



AMITY UNIVERSITY

RAJASTHAN

AMITY LAW SCHOOL (ALS)

B.Com. LL.B. (Hons.)

List of students undertaking field project or research projects or internships.

Program Code	Programme name	Name of the students
12216	B.Com LL.B (H)	Jhanvi Aggarwal
12216	B.Com LL.B (H)	Deepesh Katariya
12216	B.Com LL.B (H)	Tanmay Sharma
12216	B.Com LL.B (H)	Parth Vaza
12216	B.Com LL.B (H)	Rishika Jain
12216	B.Com LL.B (H)	Rohit Modh
12216	B.Com LL.B (H)	Greeva Garg
12216	B.Com LL.B (H)	Sunidhi Jangir
12216	B.Com LL.B (H)	Aadil Hussain
12216	B.Com LL.B (H)	Adnan Belim
12216	B.Com LL.B (H)	Ankit Runthala
12216	B.Com LL.B (H)	Ayush Singhal
12216	B.Com LL.B (H)	Bharat Bengani
12216	B.Com LL.B (H)	Eshan Sharma
12216	B.Com LL.B (H)	Junaid Khan
12216	B.Com LL.B (H)	Rupal Sinha
12216	B.Com LL.B (H)	Sandeep Singh Sandhu
12216	B.Com LL.B (H)	Thaneshwar Jangid
12216	B.Com LL.B (H)	Vishal Ramchandani

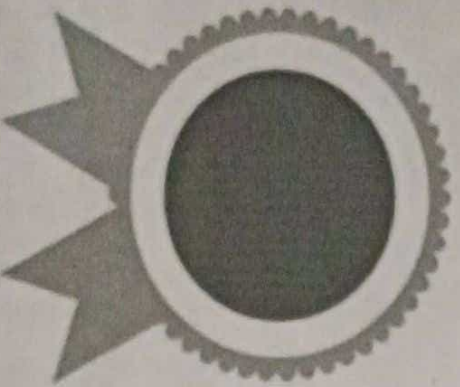
Advocate V.P. Sharma
Certificate of
Completion

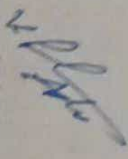


Ganesh Sharma

Has completed **LEGAL DRAFTING, REGISTRY
LEGAL PAPERS** at BHWADI from 13th August
2021 to 12th September 2021

We found him sincere, hardworking, dedicated
and result oriented. He worked well as part of the
team during his tenure. We take this opportunity
to thank him and wish him all the best for his
future.




V.P. SHARMA

Advocate

A-12 B S Colony
BHWADI
SignShare



Legal Trendsetters in association with Juhi Arora & Associates

CERTIFICATE OF VIRTUAL INTERNSHIP

This is to certify that *Parth Vaza*, a 2nd year student of Amity University Rajasthan, has successfully completed the virtual internship with Advocate Juhi Arora & Associates for a period from *1st July 2021 to 31st June 2021* and has researched actively on various aspects and subjects of Law.

During this internship, Parth Vaza attended the session on various topics such as Intricacies of Family law, Arguments & Presentation Skills, Art of cross-examination, and Drafting Skills. Also, He was involved in legal drafting.

He was found hardworking, duty bound and inquisitive. On the basis of this He is marked with Excellent. We wish Parth Vaza good luck for his future endeavours

Adv. Juhi Arora
(Advocate)

Juhi Arora Advocate & Associates

Add : Chamber No-622, 6th Floor, Lawyers's Chamber Block, Saket Court Complex, Saket, Delhi - 110017, Delhi

*Ratnesh R. Gupta
Manish R. Gupta
High Court Advocate*



Mob. No. : 98260-35670
98264-65670

Office & Res. :
10/3, Jail Road, Indore (M.P.)
E-Mail- ratneshgupta898@gmail.com

DATE- 19/07/2021

TO WHOMSOEVER IT MAY CONCERN

This is to certify that **Mr. Rohit Modh** of Indore (M.P.) from **Amity University Jaipur** in 4th semester has completed his internship in my office from 15-06-2021 to 15-07-2021 at Indore his behaviour is good.

I wish him the best for his good work.

