



E-ISSN: 2706-8927  
P-ISSN: 2706-8919  
Impact Factor (RJIF): 7.28  
[www.allstudyjournal.com](http://www.allstudyjournal.com)  
IJAAS 2025; 7(12): 86-89  
Received: 15-10-2025  
Accepted: 18-11-2025

**Mahesh Prakash Kolamkar**  
Research Scholar, Marathwada  
Mitra Mandal Shankarrao  
Chavhan Law College, Pune,  
Maharashtra, India

**Dr. Sourabh Vasant Ubale**  
Research Guide, Marathwada  
Mitra Mandal Shankarrao  
Chavhan Law College, Pune,  
Maharashtra, India

**Corresponding Author:**  
**Mahesh Prakash Kolamkar**  
Research Scholar, Marathwada  
Mitra Mandal Shankarrao  
Chavhan Law College, Pune,  
Maharashtra, India

## A study of regulatory competition in corporate insolvency law in India with reference to insolvency and bankruptcy code 2021 & 2023

**Mahesh Prakash Kolamkar and Sourabh Vasant Ubale**

**DOI:** <https://www.doi.org/10.33545/27068919.2025.v7.i12b.1784>

### Abstract

With special reference to Insolvency and Bankruptcy Code (IBC) reforms of 2021 and 2023, this paper is descriptive-theoretical research on the competition of the regulations of the Indian corporate insolvency law. It looks into how the three factors influencing the institutions of insolvency governance can be manipulated in terms of the institutional development, procedural nature of innovations, and responsiveness of legislation. The paper is focused on the IBC being adjusted to the local economic factors in India and the context of the international insolvency reforms through the local and comparative perspective. The research finds that regulatory competition is a standard for substantial efficiency, transparency, and economic justice in the dynamic financial structure in India by taking into account the relationship between the regulators and adjudicators and the actors in the market.

**Keywords:** Regulatory competition, insolvency governance, institutional development, procedural innovations, legislative responsiveness, economic justice

### 1. Introduction

#### 1.1 Regulatory Competition in the Context of Insolvency

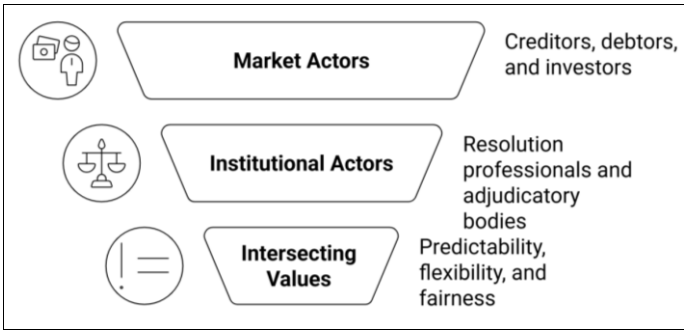
The law of insolvency has taken on a significant connotation of corporate control and the financial market, with credit scattered over it, investors entrusting their funds to it, and the market operating in a normal manner as it stipulates the regulation of insolvency, on which businesses unable to finance their organizational operation are thrown out of the market. This is particularly timely in such scenarios, as the economies actively liberalize and open, where the competition regulator or the competition between jurisdictions or regimes of any of the three parties that attract capital, facilitate the smooth operation of judicial operations, or make the law particularly predictable are becoming increasingly visible in such a situation (Eidenmuller, 2019; D'Alvia, 2022) <sup>[2, 1]</sup>. The competition theory of regulation of the bankruptcy is especially interesting in India due to the post-liberalization history in India, which was based on the spurt in the levels of corporate debts and credit construction and the specialization of the industrial foundation. Two examples of the way in which the structure of the bankruptcy regulation has been receptive to the task of reconciliation of the realities of the local institutions and the international best practice would be the Insolvency and Bankruptcy Code (IBC) and its periods of revisions.

### 2. Conceptual Foundations of Regulatory Competition

Regulatory competition pertains to the association amid the regulating bodies as well as structural problems wherein they would seek to gain an advantage over the like economic participants and establish more legal predictability and compliance. It is posed in terms of the insolvency regime of the corporate bankruptcy legislations, both of which balance between the market attractiveness, the speed, the safety of the debtor, and the safety of the creditor. The efficient markets are not only cheap but are also capable of recovery of asset maximization, and because they are also capable of predicting the exodus or restructuring process. This is not only a legal rivalry in terms of reducing the cost but also an economic rivalry. Insolvency is not a formula of success and failure, but there are several jurisdictions that vary according to the circumstances in which they are applied and practiced. The two cases of the rescue regimes of different companies are the US Bankruptcy Code and the UK

Insolvency Act, where the supply of regulation creates a balance between the assurance of the creditors and the adaptability of the debtor. This dynamic will allow interest

savings on the part of the stakeholder as a way of bringing a change to the bankruptcy situation in India.



