Watching the Insolvency and Bankruptcy Code work: one year of IBC

Finance Research Group
IGIDR

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Role of empirics in bankruptcy policy

Bankruptcy policy cannot be firmly rooted in reality until empirical evidence about bankruptcy is gathered widely and routinely.
(Sullivan, Warren, and Westbrook 1987)

- ► US Bankruptcy Cases - state-wise cases commenced, terminated and pending
- ► Chapter-wise bankruptcy proceeding indicating nature of debt and re-organisation
- ► Time taken for disposal of bankruptcy cases
- ► Adversary proceedings filed, terminated and pending
- ► Assets and liabilities of public debtors in bankruptcy

Objective

1. Observe the economic impact of the IBC;
2. Observe the role of the institutions under the IBC:
   2.1 Insolvency Professionals
   2.2 Information Utilities
   2.3 the Insolvency and Bankruptcy Board of India
   2.4 the judiciary.

Economic impact of the law

1. Does the law improve balance between rights of creditors and the debtor?
2. Does the law empower various types of creditors when the firm defaults?
3. Does the law empower only large sized debt holders?

The role of the judiciary

1. Do the NCLT cases reflect a geographical spread of the insolvency cases?
2. Does the NCLT function within the timelines set in law?
3. Is the role played by the NCLT as visualised within the IBC?

The insolvency cases dataset

- ▶ 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
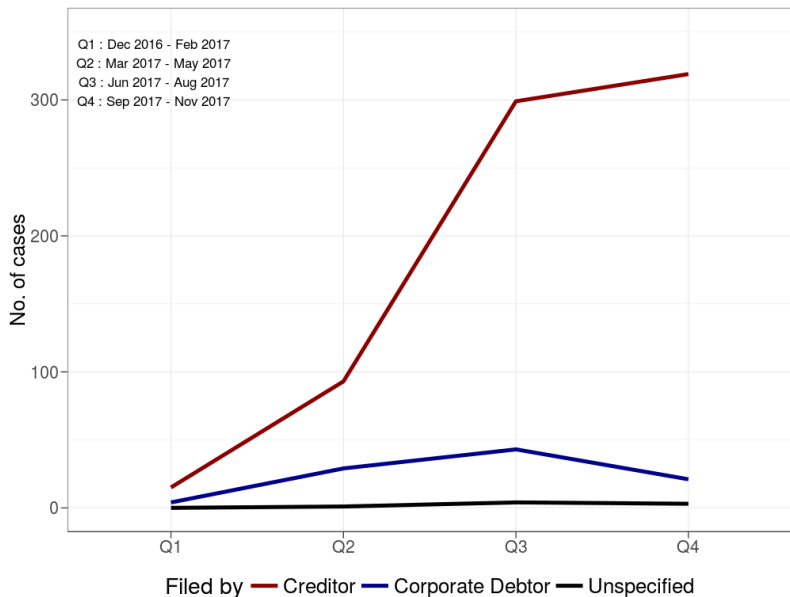- ▶ Hand collected data.

Part I - Economic impact of the law
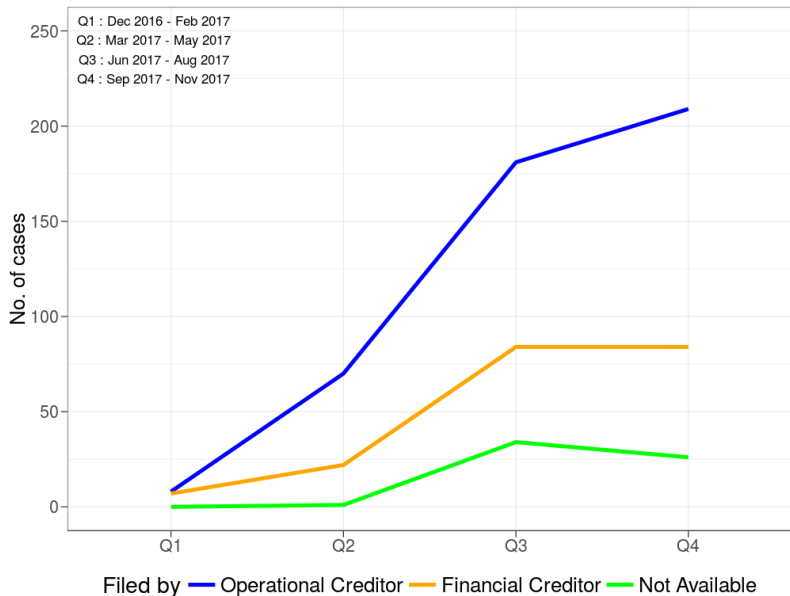
Who is using the IBC?

