MALLAREDDYINSTITUTEOFTECHNOLOGY& SCIENCE
(SPONSOREDBYMALLAREDDYEDUCATIONALSOCIETY)
PermanentlyAffiliatedtoJNTUH& ApprovedbyAICTE,NewDelhi
NBAAccreditedInstitution, AnISO9001:2015Certified,
ApprovedbyUKAccreditationCentreGrantedStatus of2(f)&12(b)underUGCAct. 1956,Govt. ofIndia.

PROFESSIONAL PRACTICE ,LAW AND ETHICS

COURSEFILE

DEPARTMENT OFELECTRONICS & COMMUNICATIONENGINEERING

(2022-2023)

FacultyIn-Charge
Venkateswarlu

HOD-ECE
Dr.R.Prabhakar

COURSE FILE

SUBJECT: PROFESSIONAL PRACTICE ,LAW AND ETHICS

NAME OF THE FACULTY:Dr.R.NARSAIAH

DEPARTMENT:ECE

YEAR&SECTION:IV ECE -C

SUBJECTCODE:SM702MS

INDEX		
COURSEFILE		
S.NO	TOPIC	PAGENO
1.	PEO'S,PO'S,PSO'S	2
2	SyllabusCopy	4
3	ClassTimetable&IndividualTimetable	5
4	StudentRollList	6
5	LessonPlan	15
6	UnitWiseLectureNotes NotesofUnits AssignmentQuestions Short and long answer question with BloomsTaxonomy Beyondthesyllabustopicsandnotes ObjectiveQuestions PPT'S/NPTELVIDEOS/any other	 19 201 202 209 223
7	StudentSeminarTopics	228
8	PreviousUniversityQuestionPaperstopractice	229
9	SampleInternalExaminationQuestionpaperswithkey	230
10	CourseAttendanceRegister	

PROFESSIONAL PRACTICE ,LAW AND ETHICS

1.PEO'S,PO'S,PSO'S

PROGRAMEDUCATIONALOBJECTIVES:
PEO1: To excel in different fields of electronics and communication as well as in multidisciplinary areas. This can lead to a new era in developing a good electronic product.
PEO2: To increase the ability and confidence among the students to solve any problem in their profession by applying mathematical, scientific and engineering methods in a better and efficient way.
PEO3: To provide a good academic environment to the students which can lead to excellence, and stress upon the importance of teamwork and good leadership qualities, written ethical codes and guide lines for lifelong learning needed for a successful professional career.
PEO4: To provide student with a solid foundation to students in all areas like mathematics, science and engineering fundamentals required to solve engineering problems, and also to pursue higher studies.
PEO5: To expose the student to the state of art technology so that the student would be in a position to take up any assignment after his graduation.

PROGRAMOUTCOMES:-
Engineeringknowledge:Applytheknowledgeofmathematics,science,engineeringfundamentals,and anengineering specializationto thesolutionofcomplexengineering problems.
Problemanalysis:Identify,formulate,reviewresearchliterature,andanalyzecomplexengineeringproblems reaching substantiated conclusions using first principles of mathematics, natural sciences,and engineeringsciences.
Design/developmentofsolutions: Designsolutionsforcomplexengineeringproblemsanddesignsystem components or processes that meet the specified needs with appropriate consideration forthepublichealthand safety,and thecultural,societal,and environmental considerations.
Conduct investigations of complex problems: Use research-based knowledge and researchmethodsincludingdesignofexperiments,analysisandinterpretationofdata,andsynthesisoftheinformation toprovidevalidconclusions.
Modern tool usage: Create, select, and apply appropriate techniques, resources, and modernengineeringandITtoolsincludingpredictionandmodelingtocomplexengineeringactivitieswithanunderstanding ofthelimitations.
Theengineerandsociety:Applyreasoninginformedbythecontextualknowledgetoassesssocietal,health, safety, legal and cultural issues and the consequent responsibilities relevant to theprofessional engineeringpractice.
Environment and sustainability: Understand the impact of the professional engineering solutionsinsocietalandenvironmentalcontexts,anddemonstratetheknowledgeof,andneedforsustainabledevelopment.
Ethics: Apply ethical principles and commit to professional ethics and responsibilities and norms oftheengineeringpractice.
Individualandteam work:Functioneffectivelyasanindividual,andasamemberorleaderindiverseteams,andin multidisciplinarysettings.
Communication: Communicate effectively on complex engineering activities with the engineeringcommunityandwithsocietyatlarge,suchas,beingableto comprehendandwriteeffectivereportsanddesigndocumentation,makeeffectivepresentations,andgiveandreceiveclearinstructions.
Project management and finance: Demonstrate knowledge and understanding of the engineeringandmanagementprinciplesandapplytheseto

one'sownwork,asamemberandleaderinateam,tomanageprojectsandin multidisciplinaryenvironments.

Life-longlearning:Recognizetheneedfor,andhavethepreparationandabilityto engageinindependentand life-long learning inthebroadestcontextoftechnological change.

PROGRAMSPECIFIC OUTCOMES:

PSO1: The ability to absorb and apply fundamental knowledge of core Electronics and Communication Engineering subjects in the analysis, design, and development of various types of integrated electronic systems as well as to interpret and synthesize the experimental data leading to valid conclusions.

PSO2: Competence in using electronic modern IT tools (both software and hardware) for the design and analysis of complex electronic systems in furtherance to research activities.

PSO3: Excellent adaptability to changing work environment, good interpersonal skills as a leader in a team in appreciation of professional ethics and societal responsibilities.

2.SyllabusCopy

SM702MS: PROFESSIONAL PRACTICE, LAW AND ETHICS (PC)

B.Tech. IV Year I Semester

L	T	P	C
2	0	0	2

Course Objectives:

- To make the students understand the types of roles they are expected to play in thesociety as practitioners of the civil engineering profession
- To develop some ideas of the legal and practical aspects of their profession.

Course Outcome: The students will understand the importance of professional practice, Law and Ethics in their personal lives and professional careers. The students will learn the rights and responsibilities as an employee, team member and a global citizen

UNIT - I

Professional Practice and Ethics: Definition of Ethics, Professional Ethics - Engineering Ethics, Personal Ethics; Code of Ethics - Profession, Professionalism, Professional Responsibility, Conflict of Interest, Gift Vs Bribery, Environmental breaches, Negligence, Deficiencies in state-of-the-art; Vigil Mechanism, Whistle blowing, protected disclosures. Introduction to GST-Various Roles of Various Stake holders

UNIT - II

Law of Contract: Nature of Contract and Essential elements of valid contract, Offer and Acceptance, Consideration, Capacity to contract and Free Consent, Legality of Object. Unlawful and illegal agreements, Contingent Contracts, Performance and discharge of Contracts, Remedies for breach of contract. Contracts-II: Indemnity and guarantee, Contract of Agency, Sale of goods Act -1930: General Principles, Conditions & Warranties, Performance of Contract of Sale.

UNIT - III

Arbitration, Conciliation and ADR (Alternative Dispute Resolution) system: Arbitration – meaning, scopeand types – distinction between laws of 1940 and 1996; UNCITRAL model law – Arbitration and expertdetermination; Extent of judicial intervention; International commercial arbitration; Arbitration agreements – essential and kinds, validity, reference and interim measures by court; Arbitration tribunal

– appointment, challenge, jurisdiction of arbitral tribunal, powers, grounds of challenge, procedure and court assistance; Distinction between conciliation, negotiation, mediation and arbitration, confidentiality,resort to judicial proceedings, costs; Dispute Resolution Boards; Lok Adalats.

UNIT - IV

Engagement of Labour and Labour & other construction-related Laws: Role of Labour in Civil Engineering; Methods of engaging labour- on rolls, labour sub-contract, piece rate work; Industrial Disputes Act, 1947; Collective bargaining; Industrial Employment (Standing Orders) Act, 1946; Workmen's Compensation Act, 1923; Building & Other - Construction Workers (regulation of employment and conditions of service) Act (1996) and Rules (1998); RERA Act

2017, NBC 2017.

UNIT - V

Law relating to Intellectual property: Introduction – meaning of intellectual property, main forms of IP, Copyright, Trademarks, Patents and Designs, Secrets; Law relating to Copyright in India including Historical evolution of Copy Rights Act, 1957, Meaning of copyright – computer programs, Ownership of copyrights and assignment, Criteria of infringement, Piracy in Internet – Remedies and procedures in India; Law relating to Patents under Patents Act, 1970

TEXT BOOKS:

Professional Ethics: R. Subramanian, Oxford University Press, 2015.

1. Ravinder Kaur, Legal Aspects of Business, 4e, Cengage Learning, 2016.

REFERENCE BOOKS:

1. RERA Act, 2017.
2. Wadhera (2004), Intellectual Property Rights, Universal Law Publishing Co.
3. T. Ramappa (2010), Intellectual Property Rights Law in India, Asia Law House.
4. O.P. Malhotra, Law of Industrial Disputes, N.M. Tripathi Publishers.

3.ClassTimeTable&IndividualTimeTable

Class: IV/IV B.Tech – I Semester **LECTURE HALL – B1 113**
Branch: ECE-C **W.E. F -16/09/2022**

ELECTRONICS AND COMMUNICATION ENGINEERING DEPARTMENT

Day/ Time	9:15 am to 10:15 am	10:15 am to 11:15 am	11:15 am to 12:15 pm	12:15 pm to 1:15 pm	1:15pm to 2:00 pm	2:00 pm to 3:00 pm	3:00 pm to 4:00 pm
Monday	MWOC	DBMS	MAJOR STAGE - I		LUNCH	MWOC LAB/ MINI PROJECT	
Tuesday	DIP	DIP	MWOC	DBMS		PPLE	LIBRARY
Wednesday	RSGIS	MWOC	PPLE	DBMS		MAJOR STAGE - I	
Thursday	PPLE	MINI PROJECT		RSGIS		MINI PROJECT/ MWOC LAB	
Friday	RSGIS	DBMS	DIP	PPLE		MAJOR STAGE - I	
Saturday	DBMS	DIP	DIP	MWOC		SEMINAR	

Microwave and Optical Communications : Mr. CH. Raja Shekar
Digital Image Processing : Mr. T. Pavan Vinayak
Database Management : Mr. N. Venkateswara Rao (C.I)
Remote Sensing & GIS : Mr. Adil Pasha
Professional Practice, Law & Ethics : Dr. R. Narasiah
Microwave and Optical Communications Lab : Mr. CH. Raja Shekar
Seminar : Mr. T. Pavan Vinayak

HOD, ECE **PRINCIPAL**

IndividualTimeTable

	9.15-10.15	10.15-11.15	11.15-12.15	12.15-1.15	1.15-2.00	2.00-3.00	3.00-4.00
MON					**LUNCH**		
TUES						PPLE	
WED			**PPLE**				
THUR	**PPLE**						
FRI				**PPLE**			
SAT							

4.StudentsRollList

MALLAREDDY INSTITUTE OF TECHNOLOGY & SCIENCE

Class: **IV Year-I Sem B.Tech.** Branch: **ECE-C**

Batch: **2019-2020** A.Y: **2022-2023**

ROLL LIST

SNo	H.T.NO	NAME OF THE STUDENT	SNo	H.T.NO	NAME OF THE STUDENT
1	19S11A0401	ABHILASH POLAM	36	19S11A0436	RISHIKETHAN REDDY MAMIDI
2	19S11A0402	ABHISHEK REDDY KAITHI	37	19S11A0437	RUCHITHA SHANAGONDA
3	19S11A0403	AJENDER REDDY BADDAM	38	19S11A0438	SAI KUMAR REDDY GURRALA
4	19S11A0404	AKSHITHA PITTALA	39	19S11A0439	SAI NIKHIL KOTHA
5	19S11A0405	ANKAL REDDY PATHAKOTTU	40	19S11A0440	SAI PRASAD RAJA BAI
6	19S11A0406	ANUSHA YERVA	41	19S11A0441	SAI PRIYA KONNERU
7	19S11A0407	ANVESH REDDY GADDAM	42	19S11A0442	SAI SUMANTH PEDDAGOLLA
8	19S11A0408	AVINASH KOLLI	43	19S11A0443	SAI TEJA GANDHAM
9	19S11A0409	BHARGAVA KRISHNA CHENNUPALLY	44	19S11A0444	SAIRAM KURA
10	19S11A0410	BHARGAVI PAILA	45	19S11A0445	SANDHYA RANI DONGALA
11	19S11A0411	BHARGAVI TEKMAL	46	19S11A0446	SANGEETHA KUMBAM
12	19S11A0412	BHAVIKA MANNEKUNTA	47	19S11A0447	SANJEEVINI SOMAYAJI CHEEPALLI
13	19S11A0413	DEEPTHI RAYALA	48	19S11A0448	SATHISH KUMAR BATTA
14	19S11A0414	DIVYATEJA BONGANI	49	19S11A0449	SATYANARAYANA KAVITI
15	19S11A0415	DURGA PRASAD MADDALA	50	19S11A0450	SHARATH KUMAR NARSINGA
16	19S11A0416	GOPI RAVULA	51	19S11A0451	SHIVA KUMAR K
17	19S11A0417	HANUMAN DUKHIYA	52	19S11A0452	SHREEYA CHEERLA
18	19S11A0418	KEERTHANA THONUPUNURI	53	19S11A0453	SOUMYA PATHI
19	19S11A0419	LAHARI MOTHE	54	19S11A0454	SRICHARAN REDDY PONDUGULA
20	19S11A0420	MANASA GUNDRA	55	19S11A0455	SWAPNA GAJJALA
21	19S11A0421	MANASA JANGALA	56	19S11A0456	UMA NAGALLA
22	19S11A0422	MANIKANTA YARA	57	19S11A0457	VAMSHI PANJALA
23	19S11A0423	MOHAN REDDY PININTI	58	19S11A0458	VENU KUMAR GOUD EDIGA
24	19S11A0424	NAGA VENKATA SAI KUMAR BONU	59	19S11A0459	VISHNU SAI P
25	19S11A0425	NAGU GOUD AITAGONI	60	19S11A0460	YASHWANTH GADE
26	19S11A0426	NANDINI KITIKE	61	17S11A04B2	THARUNDEEP RAKAM

27	19S11A0427	NARESH REDDY NAGIREDDY	62	18S11A0404	ANIL BADAVATH
28	19S11A0428	NIKHIL REDDY ETIKYALA	63	18S11A0421	GURUNATH AMGOTH
29	19S11A0429	NIRANJAN REDDY MANNE	64	18S11A0429	NAGARJUNA DEVA
30	19S11A0430	POOJITHA MUCHARLA	65	18S11A0434	RAJKUMAR BADE
31	19S11A0431	PRANITHA PALADUGU	66	18S11A0436	RAVITEJA GANJI
32	19S11A0432	RAKESH GUDI	67	18S11A0457	VIJAY TEJA KANDU
33	19S11A0433	RASHMITHA ALIMI	68	18S11A0459	VYSHNAV KUMAR REDDY KUMMETHA
34	19S11A0434	RAVI KUMAR GUNDEBOINA	69	18S11A04A2	SAI KRISHNA THALLAPELLI
35	19S11A0435	RENUSRI SREERAM			

5.LessonPlan

MALLA REDDY INSTITUTE OF TECHNOLOGY AND SCIENCE

(Sponsored by Malla Reddy Educational Society)
Permanently affiliated to JNTUH Hyderabad and Approved by AICTE, New Delhi
NAAC&NBA Accredited, ISO 9001:2015 Certified, Approved by U K Accreditation entre.
Granted status of 2 (f) and 12(b) under UGC Act 1956, Govt. of India.
Maisammaguda, Dhulapally, Secunderabad – 500100.

LECTURE PLAN

Name of the Faculty :Dr.Narsaiah Rachakonda Academic Year: 2022-2023

Course NumberProgram Year/Sem : SM702MS Course :B.Tech Branch: ECE

Name : **PROFESSIONAL PRACTICE, LAW AND ETHICS** : IV-I Section: C

Course Objectives:

- To make the understand the types of roles they expected to play in the society as practitioners of the engineering profession
- To develop some ideas of the legal and practical aspects of their profession
- To consider any moral obligations of businesses to the environment and to people in other countries
- To foster more careful, disciplined thinking in trying to resolve issues in business ethics

Course outcomes:

Subject: PROFESSIONAL PRACTICE, LAW AND ETHICS.

CO 1: To understand the student's importance of professional practice, law and ethics in their personal lives and professional careers.
CO 2: The student will learn the rights and responsibilities as an employee, team member and global citizen..
CO 3: To Acquiring knowledge of various roles of Engineer In applying ethical principles at various professional levels.
CO 4: To Excelling in competitive and challenging environment to contribute to industrial growth.
CO5: To Identify the multiple ethical interests at stake in a real-world situation or practice
CO 6: To Identify and analyze an ethical issue in the subject matter under investigation or in a relevant field

PROFESSIONAL PRACTICE ,LAW AND ETHICS

Lesson No.	No. of Periods	No. Of Periods/ Unit	Topic/Sub Topic	Mode of Teaching	Course Outcome (COS)	ProgramOutcome (POS)
1.0	1	10	**UNIT-1: Professional Practice and Ethics**	Chalk & Black board/PPT	CO-1	P5
1.1	1		Definition of Ethics	Chalk & Black board / PPT/NPTEL		P5
1.2	1		Introduction of Professional Ethics	Chalk & Black board / PPT/NPTEL		P6
1.3	1		Differences between Engineering Ethics, Personal Ethics	Chalk & Black board / PPT/NPTEL		P6
1.4	1		Importance of Code of Ethics	Chalk & Black board / PPT/NPTEL		P5
1.5	1		Profession, Professionalism, Professional Responsibility,	Chalk & Black board/PPT		P5
1.6	1		Focus on Conflict of Interest,	Chalk & Black board/PPT		P6
1.7	1		Gift Vs Bribery,	Chalk & Black board/PPT		P5
1.8	1		Environmental breaches,	Chalk & Black board/PPT		P6
1.9	1		Negligence, Deficiencies in state-of-the-art;	Chalk & Black board/PPT		P7
1.10	1		Importance of Vigil Mechanism,	Chalk & Black board/PPT		P17
1,11	1		Whistle blowing,	Chalk & Black board/PPT		P5
1.12	1		protected disclosures	Chalk & Black board/PPT		P6
1.13	1		Introduction to GST	Chalk & Black board/PPT		P5,6
1.14	1		Various Roles of Various Stake holders	Chalk & Black board /PPT		P6,7
	ASSIGNMENT TEST – I					
2.0			**UNIT-II: Law of Contract**	Chalk & Black board/PPT		
2.1	1		Nature of Contract and Essential elements of valid contract	Chalk & Black board /PPT/NPTEL		P6
2.2	1		Offer and Acceptance	Chalk & Black board / PPT/NPTEL	P7	T2

2.3	1	10	Consideration, Capacity to contract and Free Consent,	Chalk & Black board / PPT/NPTEL	P7	T2
2.4	1		Legality of Object. Unlawful and illegal agreements,.	Chalk & Black board / PPT/NPTEL	P8	T2
2.5	1		Contingent Contracts,	Chalk & Black board/PPT	P9	T2
2.6	1		Performance and discharge of Contracts,	Chalk & Black board/PPT	P11	T2
2.7	1		Remedies for breach of contract.	Chalk & Black board/PPT	P11	T2
2.8	1		**Contracts-II:** Indemnity and guarantee, Contract of Agency,	Chalk & Black board /PPT/NPTEL	P9	T2
2.9	1		Sale of goods Act -1930: General Principles, Conditions & Warranties, Performance of Contract of Sale	Chalk & Black board /PPT/NPTEL	P8,9	T2
	ASSIGNMENT TEST – II					
3.0	1	10	**UNIT-III: Arbitration, Conciliation and ADR (Alternative Dispute Resolution) system**	Chalk & Black board/PPT		T3
3.1	2		Arbitration – meaning, scope and types – distinctionbetween laws of 1940 and 1996;	Chalk & Black board/PPT	P8	T3
3.2	2		UNCITRAL model law – Arbitration and expert determination; Extent of judicial intervention;	Chalk & Black board/PPT	P7,8	T3
3.3	2		International commercial arbitration; Arbitration agreements – essential and kinds, validity, reference and interim measures by court;	Chalk & Black board/PPT / NPTEL	P6	T3
3.4	2		Arbitration tribunal – appointment, challenge, jurisdictionof arbitral tribunal, powers, grounds of challenge, procedure and court assistance	Chalk & Black board/PPT	P9	T3
3.5	1		Distinction between conciliation, negotiation, mediationand arbitration, confidentiality, resort to judicial proceedings, costs; Dispute Resolution Boards; LokAdalats.	Chalk & Black board/PPT	P8	T3
	ASSIGN MENT TEST-III					
4.0			**UNIT-IV: Engagement of Labour and Labour & other construction-related Laws**	Chalk & Blackboard/PPT		
4.1	1		Role of Labour in Civil Engineering;	Chalk & Blackboard/PPT		

4.2	1	10	Methods of engaging labour- on rolls,	Chalk & Black board / T/NPTEL
4.3	1		labour sub-contract, piece rate work;	Chalk & Black board / PPT/NPTEL
4.4	1		Industrial Disputes Act, 1947;	Chalk & Black board / PPT/NPTEL
4.5	1		Collective bargaining;	Chalk & Black board / PPT/NPTEL
4.6	1		Industrial Employment (Standing Orders) Act, 1946;	Chalk & Black board/PPT
4.7	1		Workmen's Compensation Act, 1923;	Chalk & Black board / PPT/NPTEL
4.8	1		Building & Other - Construction Works	Chalk & Black board/PPT
4.9	1		Building & Other - Construction Workers (regulation of employment and conditions of service) Act (1996)	Chalk & Blackboard/PPT
4.10	1		Building & Other - Construction Workers (regulation of employment and conditions of service) Act (1996) and Rules (1998);	Chalk & Blackboard/PPT
4.11	1		RERA Act 2017, NBC 2017.	Chalk & Blackboard/PPT
		ASSIGNMENT TEST-IV		
5.0	1	10	**UNIT-V: Law relating to Intellectual property**	Chalk & Black board/PPT
5.1	1		Introduction – meaning of intellectual property,	Chalk & Black board/PPT
5.2	2		main forms of IP, Copyright, Trademarks, Patents and Designs, Secrets; Law relating to Patents under Patents Act, 1970	Chalk & Black board /PPT/NPTEL
5.3	1		Law relating to Copyright in India including Historical evolution of Copy Rights Act, 1957,	Chalk & Black board /PPT/NPTEL
5.4	2		Meaning of copyright – computer programs, Ownership of copyrights and assignment	Chalk & Black board /PPT/NPTEL
5.5	1		Criteria of infringement, Piracy in Internet – Remedies and procedures in India;	Chalk & Black board / PPT/NPTEL
15-12-2022				ASSIGNMENT TEST –V

T1: Professional Ethics: R. Subramanian, Oxford University Press, 2015. 2

T2: . Ravinder Kaur, Legal Aspects of Business, 4e, Cengage Learning, 2016..

T3**:** Industrial Management-A.P. Verma**,** N. Mohan January**-** 2013

TEXT BOOKS:

1. Professional Ethics: R. Subramanian, Oxford University Press, 2015. 2

2: . Ravinder Kaur, Legal Aspects of Business, 4e, Cengage Learning, 2016..

3: Industrial Management-A.P. Verma, N. Mohan January- 2013

4. Law Relating To Intellectual Property, 2011 (Reprint) January 2016- B.L. Wadehra

REFERENCES:

1. RERA Act, 2017.

2. Wadhera (2004), Intellectual Property Rights, Universal Law Publishing Co.

3. T. Ramappa (2010), Intellectual Property Rights Law in India, Asia Law House.

4. O.P. Malhotra, Law of Industrial Disputes, N.M. Tripathi Publishers

6.UNITWISELECTURENOTES

a)NotesofUnits

PROFESSIONAL PRACTICE ,LAW AND ETHICS

ELECTRONICS&COMMUNICATIONENGINEERING

SM702MS: PROFESSIONAL PRACTICE, LAW AND ETHICS (PC)

B.Tech. IV Year I Semeste

L	T	P	C
2	0	0	2

Course Objectives:

- To make the students understand the types of roles they are expected to play in thesociety as practitioners of the civil engineering profession
- To develop some ideas of the legal and practical aspects of their profession.

Course Outcome: The students will understand the importance of professional practice, Law and Ethics in their personal lives and professional careers. The students will learn the rights and responsibilities as an employee, team member and a global citizen

UNIT - I

Professional Practice and Ethics: Definition of Ethics, Professional Ethics - Engineering Ethics, Personal Ethics; Code of Ethics - Profession, Professionalism, Professional Responsibility, Conflict of Interest, Gift Vs Bribery, Environmental breaches, Negligence, Deficiencies in state-of-the-art; Vigil Mechanism, Whistle blowing, protected disclosures. Introduction to GST-Various Roles of Various Stake holders

UNIT - II

Law of Contract: Nature of Contract and Essential elements of valid contract, Offer and Acceptance, Consideration, Capacity to contract and Free Consent, Legality of Object. Unlawful and illegal agreements, Contingent Contracts, Performance and discharge of Contracts, Remedies for breach of contract. Contracts-II: Indemnity and guarantee, Contract of Agency, Sale of goods Act - 1930: General Principles, Conditions & Warranties, Performance of Contract of Sale.

UNIT - III

Arbitration, Conciliation and ADR (Alternative Dispute Resolution) system: Arbitration – meaning, scope and types – distinction between laws of 1940 and 1996; UNCITRAL model law – Arbitration and expert determination; Extent of judicial intervention; International commercial arbitration; Arbitration agreements – essential and kinds, validity, reference and interim measures by court; Arbitration tribunal

– appointment, challenge, jurisdiction of arbitral tribunal, powers, grounds of challenge, procedure and court assistance; Distinction between conciliation, negotiation, mediation and arbitration, confidentiality, resort to judicial proceedings, costs; Dispute Resolution Boards; Lok Adalats.

UNIT - IV

Engagement of Labour and Labour & other construction-related Laws: Role of Labour in Civil Engineering; Methods of engaging labour- on rolls, labour sub-contract, piece rate work; Industrial Disputes Act, 1947; Collective bargaining; Industrial Employment (Standing Orders) Act, 1946; Workmen's Compensation Act, 1923; Building & Other - Construction Workers (regulation of employment and conditions of service) Act (1996) and Rules (1998); RERA Act 2017, NBC 2017.

UNIT - V

Law relating to Intellectual property: Introduction – meaning of intellectual property, main forms of IP, Copyright, Trademarks, Patents and Designs, Secrets; Law relating to Copyright in India including Historical evolution of Copy Rights Act, 1957, Meaning of copyright – computer programs, Ownership of copyrights and assignment, Criteria of infringement, Piracy in Internet – Remedies and procedures in India; Law relating to Patents under Patents Act, 1970

TEXT BOOKS:

Professional Ethics: R. Subramanian, Oxford University Press, 2015.

2. Ravinder Kaur, Legal Aspects of Business, 4e, Cengage Learning, 2016.

REFERENCE BOOKS:

5. RERA Act, 2017.
6. Wadhera (2004), Intellectual Property Rights, Universal Law Publishing Co.
7. T. Ramappa (2010), Intellectual Property Rights Law in India, Asia Law House.
8. O.P. Malhotra, Law of Industrial Disputes, N.M. Tripathi Publishers.

UNIT- I

PROFFESIONAL PRACTICE LAW & ETHICS

PROFFESIONAL PRACTICE & ETHICS

Define the term Profession:

Profession defines as a Declaration of belief in a course for a job.

Discuss the term Professional as Independence.

So long as the individual is looked upon as an employee rather than as a free artisan, to that extentthere is no professional status.

Discuss the term Professionalism as serving employers.

It is essential that professional should serve rather than filtering their everyday work through asieve of ethical sensitivity.

Discuss the term Professional an intermediate position.

Two general criteria are specified, they are
Attaining standards of achievements in education, job performance or creativity inengineering that distinguish from engineering technicians and technologists.

Accepting as part of their professional obligation at least the basic moral responsibilities tothe public as well as to their employers, client, colleagues, and subordinates.

Define Ethics:

Ethics also known as moral philosophy, is a branch of philosophy that involves systematizing, defending, and recommending concepts of Right and Wrong Behavior

TYPES OF ETHICS: Meta-Ethics, Normative Ethics, Applied Ethics

Meta-Ethics: it is branch of ethics that seeks to understand the nature of ethical properties, statements, attitudes and judgments

Normative Ethics: It is in investigates the set of questions that arise when considering how one ought to act, morally speaking

Applied Ethics:

It is philosophical examination, from a moral stand point, of particular issues in private and public life that are matters of moral judgment.

Professional Ethics:

It is encompass that personal and corporate standards of behavior expected of professionals.

What is Engineering Ethics?

- the study of moral issues and decisions confronting individuals and organizations involved in engineering
- the study of related questions about moral conduct, character, ideals and relationships of peoples and organizations involved in technological development.

From *Ethics in Engineering*, Mike W. Martin & Roland Schinzinger, Mc Graw-Hill (1989)

So, what is engineering ethics?

Ethical principles: Ethical principles underpin all professional codes of conduct. Ethical principles may differ depending on the profession; for example, professional ethics that relate to medical practitioners will differ from those that relate to lawyers or real estate agents. However, there are some universal ethical principles that apply across all professions, including:

Codes of ethics:

- honesty
- trustworthiness
- loyalty
- respect for others
- adherence to the law
- doing good and avoiding harm to others
- accountability.

The five fundamental principles :

1) Integrity

A professional accountant should be straightforward and honest in all professional and business relationships.

2) Objectivity

A professional accountant should not allow bias, conflict of interest or undue influence of others to override professional or business judgments.

3) Professional competence and due care

A professional accountant has a continuing duty to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice, legislation and techniques. A professional accountant should act diligently and in accordance with applicable technical and professional standards.

4) Confidentiality

A professional accountant should respect the confidentiality of information acquired as a result of professional and business relationships and should not disclose any such information to third parties without proper and specific authority unless there is a legal or professional right or duty to disclose. Confidential information acquired as a result of professional and business relationships should not be used for the personal advantage of the professional accountant or third parties.

5) Professional behaviour

A professional accountant should comply with relevant laws and regulations and should avoid any action that discredits the profession.

conflicts of Interest (COI) - Definitions

Interest

An interest may be defined as a commitment, goal, or value held by an individual or an institution.

Examples include a research project to be completed, gaining status through promotion or recognition, and protecting the environment. Interests are pursued in the setting of social interactions.

Conflict of Interest (COI)

A conflict of interest exists when two or more contradictory interests relate to an activity by an individual or an institution. The conflict lies in the situation, not in any behavior or lack of behavior of the individual. That means that a conflict of interest is not intrinsically a bad thing.

Examples include a conflict between financial gain and meticulous completion and reporting of a research study or between responsibilities as an investigator and as a treating physician for the same trial participant.

Institutional examples include the unbalancing of the institutional mission by acceding to the space requests of a large donor for an idiosyncratic program.

What are gifts and bribes?

Defining gifts and bribes may seem like a simple-minded activity, but, try posing the question another way, and you will see why this is an important issue in government ethics: What is the difference between a gift and a bribe?

A gift is something of value given without the expectation of return; a bribe is the same thing given in the hope of influence or benefit.

Because it is often impossible to determine the expectation of the giver, all federal, state, and local officials, both elected and appointed, are governed by rules restricting gifts. In some cases, gifts over a certain amount are disallowed; in others, they must simply be reported. These rules can vary significantly from locality to locality, indicating disparities in each legislature's understanding of when a gift becomes a bribe.

Gifts and bribes can be actual items, or they can be tickets to a sporting event, travel, rounds of golf, or restaurant meals.

