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Examining the Justifiability of Haircuts by Committee of Creditors in Indian Insolvency Matters

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ABSTRACT

The enactment of the Insolvency and Bankruptcy Code (IBC), 2016 revolutionized India's corporate insolvency landscape by establishing a time-bound, creditor-in-control mechanism aimed at the resolution rather than liquidation of financially distressed companies. A cornerstone of this framework is the Committee of Creditors (CoC), which possesses the authority to evaluate and approve resolution plans, often involving substantial "haircuts"—a term that refers to the reduction in the amount recoverable by creditors. The increasing prevalence of deep haircuts, sometimes exceeding 90%, has generated critical discourse surrounding the transparency, justifiability, and equitable nature of such resolutions. This paper seeks to critically examine the justifiability of haircuts allowed by the CoC, drawing from a combination of legal analysis, empirical data, and stakeholder perspectives. By evaluating case-specific details from a decade of insolvency practice (FY2017–FY2024), this study identifies trends that raise questions about the effectiveness of the CoC's commercial discretion and the adequacy of judicial oversight. The paper highlights significant inconsistencies in recovery rates, asset valuation mechanisms, and stakeholder treatment—particularly the inequitable distribution of recoveries between financial and operational creditors. It also examines the macroeconomic implications of haircuts, including their impact on public sector banks, investor confidence, and taxpayer perception, given that a majority of the financial exposure stems from public funds. Furthermore, the research explores whether the

current legal framework adequately safeguards against misuse of the CoC's authority and whether judicial deference to "commercial wisdom" has inadvertently contributed to suboptimal resolutions. Through an in-depth analysis of ten landmark insolvency cases, this study contextualizes haircuts within India's evolving insolvency ecosystem and identifies systemic gaps in valuation standards, procedural timelines, and creditor accountability. The paper is supported by a robust literature review, real-world statistics, and a comparative perspective with international insolvency regimes. Finally, the study proposes targeted policy recommendations including enhanced CoC transparency, standardized valuation norms, and regulatory safeguards to ensure that haircuts, when necessary, align with the IBC's core objective—maximization of value for all stakeholders

KEYWORDS

Committee of Creditors, Haircuts, Insolvency, Bankruptcy, Financial creditors, Operational creditors

INTRODUCTION

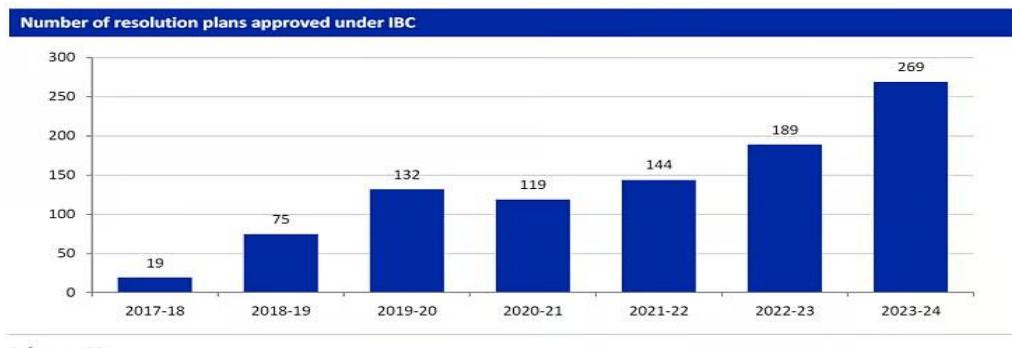
The Insolvency and Bankruptcy Code (IBC), enacted in 2016, was a landmark reform aimed at streamlining the insolvency process in India. It introduced a creditor-in-control model, with the Committee of Creditors (CoC) empowered to make key decisions regarding the resolution of distressed companies. A significant aspect of this process involves 'haircuts,' where creditors agree to accept less than the full amount owed to them.¹ While haircuts are a common feature in insolvency proceedings worldwide, the magnitude and frequency of such concessions in India have raised concerns about their justifiability and impact on the financial ecosystem.