Who triggered the IBC?

	Q1	Q2	Q3	Q4	Total
No. of petitions filed	**19**	**123**	**346**	**343**	**831**
Creditors	15	94	294	322	**726**
Operational creditors	8	70	181	209	**468**
Financial creditors	7	22	84	84	**197**
Unkown	0	2	29	29	**61**
Debtors	4	29	43	21	**97**
Unknown applicants	0	0	9	0	**8**

Who triggered the IBC (contd.)?

Q1 : Dec 2016 - Feb 2017
Q2 : Mar 2017 - May 2017
Q3 : Jun 2017 - Aug 2017
Q4 : Sep 2017 - Nov 2017

No. of cases

Filed by — Creditor — Corporate Debtor — Unspecified

Who triggered the IBC (contd.)?

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No. of cases

Filed by — Operational Creditor — Financial Creditor — Not Available

Types of creditors

Types of operational creditors

Vendors	223
Employees	25
Others	27
Unkown	193
Total	468

What is happening to the cases filed?

Admission and dismissal rates

	Total	Admitted	Dismissed	Not known
	831	**337**	**489**	**5**
Creditors	726	260	463	3
Operational creditors	468	127	340	1
Financial creditors	197	133	62	2
Unknown creditor	61	0	61	0
Corporate debtor	97	77	20	0
Unknown applicant	8	0	6	2
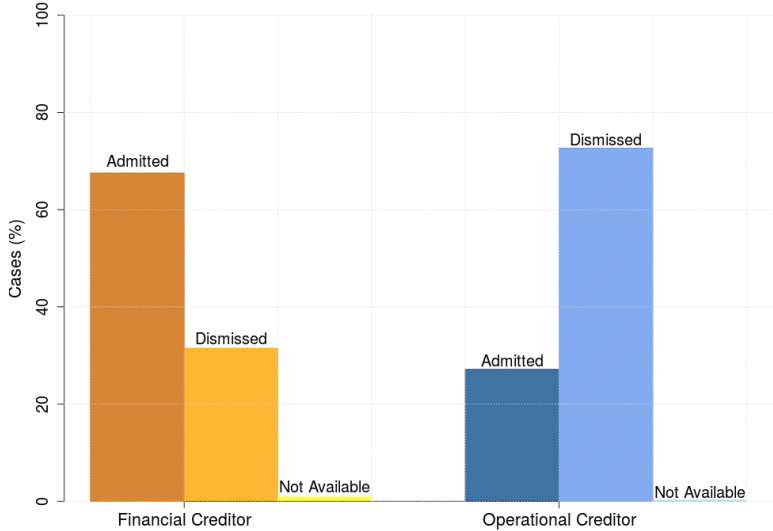
Appeals

Appeal rates

	Total	No. of orders appealed
	831	117
Creditors	726	110
Operational creditors	468	83
Financial creditors	197	26
Corporate debtor	97	7

