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CORPORATE INSOLVENCY RESOLUTION AND THE ACCOUNTABILITY CRISIS OF RESOLUTION PROFESSIONALS – A CRITICAL STUDY OF LEGAL CHALLENGES, ETHICAL CONCERNS AND INSTITUTIONAL REFORMS IN INDIA WITH AN INTERNATIONAL COMPARATIVE PERSPECTIVE

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ABSTRACT

Corporate insolvency resolution in India has undergone a fundamental transformation following the enactment of The Insolvency and Bankruptcy Code, 2016 (IBC). Central to this framework is the Resolution Professional (RP), whose responsibilities extend from administering the Corporate Insolvency Resolution Process (CIRP) to preserving the debtor's value, facilitating creditor decision-making, ensuring regulatory compliance, and addressing potential misconduct. However, increasing delays, conflicts of interest, information asymmetry, valuation concerns, procedural irregularities, and questions surrounding professional independence have exposed significant accountability challenges. This research examines the legal and ethical dimensions of RP accountability, with particular emphasis on Indian insolvency jurisprudence, regulatory developments, empirical outcomes, and institutional weaknesses. It further evaluates international approaches to insolvency administration, particularly those reflected in the United States (US), United Kingdom (UK), UNCITRAL, and World Bank frameworks. This research delineates that stronger conflict-of-interest safeguards, transparent appointments, specialized investigation mechanisms, measurable professional standards, and faster disciplinary processes to strengthen the credibility and effectiveness of India's insolvency regime.

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INTRODUCTION

The IBC, 2016 represents a significant departure from the previous legal and institutional framework in India, which involved a multitude of overlapping laws, agencies and procedures in managing corporate distress. The IBC, 2016 seeks to establish a creditor-driven resolution process, which is time-bound and professionally administered. At the core of this resolution process is the figure of the RP, who occupies a supervisory position in relation to the corporate debtor, but who is not an employee of either the Committee of Creditors (CoC) or any other party.[3]

This creates a precarious position for the RP, who is entrusted with a number of responsibilities and powers, but who lacks a corresponding degree of decision-making autonomy. The IBC, 2016, as to sec. 17, 20, and 25, IBBI regulations, and professional standards apply to the RP, and RP is required to manage the affairs of the corporate debtor, safeguard its assets, investigate claims, constitute and facilitate the CoC, conduct the resolution process, and evaluate potential resolution plans.[4]

Thus, if the CIRP fails due to mismanagement, information withholding, conflicts of interest, valuation errors, or procedural missteps, it becomes difficult to attribute responsibility to the RP, the CoC, valuers, legal advisers, or the NCLT/ NCLAT, which oversee the process and its legal challenges. In the meantime, the IBBI has initiated a study on RPs, and IBBI's recent focus on due diligence, revised CIRP forms and CIRP-related professional conduct suggest that the profession has reached a level of institutional complexity that requires enhanced accountability beyond mere procedural norms.[5] The IBBI's publication list reveals a report on resolution process accountability and Parliamentary Standing Committee report on IBC, 2016 review and developments.[6]

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[3] Dhruv Garg, "Navigating Corporate Insolvency: The Critical Role of Resolution Professionals in Protecting Credit", *3 The Journal of Unique Laws and Students*, 3 (2023).
[4] Abhijeet Parker, "Corporate Insolvency Resolution Process Under IBC 2016", *SSRN Electronic Journal* (2020).
[5] Insolvency & Bankruptcy Board of India, *Quarterly Newsletter: April–June 2025*, IBBI, at 14–17 (2025).
[6] Insolvency & Bankruptcy Board of India, *Research Study on Resolution Professionals*, conducted by Management Development Institute, Gurgaon (2026).

The normative implications are that India's institutional design must promote independence, disclosure, management of conflicts, supervision and disciplinary oversight, professional development and transparency, and respect for the commercial decision-making of the CoC.[7] The central hypothesis is that the professional accountability crisis confronting Indian corporate insolvency is less one of duties and more one of institutional fragmentation.

