Reimagining the role of NCLT under Insolvency and Bankruptcy Code, 2016

Satyansh Singh Parmar[1]

[1]Satyansh Singh Parmar is a fellow under Network for Institutional and Systems Transformation Fellowship by DAKSH. He has pursued his Bachelors in Law from Devi Ahilya Vishwavidyalya, Indore and LL.M. from Gujarat National Law University. He is a lawyer having professional experience in litigation and public policy research.

TABLE OF CONTENTS

Chapter 1: Introduction

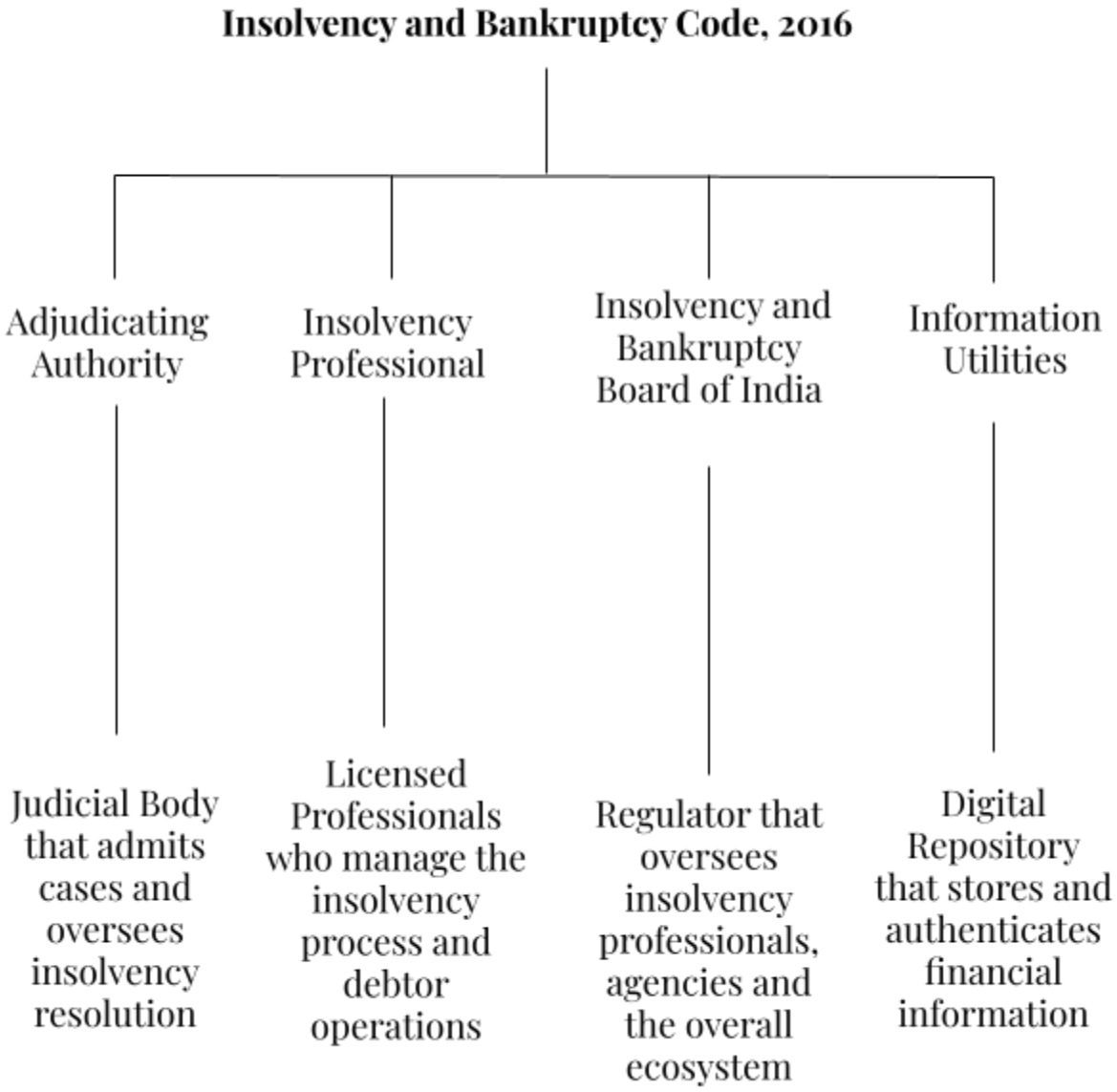
An effective insolvency framework is a cornerstone of any modern market economy.[2] It determines how efficiently an economy reallocates resources from failing institutions, balances stakeholder interests, and preserves economic value. Insolvency law provides mechanisms for the exit or restructuring of financially distressed firms, ensuring that capital and assets are not locked into distressed enterprises. The systemic economic importance of the insolvency law framework was expressly recognised in *Swiss Ribbons*, where the Supreme Court noted that "the Insolvency Code is a legislation which deals with economic matters and, in the larger sense, deals with the economy of the country as a whole."[3]

Before the introduction of the Insolvency and Bankruptcy Code, 2016 (IBC, or simply Code), India's insolvency regime was fragmented and inefficient, governed by multiple overlapping laws. The Code sought to address this by consolidating various insolvency and recovery laws into a single legislation. The Code also revolutionised the country's insolvency framework by introducing, *inter alia,* time-bound resolution of insolvency cases, a creditor-driven process, a specialised tribunal for adjudication, and resolution-based recovery.

The current insolvency regime under the Code is premised on four pillars, each with distinct functions.

[2] World Bank, *Principles for Effective Insolvency and Creditor/Debtor Regimes,* rev. ed. (2021), accessed February 22, 2026, https://documents1.worldbank.org/curated/en/391341619072648570/pdf/Principles-for-Effective-Insolvency-and-Creditor-and-Debtor-Regimes.pdf

[3] *Swiss Ribbons Pvt. Ltd. & Anr. v. Union of India & Ors.* (2019) 4 SCC 17, para. 85.



The adjudicatory front of this framework is the National Company Law Tribunal (NCLT),[4] which functions as the Adjudicating Authority (AA) for corporate insolvency and liquidation. It is empowered to admit or reject insolvency applications, adjudicate issues arising during the corporate insolvency resolution process (CIRP) and liquidation, approve or reject resolution plans, and exercise statutory jurisdiction over disputes arising from the process. The Parliament's intent, as stated in the Bankruptcy Law Reforms Committee Report, was for the AA to exercise a

[4] National Company Law Tribunal, "Online Portal," https://nclt.gov.in/

narrow, rule- and procedure-bound jurisdiction focused on threshold limits, procedural supervision, and oversight of creditor-led insolvency processes.[5] However, the role of NCLT in practice has expanded significantly.

Over the past decade, since the enactment of the Code and the establishment of NCLT Benches in 2016, the NCLT has evolved from a process supervisor into a venue for adjudicating a wide range of commercial, contractual, and regulatory issues around insolvency proceedings.[6] While this expansion of scope has effectively expanded its jurisdiction, it also coincides with persistent challenges, including rising pendency and delays in adhering to statutory timelines under the Code. As of March 2025, the NCLT had nearly 30,600 pending cases.[7] Given the current disposal rates, estimates suggest the tribunal would require approximately ten years to clear this backlog, unless major structural reforms are implemented.[8]

In this context, revisiting and reviewing the institutional design and role of the NCLT as AA under the Code is imperative. This paper seeks to reassess the institutional design and role of AA by comparing the AA's originally envisaged role with its present-day functioning in practice.

1.1 Statement of Problem

The core problem addressed in this paper is whether the NCLT, given its original design and procedural responsibilities, is fundamentally fit to serve as the AA under the Code. While the IBC was conceived as a time-bound, creditor-controlled framework with minimal judicial interference, the NCLT as AA has resulted in an institutional misalignment, for two primary reasons:

[5] Ministry of Finance, *The Report of the Bankruptcy Law Reforms Committee Volume I and II: Rationales and Design* (2015), cl. 3.4.3, 31, https://dea.gov.in/files/other_reports_documents/BLRCReportVol1_04112015.pdf (Volume 1)
[6] Raghav Pandey and M.S. Sahoo, "NCLT: Neither a Tribunal, nor a Court for IBC," accessed February 24, 2026, https://sahooregulatorychambers.in/wp-content/uploads/2025/10/24102025-NCLT-Neither-Tribunal-Nor-Court-for-IBC-Hindu-BusinessLine.pdf
[7] Government of India, *Economic Survey, 2025-26*, 112, accessed February 25, 2026, https://www.indiabudget.gov.in/economicsurvey/doc/echapter.pdf Accessed on 25 February 2026
[8] Government of India, *Economic Survey, 2025-26,* 112

1.1.1 The Conflict of Dual Jurisdictions

The NCLT was originally conceived as a tribunal to adjudicate company law matters arising under the Companies Act, 2013,[9] which often require a detailed inquiry into facts and equities. By vesting both company law and IBC jurisdiction with the same institution, the Parliament has effectively forced a summary,[10] time-sensitive insolvency regime to compete for resources with a complex corporate litigation docket.

- **Problem:** This dual mandate does not merely create a heavy docket but also forces the NCLT to balance two different judicial approaches. The IBC requires the NCLT to act as a forum that expeditiously verifies the existence of a default, triggers the insolvency process, and supervises procedural compliance throughout the CIRP, from moratorium and appointment of a resolution professional to the approval of the resolution plan. In contrast, its company law jurisdiction involves detailed factual inquiries, adjudication of minority oppression claims, and corporate governance issues under the Companies Act. This duality requires members to continually shift between two fundamentally different judicial approaches.

1.1.2 Procedural Structure v. Summary Mandate

The procedural architecture of the NCLT is derived from the Companies Act framework, where proceedings involve adversarial pleadings, detailed examination of facts, and adjudication of underlying disputes between parties.[11] The Tribunal's procedural rules are similarly designed for a forum that resolves complex corporate disputes through substantive judicial determination[12].