Recent data underscores the growing prevalence of substantial haircuts in Indian insolvency cases. According to a report by ICRA, creditors faced an average haircut of 73% in FY24, up from 64% in FY23.² This trend indicates a worsening recovery rate for lenders, with the average time taken for resolution increasing to

¹ Aura Sipura, "The right to equal pay is both a fundamental right and a human right: A critical discourse analysis of the political debate on pay transparency legislation" (2023).

² Nishanthini Ravichandra Rao and Jayendra Kasture, "Sectoral insights into corporate insolvency: a comprehensive analysis of Corporate Insolvency Resolution Process (CIRP) outcomes in India," ahead-of-print *International Journal of Law and Management* (2024).

843 days in FY24, surpassing the 330-day limit prescribed by the IBC. Such delays not only erode the value of the distressed assets but also contribute to higher haircuts, as prolonged insolvency proceedings diminish the prospects of full recovery.



The impact of these haircuts is particularly pronounced in high-profile cases. For instance, in the resolution of *Videocon Industries*, creditors recovered a mere 4% of their claims, leading to a 96% haircut.³ Similarly, in the case of *Alok Industries*, lenders accepted an 83% haircut, recovering only ₹5,052 crore against admitted claims of ₹29,523 crore.⁴ These cases highlight the challenges faced by the CoC in balancing the objectives of value maximization and timely resolution.

Moreover, the distribution of recoveries among different classes of creditors has been a contentious issue. Operational creditors, who often lack representation in the CoC, tend to receive negligible recoveries compared to financial creditors. In the *Essar Steel* case, while financial creditors recovered 85% of their dues, operational creditors received only 5%.⁵ This disparity raises questions about the equitable treatment of stakeholders and the inclusivity of the resolution process.

The increasing incidence of substantial haircuts has also attracted judicial scrutiny. In February 2024, the Delhi High Court directed the Insolvency and Bankruptcy Board of India (IBBI) to frame a code of conduct for the effective functioning of the CoC, emphasizing the need for transparency and

³ “Videocon Industries Investor Relations: Corporate Governance,” available at: <https://www.videoconindustriesltd.com/cirp.aspx> (last visited May 5, 2025).

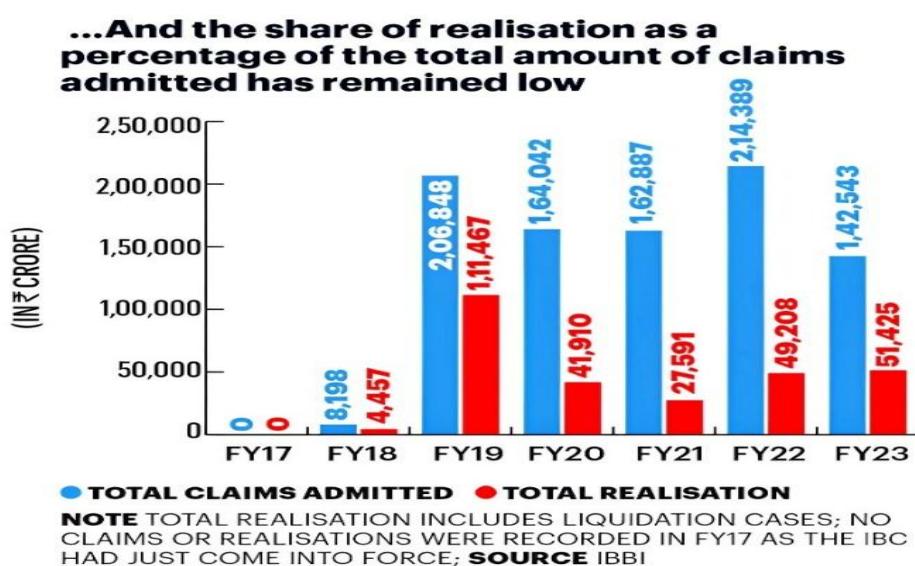
⁴ InsolvencyT, “Alok Industries road to recovery replete with challenges” *Insolvency Tracker*, 2022 available at: <https://insolvencytracker.in/2022/07/30/alok-industries-revival-faces-many-challenges/> (last visited May 5, 2025).

