

QUANTIFYING DELAY COSTS IN INDIA'S COMMERCIAL TRIBUNAL

AN ECONOMETRIC EVALUATION OF NCLT
PERFORMANCE UNDER THE IBC FRAMEWORK

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DAKSH NIST Fellowship | Capstone Research

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About Me

Education & Professional Background

Academic Journey

- ❖ **B.A. LL.B. (Hons) - *School of Excellence in Law***
- ❖ **M.A. Economics - *Madras School of Economics***

A lawyer with an economist's lens, I fuse data-driven analysis with legal insight to shape accurate, evidence backed policies.

Experience Portfolio

- ❖ **Trained under Former ASG, Madras High Court, with hands-on exposure to major government litigations.**
- ❖ **Worked with GR Associates on election matters and the Arumugaswamy Commission.**
- ❖ **Independent practice across tax, criminal, writ and select arbitration disputes.**
- ❖ **Constitutional researcher specialising in rights and religion.**
- ❖ **Lead Researcher at Indic Collective, advancing indigenous and cultural rights.**

What This Capstone Is About

Three Lines of Inquiry → Six Research Questions

This capstone is an attempt to generate a quantified economic appraisal of delay costs in India's commercial insolvency system.

1

Conceptualising Delay

How should delay be defined beyond statutory timelines and who is responsible : NCLT or market players?

2

Economic Impact

Does delay reduce creditor recovery?
How does CIRP affect firm-level performance?
What is the perceived impact of delay on market confidence?

3

NCLT Performance

Which benches are efficient?
Do recovery outcomes differ across NCLT locations and why?

India's judicial delays cost an estimated 1.5% of GDP annually. This research quantifies the NCLT's share of that cost.

5 Pillars of Policy Reform

Pillar 1

Temporal Discipline

Codify
1,084-day hard
limit

Pillar 2

Firm-Level Outcomes

Tiered resolution
architecture +
sectoral
protocols

Pillar 3

Market Confidence

Institutionalise
Macro Stress
Index + Reform
credit
transmission

Pillar 4

IBC Architecture

Dedicated
Insolvency
Tribunal & IA
reform

Pillar 5

Bench Rationalisation

Cross-bench
transfers &
harmonisation

Pillars I & II: Temporal Discipline & Firm-Level Reform

Proposed Policy Recommendations

Pillar I : Temporal Discipline

Statutory outer limit reform

Amend IBC s.12 to reflect the empirically derived inflection point beyond which recovery rates fall by 18–20 percentage points.

Extension requires 75% CoC vote

Resolution plan must accompany any extension application filed before NCLT

Day-200 Case Management Conference

Introduce mandatory conference at D-200 to forecast timeline & identify bottlenecks early (modeled on Commercial Courts Act, 2015) and enforce procedural discipline.

Delay based value disclosure

RP to compute a value decay function for delays beyond inflection point and mandatorily disclose for CoC awareness.

Pillar II : Firm-Level Outcomes

Tiered Resolution Architecture basis admitted claims

- a) Tier I (< ₹XX Cr): Fast track Pre-pack, 90-day limit, debtor-creditor approved base plan submitted at the time of application for admission.
- b) Tier II (₹XX Cr - ₹YY Cr): Standard CIRP, 1,084-day cap
- c) Tier III (> ₹YY Cr): Dedicated multi-member bench, sector specialists; extended evidence gathering but no extension to time limit.

Sectoral Insolvency Protocols

Specialist IBBI panels for real estate & power sector CIRPs with standardised information memoranda to reduce information asymmetry.

Pillars III, IV & V: Market, Architecture & Bench Reform

Proposed Policy Recommendations

Pillar III : Market Confidence

Macro Stress Index as Policy Instrument

IBBI & MCA adopt PCA-based MSI as quarterly indicator of IBC system health;

RBI Financial Stability Report to incorporate NCLT delay as systemic risk variable along with NPA

Resolution Incentive Mechanism (RIM)

Reform credit appraisal models & amend RBI's 2019 Framework - grant banks credit for firms which yielded CIRP outcomes.

Introduce RIM to allow faster provision write-backs when recoveries > liquidation value within timelines.

Pillar IV : IBC Architecture

Dedicated National Insolvency Tribunal

Separate NIT with exclusive CIRP jurisdiction, freeing NCLT from jurisdictional overload (currently 65% of delay is NCLT-attributable)

IA Proliferation Control

Cost-award mechanism for frivolous IAs.

Where an IA is dismissed as frivolous or dilatory, the NCLT may impose costs directly on the applicant entity (or its counsel)

Pillar V : Bench Rationalisation

Cross-Bench Transfer Mechanism

NCLT empowered to set up special bench and transfer CIRPs with claims > ₹XX Cr, by capacity & sector specialisation. Where impractical to transfer, provide on-site or virtual assistance at the primary case location on a need-based basis

Standardised Cause-List Scheduling

Uniform procedural standards and frequency of CIRP hearing slots to eliminate geography as a recovery determinant.