In this context, it is well for government officials to remember the old saying, "There's no such thing as a free lunch," or even a free pencil. While many scoff at

the idea that a pencil or notepad from a developer may influence political decision making, one question needs to be answered: Why does the developer go to the trouble and expense of making these items?

To answer, we can look at analogous experience from another field. E. Haavi Morreim has studied the influence of drug company marketing on physicians' prescribing habits. Her observation: When you ask doctors whether this kind of drug marketing is effective, the answer is always the same: "It doesn't influence me at all. They're not going to buy my soul with a laser pointer." The truth is…this kind of advertising is crucial to sales. A doctor is not going to prescribe something he or she has never heard of, and it's the drug representative's job to get the products' names in front of the physicians."

Similarly, a member of the zoning commission who has been keeping a notepad from XYZ Builders next to his phone will remember the company when XYZ brings a matter before the commission. While no one is suggesting legislation that would prevent doctors or government officials from accepting inexpensive doodads, ethical politicians will recognize that any gift from someone with business before him or her is intended to exert an influence.

What do gifts and bribes have to do with ethics?

Political decisions are supposed to be made on the merits of the case, not based on whether or not the decision maker has received a lovely case of wine from one of the parties. This is a simple matter of fairness. When decision makers take gifts, even if their votes are not influenced, they give the appearance of being on the take, which undermines public confidence in government.

What ethical dilemmas do gifts and bribes present?

People do not go into government work to make a lot of money. Especially at the local level, elected officials may receive only token payment for the number of hours they put into the job. In this context, it is tempting to say that tickets to the local performing arts center or sporting arena are well-deserved perks of office. Some even argue that attending such events is part of the job and crucial to understanding the experience of citizens who use these venues.

What are Environmental Ethics?

." Environmental ethics is a branch of ethics that studies the relation of human beings and the environment and how ethics play a role in this. Environmental ethics believe that humans are a part of society as well as other living creatures, which includes plants and animals. These items are a very important part of the world and are considered to be a functional part of human life.

Therefore, it is essential that every human being respected and honor this and use morals and ethics when dealing with these creatures.

In environmental philosophy, environmental ethics is an established field of practical philosophy "which reconstructs the essential types of argumentation that can be made for protecting natural entities and the sustainable use of natural resources." The main competing paradigms are anthropocentrism, physiocentrism (called ecocentrism as well), and theocentrism. Environmental ethics exerts influence on a large range of disciplines including environmental law, environmental sociology, ecotheology, ecological economics, ecology and environmental geography

vigil mechanism

A vigil mechanism provides a channel to employees and Directors to report to the management concerns about unethical behavior, actual or suspected fraud or violation of the Codes of Conduct or any Policy of the Company. Section 177 of the Companies Act, 2013; The Companies (Meetings of Board and its Powers) Rules 2014.

Whistle blowing

A whistle blowing – or internal reporting – mechanism is a set of policies or procedures within an organisation which establish not just effective channels but comprehensive protection and support for reporting persons. ... An internal reporting mechanism can take various forms

Vigil Mechanism/ Whistle Blower Policy Under Company Act, 2013

Vigil mechanism/ Whistle Blower Policy is a very well-known term all over the World. Various compliance and fraud surveys show Vigil/Whistleblower mechanisms are among the most effective means of detecting Corporate misconduct. A genuine Whistleblower can help a Company and its stakeholders in avoiding exposures related to fraud or misconduct. Companies Act 2013 introduced the concept of Vigil Mechanism in India.

Difference between Vigil mechanism and Whistle-blowing:

Both these terms carry different meaning although they are invariably used simultaneously. A Vigil mechanism provides a channel to employees and Directors of a Company to report to the management concerns about unethical behavior, actual or suspected fraud or violation of the Codes of Conduct or any Policy of the Company.

The term "Whistle-blowing" originates from the practice of British policemen who blew their Whistles whenever they observed commission of a crime. Whistle Blowing is nothing but calling the attention of top level management to some

malafide activities happening within an organization. A Whistleblower is a person who comes forward and shares his/her knowledge on any wrongdoing which he/she thinks is happening in the organization or in a specific department. A Whistleblower could be an employee, contractor, or a supplier who becomes aware of any illegal activities.

For creating and establishing a well entrenched Whistle-blowing Culture, a Company shall have to undergo the following steps:

- Frame a Policy.
- Get an endorsement from top level management.
- Publicize the Organization's Commitment.
- Investigate and Follow Up.
- Assess the Organization's Internal Whistle-blowing System.

In India, the Companies Act 2013 and SEBI LODR Regulations provide the mandatory requirement for certain Companies to have such Vigil mechanisms.

Provisions Under the Companies Act, 2013:

A) Section 177 of the Companies Act, 2013 read with Rules made there under mandates following Companies to establish Vigil mechanism in their Company:

1.
    1. Listed Company;
    2. Every Company which accepts deposits from the public; and
    3. Every Company which has borrowed money from Banks and Public Financial Institutions in excess of Rupees 50 crores.

B) Companies which are required to constitute an Audit Committee shall operate the Vigil mechanism through the audit Committee. If any of the members of the Audit committee have a conflict of interest in a given case, they should recuse themselves and the other members of the Audit Committee shall deal with the matter on hand.

C) For the Companies which are not required to constitute the Audit Committee, the Board of Directors shall nominate a director to play the role of audit committee for the purpose of Vigil mechanism. All the employees and other Directors shall report their concerns to such appointed Director.

D) Vigil mechanism Policy of the Company shall provide for adequate safeguards against victimization of director(s)/employee(s) who avail of the Vigil Mechanism and to make provisions for direct access to the Chairman of the Audit Committee or the director nominated to play the role of Audit Committee (as the case may be).

E) The details of establishment and framing of Vigil Mechanism Policy shall be disclosed by the Company on its website, if any, and in it's Board's report.

F) The Independent Directors of the Company (wherever applicable) shall ascertain and ensure that the Company has an adequate and functional Vigil mechanism and that the interests of a person who uses such mechanism is not prejudicially affected on account of it's use.

G) In case of repeated frivolous complaints being filed by a Director or an employee, the audit committee or the director nominated to play the role of audit committee has the right and power to take suitable action against the concerned director or employee.

Under SEBI (LODR) Regulation, 2015

The SEBI (LODR) Requirements, 2015 contains similar requirement for establishment of a Vigil Mechanism termed 'Whistle Blower Policy'.

A) Regulation 4(2)(d)(iv) of SEBI (LODR), 2015 provides for the listed entity to devise an effective Whistle blower mechanism viz. Whistle Blower Policy enabling stakeholders, including individual employees and their representative bodies, to freely communicate their concerns about illegal or unethical practices.

B) The Audit committee shall review the functioning of the Whistle blower mechanism.

C) The listed entity shall disseminate details of establishment of Vigil mechanism/ Whistle Blower policy on its functional website.

D) The Corporate Governance Report of the Company shall contain the details of establishment of Vigil mechanism, Whistle blower policy and affirmation that no personnel has been denied access to the audit committee.

What is a protected disclosure?

A protected disclosure is a qualifying disclosure that is made by a worker that they reasonably believe shows serious wrongdoing within the workplace. This will typically relate to some form of dangerous or illegal activity that the person has witnessed at work, where they "blow the whistle" to either their employer directly, a member of senior management or the appropriate regulatory body.

Subject to the disclosure satisfying all of the relevant statutory requirements under the Employment Rights Act (ERA) 1996, the worker will be protected by law from

any form of unfair treatment at work, including dismissal, because they have reported past, present or even potential wrongdoing.

There are several common examples of complaints that fall within the scope of whistle blowing law including, for example, the commission of a criminal offence such as bribery and corruption, or where a company or organisation is deliberately breaching obligations relating to health and safety at work.

What are the criteria to be a protected disclosure?

Not every concern raised or complaint made by a worker will count as whistle blowing. For a whistle blowing disclosure to be classed as a protected disclosure under the ERA, all of the following requirements must be met:

- There must be a "qualifying disclosure" within the meaning of the ERA
- This must be in the public interest
- This must be made to an appropriate or prescribed person or body

A qualifying disclosure

A qualifying disclosure is defined under the ERA as any disclosure of information that, in the reasonable belief of the worker making the disclosure, tends to show one or more of the following:

- That a criminal offence has been committed, is being committed or is likely to be committed
- That a person has failed, is failing or is likely to fail to comply with any legal obligation to which they are subject
- That a miscarriage of justice has occurred, is occurring or is likely to occur
- That the health or safety of any individual has been, is being or is likely to be endangered
- That the environment has been, is being or is likely to be damaged, or
- That information tending to show any matter falling within any one of the above has been, is being or is likely to be deliberately concealed

To count as a qualifying disclosure, the information provided by the worker must relate to one of these six types of relevant failure – from the commission of a crime to concealing evidence relating to a wrongdoing – 'and' the worker must have a reasonable belief that the information tends to show one of these failures has happened, is happening now or believes will happen.

A worker need not necessarily be correct about their concerns or complaint, as long as they have reasonable grounds for believing that the information disclosed is substantially true, and that this belief was honestly held in all the circumstances

prevailing at the time of the disclosure. Protection is not afforded to those who make wild allegations or are merely repeating gossip.

In the public interest

To fall within the scope of the ERA, the worker making the disclosure must also reasonably believe that they are acting in the public interest in reporting the wrongdoing, or potential wrongdoing, in question. Essentially, they must have reasonable grounds for believing that the information disclosed will have, or is likely to have, an impact on other people.

A complaint will not usually count as a qualifying disclosure where it can be characterized as purely a personal grievance, rather than a public concern, for example, bullying, harassment and discrimination – although the law does offer protection for workers against this form of unlawful treatment in other ways.

A disclosure of information is also not a qualifying disclosure if the person making the disclosure commits an offence by doing so. This could be, for example, where a worker leaks official information in contravention of the Official Secrets Act. In these circumstances, regardless of the public merit of the information revealed or whether any damage to national interests was actually caused, an individual may still be prosecuted for the commission of an offence.

This also means, that in these limited circumstances, the individual would not be afforded any legal protection as a whistleblower.

To the right person or body

For a qualifying disclosure to be protected under the ERA, it must be made to an appropriate or prescribed person or body. This can be either to the whistleblower's employer, or to any other person within the company or organisation whom they reasonably believe to be solely or mainly responsible for the relevant failure.

A disclosure may also be protected if it is made to an outside person or agency. If an employee decides to blow the whistle to a prescribed person rather than directly to you, as their employer, they will need to report the matter to the correct person or body for their particular concern or complaint.

This must be the appropriate regulatory body designated for the purpose, for example, for bribery and corruption matters they should report their concerns to the Director of the Serious Fraud Office, or for breach of health and safety issues, this should be brought to the attention of the Health and Safety Executive.

Who can make a protected disclosure?

To make a protected disclosure, the individual must be a worker. However, under the ERA, a "worker" has a special and wide meaning, providing protection to all different kinds of prospective whistleblowers. As well as employees, it includes agency workers, apprentices and trainees.

It is also worth noting that any confidentiality clause within an individual's contract of employment, or any gagging clause within a settlement agreement, will be not preclude the worker from making a protected disclosure.

How does the protected disclosure have to be made?

Where a worker has genuine concerns or evidence of actual or potential wrongdoing at work it is open to them to report the matter at any time.

In many whistle blowing cases, the worker will report their concerns directly to the employer in the first instance, although where they feel unable to do so, for example, because of fears that they may be penalised or that evidence may be concealed or destroyed, they can report the matter to an outside agency.

If you have a written whistle blowing policy, for example, contained within a staff handbook, the worker ought to follow any procedures set down within that policy, although any failure to do so will not necessarily lose them the protection afforded under the ERA.

If the individual makes a report anonymously, the matter may not be able to be taken further if they have not provided sufficient information needed to do so. The whistleblower may also choose to provide their name, but request confidentiality. If, on the other hand, the worker reports their concerns to the media, they are likely to lose any legal rights as a whistleblower.

Is a whistle blowing policy needed?

A whistle blowing policy is not a strict statutory requirement, although setting out in writing your rules and procedures on reporting wrongdoing within the workplace, will demonstrate your commitment to comply with the law here.

This will also help to create an environment for workers to feel comfortable in speaking up without fear of reprisal, with clear guidance on how to make a protected disclosure and how they can expect this to be handled.

In some cases, the existence of a written whistle blowing policy can even act as a deterrent, preventing potential wrongdoing within your company or organisation that could seriously damage the reputation of your business.

An effective whistle blowing policy should set out the framework for managing protected disclosures. This includes detail of who is protected by the provisions, in what circumstances and how the disclosures are to be handled.

You could even go as far as explaining to the prospective whistleblower what feedback they can expect to receive if they raise concerns or make a complaint of wrongdoing, and what steps that can be taken if they are not happy with how the disclosure has been dealt with.

How should a protected disclosure be dealt with?

If the worker raises concerns with you or makes a complaint of wrongdoing within the workplace, you will need to decide on what action to take, and whether or not further inquiries need to be made.

If the worker has asked for confidentiality, you must make every effort to protect their identity when investigating the matter. Even though the whistleblower does not have any say in how the wrongdoing is dealt with, you should also keep them informed of any progress, subject to complying with any data protection laws and protecting the confidentiality of others where requested.

It is important to remember that if the whistleblower is not satisfied with how the matter has been dealt with, for example, where the wrongdoing is continuing, they may decide to report the matter to an outside agency, so you should endeavour to resolve the matter as quickly and effectively as possible.

It is also important that you do not treat the whistleblower any differently after a protected disclosure has been made, otherwise risk a complaint being lodged with the employment tribunal for unfair treatment.

That said, being a whistleblower only affords a worker protection against dismissal or detrimental treatment for that reason only, and not for any misconduct or poor performance on their part.

You can still take disciplinary action, or even dismiss a worker, for reasons wholly unrelated to their disclosure, although caution must be exercised to avoid any disciplinary sanction or decision to dismiss being misconstrued as detrimental treatment because of whistle blowing.

What protection will a whistleblower be afforded by law?

Any worker who makes a protected disclosure that falls within the scope of the ERA has the right not to be dismissed or subjected to any detriment by his or her employer on the ground that the individual has “blown the whistle”.

A detriment could include the whistleblower being overlooked for promotion or training opportunities, or being subjected to spurious disciplinary investigations. Further, if a whistleblower loses their job for a reason related to them making a protected disclosure, this would be classed as automatically unfair.

It's also important to remember that, as an employer, you can be held vicariously liable for any acts of victimisation or detrimental treatment committed by other workers, unless you can demonstrate that you took all reasonable steps to prevent this treatment from taking place.

There is no limit on compensation following dismissal arising out of a protected disclosure, although a tribunal can reduce any compensation by up to 25% if they think the disclosure was made by the worker in "bad faith".

Need assistance?

As employer solutions lawyers, DavidsonMorris' employment lawyers bring specialist experience in whistle blowing matters. We can advise on whistle blowing policies and defending claims, and deliver training for key personnel on identifying and handling protected disclosures. For guidance on any aspect of whistle blowing at work, contact us.

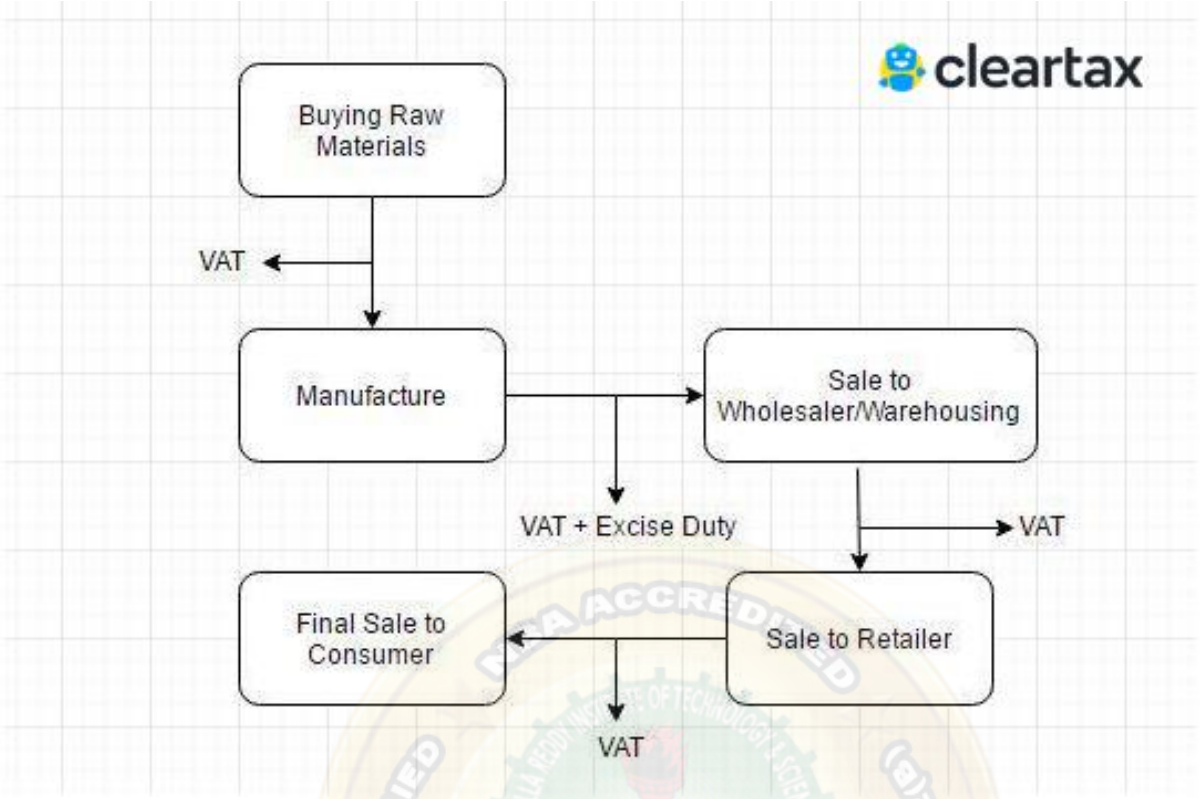
UK workers and employers are entitled to certain protections if they "make a disclosure in the public interest" regarding their employer's or a third party's actions. Encouraging your workforce to make any such disclosures in line with a specific procedure and reassuring them of their protected position if they do so, may be necessary and invaluable to a business. It is also important that there is clarity across the organisation of how to handle issues relating to whistle blowing. A whistle blowing policy plays a critical role in ensuring a consistent, effective and compliant approach to whistle blowing.

1. What is GST in India?

GST is known as the Goods and Services Tax. It is an indirect tax which has replaced many indirect taxes in India such as the excise duty, VAT, services tax, etc. The Goods and Service Tax Act was passed in the Parliament on 29th March 2017 and came into effect on 1st July 2017.

In other words,Goods and Service Tax (GST) is levied on the supply of goods and services. Goods and Services Tax Law in India is a comprehensive, multi-stage, destination-based tax that is levied on every value addition. GST is a single domestic indirect tax law for the entire country.

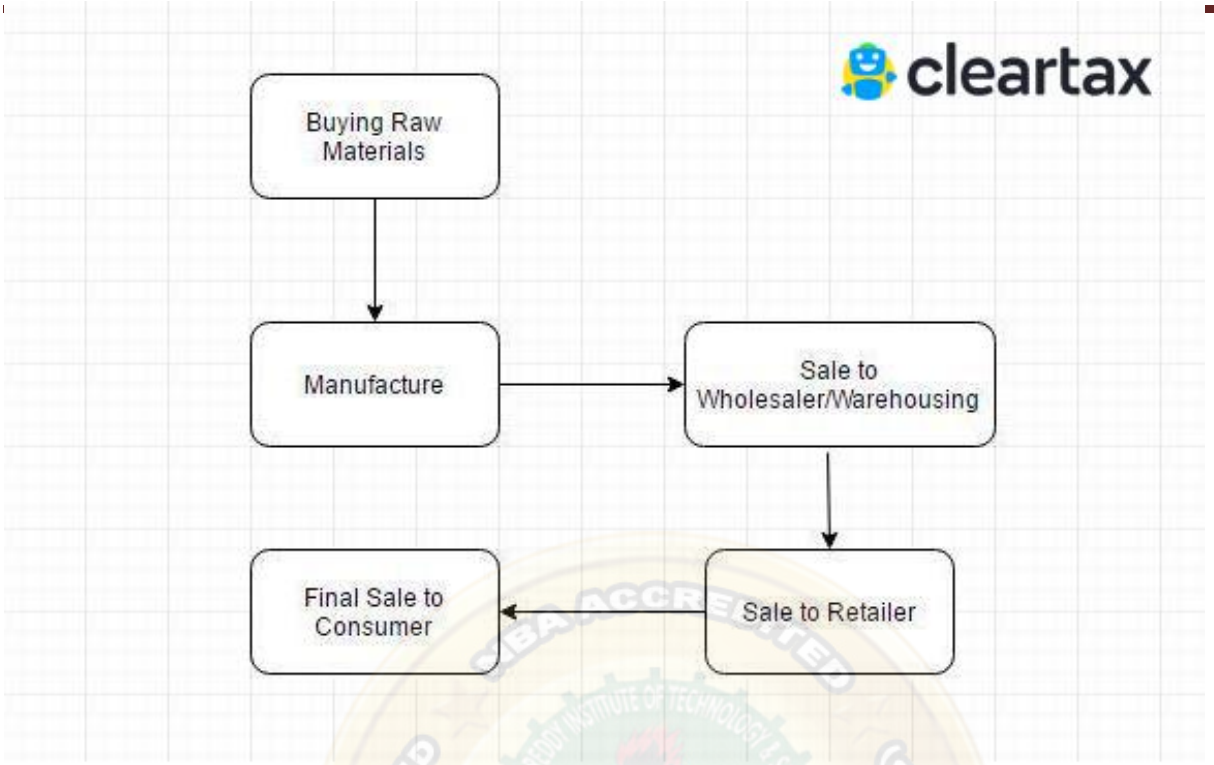
Before the Goods and Services Tax could be introduced, the structure of indirect tax levy in India was as follows:



- Under the GST regime, the tax is levied at every point of sale. In the case of intra-state sales, Central GST and State GST are charged. All the inter-state sales are chargeable to the Integrated GST.
- Now, let us understand the definition of Goods and Service Tax, as mentioned above, in detail.

Multi-stage

- An item goes through multiple change-of-hands along its supply chain: Starting from manufacture until the final sale to the consumer.
- Let us consider the following stages:
- Purchase of raw materials
- Production or manufacture
- Warehousing of finished goods
- Selling to wholesalers
- Sale of the product to the retailers
- Selling to the end consumers



The Goods and Services Tax is levied on each of these stages making it a multi-stage tax.

Value Addition

A manufacturer who makes biscuits buys flour, sugar and other material. The value of the inputs increases when the sugar and flour are mixed and baked into biscuits.

The manufacturer then sells these biscuits to the warehousing agent who packs large quantities of biscuits in cartons and labels it. This is another addition of value to the biscuits. After this, the warehousing agent sells it to the retailer.

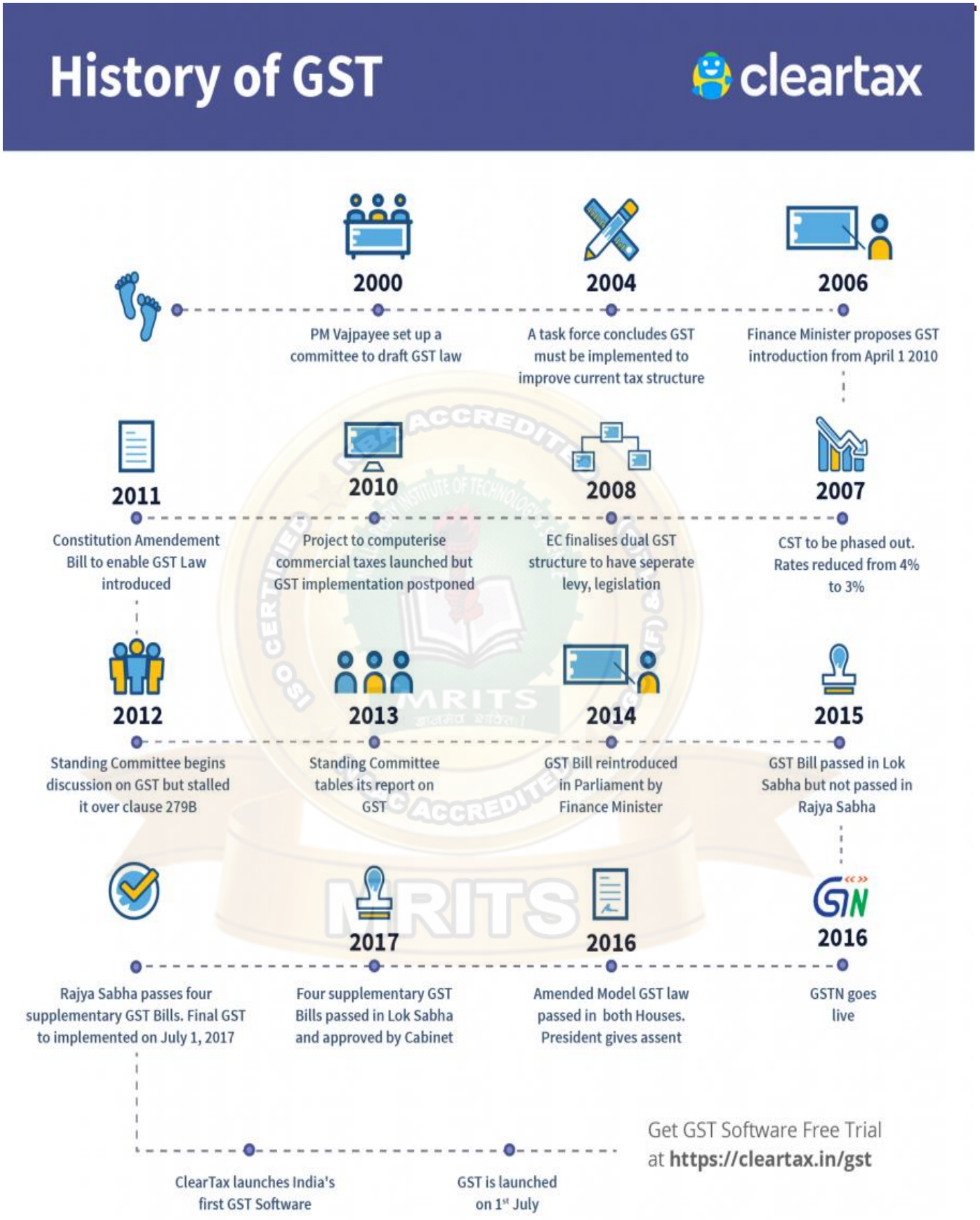
The retailer packages the biscuits in smaller quantities and invests in the marketing of the biscuits, thus increasing its value. GST is levied on these value additions, i.e. the monetary value added at each stage to achieve the final sale to the end customer.

Destination-Based

Consider goods manufactured in Maharashtra and sold to the final consumer in Karnataka. Since the Goods and Service Tax is levied at the point of consumption, the entire tax revenue will go to Karnataka and not Maharashtra.

2. The Journey of GST in India

The GST journey began in the year 2000 when a committee was set up to draft law. It took 17 years from then for the Law to evolve. In 2017, the GST Bill was passed in the Lok Sabha and Rajya Sabha. On 1st July 2017, the GST Law came into force.



3. Objectives Of GST

1. To achieve the ideology of 'One Nation, One Tax'

GST has replaced multiple indirect taxes, which were existing under the previous tax regime. The advantage of having one single tax means every state follows the same rate for a particular product or service. Tax administration is easier with the Central Government deciding the rates and policies. Common laws can be introduced, such as e-way bills for goods transport and e-invoicing for transaction reporting. Tax compliance is also better as taxpayers are not bogged down with multiple return forms and deadlines. Overall, it's a unified system of indirect tax compliance.

2. **To subsume a majority of the indirect taxes in India**

India had several erstwhile indirect taxes such as service tax, Value Added Tax (VAT), Central Excise, etc., which used to be levied at multiple supply chain stages. Some taxes were governed by the states and some by the Centre. There was no unified and centralised tax on both goods and services. Hence, GST was introduced. Under GST, all the major indirect taxes were subsumed into one. It has greatly reduced the compliance burden on taxpayers and eased tax administration for the government.

3. **To eliminate the cascading effect of taxes**

One of the primary objectives of GST was to remove the cascading effect of taxes. Previously, due to different indirect tax laws, taxpayers could not set off the tax credits of one tax against the other. For example, the excise duties paid during manufacture could not be set off against the VAT payable during the sale. This led to a cascading effect of taxes. Under GST, the tax levy is only on the net value added at each stage of the supply chain. This has helped eliminate the cascading effect of taxes and contributed to the seamless flow of input tax credits across both goods and services.

4. **To curb tax evasion**

GST laws in India are far more stringent compared to any of the erstwhile indirect tax laws. Under GST, taxpayers can claim an input tax credit only on invoices uploaded by their respective suppliers. This way, the chances of claiming input tax credits on fake invoices are minimal. The introduction of e-invoicing has further reinforced this objective. Also, due to GST being a nationwide tax and having a centralised surveillance system, the clampdown on defaulters is quicker and far more efficient. Hence, GST has curbed tax evasion and minimised tax fraud from taking place to a large extent.

5. **To increase the taxpayer base**

GST has helped in widening the tax base in India. Previously, each of the tax laws had a different threshold limit for registration based on turnover. As GST is a consolidated tax levied on both goods and services both, it has increased tax-registered businesses. Besides, the stricter laws surrounding input tax credits have helped bring certain unorganised sectors under the tax net. For example, the construction industry in India.

6. **Online procedures for ease of doing business**

Previously, taxpayers faced a lot of hardships dealing with different tax authorities under each tax law. Besides, while return filing was online, most of the assessment and refund procedures took place offline. Now, GST procedures are carried out almost entirely online. Everything is done with a click of a button, from registration to return filing to refunds to e-way bill generation. It has contributed to the overall ease of doing business in India and simplified taxpayer compliance to a massive extent. The government also plans to introduce a centralised portal soon for all indirect tax compliance such as e-invoicing, e-way bills and GST return filing.

7. **An improved logistics and distribution system**

A single indirect tax system reduces the need for multiple documentation for the supply of goods. GST minimises transportation cycle times, improves supply chain and turnaround time, and leads to warehouse consolidation, among other benefits. With the e-way bill system under GST, the removal of interstate checkpoints is most beneficial to the sector in improving transit and destination efficiency. Ultimately, it helps in cutting down the high logistics and warehousing costs.

8. **To promote competitive pricing and increase consumption**

Introducing GST has also led to an increase in consumption and indirect tax revenues. Due to the cascading effect of taxes under the previous regime, the prices of goods in India were higher than in global markets. Even between states, the lower VAT rates in certain states led to an imbalance of purchases in these states. Having uniform GST rates have contributed to overall competitive pricing across India and on the global front. This has hence increased consumption and led to higher revenues, which has been another important objective achieved.

4. Advantages Of GST

GST has mainly removed the cascading effect on the sale of goods and services. Removal of the cascading effect has impacted the cost of goods. Since the GST regime eliminates the tax on tax, the cost of goods decreases.

Also, GST is mainly technologically driven. All the activities like registration, return filing, application for refund and response to notice needs to be done online on the GST portal, which accelerates the processes.

5. What are the components of GST?

There are three taxes applicable under this system: CGST, SGST & IGST.

