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CIRP Delays in India: Why 330 Days Timeline Remains a Challenge Under IBC

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ABSTRACT:

The Insolvency and Bankruptcy Code (IBC), 2016, was intended to be a time-bound process to resurrect the financially sick companies and achieve value maximisation of assets for the lenders/account holders. Key to the code is the Corporate Insolvency Resolution Process (CIRP), with a timeline of 330 days. Nevertheless, the reality can be drastically different, as shown by data and recent developments which are suggesting that in most cases the legal deadlines are hugely overreached. This paper interrogates the complex reasons, including systems delays of the National Company Law Tribunal (NCLT), frequent judicial interventions, gaps in process and structural deficits of institutional capacity, that underlie these time lags. It analyses how delays in admission and approval of resolution plan, adversarial litigation strategies and lack of liability for resolution professionals add to elongated the CIRP timelines. The paper also discusses the commercial implications of delay of such process in terms of erosion of value, diminution in creditor recoveries and for lack of market confidence. Analysing recent case law as well as official reports and expert commentary, the article recommends as broad reforms as imposing a 30-day deadline to approve plans to the IBC, widening pre-packaged remedy, training of judges and mediation processes, to re-enforce the commitment of the law to ensure timely and efficient insolvency resolution. The paper argues that in the absence of these reforms becoming institutionalized, the 330-day timeline would continue to be an aspiration rather than a workable rule, thereby undermining the effectiveness of India's insolvency regime.

Introduction:

Delay in CIRP has become a critical challenge for India's insolvency framework, with an alarming 131,710 cases worth over Rs.9,00,000 crores currently pending. What's even more concerning is that 71% of these cases have remained unresolved for over 180 days. Despite the Insolvency and Bankruptcy Code (IBC) being designed as a time-bound mechanism, the reality on the ground tells a different story.

The CIRP process under IBC was initially structured with strict timelines to ensure swift resolution. However, pragmatic challenges forced amendments in 2019, extending the timeline. Currently, the corporate insolvency resolution process shall be completed within a period of 330 days from the insolvency commencement date, increased from the original 180+90 days framework. While the IBC has facilitated the resolution of over Rs.3.16 lakh crore of debt across 808 cases, frequent extensions and procedural delays continue to undermine its effectiveness.

We've observed that these delays aren't merely procedural inconveniences. In fact, they can make reorganization impossible and may ultimately lead to value destruction through forced liquidation. The Standing Committee on Finance has identified two critical bottlenecks: delays in admission of cases and approval of resolution plans by the National Company Law Tribunal (NCLT). Throughout this article, we'll examine why the 330-day timeline remains elusive, the systemic causes behind these delays, and potential reforms that could strengthen the CIRP framework.

Why CIRP Timelines Matter in the IBC Framework

Time is the essence of insolvency resolution. The Corporate Insolvency Resolution Process (CIRP) under India's Insolvency and Bankruptcy Code (IBC) was deliberately structured as a time-bound mechanism. Unlike previous regulatory frameworks that allowed cases to drag on for years, the IBC established clear timelines aimed at quick resolution or efficient market exit for distressed businesses. But why exactly are these timelines so critical to the success of the entire insolvency framework?

Objective of Time-Bound Resolution under IBC

The preamble of the IBC clearly states its purpose: to consolidate and amend laws relating to reorganization and insolvency resolution "in a time-bound manner" [1]. This isn't merely procedural - time-bound resolution forms the cornerstone of the IBC's philosophy.

The IBC originally stipulated a 180-day deadline for completing the CIRP, extendable by 90 days in exceptional circumstances. Nevertheless, recognizing practical challenges, amendments in 2019 extended this to 330 days, including extensions and time consumed in legal proceedings [2]. This timeline serves several critical purposes:

First, it provides certainty to all stakeholders about when the process will conclude. Second, it creates a structured environment for resolution. Third, it prevents strategic delays by stakeholders with vested interests. Fourth, it establishes a moratorium period that keeps the corporate debtor's assets together during the resolution process, facilitating the continuation of the business as a going concern [3].

The Supreme Court has consistently emphasized that the IBC is fundamentally a "time-bound process" [3]. In practical terms, this means the process cannot become "an unending ordeal" - a concern specifically addressed in recent judgments [3]. Accordingly, the courts have recognized that adherence to these timelines is essential for maintaining the sanctity of the insolvency resolution process.

Link Between Value Maximization and Timeliness

Perhaps the most compelling reason for strict timelines is their direct correlation with value preservation. As noted in numerous studies, "value is usually dependent on the time taken to resolve the insolvency" [1]. When resolution drags on, the corporate debtor's value erodes rapidly.