Why These Reforms? The Evidence Behind Pillar I

1,084

Days

Empirically derived threshold - recovery rates fall sharply beyond this point

18–20

Percentage Points (PP) Loss

Reduction in creditor recovery rates for cases exceeding 3 years (1 percentage points \approx significant financial loss)

65%

NCLT

Share of total CIRP delay attributable to the Tribunal across 492 cases

What the threshold regression shows:

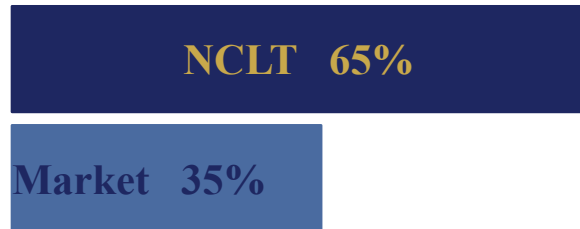
Cases resolved within 2.97 years show no statistically significant drop in recovery. The CIRP moratorium actually preserves going-concern value. But beyond that threshold, each additional day of delay causes measurable, compounding creditor loss. For a case with ₹500 crore in admitted claims, middle-stage delay alone implies a loss of ₹34.5 crore to creditors.

Why These Reforms? Delay Attribution & Bench Inequality

Evidence Behind Pillars IV & V

Who Causes the Delay?

Across 492 cases, stage-wise decomposition of CIRP timelines:



This is a structural problem.

The NCLT's contribution arises from jurisdictional overload (company law + IBC + M&A + winding up), IA proliferation (each extra IA reduces resolution probability by 22%), and understaffed benches.

Geography Shouldn't Determine Recovery

NCLT-attributable share of delay (by bench)



Kochi: +15.71 pp over reference bench ($p=0.018$). New Delhi: +7.99 pp ($p=0.012$). Geography and not merits determines outcomes. This demands structural harmonisation.

Why These Reforms? Firm Impact & Market Confidence

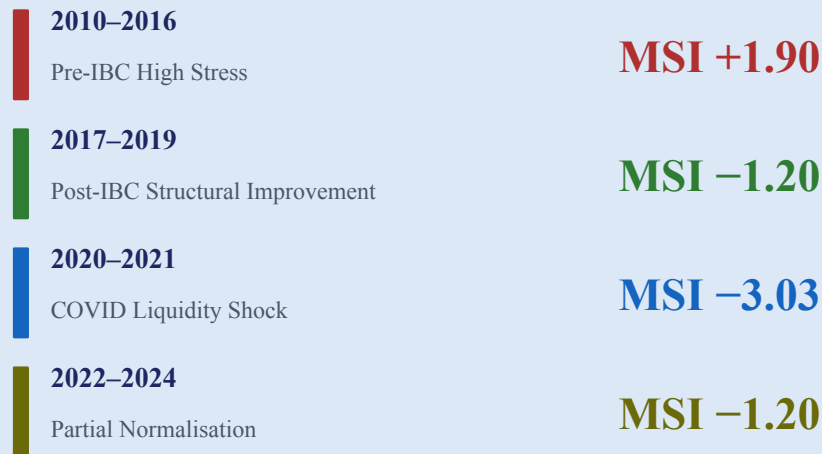
Evidence Behind Pillars II & III

CIRP Impact on Firm Financials

Trade payables	Higher reliance on supplier credit significantly worsens outcomes, indicating liquidity stress.
Interest expense	Rising debt-servicing costs sharply erode outcomes, making interest burden a key driver.
Employee cost	Increases in wages and salaries without productivity significantly compress outcomes, reflecting margin pressure.
Trade receivables	Higher receivables marginally weaken outcomes, suggesting collection delays or aggressive credit.
Total assets	Asset growth shows diminishing returns, with only marginal improvement in outcomes.

Other variables are not significant. Caution drawn to data constraints.

IBC's Macrofinancial Signal



IBC's enactment shifted the Macro Stress Index by -3.09 units ($p < 0.001$) - a measurable investor confidence premium. The subsequent accumulation of delays has been systematically eroding this gain. Markets price CIRP predictability into credit risk and FDI decisions.

Research Design

Data and Methodology

Defining Delay

498 resolved CIRP cases (2017-25)

Stage wise decomposition of CIRP timelines and attribution to market players

Recovery Rates

1. Sanitised 1149 resolved CIRP cases
2. 492 cases from above with full CIRP timeline breakdown

Ordinary Least Squares Regression analysis

Firm Performance

82 listed firms' financial performance (2013-25)

Random and Fixed Effects Panel Regression

Market Confidence

8 macro economic indicators (2010-24)

Principal Component Analysis with Regression

Bench Survival

Case level data for Chennai and Principal benches (2020-25)

Cox Proportional Hazard Model

Recovery - Benches

Same data as used for recovery rates with bench details

Regression controlled for bench wise heterogeneity

Conclusion: From Promise to Performance

The IBC's promise is real and measurable. The evidence confirms:

- The structural break at IBC enactment generated a genuine macrofinancial confidence premium (MSI shift of -3.09 units)
- Recovery rates for timely CIRP proceedings are meaningful (46.33% for early-stage cases)
- But delay is the IBC's existential threat: 0.0104 percentage points of recovery are lost per day beyond the 1,084-day threshold
- 65% of delay is NCLT-attributable; bench geography and not commercial merit shapes outcomes

The 5-pillar reform agenda : temporal discipline, tiered resolution, macro monitoring, institutional redesign, and bench harmonisation charts a path from promise and attrition to genuine systemic efficiency, worthy of the legislative vision that animated the IBC in 2016.