- CGST: It is the tax collected by the Central Government on an intra-state sale (e.g., a transaction happening within Maharashtra)

- SGST: It is the tax collected by the state government on an intra-state sale (e.g., a transaction happening within Maharashtra)
- IGST: It is a tax collected by the Central Government for an inter-state sale

Transaction	New Regime	Old Regime	Revenue Distribution
Sale within the State	CGST + SGST	VAT + Central Excise/Service tax	Revenue will be shared equally between the Centre and the State
Sale to another State	IGST	Central Sales Tax + Excise/Service Tax	There will only be one type of tax (central) in case of inter-state sales. The Centre will then share the IGST revenue based on the destination of goods.

(e.g., Maharashtra to Tamil Nadu)

In most cases, the tax structure under the new regime will be as follows:

Illustration:

- Let us assume that a dealer in Gujarat had sold the goods to a dealer in Punjab worth Rs. 50,000. The tax rate is 18% comprising of only IGST.

In such a case, the dealer has to charge IGST of Rs.9,000. This revenue will go to Central Government.

- The same dealer sells goods to a consumer in Gujarat worth Rs. 50,000. The GST rate on goods is 12%. This rate comprises CGST at 6% and SGST at 6%.

The dealer has to collect Rs.6,000 as Goods and Service Tax, Rs.3,000 will go to the Central Government and Rs.3,000 will go to the Gujarat government since the sale is within the state.

6. Tax Laws before GST

In the earlier indirect tax regime, there were many indirect taxes levied by both the state and the centre. States mainly collected taxes in the form of Value Added Tax (VAT). Every state had a different set of rules and regulations.

Inter-state sale of goods was taxed by the centre. CST (Central State Tax) was applicable in case of inter-state sale of goods. The indirect taxes such as the entertainment tax, octroi and local tax were levied together by state and centre. These led to a lot of overlapping of taxes levied by both the state and the centre.

For example, when goods were manufactured and sold, excise duty was charged by the centre. Over and above the excise duty, VAT was also charged by the state. It led to a tax on tax effect, also known as the cascading effect of taxes.

The following is the list of indirect taxes in the pre-GST regime:

- Central Excise Duty
- Duties of Excise
- Additional Duties of Excise
- Additional Duties of Customs
- Special Additional Duty of Customs
- Cess
- State VAT
- Central Sales Tax
- Purchase Tax
- Luxury Tax
- Entertainment Tax
- Entry Tax
- Taxes on advertisements
- Taxes on lotteries, betting, and gambling

CGST, SGST, and IGST have replaced all the above taxes.

However, certain taxes such as the GST levied for the inter-state purchase at a concessional rate of 2% by the issue and utilisation of ‘Form C’ is still prevalent.

It applies to certain non-GST goods such as:

i. Petroleum crude;
ii. High-speed diesel
iii. Motor spirit (commonly known as petrol);
iv. Natural gas;
v. Aviation turbine fuel; and
vi. Alcoholic liquor for human consumption.

It applies to the following transactions only:

- Resale
- Use in manufacturing or processing
- Use in certain sectors such as the telecommunication network, mining, the generation or distribution of electricity or any other power sector

7. How Has GST Helped in Price Reduction?

During the pre-GST regime, every purchaser, including the final consumer paid tax on tax. This condition of tax on tax is known as the cascading effect of taxes.

GST has removed the cascading effect. Tax is calculated only on the value-addition at each stage of the transfer of ownership. Understand what the cascading effect is and how GST helps by watching this simple video:

The indirect tax system under GST will integrate the country with a uniform tax rate. It will improve the collection of taxes as well as boost the development of the Indian economy by removing the indirect tax barriers between states.

Illustration:

Based on the above example of the biscuit manufacturer, let's take some actual figures to see what happens to the cost of goods and the taxes, by comparing the earlier GST regimes.

Tax calculations in earlier regime:

Action	Cost (Rs)	Tax rate at 10% (Rs)	Invoice Total (Rs)
Manufacturer	1,000	100	1,100
Warehouse adds a label and repacks at Rs.300	1,400	140	1,540
Retailer advertises at Rs. 500	2,040	204	2,244
Total	1,800	444	2,244

The tax liability was passed on at every stage of the transaction, and the final liability comes to a rest with the customer. This condition is known as the cascading effect of taxes, and the value of the item keeps increasing every time this happens.

Tax calculations in current regime:

Action	Cost (Rs)	Tax rate at 10%	Tax liability to be deposited	Invoice Total (Rs)

		(Rs)	(Rs)	
Manufacturer	1,000	100	100	1,100
Warehouse adds label and repacks at Rs. 300	1,300	130	30	1,430
Retailer advertises at Rs. 500	1,800	180	50	1,980
Total	1,800		180	1,980

In the case of Goods and Services Tax, there is a way to claim the credit for tax paid in acquiring input. The individual who has already paid a tax can claim credit for this tax when he submits his GST returns.

In the end, every time an individual is able to claims the input tax credit, the sale price is reduced and the cost price for the buyer is reduced because of lower tax liability. The final value of the biscuits is therefore reduced from Rs.2,244 to Rs.1,980, thus reducing the tax burden on the final customer.

8. What are the New Compliances Under GST?

Apart from online filing of the GST returns, the GST regime has introduced several new systems along with it.

e-Way Bills

GST introduced a centralised system of waybills by the introduction of “E-way bills”. This system was launched on 1st April 2018 for inter-state movement of goods and on 15th April 2018 for intra-state movement of goods in a staggered manner.

Under the e-way bill system, manufacturers, traders and transporters can generate e-way bills for the goods transported from the place of its origin to its destination on a common portal with ease. Tax authorities are also benefited as this system has reduced time at check -posts and helps reduce tax evasion.

E-invoicing

The e-invoicing system was made applicable from 1st October 2020 for businesses with an annual aggregate turnover of more than Rs.500 crore in any preceding financial years (from 2017-18). Further, from 1st January 2021, this system was extended to those with an annual aggregate turnover of more than Rs.100 crore.

These businesses must obtain a unique invoice reference number for every business-to-business invoice by uploading on the GSTN’s invoice registration

portal. The portal verifies the correctness and genuineness of the invoice. Thereafter, it authorizes using the digital signature along with a QR code.

e-Invoicing allows interoperability of invoices and helps reduce data entry errors. It is designed to pass the invoice information directly from the IRP to the GST portal and the e-way bill portal. It will, therefore, eliminate the requirement for manual data entry while filing GSTR-1 and helps in the generation of e-way bills too.

Role of Stakeholders in Business Organization

A stakeholder is a person who has an interest in the company, IT service or its projects. They can be the employees of the company, suppliers, vendors or any partner. They all have an interest in the organization. Stakeholders can also be an investor in the company and their actions determine the outcome of the company. Such stakeholder plays an important role in defining the future of the company as well as its day-to-day workings.

Types of Stakeholders

- Internal Stakeholders: They are a part of the management of the company and have voting powers. They are the major investors in the company and a part of the board of directors. Therefore they have all the powers that other higher-level management have and can change the direction of the company.
- External Stakeholders: Unlike internal stakeholders, their major role is to invest or disinvest in the company. They hardly can bring any change in the company's direction. They do not take part in any internal operations or decision making of the company.

Roles of Stakeholders

- Direct the Management: The stakeholders can be a part of the board of directors and therefore help in taking actions. They can take over certain departments like service, human resources or research and development and manage them for ensuring success.

- They Bring in Money: Stakeholders are the large investors of the company and they can anytime bring in or take out money from the company. Their decision shall depend upon the company's financial performance. Therefore they can pressurize the management for financial reports and change tactics if necessary. Some stakeholders can even increase or decrease the investment to change the share price in the market and thus make the conditions favorable for them.
- Help in Decision Making: Major stakeholders are part of the board of directors. Therefore they also take decisions along with other board members. They have the power to disrupt the decisions as well. They and bring n more ideas a threaten the management to obey them. The stakeholders also have all the powers to appoint senior-level management. Therefore, they are there in all the major decision-making areas. They also take decisions regarding liquidations and also acquisitions.
- Corporate Conscience: Large stakeholders are the major stakeholders of the company and have monitored over all the major activities of the company. They can make the company abide by human rights and environmental laws. They also monitor the outsourcing activities and may vote against any business decision if it harms the long term goals of the company.
- Other Responsibilities: Apart from the above four major roles they also have some other roles to play in the company. They can identify new areas for market penetration and increased sales. They can bring in more marketing ideas. They also attract other investors like honeybees in the company. They can be a part of a selection board or a representative for the company. Moreover, they can take all the major social and environmental decisions.

UNIT-II

LAW OF CONTRACT

Most of the business transactions are based on promises to be performed at a later date. These promises whether made by businessmen or by others create certain rights and obligations and if these rights and obligations are not enforceable, the business world would be paralyzed. It is with the enforcement of these promises that the law of contract is concerned. The contract Act does not lay down the list of obligations that would be

enforceable by law but lays down the rules subject to which rights or duties created by the parties would be enforced. The parties to the contract can make whatever rules they want, if these rules are not inconsistent with the provisions of the Act, they would be enforced by courts of law.

Meaning: Sec.2 (h) “An agreement enforceable by law is a contract.” Therefore, a contract has two important elements, one is the agreement, and the other is the obligation which is enforceable by law.

Agreement: Agreement is the outcome of the consensus between the parties who enter into a contract, i.e., the promise made between them, represents concurrence of their minds. (Sec.13). these would not be an agreement if the parties do agree but not on the same thing in the same sense, i.e., consensus is not sufficient. There has to be consensus ad idem. Sec.2 (e) defines an agreement as “Every promise or every set of promises forming consideration for each other”. A proposal when accepted becomes a promise.

Example: A received Rs.10, 000 from B and promises to supply him 10 bags of rice after 10 days. It is a promise. It shall be a set of promises if a promises to supply 10 bags of rice after 10 days and B promises to pay him Rs.10, 000 after the rice is supplied. Thus,

Agreement = Offer + Acceptance.

Offer (Proposal): Offer [(proposal) (Sec.2 (a)] “When one person signifies to another his willingness to do or to abstain from doing anything with a view to obtaining the assent of the other to such act or abstinence, he is said to make a proposal”.

Acceptance: Acceptance has been defined u/s (Sec.2 (b)) as “When the person to Whom the proposal is made, signifies his assent thereto, the proposal is said to be accepted. A proposal when accepted becomes a

promise".

Example: A lost his Cell Phone and announced that anybody who brought his cell phone back home would receive Rs.500 as reward. B heard the announcement and brought the Cell Phone back home. He is said to have accepted the proposal by doing the act required by A and hencehe can recover the reward.

Promissory: A person who makes the promise is called the „Promissory" or „Offer or". And the person to whom the proposal is made is known as „Promise" or

„Offeree."In case an agreement is a set of promises, then a person becomes a promissory and promise. Thus if there is an offer, acceptance and consensus ad idem between the parties, there is an agreement. However, this agreement does not become a contract unless there is a corresponding obligation, i.e., enforceability at law.

Obligation (Sec.10): It is the legal duty of a person to carry out what he has promised to do or not to do. All agreements are contracts if they are made by the free consent of the parties competent to enter into contract, for a lawful consideration and with a lawful object and not hereby expressly declared to be void. Therefore, a person becomes legally bound to do what he has promised to do only if the following conditions are fulfilled.

Essential elements of Contract:

Capacity of the Parties: Only those persons who are competent to enter into a contract can create valid obligations. A minor, a lunatic, a drunkard etc., suffer from flaw in capacity to Contract and therefore the contract made with them can"t be enforced against them.

Free Consent: Absence of consent does not create a legal obligation. For an agreement to become a contract the parties to an agreement should give their consent to the agreement out of their own free will. It

should not be induced by coercion, undue influence, fraud, misrepresentation, etc. Lawful Consideration and Object: Consideration means something in return, i.e„quid pro quo." E.g. A promises to give his bike to B for no money, here, there is no consideration, hence no obligation. Without consideration a promise can't be enforceable by law. However, consideration need not be in money or in kind. It may be of an act, abstinence, a promise to do, or not to do something. But consideration should be lawful.

Example: A promises to pay a sum of money to B if B smuggles the object proposed by A. In this case, there is no lawful object.

1. Intention to create Legal Relationship: Social obligation can"t bring legal relationship. For example: Father promised his son to pay Rs.100 per day for pocket expenses, however, later on, did not pay the said amount. Therefore, if the parties do not intend to be bound by law at the time they make promises, nothing can bind them to their promises, later on.
2. Possibility of Performance: Example: A promised B that he would make The Sun rises in the West if B pays him Rs.1 laky. And B agreed to it, this agreement does not create any legal obligation as it would not be enforceable bylaw.
3. Meaning should be certain: Example: A agrees to sell B"s horse. There is nothing whatever to show which horse is intended. The agreement is void for uncertainty.
4. Legal Formalities (If required): An agreement to make a gift for natural love and affection should not only be in writing but registered also (Sec. 25). In the absence of any such specific requirement an oral agreement is as enforceable as a written agreement.
5. Agreements not declared Void: Indian Contract Act has specifically declared some agreements to be not enforceable at law e.g. Agreements in restraint of trade, Agreements in restraint of

marriage, wagering agreements etc. Thus the law of Contract is not the whole law of Agreements. It is the law of those agreements which create obligations.

Kinds of Contracts

1. Valid Contract: It is an agreement which fulfils all the essentials of enforceability and can be enforced by either of the parties at the courts of law.
2. Voidable contract: Sec 2(I) lays down that “An agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other or others, is a Voidable Contract.” This arises where the consent of one of the parties to the contract is not free. Ex., A, at the point of pistol makes B agree to sell his bicycle for Rs.500. Here B‟s consent is not free.

Circumstances in which a contract is voidable are:

(A) At the conception

1. Consent caused by fraud (Sec.14, 17 and 19)
2. Consent caused by coercion (Sec. 14, 15 and 19)
3. Consent caused by misrepresentation (Sec. 14, 18 and 19)
4. Consent caused by undue influence (Sec. 14, 16 and 19A)
5. When one party induces another to enter into an agreement the object of which is unlawful though it is not known to the other party.

(B) By Subsequent Default

1. Where offer of performance is not accepted (Sec. 38)

2. When one party prevents performance of reciprocal promise (Sec. 53)

3. When a party fails to perform at the time fixed, if time is the essence of the contract (Sec.55) Consequences of Recession of Voidable Contract when a voidable contract is rescinded?

A. As regards the party at whose option the contract is voidable, if he has received any benefit from another party to such contract, he must restore such benefit so far as may be, to the person from whom it has been received. The benefit must have been received under the contract and not otherwise. Security for performance is not the benefit received under the contract.

B. As regards the other party, he need not perform his promise.

3. Void Contract: [Sec 2(j)] “A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable” E.g. A agrees to sell his car to B for Rs.10, 000. All essentials of a contract are fulfilled. If A refuses to sell his car, B can go to the court

and the court would enforce A‟s promise. But if, before the delivery the car is destroyed by Tsunami, the court cannot enforce anything and hence this contract becomes unenforceable i.e. void. Thus, void contract is one which was a valid contract when it was made but becomes void later on.

Those Agreements which are void abs initio (from the very beginning) are called Void Agreements and those which become void later on are called Void Contracts.

Following circumstances will transform a valid contract into a void contract.

A. Contingent contract: A contingent contract to do or not to do something on the happening of an uncertain future event becomes void, when the event becomes impossible (Sec 32).

B. Repudiation of a voidable contract: When a voidable contract is rescinded by the party at whose option it is voidable, the contract becomes void.

C. Subsequent impossibility (Sec. 56): A contract which becomes impossible to perform, after it is made, becomes void.

D. Subsequent illegality (Sec. 56): A contract becomes void if it becomes illegal after it is made.

Consequences of a Void Contract: Sec. 65 lays down that when a contract becomes void, the party who has received any advantage under such agreement should restore it or make compensation for it to the party from whom he received it.

4. Void Agreement: An agreement not enforceable by law is called a void agreement. If any of the essentials of obligations (enforceability), other than free consent, is missing the agreement cannot be enforced at Courts of Law.

Invalidating Causes

In the following circumstances an agreement is void abs initio.

i. If a party to the contract is incompetent to contract (Sec.10, 11 & 12)

ii. If the agreement is without consideration (Sec. 10, 25) barring certain exceptions.

iii. If the consideration or object is unlawful (Sec. 23)

iv. If the meaning of the contract is uncertain (Sec.29)

v. If the agreement is to do an impossible act (Sec. 56)

vi. If both the parties enter into an agreement under a mistake as to the essential matter of fact (Sec. 20). There is no consensus ad idem.

Vii If the agreement is in restraint of trade (Sec. 27) barring certain

exceptions.

5. Illegal Agreement: An illegal agreement is one which is forbidden by law i.e. it is entered into with the intention of violating the law.
   Example: A agrees to steal furniture for B for a consideration of Rs. 1, 00,000. It is illegal and therefore it is void. It also attracts the penal provisions of the law it is violating.
   While all illegal agreements are void, all void agreements are not illegal. Parties to an illegal agreement cannot get any help or protection from law courts.

6. Unlawful Agreements: (Sec. 23). In simple words an agreement may be unlawful because it is:

   a. Immoral – i.e. contrary to sound and positive morality as recognized by law, e.g. cohabitation.
   b. Opposed Public Policy – i.e. contrary to the welfare of the State as tending to interfere with the civil or judicial administration, or with individual liberty of citizens, e.g. bribing a public servant.
   c. Illegal – i.e. contrary to positive law, being forbidden either by statutes law or common law; hence a line of demarcation needs to be drawn between illegal and unlawful agreements.

7. Unenforceable Contract: Contracts which have all the essentials of enforceability but cannot be enforced due to certain technicalities like insufficiency of stamp, etc. are termed as unenforceable contracts.
8. Express Contract: It is one where the intention of parties is stated in words either written or spoken. Example: A goes to B"s shop and asks him to supply 10 boxes @ Rs.20per box. B tells him that he is ready to supply the boxes at the mentioned rate. This is an Express Contract. The same intention of the parties may be expressed in writing signed by both the parties.
9. Implied Contract: The evidence of an implied contract is to be deduced from the acts or conduct of the parties. No exchange of

words either written or spoken takes place, but the manifestation of their intentions is inferred from their respective acts or conduct.

10. Quasi Contracts: These are those obligations which are imposed by the Contract Act and do not arise from a consensus between the parties. Example: A, a tradesman, leaves goods at B‟s house by mistake. B treats the goods as his own. B is bound to pay A for them; the obligation is imposed by law.
11. An Executed Contract: It is one where both the parties to a contract have discharged their respective responsibilities by performing them. All transactions of Cash sales are the examples of Executed Contracts.
12. An Executor Contract: It is one where one or both the parties are yet to perform their

    respective promises. It is partly Executed and partlyExecutory.
13. Unilateral Contract: It is one where at the time when the contract is made one party has already performed his obligation and the obligation on the part of the other party only, is outstanding. Example: A goes to a bus stand ticket counter and buys a ticket for journey. A has performed his duty under the contract i.e., to pay the scheduled fare. But the bus authority is yet to perform his promise i.e., of carrying him from one point to another. This is a Unilateral Contract.
14. Bilateral Contract: As against Unilateral Contract, a Bilateral Contract is one where at the time of entering into the contract both the parties to the contract are yet to perform their respective promises.

INDIAN CONTRACT ACT

Meaning:” A contract is an agreement made between two (or) more parties which the law will enforce.”

Definition: According to section 2(h) of the Indian contract act, 1872. “An agreement enforceable by law is a contract.

According to SALMOND, a contract is "An agreement creating and defining obligations between the parties"

Essential elements of a valid contract:

According to section 10, "All agreements are contracts if they are made by the free consent of the parties competent to contract, for a lawful consideration and with a lawful object and not here by expressly declared to be void"

In order to become a contract an agreement must have the following essential elements, they are follows:-

Offer and acceptance**:**

To constitute a contract there must be an offer and an acceptance of that offer. The offer and acceptance should relate to same thing in the same sense.

There must be two (or) more persons to an agreement because one person cannot enter into an agreement with himself.

Intention to create legal relationship:

The parties must have intention to create legal relationship among them.

Generally, the agreements of social, domestic and political nature are not a contract.

If there is no such intention to create a legal relationship among the parties, there is no contract between them.

Example: BALFOUR (vs) BALFOUR (1919)

Facts: A husband promised to pay his wife a household allowance of L 30 (pounds) every month.

Later the parties separated and the husband failed to pay the amount. The wife sued for allowance.

Judgment: Agreements such as there were outside the realm of contract

altogether. Because there is no intention to create legal relationship among the parties.

Free and Genuine consent**:**

The consent of the parties to the agreement must be free and genuine. Free consent is said to be absent, if the agreement is induced by

a)coercion, b)undue influence, c)fraud, d)Mis-representation, e)mistake.

Lawful Object:

The object of the agreement must be lawful. In other words, it means the object must not be Illegal, (b) immoral, (c) opposed to public policy.

If an agreement suffers from any legal flaw, it would not be enforceable by law.

Lawful Consideration:

An agreement to be enforceable by law must be supported by consideration.

Consideration means “an advantage or benefit” moving from one party to other. In other words “something in return”.

The agreement is enforceable only when both the parties give something and get something in return.

The consideration must be real and lawful.

Capacity of parties**: (Competency)**

The parties to a contract should be capable of entering into a valid contract. Every person is competent to contract if

. He is the age of

majority. He is of

sound mind and

. He is not dis-qualified from contracting by any law.

The flaw in capacity to contract may arise from minority, lunacy, idiocy, drunkenness, etc..,

Agreement not to be declared void**:**

The agreements must not have been expressly declared to be void u/s 24 to 30 of the act.

Example: Agreements in restraint of trade, marriages, legal proceedings, etc..,

Certainty**:**

The meaning of the agreement must be certain and not be vague (or) indefinite. If it is vague (or) indefinite it is not possible to ascertain its meaning.

Example:

„A" agrees to sell to „B" a hundred tones of oil. There is nothing whatever to show what kind of a oil intended. The agreement is void for uncertainty.

Possibility of performance**:**

The terms of an agreement should be capable of performance.

The agreement to do an act impossible in itself is void and cannot be enforceable.

Example:

„A" agrees with „B", to put life into B"s dead wife, the agreement is void it is impossible of performance.

Necessary legal formalities:

According to Indian contract Act, oral (or) written are perfectly valid. There is no provision for contracting being

written, registered and stamped.

But if is required by law, that it should comply with legal formalities and then it should be complied with all legal (or) necessary formalities for its enforceability.

Offer (OR) proposal?

legal rules as to a valid offer also discuss the law relating to communication of offer and revocation of offer?

According to section 2(a) of Indian contract act, 1872, defines offer as "when one person signifies to another his willingness to do (or) to abstain from doing anything with a view to obtaining the assent of that otherto, such act (or) abstinence, he his said to make a proposal".

Legal rules (OR) Essential elements of a valid offer / proposal:-

Offer must be capable of creating legal relations: A social invitation, even if it is accepted does not create legal relationship because it is not so intended to create legal relationship. Therefore, an offer must be such as would result in a valid contract when it is accepted.

Offer must be certain, definite and not vague: If the terms of the offer are vague, indefinite, and uncertain, it does not amount to a lawful offer and its acceptance cannot create any contractual relationship.

Offer must be communicated: An offer is effective only when it is communicated to the person whom it is made unless an offer is communicated; there is no acceptance and no contract. An acceptance of an offer, in ignorance of the offer can never treated as acceptance and does not create any right on the acceptor.

Example: LALMAN SHUKLA (VS) GAURI DATT. (1913)

Facts: „S" sent his servant, „L" to trace his missing nephew. He than announced that anybody would be entitled to a certain reward. „L" traced the boy in ignorance of his announcement. Subsequently, when he came to know of his reward, he claimed it.

Judgment: He was not entitled for the reward.

Offer must be distinguished from an invitation to offer: A proposer/offer must be distinguished from an invitation to offer. In the case of invitation to offer, the person sending out the invitation does not make any offer, but only invites the party to make an offer. Such invitations for offers are not offers in the eyes of law and do not become agreement by the acceptance of such offers.

Example: Pharmaceutical society of great Britain (vs) Boots cash chemists (1953).

Facts: Goods are sold in a shop under the „self service" system. Customers select goods in the shop and take them to the cashier for payment of price.

Judgment: The contract, in this case, is made, not when a customer selects the goods, but when the cashier accepts the offer to buy and receives the price.

Offer may be expressed (or) implied: An offer may be made either by words (or) by conduct. An offer which is expressed by words (i.e.., spoken or written) is called an „express offer" and offer which is inferred from the conduct of a person (or) the circumstances of the case is called an „implied offer".

Offer must be made between the two parties: There must be two (or) more parties to create a valid offer because one person cannot make a proposal/offer to him self.

Offer may be specific (or) general: An offer is said to be specific when it is made to a definite person, such an offer is accepted only by the person to whom it is made. On the other hand general offer is one which is made to a public at large and maybe accepted by anyone who fulfills the requisite conditions.

Example: Carilill (vs) Carbolic Ball company (1893).

Facts: A company advertised in several newspapers is that a reward of L 100 (pounds) would be given to any person contracted influenza after using the smoke ball according to the printed directions. Once Mr.Carilill used the smoke balls according to the directions of the company but contracted influenza.

Judgment: she could recover the amount as by using the smoke balls she accepted the offer.

Offer must be made with a view to obtaining the assent: A offer to do (or) not to do something must be made with a view to obtaining the assent of the other party addressed and it should not made merly with a view to disclosing the intention of making an offer.

Offer must not be statement of price: A mere statement of price is not treated as an offer to sell. Therefore, an offer must not be a statement of price.

Example: HARVEY (VS) FACEY (1893):

Facts: Three telegrams were exchanged between Harvey and Facey.

"Will you sell us your Bumper hall pen? Telegram lowest cash price-answer paid". [Harvey to Facey].

"Lowest price fro bumper hall pen L 900 (pounds)". [Facey to Harvey]

"We agree to buy Bumper hall pen for the sum of L 900 (pounds) asked by you". [Facey to Harvey]

Judgment: There was no concluded contract between Harvey and Facey. Because, a mere statement of price is not considered as an offer to sell.

Offer should not contain a term "the non-compliance" of which may be assumed to amount to acceptance.

COMMUNICATION OF OFFER AND REVOCATION OF OFFER: An offer, its acceptance and their revocation (withdrawal) to be complete when it must be communicated to the offeree. The following are the rules regarding communication of offer and revocation of offer:

Communication of offer:

The communication of an offer is complete when it comes to the knowledge of the person to whom it is made.

An offer may be communicated either by words spoken (or) written (or) it may be inferred from the conduct of the parties.

When an offer/proposal is made by post, its communication will be complete when the letter containing the proposal reaches the person to whom it is made.

Revocation of offer: A proposal/offer may be revoked at anytime before the communication of its acceptance is complete as against the proposer, but not afterwards.

Acceptance - the rules regarding a valid acceptance

According to section 2(b) of the Indian contract Act, 1872, defines an acceptance is "when the person to whom the proposal is made signifies is assent thereto, the proposal is said to be accepted becomes a promise".

On the acceptance of the proposal, the proposer is called the

promisor/offeror and the acceptor is called the promise/offeree.

Legal rules as to acceptance: A valid acceptance must satisfies the following rules:-

Acceptance must be absolute and unqualified:

An acceptance to be valid it must be absolute and unqualified and in accordance with the exact terms of the offer.

An acceptance with a variation, slight, is no acceptance, and may amount to a mere counter-offer (i.e.., original may or may not accept.

Acceptance must be communicated to the offeror:

For a valid acceptance, acceptance must not only be made by the offeree but it must also be communicated by the offered to the offeror.

Communication of the acceptance must be

expressed or implied. A mere mental acceptance is

no acceptance.

Acceptance must be according to the mode prescribed (or) usual and reasonable manner:

If the offeror prescribed a mode of acceptance, acceptance must given according to the mode prescribed.

If the offeror prescribed no mode of acceptance, acceptance must given according to some usual and reasonable mode.

If an offer is not accepted according to the prescribed (or) usual mode. The proposer may within a reasonable time give notice to the offeree that the acceptance is not according to the mode prescribed.

If the offeror keeps quite he is deemed to have accepted the acceptance.

Acceptance must be given with in a reasonable time:

If any time limit is specified, the acceptance must be given with in that time.

If no time limit is specified, the acceptance must be given with in a reasonable time.

Example: Ramsgate victoria Hotel Company (vs) Monteflore (1886)

Facts: On June 8th „M" offered to take shares in „R" Company. He received a letter of acceptance on November 23rd. he refused to take shares.

Judgment: „M" was entitled to refuse his offer has lapsed as the reasonable period which it could be accepted and elapsed.

It cannot precede an offer:

If the acceptance precedes an offer, it is not a valid acceptance and does not result in a contract.

In other words "acceptance subject to contract" is no acceptance.

Acceptance must be given by the parties (or) party to whom it is made:

An offer can be accepted only by the person (or) persons to

whom it is made. It cannot be accepted by another person

without the consent of the offeror.

Example: Boulton (vs) Jones (1857).

Facts: Boulton bought a hose-pipe business from Brocklehurst. Jones, to whom Brocklehurst owed a debt, placed an order with Brocklehurst for the supply of certain goods. Boulton supplied the goods even though the order was not addressed to him. Jones refused to pay Boulton for the goods because he, by entering into a contract with Brocklehurst, intended to set off his debt against Brocklehurst.

Judgment: The offer was made to the Brocklehurst and it was not in the power of Boulton to step in and accept. Therefore there was no contract.

It cannot be implied from silence:

Silence does not amount to acceptance.

If the offeree does not respond to offer (or) keeps quite, the offer will lapse after reasonable time.

The offeror cannot compel the offeree to respond offer (or) to suggest that silence will be equivalent to acceptance.

Acceptance must be expressed (or) implied:

An acceptance may be given either by words (or) by conduct.

An acceptance which is expressed by words (i.e.., spoken or written) is called „expressed acceptance".

An acceptance which is inferred by conduct of the person (or) by circumstances of the case is called an „implied or tacit acceptance".

Distinguish between void contract and voidable contract.

The following are the differences between void and voidable contract. They are follows:-

Base	Void contract	Voidable contract

Definition	According to section 2(j) a void contract as „a contract which ceases to be enforceable by law becomes void when it ceases to be enforceable‟.	According to section 2(i) a voidable contract is „an agreement which is enforceable by law at the option of one or more the parties but not at the option of the other or other or others‟.
Nature	A void contract is valid when it is made. But binding on the parties it may subsequently become void. We may talk of such a contract as void agreements.	A voidable contract on the other hand is voidable at the option of the aggrieved party and remains valid until rescinded by him. Contract caused by coercion, undue influence, fraud, misrepresentation are voidable. But in case contract is caused by mistake it is void.
Rights	A void contract does not provide any legal remedy for the parties to the contract. It may void of into right from the beginning. In other words it is not a contract at all	The aggrieved party in a voidable contract gets a right to rescind the contract. When such party rescinds it, the contract become void. In case aggrieved party does not rescind the contract with in a reasonable time, the contract remains valid.

Communication of acceptance.

An offer, its acceptance and their revocation (withdrawal) to be complete

when it must be communicated. When the contracting parties are face to face and negotiate in person, a contract comes into existence the movement the offeree gives his absolute and unqualified acceptance to the proposal made by the offeror.

The following are the rules regarding communication of acceptance:-

Communication of an acceptance is complete:-

As against the proposer/offeror when it is put into the certain course of transmission to him, so as to be out of the power of the acceptor.

As against the acceptor, when its comes to knowledge of the proposer.

When a proposal is accepted by a letter sent by the post the communication of acceptance will be complete:-

As against the proposer when the letter of

acceptance is posted and As against the acceptor

when the letter reach the proposer.

All contracts are agreements but all agreements are not contracts" - explain.

