning the extent of its powers. In the case of ***Jeevan Diesels and Electricals v. HSBC***,[10] the court examined the authority of banks or financial institutions to initiate the liquidation process under the Companies Act. A winding-up order was issued against the appellant company, which contested this on the grounds that, according to the RDBFI Act,[11] the Company Court does not have the authority to consider winding-up proceedings initiated by a bank or financial institution. The appellant referenced the precedent set in ***Allahabad Bank v. Canara Bank***,[12] which established that the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, takes precedence over winding-up procedures under the Companies Act. However, the judgment concluded that a Debt Recovery Tribunal lacks

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[8] *Transcore v Union of India* (2008) 1SCC 125.
[9] *Kingfisher Airlines v State Bank of India (2015) 130 SCL378.*
[10] *Jeevan Diesels and Electricals v HSBC* (2015) 188 Comp Cas 451.
[11] Recovery of Debts and Bankruptcy Act 1993, s 17.
[12] *Allahabad Bank v Canara Bank* (2008) 4 SCC 406.

the authority to liquidate a company. The purpose of the Recovery of Debts and Bankruptcy Act is solely to facilitate debt recovery, and thus, it cannot be argued before a Company Court that a petition for winding up should be dismissed for a company that has become commercially insolvent.

Hence, the delays in procedures, the lack of a proper forum, and the confusion among SICA, SARFAESI, and RDBFI have led to ongoing conflicts over authority, resulting in overlapping rights and liabilities among entities that may not possess the requisite legal expertise in insolvency proceedings. These issues ultimately contributed to the establishment of the new IBC Code. The IBC was designed to address these shortcomings by creating a committee of creditors ("**CoC**"), specialized adjudicating authorities ("**AAs**"), and a new regulatory body known as the Insolvency and Bankruptcy Board of India ("**IBBI**"). The National Company Law Tribunal ("**NCLT**") was specifically formed to manage corporate insolvency resolution and liquidation processes. However, excessive workloads, particularly in major urban centers like Delhi and Mumbai, have caused delays in dispute resolution. The tribunal's capacity to handle the increasing workload remains a concern due to vacancies and impending retirements among judicial and technical members, despite efforts to strengthen benches and establish regional offices. To gain a deeper understanding of the tribunals' mechanisms and their challenges, the next section examines the major objectives of the new IBC Code.

B. Objectives of the New Code

The following are the objectives of the insolvency code as listed by the IBBI board:[13]

a. Unify and consolidate the legislation concerning bankruptcy, reorganisation, and liquidation for all entities, such as businesses, people, partnership firms, and limited liability partnerships ("**LLPs**"), under a single legal framework, while making necessary changes to existing laws.
b. Promptly resolving defaults within a specified timeframe and efficiently executing liquidation or bankruptcy processes to maximise the value of assets. Hence, its main intention is time bound procedure
c. Promote the use of resolution as the primary method over recovery. Addressing the vulnerabilities in the current debt recovery protocols.
d. The Code aims to achieve a fair distribution of interests among all stakeholders, including changes in the order of priority for payment of Government dues.
e. Encouraging entrepreneurship, ensuring access to capital, and simplifying corporate operations.
f. NCLT, IRPAs, IPs, and IUs aims to eliminate inefficiencies in the bankruptcy process by developing a robust infrastructure. Wherein we would be focussing only on objective b & f in detail throughout the project.
g. Streamline the implementation of uniform regulations for various stakeholders impacted by business insolvency and the incapacity to repay debts.

[13] 'Understanding the IBC', IBBI Handbook on Insolvency <www.ibbi.gov.in>.

h. Discuss the obstacles encountered in achieving prompt and efficient bankruptcy settlement.
i. Enhance India's position in terms of the ease of conducting business.[14]
j. Foster the growth of a dynamic loan market by enhancing the lending capacity of banks and decrease the interest rate.

II. CURRENT TRENDS & PRACTICES OF NCLT UNDER IBC CODE

The IBC implements a process that promptly initiates insolvency resolution when there is a payment default of more than INR 1,00,000 for corporate debtors and INR 1,000 for individuals or partnership entities.[15]

The Adjudicating Authority functions as a quasi-judicial body empowered to interpret and enforce the articles of the code, determine liabilities, and resolve disputes arising from the enforcement of the code. The primary objective of establishing such AA is to provide a fair and just resolution by achieving a harmonious equilibrium among the interests of all relevant parties.

A. Adjudicating authority NCLT

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[14] 'India at 77 Rank in World Bank's Doing Business Report 2022' Ministry of Corporate Affairs <www.pib.gov.in>
[15] Pallavi Mishra 'Threshold limit for initiation of CIRP Process' (LiveLaw, 10 April 2023) <https://www.livelaw.in/news-updates/nclat-petition-under-section-9-ibc-subsequent-registration-of-petition->

The Adjudicating Authority functions as a quasi-judicial body empowered to interpret and enforce the provisions of the code, determine liabilities, and resolve disputes arising from its implementation. The primary objective is to provide a fair and just resolution by achieving a harmonious compromise that takes into account the interests of all relevant parties.