⁵ “From deep haircuts to higher recoveries,” *Financial Express*, 2024 available at: <https://www.financialexpress.com/opinion/from-deep-haircuts-to-higher-recoveries/3663489/> (last visited May 5, 2025).

accountability in decision-making.⁶ This move reflects growing concerns about the unchecked discretion of the CoC and the potential for misuse of power in approving resolution plans with significant haircuts.

Furthermore, the overall recovery rates under the IBC have shown a declining trend. Data from the Insolvency and Bankruptcy Board of India (IBBI) indicates that the cumulative recovery rate has decreased from 43% in Q1FY20 to 32.9% in Q4FY22.⁷ This decline suggests that despite the increasing number of resolutions, the effectiveness of the IBC in maximizing value for creditors is diminishing.

The challenges associated with high haircuts are further compounded by the limited capacity of the National Company Law Tribunal (NCLT). As of December 2023, the NCLT was operating at only 50% capacity, with 34 out of 62 member positions vacant and over 20,000 cases pending.⁸ This backlog contributes to delays in the resolution process, leading to asset value erosion and higher haircuts.



⁶ Verdictum News Desk, “Delhi HC Directs IBBI To Frame Code Of Conduct For Effective Functioning Of Committee Of Creditors,” 2024 available at: <https://www.verdictum.in/court-updates/high-courts/2024-dhc-1042-kunwer-sachdev-vs-idbi-bank-ors-ibbi-1521587> (last visited May 5, 2025).

⁷ CFA, “Critically evaluating the proposed amendments to the Insolvency and Bankruptcy Code” *Centre for Financial Accountability*, 2023 available at: <https://www.cenfa.org/critically-evaluating-the-proposed-amendments-to-the-insolvency-and-bankruptcy-code/> (last visited May 5, 2025).

⁸ Nancy Pathak, “Failing Resolutions, Faltering Recovery: Unchecked Vikas of Corporate Defaulters” *Centre for Financial Accountability*, 2024 available at: <https://www.cenfa.org/failing-resolutions-faltering-recovery-unchecked-vikas-of-corporate-defaulters/> (last visited May 5, 2025).

While haircuts are an integral part of insolvency proceedings, the magnitude and frequency of such concessions in India raise concerns about their justifiability. The increasing average haircuts, prolonged resolution timelines, and disparities in recoveries among creditors highlight systemic issues within the insolvency framework.⁹ Addressing these challenges requires a multifaceted approach, including enhancing the capacity of adjudicating authorities, ensuring equitable treatment of all stakeholders, and establishing clear guidelines for the CoC's decision-making process. Such measures are essential to uphold the objectives of the IBC and restore confidence in the insolvency resolution mechanism.

LEGAL FRAMEWORK AND THE ROLE OF THE COMMITTEE OF CREDITORS

Under Sections 28, 30, and 31 of the IBC, the CoC is vested with powers to decide the fate of a corporate debtor.¹⁰ The Supreme Court, in *K. Sashidhar v. Indian Overseas Bank* (2019), upheld the sanctity of the CoC's commercial wisdom, asserting that courts cannot question the rationale behind their decisions if the process complies with legal mandates.¹¹ Similarly, in *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta* (2019), the apex court emphasized minimal judicial interference, reinforcing the autonomy of the CoC.¹² While this ensures swift decision-making, it also places enormous responsibility on CoC members to balance economic viability with equitable stakeholder treatment. The lack of standardized parameters or accountability mechanisms in determining acceptable haircuts remains a loophole in the legal framework.

As of March 2024, the National Company Law Tribunal (NCLT) is grappling with over 6,000 pending insolvency cases, with approximately 70% related to Corporate Insolvency Resolution Processes (CIRP). Despite the IBC's prescribed 270-day timeline for resolution, actual case durations have ballooned to an average of 500+ days, largely due to legal challenges against CoC decisions. Furthermore, recovery rates have been dismal. According to the Insolvency and Bankruptcy Board of India (IBBI), the overall creditor recovery rate in FY 2022-23 stood at merely 23% of admitted claims. High-profile cases like Bhushan Power & Steel and Alok Industries have witnessed haircuts exceeding 60%

⁹ Abhiman Das et al., "Insolvency and Bankruptcy Reforms: The Way Forward," 45 *Vikalpa: The Journal for Decision Makers* 115–31 (2020).