THE ROLE OF THE RESOLUTION PROFESSIONAL UNDER THE INDIAN INSOLVENCY FRAMEWORK

The RP performs a hybrid facilitator/ supervisor function, which is determined by the IBC, 2016's allocation of powers and responsibilities in relation to the corporate debtor. Upon initiation of CIRP, management powers devolve from the company's board to the RP, subject to the statutory framework. The RP bears a duty to manage the corporate debtor's affairs, including preservation of value and continuity of operations, receipt and verification of claims, maintenance of statutory books, custody of assets, appointment of required professionals, and presentation of resolution plans to the CoC. The RP is prohibited from substituting its own commercial judgment for that of the CoC.[8]

Court has consistently drawn a distinction between the RP's facilitatory role and commercial decision-making of the CoC in a number of cases, including *K. Sashidhar v. Indian Overseas Bank*,[9] and *Committee of Creditors of Essar Steel India Ltd v. Satish Kumar Gupta*.[10] This distinction is critical to understanding the RP's precarious position as a facilitator with significant powers but without direct decision-making responsibility over the resolution process. Information asymmetry is a particular challenge in the context of CIRP, as the RP holds significant information concerning the corporate debtor's claims, finances, transactions, valuation, eligibility for resolution, and organizational capacity. In *Kunwer Sachdev v. Indian Bank*,[11] court acknowledged the insolvency professional's duty to maintain independence from authorities but also observed that the profession's credibility depended upon mechanisms for addressing conflicts and malpractice. Thus, it indicates that court is prepared

[7] Neha Kapur Chawla & Sarthak Gupta, "Analysis of Moratorium under Corporate Insolvency Resolution Process: A Comparative Study of India and United Kingdom", *International Journal of Law and Social Sciences* 97–108 (2025).
[8] Daniele Stanzione, "Sustainability and Insolvency: An Antithesis?" in *Corporate Governance: International Outlook* 51–53 (Virtus Interpress, 2025).
[9] (2019) 12 SCC 150.
[10] (2019) 16 SCC 9.
[11] 2024 SCC OnLine Del 1024.

to go beyond questions of direct authority and consider the broader professional independence implications.[12]

THE ACCOUNTABILITY CRISIS - LEGAL CHALLENGES

The central legal challenge in the context of accountability for the CIRP process derives from the division of responsibility between the RP and CoC. The RP conducts the process, but the commercial wisdom of the CoC is paramount, which means that a poorly performing resolution plan can trigger questions concerning either the RP's facilitation or the CoC's directives. Indian jurisprudence has consistently acknowledged the CoC's commercial wisdom in relation to CIRP, and its limited jurisdiction to review commercial decisions by the CoC.

For instance, *Committee of Creditors of Essar Steel India Ltd v. Satish Kumar Gupta*,[13] has repeatedly held that courts and NCLT must adopt a highly deferential attitude towards commercial judgments by the CoC, while *Maharashtra Seamless Ltd v. Padmanabhan Venkatesh*,[14] has ruled that the jurisdiction of the NCLT is limited to reviewing commercial decisions for legal correctness. This is an appropriate legal standard, which prevents judicial interference with the CoC's domain, but it simultaneously contributes to the challenges of accountability, particularly when there are procedural irregularities preceding a commercial decision by the CoC.

RP occupies a precarious position as an agent who conducts the process, but who is not directly accountable for its commercial outcomes. The CoC can argue that it relied on the information provided by the RP, while the RP can contend that the CoC's directives were strictly commercial and therefore beyond its control. A more precise legislative allocation of process accountability versus commercial judgment would assist the Indian insolvency regime in addressing the challenges of professional liability.[15]

One of the most pressing legal challenges in the context of RP accountability concerns the issue of conflict of interest. RP conducts the CIRP process and facilitates resolution, but can be influenced by a range of authorities, including lenders, resolution applicants, promoters, valuers, legal advisers and investigators. The RP also possesses access to the corporate

[12] *Id.*
[13] (2019) 16 SCC 9.
[14] (2020) 11 SCC 467.
[15] Daniele Stanzione, "Stakeholder Engagement in Corporate Insolvency", in *Corporate Governance: Multidisciplinary Research* 41–43 (Virtus Interpress, 2026).

debtor's information, which can provide it with an opportunity to benefit from any conflicts that arise. Even if an actual conflict does not exist, the appearance of dependency on specific authorities can diminish the credibility of the RP, particularly in light of the professional's limited transparency and disclosure obligations.[16]

The IBC, 2016 contains a number of disclosure requirements for the RP, but they only address the manifestation of conflict rather than the prevention of conflict at the procedural design stage. Additionally, international insolvency standards, including World Bank Principles on Insolvency Governance, acknowledge that independence, integrity and impartiality are vital to the functioning of insolvency representatives, who must be held accountable for incompetence, negligence, fraud, and other forms of malpractice. India's regulatory and judicial frameworks should move beyond the norms of disclosure to those of conflict management, particularly as the profession evolves.[17] This implies the need for measures such as mandatory recusal and conflict register publication in relation to specific transactions.