AAs are judicial bodies responsible for resolving disputes under the IBC.[16] The NCLT, established under Section 408 of the Companies Act, 2013, is designated as the authority for handling corporate resolution and liquidation matters. Both the IBC and other relevant laws, including the Companies Act, grant the NCLT exclusive authority to execute and carry out the functions assigned to it.[17] Section 408 of the Companies Act provides the NCLT with the jurisdiction to perform any duties conferred upon it by the Companies Act or any other legislation, including the IBC. Additionally, Section 430 of the Companies Act, in line with Section 63 of the IBC, restricts the jurisdiction of civil courts in matters that fall under the purview of the NCLT and National Company Law Appellate Tribunal ("**NCLAT**") for adjudication.

According to Section 60(1) of the IBC, territorial jurisdiction for the purposes of insolvency resolution and liquidation will belong to the appropriate bench of the NCLT, which is located where the corporate person's registered office is. In addition, the NCLT may consider "any questions of law or fact arising out of or in relation to the corporate

[16] Insolvency and Bankruptcy Code 2016, s 5(1).
[17] Companies Act 2013, s 408.

debtor's insolvency resolution or liquidation under IBC" due to its residuary jurisdiction under section 60(5) of the IBC.[18] Section 60(5) guarantees that the NCLT alone has jurisdiction to resolve applications and procedures by or against a Corporate Debtor ("**CD**"), suggesting that no other body has the authority to hear such applications or proceedings. Section 60(5) begins with a non-obstante provision.

The NCLT has multiple benches situated around India, each with authority over the state in which it is based, and in certain situations, over other states. Speaking of territorial jurisdictions according to the Code, the specific division of the NCLT that has jurisdiction over the area where the corporate entity's registered office is situated is responsible for handling matters related to insolvency resolution and liquidation. The main seat of the NCLT is located in New Delhi.

The NCLT was established by the Central Government in June 2016, following the suggestions of the Justice Eradi Committee & BLRC reports.[19] The NCLT benches assumed authority previously held by the former Company Law Board, the Board for Industrial and Financial Reconstruction, and the High Courts in matters pertaining to company law. The Bankruptcy Law Reforms Committee, in its November 2015 report, said that NCLT benches should have the authority to make decisions regarding corporate insolvency and liquidation, while the NCLAT should have the power to review and decide on appeals.

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[18] *Committee of Creditors of Essar Steel India Limited v Satish Kumar Gupta* (2020) 8 SCC 531.
[19] Report of the High-Level Committee on Law relating to Insolvency and Winding up of Companies, Ministry of Corporate Affairs 2000. (Eradi Committee)

The Debt Recovery Tribunal, established under the Recovery of Debts Due to Banks and Financial Institution Act, 1993, is designated by the code as the appropriate authority for handling ***individual or partnership insolvency and bankruptcy cases***, as stated in section 79(1) of the IBC. In the event of the personal guarantor of the CD becoming insolvent or bankrupt, section 60(1) of the IBC states that the NCLT bench where the CD is registered is the appropriate authority. As previously mentioned, the provisions of the code pertaining to the settlement of insolvency and bankruptcy for partnership firms and individuals, with the exception of personal guarantors to Certificates of Deposit, are not currently in effect. Therefore, Debt Recovery Tribunals currently do not have the authority to act as Appellate Authorities under the Insolvency and Bankruptcy Code.

B. Appeal to NCLAT

The IBC establishes the existence of the NCLAT, which serves as an authoritative body. Additionally, the IBC outlines a specific process for lodging appeals against the rulings made by the AAs. NCLAT was established in accordance with section 410 of the Companies Act, 2013. Its purpose is to adjudicate appeals filed against the decisions made by the NCLTs.

Under Section 61 of the IBC, any individual who is dissatisfied with a decision made by an AA has the right to appeal to the NCLAT. However, it is important to note that the appeal must be submitted within 30 days of obtaining the ruling. The NCLAT has the authority to prolong the deadline by up to 15 days if it is convinced that the appellant had valid

justifications for not being able to submit the required documents within the initial 30-day timeframe. An appeal is permitted if it is believed that the resolution plan violates any provision of the IBC or any other legislation, or if there has been any significant irregularity or fraud committed by the RP while carrying out their duties throughout the Corporate Insolvency Resolution Process ("**CIRP**") or liquidation process.

