

Building institutional capacity for adjudication

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Recap: State of general adjudication in India

WB Ease of Doing Business 2018: Enforcing contracts in India

Time (in days)	1445
Service	45
Trial & judgement	1095
Enforcement of judgment	305
Cost (% of claim value)	31
Attorney fees	22
Court & enforcement fees	8
Quality of judicial processes index (0-18)	10
Court structure & proceedings (-1-5)	4.5
Case management (0-6)	1.5
Court automation (0-4)	2
Alternate dispute resolution (0-3)	2

Recap: Insolvency adjudication in India pre-IBC

- ▶ SICA days (1985-2002 (effectively repealed in 2014)):
 - ▶ 1987-2014: 5,800 cases filed.(Sengupta, Sharma, and Thomas 2016)
 - ▶ 53% dismissed or abated; 22% recommended for liquidation and 9% recommended for rehabilitation; and 15% remained pending.
 - ▶ Average time for disposal is 6 years.
 - ▶ If liquidated, significant delays at the High Courts for winding up.
 - ▶ In a sample-study of 45 cases of winding up at the HCs, 17 of them took more than 10 years.(Ravi 2015)

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- ▶ Debt recovery tribunals:
 - ▶ In a sample of 15 cases, 60% took anywhere between 2 and 10 years. (Ravi 2015)
 - ▶ In cases filed by lenders, tribunal accounts for 26% of the delay. (Regy and Roy 2017)

IBC: three structural changes

1. Reformed the role of judiciary in resolution.
2. Timelines throughout the linear resolution process.
3. Capacity

Adjudication in the early days of IBC

Bhatia et al. 2018 empirically analyse NCLT orders disposing of insolvency petitions:

- ▶ Sample period: 1st December, 2016 to 30th November, 2017
 - ▶ 831 orders of the NCLT
 - ▶ Aggregate observations and observations around a specific event or during a specific time:
 - ▶ Q1 = 1st December, 2016 to February 28, 2017
 - ▶ Q2 = 1st March, 2017 to 31st May, 2017
 - ▶ Q3 = 1st June, 2017 to 31st August, 2017
 - ▶ Q4 = 1st September, 2017 to November 30th, 2017.
- ▶ 23 fields - binary values, numerical values, qualitative categories
- ▶ Hand collected data.

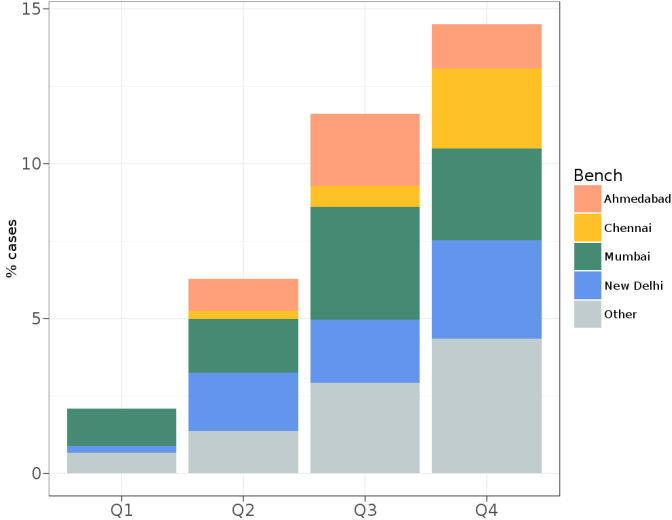
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Only represents upto 1/2 the life cycle of a case.