- **Problem:** This institutional alignment sits uneasily with the design of the Code. At the admission stage, the NCLT is required to perform a limited threshold function—verifying the existence of a default and, upon satisfaction, triggering the insolvency resolution process.[13] However, when the NCLT applies a dispute resolution mindset rooted in

[9] The Companies Act, 2013, S 408
[10] Summary Proceedings under the IBC denote narrowly scoped, time-bound adjudication limited to threshold and compliance checks (such as existence of debt and default, compliance of resolution plans in terms of statutory provisions, etc.) without full-fledged trials and examination of disputes.
[11] The Companies Act, 2013, S 231-232, 241-242,
[12] National Company Law Tribunal Rules, 2016.
[13] The Insolvency and Bankruptcy Code, 2016, S 7.

company law proceedings, the scope of inquiry tends to expand beyond this limited mandate. As a result, the tribunal risks engaging with the merits of underlying commercial disputes rather than confining itself to the threshold determination contemplated by the Code, thereby undermining the streamlined and low-intervention model on which the insolvency framework is premised. A similar approach adopted in further proceedings of CIRP contributes to delays in what is intended to be a time-bound procedure.

Ultimately, the delays and procedural overreaches observed in the NCLT are not isolated administrative failures, but indications of a deeper structural mismatch. The Tribunal's struggle to adhere to IBC timelines stems from requiring an institution designed for adjudication to perform the function of oversight and limited supervision.

1.2 Research Questions

1. *Does the current institutional design of the NCLT align with the Code's intended objectives and role for the Adjudicating Authority?*
2. *What institutional and functional design should govern the Adjudicating Authority under the Code to ensure timely, limited, and effective adjudication?*

1.3 Hypothesis

The NCLT's current institutional design and mixed jurisdiction exceed the IBC's intended narrow, compliance-based role for the AA, thereby contributing to delays, doctrinal inconsistency, and judicial overreach.

1.4 Research Methodology

The study adopts a doctrinal and qualitative research design, supplemented by empirical analysis. It examines statutory texts, case laws, and official datasets relating to timelines and case pendency before the NCLT.

Stage I. Analysing the Intended Design of NCLT

The first stage undertakes a doctrinal analysis of the role envisaged for the Adjudicating Authority (AA) under the IBC. Foundational policy reports, including those of the Justice Eradi

Committee, J.J. Irani Committee, and Bankruptcy Law Reforms Committee, are analysed to identify the intended scope of the AA, the limits on intervention in commercial matters, and the rationale for designating the NCLT as the AA. This is complemented by a textual analysis of the IBC and the Companies Act, 2013.

Stage II. NCLT in Practice: Jurisdiction and Timelines

The second stage examines current institutional practice through empirical analysis of CIRP cases with approved resolution plans between January and December 2025. It also draws on Parliamentary Standing Committee reports on pendency and timelines, quarterly newsletters of the Insolvency and Bankruptcy Board of India (IBBI), and selected judgments of the Supreme Court of India, the National Company Law Appellate Tribunal, and the NCLT.

Stage III. Current Institutional Design: Issues and Flaws

This stage evaluates structural and operational challenges, including vacancy levels and capacity constraints.

Stage IV. Design Options and Recommendation Analysis

The fourth stage explores possible reforms to address the challenges faced by the NCLT in adjudicating cases under the IBC. It evaluates alternative institutional models against the core objectives of the IBC—time-bound resolution, minimal judicial intervention, and creditor primacy—with a view to strengthening India's corporate insolvency adjudicatory framework.

1.5 Limitations

The study relies on reported decisions and secondary empirical work, which may not capture unreported orders or variations in bench practice across different NCLT benches.

Chapter 2: The Seeding of the IBC: Committee Visions and Intended Design of the NCLT

The institutional design of the Insolvency and Bankruptcy Code (IBC), 2016, did not emerge in isolation. It developed through a sustained process of policy recommendations on how the corporate insolvency process in India should be structured. Prior to the enactment of the Code, insolvency and corporate restructuring were governed by a fragmented framework spread across multiple statutes and forums, including the High Courts, the Board for Industrial and Financial Reconstruction (BIFR) and the Company Law Board. This institutional multiplicity led to overlapping jurisdiction, procedural delays, and prolonged resolution time, undermining the effectiveness of insolvency procedures.

Recognising these structural issues, several expert committees over the years examined the need for a consolidated insolvency framework and a specialised adjudicatory forum to administer it. Beginning with the Omkar Goswami Committee in 1993, and continuing through Justice V. Balkrishna Eradi Committee in 2000, the J.J. Irani Committee in 2005, and ultimately the Bankruptcy Law Reforms Committee (BLRC) in 2015, these bodies articulated a vision for a unified structure that could address corporate insolvency.

This chapter examines how this institutional vision evolved across successive committee reports and how it ultimately shaped the design of the Adjudicating Authority (AA) under the Code. It also analyses the institutional objectives envisioned by policymakers.

2.1 Historical Roots of Tribunals in India

2.1.1 Genesis of Tribunals in India

India's tribunal journey can be traced back to the establishment of the Income Tax Appellate Tribunal in 1941, aimed at developing sector expertise and reducing the burden on High Courts. In 1976, the Swaran Singh Committee Report[14] emphasised, *inter alia,* the need for more sector-specific forums to be constituted via Articles 323A-B of the Constitution of India, setting

[14] Swaran Singh Committee, "Swaran Singh Committee Report," Supreme Court Cases (Journal) 2 (1976): 45, https://isa.ebc-india.com/lawyer/articles/76v2a4.htm

the stage for specialised tribunals.[15] This laid the foundation for the expansion of tribunals across sectors, starting with administrative services.[16]

The first committee to address the need for a tribunal for corporate restructuring and winding up was the Omkar Goswami Committee[17] (also known as Committee on Industrial Sickness and Corporate Restructuring), constituted in 1993 to review the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA)[18] and BIFR. This was pursuant to the reforms proposed by the Narasimham Committee Report of 1991,[19] which recommended the establishment of tribunals for more efficient recovery by banking institutions.

The recommendations in the Omkar Goswami Committee report are the founding stones on which the Insolvency and Bankruptcy Code, 2016, was subsequently enacted. The relevant recommendations included:

1. Granting creditors greater authority in restructuring decisions.
2. Establishing five fast-track tribunals for winding up.
3. Introducing summary procedures for winding up cases.

2.1.2 Eradi Committee Report

The V.B. Eradi Committee, constituted in 1999 to examine insolvency and winding up laws,[20] marked a significant milestone in the evolution of India's insolvency framework. The report proposed a unified National Tribunal to handle matters relating to rehabilitation, revival and

---

[15] The Constitution of India, arts. 323A-323B
[16] Law Commission of India, *Assessment of Statutory Frameworks of Tribunals in India*, Report No.272 (October 2017), https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081632-2.pdf

[17] *Ministry of Finance, Report of The Committee on Industrial Sickness and Corporate Restructuring* (1993), https://the1991project.com/sites/default/files/2024-12/1993_Goswami_committee%20of%20the%20industriai%20sickness%20and%20corporate%20restructuring.pdf
[18] The Sick Industrial Companies (Special Provisions) Act, 1985, https://isa.indiacode.nic.in/repealedfileopen?rfilename=A1986-1.pdf
[19] Ministry of Finance, *Report of the Committee on Financial Systems*, (Narasimham Committee, 1991), https://ibbi.gov.in/uploads/resources/Narasimham%20Committee%20I-min.pdf
[20] Ministry of Law, Justice and Company Affairs, *Report of the High Level Committee on Law Relating to Insolvency and Winding Up of Companies* (Eradi Committee, 2000), https://ibbi.gov.in/uploads/resources/July%202000,%20Eradi%20Committee%20Report%20on%20Law%20relating%20to%20Insolvency%20and%20winding%20up%20of%20Companies.pdf

winding up of companies.[21] The tribunal was envisioned as a specialised body comprising both a judicial and technical member presiding on each bench, drawing on the experience of the Company Law Board.[22]

The Committee recommended transferring jurisdiction, power and authority over the winding up of companies from the High Court to the new institution. It further proposed that the tribunal should assume responsibility for rehabilitation and revival functions previously exercised by the BIFR, as well as the jurisdiction and the powers of the Company Law Board under the Companies Act. These recommendations were driven by the objective to avoid multiplicity of authorities and forums.[23]

The Committee also envisioned a proactive tribunal empowered to direct the sale of businesses as going concerns or manage asset liquidation to maximise value. This reflects an early shift towards restructuring-oriented insolvency framework, rather than one focused solely on liquidation. However, the primary emphasis remained on addressing systemic delays through the consolidation of institutions and the introduction of specialised insolvency practitioners.

This raises a critical question: Is the requirement of technical members still justified? In 2000, insolvency expertise was scarce. Today, however, the insolvency ecosystem is supported by insolvency professionals, registered valuers and domain experts. With these specialised inputs now available, the need for technical expertise on the bench is arguably diminished, favouring a more streamlined, procedurally-focused quasi-judicial body.

2.1.3 Irani Committee Report

In 2005, the Irani Committee Report[24] carried forward the Eradi Committee's recommendations by endorsing the establishment of the NCLT.[25] The committee called the establishment of NCLT a major reform initiative in India's insolvency framework and emphasised that the tribunal must

---

[21] Ibid.
[22] Ibid., cl. 7.2.
[23] Ibid.
[24] Ministry of Company Affairs, *Report of the Expert Committee on Company Law* ((JJ Irani Committee, 2005), https://ibbi.gov.in/uploads/resources/May%202005,%20J.%20J.%20Irani%20Report%20of%20the%20Expert%20Committee%20on%20Company%20Law.pdf
[25] The Companies (Second Amendment) Act, 2002 had provided for the setting up of NCLT and NCLAT. The Companies (Second Amendment) Act, 2002, S 10FB, S 10FR.

perform a general, non-intrusive supervisory role, unlike regular courts.[26] It also stressed the need for a definitive and predictable time frame for both rehabilitation and liquidation processes, and called for an effective insolvency system that would balance revival with liquidation.

