

India's corporate landscape

How lenders have become the real stakeholders

By Akshat Khetan

In the evolving corporate ecosystem of India, stringent laws like the Insolvency and Bankruptcy Code (IBC) have reshaped the balance of power. Today, an increasing number of businesses grapple with a legal framework that favours lender control once a company experiences financial distress. This trend underscores the importance of re-evaluating our approach to corporate default, offering breathing room for genuine businesses to recover, while maintaining strict scrutiny on wilful and fraudulent defaulters.



Today, lenders — both institutional and private — play a decisive role in a company's destiny. The framework grants creditors extensive power in determining future of distressed companies, often sidelining interests of shareholders.

Under the IBC, once a com-

pany defaults and a creditor initiates insolvency proceedings, the control shifts almost entirely to the lenders and insolvency resolution professionals (IRPs). This legal structure prioritizes lenders' rights to recoup their investments, often at the expense of shareholders' equity stakes. For companies struggling to regain financial stability, this can lead to a change in leadership or forced liquidation — a far cry from the initial purpose of corporate ownership by shareholders. Unlike large corporations, MSMEs and SMEs lack the financial resources to navigate the complex insolvency processes.

A rigid application of insolvency laws to these entities can lead to the premature demise of otherwise viable businesses.

One of the fundamental issues with the current insolvency framework is the failure to distinguish between default and fraud.

For genuine businesses experiencing temporary financial distress, stringent recovery timelines can lead to forced insolvency rather than recovery. One solution is the introduction of grace periods and restructuring opportunities. Creating a framework that allows for temporary relief and provides customised

solutions based on size and nature of the business could support companies in overcoming short-term challenges.

The future of Indian business lies not in condemning those who falter, but in uplifting them with fair, responsive policies that empower enterprises to overcome challenges. In this pursuit, lenders, shareholders, and policymakers must work together, respecting each other's roles and prioritizing the shared objective of sustained economic growth.

The author is a distinguished corporate and legal advisor. Views expressed are personal.