¹⁰ *Insolvency and Bankruptcy Code, 2016*, ss. 28, 30 & 31.

¹¹ *K. Sashidhar v. Indian Overseas Bank*, (2019) SCC OnLine SC 257

¹² *Committee of Creditors of Essar Steel v. Satish Kumar Gupta*, (2019) SCC OnLine SC 1478

and 83% respectively, raising serious concerns about the objectivity and rationale behind CoC-approved resolution plans.

An analysis of CoC compositions reveals that in over 50% of CIRPs, the top two creditors command more than 75% of the voting share, leading to potential marginalization of operational creditors and minority stakeholders. This concentration of power can result in resolutions that prioritize financial recoveries for a few while neglecting broader stakeholder interests. Alarmingly, a 2023 RBI study indicated that 65% of CoC members lack specialized insolvency training, often relying heavily on external advisors, which further questions the robustness of their commercial decision-making processes.

The lack of standardized guidelines on acceptable haircuts, valuation methods, and stakeholder prioritization continues to be a glaring regulatory gap. Despite recommendations from the Insolvency Law Committee, no uniform framework has been instituted, resulting in inconsistent outcomes across similar cases and sectors. This inconsistency undermines stakeholder confidence and dilutes the credibility of the IBC regime. The implications are particularly severe for MSMEs, which account for over 40% of all CIRPs initiated. The absence of CoC sensitivity towards job preservation has led to liquidation in nearly 30% of MSME cases, despite potential for viable restructuring.

Globally, India's average recovery rate of 23-26% under the IBC remains significantly below international benchmarks, with countries like the UK and Singapore achieving recovery rates of 63% and 59% respectively (World Bank Doing Business Report 2023). This stark contrast underscores the urgent need for reforming CoC governance through capacity-building, transparency measures, and regulatory oversight.

While judicial deference to the CoC's commercial wisdom is well-founded, statistical evidence clearly points to structural deficiencies in the current decision-making ecosystem. Strengthening CoC accountability through standardized parameters, mandatory training, and robust oversight is imperative for realizing the IBC's objectives of effective corporate rescue and equitable stakeholder treatment.

ECONOMIC AND SOCIAL IMPLICATIONS OF HAIRCUTS

From an economic perspective, haircuts are often seen as pragmatic concessions made to revive stressed assets. However, data suggests a worrying trend. The average resolution time has increased from 480 days in FY2020 to 843 days in FY2024, far

exceeding the 330-day limit prescribed under the Code.¹³ Longer durations deteriorate asset value, compelling creditors to accept deeper haircuts. Operational creditors, in particular, face disproportionate losses as financial creditors prioritize recoveries under approved plans. This skewed distribution disrupts supplier relationships, employment continuity, and investor confidence. Socially, excessive haircuts undermine public trust in the bankruptcy system, especially when public sector banks—financed by taxpayer money—accept minimal recoveries while promoters often regain control through restructuring.

CASE STUDIES ANALYSIS

S. No	Company	Admitted Claims (₹ Crore)	Recovery Amount (₹ Crore)	Haircut (%)	Key Observations
1	Videocon Industries	57,000	2,962	95%	Criticized for undervaluation and lack of competitive bidding.
2	Alok Industries	29,523	2,000 (approx)	91.8%	Acquired by Reliance & JM Financial ARC; very low recovery.
3	Bhushan Steel	56,000+	~36,000	37%	Tata Steel's acquisition led to strong recovery due to asset value and bidding.
4	DHFL	87,082	~30,000	65%	Questions on valuation and differential treatment of

¹³ *IBBI Annual Report 2024.*

					creditors.
5	Jet Airways	~15,000	~1,000 (approx)	~93% (for OCs)	Operational creditors suffered heavy losses; partial FC recovery.
6	Essar Steel	54,550	~50,000	8%	ArcelorMittal's plan gave 92% recovery; SC ensured OC fairness.
7	Ruchi Soya	12,000	~4,200	65%	Patanjali's acquisition; quicker process helped moderate recovery.
8	Reliance Communications (RCom)	49,000+	~0	Nearly 100%	No viable plan; led to liquidation.
9	Amtek Auto	12,700	~1,900	85%	Bidder default led to resolution collapse and litigation.
10	Binani Cement	~6,500	~6,500	0%	UltraTech's high offer upheld; benchmark for creditor-led recovery.

