

Watching the Insolvency and Bankruptcy Code work

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Re-cap: Why IBC?

Circa 2015:

Insolvency and recovery of debt in India: Ease of Doing Business (2015)

	India	OECD
Time for recovery (in years)	4.3	1.7
Recovery rate	25.7%	71.9%
Outcome	Piecemeal sale	Going concern
Strength of insolvency framework (on a scale of 16)	6	12.2

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Intended outcomes of IBC:

1. Increase recovery rates in insolvency.
2. Reduce the time to recovery.
3. Change credit market landscape.

Re-cap: Why IBC?

Outputs necessary to get the outcomes

1. Access to recovery mechanisms for a wide variety of creditors
2. Commercial decisions in resolution
3. Strong institutional machinery:
 - ▶ Competitive industry of IPs, IPAs and IUs.
 - ▶ Well functioning NCLTs and the NCLAT.
 - ▶ Well functioning regulator.
4. Intergrity of the law:
 - ▶ Minimal judicial and state intervention.
 - ▶ Consistent decision making.

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1. A new data-set of insolvency cases (FRG Insolvency Cases dataset):
 - 1.1 Every final order passed by each 10 bench of NCLT and the NCLAT
 - 1.2 Study period: December 1, 2017 - August 31, 2017
 - ▶ 515 final orders
 - ▶ Does not include petitions filed before the HCs and transferred to the NCLT for disposal under IBC.
 - 1.3 Pre-identified fields of information are captured to answer questions on the functioning of the IBC.

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3. Data from media reports.

Output 1: Access to recovery mechanisms

Who is using the IBC?

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No. of petitions filed by creditors	436
No. of petitions filed by operational creditors	267
No. of petitions filed by financial creditors	123
No. of petitions where type of creditor is unknown	46
No. of petitions filed by debtors	73
No. of unknown applicants	6
Total	515

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Types of operational creditors

Vendors	133
Employees	15
Others	19
Unknown	100
Total	267

Output 1: Access to credit recovery mechanisms

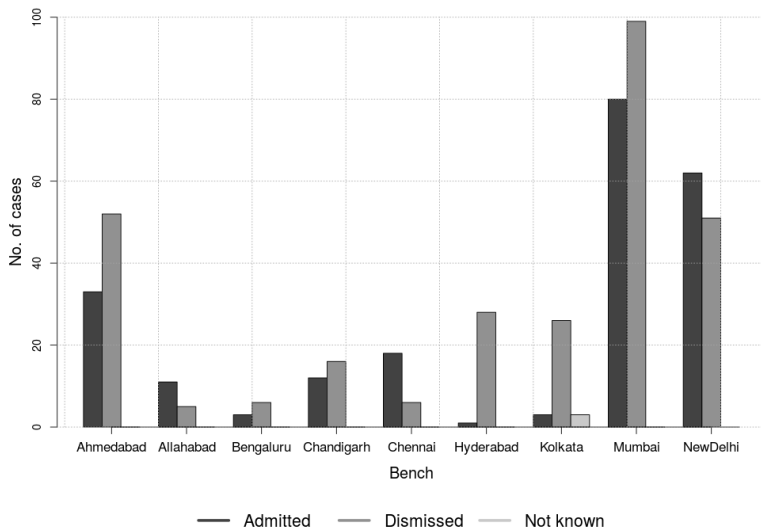
What is happening to the cases filed?

Total number of cases admitted and dismissed

Cases admitted	223
Cases dismissed	289
Unknown	3
Total	515

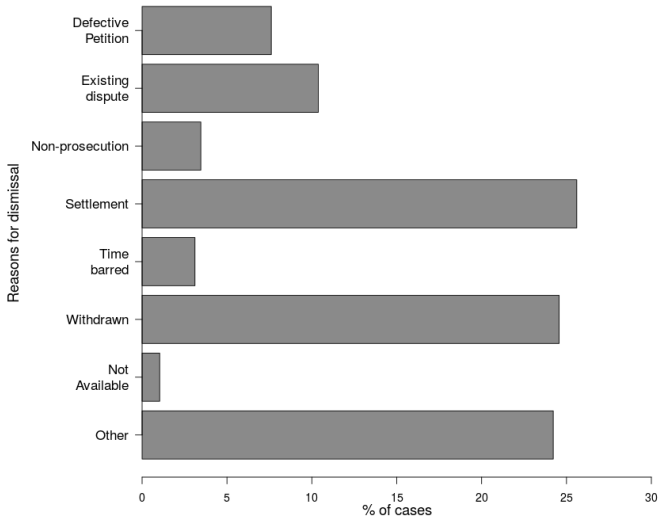
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What kind of cases are being dismissed?



Output 2: Commercial decision-making in resolution

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1. Jaypee homebuyers case: Judicial intervention:
 - ▶ Parent of debtor (Jaypee Associates) asked to deposit Rs. 2,000 crores with the court within a given timeframe.
 - ▶ Time for arriving at resolution plan condensed to 45 days.
 - ▶ Appointment of amicus to participate in meetings of CoC.

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2. Ordinance to disqualify certain categories of bidders:
 - 2.1 Wilful defaulters
 - 2.2 Guarantors of debtors in insolvency
 - 2.3 Persons whose account is classified as NPA for more than a year.
 - 2.4 Persons barred by SEBI from the securities markets.
 - 2.5 Persons connected to any of the above.

Output 2: Commercial decision-making in resolution

3. Does IBC have a liquidation bias?

- ▶ By May 25, 2017, 75 debtors went into resolution.
- ▶ 13 have made public announcements for liquidation.
- ▶ Remaining 62?

4. Disclosures during insolvency process.

Output 3: Strong institutional machinery

Insolvency Professionals and Institutional Professional Agencies

- ▶ Fledgling industry

No. of insolvency professionals registered since the enactment of the IBC

No. of IPs having temporary registration	897
No. of IPs having permanent registration	1242

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- ▶ IPAs - conventional players: ICSI, ICAI and the Institute of Cost Accountants of India.

Output 3: Information Utilities

1. One Information Utility, National E-Governance Services Ltd., has been set up.
2. Conventional players have not shown interest.
 - ▶ Entry barriers of net-worth, restriction on foreign control and capping individual shareholding limits to 10%.

Output 3: NCLT functioning

- ▶ Time for disposal of cases:

Average duration for disposal of cases

Stages	No. of cases for which data is available	Average time taken (in calendar days)
Date of filing-Date of date of first hearing	56	19
Date of first hearing-Date of final order	156	20
Date of filing-Date of final order	82	37

- ▶ Quality of rulings.
- ▶ Data gaps.

Output 4: Integrity of the law

1. Minimal judicial intervention

- ▶ Cases where the NCLT has taken a view on the solvency of the debtor. Cases have been dismissed because:
 - ▶ Debtor could demand receivables from other counter-parties and fix the financial health of the company.
 - ▶ Debtor's balance sheet is healthy enough.
- ▶ SC, NCLT and NCLAT allowed settlement post admission.
- ▶ Jaypee Homebuyers case

2. Ordinance to placate concerns relating to bidding by promoters.

Thank you.