3. Insolvency and Bankruptcy Code- Economy

'Persistent and systemic challenges' undermine IBC's full potential- Parliamentary committee

The Parliamentary Standing Committee on Finance has warned that the Insolvency and Bankruptcy Code (IBC) is facing a crisis of effectiveness due to structural delays (averaging 713 days vs. the mandated 330) and low recovery rates. The report recommends urgent reforms, including filling judicial vacancies and extending the Pre-Packaged Insolvency framework to all sectors to reduce litigation.

Context- The Parliamentary Report

Source- The report titled *'Review of Working of Insolvency and Bankruptcy Code and Emerging Issues'* was released by the Parliamentary Standing Committee on Finance.

Key Warning- The committee flagged those systemic inefficiencies and structural delays are severely undermining the effectiveness of the IBC.

About the Insolvency and Bankruptcy Code (IBC)

Enactment- Enacted in 2016 to address the crisis of mounting Non-Performing Assets (NPAs) in the banking sector.

Problem Addressed- Previous recovery mechanisms like SARFAESI, Lok Adalat, and Debt Recovery Tribunals (DRTs) were proving ineffective.

Paradigm Shift-

Old Model- "Debtor-in-possession" (e.g., Sick Industrial Companies Act - SICA), where the defaulter often retained control.

New Model- "Creditor-in-control", ensuring financial creditors lead the resolution process to recover dues.

Purpose and Objectives

The IBC aims to provide a time-bound mechanism for resolution. Its core objectives (as per IBBI) are-

1. Resolution- Revive viable businesses through restructuring or ownership change rather than immediate liquidation.
2. Maximization of Asset Value- Speedy process to prevent the value of assets from eroding over time.
3. Entrepreneurship & Credit Flow- Encourage risk-taking by providing an efficient exit mechanism and balancing stakeholder interests.

Achievements of IBC (Since 2016)

Resolution Success- Successfully resolved 1,194 companies through the Corporate Insolvency Resolution Process (CIRP).

Recovery Statistics- Creditors have recovered over 170% of the *liquidation value*. Recovery stands at 93% of the *fair value*. *Significance*- This indicates improved financial discipline and creditor confidence.

Pre-Packaged Insolvency (PIRP)-

Introduction- Amended in 2021 to introduce PIRP specifically for MSMEs.

Key Features- Allows out-of-court settlements between debtors and creditors. Debtor retains control of business operations (unlike CIRP). Applicable to defaults not exceeding ₹1 crore.

Comparative Analysis- Old vs. New Regime

Feature	Pre-IBC Era (SICA, etc.)	IBC Regime (2016)
Control Model	Debtor-in-possession- The defaulting promoter often retained control.	Creditor-in-control- The Committee of Creditors (CoC) and a Resolution Professional take charge.
Speed	Highly time-consuming, leading to asset value erosion.	Time-bound- Mandated timeline (330 days), though currently facing delays.
Primary Focus	Often protected the debtor (e.g., moratoriums under SICA).	Focuses on revival of the firm and maximization of value for creditors.

Key Concerns Highlighted by the Committee

The report identifies critical bottlenecks effectively stalling the Code's progress.

Structural Delays

Admission Delays- The slow admission of insolvency applications prevents quick value realisation.
Extended Timelines- The average duration for completing CIRP is 713 days, which is more than double the mandated 330 days.
Reasons for Delay
Judicial Vacancies- Shortage of NCLT benches and vacant judicial positions.
Staff Gaps- Lack of administrative staff hampering tribunal efficiency.
Litigation- Frequent, often frivolous litigation by promoters or unsuccessful bidders to stall the process.

Low Recovery Rates & High Haircuts

Declining Recovery- Average recovery rate has dropped to 32% (down from 43% in 2019).
The "Haircut" Issue- A "haircut" is the portion of the debt that creditors must forgo.
Statistics- In over 70% of cases, the average haircut is 80%.
Example- In the Videocon Group resolution, creditors took a 95.3% haircut, recovering less than 5% of their dues.
Root Cause- Companies often enter the IBC process too late, when assets are already heavily stressed.
Asset Valuation Issues
Liquidation Mentality- Valuations often reflect "liquidation potential" (scrap value) rather than "enterprise value" (going concern value).
Lack of Transparency- Accountability issues in the valuation process.
Limited Competition- A limited pool of quality resolution applicants reduces competitive bidding.

Recommendations to Improve Efficiency

The Committee suggested a multi-pronged approach to fix these issues.
Judicial Capacity Building- Expedite the establishment of additional NCLT benches and fill the 50% vacancy. Mandate that NCLT must admit insolvency cases within 30 days. Set up specialized IBC benches for efficient handling.
Technology & Process- Accelerate the Integrated Technology Platform (ITP)centralized digital case management. Use data analytics to monitor delays and bottlenecks.
Deterrents for Delays-
Mandatory Upfront Deposits- Required for unsuccessful resolution applicants filing appeals.
Penalties- Substantially increased penalties for vexatious or frivolous applications.
Policy Reforms-
Universal Pre-Packs- Expand the Pre-Packaged Insolvency framework to all sectors (beyond MSMEs) to reduce litigation.
Revised Metrics- IBBI should measure haircuts based on "asset value at entry" rather than "original loan value" to present a realistic picture of recoveries.
Enhanced Oversight- Better monitoring of Resolution Professionals (RPs) and the Committee of Creditors (CoC).
Source- https-//www.thehindu.com/business/Industry/persistent-and-systemic-challenges-undermine-ibcs-full-potential-parliamentary-committee/article70348919.ece