Based on the comparative analysis of ten prominent insolvency cases under the Indian Insolvency and Bankruptcy Code (IBC), a clear pattern emerges about the inconsistencies in the outcomes of resolution processes and the varying degrees of success

achieved in asset recovery.¹⁴ The disparities in haircut percentages highlight the unpredictable nature of CoC decision-making and raise crucial questions regarding valuation mechanisms, bidder engagement, and creditor prioritization.¹⁵

One of the most striking revelations from the data is the wide variation in haircut percentages—ranging from 0% in the case of Binani Cement to nearly 100% in the case of Reliance Communications (RCom). While Bhushan Steel and Essar Steel demonstrated that competitive bidding and high-value strategic investors could lead to significant recovery—63% and 92% respectively—cases like Videocon Industries (95% haircut) and Alok Industries (91.8% haircut) reveal the flip side, where creditors recovered only a fraction of their admitted claims. This divergence suggests that the efficiency and outcomes of the IBC resolution process are highly dependent on market interest, the nature of the assets, and the approach of the CoC in attracting and negotiating with bidders.

Videocon Industries' case, for instance, has become a symbol of criticism where the CoC accepted a near-total loss despite the presence of multiple business verticals and assets across countries. The Rs 2,962 crore recovery on Rs 57,000 crore worth of claims points towards potentially flawed valuation or rushed approval without exhausting competitive interest. Alok Industries also saw one of the steepest haircuts, despite its substantial textile infrastructure. Analysts and stakeholders believe that the limited time window, lack of alternate resolution applicants, and an urgency to close the process may have contributed to a suboptimal deal.

Binani Cement's resolution stands out as a textbook case of value maximization. Initially, the CoC's preferred bidder was not the highest offeror, but UltraTech Cement's significantly higher proposal led to litigation that ultimately ended in favour of higher recoveries. This case set a precedent that while commercial wisdom is respected, it must be exercised in alignment with IBC's fundamental objective—value maximization. It also served as a lesson that CoC decisions must be backed by transparent logic and not merely expediency.¹⁶

Essar Steel's case further underscores how judicial intervention

¹⁴ asper Vikas, “Judicial Pragmatism by the Supreme Court of India in Adjudicating Insolvency and Bankruptcy Issues” (Rochester, NY, 2023).

¹⁵ Priyanshu Shrivastava, “Code of Conduct for COC: Death Knell for CIRP,” 5 *Journal on Governance* 97 (2022).

¹⁶ Keerat Sidhu, “Analysis on the Fall of Binani Industries,” 4 Issue 1 *Indian Journal of Law and Legal Research* 1 (2022).

can bring balance to an otherwise skewed process. Initially, the CoC-approved resolution plan disproportionately favoured financial creditors while operational creditors were offered negligible amounts.¹⁷ The Supreme Court stepped in and emphasized fair treatment for all classes of creditors. This judgment added depth to the interpretation of Section 30(2) and 30(4) of the IBC, ensuring that commercial wisdom must still operate within the framework of equitable justice.

Another major insight arises from cases like Jet Airways and DHFL, where the treatment of operational creditors was called into question. Despite forming the backbone of business operations—like employees, vendors, and suppliers—these stakeholders received disproportionately low or no recoveries. This imbalance continues to be a structural flaw in IBC's design, given that operational creditors have no representation in the CoC and thus no say in plan approval.¹⁸ It highlights the urgent need to evolve the framework to either include operational creditors or provide stronger safeguards in plan approval.

Cases like Amtek Auto show how fragile the process can be when bidder commitments fail. The resolution had to be restarted when Liberty House backed out, resulting in delayed recoveries and further erosion of asset value.¹⁹ The lack of stringent criteria for bidder credibility during the early years of the IBC led to such setbacks, though recent amendments have sought to rectify this. Similarly, RCom's eventual liquidation highlights that despite a lengthy process and media attention, a company with massive liabilities can still see no viable resolution, suggesting deeper sectoral issues or regulatory hurdles that inhibit successful restructuring.