The Irani Committee also recommended that corporate insolvency should be addressed in the company law framework itself, and that there was no immediate need for a separate insolvency statute.[27] This reflects the policy thinking of the time, where the priority was to rationalise and modernise company law, consolidate multiple winding-up and rehabilitation mechanisms (including SICA and BIFR), and centralise them within a specialised tribunal rather than design an entirely new insolvency law statute.

However, this recommendation—to vest insolvency jurisdiction in the NCLT alongside its existing company law functions—also planted the seeds of dual jurisdiction within a single institution, the consequences of which are visible in the present functioning of the NCLT.

Selection and Expertise of Members

The Irani Committee further recommended that the selection of the President and members of NCLT should ensure a wide mix of expertise to equip the tribunal to handle complex corporate matters.[28] This supported the idea of a multi-disciplinary body rather than a purely judicial one, consistent with the vision of the Eradi Committee. At the same time, this design assumed that concentrating diverse corporate functions within one tribunal, staffed with suitably qualified members, would enhance efficiency and consistency. It did not, however, consider the risk that such a broad jurisdiction could overload the tribunal and dilute its ability to deliver time-bound insolvency outcomes.

2.1.4 Bankruptcy Law Reforms Committee

The Bankruptcy Law Reforms Committee (BLRC) Report (2015) had two parts: first, the recommendations of the Committee, and second, the draft bill of the IBC.[29] The report provides

[26] Ministry of Company Affairs, *Report of the Expert Committee on Company Law* (JJ Irani Committee, 2005), cl. 13.11.
[27] Ibid., Ch 13, cl 6.2.
[28] Ibid., cls 24.3, 24.
[29] Ministry of Finance, *The Report of the Bankruptcy Law Reforms Committee Volume I and II: Rationales and Design* (BLRC Report, 2015)

an institutional blueprint for IBC, and it is here that the NCLT is expressly positioned as the Adjudicatory Authority for corporate insolvency.

The BLRC recommended that corporate debtors be brought within the jurisdiction of a specialised forum that would hear and dispose of cases by or against the debtor. Under this framework, the NCLT was designated this role for companies and limited liability entities, and the National Company Law Appellate Tribunal (NCLAT) was assigned the role of appellate forum.

The BLRC report recast India's corporate insolvency law in a creditor-in-control approach. It explicitly distinguishes between:
(a) business and commercial decisions, to be taken by creditors and insolvency professionals, and
(b) matters of process and legality, to be overseen by the Adjudicating Authority.

Choice of NCLT as Adjudicating Authority

The Committee justified the designation of the NCLT as AA on the basis that it was already exercising jurisdiction over winding up and liquidation under the Companies Act, 2013.[30] The BLRC thus endorsed a continuity approach, rather than recommending the creation of a separate bankruptcy court. This choice was shaped by practical considerations. The NCLT had already faced litigation around its constitutionality in the *Madras Bar Association* case (2014),[31] making the establishment of an entirely new institution politically and administratively unfeasible. The decision was therefore grounded in administrative convenience, the optimal use of existing infrastructure, and the pressing need to operationalise a unified insolvency framework to enable faster resolutions without further delay.

However, the role of the Adjudicating Authority as envisaged in the report appears tailored to a specialised, insolvency-based body rather than to the NCLT. The BLRC envisaged a strictly

[30] Ministry of Finance, *The Report of the Bankruptcy Law Reforms Committee Volume I: Rationales and Design* (2015) (BLRC Report), Cl 4.2.1, https://dea.gov.in/files/other_reports_documents/BLRCReportVol1_04112015.pdf (Volume 1)
[31] *Madras Bar Association v. Union Of India & Anr (2014),* AIR 2015 SC 1571.

procedural role for the AA—admitting applications based on objective default thresholds, overseeing the formation and functioning of the Committee of Creditors (CoC), and approving resolution plans based on statutory compliance—while leaving commercial decision-making to creditors and insolvency professionals. [32]

Despite articulating this limited adjudicatory role, the BLRC did not fully address the risks associated with assigning this function to the NCLT, which already exercised wide jurisdiction under the Companies Act, 2013. The Committee did not fully evaluate whether combining the NCLT's existing company law caseload with new responsibilities under the Code would create capacity constraints. This raises a key institutional question: was entrusting a narrowly defined, time-bound insolvency function to a tribunal with a broad and diverse jurisdiction the only viable approach at the time?

The following table outlines the shifting philosophies of the key committees that shaped this transition.

Table 1: Analysis of various committees in regard to NCLT

Committee	Key Recommendation	Core Philosophy	Vision for Tribunal
Eradi	Abolish the high court jurisdiction and set up a national tribunal	Create a single, specialised tribunal	An active and involved body with the power to direct business decisions
Irani	Integrate insolvency law with the Companies Act, 1956	National Tribunal with non-intrusive role and balance of revival with liquidation	Supervisory role of NCLT over the insolvency process
BLRC	NCLT as Adjudicating	Creditor-in-control model	Strict procedural oversight over

[32] Ministry of Finance, *The Report of the Bankruptcy Law Reforms Committee Volume I: Rationales and Design* (BLRC Report, 2015), Ch 4.2.

	Authority		insolvency process and minimal judicial intervention

2.2 Design of NCLT as AA under the IBC

In line with the BLRC's recommendations, the IBC designated the NCLT as the AA for insolvency and liquidation processes, with NCLAT as the appellate forum.[33] [34] Both the statutory design of the Code and its interpretation by the Supreme Court indicate that the jurisdiction of the AA is limited in scope and supervisory in nature. This narrow jurisdiction is reflected in three key design features under the Code:

- *Objective trigger for initiation of CIRP*: The beginning of the corporate insolvency resolution process (CIRP) is based on a clear and objective test, which is the occurrence of default, rather than broader financial distress indicators (such as erosion of net worth used in earlier regimes like the SICA). This minimises judicial discretion at the admission stage and enhances predictability in the commencement of insolvency proceedings.
- *Strict timelines*: The Code prescribes a 180-day CIRP period, extendable by 90 days, and outer limits for liquidation steps, thereby embedding a time-bound approach. These statutory timelines are intended to ensure speed and certainty in resolution. It may be noted that, subsequently, the Supreme Court in the *Essar Steel* case clarified that the timelines are directory in nature and not mandatory.[35]
- *Limited judicial scrutiny of plans*: The role of the AA in the approval of a resolution plan is confined to verifying compliance with the statutory requirements, including adherence to the waterfall mechanism for distribution of proceeds among creditors and stakeholders, procedural fairness, and non-discrimination among creditors.

In institutional terms, the Code assumes that the NCLT will act as a process supervisor, leaving substantive negotiations to CoCs and insolvency professionals. However, the Code does not

[33] The Insolvency and Bankruptcy Code, 2016, S 5(1)
[34] *Ibid*., S 69(1)
[35] *Essar Steel India Limited v. Satish Kumar Gupta and Others* (2020) 8 SCC 531.

structurally insulate the NCLT's IBC jurisdiction from its other company law functions, nor does it alter the design or composition of the tribunal as inherited from the Companies Act.

2.3 Gaps in Committees' Recommendations

None of the legislative reports and recommendations leading to the constitution of the NCLT fully anticipated the volume, complexity, and speed demands that the IBC would impose on the NCLT. The NCLT was designed in a pre-IBC regime, where corporate distress was primarily addressed through slow and value-eroding winding-up proceedings, rather than a rapid, resolution-oriented insolvency process.

The Eradi and Irani Committees focused on institutional unification without projecting the scale of filings. As of September 2025, this scale exceeds 53,000 cases, with pendency at over 30,600 and average resolution timelines extending to 739 days against the mandate of 330 days.[36] [37] The BLRC also endorsed NCLT's continuity for practicality (amid the *Madras Bar Association* litigation) but did not account for capacity constraints.

This misalignment between the originally envisaged role of the AA and its current reality—and the impact of this misalignment—is examined in detail in Chapter 4 of this paper.

[36] Government of India, *Economic Survey 2025-26*, 112.
[37] IBBI, *Quarterly Newsletter*, October-December 2025, 9, https://ibbi.gov.in/uploads/publication/02a71d3bab061af910f1488121c8fea1.pdf

Chapter 3: Institutional and Economic Performance Analysis of the NCLT as AA under the Code

3.1 Impact of IBC on Recoveries and the Economy

The performance of the NCLT since the Code's inception has been subject to intense scrutiny by policymakers and the Indian Parliament, particularly in terms of institutional capacity, recovery efficiency, and the preservation of asset value. In the early years, the NCLT inherited a significant backlog from the erstwhile Board for Industrial and Financial Reconstruction (BIFR). Nearly 40% of the early CIRPs (497 for which data is available) that yielded resolution plans, were earlier with BIFR and/or defunct.[38] Despite the age and asset deterioration of these cases, the NCLT facilitated realisation averaging up to 20% of admitted claims and 155% of liquidation value, demonstrating the Code's ability to extract value where earlier frameworks had failed.[39]

A key success of the NCLT as AA lies in the behavioural shift it has induced among Indian promoters and creditors, who are trusting the current insolvency regime. By March 2025, over 30,310 applications involving underlying defaults of ₹13.78 lakh crore[40] were settled prior to admission. This reflects the deterrent effect of the insolvency framework: the credible threat of loss of control of the enterprise has incentivised debtors to resolve defaults before formal settlements commence. The table below shows the latest status of CIRPs till December 2025.