Part II - Role of the judiciary
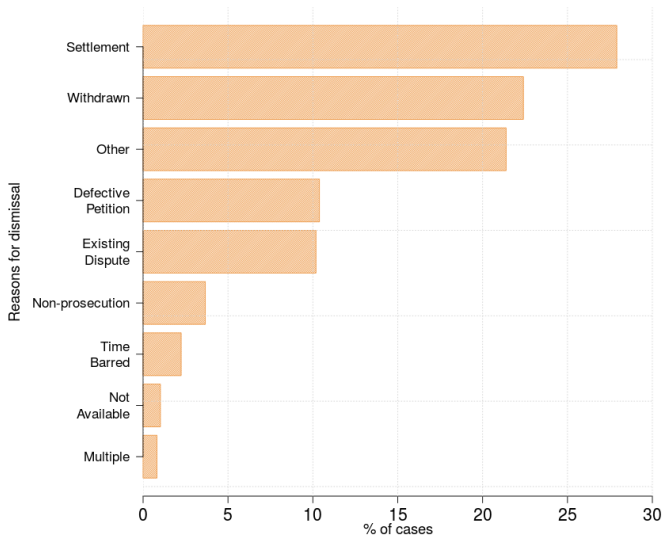
Disposal across benches
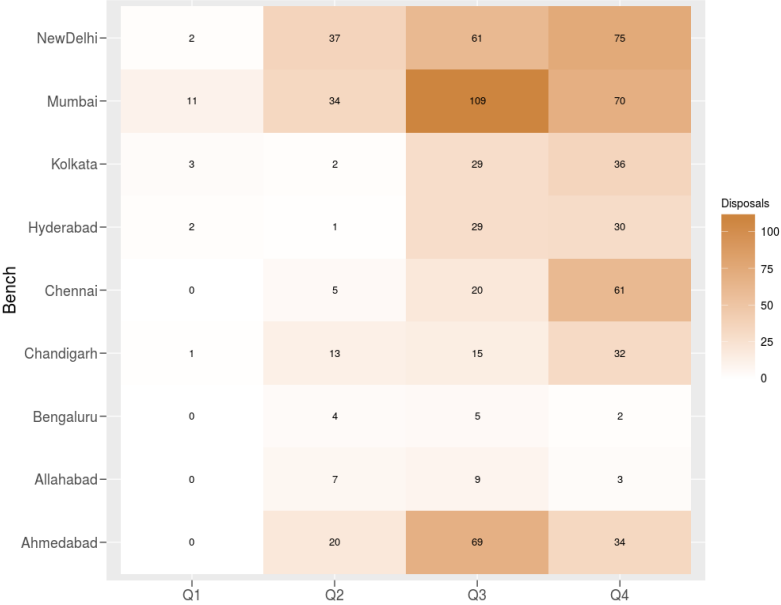
Duration of cases

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

What kind of cases are being dismissed?

What kind of cases are being dismissed? (contd.)

- Cases where the NCLT has taken a view on the solvency of the debtor. Cases have been dismissed because:
  - Debtor could demand receivables from other counter-parties and fix the financial health of the company.
  - Debtor's balance sheet is healthy enough.
- SC, NCLT and NCLAT allowed settlement post admission.

Takeaways from the data

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  1. Kinds of creditors and debtors.
  2. Admission and dismissal rates.
  3. Reasons for dismissal.

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Other data for empirical analysis

What do we not know?

1. What is the size of the debt?
2. Whether and to what extent does the debtor get a hearing?
3. Time taken to dispose off petitions.
4. Number of interim orders.
5. Data from appellate tribunal.
6. Outcome of resolution process.
7. Decision making at the level of the creditors' committee.
8. Costs of insolvency proceedings.

Thank you.
Find the dataset at `https:`
`//ifrogs.org/releases/Chatterjeeetal2017_nclt.html`
The dataset has been compiled by Surbhi Bhatia, Varun Marwah, Gausia
Shaikh and Bhargavi Zaveri.

Sullivan, T, E Warren, and J Westbrook (1987). "The Use of Empirical Data in Formulating Bankruptcy Policy". In: *Law and Contemporary Problems* 50.2.