Valuation presents one of the key challenges in corporate insolvency as it determines the distribution of the corporate debtor's estate among authorities, despite the potential for significant variations in valuation approaches and outcomes. The IBC, 2016 recognizes this challenge by allocating specific responsibilities to RP concerning valuation reports, avoidance of related-party transactions, and investigation of potential claims. The RP is required to incorporate valuation information into the resolution plan and ensure that it adheres to the statutory requirements.[18]

The challenge is that valuation is not entirely objective, particularly in relation to future cash flows, liquidation values and various valuation multiples, and an RP with inadequate expertise can fail to identify misleading information or deal with complex disagreements between authorities. The IBBI's Expert Committee report on valuation, as well as related

[16] Andrew Campbell & Paula Moffatt, "Bank Insolvency – Recovery and Resolution", in *Research Handbook on Corporate Restructuring* 228–245 (Edward Elgar Publishing, 2021).
[17] Pihu Mishra & Amit Dhall, "Demystifying the Myths of Smooth Exit: Decoding Timeline of Corporate Insolvency Resolution Process in India", *Vol. 5 ShodhKosh: Journal of Visual and Performing Arts*, 7 (2024).
[18] Rashi Sharma, "Corporate Restructuring and Insolvency Resolution: Analysis of the Insolvency and Bankruptcy Code", *Vol. 6 International Journal for Multidisciplinary Research*, 2 (2024).

regulatory and judicial developments, confirms that valuation constitutes one of the key areas of controversy within the CIRP process.[19]

IBBI data illustrates the gap starkly. As of June 30, 2025, 1,258 CIRPs had closed through approval of resolution plans, while 2,824 had closed through commencement of liquidation. Of 8,492 CIRPs recorded in the relevant dataset, 1,905 remained ongoing. The average time taken for CIRPs yielding resolution plans was approximately 724 days, far above the statutory design of a substantially shorter process. Realization by creditors in resolution-plan cases averaged 32.6% of their claims, while realization represented approximately 170.8% of liquidation value.[20]

This indicates that the IBC, 2016's value proposition is largely related to liquidation proceeds as opposed to resolution, but the process often takes significantly longer than anticipated. It bears emphasis that the RP is not the sole reason for prolonged CIRPs, as a combination of litigation and other factors often intervene, including protracted decision-making by the CoC and judicial delays. Nevertheless, the RP is responsible for managing the CIRP process, ensuring that its professional responsibilities do not unduly extend the timeline, identifying opportunities for procedural acceleration, and minimizing avoidable delays in the process.

A second set of figures demonstrates the broader institutional problem. By December 2024, 1,119 companies had successfully undergone insolvency resolution, generating approximately US$42 billion in creditor payouts.[21] Yet the average insolvency process in FY 2024 reportedly took around 849 days against the statutory target of 330 days. More than 12,000 insolvency-related matters were reportedly pending before Indian insolvency tribunals during 2024. These figures show that India's problem is not simply whether the IBC, 2016 works; it is whether the institutional ecosystem can deliver its intended results within predictable timeframes.[22]

ACCOUNTABILITY FOR AVOIDANCE TRANSACTIONS

The IBC, 2016 contains detailed provisions concerning preferential, undervalued, fraudulent and wrongful transactions (as to Sec. 43 to 51, and 66). The RP is entrusted with the

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[19] Insolvency & Bankruptcy Board of India, *Report of the Expert Committee to Suggest Policy Changes for Valuations under the Insolvency and Bankruptcy Code, 2016* (2025).
[20] Insolvency & Bankruptcy Board of India, *Research Study on Effectiveness of the Resolution Process: Firm Outcomes in the Post-IBC Period*, conducted by Indian Institute of Management Ahmedabad (2026).
[21] *Id.*
[22] Reuters, *Indian Court's Reversal of $2.3 Billion Deal Casts Shadow on Bankruptcy Law*, May 8, 2025.