[38] IBBI, *Quarterly Newsletter*, April- June 2025, https://ibbi.gov.in/uploads/publication/3694d8874ee2ac5802de48d293ad5802.pdf
[39] IBBI, *Quarterly Newsletter, January–March 2024: Record of Resolutions by NCLT*, accessed February 26, 2026, https://ibbi.gov.in/uploads/resources/ae17460f98b2f326b16380f4a917c8a1.pdf
[40] IBBI, Quarterly Newsletter, January-March, 2025, 3, https://ibbi.gov.in/uploads/whatsnew/912e97d4d9f96651386541fb7059203b.pdf

Table 2: Outcome of CIRPs, initiated Stakeholder-wise, as on December 31, 2025*

Outcome	Description	CIRPs initiated by				
		FCs	OCs	CDs	FiSPs	Total
Status of CIRPs	Closure by Appeal/Review/Settled	445	908	13	0	1366
	Closure by Withdrawal u/s 12A	397	853	10	0	1260
	Closure by Approval of Resolution Plan	854	427	91	4	1376
	Closure by Commencement of Liquidation	1394	1238	320	0	2952
	Ongoing	1121	644	113	1	1879
	Total	**4211**	**4070**	**547**	**5**	**8833**
CIRPs yielding Resolution Plans	Realisation by creditors as % of Liquidation Value	186.03	149.32	146.83	134.9	171.54
	Realisation by creditors as % of their Claims	31.93	25.53	18.01	41.4	31.63
	Average time taken for Closure of CIRP	745	751	623	677	739
CIRPs yielding Liquidations	Liquidation Value as % of Claims	5.44	8.37	7.46	-	6.10
	Average Time taken for order of Liquidation	533	539	452	-	527

* Data sourced from IBBI Quarterly Newsletter for October-December 2025

The NCLT's performance has significantly improved the banking sector's health. The Gross Non-Performing Asset (GNPA) ratio of Scheduled Commercial Banks (SCBs) declined to a historic low of 2.15% as of September 2025.[41] This improvement has been majorly attributed to the recoveries by the NCLT under the IBC. The Economic Survey 2025-26 credits the IBC framework with nearly 36.6% of total recoveries by SCBs in FY25, surpassing recoveries from other mechanisms like SARFAESI (with a recovery rate of 31.5%).[42]

Despite these positive macroeconomic outcomes, the institutional performance of the NCLT in the adjudicatory framework presents a complex picture. While the Code has improved the insolvency framework in the country compared to the earlier regimes, its effectiveness ultimately depends on the capacity of the Adjudicating Authority to process cases within the strict timelines envisioned by the Code.

3.2 Institutional Capacity and Pendency

Persistent systemic challenges continue to affect the functioning of the insolvency law framework, the most concerning of which is the deviation from the statutory timeline. Although the IBC mandates completion of the CIRP process within 330 days, including litigation, the

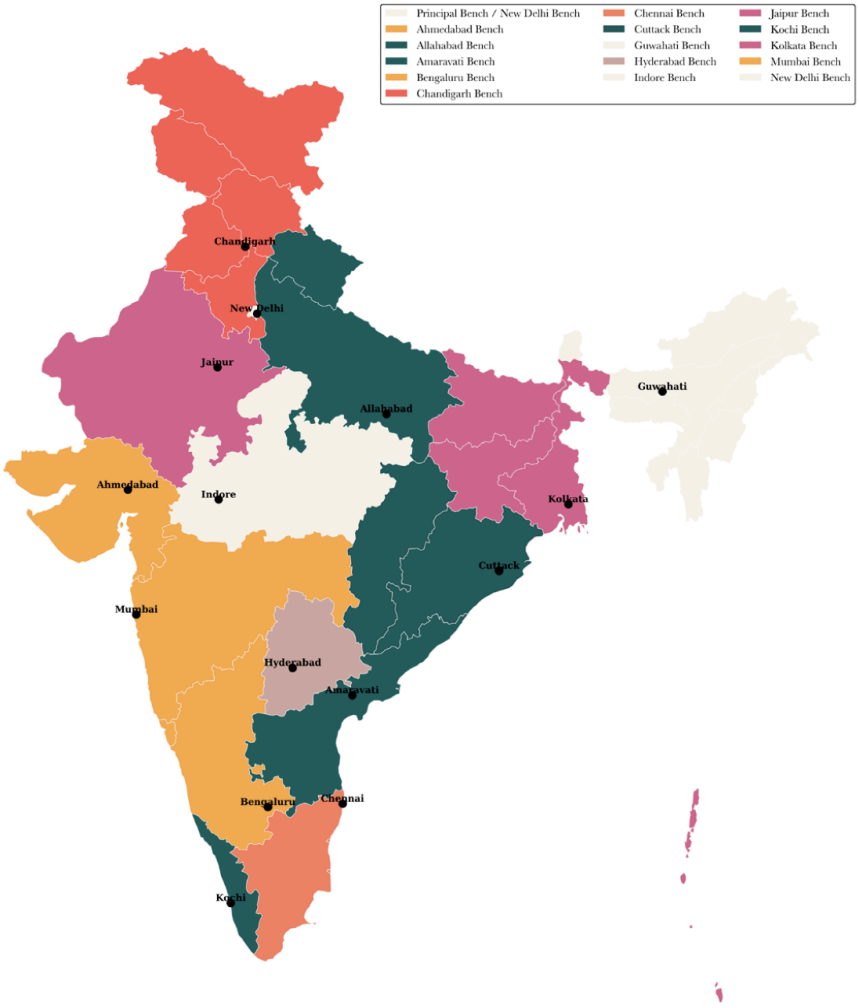
[41] PIB, "Gross NPAs of Scheduled Commercial Banks (SCBs) for Domestic Operations Reach a Historic Low of 2.15% as of September, 2025," February 2026, https://isa.pib.gov.in/PressReleasePage.aspx?PRID=2225442&reg=3&lang=1
[42] Government of India, *Economic Survey 2025-26*, 92.

average resolution timeline stands at 713 days, reflecting a deviation of more than 150% from the prescribed limit.[43]

Overview of NCLT Benches

The National Company Law Tribunal (NCLT) currently operates 16 benches across the country (counting the Principal Bench as separate).

Figure 1: Territorial jurisdiction of NCLT benches*



[43] Ministry of Corporate Affairs, *28th Report of the Standing Committee on Finance*: *Review of Working of Insolvency and Bankruptcy Code and Emerging Issues* (2025-26), D75daa3a490fc1bc316632cd993fca06.pdf Accessed on 25 February 2026

*** Sourced from 'The State of Tribunals' Report, DAKSH[44]**

The NCLT has a sanctioned strength of 63 members, including one president, 31 Judicial members, and 31 technical members spread across all its benches. However, the actual strength stood at 61 members as of March 2025,[45] and declined to 54 by February 2026.[46]

As of March 2025, NCLT benches face a pendency of nearly 30,600 cases.[47] At current disposal rates, it is estimated that the tribunal would require about a decade to clear this backlog in the absence of significant structural changes.[48]

The table below provides a summary of the NCLT's case disposal as of March 2025:

Table 3: NCLT Disposal Trends as of March 2025*

Total Cases Received	1,12,418
Total Cases Disposed (IBC + Companies Act)	97,457
IBC Specific Disposals	44,486
Companies Act Disposals	52,971
Pending Cases (IBC + Companies Act)	14,961
Pendency of IAs, MAs and CAs (under IBC)	23,545
Pendency of IAs, MAs and CAs (under Companies Act)	7,003

[44] Ritima Singh and Surya Prakash BS, *The State of Tribunals 2025: A Baseline Report on India's Commercial Tribunals* (DAKSH, 2025), 54, https://isa.dakshindia.org/wp-content/uploads/2025/09/State-of-Tribunals-PDF-Digital.pdf
[45] NCLT, "NCLT Members Status as on 07.03.2025," https://nclt.gov.in/sites/default/files/2025-03/Status%20of%20Members%20as%20on%2007.03.2025.pdf
[46]NCLT, "About us," https://nclt.gov.in/nclt-member
[47] Government of India, *Economic Survey 2025-26,* 112
[48] Ibid.

Total Pendency of cases before NCLT under IBC and Companies Act (including IAs, MAs and CAs under both Acts)	**45,509**

***Sourced from NCLT Annual Report of 2024-25[49] and NCLT Case Status Report[50]**

3.3 Delays: Timelines for Admission and CIRP

Empirical Analysis of Resolution Timelines (January 2025-December 2025)

This paper analyses all cases in which resolution plans were approved by the NCLT benches between January and December 2025. During this period, 264 cases received approval of resolution plans. However, 12 cases were excluded from the dataset due to incomplete or inaccurate information on the NCLT website regarding case status and case history. The final empirical analysis is thus based on a dataset of **252 cases.**[51]

The analysis of the 252 cases reveals patterns of delay that exceed broad national averages, which stand at **739 days** as of 31 December 2025.[52] In contrast, the data shows that the average time for overall resolution (from admission to plan approval) for cases with approved resolution plans from January to December 2025 was **883 days**, notably higher than the national average. This delay is also significant when compared to statutory timelines. The table below provides a summary from the analysis of the exact statistics of delay.

[49]NCLT, *Annual Report 2024-25*, https://nclt.gov.in/sites/default/files/2026-02/AR%2024-25%20web_file.pdf
[50] NCLT *Case Status Report*, (March 2025) https://nclt.gov.in/sites/default/files/2025-05/CSR%20Report%20March%2C%202025a.pdf
[51] 12 cases were marked as error as they either did not have data available on portal or filling date was inconsistent with admission date
[52] IBBI, *Quarterly Newsletter,* October-December 2025, 9, https://ibbi.gov.in/uploads/publication/02a71d3bab061af910f1488121c8fea1.pdf

Table 4: Analysis of cases with approved resolution plans from January to December 2025

Parameter	**Statutory Limit (Days)**	**Mean (Days)**	**Median (Days)**	**% of cases exceeding limit**
Admission Timeline (*from date of filing to date of admission*)	14	526	367	99.2%
Overall Timeline for CIRP (*from date of admission to date of approval of resolution plan*)	330	883	715	92.4%

The key findings from the above analysis are as follows:

1. *Massive Admission Delays*:

➔ The IBC requires that the CIRP application be admitted within 14 days of receipt of application by the AA. The applicant is given seven days to rectify any defects identified by the AA.[53] However, in 2025, the average time taken from filing to admission was 526 days, representing a delay of over 1.4 years before the CIRP process even officially began.