Data reveals a worrying trend: the average time taken for CIRPs that resulted in resolution plans is 581 days, far exceeding the prescribed timeline [2]. For CIRPs ending in liquidation, this figure rises to 654 days [2]. In extreme cases, like Essar Steel, the process took 866 days to complete [2]. These delays don't just prolong uncertainty - they fundamentally threaten the IBC's core objective of value maximization.

The connection between timeliness and value is straightforward: prolonged proceedings lead to:

- Further financial deterioration of the corporate debtor
- Depletion of working capital
- Loss of key employees and customers
- Deterioration of assets and equipment
- Diminished market confidence

Furthermore, delays disproportionately impact different stakeholders. Financial creditors might endure extended timelines hoping for better recovery, but operational creditors - especially workers and small enterprises - often cannot afford to wait [3]. For these stakeholders, delays in receiving dues can push them toward financial difficulties.

The IBC recognizes this critical link between timeliness and value maximization. At its core, the Code envisages resolution that maximizes "value" rather than just "price" [4]. This distinction is important - value improves when business continues and assets are used efficiently. Consequently, every day of delay potentially diminishes this value, making the prescribed timelines not just administrative goals but economic imperatives.

Systemic Causes of Delay in CIRP Proceedings

The procedures designed to expedite insolvency resolution have, ironically, become sources of significant bottlenecks. Despite the IBC's framework stipulating clear timelines, actual implementation faces multiple hurdles. According to the latest IBBI data, the average time for resolution plan approval has extended to 761 days [5], more than double the statutory limit of 330 days. Similarly, liquidation cases are experiencing comparable delays, with orders taking approximately 680 days from the insolvency commencement date [5]. Let's examine the primary systemic issues causing these persistent delays.

Delays in Admission by NCLT

The Corporate Insolvency Resolution Process begins with the admission of an application, which according to Sections 7(4), 9(5), and 10(4) of the IBC should be completed within 14 days [6]. Yet, this timeline has never been met in practice [7]. A 2021 IBBI Survey on CIRP Timelines revealed that the National Company Law Tribunal takes an average of 133 days from filing to decide on a CIRP application [6].

The situation has worsened over time. Data analysis shows that in 2020-21, admission of Section 9 applications took an average of 468 days, subsequently increasing to 650 days in 2021-22 [1]. Among these applications, only 39 were admitted in less than a year, whereas 86 took 1-2 years, and an alarming 82 cases exceeded 2 years for admission [1].

These pre-admission delays create a dangerous window where:

- Corporate assets may be siphoned by promoters [6]
- Creditors might attempt unauthorized debt enforcement [6]
- Overall corporate value continues to deteriorate [7]

In the case of Techno Electric & Engineering Co. Ltd. v. McLeod Russel India Ltd., the applicant had to approach the NCLAT after their application remained unattended for almost seven months due to shortage of judges [6].

Backlog in Resolution Plan Approvals

Following admission, resolution plans face another bottleneck. The Standing Committee on Finance identified plan approval as the second major stage where delays occur [8]. As of April-June 2024, the average time between insolvency commencement and resolution plan approval stands at 761 days [5].

ICRA estimates that the average duration for closing a CIRP yielding a resolution plan increased to 843 days in FY2024 from 831 days in FY2023 [9]. This extended timeline has serious financial consequences, worsening the haircut that creditors must accept from 64% in FY2023 to 73% in FY2024 [9].

Primarily, these delays stem from:

- Judicial scrutiny that sometimes exceeds necessary bounds [10]
- Limited bench strength and excessive case backlog [5]
- Complex cases requiring extensive negotiations [5]
- Reluctance of CoC to make timely decisions [3]

Overuse of Interim Applications by Stakeholders

Perhaps the most controllable yet persistent cause of delay is the flood of interim applications filed throughout the CIRP. Various stakeholders adopt an adversarial approach, clogging the system with numerous pending applications before the NCLT [8].

The erstwhile management often files unnecessary litigation on grounds such as:

- Offering last-minute settlement proposals [8]
- Challenging eligibility of resolution applicants [8]
- Disputing constitution of the Committee of Creditors [8]

Additionally, creditors themselves may contribute to delays through:

- Inter-creditor disputes [3]
- Delayed voting on key matters [3]
- Disagreements over RP appointments [3]

Misha, Partner at Shardul Amarchand Mangaldas & Co, noted that "Ever since the Covid pandemic, an apathetic mindset has crept into the system. The urgency and sanctity of timelines under IBC are no longer sacrosanct" [5]. This observation highlights how procedural delays have become normalized, undermining the Code's fundamental time-bound nature.