RATNESH R. GUPTA
High Court Advocate

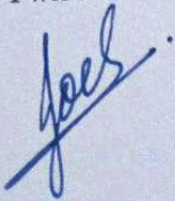
18th August, 2021**TO WHOMSOEVER IT MAY CONCERN**

This is to certify that Ms. Rishika Jain, who is pursuing her BCom. LL. B (H), 5th SEMESTER (3rd YEAR) from Amity University Rajasthan, has completed her internship from 19th July 2021 to 18th August 2021 under my guidance and tutelage.

During the internship, she was assigned various tasks including drafting replies, written submissions, transfer petitions, RERA complaints, opinion notes and had researched extensively in matters relating to criminal trials, Binding Financial Agreement, Law of parity and RERA. She had also worked with me on various important cases.

Along with the above said activities, **Rishika Jain** has also attended various Virtual Court Proceedings at Supreme Court, District Courts and High Court as well as District Consumer Forum and has attended various professional meetings concerning various cases.

Rishika Jain has been an integral part of the office environment for the duration of her internship. She also possesses great interpersonal skills and has excellent insight towards the applicability of laws and is a great researcher. The best skill evaluation as per me is that she has good skills for research. She has been very punctual and immensely dedicated towards work during the said internship. Everyone in chamber relied on her as she executed all the tasks at hand with sincerity and honesty. I am assured she has a bright future in the field of Law, and I wish her well for the same.

**JOEL**Advocate-on-Record
Supreme Court of India
AOR Code - 2642F-10, Lower Ground Floor,
Jangpura Extension, New Delhi-110014

VIRENDRA AGRAWAL & CO.

(Law Firm)

(PAN No. AAGFV5600H)

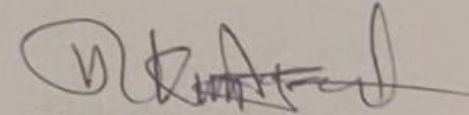
Office - B-308, Scheme 10 B, Gopalpura Bye Pass, Jaipur – 302 018.

Date : 14.01.2021

CERTIFICATE OF INTERNSHIP

This is to certify that **Abhimanyu Chundawat** student of II year III Semester, B.B.A., LL.B. (Hons.), Amity Law School, Jaipur has completed internship from **13th December, 2020 to 13th January, 2021** in my office. During this period he has attended High Court and Trial Court proceedings and become well acquainted with the various matters pending in the court of law. He has also gone through the case study and thorough discussion relating to the case matters.

I found his exceptionally well in the serving purpose of his internship programme. I wish the best for his bright and successful carrier.



(Virendra Agrawal)

Advocate

VIRENDRA AGRAWAL ADVOCATE

R/481/1984

HAND HELD 9414070423

virendra22adv@gmail.com

High Court: Lawyers Chamber No.1-A, Rajasthan High Court, Jaipur.

Phones : +91-141-2762423 : Mobile No. +91-9414070423 : E-mail : virendra22adv@gmail.com

REKHA BORANA

Additional Advocate General
Government of Rajasthan



RAJASTHAN HIGH COURT, JODHPUR

Tel : 0291-2888156

Cell : 94142-95887

Ref:43/2021

Date: 16.09.2021

CERTIFICATE OF INTERNSHIP

It is to certify that Anirudh Vyas, 5th semester student of Amity Law School, Jaipur has attended my Office as well as the court proceedings with me as an intern for a period 30 days from 28th June 2021 to 28th July 2021.

He bears a good moral character; He is hardworking, dedicated and inquisitive towards his work. He has also done research on various current law topics.

I wish him all the luck for his future.

A handwritten signature in black ink, which appears to read 'Rekha Borana', is written over a horizontal line. Below the signature, the name '(Rekha Borana)' is printed in a standard font.

Additional Advocate General



A. K. Legal & Associates

CERTIFICATE OF INTERNSHIP

TO WHOMSOEVER IT MAY CONCERN

This is to Certify that **Mr. Harsh Lodha**, a student of 3rd year BBA.LLB from Amity University Rajasthan has successfully completed his one-month internship remotely (20.06.21 to 20.07.21) with our firm.

During his internship period, he displayed a good work ethic and was found to be dedicated and inquisitive. He has performed some good research work in some Hon'ble Supreme Court & Hon'ble Bombay High Court judgments on Criminal laws, IPR laws, Family Laws and has also written an article on the topic of "Corporate Veil" during his tenure.