responsibility of investigating such transactions and to apply to the adjudicating authority for their avoidance. The challenge is that avoidance transactions significantly affect the distribution of the corporate debtor's estate and can interfere with the value and appeal of a resolution plan.[23]

The ethical challenges of the RP's position derive from its role as a manager of the corporate debtor's affairs and potential for the professional to take commercial advantage of this role. First and foremost, an RP must not place itself in a position to benefit from its control of the corporate debtor's property and affairs; in other words, the RP must maintain commercial independence from all authorities, including the CoC. Second, the RP must adopt an appropriate balance between confidentiality and disclosure, as excessive secrecy can lead to information asymmetry, but unwarranted disclosure can harm the interests of the corporate debtor and resolution applicants.[24] Third, the RP must follow the principle of proportionality, which is particularly pertinent to insolvency professionals who are often tasked with investigating an extensive range of potential claims, disputes and transactions. It is insufficient for an RP to simply follow the formal requirements of the IBC, 2016, as the RP must also consider the ethical implications of its actions.[25]

With regard to the principle of independence, it is important to note that an RP is ethically bound to make commercially reasonable decisions in the best interests of the corporate debtor's estate. Independence is particularly pertinent to an RP's dealings with the CoC, as excessive loyalty to large creditors can compromise the RP's ability to pursue the best resolution plan for the corporate debtor. RP's obligations also extend to managing potential conflicts, which entails limiting exposure in relation to particularly vulnerable authorities.[26] In many cases, such conflicts are the result of the RP's economic dependence on specific authorities, particularly in cases where the RP serves small creditors or promoters who cannot afford the services of large RP agencies. In this respect, ethical considerations require

[23] Shivam Pandey, "Analysis of Corporate Insolvency Resolution Process Under Insolvency and Bankruptcy Code, 2016", *International Journal of Science and Research* 677–680 (2026).
[24] *Id.*
[25] Jasper Vikas George, "Insolvency Resolution Plans: Right of Erstwhile Management, Corporate Debtor", *Vol. 6 Journal of National Law University Delhi*, 1, 39–49 (2019).
[26] Ankit Handa, "An Analysis of the Corporate Insolvency Resolution Process as a Route for Acquisitions in India", *29 International Insolvency Review*, 2, 234–253 (2020).

increased professional accountability, which can entail economic costs for the RP, which must be balanced against the RP's obligations towards other authorities.[27]

RECENT JUDICIAL AND REGULATORY DEVELOPMENTS

India's recent jurisprudence reflects the country's broader institutional challenges in managing corporate insolvency. *Kunwer Sachdev v. Indian Bank*[28] indicates that courts are beginning to grapple with the complexity of the RP's position and need for stronger professional accountability mechanisms. More importantly, the *Kalyani Transco v. M/S Bhushan Power and Steel Ltd.*[29] illustrates court's willingness to intervene in high-profile cases involving significant procedural and statutory irregularities.

It concerns court's scrutiny of a number of procedural and statutory irregularities that occurred during the resolution process. During the course of the litigation, court was confronted with an array of related appeals in addition to the primary issues of statutory interpretation and procedural irregularities.[30] On the one hand, courts' intervention illustrates that the procedural irregularities affecting high-profile insolvencies can have far-reaching consequences. During the course of Bhushan Power's CIRP, the RP allegedly failed to adhere to a number of legal and procedural requirements, which severely impacted the rights of authorities.[31] On the other hand, such interventions can undermine investor confidence, particularly in light of the uncertainty surrounding the validity of resolution purchases when courts intervene after a resolution plan has commenced. The appropriate legal response to challenges in the corporate insolvency process is to distinguish between commercial disagreements, which must be left to the discretion of the CoC, and significant procedural irregularities that affect the rights of authorities, particularly in the context of fraudulent misrepresentation and misfeasance.