From a broader economic standpoint, the trend of deep haircuts has drawn criticism particularly because public sector banks—representing taxpayer money—are the largest financial creditors in most cases. For example, in Videocon, a 95% haircut essentially meant a write-off of over ₹54,000 crore in public funds.²⁰ This has

¹⁷ Prachi Trivedi and Amaan Sheikh, "Essar Steel Insolvency Case: Essar Steel India Limited through Authorised Signatory vs. Satish Kumar Gupta & Ors (Judgment Dated 15.11.2019 in Civil Appeal No. 8766-67 of 2019)," *2 International Journal of Law Management & Humanities* 133 (2019).

¹⁸ Nidhi and Anjni Anand, "EFFECTIVENESS OF CORPORATE GOVERNANCE REFORMS IN INDIA: DIRECTIONS FOR FUTURE. | EBSCOhost," 2022 available at: <https://openurl.ebsco.com/contentitem/gcd:161704949?sid=ebsco:plink:cra:wler&id=ebsco:gcd:161704949> (last visited May 8, 2025)

¹⁹ M.B. Raghupathy, "Amtek Auto – financing under distress," *11 Emerald Emerging Markets Case Studies* 1–42 (2021).

²⁰ Komal Pandey, "ICICI Bank - Videocon Bribery Case: A Case Analysis in Reference to Corporate Governance," *2 Part 1 Indian Journal of Integrated*

led to a growing sentiment that haircuts, if not adequately justified, may dilute public trust in the insolvency framework. Additionally, the RBI has expressed concerns regarding provisioning and the broader impact of such losses on the banking sector's health.²¹

The current trends under the IBC suggest a growing awareness of these issues. The Insolvency and Bankruptcy Board of India (IBBI) has released guidelines to improve valuation standards, the Supreme Court has increasingly scrutinized plan fairness, and the government has hinted at reforms that could give greater representation to smaller creditors. The push for pre-pack insolvency resolutions and the rise of asset reconstruction companies also shows attempts to provide more structured and time-efficient outcomes.

Going forward, the outcomes of this study strongly suggest that a one-size-fits-all approach to CoC discretion will not suffice.²² Cases with higher recoveries often involved better promoter cooperation, robust bidder interest, and timely resolution—all elements that can be built into systemic reforms.²³ Strengthening bidder qualification norms, mandating justification for haircuts above a certain threshold, involving independent valuers, and ensuring that operational creditors have at least a consultative role in the CoC could help rebalance the framework.

While the IBC has brought transformational change to India's insolvency regime, the comparative study of these ten landmark cases shows that the justifiability of haircuts hinges on transparency, competition, and creditor accountability.²⁴ If addressed proactively through legal and regulatory refinement, India's insolvency mechanism can become more resilient, equitable, and investor-friendly.

POLICY RECOMMENDATIONS AND STRATEGIC INTERVENTIONS

Research in Law 1 (2022).

²¹ Deepa Rishi, "RBI Guidelines on Mobile Banking Transactions in India (2008): A Comprehensive Analysis," 5 Issue 2 *Indian Journal of Law and Legal Research* 1 (2023).

²² Shukla Pooka Sunilkumar and Mohammad Atik Saiyed, "Investigating the Proposals for Early Liquidation and Resolution in Parts: Is It the Equilibrium between CoC 'Commercial Wisdom' and INC Objectives?," 6 *Journal on Governance* 28 (2023)

²³ Priyanshu Shrivastava, "Code of Conduct for COC: Death Knell for CIRP," 5 *Journal on Governance* 97 (2022).

²⁴ Anusha Dash and Adyasha Mohanty, "Effect of Insolvency & Bankruptcy Code: Enslavement of the Operational Creditors," 3 *Journal on Governance* 61 (2019).