C. Appeal to Supreme court

If an individual remains dissatisfied with the judgement made by the NCLAT, they have the option to submit an appeal to the Supreme Court of India under section 62 of the IBC. However, this appeal may only be made if the dissatisfaction is rooted in a legal issue that has emerged from the ruling. The appeal must be submitted within a period of 45 days from the date of receiving the order. If the Supreme Court determines that the appellant has valid grounds for not being able to file within the first 45-day period, it may grant an additional time of up to 15 days.

III. ROLE AND FUNCTIONS OF THE ADJUDICATING AUTHORITY NCLT

In the case of ***Gujarat Urja Vikas Nigam Limited v. Mr. Amit Gupta***[20] the apex court found that the NCLT's residuary powers under the IBC are restricted and that it can only arbitrate contractual issues related to the CD's settlement procedure. The dispute included an ***ipso facto provision*** (allowing contract termination on failure, including

[20] *Gujarat Urja Vikas Nigam Limited v Mr. Amit Gupta* (2021) 7 SCC 209.

insolvency). Gujarat Urja entered into a Power Purchase Agreement (PPA) with Astonfield Solar Field (Gujarat) Pvt. Ltd. (Astonfield) to establish a photovoltaic power plant in Gujarat. However, the project faced frequent delays due to heavy rains and adverse weather conditions soon after its commencement. Astonfield subsequently went bankrupt due to significant losses. Following Astonfield's failure to rectify the default after the initiation of the CIRP, Gujarat Urja issued termination notices for the contract.

The NCLT and NCLAT granted an injunction on the notice application. The Supreme Court subsequently reviewed the appeal, focusing on the authority of the NCLT/NCLAT in matters involving contractual obligations and the regulation under the IBC. The Apex Court held that the powers of the tribunal must be derived strictly from the statute and cannot be expanded to strike a balance between debtor rescue and contractual autonomy. Section 60(5) of the IBC confers broad jurisdiction on the NCLT/NCLAT over matters concerning the CIRP.

The Apex Court held that the NCLT and NCLAT may intervene to halt contract termination notices under Section 60(5) of the IBC, particularly when the Power Purchase Agreement ("**PPA**") plays a crucial role in the Corporate Debtor's CIRP. The Court emphasized that such broad discretionary powers should only be exercised for issues directly related to the CIRP and not for unrelated matters. It clarified that this ruling does not establish a general principle regarding the NCLT's residual jurisdiction under Section 60(5) of the IBC. The Court further noted that the NCLT cannot extend its jurisdiction to matters outside of insolvency proceedings, as these fall outside the scope of the IBC.

In ***Tata Consultancy Services v. SK Wheels (P) Ltd,***[21] the Supreme Court, citing the *Gujarat Urja* case, reaffirmed that the NCLT was granted wide-ranging authority, particularly when insolvency is considered an event of default without further breaches by the Corporate Debtor. Tata Consultancy Services Private Limited (TCS) had issued termination notices to SK Wheels Pvt. Ltd. for multiple violations of the facilities agreement related to conducting examinations in educational institutions. However, after the CIRP was initiated, the NCLT, invoking Section 14 of the IBC, suspended the termination letters to preserve the debtor's status as a 'going concern'.

The court noted that the Gujarat Urja precedent cannot apply to the TCS case since the termination of ground facilities was unrelated to the CIRP. The NCLT should not intervene in contract termination unless it is essential to the process and would kill the CD.

IV. NCLT'S QUASI-JUDICIAL POWER VS JUDICIAL REVIEW POWER

In the case ***Embassy Property Developments (Private) Limited v. State of Karnataka***[22] which was also referenced by the Supreme Court in the *Gujarat Urja* case, the State of Karnataka had granted a mining lease to the Corporate Debtor. Following the CD's insolvency, the Resolution Professional (RP) requested an extension of the lease from the government. However, the extension was denied due to breaches committed by the CD. The NCLT subsequently allowed a motion to quash

[21] *Tata Consultancy Services v SK Wheels (P) Ltd* (2022) 2 SCC 583.
[22] *Embassy Property Developments* (*P*) *Ltd. v State of Karnataka*, 2019 SCC OnLine SC 1542.

the government's order and extended the lease. Upon appeal, the High Court remanded the case back to the NCLT for reconsideration.

The primary issue in the dispute was whether the High Court had the authority to overrule the NCLT's decision. Since the contract between the Corporate Debtor and the state involved matters of public interest and was governed by the relevant statutory framework, only an appropriate judicial body could adjudicate on such issues. The NCLT, being a quasi-judicial body created by statute, cannot be elevated to the status of a superior court with the power of judicial review. It is well-established that quasi-judicial authorities do not have the jurisdiction to decide on matters of public law.