The regulatory developments in India are equally pertinent to the theme of professional accountability, as the IBBI has placed increased emphasis on the need for stronger professional conduct in relation to CIRPs. In November, 2025, the IBBI issued a circular on

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[27] Anoop Rawat, Mohana Nijhawan & Vanshika Sharma, "Financing Corporate Insolvency Resolution Processes: The Failed Promise of Interim Finance", *Vol. 11 National Law School Business Law Review*, 2 (2025).
[28] W.P.(C) 10599/2021.
[29] 2025 INSC 621.
[30] Shakti Deb & Indrajit Dube, "Corporate Ownership and Insolvency Law: An Evidence from India", *Common Law World Review* (2023).
[31] *Id.*

enhanced due diligence requirements under Sec. 29A, which also updated CIRP forms and addressed filing-related issues. In May 2025, the IBBI issued revised CIRP regulations, as well as guidelines concerning the appointment of insolvency professionals.[32] The IBBI's initiative demonstrates its increased scrutiny of the responsibilities of insolvency professionals, particularly in relation to CIRP-related due diligence and disclosure requirements.

INTERNATIONAL COMPARATIVE PERSPECTIVE

India's approach to RP accountability can be compared to the international frameworks prevailing in US, UK, and international organizations, such as the World Bank and UNCITRAL. The US approach to corporate insolvency is largely dictated by Chapter 11, which allows for debtor possession with limited oversight by external trustees.[33] The US model thus places a strong emphasis on the independence and fiduciary duties of the debtor as opposed to an external RP, which is a marked difference from the Indian model. At the same time, U.S. insolvency law contains a number of complex accountability mechanisms for debtors, including enhanced disclosure norms and judicial oversight.[34]

Table 1 - Comparative Accountability Framework

Jurisdiction/ Model	Insolvency Administrator	Principal Accountability Mechanism	Lesson for India
India	Resolution Professional	IBBI, IPAs, NCLT/NCLAT, CoC and professional regulations	Stronger independence and supervision needed

[32] Nishanthini Ravichandra Rao & Jayendra Kasture, "Sectoral Insights into Corporate Insolvency: A Comprehensive Analysis of Corporate Insolvency Resolution Process (CIRP) Outcomes in India", *International Journal of Law and Management* (2025).
[33] Michael Schillig, "Financial Reform Efforts Since the Global Financial Crisis - An Overview", in *Resolution and Insolvency of Banks and Financial Institutions* (Oxford University Press, 2016).
[34] *Id.*

United States	Debtor-in-possession/ trustee where appointed	Court supervision, disclosure, US Trustee system	Greater institutional monitoring and transparency
United Kingdom	Licensed insolvency practitioner/ administrator	Recognised professional bodies and statutory regulation	Strong licensing and professional discipline
UNCITRAL Model	Insolvency representative	Independence, competence and judicial oversight	Harmonized baseline standards
World Bank Framework	Insolvency Administrator	Integrity, impartiality, competence and removal mechanisms	Explicit accountability and removal standards

The UK model is characterized by the prevalence of licensed insolvency practitioners who play a similar role to RP in India, but who are subject to extensive professional regulation and accountability mechanisms. At the international level, World Bank Principles on Insolvency Governance and UNCITRAL Model Law on Cross-Border Insolvency provide valuable insight into the global norms concerning insolvency professionals and their responsibilities.[35]

It is essential to understand international trends in insolvency governance in order to fully appreciate the implications of India's corporate insolvency reforms.[36] A comparison of the US and UK approaches to insolvency reveals that international jurisdictions place a strong emphasis on accountability norms, although they differ considerably in their approaches to disclosure, professional regulation, and authorities' roles in insolvency. Perhaps most

[35] Nicolae Stef & Jean-Joachim Bissieux, "Resolution of Corporate Insolvency During COVID-19 Pandemic: Evidence from France", *Vol. 70 International Review of Law and Economics*, 106063 (2022).
[36] *Id.*

relevant to the current discussion is the World Bank's ICR Standard, which can be used to evaluate India's corporate insolvency reforms and practices.[37]

India's corporate insolvency law lacks an extensive cross-border insolvency framework, which presents significant challenges in relation to multinational corporate groups and authorities. The Model Law has been adopted in 62 states across 65 jurisdictions, which highlights its relevance to international corporate insolvency. Under the Model Law, insolvency representatives must follow the principles of competence, integrity, and independence, which are broadly comparable to the responsibilities of India's RP professionals. Nevertheless, the Model Law also permits extensive disclosure of information to authorities, which is inconsistent with the secrecy norms prevalent in India's corporate insolvency process.[38]