We are sure that this internship has provided him a rich learning experience, and we have benefitted from his internship work.

We wish him all the success in life.

In solidarity,

A handwritten signature in black ink, appearing to read 'Aameer V. Kale', written over a diagonal line.

A.K. Legal & Associates

Adv. Aameer Vishwas Kale

INTERNSHIP DIARY MAINTAINED BY THE STUDENT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN



SUMMER/WINTER INTERNSHIP REPORT DIARY

(INTERNSHIP REPORT)

Submitted before the Internship & Placement Committee of
Amity Law School, AUR, Jaipur

Submitted by:-

Name:- Heeral Devpura

Class:- BBA-LLB hons.

Batch:- 2019-2024

Enrollment No:- A21521519015

DETAILED REPORT OF DAILY PROCEEDINGS & OBSERVATION

1. Date & Time: - It was an online based internship for 15 days at All India Human Rights Association, New Delhi. I was given 3 tasks and no specific date and time were given. I had to complete the tasks within those 2 weeks.

2. Name of the Court/ Law Firm/ Organisation/ Institution: - All India Human Rights Association, New Delhi

3. Name of the Advocate / Industry Concern with whom case attached/ work assigned: - Advocate Sania Dua

4. Name of the Parties deal with in Presence: - This internship was mainly to spread awareness about Human Rights through articles and videos so no person dealt in person.

5. Nature of Assignment / Proceedings & Procedure Noted: - Being an online internship, I had to research and write articles on human rights and also narrate incidents about violation of Human Rights.

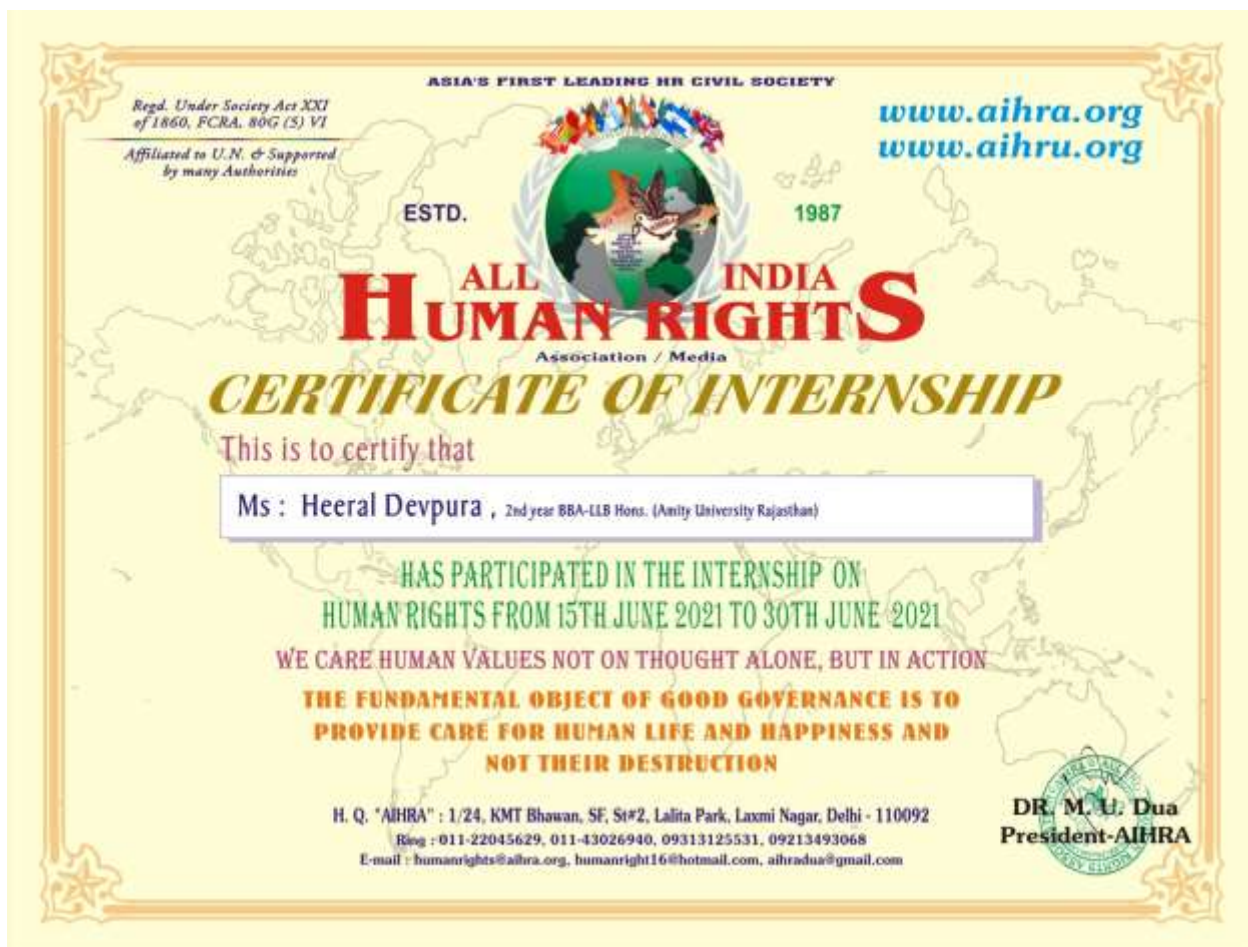
6. Stage of the Proceedings / Case: - Human Rights Awareness Non profit organization.