➔ Only 0.8% of cases were admitted within the statutory 14-day window.

[53] The Insolvency and Bankruptcy Code, 2016, S 7,9,10

Figure 2: Comparing actual CIRP admission timelines in 2025 to the statutory timeline

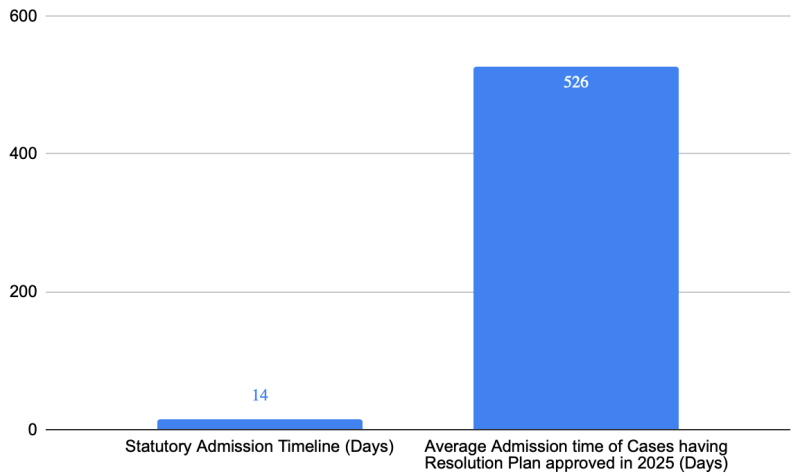
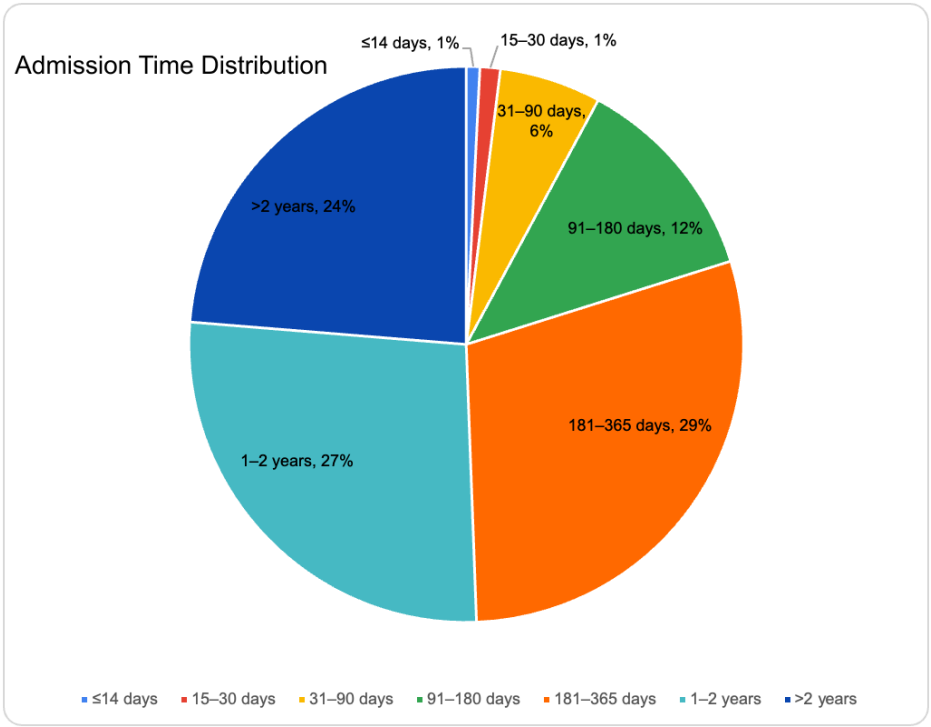


Figure 3: Comparison chart of time taken for admission

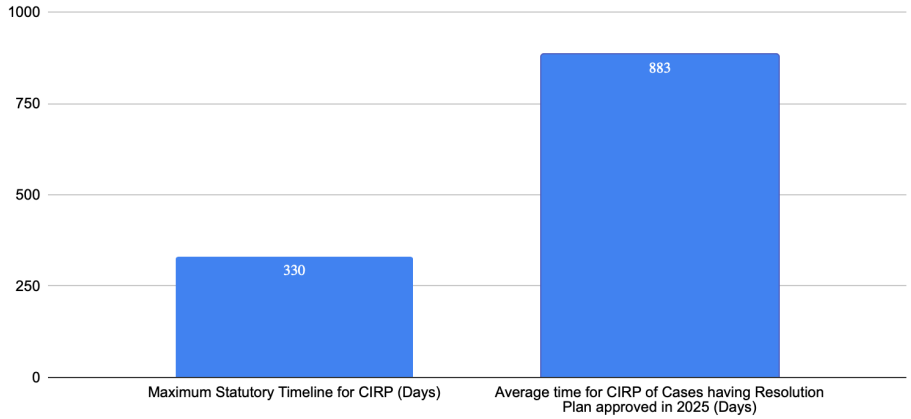


2. *Extended Resolution Cycles*:

➔ While the law requires the CIRP to be completed within 330 days (including extensions and legal delays), the average resolution in 2025 took 883 days from the date of admission.

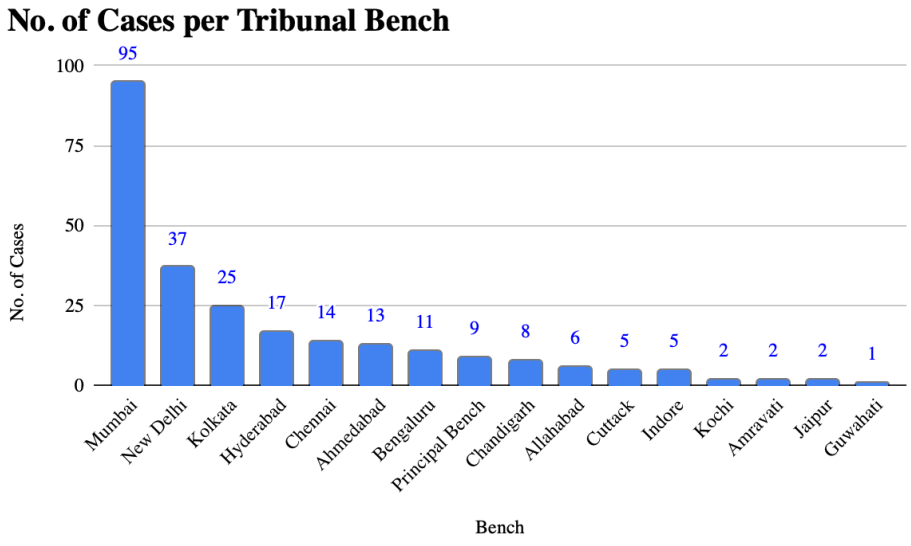
➔ When combined with admission delays, the total duration from filing to approval of the resolution plan often spans several years.

Figure 4: Comparing actual CIRP timelines in 2025 to the statutory timeline



3. *Bench-Wise Performance* (for cases with approved resolution plan, Jan-Dec 2025): Out of the 252 cases analysed, significant variation was observed across NCLT benches in terms of admission and resolution timelines.

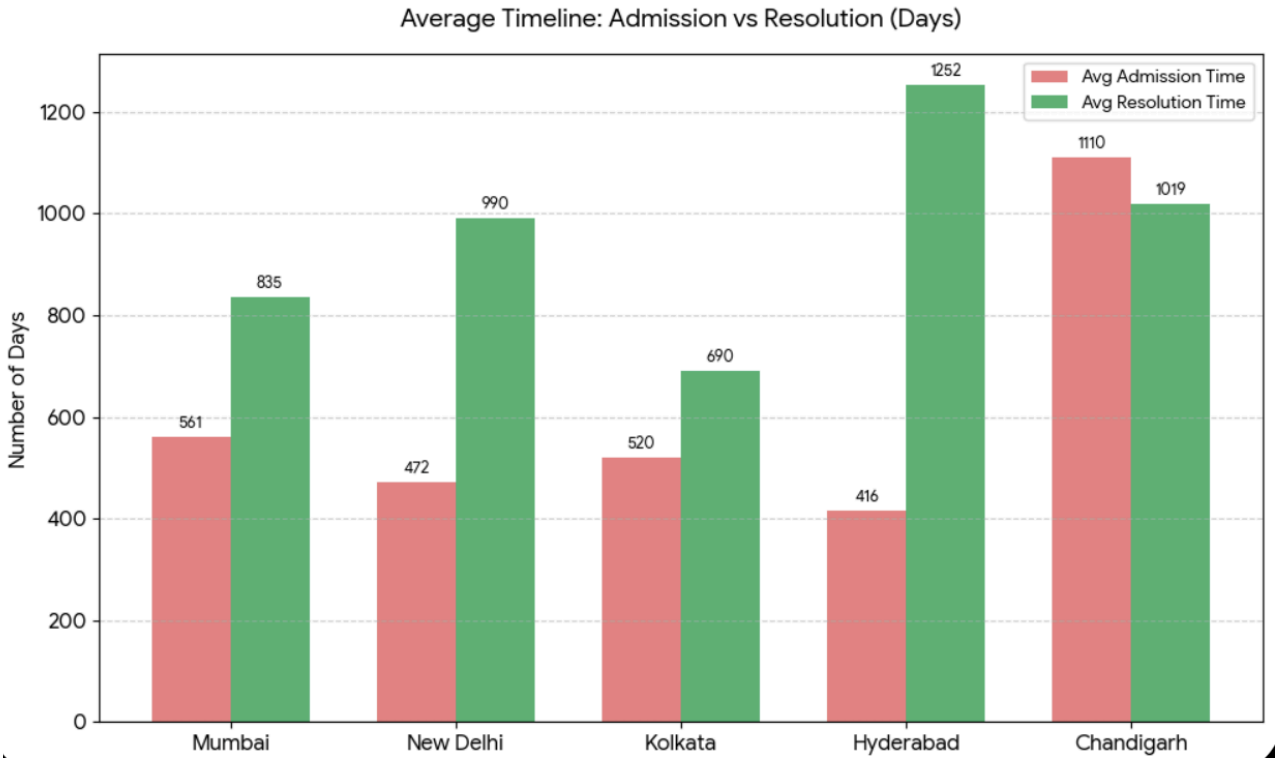
Figure 5: Bench-wise comparison of number of cases with resolution plans approved by benches in 2025



➔ **Mumbai**: Handled the highest volume of cases (95) with an average admission time of 561 days and average resolution time of 835 days.