Build-up of case load



Disposal of insolvency petitions

Duration of disposal

T0: Date of filing

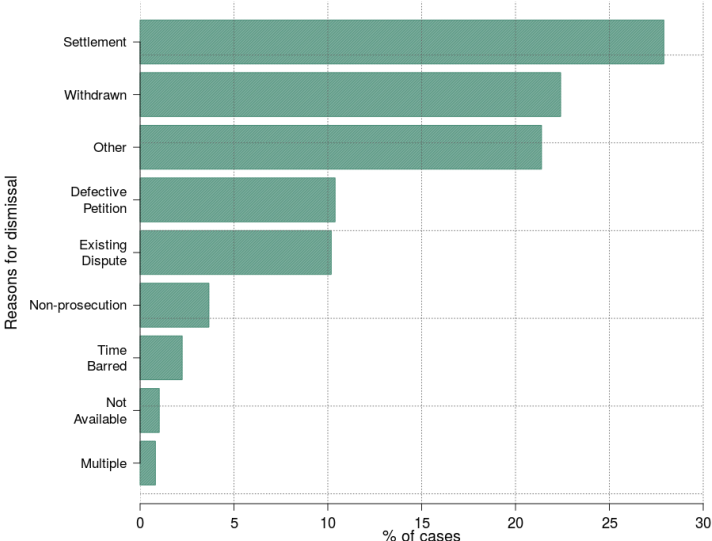
T1: Date of first hearing

T2: Date of final disposal

Stages	Observations	Median time (in days)
T0 to T1	69	14
T1 to T2	211	16
T0 to T2	115	34

Time taken for disposal of petitions

Grounds of dismissal



Capacity

Infrastructure and accountability

BLRC 2015 contemplated:

- ▶ Maximum use of technology and minimum human intervention, such as:
 1. E-filing
 - ▶ Standardisation of petitions and applications
 2. Case management software
 3. Facility for remote audio-visual hearings
- ▶ Pre-hearing conferences
- ▶ Research assistance for tribunal members
- ▶ Case-load forecasting
- ▶ Performance and financial accountability measures

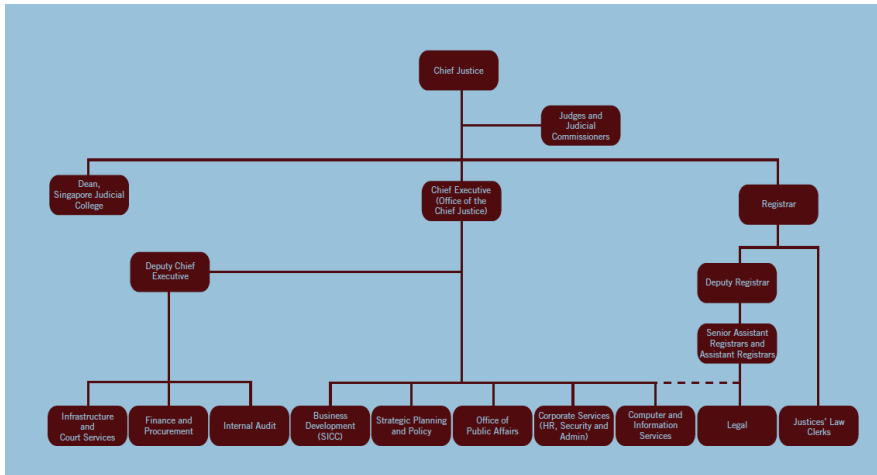
Capacity (contd.)

Dissemination

- ▶ Proceedings (filings, transcripts of hearings and orders) to be published after completion.
- ▶ Data for dissemination.






Capacity (contd.)

Institutional capacity: Singapore



Organisation chart of Supreme Court of Singapore

Thank you
www.ifrogs.org

-  Bhatia, Surbhi et al. (2018). "Insolvency And Bankruptcy Code: One-Year Report Card". In: *BloombergQuint*. URL: https://www.bloombergquint.com/insolvency/2018/05/16/insolvency-and-bankruptcy-code-one-year-report-card#gs.kVjX_5I.
-  BLRC (2015). *The report of the Bankruptcy Law Reforms Committee*. Tech. rep.
-  Ravi, Aparna (2015). "The Indian insolvency regime in practice: an analysis of insolvency and debt recovery proceedings". In: *The Economic and Political Weekly*. URL: http://ifrogs.org/releases/Ravi2015_indianInsolvencyRegime.html.
-  Regy, Prasanth and Shubho Roy (2017). "Understanding judicial delays in India: Evidence from Debt Recovery Tribunals". In: *NIPFP Working Paper*. URL: http://www.nipfp.org.in/media/medialibrary/2017/05/WP_2017_195.pdf.
-  Sengupta, Rajeswari, Anjali Sharma, and Susan Thomas (2016). "Evolution of the insolvency framework for non-financial firms in India". In: URL: <http://ifrogs.org/PDF/WP-2016-018.pdf>.