7. Observation of Intern: - I observed that there is a very bad condition of poor women in rural areas who are used to domestic violence. Also in countries like Bangladesh there was recently a horrible condition of human rights violation. And I also observe that around our surroundings also there are a number of cases of human rights violation like rape, cyber crimes, stalking, domestic violence etc which we aren't aware of. So this Internship was mainly to research and create awareness among people to raise their voices against such issues and protect their rights enshrined in the constitution.

8. Task Assigned to the Intern: - The first task was to compare and contrast the arena of Human rights in India with other countries. So I chose India, China and Bangladesh and I compared the scenario of human rights and their violation in these countries. The second task was to make a video narrating an incident of human rights violation around you. So I narrated my own incident where I was attempted to be molested by two boys. The third task was to write an article on how Students can play a

role in protection and safeguarding of Human Rights.

Certificate of Internship (At the end of Report)





The Philomath

Knowledge through Action

TO WHOM IT MAY CONCERN

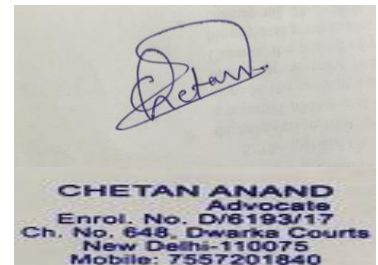
THIS IS TO CERTIFY THAT Isha patel PURSUING BALLB (2ND Year) FROM Amity University Jaipur Rajasthan HAS COMPLETED AN ONLINE INTERNSHIP UNDER THE GUIDANCE OF ADV.CHETAN ANAND, DIRECTOR, CHETAN ANAND & ASSOCIATES FROM 26th June 2021 to 23rd July 2021. THIS INTERNSHIP WAS PROVIDED BY THE PHILOMATH IN ASSOCIATION WITH ADV.CHETAN ANAND. DURING THIS INTERNSHIP YOU HAVE BEEN ACTIVELY INVOLVED IN THE VARIOUS LIVE SESSIONS ON RTI APPLICATION, PIL, DRAFTING, PUBLIC SPEAKING ON LEGAL TOPICS, DIVROCE MATTERS, BAIL, CHARGESHEET & OTHER ASPECTS OF LAW & COURTROOM. WE APPRECIATE YOUR SINCERE LEARNING & WE OBSERVED THAT YOU HAVE COMPLETED THE INTERNSHIP WITH HIGH ENERGY AND ENTHUSIASM.

WE WISH ALL THE BEST FOR ALL YOUR FUTURE ENDEAVOURS.