Ans: "All contracts are agreements but all agreements are not contracts"- the statement has two parts.

All contracts are agreement: As per section 2(h) of Indian contract Act, "A contract is an agreement enforceable by law". Obviously an agreement is a pre requisite (i.e.., essential elements) for formation of contract. An agreement clubbed with enforceability by law and several other features (i.e.., free consent, consideration, etc..,) will create a valid contract. Therefore, obviously all contracts will be agreements.

All agreements are not contracts: As per section 2(e) of Indian contract

act, "An agreement is a promise and every set of promises, forming consideration for each other". Thus, a lawful offer and a lawful acceptance create an agreement only. Therefore all agreements are not contracts.

Conclusion:

Contract = Agreement + Enforceability by law.

Agreement = Offer + Acceptance.

Thus, all agreements are contracts but all agreements are not necessarily contracts.

Explain its kinds of contracts?

Meaning: "A contract is an agreement made between two (or) more parties which the law will enforce."

Definition: According to section 2(h) of the Indian contract act, 1872. "An agreement enforceable by law is a contract.

According to SALMOND, a contract is "An agreement creating and defining obligations between the parties"

Kinds of contracts: - Contracts may be classified according to their (a) validity, (b) Formation, and (c) Performance.

(a) Classification according to validity:-

A valid contract: A valid contract is an agreement which is binding and enforceable. An agreement becomes a contract when all the essential elements (i.e.., offer and acceptance, intention to create legal relationship etc..,) are present, in such a case the contract is said to be valid.

A voidable contract: An agreement which is enforceable by law at the option of one (or) more parties thereto, but not at the option of the other (or) others, is a voidable contract. This happens when the essentials elements of a free consent is missing. When the consent of a party to a contract is said to be not free, if it is caused by Coercion, Undue influence, Misrepresentation (or)

fraud, etc..,

A void contract: A void contract is really not a contract at all. The term "void" means an agreement which is without any legal effect. In other words "an agreement not enforceable by law is said to be void".

Illegal contracts: Some agreements are illegal in themselves (ex:- contracts of immoral nature, opposed to public policy etc..,) Thus, All illegal contracts are void but all void contracts are not illegal (ex:- A wagering agreement, though void is not illegal).

An unenforceable contract: An unenforceable contract is one which cannot be enforced in a court of law because of some technical defect such as absence of writing (or) where the remedy has been barred by lapses of time.

(b) Classification according to their formation:-

Express contract: An express contract is one, the terms of which are stated in words, spoken (or) written at the time of the formation of the contract.

Implied contract: An implied contract is one in which the evidence of the agreement is shown by acts and conduct of the parties, but not by words, written (or) spoken. In other words where the offer (or) acceptance of any promise made otherwise then in words, the promise is said to be implied promise (or) implied contract.

Quasi-contract: In truth Quasi-contract is not a contract at all. A quasi-contract is acts which are created by law. It does not have any essential elements of a valid contract. It is not intentionally created by parties but it is imposed by law. It is founded upon the „principles of natural justice, equity and fair play".

(c) Classification according to their performance:

Executed contract: “Executed” means that which is done. An executed contract is one in which both the parties have performed their respective obligation.

Executory contract: “Executory” means that which remains to be carried into effect. An executory contract is one in which the parties have yet to perform their obligations.

Unilateral (or) one-sided contract: in this type of contract, one party to a contract has performed his part even at the time of its formation and an obligation is outstanding only against the parties.
bilateral contract (or) Two-sided contract: It is a contract in which the obligations on the part of both the parties to the contract are outstanding at the time of the formation of the contract.

void agreements

According to section 2(g) of the Indian contract Act, 1872. „A void agreement is one which is not enforceable by law".

A void agreement does not create any legal right (or) obligation. It is void-ab-initio (i.e.., void of into right from the beginning).

The following agreements have been expressly declared to void by the contract act:- Agreements by incompetent parties. (Section 11)
Agreements made under mutual mistake of facts. (Section 20) Agreements which the consideration (or) object is unlawful. (Section 23)
Agreements which the consideration (or) object is unlawful in part. (Section 24) Agreements made without consideration.

(Section 25)

Agreements in restraint of legal proceedings. (section 28)

Agreement which the meaning is uncertain. (section 29)

Agreements by way of wager. (section 30)

Agreements contingent on impossible events.

(section 36) Agreements to do impossible Acts.

(section 56)

In case of reciprocal promises to do things legal and also other things illegal. The second set (illegal) of reciprocal promises is a void agreement. (section 57)

void agreement and void contract**.**

Void agreement: According to section 2(g) of the Indian contract Act, 1872. „A void agreement is one which is not enforceable by law".

A void agreement does not create any legal right (or) obligation. It is void-ab-initio (i.e.., void of into right from the beginning).

Ex: - An agreement with a minor, an agreement without consideration, etc..,

Void contract: According to section 2(f) of the Indian contract Act, 1872. "A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable".

A contract, when originally entered into, may be valid and binding on the parties it may subsequently become void. We may talk of such a contract as void agreement.

Ex: - A contract to import goods from a foreign country when a war breaks out between the importing country and the exporting country.

Contingent contract**? What are the rules related to contingent**

contract?

DEFINITION: According to sec (31) of ICA, 1872, a contingent contract is a contract to do or not to do something, if the event, collateral to such contract, does or does not happen.

Thus it is a contract, the performance of which is dependent upon the happening or non- happening of an uncertain future event, collateral to such events.

EX: „A" promises to pay Rs 10000/-, if B"s house is burnt.

ESSENTIAL CHARACTERISTICS OF A CONTINGENT CONTRACT:

.

Its performance depends upon the happening or non happening in the future of some

PERFORMANCE OF A CONTINGENT CONTRACT: The following are the rules regarding performance of a contingent contract:

Contingent contract upon the happening of a future uncertain event:-

When the happening of such event has possible it becomes enforced and if the happening of such event becomes impossible it becomes void.

EX: „A" contracts to pay „B" a sum of money when „B" marries „C"."C" dies without being married to „B". The contract becomes void.

Contingent contract upon the non happening of a future uncertain event: When the happening of such event becomes impossible it becomes enforced and when such event has possible it becomes void.

EX: "A" agrees to sell his car to "B" if "C" dies. The contract cannot be enforced as long as "C" is alive.

Contingent contract upon happening of an event within a specified time: When such event has happened within the specified time it can be enforced and if the happening of such event becomes impossible within the specified time it becomes void.

EX: „A" agrees to pay „B" a sum of money if „B" marries „C","C" marries „D". The marriage of

„B" to „C" must be considered impossible now, although it is possible that „D" may die and that

„C" may afterwards marry „B".

Contingent contract upon non happening of an event within a specified time: When the happening of such event becomes impossible within the specified time it can be enforced and if the happening of such event has happened within the specified time it becomes void.

EX: "A" promises to pay „B" a sum of money if a certain ship returns within a year. The contract may be enforced if the ship returns within a year, and becomes void if the ship is burnt within the year.

Contingent contract upon impossible events: Such an agreement cannot be enforced since it is void. Whether the impossibility of the event was known to the parties or not is immaterial.

EX: „A" agrees to pay „B" Rs 1000/- if „B" will marry A"s daughter, „X". „X" was dead at the time of the agreement. The agreement is void.

Contingent contract upon future conduct of a living person: When such person acts in the manner as desired in the contract it can be enforced and if such person does not acts in the manner as desired in the contract it becomes void.

DISCHARGE BY PERFORMANCE.

Performance means the doing of that which is required by a contract. Discharge by performance takes place when the parties to the contract fulfill their obligations arising under the contract within the time and in the manner prescribed. In such a case, the parties are discharged and the contract comes to an end.

Performance of a contract is the most usual mode of its

discharge. It may be: Actual performance

Attempted performance or tender of performance.

Actual performance: When both the parties perform their promises, the contract is discharged. Performance should be complete, precise and according to the terms of the agreement. Most of the contracts are discharged by performance in this manner.

Ex: “A” contracts to sell his car to “B” for Rs.15,000/- as soon as the car delivered to “B” and “B” pays the agreed price for it. The contract comes to an end by performance.

Attempted performance or Tender of Performance: In certain situations the promisor offers performance of his obligation under the contract at the proper time and place but the promise refuses to accept the performance. This is called as “Tender” or “Attempted Performance”. Where a valid Tender is made and is not accepted by the promise, the promisor shall not be responsible for non-performance and he doest not lose his rights under the contract.

“Discharge of a contract by agreement (or) by consent or by mutual consent”

The general rule of law is a thing may be destroyed in the same manner in which it is constituted. This means a contractual obligation may be discharged by a agreement which may be expressed or implied.

The various cases of discharge of a contract by mutual agreement are dealt with in Section 62 and 63 and are discussed below:

Novation (Section.62): Novation takes places:

When substitution of a new contract for the original one either between the same parties or between same parties or

The consideration for the new contract is mutually being the discharge of old contract.

Novation should take place before the expiry of the time of the performance of the original contract.

Ex: “A” owes “B” Rs.10,000/-. He enters into an agreement with “B” a mortgage of his (A‟s) estate for Rs.5,000/- in place of the debt of Rs.10,000/- . This is a new contract extinguishes the old one.

Recession (Section.62): Recession of a contract takes place when all or some of the terms of the contract are cancelled. It may occur:

By mutual consent of the parties (or)

Where one party fails in the performance of his obligation. In such a case, the other party may resend the contract without claiming compensation for the breach of contract.

In case of recession, only the old contract is cancelled and no new contract comes to exist in its place. Both in novation and in recession, the contract is discharged by mutual agreement.

Ex: “A” and “B” enters into a contract that “A” shall deliver certain goods to be by the 15th of this month and that “B” shall pay the price on the 1st of the next month. “A” does not supply the goods. “B” may resend the contract, and need not pay the money.

Alteration (Section.62): Alteration means a change in one or more terms of a contract with mutual consent of parties. In such a case the old is discharged.

Ex: “A” enters into a contract with “B” for the supply of hundred bales of cotton at his godown No.1 by the 1st of the next month. “A” & “B” may alter the terms of the contract by mutual consent.

Remission (Section.63): Remission means acceptance of a lesser fulfillment of the promise made or acceptance of a sum lesser than what was contracted for. In such a case, Section.63 of the Contract Act allows the promise to dispense or remit the performance of the promise by the promissory, or to extend the time for the performance of to accept any other satisfaction instead of performance.

“Breach of contract” as a mode of discharge of contract? Or Discharge of breach of contract.

Breach of contract means promise fails to perform the promise or breaking of the obligations which a contract imposes. It occurs when a party to the contract without lawful excuse does not fulfill his contractual obligation or by his own act makes it impossible that he should perform his obligation under it. It confers a right of action or damages on the injured party.

Branch of contacts may be of two types:

Actual breath of contact. Anticipatory
breath of contact.

Actual breach of contract: Actual breach means promisor‟s failure to perform the promise on due date of performance. When a promisor fails or refuses to perform the promise upon the due date for performance then it is called actual breach of contract. In such a case the promisee is exempted and may resend the contract. Promise can sue the party at fault for damages for breach of contract.

Ex: O‟Neil (vs) Armstrong (1895):

Facts: „P‟, a British subject, was engaged by the captain of a war ship owned by the Japanese government to act as a fire man. Subsequently when the Japanese government declared war with china, “p” was informed that the performance of contract would bring him under the penalties o the foreign enlistment act . He consequently left the ship.

Judgment: He was entitled to recover the wages agreed upon.

Anticipatory Breach of contract: It occurs when a party to executory contract declares his intension of not performing the contract before the performance is due. It may take place in two ways.

Expressly by words: here a party to the contract communicates to the others party before the due date o performance, his intention not to perform

it.

Ex: Hochster (vs) de la tour (1853):
Facts: “D” engaged “H” on 12th of April to enter into his service as courier and to accompany him upon a tour. The employment was to commence on 1st June. On 11th may “D” rote to “H” telling him that services would no longer be required.”H‟ immediately brought an action for damages although the time for performance had not arrived.

Judgment: He was entitled to do so.

Implied by the conduct: Here a party by his own voluntary act disables himself from performing the contract.

Ex: a person contracts to sell a particular horse to another on 1st of June and before the due date he sells the horse to somebody else.

Effect/right of an anticipatory breach: In case of anticipatory breach, the promisee is excused from performance and he may choose any one of the following two options:

He can treat the contract as discharged so that he is absolved of the performance of his party of the promise.

He can immediately take a legal action for breach or wait till the time the act was to be done.

“Quasi Contract”. & types of “Quasi Contract”.

Meaning: Under certain special circumstances, a person may receive a benefit to which the law regards another person as better entitled or for which the law considers he should pay it to the other person, even though

there is no contract between the parties these relationships are terms as "Quasi Contract" or constructive contracts under the English Law and "Certain relationships resembling those created by contracts" under the Indian Law.

Quasi contract is not made by a process of proposal and acceptance or by free consent. It is a trust upon us by law.

A Quasi-contract rests upon the equitable, which declares that a person shall not be allowed to enrich himself unjustly at the expense of another.

Silent features of Quasi-contract:

It is a right which is available not against a particular person or persons and so, that in this respect it resembles a contractual right.

It does not arise from any agreement of the parties concerned it is imposed by law.

Such Quasi-contractual right is always a right to money, and generally, though not always, to a liquidated sum of money.

.**TYPES OF QUASI-CONTRACTS**: The following are of Quasi-contracts are discussed below.

Supply of necessaries (sec68): according to section 68, if a person incapable of entering into a contract or any one whom he as legally bound to support is supplied by another with necessaries suited to his condition in life the person who has furnished such supplies I entitled to be reimbursed from the property of such incapable person.

Ex: „A", supplies "B" a lunatic with necessaries suitable to his condition in life. "A" is entitled to reimburse from B"s property.

Payment by an interested person (Section.69) A person, who is interested in payment of money which another is bound by law to pay and who therefore pays it, is entitled to be reimbursed by other.

The essential requirements of Section.69 as follows:

The payment mode should be bonafide for the protection of one‟s interest. The payment should not be a voluntary one.

The payment must be such as the other party was bound by law to pay.

Ex: “B” holds land Bengal on a lease granted by the Zamindar. The revenue payable by “A” to the Government being in arrears his land is advertised for sale by the Government under the Revenue Law. The sale will be annulment of “B‟s lease. „B‟ to prevent the sale and the consequent of annulment of his own lease pays to the Government the sum due from A. A is bound to make good to B the amount so paid.

Obligation to pay for non-gratuitous acts (Section.70): When a person lawfully does anything for another person or delivers anything to him not intending to do so, gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make the compensation to the former in respect of or restore, the things do done or delivered.

Ex: “A”, a tradesman lease goods at “B” house by mistake. B treats the goods as his own. He is bound to pay for them to A.

Responsibility of finder of goods (Section.71): A person who finds goods belonging to another and takes them into his custody is subject to the same responsibility as Bailee. He is bound to take as much care o the goods as a man of ordinary prudence would under similar circumstances take of his own goods of the same bulk, quality and value. He must also take all necessary measures to trace its owner. If he does not, he will be guilty of wrongful conservation of the property till the owner is found out, the property in goods will vest in the finder and he can retain the goods as his own against the whole world (except the owner).

Ex: “F” picks up a diamond on the floor of „S‟s shop. He hands it over to „S‟ to keep it till the real owner is found out. No one appears to claim it for quite some week‟s inspite of wide advertisement in the news papers. „F‟ claims the diamond from „S‟ who refuses to return. „S‟ is bound to return the Diamond to „F‟ who is entitled to retain the diamond against the whole world except the true owner.

Mistake or coercion (Section.72): A person to whom money has been paid, or anything delivered by mistake or under coercion, must repay or return it to the person who paid it by mistake or under coercion.

Ex: “A” & “B” jointly owe Rs.100/- to “C”. A alone pays the amount to C and B not knowing this fact pays Rs.100/- over again to “C”. C is bound to pay the amount to B.

SALE OF GOODS ACT 1930

Distinction between sale and an agreement to sell? Contract of sale of Goods:

It is a contract where by the seller transfers (OR) agrees to transfer the property in goods to the buyer for a price.

Sale and Agreement to sell:

In sale of goods, the property in the goods is transferred from the seller to the buyer immediately then the contract is called sale, but where the transfer of property in the goods passes only after the seller has fulfilled certain conditions subsequently is called an agreement to sell.

Essentials of a contract of sale: The following are the Essential elements are necessary for contract of sale:

There must be at least two parties: there must be two distinct parties (i.e.., seller and Buyer) to effect a contract of sale and they must be competent to contract. Section 2(1) defines

„A person who buys (or) agrees to buy goods is called a Buyer‟ and Section 2(13) defines „A person who sells (or) agrees to sell is called seller‟.

Subject matter must be „Goods‟: There must be some goods, the property in which is (or) is to be transferred from the seller to the buyer. The goods which form the subject matter must be movable.

Consideration is price: The consideration for the contract of sale, called price, it must be money. Where there is no consideration, it would be a

gift, there is no contract of sale. Similarly, where goods are sold for a price, which is to be paid partly in cash and partly in goods then it is considered as contract of sale.

Transfer of general property: There must be a transfer of general property from the buyer to the seller.

Absolute (OR) Qualified: A contract of sale may be absolute or conditional.

Essential elements of a valid contract: All the essentials of a valid contract must be present in the contract of sale.

The following are the differences between the sale and Agreement to sell are as follows:

conditions and warranties of the sale of goods act, 1930?

According to section 12(1) of sales of goods act, 1930. „A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition (or) a warranty.

Condition and Warranties:

Condition: According to section 12(2) a „Condition" is a stipulation essential to the main purpose of the contract, the breach of which gives raise to a right to treat the contract as repudiated.

Warranty: According to the section 12(3) a „Warranty" is stipulation collateral to the main purpose of the contract, the breach of which gives raise to a claim for damages but not to the right to reject the goods and treat the contract as repudiated.

Whether a stipulation in a contract of sale is a condition (or) warranty

depends in each case of the construction of the contract. A stipulation may be a condition, through called a warranty in a contract.

Implied Conditions: The Act prescribes some of the implied conditions in a contract. Buyer can

repudiate contract for breach of any of these conditions:-

Condition as to tittle: Section 14(a) In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is an implied condition on the part of the seller, that,

In case of a sale, he has the right to sell the goods and

In case of an agreement to sell; he will have a right to sell the goods at the time when the property is to pass.

Thus, if seller sells stolen goods, the buyer can repudiate the contract and claim damages also, as the seller had no right to sale the goods.

Sale by description: (section 15) where there is a contract for the sale of goods by description, there is an implied condition that that the goods shall correspond with the description. „Sale of goods by description" includes the following:

Where the buyer has not seen the goods and relies on their description given by the seller.

Where the buyer has seen the goods but he relies not on what he has seen but what was stated to him and deviation of the goods from the description is not apparent.

Packing of goods may sometimes be a part of description.

Condition as to quantity (or) fitness: (section 16(1)) where the buyer, expressly (or) by implication, makes known to the seller the particular purpose for which he requires the goods, so as to show that the buyer relies on the seller‟s skill (or) judgment, and the goods are of a description which is in the course of the seller‟s business to supply, there is an implied condition that the goods shall be reasonable fit for the purpose. This will not apply where specific goods are sold under their patient (or) trademark. Thus, the four conditions must be fulfilled:

The purpose must have been disclosed (expressed or

implied) by the buyer. The buyer must have relied on the

seller‟s skill (or) judgment.

The seller‟s business must be to sell those goods.

The goods should not have been sold under a patient (or) trademark.

Conditions as to merchantability: (Section 16(2)) where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be of merchantable quantity; provided that, if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed.

Condition implied by custom: (section 16(3)) An implied condition as to quantity (or) fitness for a particular purpose may be annexed by the usage of trade. The purpose for which the goods are required may be

ascertained from the acts and conducts of the parties and from the nature of the description of the article purchased.

Example: Priest (vs) last (1903):

Facts: „P‟ asked for a hot water bottle of „L‟, a retail chemist. He was supplied one which burst after a few days use and injured „P‟s wife.

Judgment: „L‟ was liable for breach of implied condition because „P‟ had sufficiently made known the use for which he required the bottle.

Sale by sample: (Section 17) In a sale by sample the following are

the implied conditions The bulk shall correspond with the sample

in quantity.

That the buyer shall have a reasonable opportunity of comparing the bulk with the sample.

That the goods shall be free from any defects rendering them un-merchantable, which would not be apparent on reasonable examination of the sample.

Example: Frost (vs) Aylesbury Dairy Co.Ltd (1905):

Facts: „F‟ brought milk from „A‟. the milk contained germs of typhoid fever. „F‟s wife took the milk and got infection as a result of which she died.

Judgment: „F‟ could recover damages.

Condition as to wholesomeness: In the case of eatables and provisions, in addition to the implied condition as to merchantability there is another implied condition that the goods shall be wholesome.

Implied Warranties: The implied conditions in a contract of sale are as follows:-

Warranty of quiet possession: (section 14(b)) In a contract of sale, unless contrary intention appears, it is implied that the buyer shall have and enjoy quiet possession of the goods. If the buyer is in any way disturbed in the enjoyment of the goods in consequence of the seller‟s defective tittle to sell, then the buyer is entitled to sue the select for damages.

Warranty of freedom from encumbrances: (section 14 (C)) means that the goods are free from any charge (or) encumbrances in favour of any third party, not declared to (or) known to the buyer. in such a case he shall have a right to claim damages for breach of this warranty.

Warranty as to quantity (or) fitness by usage of trade:(Section 16(4)) An implied warranty as to quantity (or) fitness for a particular purpose may be annexed by the usage of trade.

Warranty as to disclose dangerous nature of goods: Where a person sells goods knowing that the goods are inherently dangerous (or) they are likely to be dangerous to the buyer and that the buyer is ignorant of the danger. In such a case the seller warn the buyer otherwise he would be held liable.

UNIT-III

Arbitration and Conciliation and ADR System

Definition of Arbitration: Arbitration is a dispute resolution process agreed between parties in which the dispute is submitted to one or more arbitrators who issue an award. It is an alternative dispute resolution (ADR) mechanism because it allows the parties to resolve their dispute outside of State courts, i.e., without litigation.

Among alternative dispute resolution methods, arbitration is defined as a jurisdictional means of settling disputes because of the power given to arbitrators to decide a case and issue an award. Different from mediation and negotiations, the parties have no say on the solution found by the arbitral tribunal, which is imposed on them in a final and binding manner.

Consent to Arbitration

The main characteristic of arbitration is its consensual nature. A dispute may be solved by the arbitrator only if both parties have agreed to this. The parties' agreement usually takes the form of an arbitration clause in the contract, prior to the occurrence of a dispute. Once the dispute has emerged, the parties may agree to submit the particular dispute to an arbitral tribunal.

Types of Arbitrations

Arbitration may be domestic or international. Usually, arbitrations are international when the parties are of different nationalities and/or when international trade interests are at stake. This definition may vary depending on the law governing the parties' agreement to arbitrate.

There are different type of arbitrations depending on the subject matter in dispute, for example

commercial,

construction,

investor-State or investment arbitrations (ISDS), etc.

Arbitral proceedings may be categorized as institutional arbitrations and ad-hoc arbitrations. Most arbitral proceedings are administered by arbitral institutions, including

Advantages of Arbitration Over Litigation

The main advantage of arbitration is the possibility to have a tailored made dispute resolution process that adapts to the particularities of the dispute. For instance, the parties may agree on the person of the arbitrator or at least on the

criteria that the arbitrator should fulfil. The arbitral proceedings may be less expensive than litigation considering the absence of appeal in most cases, which makes the process shorter, and thanks to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the resulting arbitral award can be enforced in 154 nations, unlike court judgments

The Arbitration and Conciliation (Amendment Act), 2021 ("**2021 Amendment**") is the most recent intervention in, what appears to be, the Indian Parliament's endless attempts to tinker with the scheme and intent of the Arbitration and Conciliation Act, 1996 ("**1996 Act**"). The 2021 Amendment, which was passed into law on 10 March 2021 follows the Arbitration and Conciliation (Amendment) Ordinance, 2020 promulgated by the President of India in November 2020.

This post discusses the changes brought about by the 2021 Amendment to Section 36 of the 1996 Act dealing with the "enforcement" of an arbitral award. The authors contend that the 2021 Amendment represents a retrogression in the pro-arbitration regime sought to be fostered in India. *Firstly*, the 2021 Amendment alters the scheme of the 1996 Act by creating new hurdles to the enforcement of arbitral awards. *Secondly*, by limiting the discretion of courts to tailor relief to the attendant circumstances, the 2021 Amendment has undone the enforcement-friendly changes to the 1996 Act. *Lastly*, the introduction of ill-defined standards for enforcing arbitral awards (a) throws a spanner in the wheel of enforcement and (b) creates grounds to resist enforcement which are divorced from the grounds that are available to challenge an award. Viewed in this light, the 2021 Amendment has the potential to distort the arbitration framework in India, negatively impacting the rights of award-holders.

Alters the Scheme of the 1996 Act

The over-cautious approach under the Arbitration Act, 1940, where the imprimatur of the Court was a pre-requisite to the enforcement of an arbitral award, was done away with by the 1996 Act. In fact, in conferring direct enforceability upon arbitral awards, the 1996 Act went a step further than the UNCITRAL Model Law ("**Model Law**") which allowed an award-debtor to resist the award at both the challenge stage (Article 34) and at the enforcement or recognition stage (Article 36). At the outset is evident that the 2021 Amendment undermines this trajectory.

By the 2021 Amendment, disposal of a Section 36 application would (in most cases) require the Court to form a *prima facie* view that there has been no fraud or corruption in securing the contract or in the making of the award. The fact

that such a finding shall nonetheless be subject to the eventual decision in the Section 34 application does not mitigate the hurdle since, on average, the final disposal of such proceedings (including appeals to the Supreme Court) which may be expected to take up to six years (*See Paragraph 3 of the HCC Case*). In this manner, the 2021 Amendment reintroduces the hurdle to enforcement (in cases of alleged fraud or corruption), representing a retrogression in the arbitral regime.

Nullifies the 2015 Amendment

Even within the realm of Section 36 proceedings, the 2021 Amendment could cause substantial mischief.

One of the major reasons for bringing in the 2015 Amendment was the observation of the Supreme Court in *National Aluminum Company*, that the automatic stay jurisprudence left "*no discretion in the court to put the parties on terms*" which defeated "*the very objective of the alternate dispute resolution system*". This grievance found succor with the 246th Law Commission Report as well, which recognized the paralytic effect of the same and recommended changing the law.

The legislative antidote to allay such concerns was to confer upon the Court powers to deal with enforcement claims akin to those conferred upon civil courts under Order 41 Rule 5 of the Civil Procedure Code, 1908 (**"CPC"**) (*See Proviso to Section 36 of the 1996 Act inserted by the 2015 Amendment*). The exercise of such powers to stay enforcement of an award under the CPC is well-established and requires illustration that "*substantial loss may result to the party applying for stay of execution unless the order is made*" (*See Order 41, Rule 5(3)(a), CPC*).

With the 2021 Amendment Act, the illustration of a *prime facie* case would entitle the party to procure an "*unconditional*" stay, thereby obliterating any discretion to balance the competing equities which would doubtless vary from case to case in staying the enforcement of an arbitral award. In this respect, the 2021 Amendment re-introduces the stultification of judicial discretion resulting in 'paper awards', which led to the 2015 Amendment in the first place.

Further, the 2021 Amendment includes grounds such as 'fraud' and 'corruption' which are not explicitly contemplated under the CPC for staying a decree. These additional grounds now relate exclusively to arbitral proceedings, suggesting a fundamental distrust in the arbitral process, thereby creating inexplicable discrimination between civil proceedings and arbitral proceedings. Such discrimination has already by decried by the Supreme Court in the *HCC Case* where the Court observed:

Interferes with Section 34 of the 1996 Act

Readers will note that the Supreme Court has consistently viewed Section 36 of the 1996 Act to be an intermediate process to balance equities between the parties during the pendency of the Section 34 proceedings. In this respect, the following difficulties are a cause for concern:

Firstly, under Section 34(2)(a)(ii) an award may be set aside if the '*arbitration agreement*' (not the '*contract*' alone) is invalid in law, which may be on account of fraud or corruption. Under the amended Section 36, enforcement may be unconditionally stayed even if the '*contract*' was induced by fraud or corruption.

As noted above in the cases of *Swiss Timing Ltd*, *A. Ayyasamy* and *Avitel Post Studioz Ltd*, fraud in procuring a contract would not necessarily affect the arbitration agreement, which is severable in law.

Secondly, Explanation 1(i) to Section 34(2)(b) of the 1996 Act states that an award would be contrary to the public policy of India, and liable to be set aside under Section 34, only if the "*the making of the award*" was induced or affected by fraud or corruption.

However, Section 36 as amended by the 2021 Amendment, proscribes enforcement additionally in cases where "*the arbitration agreement or contract which is the basis of the award*" was based on fraud or corruption.

In this respect, it is relevant to note that a 'stay' of the award continues to be within the realm of the Section 34 Court to grant considering the merits of the award-debtor's plea for interim relief. However, the 2021 Amendment now pushes the Court to take a view on the merits of the matter under Section 36 (in relation to allegations of fraud or corruption) independent of the legal standards in Section 34. It is also noteworthy that the grounds of fraud and corruption were already available to award-debtor as grounds for staying an arbitral award under the unamended Section 36 read with Section 34. In view of the same, it is unclear if there exists a justifiable reason for providing a distinct ground for the same and thereby limiting the ability of the Court to engage in a holistic evaluation of the arbitral award and render justice that may befit the unique facts of the case.

Complications may also arise from a procedural standpoint. It is settled law that Section 34 is in the form of a summary procedure, where the Court is not to reappreciate evidence, record new evidence or minutely examine the arbitral award only to take a differing view (*See* *Ssangyong Engineering & Construction Co. Ltd. v. NHAI*). Whereas no *prima facie* case of fraud can be made out in the absence of material evidence to substantiate the allegations in the pleadings (*See* *Svenska Handelsbanken v. Indian Charge Chrome*). Given that the scope

of interference is limited under Section 34, it is difficult to fathom how any *prima facie* case can be made out under the amended Section 36 without offending the standards or impinging the jurisdiction under Section 34. Needless to state, respective appellate proceedings may also run into conflict.

On Retrospectivity

The *BCCI Case* held that the changes to Section 34, in altering the *ground* to challenge an arbitral award, related to the substantive rights and could not be retrospectively applied to Section 34 applications filed prior to the Cut-Off Date. However, so far as Section 36 was concerned, the Court held that the "*execution of a decree pertains to the realm of procedure*" and no vested right "*to resist enforcement*" under the un-amended Section 36 can be claimed by a party. Accordingly, the Court held that the amended Section 36 would apply even in relation to Section 34 applications filed prior to the Cut-Off Date.

On the contrary, the 2021 Amendment alters the enforceability of the award (as opposed to a right to resist enforcement). In other words, while the 2015 Amendment negatively affected the right of the award-debtor by doing away with the Automatic Stay, the 2021 Amendment negatively affects the rights of the award-holder, making the award unenforceable without the need for providing security. In this sense, the 2021 Amendment revives the "clog" in the right of the award-holder, and in this respect, it is not only procedural but also affects the substantive rights of an award-holder.

UNCITRAL **Model Law on International Commercial Arbitration (1985), with amendments as adopted in 2006:**

UNCITRAL Model Law on International Commercial Arbitration (1985), with amendments as adopted in 2006. The Model Law is designed to assist States in reforming and modernizing their laws on arbitral procedure so as to take into account the particular features and needs of international commercial arbitration.