In the case of ***Shri Lalit Aggarwal***,[23] it was observed that the power of review is not an inherent power of the court. The NCLAT can only use its inherent powers to correct typographical errors in review applications, but discussing evidence and arguments within the review application is beyond its authority. The NCLAT emphasized that the power of "review" is not intrinsic unless explicitly granted by statute or arises through necessary implication. Therefore, the tribunal's power to review decisions must be established by statute, which has not yet been conferred by the court.

A. The Conundrum of Insolvency Forum: IBBI

[23] *Shri Lalit Aggarwal v Shree Bihari Forgings Private Limited Comp. Appeal (AT) No 380 of 2018.*

The IBBI concurrently performs executive, quasi-judicial, and quasi-legislative duties. It also aims to raise the standard of transactions and the profession. It is a fundamental component of the framework that carries out the IBC's implementation.

Section 196(1) of the IBC provides a clear definition of the IBBI's duties.[24] The Central Government's overarching directives govern their exercise. They consist of registering insolvency professional agencies ("**IPAs**"), insolvency professionals ("**IPs**"), and information utilities ("**IUs**") and renewing, withdrawing, suspending, or cancelling their registration; establishing minimum eligibility requirements and rules for them; and, if necessary, checking and looking into them.

The Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 added a new sub-clause to section 196(1), expanding the purview of the IBBI's duties to include encouraging the growth and overseeing the operations and procedures of IPs, IPAs, and IUs.

Section 196(2) of the IBC also gives the IBBI the authority to create model bye-laws that IPAs are required to abide by. These bye-laws specify the minimal requirements for professional competence, the professional and ethical behaviour of members, the process for enrolling new members, monitoring and reviewing existing members, and other related topics.

In general, the IBBI is charged with extensive powers and duties under section 196 of the IBC code. It ensures the smooth operation of markets

[24] Insolvency and Bankruptcy Code 2016, s 196(1).

and service providers, overseeing various aspects such as regulation and development of market processes and practices relating to the CIRP, liquidation process, individual insolvency and bankruptcy. The IBBI is also responsible for the registration and regulation of IP, IPAs, and IUs. Additionally, it conducts market oversight through surveillance and investigation, addresses grievances, enforces regulations, and, where necessary, engages in adjudication.

When trying a lawsuit, the IBBI is granted powers under Section 196(3) of the IBC that are comparable to those of a civil court under the Code of Civil Procedure, 1908. These include the authority to issue a commission to question witnesses or documents, to summon and compel the attendance of individuals it wishes to question under oath, and to seek the discovery and production of any person's books of accounts and other registers and documents at any time or location the IBBI designates.

B. Adherence of AA's time bound procedures under the Code

As of 31 January 2023, the government informed parliament that 21,205 cases were pending across various benches of the NCLT. Of these unresolved cases, 12,963 pertain to the IBC, 1,181 are related to mergers and amalgamations, and 7,061 fall under other categories. The delays in resolving IBC cases are frequently attributed to the NCLT being understaffed. This highlights a clear gap in achieving the intended objectives of the IBC, as the code's goal of efficient resolution remains unachieved.

V. CONCLUSION & SUGGESTIONS

The IBC signifies a significant leap forward in streamlining insolvency and bankruptcy procedures in India. Its provisions offer an early trigger for resolution and provide a clear framework for insolvency professionals. However, its effectiveness hinges on regulatory development, particularly the establishment of a proficient cadre of insolvency professionals. It has established a more structured and effective framework for resolving insolvency cases. However, challenges related to delays, judicial interpretation, and structural issues in the adjudicating authorities remain to be addressed for the IBC to fully realize its transformative potential.

As the IBC embarks on its journey of implementation, its role in transforming India's insolvency landscape will become more evident, offering businesses and creditors an avenue for more efficient resolution and liquidation processes. Frequent amendments and proactive responses by the government, the Supreme Court and IBBI indicate a commitment to refining the legislation and making it more effective in the years to come.

No law is complete without a sufficient legislative authority to monitor its efficient and effective execution. The law provides a specialised authority to solve practical issues during enforcement and application and secure justice for victims.

The Indian government must safeguard the interests of debt recovery stakeholders when creating insolvency and bankruptcy legislation

ensuring that no particular group is favoured. In situations where an individual or company takes out a loan but fails to repay it as agreed, the reasons behind such defaults can vary. When debt obligations arise, equity holders must take swift action as soon as a borrower defaults; otherwise, they risk losing control. Consequently, both creditors and debtors often scramble to recover their dues following a default. However, instead of this rush to collect, lenders and borrowers should work towards negotiating a financial restructuring to save the company, business, or firm. To maintain a healthy credit market, there needs to be a uniform legal framework that encompasses all creditors and debtors and clearly defines lenders' rights in cases of insolvency. Previous regulations have been inadequate in addressing insolvency and bankruptcy effectively. Therefore, while the goal of the IBC is to ensure swift debt recovery, the challenge of achieving this objective persists.