Judicial and Procedural Loopholes Enabling Delay

Beyond systemic bottlenecks, the judicial interpretation of IBC provisions has created significant loopholes that enable delays in Corporate Insolvency Resolution Process (CIRP). The framework designed to ensure timely resolution often becomes ineffective through creative legal interpretations and procedural gaps that allow stakeholders to extend proceedings well beyond statutory timelines.

Discretionary Interpretation of Section 12

Section 12 of IBC explicitly mandates completing CIRP within 330 days, including extensions and litigation periods. Yet, tribunals have extensively stretched this provision through creative interpretations. In *Committee of Creditors of Essar Steel Limited v. Satish Kumar Gupta & Ors*, the Supreme Court confirmed this 330-day outer limit, but simultaneously opened the door for exceptions by allowing time exclusions in "extraordinary circumstances" [11].

The Vidarbha Industries judgment further expanded NCLT's discretionary power at the admission stage, holding that tribunals must consider additional grounds raised by corporate debtors against admission. This judgment essentially paved the way for proceedings to extend well beyond the mandated timeframe [11]. Indeed, research shows admission procedures alone take 121 days longer than expected, directly contradicting IBC's vision of swift resolution [11].

Frequent Use of Exclusion Grounds

The NCLAT's landmark judgment in *Quinn Logistics India Pvt. Ltd. Vs Mack Soft Tech Pvt. Ltd.* established multiple grounds for excluding periods from the 330-day calculation [12]. These exclusions include:

- Time when CIRP is stayed by courts
- Periods without a functioning Resolution Professional
- Time between admission and RP taking charge
- Duration when orders are reserved by tribunals
- Time spent in litigation that results in CIRP restoration

Essentially, each of these grounds provides stakeholders with legitimate ways to extend proceedings. After examining actual cases, it becomes evident that tribunals readily exclude time periods from CIRP while exercising powers under section 12, read with section 60 [4]. The NCLAT has repeatedly used this discretion, notably in cases like *Ritu Rastogi RP of Benlon India Ltd. Vs. Riyal Packers*, declaring them "exceptional cases" warranting departure from the 330-day limit [12].

Lack of Penalties for Non-Adherence

Perhaps most importantly, the IBC framework lacks meaningful penalties for stakeholders who deliberately prolong proceedings. Although Section 65 sanctions persons initiating proceedings with fraudulent intent (imposing penalties up to INR ten million), there are no comparable provisions for stakeholders causing delays after admission [13].

At present, no accountability mechanism exists for Committee of Creditors or Resolution Professionals who miss statutory deadlines [4]. The absence of consequences has normalized what a senior partner at a leading law firm described as "an apathetic mindset... where urgency and sanctity of timelines under IBC are no longer sacrosanct" [14].

Institutional and Structural Challenges

Underneath the procedural and judicial challenges plaguing the CIRP timeline lies a more fundamental set of institutional and structural barriers. These impediments create a breeding ground for delays that extend far beyond the prescribed 330-day resolution period under the IBC. The institutional framework supporting insolvency resolution in India faces significant capacity constraints that ultimately undermine the effectiveness of the entire process.

Limited Capacity of NCLT Benches

The NCLT benches currently struggle with an overwhelming caseload that makes timely resolution practically impossible [3]. This heavy burden directly impacts the efficiency of case handling, significantly increasing the timeframe of insolvency proceedings. Infrastructure limitations compound this problem, with many tribunals operating with inadequate resources—poorly equipped courtrooms, insufficient support staff, and limited technological capabilities [3].

Moreover, the timely appointment and continuous training of tribunal members remain persistent challenges. Without rigorous training, many tribunal members lack the specialized knowledge needed to handle complex insolvency cases efficiently [3]. Consequently, even straightforward applications face unnecessary delays.

Inefficiencies in Committee of Creditors (CoC)

The CoC, primarily comprised of financial creditors, frequently contributes to delays through inefficient decision-making processes. Despite IBBI guidelines instructing CoC members to "maintain objectivity during the decision-making process" [2], committee meetings often face postponements and indecisive outcomes.

Typically, the CoC fails to:

- Expeditiously decide on expenses incurred by the Resolution Professional [2]
- Promptly address belated claims categorized as acceptable [2]
- Ensure meetings occur at regular intervals as specified in regulations [2]

Furthermore, conflicting interests within the CoC regularly impede consensus, particularly when financial creditors prioritize their recovery over the corporate debtor's overall value maximization [15].

Lack of Accountability for Resolution Professionals

Resolution Professionals (RPs) face minimal consequences for ineffective performance or biased conduct. The NCLT Mumbai bench explicitly noted this issue in a recent case, observing that an RP was "steering the CoC proceedings in such a way so as to achieve the objective of getting the Plan of [a specific] Respondent approved" [16].