- ➔ **New Delhi**: 37 cases, with an average admission time of 472 days and an average resolution time of 990 days.
- ➔ **Kolkata**: 25 cases, with an average admission time of 520 days, and indicating relatively faster resolutions with an average resolution time of 690 days compared to the national average of 883.
- ➔ **Hyderabad**: 17 cases, with an average admission time of 416 days and the longest average resolution time among major benches at 1,252 days.
- ➔ **Chandigarh**: Eight cases, with the most delayed admission timeline averaging 1,110 days and average resolution time of 1019 days.

Figure 6: Comparison of average admission and resolution time taken by certain NCLT benches in 2025



These findings reveal structural discrepancies between the IBC's time-bound design and actual practice. The data forces us to question whether the legislature, by locating the AA within a company law tribunal, has effectively embedded delay and inconsistency into IBC's architecture. In 2025, 99.2% of cases breached statutory admission timelines, and only 0.8% were admitted within time (i.e., within 14 days). The scale and uniformity of these deviations make it difficult

to attribute delays solely to case complexity and adjournments by lawyers. Instead, they indicate structural constraints within the institutional design.

The overall resolution timelines in 2025 deepens this misalignment. Against the statutory time limit of 330 days, the sample of 252 cases show an average resolution time of 883 days, with 92% of cases exceeding the statutory timeline. The Supreme Court clarified in the case *Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta and Others*[54] that the period of 330 days for CIRP is directory rather than mandatory. The Court held that although CIRP should ordinarily be completed within the 330-day limit, the Adjudicating Authority may allow limited extensions in exceptional circumstances where the delay cannot be attributed to the parties. However, if more than 90% of cases exceed the timeline, it cannot be considered an exception. IBC's value-maximisation approach depends on quick resolution before asset values decay. An AA housed in an institution that cannot deliver these timelines risks undermining the Code's core economic rationale.

Bench-level disparities further expose how AA function is shaped by underlying design. The findings indicate that the system does not reflect a coherent and uniform AA adhering to standardised time-bound processes. Resolution timelines vary significantly by bench, indicating that resolutions are shaped not by statutory design but by institutional capacity. Kolkata's average time in 2025, for instance, was 690 days, while Hyderabad's average was 1252 days.

Despite these structural deficiencies, the IBC has produced significant economic and behavioural gains in the broader economy. This raises an important counterfactual: If the IBC has delivered such outcomes even when processed through an institution that systematically violates its timelines, what might have been achieved under an AA specifically designed around the Code's time-bound mandate?

A separate institution for the AA, without competing jurisdictions, could have maintained a single purpose docket, built procedures and staffing around 14- and 330-day limits, and cultivated a consistent, process-supervisory culture instead of replicating court-like adjudication. The present data does not permit definitive conclusions, but the scale of delays raises legitimate concerns about whether alternative designs were seriously considered by the Parliament and the

[54] (2020) 8 SCC 531

executive, or whether they simply extended an existing institutional template without accounting for the radically different volume, urgency and behavioural stakes of a default-triggered insolvency regime.

While capacity constraints such as bench strength partly explain these delays, they do not fully account for the divergence between statutory timelines and actual practice. Another contributing factor is the gradual expansion of the adjudicatory role assumed by the NCLT and the NCLAT. In several instances, tribunals have moved beyond the limited supervisory role envisioned under the Code. These developments have not only altered the creditor-driven structure of the IBC but have also led to procedural delays and litigation. The following section examines instances in which tribunals have expanded their jurisdiction beyond the summary framework intended under the Code.

3.4 NCLT Overreach of Jurisdiction under the IBC

An analysis of recent cases reveals a recurring pattern in which the Adjudicating Authority (NCLT) has departed from its intended summary jurisdiction and assumed a more substantive and equitable role in adjudication proceedings under the Code.

Summary Nature of Proceedings under the Code

The architecture of the IBC is built around speed and creditor control. The Adjudicating Authority is envisaged as conducting summary proceedings,[55] meaning that it is not expected to undertake detailed trials or equitable approaches. Instead, its role is limited to verifying:

- whether a default has occurred,
- whether the resolution process complies with statutory requirements, and
- whether the resolution plan satisfies the parameters under Section 30(2) of the Code.

The Criticality of Timelines in Insolvency Proceedings

[55] The Insolvency and Bankruptcy Code, 2016 S 7(4); *Swiss Ribbons Pvt. Ltd. & Anr. v. Union of India & Ors*., (2019) 4 SCC 17; *Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd.,* (2018) 1 SCC 353

Timelines are the backbone of the IBC framework. The Code prescribes strict timelines (initially 180 extendable to 330 days) as delays in insolvency procedures have repercussions in the form of erosion of asset value, operational decline, loss of market confidence, and depletion of working capital.

Delays also have economic implications. They reduce recovery rates for creditors and weaken credit markets. Studies show that efficient insolvency resolution mechanisms improve credit availability, investment flows and overall economic productivity, while inefficient mechanisms discourage lenders and lower investor confidence.[56]

Despite this legislative design, a pattern has emerged in which the NCLT or the appellate tribunal (NCLAT) has moved beyond its intended supervisory role and engaged in substantive or equitable intervention. This expansion in jurisdiction has contributed to delays and undermined the time-bound framework of the Code.

1. Interference with Commercial Wisdom

In the most frequent area of overreach, the NCLT has often interfered with the business decisions of the Committee of Creditors (CoC) on grounds of equity or fairness, which is not permitted under IBC, 2016.[57]

- In *Essar Steel*[58] and *Maharashtra Seamless,*[59] the tribunal sought to redistribute funds to ensure fairness to operational creditors. The Supreme Court clarified that NCLT is not a court of equity and cannot alter the commercial payouts already agreed upon by the CoC.
- In *Ramkrishna Forgings,*[60] the NCLT ordered a fresh valuation to be conducted by the Official Liquidator despite a compliant process, effectively stalling the resolution.

[56] Andrés F. Martínez, Aurelio Gurrea- Martínez, and Harish Natarajan, "The Crucial Role of Insolvency Law in Job Creation and Preservation," World Bank Blogs, July 2025, https://blogs.worldbank.org/en/psd/the-crucial-role-of-insolvency-law-in-job-creation-and-preservat

[57] *K. Sashidhar v. Indian Overseas Bank,* (2019) 12 SCC 150.
[58] *Committee of Creditors of Essar Steel India Limited v Satish Kumar Gupta & Ors,* (2020) 8 SCC 531.
[59] *Maharashtra Seamless Limited v Padmanabhan Venkatesh* (2020) 11 SCC 467.
[60] *Ramkrishna Forgings Limited v Ravindra Loonkar,* (2024) 2 SCC 122.

- In *Vallal RCK,*[61] the NCLT did not grant approval to a settlement that had 94% CoC approval, characterising it as restructuring rather than simple withdrawal. The Supreme Court ruled that this was a direct interference with the CoC's statutory right to settle.

2. Procedural and Jurisdictional Transgressions

In some cases, the NCLT and NCLAT have either violated the procedures provided under the IBC or assumed powers belonging to the High Courts.

- In the *BYJU'S (GLAS Trust)* case,[62] the NCLAT used its inherent powers to approve a private settlement between a promoter and a creditor (BCCI). The Supreme Court quashed this, holding that the NCLT's Rule 11 powers cannot be used to override the mandatory 90% CoC approval under Section 12A of the Code.
- In *TCS v. Vishal Ghisulal Jain,*[63] the NCLT stayed a contract termination for housekeeping defaults. The Supreme Court clarified that such jurisdiction exists only where termination is triggered *solely* by the insolvency filing, not by independent contractual breaches.

3. Administrative and Public Law Overreach

In several cases, the tribunals have assumed powers outside their jurisdiction, such as that of judicial review over government authorities.

- In *Kalyani Transco*[64] and *Embassy Property,*[65] the NCLT and NCLAT attempted to direct the ED (PMLA) and State Mining Departments. The Supreme Court ruled that public law matters and statutory decisions were outside the NCLT's purview and a resolution professional must seek remedies in High Courts or through relevant statutes.
- In *Gujarat Urja*,[66] the NCLT allowed the protection of a Power Purchase Agreement (PPA) vital to the company's existence. The SC warned that this was not a blanket power to adjudicate all contractual disputes.

[61] *Vallal RCK v Siva Industries and Holdings Ltd*, (2022) 9 SCC 803.
[62] *GLAS Trust Company LLC v BYJU Raveendran,* (2024) INSC 811.
[63] *TCS v. Vishal Ghisulal Jain*, 2021 SCC OnLine SC 1113.
[64] *Kalyani Transco v Bhushan Power & Steel Ltd*, (2025) INSC 1165.
[65] *Embassy Property Developments Pvt Ltd v State of Karnataka* (2020) 13 SCC 308
[66] *Gujarat Urja Vikas Nigam Ltd v Amit Gupta,* (2021) 7 SCC 209.

