

Watching the Insolvency and Bankruptcy Code work: A new data-set of insolvency cases

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December 19, 2017

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?

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 15th May, 2017
 - ▶ Updated sample: 1st December, 2016 to 31st August, 2017
 - ▶ 515 final orders
- ▶ 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?

	Upto 15th May	Upto 31st August
Creditors	83	436
Operational creditors	62	267
Financial creditors	21	123
Unkown	0	46
Debtors	26	73
Unknown applicants	1	6
Total	110	515

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Types of operational creditors

	Upto 15th May	Upto 31st August
Vendors	43	133
Employees	8	15
Others	6	19
Unkown	8	100
Total	62	267

What is happening to the cases filed?

Admission and dismissal rates (in %)

	Upto 15th May	Upto 31st August
Cases admitted	55	43
Cases dismissed	45	56

Outcomes of petitions filed by different applicants

Applicant	Admission rates (%)	
	Upto 15th May	Upto 31st August
Creditors		
Operational	42	32
Financial	57	65
Debtors	88	79

Percentage of cases admitted

Applicant	Dismissal rates (%)	
	Upto 15th May	Upto 31st August
Creditors		
Operational	58	68
Financial	43	33
Debtors	12	20

Percentage of cases dismissed

Part II - Role of the judiciary

Orders across benches

	Bench	Upto 15th May	Upto 31st August
1.	New Delhi	32	113
2.	Ahmedabad	9	85
3.	Allahabad	5	16
4.	Bangalore	4	9
5.	Chandigarh	11	28
6.	Chennai	1	24
7.	Hyderabad	3	29
8.	Kolkata	4	32
9.	Mumbai	41	179
	Total	110	515

Orders across benches

Duration of cases

T0: Date of filing

T1: Date of first hearing

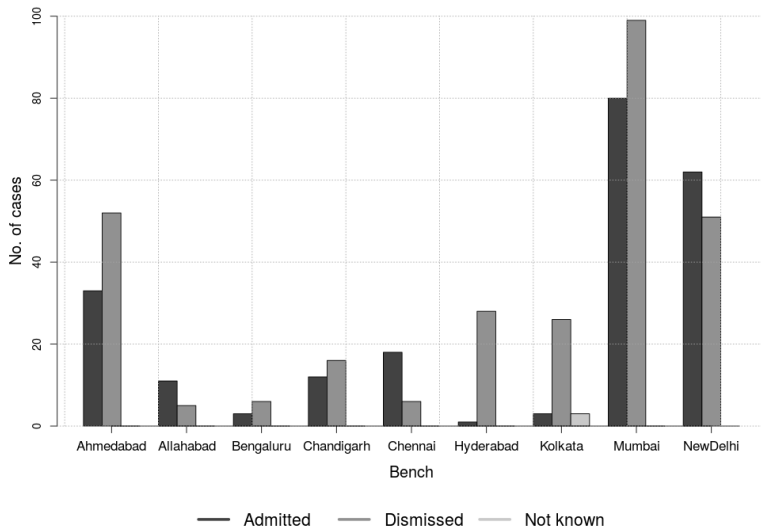
T2: Date of final disposal

Stages	Observations	Average time (in days)
T0 to T1	56	19
T1 to T2	156	20
T0 to T2	82	37

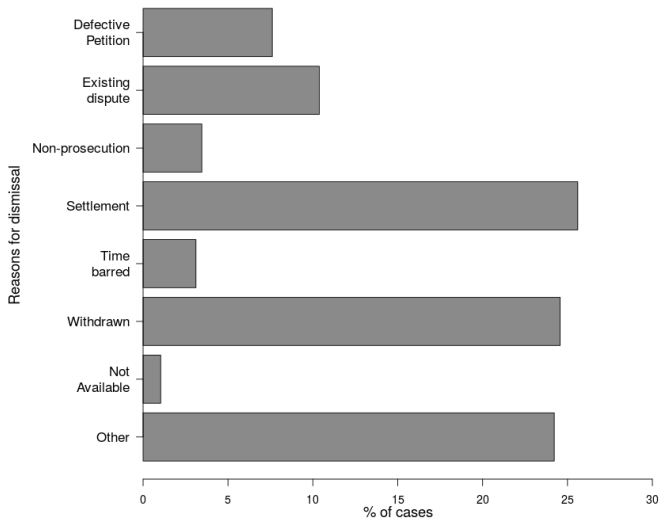
Average time taken for disposal of petitions

What is happening to the cases filed?

Bench-wise admission and dismissal of cases



What kind of cases are being dismissed?



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

Judicial interventions

- ▶ 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.
- ▶ Jaypee Homebuyers case

Takeaways from the data

- ▶ We know (or can get) some answers:
 1. Kinds of creditors and debtors.
 2. Admission and dismissal rates.
 3. Reasons for dismissal.

Takeaways from the data

- ▶ We know (or can get) some answers:
 1. Kinds of creditors and debtors.
 2. Admission and dismissal rates.
 3. Reasons for dismissal.
- ▶ What do we not know?
 1. Whether and to what extent does the debtor get a hearing?
 2. Time taken to dispose off petitions.
 3. Number of interim orders.
 4. Data from appellate tribunal.

Observations for improvement of data from National Company Law Tribunals (NCLTs)

1. Orders not standardised - results in several gaps.
 - ▶ Date on which debt was due or default occurred.
 - ▶ Date on which application was filed.
 - ▶ Date of first hearing.
 - ▶ Number of interim orders passed.
 - ▶ Evidence of default.
 - ▶ Whether debtor given a chance to be heard?
2. National Company Law Appellate Tribunal (NCLAT) does not upload the orders passed by each of its benches.

Other data for empirical analysis

1. Recovery rates after implementation of resolution plan.
2. Decision making at the level of the creditors' committee.
3. Costs of insolvency proceedings.

Thank you.

Find the dataset at [https:](https://ifrogs.org/releases/Chatterjeeetal2017_nclt.html)

[//ifrogs.org/releases/Chatterjeeetal2017_nclt.html](https://ifrogs.org/releases/Chatterjeeetal2017_nclt.html)



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