The Model Law is designed to assist States in reforming and modernizing their laws on arbitral procedure so as to take into account the particular features and needs of international commercial arbitration. It covers all stages of the arbitral process from the arbitration agreement, the composition and jurisdiction of the arbitral tribunal and the extent of court intervention through to the recognition and enforcement of the arbitral award. It reflects worldwide consensus on key

aspects of international arbitration practice having been accepted by States of all regions and the different legal or economic systems of the world.

Amendments to articles 1 (2), 7, and 35 (2), a new chapter IV A to replace article 17 and a new article 2 A were adopted by UNCITRAL on 7 July 2006. The revised version of article 7 is intended to modernise the form required of an arbitration agreement to better conform with international contract practices. The newly introduced chapter IV A establishes a more comprehensive legal regime dealing with interim measures in support of arbitration. As of 2006, the standard version of the Model Law is the amended version. The original 1985 text is also reproduced in view of the many national enactments based on this original version

judicial intervention:
A form that a party files in an action that has not yet been assigned to a judge. The RJI is a request for the court to become involved in the matter and will result in the assignment of a judge, who will then preside over the action until its end.

International Commercial Arbitration**:**

Discourage litigation persuades your neighbors to compromise whenever you can point out to them how the nominal winner is often a real loser, in fees, expenses, waste of time…"
– Abraham Lincoln

International commercial arbitration is a means of resolving disputes arising under international commercial contracts. It is used as an alternative to litigation and is controlled primarily by the terms previously agreed upon by the contracting parties, rather than by national legislation or procedural rules

International commercial arbitration is a means of resolving disputes arising under international commercial contracts. It is used as an alternative to litigation and is controlled primarily by the terms previously agreed upon by the contracting parties, rather than by national legislation or procedural rules. Most contracts contain a dispute resolution clause specifying that any disputes arising under the contract will be handled through arbitration rather than litigation. The parties can specify the forum, procedural rules, and governing law at the time of the contract.

Arbitration can be either "institutional" or " ad hoc ." The terms of the contract will dictate the type of arbitration. If the parties have agreed to have an arbitral institution administer the dispute, it is an institutional arbitration. If the parties have set up their own rules for arbitration, it is an ad hoc arbitration. Ad

hoc arbitrations are conducted independently by the parties, who are responsible for deciding on the forum, the number of arbitrators, the procedure that will be followed, and all other aspects of administering the arbitration.

Arbitration agreements

The formation of an arbitration agreement takes place when two parties, enter into a contract and in which, the contract states that any dispute arising between the parties have to be solved without going to the courts with the assistance of a person, who would be a neutral person, a third party, appointed by both of the parties, known as the Arbitrator, who would act as a judge. The arbitrator so appointed should have been previously mentioned in the contract that they made. They should also state who should select the arbitrator, regarding the kind of dispute the arbitrator should give decisions on, the place where the arbitration would take place. Furthermore, they should also state the other kinds of procedures mentioned or that has to be required during an arbitration agreement

The parties are generally required to sign an Arbitration Agreement. The decision taken by the arbitrator regarding any issue, is binding on both the parties, as stated by the agreement. In any event, where one party decides that an agreement must be made prior to entering the contract, it can be stated that the agreement was made to deviate from the hassles of the court. These agreements are like contingent contracts, which means that these agreements shall only come into force or become enforceable if any dispute happens, and on the basis of the same dispute between two parties mentioned in the contract. It also takes place or is enforceable in the light of any dispute that arises between the parties to the contract.

Essentials of an Arbitration Agreement

- There must be a dispute that should take place, only then the agreement will be valid. The presence of a dispute amongst the parties is an essential condition for the contract to take place. When the parties have already settled the dispute, in no case, they can invoke the arbitration clause to refute the settlement.
- Another essential is the written agreement. An agreement related to the arbitration must always be in writing. An arbitration agreement will be considered as a written agreement when:

1. It has been signed by both parties and it is in the form of a document.

2. It can be the exchange of the telex, the letters, the telegrams, or any other means of communication which provides the record of the exchange and the agreement for arbitration.
3. There must be an exchange of statements between the parties that gives the statement of claim and defence in which the existence of the agreement of the arbitration is agreed by one of the parties and which is not defined by the other party.

- The third essential intention. The intention of the parties while forming the contract is of utmost importance and it forms the basis of the agreement. There have been no prerequisite citations of terms such as an “arbitrator” or “arbitration” to be made in the agreement. Therefore, it is necessary to note that the intention of both parties plays a very important role in such an agreement. However, one must keep in mind that even if the words have not been mentioned, the intention must show that both the parties have agreed to come to the terms with the Arbitration Agreement.
- The fourth essential element is the signature of the parties. The signature of the parties is an essential element to constitute an arbitration agreement. The signature can be in the form of a document signed by both the parties to the contract which comprises all the terms and conditions, or it can also be in the form of a document which is signed by only one party to the contract which contains the terms and acceptance by the other party to the contract. It will be sufficient if one party puts up a signature in the agreement and the other party accepts that.

Important provisions in the arbitration agreement:

There are a few important provisions under an arbitration agreement, and these are mentioned below:

1. Written Agreement- As stated as an essential condition, there must be a written agreement. Section 7(4) of the Act, states that every agreement made must be in the form of a written document or even in the form of any kind of communication whether or not those communications take place through telegrams, telex or even other telecommunication devices provided that there must be a record of the communication.
2. Appointment of the Arbitrators- Section 11 states that the arbitrator can be appointed at the liberty of the parties to the contract. In case, where the parties fail to decide the appointment of the arbitrator, the Chief

Justice of the High Court, in case of the domestic arbitration and the Chief Justice of the Supreme Court, in case of International Commercial Arbitration is approached.

3. Interim Relief- Section 9 and Section 17 of the Act provide for the Interim relief orders with respect to the arbitration. The relief petition is maintainable under section 9 if there is prima facie evidence that there is an agreement for the arbitration proceeding. The parties, if they want, can move to the Court before the arbitration proceeding actually starts or even after making the arbitral award but before its enforcement as per section 36 of the Act. Section 17 states that, at the parties' request, the tribunal may order the party to take interim measures, the way it deems fit and necessary in respect to the subject matter of the dispute.
4. Finality of an Award by Arbitration- Section 34 states that the award given by the arbitrator is final and is binding upon the parties who have signed the contract. Once the decree is granted by the court, it shall be enforceable with respect to section 34 of the Act.
5. Appeal- Section 37 states that if the parties are not satisfied with the decision of the arbitrators, an appeal lies against the order granting or refusing to grant any measure under section 9 and also against refusing to set aside or setting aside an award. An appeal can also lie against the order of the tribunal accepting the plea referred to in section 16 or granting or refusing to grant an interim measure under section 17. However, there is no provision for an appeal against the appointment of an arbitrator as given under section 11

Types/Kinds of Arbitration

Depending on the provisions mentioned in the arbitration agreement, the nature of the dispute, and the laws according to which such arbitration takes place, arbitration can be differentiated in some categories. These categories have been discussed below:

Ad-hoc Arbitration: In this type, the parties to dispute themselves agree and make arrangements for the procedure of arbitration without the involvement of an arbitrational tribunal. In ad- hoc arbitration if the parties are not able to come to a conclusion as to who will be the arbitrator, according to section 11 of the Arbitration and Conciliation Act of 1996 , the arbitrator will be appointed by the

chief justice of a High Court or the Supreme Court(in matters of international arbitration)or their designate.

Domestic Arbitration: The Arbitration and Conciliation Act of 1996 does not specifically define the term 'Domestic Arbitration'. Though, section 2(7) of the Act says that a 'domestic award' is an award that is made Part I. Further, Section 2(2) states that Part I shall be applicable when the place of arbitration is within India. Thus, it can be said that when the arbitration proceedings takes place within India, under the purview of Indian laws, and when the cause of the dispute occurred India, such an arbitration may be called domestic arbitration.

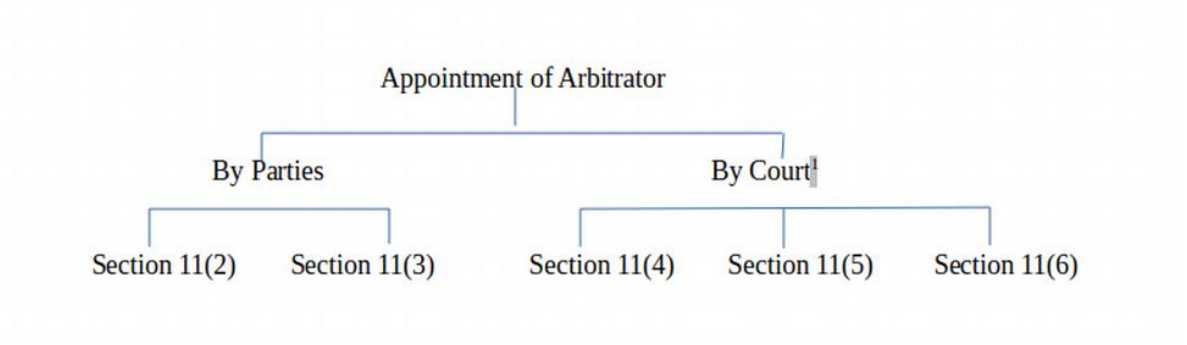
Institutional Arbitration: The Arbitration and Conciliation Act, 1996 categorically mentions the role of arbitral institutions. For the purpose of assisting in the process of arbitration proceedings, section 6 provides the provisions according to which the parties may, with the consent of the parties in dispute seek administrative assistance of an institution. Some of the prominent arbitral organisations in India are Indian Council of Arbitration (ICA), Bengal Chamber of Commerce and Industry (BCCI).

Statutory Arbitration: The process of Arbitration may initiate by an agreement that is entered into by both the parties and when a statute categorically has provisions for arbitration to be used for resolution in certain matters. When the statute of Parliament or a state legislature provides for arbitration , such arbitration is called statutory arbitration. Statutory arbitration is different from other kinds of arbitration as the consent of the parties is not a necessary condition.

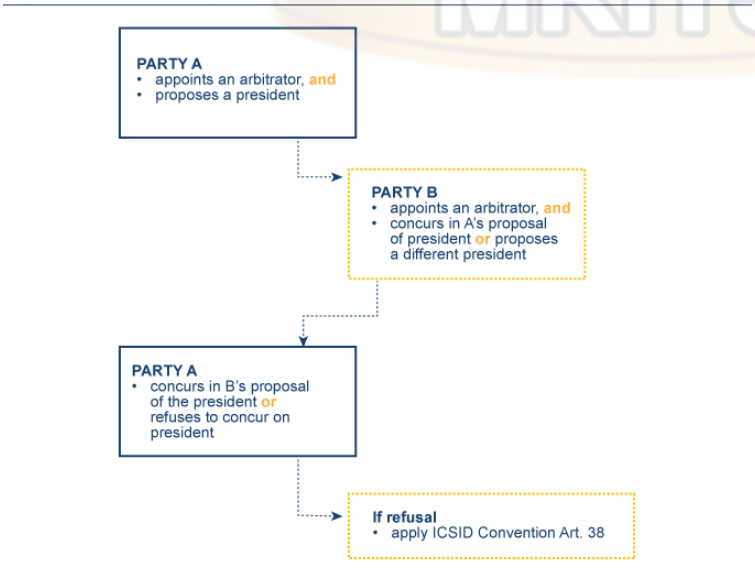
Fast Track Arbitration: Fast track arbitration is a form of arbitration where the rules are stricter and the process is time bound which excludes the option of delay.. Fast track arbitration is most suitable for cases in which does not include much of oral hearings or examination of witnesses and a conclusion can be reached on the basis of documents.

These were some kinds of arbitration which are commonly used. They are distinguishable from each other in characteristics such as time involved, place of proceedings, cause of dispute etc. These different types of arbitration are thus capable of providing a resolution for a wide range of disputes.

Arbitration tribunal appointment:


Appointment of Arbitrator
By Parties
By Court
Section 11(2)
Section 11(3)
Section 11(4)
Section 11(5)
Section 11(6)


Appointment of Arbitrator(s)
By parties mutually
By Court
Supreme Court- International Commercial Arbitration
High Court- Domestic Arbitration


PARTY A
• appoints an arbitrator, and
• proposes a president
PARTY B
• appoints an arbitrator, and
• concurs in A's proposal of president or proposes a different president
PARTY A
• concurs in B's proposal of the president or refuses to concur on president
If refusal
• apply ICSID Convention Art. 38

Selection and Appointment of Tribunal Members - ICSID Convention Arbitration

Once the number of arbitrators and the method of their appointment have been determined, the arbitrator(s) may be appointed. If the parties are unable to appoint all members of the Tribunal pursuant to the established method of appointment, the ICSID default mechanism may apply.

Parties are not required to select arbitrators from the ICSID Panel of Arbitrators, although they are welcome to do so.

The Convention sets forth certain requirements regarding the nationality and qualifications of appointees to ICSID Tribunals, but the parties are otherwise free to choose whomever they wish.

Requirements for Appointees

Nationality Requirement

A majority of arbitrators on a Tribunal must be nationals of States other than the State party to the dispute and the State whose national is a party to the dispute (Article 39 of the Convention and Arbitration Rule 1(3)).

The nationality rule does not apply if the sole arbitrator or each individual member of the Tribunal is appointed by agreement of the parties.

Where a Tribunal consists of three members, an arbitrator cannot have the same nationality as either party unless both parties agree to that appointment.

In practice, this means that:

- A sole arbitrator may not have the same nationality as either party unless both parties agree.
- If each party has appointed a person of an excluded nationality (as approved by the other party), the parties must also agree on the appointment of the President of the Tribunal.

Arbitrator Qualifications

All ICSID arbitrators must be persons:

- of high moral character;
- with recognized competence in the fields of law, commerce, industry or finance; and

- who may be relied upon to exercise independent judgment (Article 14(1) and Article 40(2) of the Convention).

Additional Considerations for Selecting Arbitrators

In addition to the requirements established by the Convention, there are several practical considerations that parties should reflect upon when selecting an arbitrator. Although these may vary depending on the specific characteristics and demands of each case, the following factors are generally among the most important:

- Knowledge of the relevant law(s)
- Absence of conflict of interest
- Experience as an arbitrator
- Language proficiency
- Availability of arbitrator/manageability of current caseload
- Timeliness
- Cohesiveness of the Tribunal
- Other areas of expertise

Appointing an Arbitrator

The parties should provide ICSID with the following information in respect of an arbitrator appointment:

- complete name;
- nationality;
- contact information (i.e., mailing address, telephone and fax numbers, email); and
- a current curriculum vitae.

Once an arbitrator is appointed, ICSID seeks the appointee's acceptance of the nomination. The Secretary-General then notifies the parties of the appointee's acceptance or refusal.

If an arbitrator refuses or fails to accept the appointment within 15 days, ICSID will invite the appointing party to nominate another arbitrator.

Default Mechanism for Appointing an Arbitrator

If the parties are unable to appoint all members of the Tribunal within 90 days of the registration of the request for arbitration, either party may request that the Chairman of the ICSID Administrative Council appoint the arbitrator(s) not yet appointed (Article 38 of the ICSID Convention).

When a party makes such a request in respect of the Sole Arbitrator or President of the Tribunal, ICSID first conducts a ballot procedure (see ICSID's sample ballot):

- ICSID provides the parties with a ballot form containing the names of several candidates, who may or may not be members of the ICSID Panel of Arbitrators.
- Each party is given a short time limit to return its completed ballot form, indicating the candidates it accepts or rejects.
- A party is not required to share its ballot with the other party.
- If the parties agree on a candidate from the ballot, that person will be deemed to have been appointed by agreement of the parties.
- If the parties agree on more than one proposed candidate, ICSID selects one of them and informs the parties of the selection.

A successful ballot is considered an appointment by agreement of the parties under the established method of constituting the Tribunal.

If there is no agreement by the parties, ICSID names a person from the Panel of Arbitrators, pursuant to Article 38 of the Convention. Before the person is appointed, the parties are given the opportunity to raise any circumstance showing that the person lacks the required qualities under the ICSID Convention (Article 14(1) of the Convention).

Until the process is completed, the parties may appoint missing arbitrators under the established method of constitution or by agreement.

The Centre endeavors to complete the appointment process within 30 days of the request for appointment.

Dispute Resolution Board

Admittedly, we aren't the DRB experts, but our friends at Construction Executive have a nice overview of the subject of DRBs. Also, keep in mind that DRBs can go by a number of different names: *Dispute Resolution Boards, Dispute Review Boards, Dispute Adjudication Boards*, or simply *Dispute Boards*. For the sake of clarity, at least for this article, we're sticking to "Dispute Resolution Boards" or "DRBs."

Anyway, a DRB is pretty much exactly what the name implies, that is, a board of individuals that resolves disputes on construction projects. It can be anywhere from 1-3 people, though conceivably a board could include many more individuals. They're appointed *before* any disputes arise – typically at the time of

the contract. Also, these people typically aren't lawyers! Rather, they're experts in the field for whatever project they're used on. For a project where a DRB is present, typically, an owner and the general contractor will agree on who will serve on the DRB. Sometimes, both sides will nominate a member and then the pair will appoint a third member.

Why Do Dispute Resolution Boards Work?

DRBs work for a number of reasons. First, they work because both parties agree to let a neutral third party (the Dispute Resolution Board) either make a decision or recommendation on how to resolve the dispute. You may be thinking "Wait, that's just the same as a mediator or arbitrator." But hold on! DRBs are more involved.

Beginning with the contracting stage, all the way through completion – the members of the Dispute Resolution Board are involved and understand the ins and outs of the projects well as the relationships of all parties. They typically even perform walk-through to check on the job. Because the third party in this situation is simultaneously impartial and intimately informed with the project, it's easier to come to a fair result on disputes.

The real magic with Dispute Resolution Boards is their preventative value. According to the Dispute Resolution Board Foundation, 60% of projects utilizing a DRB have no disputes at all. Further, 98% of the disputes that reach the Dispute Resolution Board don't go on to further litigation or arbitration.

Why's that? There are a number of factors that could move the needle in either direction here, but importantly, utilizing Dispute Resolution Boards sets the tone from the start of a project. Expectations are clear, and so is the method to resolve construction disputes.

Lok Adalat:

NALSA along with other Legal Services Institutions conducts Lok Adalats. Lok Adalat is one of the alternative dispute redressal mechanisms, it is a forum where disputes/cases pending in the court of law or at pre-litigation stage are settled/ compromised amicably. Lok Adalats have been given statutory status under the Legal Services Authorities Act, 1987. Under the said Act, the award (decision) made by the Lok Adalats is deemed to be a decree of a civil court and is final and binding on all parties and no appeal against such an award lies before any court of law. If the parties are not satisfied with the award of the Lok

Adalat though there is no provision for an appeal against such an award, but they are free to initiate litigation by approaching the court of appropriate jurisdiction by filing a case by following the required procedure, in exercise of their right to litigate.

There is no court fee payable when a matter is filed in a Lok Adalat. If a matter pending in the court of law is referred to the Lok Adalat and is settled subsequently, the court fee originally paid in the court on the complaints/petition is also refunded back to the parties. The persons deciding the cases in the Lok Adalats are called the Members of the Lok Adalats, they have the role of statutory conciliators only and do not have any judicial role; therefore they can only persuade the parties to come to a conclusion for settling the dispute outside the court in the Lok Adalat and shall not pressurize or coerce any of the parties to compromise or settle cases or matters either directly or indirectly. The Lok Adalat shall not decide the matter so referred at its own instance, instead the same would be decided on the basis of the compromise or settlement between the parties. The members shall assist the parties in an independent and impartial manner in their attempt to reach amicable settlement of their dispute.

Nature of Cases to be Referred to Lok Adalat

1. Any case pending before any court.

2. Any dispute which has not been brought before any court and is likely to be filed before the court.

Provided that any matter relating to an offence not compoundable under the law shall not be settled in Lok Adalat.

Which Lok Adalat to be Approached

As per section 18(1) of the Act, a Lok Adalat shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute in respect of -

(1) Any case pending before; or

(2) Any matter which is falling within the jurisdiction of, and is not brought before, any court for which the Lok Adalat is organised.

Provided that the Lok Adalat shall have no jurisdiction in respect of matters relating to divorce or matters relating to an offence not compoundable under any law.

How to Get the Case Referred to the Lok Adalat for Settlement

(A) Case pending before the court.

(B) Any dispute at pre-litigative stage.

The State Legal Services Authority or District Legal Services Authority as the case may be on receipt of an application from any one of the parties at a pre-litigation stage may refer such matter to the Lok Adalat for amicable settlement of the dispute for which notice would then be issued to the other party.

Levels and Composition of Lok Adalats:

At the State Authority Level -

The Member Secretary of the State Legal Services Authority organizing the Lok Adalat would constitute benches of the Lok Adalat, each bench comprising of a sitting or retired judge of the High Court or a sitting or retired judicial officer and any one or both of- a member from the legal profession; a social worker engaged in the upliftment of the weaker sections and interested in the implementation of legal services schemes or programmes.

At High Court Level -

The Secretary of the High Court Legal Services Committee would constitute benches of the Lok Adalat, each bench comprising of a sitting or retired judge of the High Court and any one or both of- a member from the legal profession; a social worker engaged in the upliftment of the weaker sections and interested in the implementation of legal services schemes or programmes.

At District Level -

The Secretary of the District Legal Services Authority organizing the Lok Adalat would constitute benches of the Lok Adalat, each bench comprising of a sitting or retired judicial officer and any one or both of either a member from the legal profession; and/or a social worker engaged in the upliftment of the weaker sections and interested in the implementation of legal services schemes or programmes or a person engaged in para-legal activities of the area, preferably a woman.

At Taluk Level -

The Secretary of the Taluk Legal Services Committee organizing the Lok Adalat would constitute benches of the Lok Adalat, each bench comprising of a sitting or retired judicial officer and any one or both of either a member from the legal

profession; and/or a social worker engaged in the upliftment of the weaker sections and interested in the implementation of legal services schemes or programmes or a person engaged in para-legal activities of the area, preferably a woman.

National Lok Adalat

National Level Lok Adalats are held for at regular intervals where on a single day Lok Adalats are held throughout the country, in all the courts right from the Supreme Court till the Taluk Levels wherein cases are disposed off in huge numbers. From February 2015, National Lok Adalats are being held on a specific subject matter every month.

Permanent Lok Adalat

The other type of Lok Adalat is the Permanent Lok Adalat, organized under Section 22-B of The Legal Services Authorities Act, 1987. Permanent Lok Adalats have been set up as permanent bodies with a Chairman and two members for providing compulsory pre-litigative mechanism for conciliation and settlement of cases relating to Public Utility Services like transport, postal, telegraph etc. Here, even if the parties fail to reach to a settlement, the Permanent Lok Adalat gets jurisdiction to decide the dispute, provided, the dispute does not relate to any offence. Further, the Award of the Permanent Lok Adalat is final and binding on all the parties. The jurisdiction of the Permanent Lok Adalats is upto Rs. Ten Lakhs. Here if the parties fail to reach to a settlement, the Permanent Lok Adalat has the jurisdiction to decide the case. The award of the Permanent Lok Adalat is final and binding upon the parties. The Lok Adalat may conduct the proceedings in such a manner as it considers appropriate, taking into account the circumstances of the case, wishes of the parties like requests to hear oral statements, speedy settlement of dispute etc.

Mobile Lok Adalats are also organized in various parts of the country which travel from one location to another to resolve disputes in order to facilitate the resolution of disputes through this mechanism.

As on 30.09.2015, more than 15.14 lakhs LokAdalats have been organized in the country since its inception. More than 8.25 crore cases have been settled by this mechanism so far.

Types of Lok Adalat:

- **Permanent Lok Adalat** - Provides mechanism for disposing cases relating to public utility services transport,postal and telegraph.

- **National Lok Adalat** - Held from year 2015, every month on specific topic across India. These are held on a single day disposing off large number of pending cases.
- **Mega Lok Adalat** - Held across all courts in state in a single day.
- **Mobile Lok Adalats** - These types of Lok Adalats are organised occasionally which travel from one place to other across country occasionally and help resolving disputes.

UNIT –IV

Engagement of Labor and Labor Other Construction –Related Laws:

Before the Industrial Dispute Act, there was no machinery to solve the dispute. The whole system was based on the common law and according to common law, dispute solved according to the contract between the parties. Therefore, the Common Law system does not apply to the industrial system. Hence, Industrial Dispute Act, 1947 was passed to meet the needs which were based on socialistic law. This act is for social welfare

Objectives and Scope of the Industrial Dispute Act, 1947:

1. The promotion of measure for securing amity and good relationship between the employer and workmen.
2. An investigation and settlement of the industrial dispute between employers and employers, employers and workmen or workmen and workmen with the right of a presentation by a registered trade union.
3. Prevention of illegal strikes and lock-outs.
4. Relief to workmen in the matter of lay-off, retrenchment and closure of undertaking.
5. Collecting bargaining.
6. To achieve industrial peace, harmony, good relations, and economic justice. For this, machinery was provided called Workers committee, which discusses the issues of common interest, to maintain co-operation, accommodation, mutual trust, etc. But this machinery was not functioning. This objective suffers from idealism. It is not practically reliable because there is always a clash between the interests of the two.
7. To fulfill the industrial needs like work as a unit, mutual trust and tolerance.
8. Cooperation between employer and employee. They must develop the spirit to work together and help one another.
9. The protect the democratic right of strike and lock-out.

10. To provide effective, easy mechanism, efficient, speedy and professionalize for the settlement of the industrial dispute. 3 types of Machinery: Conciliation, Adjudication and Voluntary arbitration.
11. Protection of Trade Union's right.
12. To regulate lay-off and retrenchment.
13. Production and productivity should be regulated.
14. To provide social justice:
15. It has big and transformational objectives. It is the mechanism of striking balance between conflicting interest or competing interest with a minimum of waste.
16. According to Lincoln, 'Social Justice does not mean to make the rich poor or vice versa but to balance the interest of both.' The objective of IDA,1947 that to establish a machinery for the protection of rights, but because of common law, which decided cases on the contractualism concept, does not provide justice to the worker so the objective is that the case will be decided on the basis of socialistic law.
17.
18. Social justice provides compensation to workers who are in trouble. In industries, employers want maximum profits and returns and employees want maximum wages on least work.
19. To protect the employee:
    -
20. Compensation should be paid to the person who will be terminated so one can carry on the expenses of his family.
21. In future, if there is any vacancy, then terminated worker will be appointed.
22. Social justice tells in the situation what is the more appropriate action.
23. Social justice is different from legalistic justice. It observes surroundings and circumstances, moral statute, human values, but all those things are not observed in legalistic justice.
24. Contractualism concept of social justice is necessary for the smooth functioning of society as well as for the economic system.

Main features of The Industrial Dispute Act:

1. Strike and lock-outs are prohibited during the pendency of conciliation, adjudication settlement preceding.
2. Any industrial dispute may be referred to an industrial tribunal by an agreement of parties to dispute or by State Government.
3. An award shall be binding on both the parties to the dispute for a specified period not exceeding one year enforced by the government.
4. In public interest or emergency, the appropriate government has the power to declare the transport, coal, iron and steel industry to be public utility services for the purpose of The Industrial Dispute Act, for a maximum period of six months.
5. In case of lay off or retrenchment of workmen, the employer is required to pay compensation.
6. Provision has also been made for payment of compensation to workmen.
7. A number of authorities such as works committee, Conciliation Officer, Board of Conciliation, Labor court, Tribunal are provided for settlement of industrial disputes.

Work Committee:

It consists of representatives of employers and workmen constituted by democratic principles. It works for serving amity and good relations and co-operation. It discusses matters of common interests.

Functions of The Industrial Dispute Act:

1. Aspires for co-operation and good relation among employer and employees.
2. Constructed by the representatives of employer and employees by democratic pattern.

3. To provide a piece of effective machinery for the settlement of the industrial dispute. There are 3 types of machinery:

Conciliation
Adjudication
Voluntary arbitration

4. During the post-independence era, we have witnessed the development of a new jurisprudence, namely 'Industrial Law'.
5. The economic growth of the country depends upon the industrial development.
6. Industrial Law plays an important role in the national economy of a country.

(a). Appropriate Government: The Central Government, as well as the State Government, arevested with various powers and the duties in relation to matter dealt with this act. In relation to some industrial disputes the Central Government and in relation to some other the State Government concerned are appropriate government to deal with such dispute. The appropriate government shall be the Central Government or the State Government, which has control over such industrial establishment.
(aa). Arbitrator: Arbitrator includes an umpire.
(b). Award: 'Award' the definition falls in two parts. The first part covers a determination, final or interim, of an industrial dispute. The second part takes in the determination of any question relating to an industrial dispute.

1. The aggrieved party may apply to the appropriate government for prosecuting the defaulting party under Section 29 and Section 31.
2. Where any money is payable by the employer to workmen, the workmen may move the appropriate government for recovery of the money due to him under the award.
3. The party in whose favour the award has been granted may file a suit and obtain a degree.

Two conditions are necessary:

1. It must be a banking company as defined above.
2. It must have branches or another establishment in more than one state of India.

(c). Board: It means a Board of Conciliation constituted under this act. Instead of using a large expression a single word denoting the same meaning as Board of Conciliation has been used.
(cc). Closure: It means the permanent closing down of a place of employment or part thereof.
(d). Conciliation Officer means a conciliation officer appointed under this act.
(e). Conciliation Proceeding: means any proceeding held by conciliation officer or Board under this act.
(f). Court: means a court of inquiry constituted under this act.

(g). Employer: Section 2(g) of the act states the meaning of the word 'employer' in relation to industries carried on by or under the authority.
(gg). Executive: Executive in relation to a trade union means the body by whatever name called; to which the management of the affair of the trade union entrusted.
(i). Independent: Section 2(i) of The Industrial Dispute Act gives the meaning of the word independent for the purpose of appointment of a person as the chairman or another member of a Board, Court or Tribunal.
(j). Industry: means any business, trade, undertaking manufacture or calling of employer and includes any calling, service, employment or avocation of workmen.
Triple Test: where there is (i) systematic activity, (ii) organised by co-operation between employer and employee, (iii) for the production of goods and services calculated to satisfy human want and wishes, there is an industry is that enterprise. This is a Triple Test.
The amended definition of Industry: Any systematic activity carried on by co-operation between an employer and his workmen for the production, supply or distribution of goods or service with a view to satisfying human want.
(k). Industrial Dispute: The preamble is to make provision for the investigation and settlement of Industrial Dispute.

1. A dispute or difference between (a) employers and employers, (b) employers and workmen, (c) workmen and workmen.
2. The dispute or difference should be connected with (a) employment or non-employment (b) terms of employment (c) conditions of Labor of any person.
3. The dispute may be in relation to any workmen or any other person in whom they are interested as a body.

(kk). Insurance Company: Section 2(kk) essential:

1. It should be an insurance company as defined in section 2 of the Insurance Act.
2. It should have branches or another establishment in more than one state.

(kka). Khadi: has the meaning assigned to it in clause (d) of Sec.-2 of Khadi and Village industries commission act, 1956.
(kkb). Labor Court: means the Labor court constituted under Section 7 of the Industrial Dispute Act, 1947.
(kkk). Lay-off: Salient feature of lay-off:

1. An employer, who is willing to employ, fails or refuse or is unable to provide employment for reason beyond his control.
2. Any such failure or refusal to employ workmen may be on account of:
3. Shortage of coal, power or raw material
4. The accumulation of stock;
5. The breakdown of machinery;
6. Natural calamity.

7. Work must not have been retrenched.

Meaning of Lay-off: means putting aside workmen temporarily. The duration of lay-off is not for a period longer than a period of emergency.
Four Ingredients:

1. a) Temporary closing of a place of employment by the employer.
2. b) Suspension of work by the employer.
3. c) Refusal by an employer to continue to employ any number of persons employed by him.
4. Above mentioned acts of the employer should be motivated by coercion.
5. An industry is defined in the act.
6. A dispute in such industry.