The comparative analysis of major insolvency cases in India highlights a pressing need for systemic reforms to ensure that the haircuts approved by the Committee of Creditors (CoC) are fair, transparent, and economically justified. One of the foremost interventions required is the standardization of valuation frameworks across insolvency cases. At present, inconsistencies in asset valuation have led to disproportionately high haircuts, as witnessed in the Videocon Industries and Alok Industries resolutions. By mandating the use of at least two independent, registered valuers with sectoral expertise and subjecting high-value cases to peer-reviewed audits, the Insolvency and Bankruptcy Board of India (IBBI) can ensure more accurate and defendable valuation outcomes.²⁵ Furthermore, there must be a regulatory mandate requiring CoCs to publicly disclose the rationale for accepting resolution plans with significant haircuts, especially those exceeding 50%. These disclosures should explain the commercial rationale, the market conditions, the viability of the debtor company, and efforts taken to secure higher bids. This will enhance transparency and discourage arbitrary or expedient decision-making.

Another important reform is the inclusion of operational creditors in the CoC process, even if as non-voting observers. In many cases such as Jet Airways and DHFL, operational creditors received negligible recoveries, reinforcing systemic inequality in the resolution process.²⁶ Greater representation would ensure that the interests of small suppliers, employees, and vendors are not completely overridden by larger financial institutions. Judicial intervention must also be calibrated to trigger enhanced scrutiny in cases where haircuts cross a 75% threshold. The NCLT and NCLAT should have statutory authority to commission independent valuation checks or seek public interest reviews in such cases to prevent collusion or undervaluation. The role of Resolution Professionals (RPs) must also be made more accountable by linking their performance to key indicators such as resolution timelines, transparency, and outcomes. A rating system for RPs, maintained by the IBBI, could incentivize professionalism and penalize underperformance or negligence.

Moreover, creating a centralized resolution plan repository with full disclosure of recovery percentages, CoC voting patterns, and bidder details will support greater due diligence and consistency across cases. Cases like Amtek Auto, where the selected

²⁵ Abhiman Das et al., "Insolvency and Bankruptcy Reforms: The Way Forward," 45 *Vikalpa: The Journal for Decision Makers* 115–31 (2020).

²⁶ Saransh Jain, "Operational Creditors - The 'Outcast' of Insolvency and Bankruptcy Code," 3 Issue 4 *International Journal of Law Management & Humanities* 77 (2020).

resolution applicant failed to fulfill payment obligations, demonstrate the need for stricter eligibility checks and financial guarantees from resolution applicants. Mandatory penalties for defaulting bidders will reduce frivolous or speculative participation.²⁷ Another effective strategy could be the formation of an independent Resolution Oversight Committee comprising financial and legal experts to review high-stake or high-haircut cases and provide advisory opinions to the CoC and adjudicating authorities. In addition, considering the significant involvement of public funds, particularly through public sector banks, haircuts beyond a certain threshold should trigger mandatory review by a central body such as the Comptroller and Auditor General (CAG) or a Parliamentary Committee. This would ensure better stewardship of taxpayer money.

The broader ecosystem also requires interventions such as nationwide awareness campaigns to educate smaller creditors about their rights under the IBC, and a fast-track grievance redressal mechanism to address concerns of stakeholders who do not have voting rights. Furthermore, sector-specific resolution frameworks, especially for heavily regulated industries like telecom and aviation, can lead to faster and more effective resolutions, as generic processes have proven inadequate in complex cases like Reliance Communications and Jet Airways. The pre-packaged insolvency resolution mechanism should also be promoted as a viable alternative for mid-sized companies to prevent value erosion during prolonged insolvency processes.²⁸ Lastly, all CoC decisions involving deep haircuts should be subject to annual external audits to maintain fiduciary accountability, particularly where public sector banks are involved. These policy reforms and strategic interventions, if implemented cohesively, can restore public confidence in the insolvency process, ensure equitable treatment of all creditors, and align haircuts more closely with the economic value and public interest at stake.

²⁷ Andrew Keay, "Insolvency Law: A Matter of Public Interest?," 51 *Northern Ireland Legal Quarterly* 509 (2000).

²⁸ Peter P. Swire, "Bank Insolvency Law Now That It Matters Again," 42 *Duke Law Journal* 469 (1992).