Sincere Regards,

Trivickram Jee

Founder, The Philomath



☎ 9792154419 / 7557201840

✉ tphilomath@gmail.com

🌐 www.thephilomath.info

INTERNSHIP DIARY MAINTAINED BY THE STUDENT

AMITYLAW SCHOOL

AMITYUNIVERSITYRAJASTHAN



SUMMER/WINTER INTERNSHIP REPORT DIARY

(INTERNSHIP REPORT)

Submitted by for The Internship & Placement Committee
of Amity Law School, AUR, Jaipur

Submitted by:-

Name:-

Class B

Batch:-

Enrollment No.:-

Keshav dadhich

BBA LLB 5th semester

2019-2024

A21521519010

DETAILED REPORT OF DAILY PROCEEDINGS & OBSERVATION

1. Date & Time (Day- 1):- 25/06/2021-26/07/2021 10 AM to 4 PM
2. Name of the Court/Law Firm/Organisation/Institution:- SDSA Lawyers
3. Name of the Advocate / Industry Concern with whom case attached/work assigned:- ADV. Deepak sharma
4. Name of the Parties deal with in Presence:- Confidential
5. Nature of Assignment/ Proceedings & Procedure Noted:- worked in office matter in civil, criminal, service as well as constitutional cases
6. Stage of the Proceedings/Case:- confidential
7. Observation of Intern:- had to work very hard and keep proper positive presence in our chamber and had to deal

with deadlines and juggling into sensitive projects

8. Task Assigned to the Intern:- case comment on civil criminal as well as constitutional cases and Research case laws on civil criminal as well as constitutional cases and helped in court proceedings.

SUMMARY OF THE WORK ASSIGNED IN COMPLETE INTERNSHIP

Had to attend Court proceeding before Rajasthan High Court Jaipur bench during internship I have to work in the office on matter related civil criminal as well as constitutional matter and also have to Research Many case laws For the case proceedings And deal with tight deadlines.

Certificate of Internship(Attheend ofReport)



SDSA LAWYERS

Office :
203, II Floor, Sunny Paradise, Near Gopalpura Flyover, Tonk Road, Jaipur - 302 018
23, B-Block, Lawyers Chamber Rajasthan Highcourt, Jaipur

Tel. : 01
e-mail : of
website : w

SDSA/IC/21/08

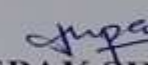
Dated: 27.07

Internship Certificate

This is to certify that **KESHAV DADHICH** student of 3rd Year **LL.B.** at **AMITY UNIVERSITY, RAJASTHAN** has undertaken internship from **25.06.2021 to 26.07.2021** in my office.

He attended court proceedings before Rajasthan High Court, Bench. During his internship, he worked in the office on matters related to Civil, Criminal, Service as well as Constitutional Law. He as a member of the working team, helped in researching many case laws.

Enthusiastic and always ready to help, Keshav Dadhich was an asset to our chambers. He was hard working, consistently friendly and had a positive presence in our Chambers, even when dealing with deadlines and juggling multiple time sensitive projects. We wish him a very bright career and success in all his future endeavours.


(DEEPAK SHARMA)

For S.D.S.A.

Pushpa Welfare Organisation

REG. NO. 11-99/2000


Office: - Guru Nanak Colony Bundi (323001) 7014803663

DATE: - 16/01/2021

REF. NO:- 05/21

TO WHOM SOEVER IT MAY CONCERN

This is to certify that Latika Tekwani D\O Mr Mangu Lal tekwani has done an internship on spreading legal awareness among students for a period of one month starting from 15/12/2020 to 15/01/2021 in Bundi (Rajasthan). Her work was satisfactory.

For ~~President~~ For ~~Treasurer~~ Organisation
Pushpa Welfare Organisation
President  Secretary Treasurer

मनोहर लाल (मन्नु कोरी)