Difference between Lock-out and Lay-off:

1. Lock-out is an act on the part of the employer taken to coerce or pressurise the Labor, Lay-off is for trade reason beyond the control of the employer.
2. Lock-out is due to an industrial dispute and continues during the period of dispute, Lay-off is not concerned with a dispute with the workmen.

Difference between Lock-out and retrenchment:

1. Lock-out is temporary, retrenchment is permanent.
2. In lock-out, the relationship of employer and employee is only suspended, it does not come to an end, in retrenchment such a relationship is served at the instance of the employer.
3. Lock-out is with a motive to coerce the workmen, the intention of retrenchment is to dispense with surplus Labor.
4. Lock-out is due to and during an industrial dispute, whereas, in the case of retrenchment, there is no such dispute.

(lb). Mine: means any excavation where any operation for the purpose of searching for or obtaining mineral.
(ll). National Tribunal: means a national industrial tribunal constituted under section 7-B.
(lll). Office Bearer: in relation to a trade union include any member of the executive, but not include an auditor.
(m). Prescribed: means prescribed by rules made under The Industrial Dispute Act.
(n). Public utility service:

1.
    1. Any railway services.
    2. Any transport service for carriage of passengers.
    3. Any postal, telegraph or telephone services.
    4. Any industries which supply power, light and water to the public.

5. Any system of public conservancy or sanitation.

(o). Railway Company: means a railway company as defined in section 3(4) of the Indian Railway Act as follow:
Railway means a railway or any portion of the railway for the public carriage of passenger, animal or goods are included:

1.
    1. All stations, offices, warehouses, workshops, fixed plant and machinery and other works constructed for the purpose in connection with the railway.
    2. All lines of rails, siding or branches worked over for the purpose of or in connection with railways.

(oo). Retrenchment: means the termination by the employer of the service of workmen, the termination may be for any reason. But the termination should not be a measure of punishment by way of disciplinary action.
(p). Settlement: arrived at in the course of a conciliation proceeding and the second is a written agreement between employer and workmen arrived at otherwise than in the course of conciliation proceeding.
(q). Strike:

1.
    1. Cessation of work by a body of a person employed in any industry acting in combination.
    2. A concerted refusal of any number of persons who are or have been employed in any industry to continue to work or to accept employment.
    3. A refusal under a common understanding of any number of persons who are or have been employed in the industry to continue to work.

Kinds of Strike:

1. General Strike: A general strike is one where the workmen join together for common cause stay away from work, depriving the employers of their Labor needed to run his factory.

-
- The general strike is for a longer period.
- It is generally resorted to when employees fail to achieve their object by other means including a token strike which generally precedes a general strike.

2. Stay-in-strike: It is also known as ‘tools-down-strike’ or ‘pens-down-strike’. It is that form of strike where the workmen report to their duties, occupy the premises but do not work.

3. Go-slow: The workmen do not stay away from work, they do come to their work and work also but with slow speed in order to lower down the production and thereby cause loss to the employer.

Hunger Strike: Group of workmen resort to fasting on or near the place of work or the residence of the employer with a view to coerce the employer to accept their demands.

Work to Rule: Strictly adhere to the rules while performing their duties which ordinarily they do not observe.

(qq). Trade Union: means trade union registered under the Trade Union Act, 1926.

(r). Tribunal: Section 2(r) of The Industrial Dispute Act states that the 'Tribunal' means an industrial tribunal constituted under Sec.-7 A of the act.

(ra). Unfair Labor Practice: means any of the practice specified in the fifth schedule.

(rb). Village Industries: assigned in clause (h) of Sec.-2 of Khadi and Village Industries Commission Act, 1956.

(rr). Wages: means all remuneration capable of being expressed in terms of money, which would if the term of employment, expressed or implied were fulfilled, be payable to a workman in respect of his employment or of work done in such employment.

-
- Proper Wages
- Overtime
- Bonus: It is a kind of cash payment in addition to wages. Demand for bonus two conditions must be satisfied; (a) the wages fell short of the living standard, and (b) the industry made a huge profit due to the joint contribution of the capital and Labor.

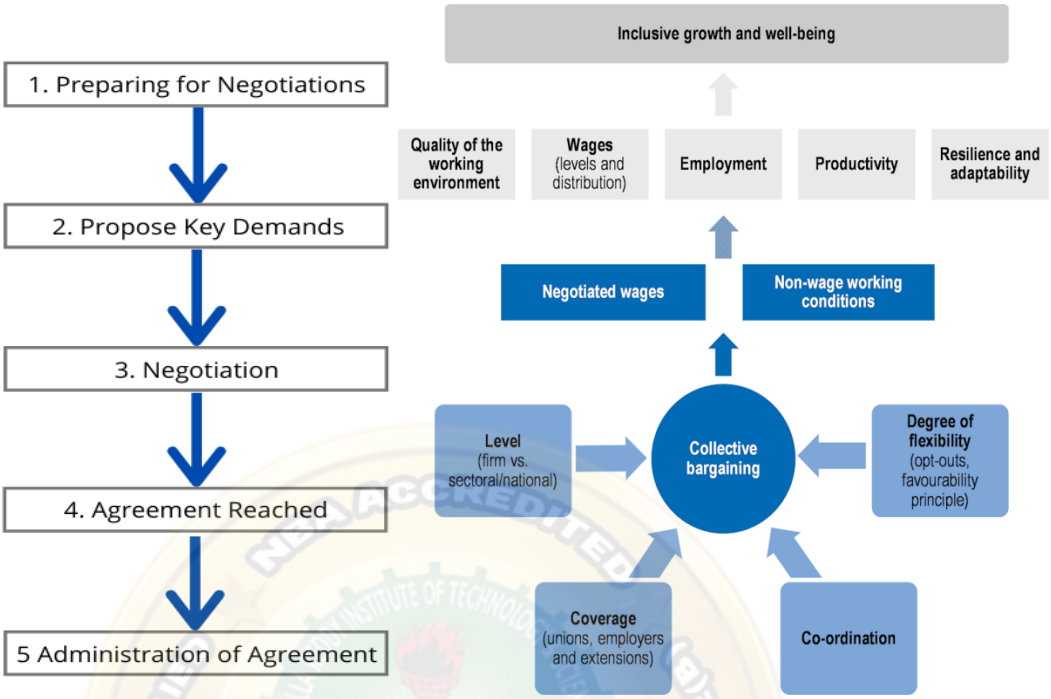
(s). Workman: means any person employed in any industry to do any manual, unskilled, skilled, technical or supervisory work for hire or reward, whether the term of employment is express or implied and for the purpose of any proceeding under The Industrial Dispute Act

Collective bargaining:

Meaning:

Collective bargaining is the process in which working people, through their unions, negotiate contracts with their employers to determine their terms of employment, including pay, benefits, hours, leave, job health and safety policies, ways to balance work and family, and more

Collective bargaining is a procedure by which employment related disputes are resolved cordially, peacefully and voluntarily by settlement between Labor unions and managements.



Types of Collective Bargaining

When looking at the types of collective bargaining, it is important to distinguish it between a collective agreement. There are also different types of collective agreements, but these refer to the outcome of collective bargaining.

For instance, there are single union deals, procedural agreements, substantive agreements, and partnership agreements. All of which refer to the agreement that has taken place as a result of the collective bargaining process.

1. Distributive Bargaining

Distributive bargaining is defined as a negotiation process by which one party benefits at the others expense. This usually refers to the redistribution of income in the form of higher wages, higher bonuses, or higher financial benefits. Simply put; anything related to the transfer of money.

In this type of bargaining, the trade union needs to have enough market power to win the negotiation. The employer will want to pay as little in wages. Yet in order to convince them to pay more, the trade unions need enough members to provide a significant incentive.

In other words, a trade union that has 100 percent of the employers workforce has significant power. Should they call a strike, it would cause severe disruption to the employer. Consequently, any distributive bargaining will be skewed significantly in favour of the unions.

2. Integrative Bargaining

Integrative bargaining is whereby both sides aim to benefit in what is seen as 'win-win' bargaining. Both parties may bring together a list of demands by which an agreement is reached that benefits both parties.

To put it another way, integrative bargaining involves both parties considering the others point of view, needs, wants, fears, and concerns. As a result, both parties either lose or gain by the same amount. For example, unions may advocate for greater levels of staff training. Now this may cost the business more, but it will benefit from greater levels of productivity in the long run.

If workers are better trained, they are equally going to be more productive. So the business and the unions workers may gain as a result.

We can also look at integrative bargaining where both sides lose in order to gain. For example, the unions may be willing to give up yearly bonuses in order to have a higher annual salary. Or, alternatively, the union would accept a pay freeze in order to accept better working conditions. So the workers would lose out from lower real wages, whilst the employer would have to invest in better conditions.

3. Productivity Bargaining

Productivity bargaining involves both parties negotiating around productivity and pay. So unions may suggest that higher salaries would boost productivity. However, this is unknown to the business. So target-orientated bonuses may be suggested, or new ways of improving the process.

Unions may suggest new ways of organising the worker force than may increase productivity and therefore create value to the firm. In turn, employers would look to increase employees wages as a result.
Simply put, productivity bargaining is where the two parties look to agree to changes that would boost productivity in return for higher wages or other benefits.

4. Composite Bargaining

Composite bargaining refers to a negotiation that focuses on a number of elements that are not related to pay. They are generally related to employee welfare and job security. For instance, it covers factors such as working conditions, policies, recruitment, and disciplinary processes.
The aim is to ensure a mutually beneficial long-term relationship between the employer and employee. It does this by highlighting issues that employees may have, which may impact their long-term future at the company.
Businesses want to retain talent, particularly if they spend time and money training them up. Factors such as workload and working conditions can impact on this long-term relationship. So it is in the best interest of both parties to ensure that the employees are happy.

5. Concessionary Bargaining

Concessionary bargaining is based on unions giving back previous benefits to the employer. For instance, trade unions may agree to lower wages in return for job security.
This may come during an economic decline whereby job security is more important to the unions than higher wages. Overall, this may actually benefit the company as they won't have to pay for so many redundancies and can keep workers on.
The main aim of concessionary bargaining is to strengthen the business in order to ensure its survival alongside its employees. So unions give back previous benefits in order to secure the businesses' long-term future and therefore its members.

The Industrial Employment (Standing Orders) Act, 1946

The concept of 'Standing Orders' is one of the recent growth in relation to Indian Labor- management. Prior to 1946, there existed chaotic conditions of employment, wherein the workmen were engaged on an individual basis with uncertain and vague terms of employment. The Act was enacted as a simple

measure to remedy this situation – by bringing about uniformity in the terms of employment in industrial establishments so as to minimize industrial conflicts.

The Preamble of the Act imposes a compulsion upon the employers, “to define with sufficient precision the conditions of employment” and make the same known to the workmen.

Application of the Act

Section 1 of the Act provides that the Act shall apply to the industrial establishments (within India) with an engagement of more than a hundred workmen at present or as noted on any day in the preceding year unless provided by the appropriate Government for application to any such industrial establishment – with less than a hundred employees.

Exclusion of certain industrial establishments

Certain industrial establishments have been excluded from its application via various statutory provisions enlisted in this Act:

- Section 1(4) excludes those establishments to which Chapter VII of the BIRA or MPIESOA applies unless controlled by the Central Government.
- Section 13-B excludes those establishments whose workmen are subject to the Fundamental & Supplementary Rules; various Civil Services Rules; or any other rules provided by the ‘appropriate Government’.
- The provisions of Sections 10 and 12-A(1) do not apply to the establishments under the control of the States of Gujarat/Maharashtra.

Power to exempt: Section 14

Section 14 empowers the appropriate Government to exempt any industrial establishment from being subject to all or any of the provisions of this Act, either conditionally/unconditionally.

Special features of the Act

The Act envisages three important features, they are:

- Concept of Standing Orders;
- Adjudicatory powers of the Certifying Officer; and
- CSOs (short for – Certified Standing Orders) to have the force of law.

Whether a contract can override in the certified Standing Orders?

CSOs cannot be deemed as a statutory concept, but can also not be confined to the individualistic notions of a contract, as they transcend its limits. Hence, standing orders effectuated in compliance with the statutory provisions may be considered as a special kind of contract or a 'statutory contract

Standing orders

Section 2(g) of the Act states that "standing orders" are the rules relating to matters set out in the Schedule, i.e. with reference to:

- The classification of workmen;
- Manner of intimation to workers about work and wage-related details;
- Attendance, and conditions of granting leaves, etc.;
- Rights & liabilities of the employer/ workmen in certain circumstances;
- Conditions of 'termination of'/'suspension from' employment; and
- Means of redressal for workmen, or any other matter.

Submission of Draft Standing Orders: Section 3

A statutory obligation is imposed by the Act upon the employer(s) to submit, individually/ jointly, five copies of a 'Draft Standing Order' within six months of its applicability to the industrial establishment, which should be inclusive of the matters enlisted in the Schedule and of the MSOs (short for – Model Standing

Orders), if any, and to which shall be annexed such documents containing particulars of the workmen employed

S.K. Sheshadri v H.A.L and others, (1983)

In this case, the Hon'ble Karnataka High Court held that, as long as the Standing Orders fall within the Schedule to the Act, irrespective of the fact that they contain additional provisions which are not accounted for in the MSOs, the Standing Orders would not be deemed to be invalid or ultra vires of the Act. The MSOs only serve as a model for framing the Standing Orders.

Hindustan Lever v Workmen, (1974)

In the present case, the issue relating to the 'transfer of workmen' was highlighted by concurring that, the Manager is vested with the discretion of transfer of workmen amongst different departments of the same company, so far as the terms of the contract of employment are not affected. Further, if the transfer is found to be valid, the onus of proving it to be invalid lies on the workmen in dispute.

Employees Compensation Act, 1923**:**

Every employee needs a secured job and wants to get compensation for the expenses he has incurred. This is a requirement that needs to be fulfilled by the company whether it is small scale or large scale. After all, a company's success depends on its employees. Therefore, the protection of employees' and their safety is a top priority of a company. This article is all about how much compensation is given, under what conditions, who is entitled to claim compensation and a lot more.

Main features of the Act

The "Employees Compensation Act, 1923" is an Act to provide payment in the form of compensation by the employers to the employees for any injuries they have suffered during an accident. Earlier this Act was known as the Workmen Compensation Act, 1923. When the employer is not liable to pay compensation-

1. If the injury does not end in the entire or partial disablement of the employee for a period exceeding three days.

2. If the injury, not leading in death or permanent total disablement, is caused by an accident which is directly attributable to:

- The employee having at the time of the accident is under the influence of drink or drugs;
- The willful disobedience of the employee to an order if the rule is expressly given or expressly framed, for the purpose of securing the safety of employees; or
- The willful removal or disregard by the employee of any safety guard or other device which has been provided for the purpose of securing the safety of employees.

Principles Governing Compensation

Who will be receiving the compensation on behalf of the deceased?

- A widow or a minor who is a legitimate son or unmarried daughter or a widowed mother is entitled to compensation;
- If the family of the deceased is wholly dependant on the earnings of the employee at the time of his death or a son or daughter who has attained the age of eighteen years;
- A widower;
- A parent other than a widowed mother;
- A minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or illegitimate or adopted if married and a minor or if widowed and a minor;
- A minor brother or an unmarried sister or a widowed sister if a minor;
- A widowed daughter-in-law;
- A minor child of a predeceased son;
- A minor child of a predeceased daughter where no parent of the child is alive, or;
- A paternal grandparent if no parent of the employee is alive

Employees' Compensation

Section 3: Employer's liability for Compensation

Employer's liability in case of occupational diseases

There are certain occupations which expose employees to particular diseases that are inherent-

- Infra-red radiations;
- Skin diseases due to chemical or leather processing units;
- Hearing impairment caused by noise;
- Lung cancer caused by asbestos dust and Diseases due to effect of extreme climatic conditions.

Example- Miners are at a risk of developing a disease called silicosis. Sometimes miners also develop lung diseases due to exposure to dust. The people who work in agricultural lands, develop diseases through spraying of pesticides. These pesticides are toxic in nature and are health hazards to many farmers.

There are thousands of workplaces where occupation itself is dangerous in nature.

Provided that the employer shall not be liable:

(a) if any injury does not result in the total or partial disablement of the employee for a period exceeding three days;

(b) if any injury does not result in death or permanent total disablement caused by an accident which is directly attributable to-

- if the employee is under the influence of drink or drugs at that time,
- the willful disobedience of the employee to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of employees,

- the willful removal by the employee of any safety guard or other devices which he knew to have been provided for the purpose of securing the safety of employees.

Part A of Schedule III

If an employee contracts any disease that is mentioned in occupational diseases or the employee is employed for a continuous period of six months (this does not include the service period) and not less than that, the employer shall not be liable to pay the compensation as the disease will be deemed to be injury and it shall be considered as out of course of employment.

Part B of Schedule III

1. Diseases caused by phosphorus or the toxic substance present, all include exposure to risk concerned.
2. Diseases caused by mercury or toxic substances found exposure to the risk concerned.
3. Diseases caused by benzene or the toxic substances found which pose risk to the concerned.
4. Diseases caused by nitro and amino toxic substances of benzene involve risk to the concerned.

These diseases are considered occupational diseases, and they are deemed to be out of the course of employment and therefore the employer will not be liable to pay the compensation.

Part C of Schedule III

If an employee contracts a disease that is mentioned as an occupational disease which is specific to that employment, during a continuous period that is less than the period mentioned under this part of Schedule 3 is known as occupational diseases. It will be deemed that the disease has arisen out of and in the course of the employment, the contracting of such disease will be deemed to be an injury by accident within the meaning of this Section:

Pneumoconiosis is a disease caused by sclerogenic mineral dust (silicosis, anthracosilicosis, asbestosis) and silico-tuberculosis if silicosis is an essential factor in causing the resultant incapacity or death, such diseases are considered as occupational diseases.

For instance, an office of KLM Consultant was located in a new place. The new place had large areas, and a new wallpaper was also placed, the area painted, and a new carpet was also laid. Employees worked in cubicles. However, within a month of shifting, one of the employees, Rahul Sharma complained of skin allergy. At the new workplace, there were no windows in the cubicle where Rahul had shifted. A photocopy machine was near to his cubicle. Since his shifting, he started complaining of unpleasant odors, a feeling of excessive tiredness and irritation in eyes, nose, and throat

personal injury

A personal injury can be compensated only in some circumstances. Injury sustained by the employee must be a physical injury. Example- If a person is discriminated on the basis of:

- Age
- Sex
- Sexual Orientation
- Transsexual person
- If a person is having a disability
- Religion and belief
- Color, Nationality
- Pregnancy and Maternity leave
- Marriage or Civil Partnership

Self-inflicted Injury

If a worker inflicts an injury to himself or herself it is a self-inflicted injury. The injury may be intentional or accidental but the employer is not liable for such injuries. There are some types of jobs that have a high risk for self-inflicted injuries which include-

- Law enforcement
- Medical employees
- Farmers

- Teachers
- Salespeople

THE BUILDING AND OTHER CONSTRUCTION WORKERS (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1996 ACT NO. 27 OF 1996

An Act to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures and for other matters connected therewith or incidental thereto.

- The Building and Other Construction Workers Related Laws (Amendment) Bill, 2013 was introduced in the Rajya Sabha by the Minister of Labor and Employment on March 18, 2013. The Bill has been referred to the Standing Committee on Labor for examination and report within three months.

- The Bill amends two laws i.e. the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (RECS Act) and the Building and Other Construction Workers' Welfare Cess Act, 1996 (WC Act).

- The RECS Act regulates the employment, service conditions, health, safety and welfare measures of building and other construction workers.

- The WC Act provides for the levy and collection of a cess on the employer, at the rate of one to two percent of the cost of construction incurred by him. The cess collecting authority (local authority or state government) deducts upto one percent of the amount collected towards the cost of collecting such cess. The cess is paid to the Building and Construction Workers' Welfare Board constituted under RECS Act.

- The RECS Act is being amended to remove the upper limit of Rs 10 lakh as the total cost of construction. The Bill allows the central government to notify the maximum cost of construction.

- Under the RECS Act, every building worker between the ages of 18 to 60 years who engaged in any building or construction work for at least 90 days (during the past one year) is eligible to register as a beneficiary. The amendments remove the: (i) 90 day requirement for registration of workers and, (ii) the upper age limit of 60 years.

- Till the state governments constitute their State Welfare Boards, the amendments provide for the constitution of a Board that will perform such functions. The Board will consist of a chairperson, i.e. Secretary of the Department of Labor, and Secretaries of the Department of Finance, Planning and Social Welfare as members.

- As per the RECS Act, the Welfare Board can incur expenses for salaries, allowances and other administrative requirements upto five per cent of its total expenses during that financial year. The amendment removes this limit and allows the central government to notify the percentage.

- The amendments in the RECS Act allow the central government to appoint and coordinate with Director Generals (not exceeding 10) in laying down the standards of inspection and they shall exercise powers of an inspector in the respective area.

- The WC Act is amended to prescribe a time limit of 30 days for cess collecting authorities to deposit cess to the Welfare Board.

- The Bill allows state governments to file complaints for contravention of provisions of the Act.

building and other construction workers act 1996 rules

19th August, 1996.] An Act to regulate the employment and conditions of service of building and other construction workers and to provide for their safety, health and welfare measures and for other matters connected therewith or incidental thereto. 1. Short title, extent, commencement and application

1. Short title, extent, commencement and application.—

(1) This Act may be called the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996.

(2) It extends to the whole of India.

(3) It shall be deemed to have come into force on the 1st day of March, 1996.

(4) It applies to every establishment which employs, or had employed on any day of the preceding twelve months, ten or more building workers in any building or other construction work.

Explanation.—For the purposes of this sub-section, the building workers employed in different relays in a day either by the employer or the contractor shall be taken into account in computing the number of building workers employed in the establishment

Central Advisory Committee.—

(1) The Central Government shall, as soon as may be, constitute a Committee to be called the Central Building and Other Construction Workers' Advisory Committee 6 (hereinafter referred to as the Central Advisory Committee) to advise the Central Government on such matters arising out of the administration of this Act as may be referred to it.

(2) The Central Advisory Committee shall consist of—

(a) a Chairperson to be appointed by the Central Government;

(b) three Members of Parliament of whom two shall be elected by the House of the People and one by the Council of States—members;

(c) the Director-General—member, ex officio;

State Advisory Committee.—

(1) The State Government shall constitute a committee to be called the State Building and Other Construction Workers' Advisory Committee (hereinafter referred to as the State Advisory Committee) to advise the State Government on such matters arising out of the administration of this Act as may be referred to it.

(2) The State Advisory Committee shall consist of—

(a) a Chairperson to be appointed by the State Government;

(b) two members of the State Legislature to be elected from the State Legislature—members;

(c) a member to be nominated by the Central Government;

(d) the Chief Inspector—member, ex officio

Expert committees.—(1) The appropriate Government may constitute one or more expert committees consisting of persons specially qualified in building or other construction work for advising that Government for making rules under this Act.

(2) The members of the expert committee shall be paid such fees and allowances for attending the meetings of the committee as may be prescribed:

Provided that no fee or allowances shall be payable to a member who is an officer of Government or of any body corporate established by or under any law for the time being in force.

Appointment of registering officers.—The appropriate Government may, by order notified in the Official Gazette,—

(a) appoint such persons, being Gazetted Officers of Government, as it thinks fit, to be the registering officers for the purposes of this Act; and

(b) define the limits within which a registering officer shall exercise the powers conferred on him by or under this Act

Registration of establishments.—(1) Every employer shall,—

(a) in relation to an establishment to which this Act applies on its commencement, within a period of sixty days from such commencement; and

(b) in relation to any other establishment to which this Act may be applicable at any time after such commencement, within a period of sixty days from the date on which this Act becomes applicable to such establishment,

make an application to the registering officer for the registration of such establishment:

Provided that the registering officer may entertain any such application after the expiry of the periods aforesaid, if he is satisfied that the applicant was prevented by sufficient cause from making the application within such period.

1) Every application under sub-section

(2) shall be in such form and shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) After the receipt of an application under sub-section (1), the registering officer shall register the establishment and issue a certificate of registration to the employer thereof in such form and within such time and subject to such conditions as may be prescribed.

(4) Where, after the registration of an establishment under this section, any change occurs in the ownership or management or other prescribed particulars in respect of such establishment, the particulars regarding such change shall be intimated by the employer to the registering officer within thirty days of such change in such form as may be prescribed.

Real Estate Regulatory Authority (RERA)

What is RERA Act?

RERA stands for Real Estate Regulatory Authority came into existence as per the Real Estate (Regulation and Development) Act, 2016 which aims to protect the home purchasers and also boosts the real estate investments. The bill of this Parliament of India Act was passed on 10 March 2016 by the Upper House (Rajya Sabha). The RERA Act was effective on and from 1 May 2016. At that time, out of 92 sections only 52 were notified. All the other provisions were effective on and from 1 May 2017.

RERA Act and Rules

The Real Estate (Regulation and Development) Act, 2016 under Section 84 envisions that within a period of six months from its commencement date, State Governments will set the rules to carry out the provisions associated with the Act.

- On 31 October 2016, the centre, through HUPA (Housing & Urban Poverty Alleviation) Ministry, released the general rules of the Real Estate (Regulation and Development) Act, 2016.
- All these rules are applicable to the Union Territories like Chandigarh, Lakshadweep, Daman & Diu, Dadra & Nagar Haveli and Andaman & Nicobar Islands

Some Points Under Real Estate Regulation and Development (RERA)

- Security: Under the RERA act, a minimum of 70% of the buyers' and investors' money will be kept in a separate account. This money will then be allotted to the builders only for construction and land related costs. Developers and builders cannot ask for more than 10% of the property's cost as an advance payment before the sale agreement is signed.
- Transparency: Builders are supposed to submit the original documents for all projects they undertake. Builders are not supposed to make any changes to the plans without the consent of the buyer.
- Fairness: RERA has now instructed developers to sell properties based on carpet area and not super built up area. In the event that the project has been delayed, buyers are entitled to get back the entire money invested or they can choose to be invested and receive monthly investment on their money.
- Quality: The builder must rectify any issue faced by the buyer within 5 years of purchase. This issue must be rectified within 30 days of the complaint.
- Authorisation: A regulator cannot advertise, sell, build, invest, or book a plot without registering with the regulator. After registration, all the advertisement for investments should bear a unique project wise registration number provided by RERA.

Benefits of RERA

RERA has a number of benefits for the buyer, the promoter, and the real estate agent. These include:

- Standardization of carpet area: Before RERA the manner by which a builder calculated the price of a project wasn't defined. However, with RERA there is now a standard formula that is used to calculate carpet area. This way, promoters cannot provide inflated carpet areas to increase prices.
- Reducing the risk of insolvency of the builder: Most promoters and developers tend to have multiple projects being developed at the same time. Earlier, developers were allowed to move funds raised from one project to that of another. This is not possible with RERA since 70% of the funds raised need to be deposited in a separate bank account. These funds can be withdrawn only after certification by an engineer, a chartered accountant, and an architect.
- Advance payment: As per the rules, a builder cannot take more than 10% of the cost of the project from the buyer as advance or application fees. This saves the buyer from having to source funds fast and having to pay a large amount.
- Rights to the buyer in case of any defects: Within 5 years of possession, if there is any structural defects or problems in quality, the builder has to rectify these damages within 30 days at no cost to the buyer.
- Interest to be paid in case of default: Prior to RERA, if the promoter delayed possession of the property, the interest paid to the buyer was much lower

than if the buyer delayed payments to the promoter. This has changed with RERA and both parties have to pay the same amount of interest.

- Buyer's rights in case of false promises: If there is a mismatch in terms of what was promised by the builder and what has been delivered, the buyer is entitled to a full refund of the amount that was paid as advance. At times, the builder may have to provide interest on the amount as well.
- If defect in title: If at the time of possession, the buyer discovers that there is a defect in the title of the property, the buyer can claim compensation from the promotor. There is no limit to this amount.
- Right to information: The buyer has the right to know all the information about the project. This includes plans related to layout, execution, and completion status.
- Grievance Redressal: If the buyer, the promoter, or the agent has any complaints with respect to the project, they can file a complaint with RERA. If they aren't pleased with RERA's decision, a complaint can also be filed with the Appellate Tribunal

National Building Code of India (NBC),2017

- National Building Code of India covers the detailed guidelines for construction, maintenance and fire safety of the structures. National Building Code of India is published by Bureau of Indian Standards and it is recommendatory document. Guidelines were issued to the States to incorporate the recommendations of National Building Code into their local building bylaws making the recommendations of National Building Code of India as mandatory requirement. This office has also issued advisories on 18th April, 2017 to all the State Governments to incorporate and implement the latest National Building Code of India 2016 Part – IV "Fire & Life Safety" in their building bye-laws

- The National Building Code of India (NBC), a comprehensive building Code, is a national instrument providing guidelines for regulating the building construction activities across the country. It serves as a Model Code for adoption by all agencies involved in building construction works be they Public Works Departments, other government construction departments, local bodies or private construction agencies. The Code mainly contains administrative regulations, development control rules and general building requirements; fire safety requirements; stipulations regarding materials, structural design and

construction (including safety); building and plumbing services; approach to sustainability; and asset and facility management.

- The Code was first published in 1970 at the instance of Planning Commission and then first revised in 1983. Thereafter three major amendments were issued to the 1983 version, two in 1987 and the third in 1997. The second revision of the Code was in 2005, to which two amendments were issued in 2015.

- Due to large scale changes in the building construction activities, such as change in nature of occupancies with prevalence of high rises and mixed occupancies, greater dependence and complicated nature of building services, development of new/innovative construction materials and technologies, greater need for preservation of environment and recognition of need for planned management of existing buildings and built environment, there has been a paradigm shift in building construction scenario. Considering these, a Project for comprehensive revision of the Code was taken up under the aegis of the National Building Code Sectional Committee, CED 46 of BIS and its 22 expert Panels; involving around 1 000 experts. As a culmination of the Project, the revised Code has been brought out in 2016 as National Building Code of India 2016 reflecting the state-of-the-art and contemporary applicable international practices.

- The comprehensive NBC 2016 contains 12 Parts some of which are further divided into Sections totalling 33 chapters (see Annex 1).
The salient features of the revised NBC (see Annex 2) include, apart from other changes made, the changes specially in regard to further enhancing our response to meet the challenges posed by

natural calamities. The major changes incorporated in this third revision of the Code are as follows:

-
- a) Provisions for association of need based professionals and agencies have been updated to ensure proper discharge of responsibilities for accomplishment of building project.
- b) With a view to ensuring ease of doing business in built environment sector, a detailed provision for streamlining the approval process in respect of different agencies has been incorporated in the form of an integrated approval process through single window approach for enabling expeditious approval process, avoiding separate clearances from various authorities.
- c) Further, with a view to meeting the above objective, the provision on computerization of approval process has been detailed, enabling online submission of plans, drawings and other details, and sanction thereof, aiding in speedier approval process.
- d) The mechanism of ensuring certification of structural safety of buildings by the competent professional and peer review of design of buildings, have been further strengthened.
- e) Requirements for accessibility in buildings and built environment for persons with disabilities and the elderly have been thoroughly revised and updated.
- f) Provisions on fire and life safety have been thoroughly revised to meet the challenges of modern complex building types including the high rises.
- g) Latest structural loading and design and construction codes including those relating to wind load,
  earthquake resistant design of buildings, steel design and foundations have been incorporated with a view to ensuring structural safety of buildings including against a disaster.