**Fig 1:** Conceptual Framework of Regulatory Competition in Insolvency Law: Interactions between State, Market, and Institutional Actors

**3. Historical and Institutional Evolution of Insolvency Regulation in India:** The Sick Industrial Companies (Special Provisions) Act, 1985 (SICA); the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002 (SARFAESI Act); and the winding-up procedures of the Companies Act, 1956, were added to the Corporate Insolvency Bankruptcy Code, 2016, of the country. The new laws were all pulled together under one transitional and credit-based scheme dubbed IBC. As the new regulator and the adjudicating authorities, new bodies like the Insolvency and Bankruptcy Board of India (IBBI) and courts to adjudicate on corporate bankruptcy

were initiated, like the National Company Law Tribunal (NCLT) (Bhatt and Joshi, 2020; IBBI, 2024). The significance of the 2021 and 2023 amendments was the improvement of the rules of procedures, the insolvency professional regulation, and the resolution procedures, which were subjected to the pressure of the pressure of real challenges and the changes of the novel requirements of the market. This is an adaptive competition on the regulation, which would be put in place to coordinate the efficiency, fairness, and best practices internationally and ensure the creditor and stakeholder confidence is raised.

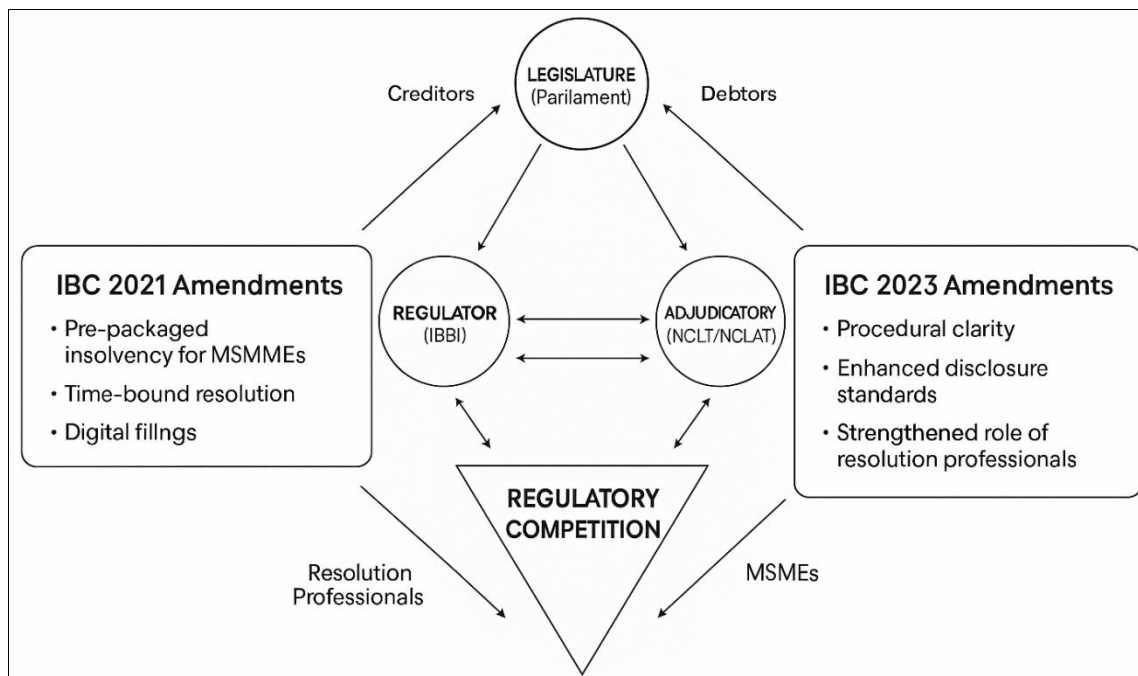
**Table 1:** Comparative Evolution of Key Insolvency Frameworks in India