4. Adjudication Errors and Summary Admission

- In *Vidarbha Industries,*[67] the Supreme Court introduced limited discretion for the NCLT to refuse admission even where a default exists (e.g., if the debtor is a solvent government entity). However, later cases like *M. Suresh Kumar Reddy*[68] show that the tribunals often misinterpret this as a license to conduct proceedings similar to a civil trial at the admission stage, which leads to delays. These misinterpretations led to the provision in the Insolvency Amendment Bill, 2025, which covers mandatory timelines for admission under Section 7(5).
- The *Murari Jalan (2024)*[69] case is a prime example of perpetual delays. By granting endless extensions to the successful bidder, for completion of the conditions required in the resolution plan and payment of initial installment under the resolution plan NCLAT's directions resulted in erosion of creditor value. The Supreme Court eventually had to intervene to order liquidation, noting that the Tribunal's equity-based extensions undermined the Code's objective.

The cumulative effect of these forms of overreach has been an elongation of the resolution cycle and the dilution of the creditor-in-control model. The Supreme Court's recurring need for corrective intervention also highlights potential structural limitations in the tribunal design and functioning. These developments underscore the need to reassess the institutional architecture governing insolvency adjudication in India.

[67] *Vidarbha Industries Power Limited v. Axis Bank Limited,* (2022) INSC 712.
[68] *M. Suresh Kumar Reddy v. Canara Bank & Ors.*, (2023) INSC 442.
[69] *State Bank of India & Ors. v. The Consortium of Mr. Murari Lal Jalan and Mr. Florian Fritsch & Anr.,* (2024) INSC 852.

Chapter 4: Issues and Flaws in the AA's Current Institutional Design

The findings discussed in Chapter 3 reveal a stark divergence between the statutory design of the Insolvency and Bankruptcy Code and the institutional functioning of the National Company Law Tribunal. Long delays in admission and resolution timelines, along with jurisdictional expansions, indicate that the challenges may not lie solely in operational inefficiencies but also in the institutional architecture through which the Code is implemented. This chapter, therefore, shifts its focus from outcomes to structure, examining the issues inherent in the current institutional design of the NCLT as the Adjudicating Authority within the procedural and time-bound framework of the Code. The analysis focuses on structural design flaws embedded into the institutional framework.

4.1 Dual Jurisdiction

The NCLT was originally conceptualised as a tribunal to deal with corporate law. However, with the introduction of the IBC, it assumed the additional role of Adjudicating Authority under the Code.[70] One of the most fundamental flaws in its current design is the burden of dual jurisdiction. The Economic Survey 2025-26 notes that institutional capacity is constrained, with only 16 NCLT benches operating through 30 tribunal courts across India to deal with cases arising under both the IBC and Companies Act.[71]

Apart from the burden this imposes on the NCLT, this dual role also affects the quality of adjudications. Proceedings under the Companies Act, 2013, are adversarial in nature and focus on determining liabilities, checking upon regulatory compliance, and imposing penalties while acting as a tribunal. In contrast, the IBC is relatively non-adversarial in nature and adopts a resolution-oriented framework.[72] The statutes demand different approaches to adjudication, but are placed at the same benches.

Further, IBC matters are subject to strict resolution timelines to avoid asset value decay, and are therefore prioritised in the NCLT over company law matters. The NCLT's Annual Report for 2024-25 records the president as noting that benches of NCLT typically allocate one day for

[70] Constitution of NCLT, https://nclt.gov.in/sites/default/files/2026-02/Anual%20Report%2022-23_web%20file.pdf
[71] Government of India, *Economic Survey 2025-26*, cl 361.
[72] IBBI, *Report of the Expert Committee on the Framework for Use of Mediation under the Insolvency and Bankruptcy Code*, 2016 (January 2024) cl. 1.5, 20, https://ibbi.gov.in/uploads/resources/1256aa8a9e2c89bd09d8186dae2e6019.pdf

company law matters, with the remaining four days dedicated to IBC matters.[73] He also noted that this has contributed to the better performance of insolvency cases compared to company law cases.

This prioritisation has yielded measurable improvements in India's performance in insolvency resolution, reflected in the country's significant rise from 108th to 52nd position in the "Resolving Insolvency" category of the Ease of Doing Business rankings.[74]

Table 5: World Bank's Ease of Doing Business index, 2020 report (released in Oct 2019)[75]

World Bank Indicator	India's Rank
Resolving Insolvency	52nd
Overall Ease of Doing Business	63rd

However, this raises an important concern: in prioritising insolvency proceedings, the tribunal may be compromising its foundational mandate of adjudicating company law matters, which formed the basis of its creation. Delays in company law matters also produce second-order effects, as issues of oppression, mismanagement, and contractual breaches remain unresolved for years, potentially driving otherwise healthy companies toward insolvency.

4.2 Structural Design Flaw in Appointment of Members

The effectiveness of the NCLT hinges on the strength and stability of its membership. When the tribunal was designated as the Adjudicating Authority under the IBC, an additional jurisdiction was placed upon what was still a relatively new institution established under the Companies Act, 2013. However, the institutional design was not recalibrated to match the tribunal's expanded role. The sanctioned strength of the NCLT has remained unchanged since its inception, with one President and 62 members (31 judicial and 31 technical) as reflected in the NCLT Case Status

[73] National Company Law Tribunal, *Annual Report 2024–2025*, "From the Desk of the Hon'ble President," accessed February 26, 2026, https://nclt.gov.in/sites/default/files/2026-02/AR%2024-25%20web_file.pdf
[74] World Bank Group, *Ease of Doing Business Rankings,* https://archive.doingbusiness.org/en/rankings
[75] Ibid.

Report, 2025.[76] However, the volume of matters under both company law and insolvency has grown significantly over the past decade.

At present, pending cases, including company law proceedings and IBC matters (along with IAs, MAs, and CAs), stand at 45,509. The Economic Survey 2025–26 further notes that, at the current disposal rate, the tribunal would require nearly a decade to clear the existing IBC backlog of approximately 30,600 cases, even without accounting for new filings.[77] This highlights a deeper structural issue: while the tribunal's jurisdiction and economic significance have expanded considerably, the statutory and administrative framework governing its composition has not incorporated mechanisms to scale adjudicatory capacity.

4.2.1 Background of Members

The NCLT consists of two categories of members under section 409 of the Companies Act, 2013: judicial and technical members. Judicial members are required to be current or former High Court judges, District Judges with at least five years of experience, or advocates of a court for at least ten years.

The institutional design of the NCLT appoints judges trained in traditional adversarial adjudication within a framework intended to operate through summary and supervisory proceedings. While judicial members typically come from civil or criminal litigation backgrounds, the IBC requires a limited procedural oversight role focused on verifying default and supervising the insolvency process. This mismatch between judicial mindset and the procedural vision of the IBC creates structural tensions within the adjudicatory framework. The tendency to examine underlying disputes during admission hearings, as seen in cases mentioned in Chapter 3, illustrates how adversarial adjudicatory habits can influence proceedings designed to be summary in nature, contributing to delays at the entry point of the insolvency process itself.

Technical members are mandated to possess at least 15 years of experience as an IAS (at the level of Secretary/Additional Secretary), as senior officers in the Indian Corporate Law Service

[76] NCLT, *Case Status Report* (March 2025), accessed February 24, 2026, https://nclt.gov.in/sites/default/files/2025-05/CSR%20Report%20March%2C%202025a.pdf
[77] Government of India, *Economic Survey 2025-26,* 92.

(ICLS) or as senior professionals with demonstrated expertise in corporate law, insolvency, finance, accounts, economics and administration.

However, as per the Gazette notification dated January 7, of the 24 new members (11 judicial and 13 technical) appointed, eight of the 13 technical members were retired IRS officers. Of the current total strength of 54 members as of February 2026, 26 are technical members, of whom 13 are retired IRS officers with experience in taxation.

The role of technical members on tribunals was originally envisioned[78] to supplement judicial members with specialised expertise in areas such as corporate restructuring, finance, and insolvency practice. However, the current composition in NCLT indicates that a significant proportion of technical members come from taxation backgrounds, particularly from the Indian Revenue Service.[79] This raises concerns about whether the institutional design of appointments adequately aligns member expertise with the specialised economic and financial questions central to arise in insolvency proceedings.

The dominance of career bureaucrats among technical members may also influence institutional behaviour within the tribunal. In expert consultations, officials accustomed to administrative decision-making were found to adopt a more cautious approach in judicial decision-making, potentially limiting active participation in complex insolvency determinations.[80] This raises further questions about whether the appointment framework adequately supports the specialised adjudicatory role envisaged under the IBC.

4.2.2 Lack of Domain Expertise

Judicial members drawn from High Courts and District Courts, or with experience as advocates, have limited knowledge of corporate law and insolvency. A decade of the IBC's operation has fostered an ecosystem of insolvency professionals (IPs), specialised legal practitioners, and

[78] Under the Income Tax Act, 1922, where accountant members were first introduced to play the role of assisting judicial members undertaking the current role of technical member.
[79] Government of India, *Report of the Select Committee on the Insolvency and Bankruptcy (Amendment) Bill, 2025*, 39, accessed February 26, 2026, https://ibbi.gov.in/uploads/resources/2ce0f4a4a146d49fb96f4939aa4fbe25.pdf
[80] Sumant Batra, *Corporate Insolvency: The Road to Viksit Bharat—Law, Policy and Practice*, 2nd ed. (New Delhi: Eastern Book Company, 2025).

dedicated adjudicating members. This critical mass of domain expertise now possesses a nuanced understanding of corporate restructuring and insolvency jurisprudence, which was largely absent at the time of the Code's inception.

The Economic Survey states: "At the same time, to build sustained expertise, regulators and regulatory tribunals should attract professionals at a younger age to pursue dedicated careers. Regardless of the age at which they join, appointees should serve until the standard retirement age for government service. This would ensure a steady infusion of expertise and independence, equipping these institutions to meet the demand."

4.3 Tenure Structure and Expertise Formation

The framework of the NCLT allows members to hold office for a tenure of five years or until the age of 65, whichever is earlier. While this structure was intended to enable the periodic renewal of the institution, it has, in practice, created structural limitations in the development of institutional expertise and memory.