- h) Provisions relating to all building and plumbing services have been updated keeping also in view the latest international practices as related to the country.
- j) Provisions have been updated to ensure utilization of number of new/alternative building materials and technologies to provide for innovation in the field of building construction.
- k) Construction management guidelines have been incorporated to aid in timely completion of building projects with desired quality in a safe manner within the budgeted cost.
- m) Guidance has been provided for making buildings and built environment energy efficient and environmentally compatible, through the newly introduced and updated chapter on sustainability, namely Part 11 'Approach to Sustainability'
- n) New chapters have been added on structural use of glass; escalators and moving walks; information and communication enabled installations; solid waste management; and asset and facility management.

UNIT-V

Intellectual Property Rights

Intellectual Property (IP): It is a class of property that includes intangible works of the human intellect (Or) intellectual property refers to creations of the mind, inventions in the artistic, literary, scientific, and industrial fields.

The modern ideas of intellectual property got pace in 17th and 18th centuries England. In the late 19th century, several countries felt the necessity of laying down laws regulating IPR. And two conventions composing the foundation for the IPR system signed globally; the Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1886)

		Protects	Infringement	Registration Process	Term	Comparative Costs
Patent	Utility Patent	Functional Aspects	Make, Use, Offer, Sale, Import	Yes	20 years upon filing	Expensive
	Design Patent	Ornamental Features	Make, Use, Offer, Sale, Import	Yes	15 years upon filing	Moderate
Trademarks		Brands	Used in commerce	Optional	Potentially indefinite, limited by use	Inexpensive
Copyrights		Works of Authorship	Copying, etc.	Optional	Life Plus 70 Years	Inexpensive
Trade Secrets		Information	Misappropriation	No	Potentially indefinite, limited by secrecy	Depends

What are the different types of IPR?

Types of IP that protect different intellectual creations vary in requirements, conditions of grant, specific rights and obligations. The IP types are categorized as follows:

- Patents Patents grant exclusive rights on inventions (whether products or processes) that are new, involve an inventive step (are “nonobvious”) and are susceptible to industrial application.

- Utility models Sometimes called “petty patents”, utility models offer protection on technical inventions with lower requirements than patents—notably a lower inventive step. The registration process is often significantly simpler, cheaper and faster than for patents. The term and scope of protection for utility models are lower than for patents.

- Trademarks :Trademarks provide exclusive rights to use a visually perceptible sign (e.g. words, letters, numerals, figurative elements or logos) or any combination of signs, that enables people to distinguish the goods or services of one undertaking from those of other undertakings (TRIPS, Article 15). The criterion to register a new trademark is the novelty of the sign.

- copyrights Copyrights give exclusive rights to creators for their literary and artistic works. The types of works that can be protected by copyright include books, dramatic and choreographic works, musical compositions, cinematographic works, drawings and photographic works. In many countries software can also receive copyright protection. Copyright protection usually exists independently of any registration or prior examination.

- trade secrets A trade secret designation protects any piece of knowledge (e.g. formula, pattern, device or compilation of information) which is not known to the public, provides the owner with an opportunity to obtain certain competitive advantages and is subject to reasonable efforts to keep it secret (TRIPS, Article 39(2), WTO, 1994).

- Industrial designs Industrial design registration protects the ornamental or aesthetic aspect of an article. An industrial design must be new or original in order to be protected.

- Combinations of types of IP Different types of IP rights may be used in a bundle to get legal protection for different elements of a single product .

- Strategies other than IP . Alternatively, innovators may resort to other strategies such as secrecy, advance on market or discount pricing. However, the importance of innovation without IP is difficult to determine due to a lack of counterfactual experiences where IP systems do not exist.

What is copyright?

Copyright (or author’s right) is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture, and films, to computer programs, databases, advertisements, maps, and technical drawings.

The history of copyright starts with early privileges and monopolies granted to printers of books. The British Statute of Anne 1710, full title "An Act for the Encouragement of Learning, by vesting the Copies of Printed Books in the Authors or purchasers of such Copies, during the Times therein mentioned", was the first copyright statute. Initially copyright law only applied to the copying of books. Over time other uses such as translations and derivative works were made subject to copyright and copyright now covers a wide range of works, including maps, performances, paintings, photographs, sound recordings, motion pictures and computer programs.

Today national copyright laws have been standardised to some extent through international and regional agreements such as the Berne Convention and the European copyright directives. Although there are consistencies among nations' copyright laws, each jurisdiction has separate and distinct laws and regulations about copyright. Some jurisdictions also recognize moral rights of creators, such as the right to be credited for the work.

Copyrights are exclusive rights granted to the author or creator of an original work, including the right to copy, distribute and adapt the work. Copyright does not protect ideas, only their expression or fixation. In most jurisdictions copyright arises upon fixation and does not need to be registered.

Copyright owners have the exclusive statutory right to exercise control over copying and other exploitation of the works for a specific period of time, after which the work is said to enter the public domain. Uses which are covered under limitations and exceptions to copyright, such as fair use, do not require permission from the copyright owner. All other uses require permission and copyright owners can license or permanently transfer or assign their exclusive rights to others

Copy right application

- Copyright law protects creators of original material from unauthorized duplication or use.
- For an original work to be protected by copyright laws, it has to be in tangible form.
- In the U.S., the work of creators is protected by copyright laws until 70 years after their death.

Note: Copyright protection varies from country to country, and can stand for 50 to 100 years after the individual's death, depending on the country.

Instruction for Filing copyright registration form Online:

1. Enter your valid User ID and Password to login.
2. Click onto NewUser Registration, if you have not yet registered.
3. Note down User ID and Password for future use.
4. After login, click on to link "Click for online Copyright Registration".
5. The online "Copyright Registration Form" is to be filled up in four steps
   I. Complete the Form XIV, then press SAVE button to Save entered details, and press Step 2 to move to Next Step.
   II. Fillup the Statement of Particulars, and then press SAVE button to Save entered details, and press Step 3/4 to move to Next step
   III. Fillup the Statement of Further particulars. This form is applicable for "LITERARY/ DRAMATIC, MUSICAL AND ARTISTIC" works, and then press SAVE button to Save entrered details, and press Step 4 to move to Next Step.
   V. Make the payment through Internet Payment gateway
6. After successful submission of the form, Diary Number will be generated (Please note it for future reference).
7. Please take hard copy(print) of "Acknowledgement Slip" and "Copyright Registration Form", and send it by post to

Copyright Division
Department For Promotion of Industry and Internal Trade, Ministry of Commerce and Industry
Boudhik Sampada Bhawan,
Plot No. 32, Sector 14, Dwarka, New Delhi-110078
E2496.

What does Copyright Provide Protection For?

Under section 13 of the Copyright Act, 1957, copyrights provide legal rights for –

- Literary work
- Musical work
- Artistic work
- Sound recordings
- Cinematography
- Dramatic work

What are the rights of a Copyright Owner?

The owner of an intellectual property, or a copyright holder has the following rights;

- Publishing work
- Production of a work
- Producing copies
- Broadcasting
- Making adaptation
- Preventing others from making unauthorized copies

What do we understand by Copyright Infringement?

Using copyrighted work without the consent or permission of the copyright holder is considered as a copyright infringement. The infringement of intellectual property occurs when an individual or group of individuals fabricate copywriters' work intentionally or unintentionally without giving them credit.

For example -

- Selling pirated books
- Selling art work
- Performing a play in public
- Online piracy.

How can you claim Copyright Ownership?

Here are some pointers to help an individual take action against the violation of their intellectual property and claim copyright ownership;

- A proof of ownership.
- Similarities between original and infringed copies.
- Sending a legal notice of the copyright infringement to the guilty.
- In case of online copyright violation, a 'take down notice' is sent to the guilty

Rights of copyright owners

Copyright owners have exclusive rights over material in which they own copyright, including:

Reproducing the work: photocopying, copying by hand, filming, recording and scanning;
Publishing or making the work public, in print or electronic format;
Communicating the work, e.g. making it available on the web, emailing or faxing it;
Performing the work in public;
Making an adaptation of the work, such as a translation or an arrangement;
Broadcasting the work, or transmitting to subscribers.

If you want to use copyright material in a way that is covered by one of these rights, you must get permission from the copyright owner, unless an exception in the Copyright Act applies.
Certain actions, such as linking to copyright material available on a public website or lending copyright material (e.g. to a friend or by a library), are not subject to copyright and you do not need

to get permission from the copyright owner.
The rights of the copyright own mail Address: copyright[at]nic[dot]in
Telephone No.: 011-2803er vary between different types of works protected under copyright. For more information see:

- ✓ Literary Works
- ✓ Dramatic Works
- ✓ Musical Works
- ✓ Artistic Works
- ✓ Films and Television Broadcasts
- ✓ Sound Recordings and Radio Broadcasts

These rights can be transferred, assigned or licensed to another person or party.
The Copyright Act also grants author and creators, whether or not they own copyright, moral rights to their work. Moral rights are personal rights and cannot be transferred.

Duration of copyright

Copyright generally lasts 70 years after the death of the creator or after the first year of publication, depending on the type of material and/or when it was first published:

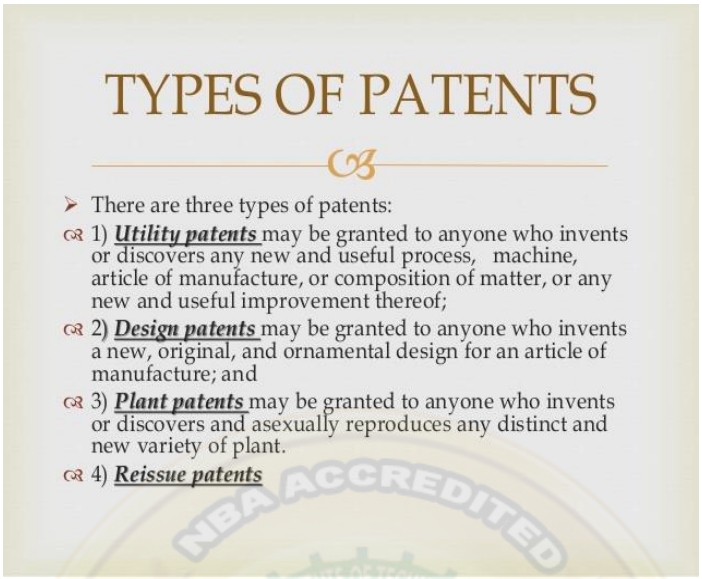
- Artistic Works
- Dramatic Works
- Literary Works
- Musical Works
- Films & Television Broadcasts
- Sound Recordings & Radio Broadcasts
- Photographs

Unpublished works, such as material found in archives, is now treated similarly to published work.
Copyright no longer lasts into perpetuity, but lasts 70 years after the death of the creator, or after the first year of publication.
The copyright in works created by Government departments lasts 50 years after the date of first publication.
Where there are multiple authors or creators, copyright last for 70 years after the death of the last remaining author or creator.
Copyright cannot be renewed and once it has expired the work is considered to be in the public domain and can be used without the copyright owner's permission.

Patents

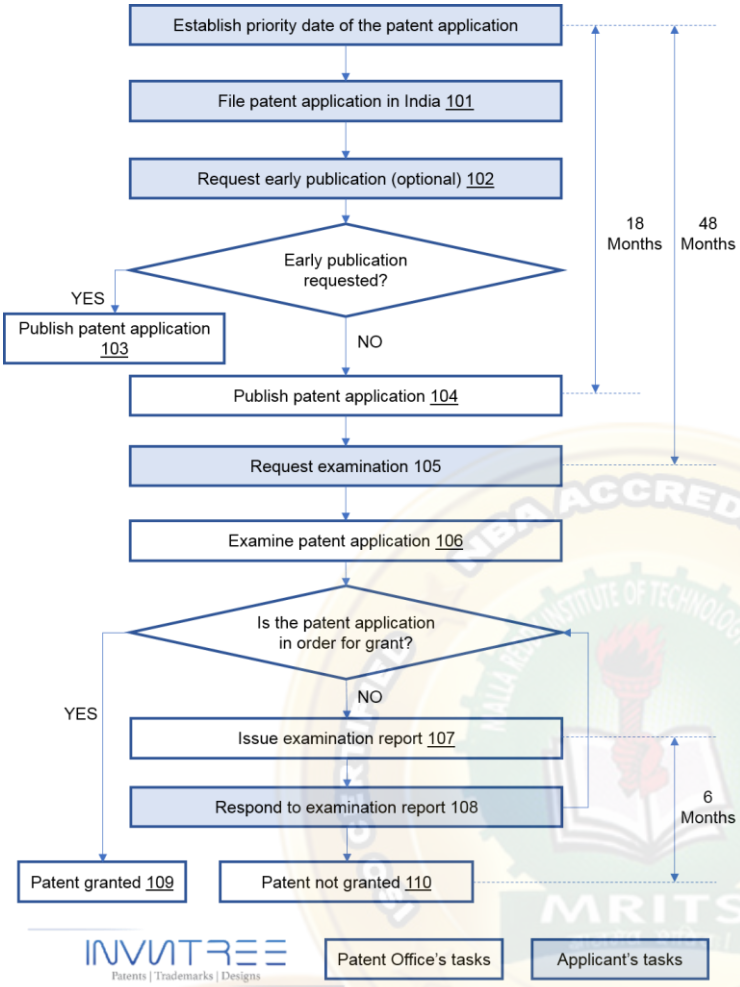
What is a patent?

A patent is an exclusive right granted for an invention, which is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem. To get a patent, technical information about the invention must be disclosed to the public in a patent application.



Different types of patent applications exist so that inventors can protect different kinds of inventions. Savvy inventors can utilize the different kinds of patent applications to secure the rights they need to protect their inventions. There are four different patent types:

- A utility patent is what most people think of when they think about a patent. It is a long, technical document that teaches the public how to use a new machine, process, or system. The kinds of inventions protected by utility patents are defined by Congress. New technologies like genetic engineering and internet-delivered software are challenging the boundaries of what kinds of inventions can receive utility patent protection.
- A provisional patent goes hand in glove with a utility patent. United States law allows inventors to file a less formal document that proves the inventor was in possession of the invention and had adequately figured out how to make the invention work. Once that is on file, the invention is patent pending. If, however, the inventor fails to file a formal utility patent within a year from filing the provisional patent, he or she will lose this filing date. Any public disclosures made relying on that provisional patent application will now count as public disclosures to the United States Patent and Trademark Office (USPTO).
- A design patent protects an ornamental design on a useful item. The shape of a bottle or the design of a shoe, for example, can be protected by a design patent. The document itself is almost entirely made of pictures or drawings of the design on the useful item. Design patents are notoriously difficult to search simply because there are very few words used in a design patent. In recent years, software companies have used design patents to protect elements of user interfaces and even the shape of touchscreen devices.
- A plant patent is just that: a patent for a plant. Plant patents protect new kinds of plants produced by cuttings or other nonsexual means. Plant patents generally do not cover genetically modified organisms and focus more on conventional horticulture.



geographical indication

A geographical indication (GI) is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. In order to function as a GI, a sign must identify a product as originating in a given place. In addition, the qualities, characteristics or reputation of the product should be essentially due to the place of origin. Since the qualities depend on the geographical place of production, there is a clear link between the product and its original place of production.

Geographical indications are typically used for agricultural products, foodstuffs, wine and spirit drinks, handicrafts, and industrial products.

TYPES OF TRADEMARK IN INDIA | COMPANY TRADEMARK REGISTRATION

Venturecare

Trademarks are of various types; product marks, service marks, collective marks, certification marks, shape marks, etc. The purpose of the trademark is the same, irrespective of its type. It allows the consumers to distinguish the source of the product/service and assures the quality of the product or service. The basic purpose of all these trademarks is to help customers identify origin and quality of the underlying products or services.

A trademark may be divided into the following categories:

1. Product Mark:

A product mark is similar to a trademark. The only difference is, it refers to trademarks related to products or goods and not services. It is used to identify the source of a product and to distinguish a manufacturer's products from others. On the whole, a trademark is an important means to protect the goodwill and reputation of a Business.

The application for the trademark can be filed within few days and "TM" symbol can be used. The time required for trademark registry, to complete formalities is generally around 18 to 24 months. The ® (Registered symbol) can be used next to the trademark once the trademark is registered and registration certificate is issued. Once registered, a trademark will be valid for 10 years from the date of filing, which can be renewed time to time.

So product marks are those that are attached to distinguish the goods or services of one manufacturer from that of another.

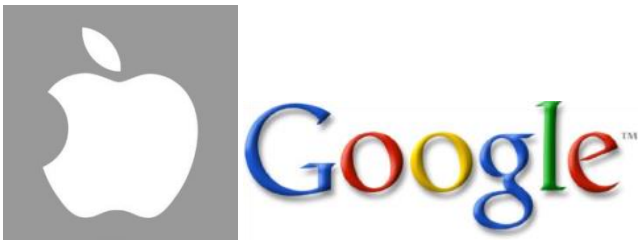
Examples:

2. Service Mark:

A service mark is the same as a trademark, but instead of a particular product, it identifies and differentiates the source of a service. For example, a company such as Yahoo may brand certain products with a trademark, but use a service mark on the internet searching service that it provides. It is denoted by 'SM'.

A service mark is nothing but a mark that distinguishes the services of one proprietor/owner from that of another. Service marks do not represent goods, but the services offered by the company. They are used in a service business where actual goods under the mark are not traded. Companies providing services like computer hardware and software assembly, restaurant and hotel services, courier and transport, beauty and health care, advertising, publishing, etc. are now in a position to protect their names and marks from being misused by others. The rules governing for the service marks are fundamentally the same as any other trademarks.

Examples:



3. Collective Mark:

These are the trademarks used by a group of companies and can be protected by the group collectively. Collective marks are used to inform the public about a particular characteristic of the product for which the collective mark is used. The owner of such marks may be an association or public institution or it may be cooperative. Collective marks are also used to promote particular products which have certain characteristics specific to the producer in a given field. Thus, a collective trademark can be used by a more than one trader, provided that the trader belongs to the association.

The trader associated with a particular collective mark is responsible for ensuring the compliance with certain standards which are fixed in the regulations concerning the use of the collective mark, by its members. Thus, the purpose of the collective mark is to inform the public about certain features of the product for which the collective mark is used. One example of the collective mark is the mark “CPA”, which is used to indicate members of the Society of Certified Public Accountants.

4. Certification Mark:

It is a sign indicating that the goods/services are certified by the owner of the sign in terms of origin, material, quality, accuracy or other characteristics. This differs from a standard trademark whose function is to distinguish the goods/services that originate from a single company.In short, certification marks are used to define the standard. They guarantee the consumers that the product meets certain prescribed standards. The occurrence of a certification mark on a product indicates that the product has gone through the standard tests specified. They guarantee the consumers that the manufacturers have gone through an audit process to ensure the desired quality of the product/service. For example, Food products, Toys, Cosmetics, Electrical goods, etc. have such marking that specifies the safety and the quality of the product.

Examples:

5. Shape marks::According to the Indian Trademarks Act, 1999, a trademark may also include the shape of goods, their packaging, so long as it is possible to graphically represent the shape clearly. This helps in distinguishing the goods sold under such trademark from those of another manufacturer. The new Trade Marks Ordinance (Cap. 559) continues to allow registration of such marks.

When the shape of goods, packaging have some distinctive feature it can be registered. For example, Ornamental Lamps. In certain cases, the (three-dimensional) shape of a product or packaging can be a trademark (for example a specially designed bottle of perfume).

In a nutshell, Shape Mark has facilitated promotion of products and emerged into the trademark type after the technological advancement of graphics. Any graphical representation which is able to make a difference amongst the products can be shape marked.

Examples:

6. Pattern Mark:

These are the marks consisting of a pattern which is capable of identifying the goods or services as originating from a particular undertaking and thus distinguishing it from those of other undertakings. Such goods/services are registrable as Pattern Marks.

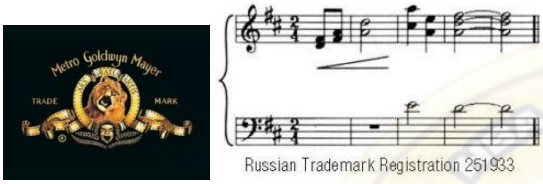
The procedure of evaluating uniqueness of pattern marks is same as that of other types of marks. Pattern marks that are descriptive or indistinctive are objectionable because they fail to serve as an identifier of trade source. Such goods/services would not be accepted for registration without evidence of uniqueness. In cases where the pattern mark has become identified in the minds of the public with a particular undertaking's goods or services, it receives acquired distinctiveness and can register for Pattern Mark.

Thus, Pattern Trademark is a trademark wherein the pattern is able to distinguish the product from other brands.

Examples:

7. Sound Mark:

Sometimes, the sound that plays in the advertisement becomes so well known that when people hear it they immediately know what product/service it refers to. In such cases, the sound may be regarded as a trademark and is eligible for registration.
A sound mark is a trademark where a particular sound does the function of uniquely identifying the origin of a product or a service. In the case of sound marks, a certain sound is associated with a company or its product or services — for example, the MGM's roar of a lion.
The sound logo, technically referred to as audio mnemonic, is one of the tools of sound branding, along with the brand music. A sound logo is a short distinctive melody mostly positioned at the beginning or ending of a commercial. It can be seen as the acoustic equivalent of a visual logo. Often a combination of both types of logo is used to enforce the recognition of a brand.
Examples:



Russian Trademark Registration 251933

Introduction

A person's possession, be it his work or belongings, is his ultimate brainchild, and the last thing he wants to happen to it is for it to be stolen and misappropriated by someone else.
Piracy has differed in meaning over the course of time, and the perspective and opinion on piracy changes with the generation it is referenced in. However, what remains uniform is the fact that piracy was, is, and probably will remain an unlawful act, regardless of the context in which it is interpreted.
This article will go over the definition of piracy, how it evolved over time, the legal consequences of piracy, how to prevent it, and services that use pirating methods

Definition of piracy

In medieval presets, the term piracy was often used for the act of raiding or looting, which involved the ship-borne looters, who then attacked dwellers of another ship or a coastal area, with the primary purpose being to loot them of their belongings, such as cargo or other valuables.
However, in today's world piracy is a more relevant and commonly used term, which constitutes theft on copyrighted and trademarked grounds i.e. unlawfully stealing and infringing someone else's work and produce it as one's own.
Piracy in the digital realm can be compared to physical theft and piracy, because when a person illegally distributes a digital file on the internet or locally for free, he prevents the profit from the purchase of that item from going to the creator, creating an economic impact comparable to when actual pirates looted cargo.

Types of piracy

Piracy, when elaborated in terms of software, can be classified into 5 types, those being –
Counterfeiting: It is the illegal acquisition, duplication, and distribution of any copyrighted material, which directly imitates the copyrighted product. The nature of the distribution of the said product may be a sale, or not. The most common way of distributing such pirated works is through compact discs.
Internet Piracy: Internet piracy is the act of downloading a file from the internet, or by procuring an online software through a compact disc. Methods of conducting internet piracy are websites offering free downloads of software, auctions selling illegally obtained software or P2P servers which transfer programs.
End-User Piracy: This form of piracy involves the user illegally reproducing software which he isn't authorized to do. An example would be a user using one license to the software and installing it on multiple systems, or upgrading an already pirated software.

Client-Server Overuse: In a computer network, when the number of clients exceeded the number prescribed in the server license, then it is termed as overuse piracy.
Hard-Disk Loading: This occurs when a business sells new computers with illegal copies of software loaded onto the hard disks to make the purchase of the machines more attractive.

Piracy in movies

The act of illegally acquiring, copying, reproducing and then distributing film media, without having any legal right or license to do so, is considered movie piracy. The most common occurrence of this is the distribution of these movies on websites. Traffic for these sites tends to spike whenever a new blockbuster movie releases as a pirated version will very likely be hosting these movies in a downloadable format on their servers.

Piracy in software

Software piracy describes the act of illegally acquiring, copying, reproducing, and distributing software without a license to do so. Software piracy has become much more rampant in this generation of technology, as most software has converted into a one-user license i.e. it can only be redeemed once by one user for his use alone. Distributing this software, such as sharing with a friend, or via the internet, is illegal.

Online Piracy

Online piracy is still a new arena in the world of piracy as compared to its offline older brother, and it has only grown more intricate with advancements in technology. Any piece of digital content, be it movies, music or games, are now accessible online through the BitTorrent client service, which strings together several pieces of the data from a swarm of users, then downloads and compiles them onto the user's computer. It's simple, efficient, widely used, and difficult to crack down on.

Pirating movies

Movie piracy has become a more controlled art in recent times, from shaky recordings on camcorders to dedicated sites, apps, and add-ons to physical hardware, piracy has grown more subtle yet more dangerous as a practice. In the UK, over a third of people who are above the age of 16 pirate movies. The method of pirating movies and uploading them online has also grown more intricate and difficult to track. Pirates often make use of BitTorrent to upload their files and store them online. The data travels to the user who requests the file is supplied with the file through the contribution of a huge group of seeders i.e. pirates who upload the files in bits and pieces. However, with the recent crackdown on online piracy, and links for pirated files being shut down, pirates save files offline, and these same games and movies are then sold via optical discs at grey markets.

Law for piracy

Surprising as it may be, there is no definitive international law that governs piracy as a whole, at least for the digital equivalent of piracy. Under international law, the statute of piracy only covers 'physical' piracy, i.e. the actual looting and plundering of goods and valuables via ship-borne thieves.

Copyright

Copyright is one tool to prevent the intellectual property of a person from being pirated. It is the legal right granted to a creator of any intellectual property to be able to reproduce and redistribute his work, at his discretion. Although back then, and even today, copyright doesn't exactly prevent piracy, it does protect the legal interests of the party negatively affected and prescribe legal consequences for the perpetrator, in the event that copyright infringement(piracy) does occur.
Copyright holders routinely invoke legal and technological measures to prevent and penalize copyright infringement.

Filming a movie

An act of piracy that involves recording a movie or a video, especially without prior authority from the creator or purchased license to do so. The most notable method of movie piracy is known as camcorder piracy, in which a camcorder or a small recording device is often snuck into a theatre, and the entire movie, recorded onto the camcorder, is distributed online via the internet, either on pirated sites for free or sold on gray markets.

Websites to pirate movies

Websites that host pirated content are one of the most popular sources to acquire pirated content, as most of these sites offer the content for free, which sees them experience a lot of network traffic due to their popularity, and the sheer number of users accessing their domains to get their hands on the latest pirated songs, games or movies.
While several governments have encouraged ISPs(internet service providers) to block these sites by default on their services, these sites are still regularly visited through the use of VPNs(Virtual Private Networks). Some of the most popular sites to pirate movies are –
The 'YTS' domains
The Pirate Bay
Torrentz2

Law of copyright in India

To handle copyright and copyright infringement related disputes, the Indian Constitution has the Copyright Act, 1957, which acts as the main statute for all copyright-related laws in India. Under section 13 of the Act, copyright protection is conferred on literary works, dramatic works, musical works, artistic works, cinematograph films, and sound recordings.
The Copyright Act, 1957 handles protection of copyrighted material via classification of the same into two categories of rights, those being –
Economic Rights: The scope of this Act falls under originally conceptualized work including literary works, dramatic works, musical works, artistic works, cinematograph films, and sound recordings. The owners of these intellectual properties and works are given exclusive rights which they can exercise when it comes to the reproduction and distribution of these works, and to have a share in the profit of any sales of the product made by a licensed third-party.
Moral Rights: Section 57 of the Act splits moral rights into two basic rights, right of paternity and right of integrity. The former enables the original creator of the intellectual property to be able to claim ownership of it and prevent any others from claiming ownership. The latter enables the creator to restrict any and all 'distortion, mutilation or other alterations of his work, or any other action in relation to said work' which may damage his reputation.

Piracy in India

India is one of the few countries that has multiple dominant box office film industries, in Bollywood, Hollywood, and Tollywood. As such, piracy is a much more dominant force considering there is a lot more material to pirate which the local audience would be interested in. Internet users often use VPNs to visit torrent sites which host songs, games, movies and the like. Local vendors at technological hubs often carry compact discs with pirated movies and games, which are sold at cheap prices. Modding video game hardware to play pirated discs is also a booming industry in India.

Pirating movies in India

Considering the viewership of cinema in India with the three major cinema industries, the traffic of sites that host pirated content is also considerably higher in the country. While the above-mentioned torrent sites, which are the most used across the world, are relatively popular in India, people often tend to visit piracy sites that host Bollywood or Tollywood content exclusively. Some of these sites are –
Filmywap
Todaypk
Bolly4u
Tamilrockers

Punishment for piracy

Illegal downloading of movies
The Union of India recently issued an amendment to the Cinematograph Act, 1952, in order to clearly define the punishment which can be faced by pirates who, without the written authorisation of the copyright owner, use any recording device to make or transmit a copy of a film. It is not necessary for the film to be fully recorded, or even distributed via the internet. If the perpetrator attempts to record the movie while inside the theatre, he is guilty under the act.
The punishment for this is generally imprisonment, a fine, or both. This punishment can also extend to those who download said pirated movies.

Charges for piracy

Since the crime of piracy is not limited to only the movie industry, the punishment specified above isn't the only one dealt to pirates. It varies with the industry in which they are committing an act of piracy. The most notable forms of punishment are covered in the provisions of the Copyright Act, 1957 and Information Technology Act, 2000. The punishments specified are as follows-

Copyright Act: If a person uses a pirated computer program, or a program that has been manufactured or acquired through copyright infringement, on any computer device, he shall be liable for imprisonment no less than 7 days, extending up to 3 years, and a fine no less than Rs. 50 thousand, which may be extended up to Rs. 3 lakh.

IT Act: If a person gains access to a computer, a network of computers, or computer systems, then proceeds to view, copy and extract the data present on the computer, either through digital means or through a removable storage medium(pen drive or hard disk), without prior authorization from the owner of the computer, he is liable to pay damages as compensation which can go up to a sum of Rs. 1 crore. Any person who downloads said stolen data will also be liable for the same amount.

Prevention of piracy

While the legal consequences associated serve to act as an effective deterrent against piracy, they are not nearly enough to act as a solid preventive measure, considering actual prosecutions against digital pirates are few and far in between. This is because most intellectual property owners tend to just get a cease-and-desist(termination) order against sites which host pirated content, which are just orders to take down the download links for the content.

Therefore, there are, while loosely-defined, some effective ways to prevent piracy, i.e. deter users themselves from seeking out and downloading pirated content. These are as follows –

Price Regulation: By offering digital goods and services at a lower, realistic price, producers can hope to at least lessen the number of users pirating their content by a wide margin. It won't stop piracy completely but reducing the incentive for people to make use of pirated content will certainly prevent piracy to a large extent.

Barriers to Entry: This is a mode of prevention that rests more within the jurisdiction of the government. Most governments instruct and encourage ISPs to restrict entry into sites which host pirated content, mostly by blocking the sites on their servers. Directly barring users from accessing these sites helps reduce the pirate users by a large amount, as most don't have the technical know-how i.e. how to use VPNs which is required to circumvent the sites being blocked.

User Confrontation: A lot of TV and streaming services often use a combination of both the above-listed methods, but with some real-time interaction with the users. Pirate users often get real-time messages which notify them that the producer is aware of them using pirated content. Game developers often use this to troll pirate gamers in hilarious, game-breaking ways.

Cooperation between industries: The above-listed methods to prevent piracy, while working great on their own, often fail and fizzle out when there is one bad link in the chain. That one bad link can be a producer who is lenient with his content being pirated or doesn't know about the extent of piracy. That is why, all of the above methods, if executed systematically and efficiently by all relevant producers at once, can be one of the biggest deterrents to pirates.