Framework	Period	Key Features	Limitations	Regulatory Focus
Pre-IBC Regime	Before 2016	- Fragmented laws: Companies Act, SICA, SARFAESI, RDBFI Act - Debtor-in-possession model - DRTs and BIFR as adjudicatory bodies	- Delays and inefficiency - Poor recovery rates - Jurisdictional overlaps	Asset recovery and debt restructuring
IBC 2016	2016 onward	- Unified code - Time-bound resolution (180-270 days) - Creditor-in-control model - Establishment of IBBI, NCLT/NCLAT	- Initial implementation challenges - Limited MSME accessibility - Judicial backlog	Market-based resolution and creditor primacy
IBC 2021 Amendments	2021	- Pre-packaged insolvency for MSMEs - Streamlined filing and timelines - Enhanced digital interface	- Limited awareness among MSMEs - Operational clarity issues	MSME inclusion and procedural efficiency
IBC 2023 Amendments	2023	- Strengthened role of resolution professionals - Improved disclosure norms - Enhanced stakeholder safeguards	- Capacity constraints in RP ecosystem - Need for harmonization with global standards	Transparency, accountability, and stakeholder fairness

[Source: Thomas, S. (2022) <sup>[4]</sup>]

**4. The IBC (2021 & 2023) Amendments: Mapping the Regulatory Shifts:** The changes that took place in the years 2021 and 2023 in the Insolvency and Bankruptcy Code (IBC) of India could be seen as the reactive formation of regulation, which depends on the reaction and creation of the process by the stakeholders. There was also the integration of the pre-packaged insolvency resolution procedure (PPIRP) regarding micro, small, and medium-sized enterprises (MSMEs) as part of the reform to facilitate the litigation process and quicker resolution of cases according to digital files and the settlement agreement (Jain and Kumar, 2021). Such efforts have since been updated in 2023, making it easier to view, aligning the process with global standards, enhancing the supervisory roles of

resolution experts, and increasing the better disclosure and transparency standards (IBBI, 2023). It can be described as a mixture of these changes aiming at accomplishing the demands of global efficacy, as well as recovering the socioeconomic growth of inclusivity of India. On an institutional level, they prioritize a shift in the IBBI and NCLT/NCLAT balance as co-regulatory organizations that are engaged in the cooperative competitive standard setting. These measures can be viewed in terms of regulatory competition since they are state-of-the-art compromises between the national demands of fairness and creditor protection and the international effectiveness demands and are associated with the transformation of the Indian bankruptcy governance system into the complex one.



**Fig 2: Regulatory Shifts under IBC (2021-2023): Institutional Dynamics and Stakeholder Interactions**

## 5. Dimensions of Regulatory Competition in India's Insolvency Framework

Competition among regulators is high as far as the insolvency system in India is concerned. In trying to enhance investor confidence and process performance in the rest of the world, the simplified corporate rescue model of Singapore and the creditor-based models that typify the UK would do so in India in their endeavors (Srinivasan, 2022) <sup>[17]</sup>. IBBI and NCLT/NCLAT are vertically interacting, which appears as dynamic conflict between regulation and adjudication interpretation as the forces of institutional learning (Chakrabarti, 2021) <sup>[18]</sup>. The IBC is attempting to serve two masters, where the model of equality and efficiency, social justice, and job protection should be at war against the creditor primacy. Under this sort of tack, regulator competition ceases to be a hate game but, on the contrary, turns into a means of governing people in that way that will permit institutional legitimacy and progress to prevail. As a matter of fact, according to the modern concept of competitive federalism/adaptive regulation, such properly coordinated rivalry of the regulators and adjudicators can quite lead to procedural innovation, and such rivalry has no diminishing impact on coherence.

## 6. Normative and Theoretical Significance

The normative level of regulatory competition is available in the Indian insolvency regulation because it promotes financial and economic balance, economic fairness, and fairness of the rule of law. IBC transforms the social personal failure of contract bankruptcy and redistributes the property in a fair way by transforming the rights of the creditors in a rule of law system (Deshpande, 2022) <sup>[20]</sup>. The stagnation of the regime indicates the increasing institutionalism of conforming to the constitutional economic governing provisions, that is, Art. 21 of the right to livelihood in relation to Art. 19(1) (g) of the freedom of business. The normative commitments to both justice and predictability goals and efficacy are normalized timelines and broad and expansive stakeholder consultation and

transparency of it (Mehta, 2023). Regulatory competition will thus, by also guaranteeing that efficiency is not reckoned to be the dominant regulator, help in justifying improvement.