More broadly, RPs often lack sufficient competence to handle complex cases effectively. The insolvency process heavily depends on the skills of these professionals, yet inadequate standards and deviation practices frequently lead to suboptimal outcomes for stakeholders [3]. Additionally, weak accountability mechanisms fail to address conflicts of interest that commonly arise when practitioners have existing relationships with specific creditors [3].

Ultimately, these institutional and structural deficiencies create an environment where delays become the norm rather than the exception, making the 330-day timeline an increasingly distant goal.

Reforms to Strengthen CIRP Timelines

Recognizing the urgent need to address CIRP delays, policymakers have proposed several concrete reforms that could strengthen timeline adherence without compromising the resolution quality.

Fixing 30-Day Limit for Plan Approval

One critical reform focuses on establishing a firm 30-day window for NCLT to approve or reject resolution plans. Currently, plan approval stage creates significant bottlenecks in the resolution process. The Insolvency Law Committee has recommended that the NCLT should not take more than 30 days after receiving a request for approval or rejection of a resolution plan [17]. If the tribunal fails to pass an order within this timeframe, it must provide written reasons for the delay. This proposed amendment aims to tackle what the Parliamentary Standing Committee identified as a major cause of delay in resolution [18].

Specialized Benches and Judge Training

To improve adjudication quality and speed, specialized insolvency benches with trained judges remain crucial. The INSOL International and World Bank Group have developed the Judicial Insolvency Program specifically to build capacity among judges handling insolvency cases [19]. This e-Learning program covers key principles, concepts, procedures, and challenges of insolvency law through actual case examples. The training includes video testimonials from insolvency judges across both civil and common law jurisdictions [19]. Furthermore, new NCLT rules are expected to establish dedicated admission benches responsible for admitting/rejecting CIRP applications within 14 days [20].

Expanding Pre-Pack and Fast-Track Mechanisms

Pre-packaged insolvency resolution process (PPIRP) offers a faster alternative to traditional CIRP, requiring completion within 120 days [21]. Currently available only for MSMEs, the PPIRP combines judicial and non-judicial processes [22]. Similarly, the fast-track CIRP provides a 90-day resolution window (extendable by 45 days) for smaller businesses [23]. Both mechanisms significantly reduce timelines compared to standard CIRP proceedings and could be expanded to more categories of corporate debtors.

Use of Mediation to Reduce Litigation

Mediation presents another promising approach to reduce CIRP delays. As litigation remains a major cause of delay [3], introducing mediation at various stages could significantly streamline the process. The growing use of mediation in insolvency disputes connects with "the need to reduce the number of insolvency cases and ensure stability in the market" [24]. Presently, the government is preparing amendments—informally called IBC 2.0—to introduce a creditor-led resolution process allowing for voluntary, out-of-court mediation [25]. This approach could substantially reduce NCLT's caseload while encouraging stakeholder-led revival plans.

Conclusion

Time certainly remains of the essence for India's insolvency framework. Throughout this analysis, we have examined how the Corporate Insolvency Resolution Process (CIRP) under IBC faces significant challenges in meeting the prescribed 330-day timeline. Despite ambitious legislative intent, actual resolution continues taking an average of 761 days [5], substantially eroding corporate value and undermining stakeholder confidence.

Evidently, multiple factors contribute to these persistent delays. NCLT admission bottlenecks, resolution plan approval backlogs, and strategic interim applications collectively slow the insolvency machinery. Additionally, judicial interpretations have created loopholes that allow proceedings to extend well beyond statutory limits. The lack of penalties for timeline violations further compounds this problem, normalizing what should remain exceptional circumstances.

Structural limitations also play a crucial role. Inadequate NCLT bench strength, inefficient CoC decision-making processes, and limited accountability for Resolution Professionals collectively create an environment where delays become inevitable rather than preventable.

Nevertheless, hope exists for meaningful reform. Promising proposals include strict 30-day windows for plan approval, specialized insolvency benches with trained judges, expanded pre-packaged resolution options, and mediation-based approaches to reduce litigation. These measures, if implemented effectively, could significantly streamline the resolution process.

The road ahead requires balancing efficiency with fairness. Though expedited timelines remain essential for value preservation, quality resolution must not be sacrificed at the altar of speed. Accordingly, reforms should focus not merely on enforcing timelines but on removing structural barriers that make compliance difficult.

We must remember that behind every delayed case stands a struggling business, anxious employees, and frustrated creditors. Their collective interests demand a system that delivers timely resolution without compromising procedural fairness. Until India's insolvency framework achieves this balance, the 330-day timeline will remain more aspirational than operational for most cases under the IBC regime.

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