Camcorder Piracy

Camcorder piracy refers to the method of piracy used in pirating movies. This involves the pirate recording the entirety of the movie while in the theatre using a camcorder. These movies are generally referred to as 'Cam print' movies. Keep in mind, camcorder piracy is not limited solely to the use of camcorders. Any device capable of recording video qualifies under camcorder piracy.

Despite the quality of these pirated movies being very poor, with constant shaking, foreign audio, and low video pixels, these movies are downloaded in large quantities, largely due to the timing of their upload, which is usually a couple of days after the release of the movie. A lot of these movies are often repacked into optical drives for sale in black markets via local vendors.

Need to prevent camcorder piracy

While not as prevalent of a force as it was in the early 2000s, camcorder piracy is still a huge threat in the cinema industry, especially in the Indian box office. Since Bollywood and Tollywood often come out with lower-grade, cheap entertainment movies to make a quick buck out of the middle to lower classes, these movies are quick to be pirated via camcorder recording and are spread wide over the internet. This causes major damage to the movie industry considering the more the movie is pirated, the lesser net earnings are made by the box office. A lot of studios never even get back their original investment in the production of the movie. If the loss through piracy is bad enough, it can lead to a loss of jobs due

to low earnings, and the black market sales of such pirated products can also help sponsor organised crime. Therefore it can have a hugely adverse impact on the economy in general.

The legality of recording movies in the theatre

As per the amended Cinematograph Act, 1952, the recording of movies in the theatre by any recording device, in order to produce a pirated 'cam print' of the movie, is illegal and punishable by law. The act of recording by itself is punishable in law, the rest of the process to successfully pirate the movie is irrelevant in deciding the guilt of the pirate.

Pirates who record movies via camcorder can face legal consequences, the provisions for which are described under the Act. The punishment for the same is imprisonment for up to 3 years and a fine payable up to Rs. 10 lakh.

How does piracy affect the film industry?

When talking about one of the biggest blows that piracy has dealt to the film industry, the most notable attack is one carried out right before the release of the star-studded action film, 'The Expendables 3'. According to this Forbes article, the movie was acquired illegally by pirates and the entire thing was leaked online for download. Statistics estimate the viewership of the pirated movie to be close to 70 million viewers.

This sets a dangerous precedent for the economic success of these movies, especially today when movies can be downloaded and streamed on almost every device out there, be it phones, tablets, laptops, desktops or even video game consoles. This leads to a larger viewership of pirated content. More views equal more deduction from the profit margin of the producers of the movie.

And this reduced profit margin does not mean less income for the producers only, it also affects the other employees working in the entertainment industry. This includes composers, set designers, electricians

Losses incurred by the film industry because of piracy

The losses which the studios incur as a result of piracy are no small amount. The losses climb up to 7-8 digits, wherein losses are measured in the millions. The large amount of people accessing pirated content is also a contributory factor in these losses.

Taking the above case regarding 'The Expendables 3' as an example, it has been estimated that the movie lost about $100 million in revenue due to the pirated leak of the movie before release, and the views during the release of the film.

India's box office, as of August 2018, is worth almost $21 billion. However, in terms of piracy, it is also a leading juggernaut. It is ranked among the top five countries with the maximum P2P(connection type for torrent downloads) downloads. Through this, it has lost around $2.8 billion of its annual revenue.

Reporting piracy: how to go about it

Reporting acts of piracy is perhaps one of the most overlooked techniques which helps in preventing piracy. While few, there are associations that exist to counteract piracy and shut it down. However, they need surveillance and vigilance from their users in order to do so. Some of these associations which offer online piracy reporting services are –

Software and Industry Information Association: This domain serves as an extension of the SIIA, a regulatory authority based in Washington, DC that extends its services across the globe. These strive to deal with acts of computer and software piracy at an organisational level.

Recording Industry Association of America: The RIIA deals exclusively in cases of music theft and piracy in the United States to protect artists from losing revenue through illegal music distribution and sales.

Copyright Alliance: The Copyright Alliance is a unique organisation in terms of its function, as, instead of directly attempting to put a stop to any rights of copyright infringement, it notifies the producers of the content themselves, so that they may take appropriate action as they see fit.

Aside from these organisations, there is a lot more that you can do at a local level. Other than condemning piracy yourself and refusing to take part in it, you can also act as a deterrent for movie piracy, by reporting any and all suspicious activity, which may be camcorder recording, to the nearest security official.

How do movie pirates make their money?

Movie pirates can be categorised into two types – ethical and unethical, which is ironic considering their main bread and butter is unethical by itself, but there is more to that story.

Ethical pirates mostly upload and make their pirated content available just for the sake of spreading entertainment and making content available early, and for free. Most of them do not have profit as a

primary objective and earn revenue only to pay for their website's server costs and to keep it running. This is mostly done through ads that pay per click, and since most pirated content sites involve a lot of clicking by a lot of users, they generate a lot of money.

Moving on to the unethical pirates. These pirates do not have user entertainment and convenience as their agenda. They actually operate in cooperation with cybercriminals who set up malware on the website's body. This malware actually steals user data, and the pirate who hosts the site gets paid a hefty sum.

Pirates also earn money through streaming i.e. they stream their pirated content on specialised 'Kodi boxes', the sales of which earn them money.

BitTorrent: How does it work?

BitTorrent, at its core, is a communication protocol, much like HTTP or IP. It serves as a mini-client that hosts a P2P connection. These connections are then used to host and distribute data and electronic files.

The functioning of BitTorrent is completely based on the P2P connection system. In BitTorrent's case, the two peers are the 'leechers' and the 'seeders', and the combination of both in the BitTorrent system is known as a 'swarm'. Inside this swarm, there is no central server. All the data circulated is amongst the leeches and the seeders. Once a user enters the swarm, it is connected simultaneously to all the computers inside the network, depending on what file it wants to download. The client then starts downloading bits and pieces of the same file from different 'seeder' computers, which are then simultaneously compiled into one file locally on the leecher's system.

This entire process is monitored through tracker files present within torrents. These trackers, while not influencing the downloads themselves, allow the client service to keep reconnaissance on which files are being downloaded and through what system.

Is piracy a felony?

To determine if an act of piracy is a felony or not, we must establish the structural difference between what crime and felony are. While crime is a generic definition of what is an illegal activity that harms others, a felony is an extension of the definition of crime.

A felony is determinable only through the seriousness of the original crime. A felony can be anything that warrants a punishment of more than one year's imprisonment or the death penalty.

Any crime which warrants a lesser punishment is classified as a misdemeanor.

Therefore, if we analyze the punishments doled out in cases of piracy, the punishments can be extended up to 3 years along with a monumental fine in India. The length of the punishment given alone is enough to classify piracy as a felony.

What are the effects of leaking a movie through the censor board?

Earlier, movies to be submitted to the Censor Board for review were submitted on a DVD format. This made them a relatively easy target for pirates, and a lot of movies were leaked online, even before official release. The pirated prints of these movies often had a watermark that said 'For Censor', making it evident that these were pirated through the DVD copies of movies submitted to the Censor Board for review.

The Censor Board eventually did take action, and changed the format of submission from standard DVDs to an encrypted file format, commonly known as DCP-KDM format.

DCP is the encrypted format in which the movie is submitted to the Censor Board, either on a hard disk or USB Pendrive, which is then run off of the theatre's main central server. The KDM part of the file contains a serial key which is then used to decrypt the movie for viewing.

Rules, Acts and Laws excluding Copyright Act

Information Technology Act

While the Copyright Act acts as a general supervisor to monitor acts of piracy and punish the perpetrators accordingly, the Information Technology Act's scope of piracy only extends to the unauthorized use of computers or a network of computers. Any data then copied or reproduced from that system onto an external storage device counts as an act of piracy.

The punishment for piracy, when governed under the Information Technology Act, is direct payment of damages, which may amount to compensation up to Rs. 1 crore.

The determination of how much the pirate will have to compensate is quantified through these factors –

The amount of gain or unfair advantage, wherever quantifiable, made as the result of the default

The amount of loss caused to any person as a result of the default
The repetitive nature of the default.
Internet Service Providers, however, are exempted from the provisions of this Act, if they can prove that they had no existing knowledge of the act of piracy committed.

Trademark Act

A trademark is the primary identification mark of intellectual property and is represented by the universal symbol (TM or ®), used by a particular organisation, which signifies that the intellectual property is unique and under their sole ownership. Trademarks can either be registered or unregistered, although being registered offers many more legal remedies.
The owner of a registered trademark can file a suit to protect the intellectual property registered under it from any infringement or unauthorized use of the trademark. They can file an action of infringement which is a statutory relief, which can either be an injunction to prevent unauthorized use of the trademark or enable the claim of damages by the injured party.
In the case of an unregistered trademark, the owner can file a suit under the action of passing off for the same remedies as an action of infringement, except the benefits are limited to only the geographical area in which the owner operates.

Pa patent Act in India

The patent regime of a country is run under the patent acts and rule prescribed in that country. Patents act provides guidelines to the registration of a patent, prosecution the patent application, maintenance and enforcement and IP litigation.

Patent Act in India

Patent act 1970 is referred to as patents act in india,. It extends to the whole India. The Patent System in India is governed by the Patents Act, 1970 (No. 39 of 1970) as amended by the Patents (Amendment) Act, 2005 and the Patents Rules, 2003, as amended by the Patents (Amendment) Rules 2006 effective from 05-05-2006.

The Indian Patents Act is amended in 2005 in order to compliance with the TRIPS Agreements. According to the Agreement, Patents must be granted in all "fields of technology," although exceptions for certain public interests are allowed (Art. 27.2 and 27.3)[2] and must be enforceable for at least 20 years (Art 33). Therefore, by the amendment of Patents Act 2005, the product patents are introduced in the Indian Patent regime. Before 2005, product patents are filed as black box application and exclusive marketing rights of 5 years is given to the Product Patent owners.

Other changes in the Indian Patent regime after 2005 can be short listed as below :

1. emphasis on Indigenous manufacturers
2. both pre-grant and post-grant opposition avenues
3. Prevention "ever greening" of patents by inserting a new section 3 (d)
4. Conditions for obtaining compulsory license,
5. Reasonable period for negotiations between the patent holder and companies seeking compulsory license
6. Exemption of research and development from the ambit of patents, enhancement in the jurisdiction of the appellate board.

The Act took away the limitations imposed by the Act, and made it discretionary of the Patent Office by virtue of the Rules. As a result, the patent office can now tamper with the various time lines by

amending the Rules as and when they choose. Under the amended ordinance, 7 types of time limits will be determined by the office through the Rules and not by the statute. The excessive and unbridled delegation to the Patent Office is further increased by the following provision: the central government way, if it is satisfied that circumstances exist, which render it practically not possible to comply with such condition of previous publication, dispenses with such compliance. As a result, the public will not be given an opportunity to offer its comments to the Rules before it being amended.

PPatent Filing Requirements in India

The patent applicant can filed in India as :

- Ordinary application
- Conventional application
- PCT application
- PCT National phase application

- **Ordinary Application:**
  The following details are required for filing an ordinary application:
- Applicants' Details (Company or Individual)
- Name of applicant(s) with the complete address and nationality
- Inventors' Details (Natural Person(s))
- Full Name of Inventor(s) with complete address and nationality
- Complete Specification [or provisional specification if an application is filed with Provisional Specification]
- Description, Claims, Abstract & Drawings (if any)

Business Query Form

1. Conventional application :
   The following details are required for filing a conventional application under the Paris Convention.

   - Applicants' Details (Company or Individual)
   - Inventors' Details (Natural Person(s))
   - Full Name of Inventor(s) with Address and nationality
   - Complete Specification with Description, Claims, Abstract & Drawings (if any)
   - Priority claim details, Priority date, Priority country, Priority application number, Applicant in priority application, Title of the priority application
   - Certified copy of priority document (may be submitted at later stage)
   - Verified English translation of priority document (if relevant)

Timeline: Applicant can file a conventional patent application with 12 months from the date of

filing of the priority application.

PCT Application :
Documents required for filing a PCT application are :

PCT RO/101

Declaration

Complete specification with Description, Claims, Abstract & Drawings (if any)

Priority documents (to be transmitted by the Receiving Office on payment of the fees)

A PCT application can be filed in India in the Indian Patent Offices and the International Bureau. An application can file a PCT application within 12 months from the date of filing of the priority application.

PCT National Phase filing :

Applicants' Details (Company or Individual)

Name of applicant(s) with the address and citizenship

Inventors Details (Natural Person)

Full Name of Inventor(s) with Address and citizenship

Complete Specification with Description, Claims, Abstract & Drawings (if any)

Priority claim details (if applicable), Priority date, Priority country, Priority application number, Applicant in priority application, Title of the priority application

Certified copy of priority document (if not filed at IB)

Verified English translation of priority document (if required by the Controller during examination)

A copy of the PCT Application with details such as International Application Number, International Application Date, ISR copy, Amendment to claims or description if made at the International Phase and Corrections or changes made at the International phase (Form PCT/IB/306).

The timeline for filing a PCT national phase application in India is 31 months from the date of filing of the priority documents. In addition to the above requirements listed above applicant should also provide the following information from time to time:

Details of all corresponding applications filed outside India, including application number, date of filing and current status. Application Form executed by the inventors/Applicants. In lieu of such form, an Original Assignment or a certified/notarized copy of the assignment filed for the

priority application.

If invention relates to micro-organisms

Name of International Depository Authority

Accession Number and Date of deposit

Sequence listing as a Soft copy

B)ASSIGNMENTQUESTIONS

PROFESSIONAL PRACTICE ,LAW AND ETHICS

ASSIGNMENT-1 QUESTIONS

1.Explain codes of professional ethics
2.Discuss about Law of Contract
3.Explain about arbitration and mediation

PROFESSIONAL PRACTICE ,LAW AND ETHICS

ASSIGNMENT-2 QUESTIONS

1.Write about the principle of Industrial disputes act1947
2.Explain types of Intellectual property rights
3.Explain about new changes in trade law

C.ShortLongAnswerQuestionwithBloomsTaxonomyLevels

UNIT1:
Shortanswerquestions

S.NO	Question	BloomsTaxonomyLevel	CourseOutcome
1	Explain professional Ethics	Understand	2
2	What you understand Professional ethics	Analyze	1
3	Discuss Engineering Ethics	Understand	2
4	Explain environmental ethics	Understand	3

Longanswerquestions

S.NO	Question	BloomsTaxonomyLevel	CourseOutcome
1	Explain code of ethics.	Understand	2

2	What are the differences between Bribery vs Gift	Understand	2
3	Explain Whistle Blowing	Understand	3
4	Discuss about Vigil mechanism	Remember	1
5	Explain Types of GST	Understand	2

UNIT-2:

Shortanswerquestions

S.NO	Question	Blooms Taxonomy Level	Course Outcome
1.	Explain law of contract	Understand	2
2.	Explain valid contract	Remember	5
3.	Discuss about contingent contract	Understand	2
4.	Explain warranty	Understand	2
5.	Discuss about Object	Remember	3

LongAnswerQuestions

S.NO	Question	BloomsTaxonomyLevel	CourseOutcome
1.	Explain types essential contract	Remember	3
2.	What is free consent	Understand	5
3.	Discuss performance and discharge of contract	Understand	2
4.	What is breach of contract	Understand	2
5.	Explain contract of agency	Understand	2
6.	Explain sales goods act 1930	Understand	3

UNIT-3:

Shortanswerquestions

S.NO	Question	BloomsTaxonomyLevel	CourseOutcome
1	Write about Arbitration	Remember	3
2	Explain ADR	Understand	2
3	Write about Arbitral tribunal	Remember	3
4	Explain about Disputes of resolution boards	Understand	2
5	Write about jurisdiction	Remember	3

Longanswerquestions

S.NO	Question	BloomsTaxonomyLevel	CourseOutcome
1	Explain types of Arbitration	Understand	3
2	Explain types of Mediation	Analyze	3
3	Discuss about LokAdalat	Understand	2
4	Explain UNCITRAL	Understand	3

5	Discuss confidentiality	Understand	3

UNIT-4:

ShortAnswerQuestions

S.NO	Question	BloomsTaxonomyLevel	CourseOutcome
1	Discuss about labor charges	Remember	2
2	Explain industrial dispute act 1947.	Understand	3
3	Discuss about labor rolls	Remember	4

Longanswerquestions

S.NO	Question	Blooms TaxonomyLevel	Course Outcome
1	Explain concept of industrial dispute act1947	Understand	3
2	Explain collective bargaining	Understand	4
3	What is compensation act and NBC-2017	Understand	4
4	Discuss about construction workers	Understand	3
5	Explain about RERA ACT2017	Remember	4

UNIT-5:

Shortanswerquestions

S.NO	Question	BloomsTaxonomyLevel	CourseOutcome
1	Explain law of patent	Remember	3
2	Discuss copy rights	Remember	5
3	Discuss about internet piracy	Understand	3
4	Explain about Trade mark	Remember	5

5	Explain about Intellectual property	Remember	2

Longanswerquestions

S.NO	Question	BloomsTaxonomy Level	CourseOutcome
1	Explain about types of IPR	Understand	2
2	What you understand about new trade laws	Understand	2
3	What is copy rights act 1957	Remember	5
4	Explain infringement	Understand	2
5	Explain about patent under patent act1970	Remember	5

D.BEYOND THE SYLLABUS TOPICS AND NOTES

1. Negotiable instrument act 1881
2.Reward management

1. Negotiable instrument act 1881

MEANING OF NEGOTIABLE INSTRUMENTS Negotiable Instruments is an instrument (the word instrument means a document) which is freely transferable (by customs of trade) from one person to another by mere delivery or by endorsement and delivery. The property in such an instrument passes to a bonafide transferee for value. The Act does not define the term 'Negotiable Instruments'. However, Section 13 of the Act provides for only three kinds of negotiable instruments namely, bills of exchange, promissory notes and cheques, payable either to order or bearer.
A negotiable instrument is payable to order when a. It is expressed to be so payable b. When it is expressed to be payable to a specified person and does not contain words prohibiting its transfer. (i.e. it is transferrable by endorsement and delivery) A negotiable instrument is payable to bearer when a. When it is expressed to be so payable e.g. pay bearer b. When the only or last endorsement (endorsement means signing of the instrument) on the instrument is an endorsement in blank

Essential Characteristics of Negotiable Instruments

1. It is necessarily in writing
2. It should be signed
3. It is free transferable from one person to another
4. Holders title is free from defects
5. It can be transferred any number of times till its satisfaction
6. Every negotiable instrument must contain either a promise or order to pay money. Also, the promise or order must be unconditional.
7. The promise or order to pay must consist of money only. Nothing should be payable, whether in addition or in substitution of money. Also, the sum payable must be certain.

Types of Negotiable Instruments

There are many types of negotiable instruments. The common ones include personal checks, traveler's checks, promissory notes, certificates of deposit, and money orders.

1. Personal checks

Personal checks are signed and authorized by someone who deposited money with the bank and specify the amount required to be paid, as well as the name of the bearer of the check (the recipient).

While technology has led to an increase in the popularity of online banking, checks are still used to pay a variety of bills. However, a limitation of using personal checks is that it is a relatively slow form of payment, and it takes a long time for checks to be processed compared to other methods.

2. Traveler's checks

Traveler's checks are another type of negotiable instrument intended to be used as a form of payment by people on vacation in foreign countries as an alternative to the foreign currency.

Traveler's checks are issued by financial institutions with serial numbers and in prepaid fixed amounts. They operate using a dual signature system, which requires the purchaser of the check to sign once before using the check and a second time during the transaction. As long as the two signatures match up, the financial institution issuing the check will guarantee payment to the payee unconditionally.

With traveler's checks, purchasers do not have to worry about carrying large amounts of foreign currency while on vacation, and banks provide security for lost or stolen checks.

With technological advancement in the last few decades, the use of traveler's checks has gone into decline as more convenient ways of making payments abroad have been introduced. There are also security concerns associated with traveler's checks, as signatures can be forged, and the checks themselves can also be counterfeit.

Today, many retailers and banks do not accept traveler's checks due to the inconvenience of the transactions and fees charged by banks to cash them. Instead, traveler's checks have been mostly replaced with debit and credit cards as methods of payment.

3. Money order

Money orders are like checks in that they promise to pay an amount to the holder of the order. Issued by financial institutions and governments, money orders are widely available, but differ from checks in that there is usually a limit to the amount of the order – typically $1,000.

Entities who need more than $1,000 need to purchase multiple orders. Once the money orders are bought, the purchaser fills in the details of the recipient and the amount and sends the order to that person.

Money orders contain relatively little personal information compared to checks with just the names and addresses of the sender and recipients and not any personal account information.

International money orders are also a popular way of sending money abroad nowadays since money orders do not need to be cashed in the country of issuance. As such, they enable a simple and quick method of transferring money.

4. Promissory notes

Promissory notes are documents containing a written promise between parties – one party (the payor) is promising to pay the other party (the payee) a specified amount of money at a certain date in the future. Like other negotiable instruments, promissory notes contain all the relevant information for the promise, such as the specified principal amount, interest rate, term length, date of issuance, and signature of the payor.

The promissory note primarily enables individuals or corporations to obtain financing from a source other than a bank or financial institution. Those who issue a promissory note become lenders.

While promissory notes are not as informal as an IOU, which merely indicates that there is a debt, it is not as formal and rigid as a loan contract, which is more detailed and lists out the consequences if the note is not paid and other effects.

5. Certificate of Deposit (CD)

A certificate of deposit (CD) is a product offered by financial institutions and banks that allows customers to deposit and leave untouched a certain amount for a fixed period and, in return, benefit from a significantly high interest rate.

Usually, the interest rate increases steadily with the length of the period. The certificate of deposit is expected to be held until maturity when the principal, along with the interest, can be withdrawn. As such, fees are often charged as a penalty for early withdrawal.

Most financial institutions, including banks and credit unions, offer CDs, but the interest rates, term limits, and penalty fees vary greatly. Interest rates charged on CDs are significantly higher (around three to five times) than those for savings accounts, so most people shop around for the best rates before committing to a CD.

CDs are attractive to customers not only because of the high interest rate but also of their safe and conservative nature, as the interest rate is fixed throughout the course of the term.

2.Reward management

Reward management is **the introduction of policies and strategies that rewards every employee within the business fairly and consistently across the board**. Rewarding employees for outstanding work makes them feel valued and can prove to be a powerful motivational tool that boosts productivity.

Types of reward scheme

- Piecework schemes. Under Piecework schemes, a price is paid for each unit of output. ...
- Individual performance-related pay schemes. ...
- Group-related performance-related pay schemes. ...
- Knowledge contingent pay. ...
- Commissions. ...
- Profit-related pay. ...
- Stock option plans.

Some examples of reward management include **competitive base pay, bonuses, sick leave and vacation pay, profit sharing, company sponsored health plans, intrinsic rewards, and retirement plans**.

7 Key Features that an Employee Reward System Must Have

- Point-based Rewarding. ...
- Customizable Approval Process. ...
- The Flexibility of Choosing Rewards. ...
- Supports Peer Recognition and Rewarding. ...
- Always Go for a Cloud-based Reward System. ...
- Check if the Reward System has Mobile Accessibility. ...
- Easy to Implement.

Rewards for the Factors of Production

- The factor income for land → rent.
- The factor income for labour → wages.
- The factor income for capital → interest.
- The factor income for entrepreneurship → profit.

Reward power is **the formal power given to a work leader to give out rewards to other employees**. It is a position power, which means the source of power is based on a leader's position with a company. An example of reward power is a manager or supervisor who incentivizes higher performance from employees

owadays, people often don't remain at their jobs as long as Chris. Each time a new employee is hired, the company spends money on hiring and training that it could have spent elsewhere. Having a good reward system helps keep employees happy, loyal to the company, and eager to move up the ladder. Rewards, like public recognition and additional pay, motivate employees to work harder.

Reward management is important for the following reasons:

- Retains employees
- Attracts new employees
- Avoids the cost of hiring and training new employees
- Builds loyalty and honesty
- Creates a healthy work environment
- Encourages positive attitudes and behavior
- Makes employees more likely to seek advancement
- Strengthens the company's reputation

CHOOSE THE CORRECT ANSWERS

1. 'Arbitral Award' means

a) Only final award from Arbitration
b) Only Interim Award from Arbitration
c) Both Final and Interim awards
d) None of these

2.'Arbitral Tribunal' refers to:
a) Sole Arbitrator

b) Panel of Arbitrators
c) Both a&b
d) Neither anor b

3.Proceedings are conducted:
a) Open to public.
b) Open to parties and their lawyers only
c) Both a. and b.
d) Only lawyers of parties.

4.A person or Institution can be designated by SC/HC to appoint arbitrators:
a)True, for both SC/HC
b) False, for both SC/HC
c) True, only for SC
d)True, only for HC

5.Section19ofTheLegalServicesAuthoritiesAct,1987provides_?
a) Organisation of LokAdalats
b) Establishment of Permanent LokAdalats
c)District Legal AidFund.
d) National Legal AidFund

ANSWERS
1.c
2.c
3.b
4.a
5.a

FILL IN THE BLANKS

1.EVM(ElectronicVotingMachinewasfirstusedinwhichyear_____
2.Where was the first Lok Adalat washeld _____
3.The Jurisdiction of permanent LokAdalat isup to _____
4.Award of LokAdalat _____
5.ThetermArbitraltribunalisdefinedunder _____

ANSWERS
1. 1982
2.Gujarat
3.Tenlakhs
4.Finalandbindingoftheparties
5.Section2(D)

CHOOSE THE CORRECT ANSWERS

1.MentionthatthefollowingisNOToneoftheprinciplesuponwhichthesystem of registeredlandisbuilt?
a) Title
b) Curtain
c) Mirror
d) Insurance
2.Whichtypeoflandchargeshouldberegisteredtoprotectanestatecontract.?
a) ClassD(iii)
b) ClassC(i)

) c) ClassC(iv)
d) ClassF
3.In which year did the industrial dispute act come intooperation?
a) 1947
b) 1949
c) 1953
d) 1963

4.TowhichsettlementmachinerycanthecentralgovernmentreferthedisputesunderrulE81-A?
a) Conciliation
b) Arbitration
c) Adjudicator
d) SupremeCourt
5.Beforetheindustrialdisputesactwasimplementedintheyear1947,whichacttookcareoftheindustrialdisputes?
a) Trade Disputes Act,1929
b) Royal Commission on Labour,1934
c) Labour Management Relations Act,1947
d) None of theabove
6.ChoosethecorrectoptionthatcorrectlystatesoutthedefectintheTradeDisputesAct,1929
a) Restraintsimposedontherightsofstrike
b) TorendertheproceedingsunstatutableundertheActforthesettlementofanindustrialdisputed
c) Solution to industrialunrest
d) All of theabove
7.The bill passing rule 81A has made two new institutions for the prevention and settlement of industrial disputes, i.e.Work Committees and _____
a) Industrial Tribunal
b) Commission on Labour
c) Arbitration
d) Adjudication

8.The industrial dispute act was first amended in the year
a) 1929
b) 1946
c) 1947
d) 1949
9.Power has been given to _____ to require WorkCommittee to be constituted in every industrial establishment employing 100 workmen or more.
a) Appropriate Government
b) State Government
c) HighCourt
d) Board ofConciliation
10. Thetypesofthirdparty negotiation,knownasarbitration,includes
a)non-bindingarbitration
b) interestarbitration
c) non-bindingarbitration
d) allofabove
Answers
1.a
2.b
3.a

4.c
5.a
6.b
7.a
8.d
9.a
10.d

FILL IN THE BLANKS

1.Thesituationwhenthirdneutralpartyhelpsinnegotiationoftheagreementisclassifiedas _____

2. combined refusal in buying products of employers, union members as well as employees, known as _____

3.Thebillpassingrule81Ahasmadetwonewinstitutionsforthepreventionandsettlementofindustrialdisputes,i.e.WorkCommitteesand_____

4.Theindustrialpeaceissecuredthroughvoluntary_____andcompulsory _____

5.In _____yearwasthefirstsuggestionforthelegislationintheactmade

6.Paymentofwagesactwaspassed in the year _____

7.Thepowerisvestedinthe_____tomaketheactapplicabletopaymentofwagestoanyclassofpersons employedinanyestablishmentorcl assof establishmentsspecifiedin section2(h)bygiving3monthsnoticetothat effect.)

8.What is the maximum wage period for the payment of wages _____

9._____section of the wages act covers deduction for damage or loss.

10. _____ is the penalty for those who contravene the provision of section 4 of wages act.

ANSWERS

1.Mediation
2. Boycott
3.Industrial Tribunal
4.Negotiation and Adjudication
5. 1925
6. 23rd April, 1936
7.State Government
8.1 month
9.Section 7

10.Upto 500 Rupees

CHOOSE THE CORRECT ANSWERS

1.Intellectual Property Rights (IPR) protect the use of information and ideas that are of

a) Ethical value
b) Moralvalue
c) Socialvalue
d) Commercialvalue

2.The term 'Intellectual Property Rights'covers

a) Copyrights
b) Know-how
c) Tradedress
d) All of theabove

3. _____ can notbeexploitedbyassigningorbylicensingtherightstoothers.

a) Patents
b) Designs
c) Trademark
d) All of theabove

4.The following can bepatented

a) Machine
b) Process
c) Composition ofmatter

d) All of theabove

5. In'quid-pro-quo',quostandsfor

a) knowledge disclosed to thepublic

b) Monopoly granted for the term of thepatent

c) Exclusiveprivilegeofmaking,sellingandusingtheinvention

d) None of theabove.

6. Trademark _____

a) is representedgraphically

b) iscapableofdistinguishingthegoodsorservicesofonepersonfromothers

c) mayincludeshapesofgoodsorcombinationofcolours

d) All of theabove

7.Symbol of Maharaja of Air Indiais

a) Copyright

b) Patent

c) Trademark

d) All of theabove

8.In India, the literary work is protecteduntil

a) Lifetime ofauthor

b) 25yearsafterthedeathofauthor

c) 40yearsafterthedeathofauthor

d) 60yearsafterthedeathofauthor

9.Design does notinclude _____

a) Faeatures ofshape

b) composition of lines orcolours

c) mode or principle ofconstruction

d) None of theabove

10.Theagreementthatisenforceablebylawisknownas_____

a)Validagreement

b) Voidagreement

c) Illegalagreement

d) Unenforceableagreement

ANSWERS

1.d

2.d

3.c

4.d

5.b

6.d

7.c

8.d

9.c

10.a

FILL IN THE BLANKS

1.Copyright is generally usedin _____

2.TheWorldIntellectualPropertyOrganizationwasestablishedin)____

3.Patentis _____

4.TrademarkAct,cameintoforce on _____

5.Section25oftheDesignsAct2000dealswith _____

6. _____ protects the intellectual property created by artists

7. ____ protects the intellectual property created by inventors

8. _____ is protected by a trademark

9. Patents usually last for _____ years.

10."Mostfavourednation"relationshipsextendreciprocalbilateralrelationshipsfollowingboth_____ of reciprocity and non-discrimination.

ANSWERS
1.BOOKS
2.1970
3.EXCLUSIVE RIGHT ON THE PRODUCT
4.1999
5. NOTICE OF TRUST NOT TO BE ENTERED IN THEREGISTERS
6. COPYRIGHT
7.PATENTS
8.LOGOS, NAMES AND BRANDS
9.20 YEARS
10. GATT AND WTO NORMS

F.PPT'S/NPTEL VIDEOS/any otherWEBSITES:

1. https://www.youtube.com/watch?v=1v0sfoY-SJ0
2. https://youtu.be/bK4rrlNk0wY
3. https://youtu.be/VW5ivdKHomY