## 7. Challenges and Prospects for Regulatory Convergence

However, on the positive side, with its execution to its credit, India has been dealing with the issues of unsustainable institutional capacity and redundant jurisdiction and time wastage as well. Court intrusion, lock-ups, and capacity shortage in NCLT, in addition to the varied interpretation of IBC rules, have influenced the superficiality and inefficiency of recovery (Gandhi & Patel, 2021). It goes hand in hand with the alignment with the UNCITRAL Model Law in terms of an ever-expanding complexity of cross-border insolvencies currently debated in the policy (World Bank, 2023) <sup>[23]</sup>. The regulatory nexus model whereby the legislature, IBBI, and the court share knowledge, regulatory sandboxing, and experimentation (evidence-based) is one of those aspects that the regulatory nexus direction of India is not keen to pursue.

## 8. Conclusion

The Indian insolvency system is found to be the most informative on how regulatory competition is innovated as a driving force of positive changes in law and economics. The adaptive regulation can find the balance between efficiency and justice, stability in a market and social equality, which is shown in the IBC and its further revision. The challenges of Indian banks in managing bankruptcy has changed into a position of unity instead of disunity through the transparency of the procedures, institutional responsibility, and integration of the stakeholders. The ability to maintain cooperative competition, which is a paradigm where the legislature, regulatory, and judicial institutions are collaborating to be innovative, is not easy. Finally, the issue that the existence of the IBC structure in India is the expression of the efficiency of the regulatory competition in the enhancement of the stability and legitimacy of financial

regulation exists.

## References

1. D'Alvia D. International insolvency and finance law: legal constants in times of crises. Abingdon: Routledge; 2022.
2. Eidenmüller H. The rise and fall of regulatory competition in corporate insolvency law in the European Union. *Eur Bus Organ Law Rev.* 2019;20:547-566.
3. Goswami D, Godwin A. India's journey towards cross-border insolvency law reform. *Asian J Comp Law.* 2024;19(2):20-45.
4. Thomas S, editor. Insolvency and bankruptcy reforms in India. Singapore: Springer; 2022.
5. Ahuja G, Anushka. The scope of the Insolvency and Bankruptcy Code and competition law in maintaining and regulating market efficiency. *Int J Law Legal Res.* 2023.
6. Legal Service India. Impact of Insolvency and Bankruptcy Code (IBC) in India: key benefits and challenges. n.d.
7. Anderson H. Regulation of insolvency practice. In: The framework of corporate insolvency law. Oxford: Oxford University Press; 2017.
8. Eidenmüller H. The rise and fall of regulatory competition in corporate insolvency law in the European Union. *Eur Bus Organ Law Rev.* 2019;20(4):547-566.
9. Mokal RJ. Corporate insolvency law: theory and application. Oxford: Oxford University Press; 2005.
10. Mangano R. What is insolvency law? In: The anatomy of corporate insolvency law. Oxford: Oxford University Press; 2024.
11. Taxmann. A comparative analysis of insolvency law in India and other countries. *Taxmann's Corporate Law.* 2022.
12. Indian Journal of Law and Legal Research. Comparative analysis with global insolvency frameworks. 2023.
13. Legal Service India. Bankruptcy laws in India: how effective is the Insolvency and Bankruptcy Code (IBC). 2024.
14. Bhatt & Joshi Associates. Transition from SICA to IBC: a legal framework evolution in Indian corporate insolvency law. 2020.
15. Insolvency and Bankruptcy Board of India. Evolution of India's insolvency ecosystem. 2024.
16. Thomas S. Insolvency and bankruptcy reforms in India. In: India studies in business and economics. Singapore: Springer; 2022.
17. Srinivasan V. Comparative insights on insolvency reforms: lessons for India. *J Financ Regul Compliance.* 2022;30(4):533-550.
18. Chakrabarti A. Judicialization of regulatory reforms: interpreting the IBC's institutional design. *Indian Law Rev.* 2021;5(2):189-210.
19. Bork R, Mangano R. The anatomy of corporate insolvency law. Oxford: Oxford University Press; 2024.
20. Deshpande R. Economic justice and insolvency reform in India: normative perspectives. *Natl Law Sch J.* 2022;14(1):75-96.
21. Mehta T. Rule of law and market governance: rethinking IBC reforms. *Asian J Comp Law.* 2023;18(2):233-252.
22. Gandhi S, Patel K. Regulatory bottlenecks and judicial delays in India's IBC framework. *J Corp Law Stud.* 2021;21(3):487-506.
23. World Bank. Doing business and resolving insolvency: India case study. Washington (DC): World Bank; 2023.