INSTITUTIONAL REFORM - MOVING FROM PROFESSIONAL REGULATION TO PROFESSIONAL ACCOUNTABILITY

India's professional accountability model concerning RPs should involve a multi-tiered approach that considers the professional's role as a facilitator of the CIRP process and an independent agent who conducts corporate debtor's affairs.[39] It is essential to recognised that an RP has wide-ranging responsibilities but limited control over the commercial aspects of the resolution process.[40] While the CoC plays a central role in RP selection, it is essential to consider alternative appointment mechanisms that reduce the risk of repeated dependency on specific creditor groups. This could involve the creation of a transparent database that details past employment, professional connections, disciplinary records, and sector expertise of individual RPs.[41]

Every RP should be obliged to maintain a publicly available register of conflicts pertaining to the CIRPs that it conducts. The register should include financial, professional and familial conflicts, and disclosure should be ongoing throughout the life of the CIRP. In addition to

[37] Warmiyana Zairi Absi & Marsudi Utoyo, "Legal Analysis of Corporate Insolvency: A Case Study of the Insolvency Resolution Process", *Vol. 3 International Journal of Social Service and Research*, 12, 3316–3323 (2023).

[38] Rosa M. Lastra & Rodrigo Olivares-Caminal, "Cross-Border Insolvency: The Case of Financial Conglomerates", in *Financial Crisis Management and Bank Resolution* 269–289 (Informa Law from Routledge, 2020).

[39] *Id.*

[40] O. V. Nosova, "Corporate Governance Conflicts Resolution in Financial Crisis", *Vol. 1 Financial and Credit Activity: Problems of Theory and Practice*, 18, 282 (2015).

[41] Simeon Djankov, Jan Jindra & Leora F. Klapper, "Corporate Valuation and the Resolution of Bank Insolvency in East Asia", *Vol. 29 Journal of Banking & Finance*, 8–9, 2095–2118 (2005).

enhanced transparency, this measure would encourage RPs to identify and limit their exposure to potentially lucrative but ethically fraught assignments. Insolvency agencies frequently offer a range of services, including legal, financial, valuation, and investigatory services, which raise concerns of conflict of interest. Functional separation should be mandated in cases where a single entity manages multiple aspects of a CIRP. The IBBI should consider maintaining access to investigative units that feature forensic accountants, investigators, legal experts and valuation specialists.[42]

Accountability mechanisms should involve fast-track disciplinary proceedings, which would promote deterrence and reduce the risks of regulatory capture. In addition, the disciplinary proceedings should feature proportionate sanctions, ranging from monetary penalties to enhanced training requirements, mandatory disclosure measures and deregistration.[43] The IBBI's current emphasis on transparency is an appropriate initiative that should be expanded to include comprehensive CIRP dashboards that document the RP appointment process, procedural extensions, litigation, professional fees, claims, resolution value, liquidation value, plan approvals and other proceedings. The objective is to reduce information asymmetry without disclosing commercially sensitive information to authorities.[44]

CONCLUSION

IBC, 2016 has fundamentally altered India's corporate insolvency landscape, shifting the paradigm from a disparate set of debtor-centric processes to a creditor-friendly resolution-led paradigm. The RP is at the center of this change, and as a result, he/she has acquired tremendous powers and responsibilities. The focus of this article is on the other side of the coin, the accountability of RP. While the RP's duties are well-specified in the law, the issue is that his/ her accountability is diffused across several authorities. India's next stage of insolvency reform should be about process quality versus complexity. The RP needs to be viewed as an independent agency with fiduciary oversight akin to a mandate of integrity, objectivity, competence and transparency, while the CoC must be given freedom of commercial judgment. The focus of accountability needs to be on process defects, not on commercial outcomes.

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[42] Anoop Rawat, Mohana Nijhawan & Vanshika Sharma, "Financing Corporate Insolvency Resolution Processes: The Failed Promise of Interim Finance", *Vol. 11 National Law School Business Law Review*, 2 (2025).

[43] *Id.*

[44] Chandan Choubey & Vandana Gupta, "Corporate Insolvency Resolution and Liquidation: Measuring Effectiveness of the IBC Framework", *Vol. 6 ShodhKosh: Journal of Visual and Performing Arts*, 2 (2025).