Given that most benches are filled with retired administrative and judicial officers, there is often a significant learning curve in acquiring familiarity with the statutory framework and operational complexities of the field. By the time members develop sufficient expertise and command over insolvency jurisprudence, their tenure is often nearing completion. This results in a cycle of turnover, where newly appointed members must undergo the same process of becoming familiar with the Code, thus resulting in a continuous struggle with expertise.

Chapter 5: Reforms and Recommendations

The structural limitations of the National Company Law Tribunal (NCLT), in its capacity as the Adjudicating Authority (AA) under the Insolvency and Bankruptcy Code (IBC), 2016, have reached a critical inflection point. The existing institutional framework is no longer sufficient to support the burgeoning demands of the Indian economy, as demonstrated in the preceding chapters. As of late 2025, the divergence between the statutory timeline of 330 days and the practical reality of an average resolution time of 853 days reflects a design flaw that cannot be addressed through incremental administrative tweaks.

The performance of the NCLT since 2016 has contributed to the establishment of a new credit culture, with Gross Non-Performing Assets (GNPA) declining to a multi-decadal low of 2.15% by September 2025.[81] However, these gains are threatened by a staggering pendency of nearly 30,600 cases.

Addressing the limitations in the NCLT's institutional design requires a multi-level approach to reform focused on timely resolution, institutional independence, capacity building, and procedural efficiency. While systemic overhaul is the ultimate goal, the current backlog calls for immediate, practical interventions to bifurcate jurisdictions and upgrade physical infrastructure.

5.1 Immediate Solutions for the Existing Institution

To improve outcomes and align practices with the core principles of the Code, the following reforms are necessary:

1. The Split: Specialised IBC Benches and Company Law Benches

A primary cause of delay is the NCLT's mixed jurisdiction, where a single bench handles complex insolvency matters alongside routine company law disputes.

[81] Press Information Bureau (PIB), "Gross NPAs of Scheduled Commercial Banks (SCBs) for Domestic Operations Reach a Historic Low of 2.15% as of September 2025," accessed February 26, 2026, https://isa.pib.gov.in/PressReleasePage.aspx?PRID=2225442&reg=3&lang=1

- IBC Specific Benches: The NCLT should move toward creating a separate bench for IBC cases to ensure they receive undivided attention and adhere to the 14-day admission timeline and the overall CIRP timeline.
- Attention to Company Law cases: This split would also revive the adjudication of company law matters (such as oppression, mismanagement, and mergers), which have often been sidelined due to the urgent nature of IBC filings.

2. Restructuring of Appointment of Members through Amendments

To address the issue of domain expertise, the following targeted changes must be made through amendments in the Companies Act, 2013:

- Capacity Building: Recruitment must target professionals at a younger age to build dedicated careers in adjudication, and elongate tenure to ensure they serve until standard retirement age to maintain expertise.
- Technical Expertise: To meet the specialised demands of modern insolvency practice, greater emphasis must be placed on diversifying the pool of technical members by prioritising professionals with direct subject-matter expertise, such as Chartered Accountants and corporate professionals.[82] This would reduce the disproportionate reliance on retired administrative civil servants, who currently constitute a sizable portion of the member pool. The Supreme Court has clarified that the presence of technical members on tribunals is justified only where specialised expertise is genuinely essential, and that long administrative experience alone cannot substitute for subject matter knowledge or judicial temperament.[83] Statutory eligibility criteria for technical members in insolvency tribunals should therefore be revised to prioritise professionals with demonstrable experience in insolvency and restructuring, such as registered insolvency professionals, registered valuers, restructuring accountants, and policy makers with domain knowledge, while limiting appointments of purely generalist administrators. This would ensure that benches are materially equipped to engage with valuation disputes, complex capital structures, and restructuring plans, rather than merely perform a rubber-stamping role.

[82] The Companies Act, 2013. S 409.
[83] Madras Bar Association, 2025, INSC 1330.

- Invitation-Based Appointment: The current appointment process involves rolling out advertisements inviting applications for the post of members of the NCLT. This process should be supplemented by a search-cum-selection committee, which would enable the identification of individuals with domain expertise, integrity, and professional reputation.[84]

3. Infrastructural Augmentation and Expansion

The NCLT's operational capacity is also constrained by inadequate physical infrastructure, including a shortage of courtrooms. In several instances, benches are required to share halls or function only for limited hours.

- New Courts and Benches: The Ministry of Corporate Affairs has sought Cabinet approval for the establishment of 50 additional NCLT courts.[85] Given the current burden on NCLT benches, this should be pursued as a top priority, as the setting up of these benches and the appointment of members will require significant lead time.
- Specialised Judicial Complexes: There is also a need to focus on the infrastructure of the institution. The NCLT, playing a central role in India's financial ecosystem, has recovered close to 4.5 lakh crore under IBC since the enforcement of the code. Despite its significant contribution, the infrastructural capacity of the NCLT is not at par with its growing caseload and economic importance. NCLT benches should have easily accessible, dedicated complexes within city limits and should possess state-of-the-art infrastructure, including:
    - ➔ Well-equipped courtrooms with the best audio and visual systems for virtual hearings.
    - ➔ Proper waiting areas to accommodate litigants, lawyers, and insolvency professionals.
    - ➔ Well-maintained washrooms and basic amenities for all stakeholders.
    - ➔ Dedicated chambers for members, registries, and support staff.
    - ➔ Digitalised record rooms and e-filing infrastructure.

[84] Government of India, *Report of the Select Committee on the Insolvency and Bankruptcy (Amendment) Bill, 2025*, 39.
[85] Ibid., 50.

➔ Conference Space to facilitate staff meetings

Improved infrastructure would not only enhance user experience but also contribute directly to adjudicatory efficiency by reducing adjournments caused by logistical constraints and enabling smoother conduct of hearings. It would also strengthen institutional credibility by signalling the importance of insolvency adjudication within India's economic framework.

4. Permanent Staffing for Public Confidence

Reforms are also required in relation to staffing structures within the NCLT. An amendment to NCLT recruitment rules,[86] or the issuance of a separate binding notification by MCA, should prioritise the appointment of permanent staff for routine registry work rather than defaulting to contractual appointments. An institution in which over 50% of staff are engaged on contractual terms risks weakening institutional memory, reducing operational stability, and affecting morale.

5.2 The Long-Term Vision: A National Commission of Insolvency and Bankruptcy

The most critical systemic reform required is the establishment of a National Commission of Insolvency and Bankruptcy (NCIB). The need for a separate insolvency and bankruptcy institution has become increasingly evident. Its benches would focus only on insolvency and bankruptcy matters, enabling the development of specialised expertise and stabilising jurisprudence. International jurisdictions illustrate the value of this approach. Specialised bodies, such as the United States Bankruptcy Courts, demonstrate that a separate ecosystem improves outcomes.[87] A forum conceived solely for insolvency is better placed to preserve enterprise value and deliver on the Code's promise of timely resolution.

In its landmark November 2025 judgment in *Madras Bar Association v. Union of India*, the Supreme Court emphasised that a centralised commission was an "essential structural safeguard" to ensure independence, transparency, and uniformity. A commission-based model offers certain

[86] National Company Law Tribunal, *National Company Law Tribunal (Recruitment, Salary and Other Terms and Conditions of Service of Officers and Other Employees) Rules, 2020*, accessed February 25, 2026, https://archive.nclt.gov.in/sites/default/files/215780.pdf.
[87] Rajasekhar VK, "India needs a National Insolvency Tribunal," *The Hindu Business Line,* accessed February 24, 2026, https://isa.thehindubusinessline.com/opinion/india-needs-a-national-insolvency-tribunal/article70427011.ece.

structural advantages. It can better accommodate the objectives of the Code, and can provide procedural overview alongside domain expertise. Further, there is no constitutional or legal bar to establishing such a body. The tribunal's structure is already established through judicial pronouncements, and the NCIB could better accommodate the role of Adjudicatory Authority.

Acknowledging the Timeline for Systemic Change

While the NCIB represents an opportunity to reshape India's insolvency framework and enhance its global standing, policymakers must acknowledge that this fundamental shift in governance requires extensive inter-ministerial coordination and legislative backing. The Economic Survey 2025-26 has noted that it would take nearly a decade to clear the existing backlog at current disposal rates. Therefore, the transition to a centralised commission must be paired with immediate IBC 2.0 solutions that can be implemented within the existing NCLT framework. These interim measures are necessary to provide timely relief to the credit ecosystem while longer-term structural changes are developed and operationalised.

Chapter 6: Conclusion

The reimagining of the NCLT under the IBC, 2016, is not merely an administrative necessity, but a strategic imperative for India's economic stability and its aspirations to be a Viksit Bharat by 2047. The journey from 2016 to 2026 has yielded significant achievements, including the recovery of trillions of rupees for the banking sector. Yet, the institutional mechanism that delivered these results is now suffering from capacity exhaustion and procedural drift.

The exhaustive analysis undertaken in this study reveals a fundamental disconnect between the IBC's time-bound, creditor-centric objectives and the NCLT's adversarial practice. The deviation from statutory resolution timelines and the year-long delays at the admission stage have diluted the Code's effectiveness, resulting in the decay of assets. To address this divergence, this paper proposes a dual-track reform strategy combining immediate institutional optimisation with long-term systemic evolution:

- **Institutional bifurcation** and **advancement of the bench through members,** aimed at reducing jurisdictional overload and improving adjudicatory efficiency.
- **A long-term pivot to the National Commission of Insolvency and Bankruptcy,** a dedicated ecosystem that would provide the structural safeguards of independence and specialisation required to address the next generation of insolvency challenges.

Ultimately, the erosion of assets represents a decay of national wealth. If the NCLT is to remain the cornerstone of India's financial ecosystem, it must evolve from a congested court of record into a streamlined, tech-enabled, and professionally led adjudicatory authority. The reforms proposed in this paper provide the necessary blueprint to ensure that the IBC remains a "law in motion" capable of preserving enterprise value and sustaining the momentum of India's economic growth in the decades to come.