राज्य मंत्री
श्रम एवं रोजगार विभाग,
उत्तर प्रदेश



बजट-एच-2/A, मन्त्री लाल भवन,
राज्य प्रशासन भवन, लखनऊ

दूरभाष - कार्यालय - 0522-225000
घरि दूरभाष - 0522-2250014
फैक्स - 0522-22

दिनांक: _____ 2019

Date of Issue- 15/01/2021

CERTIFICATE OF INTERNSHIP

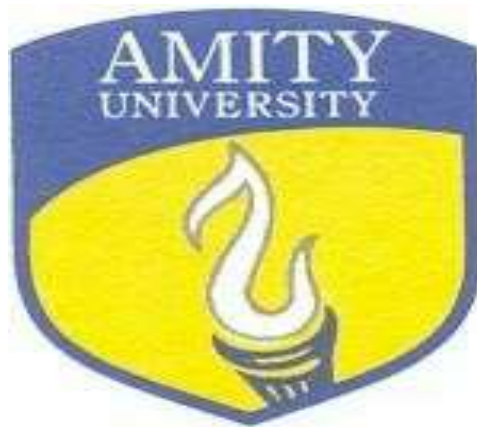
This is to certify that Madhav Choubey of 3rd semester pursuing BBA, LL.B. (Hons.) in Amity University, Jaipur, Rajasthan interned for a period of 4 weeks in Ministry of Labour and Employment, Government of Uttar Pradesh, from December 15th 2020-January 15th 2021.

During the tenure the intern has shown sincerity while working and completed all the assigned tasks in the given time frame.

We wish him every success in life.

INTERNSHIP DIARY MAINTAINED BY THE STUDENT

AMITY LAW SCHOOL
AMITY UNIVERSITY RAJASTHAN



SUMMER/WINTER INTERNSHIP REPORT DIARY

(INTERNSHIP REPORT)

Submitted before the Internship & Placement Committee of
Amity Law School, AUR, Jaipur

Submitted by:-

Name:- Muskan Gupta

Class:- BBA LL.B (H)

Batch:- 2019-2024

Enrollment No.:- A21521519025

DETAILED REPORT OF DAILY PROCEEDINGS & OBSERVATION

1. Date & Time (Day – 1): - 28th June, 2021 & 10 am
2. Name of the Court/ Law Firm/ Organisation/ Institution: -
Kuldeep Pathak and Associates
3. Name of the Advocate / Industry Concern with whom case attached/
work assigned: - Adv. Kuldeep Pathak
4. Name of the Parties deal with in Presence: - Kuldeep Pathak,
Advocate at the High Court of Madhya Pradesh
5. Nature of Assignment / Proceedings & Procedure Noted: - Research
and analysis based
6. Stage of the Proceedings / Case: - Landmark cases and some ongoing
proceedings cases were given.
7. Observation of Intern: - I got to observe the judges' observations
and arguments advanced in the courts. I read the judgements and
learnt about various provisions of laws.
8. Task Assigned to the Intern: - Daily and weekly tasks were given. I
used to prepare case briefs and analyze informational videos shared
for understanding law related topics. I also had to research for
ongoing case proceedings during the internship.

SUMMARY OF THE WORK ASSIGNED IN COMPLETE INTERNSHIP

I have prepared some 35+ case briefs during the internship. I got to analyze how judgements are framed, how arguments are presented before the court and got to learn various provisions of law and their interpretations in different cases. Some of the cases on which I prepared case briefs are Kedar Nath vs Union of India, Olga Tellis & Ors vs Bombay Municipal Corporation, Minerva Mills Ltd. and Others vs Union of India and Others, Ashok Kumar Gupta vs The State of Madhya Pradesh, Nathu Singh vs State of Uttar Pradesh, Joydeep Majumdar vs Bharti Jaiswal Majumdar and many more.

I have also analyzed some informational videos where I got learn about various provisions, aspects of laws like maritime law, arbitration law, divorce laws, laws of wills, privacy laws, evidences, etc.

Certificate of Internship (At the end of Report)



KULDEEP PATHAK AND ASSOCIATES

Advocates, Attorneys and Solicitors

Mobile: 095260-88010. E-mail: adv.kpathak@gmail.com

Ref. No. Certificate/037/2021

Date: 30/07/2021

TO WHOMSOEVER IT MAY BE CONCERN

This is to certify that **Ms. Muskan D/o Rakesh Gupta** from Amity University, Rajasthan has completed her one month full time Virtual Internship on regular basis from **28/06/2021** till **28/07/2021** under my guidance through virtual platform.

She is a hard working student and carried out all tasks assigned to her in diligent and conscientious manner. I am sure that she will do well in her course of study.



Digitally signed by
Kuldeep Pathak
Date: 2021.08.04
19:28:41 +05'30'

KULDEEP PATHAK

ADVOCATE

Office: 209, Silver Estate Minal Shri Apt, 19/1 Y.N. Road Opp. Bombay Motors, Indore (M.P.) Pin: 0731-7960418 **Chamber:** Advocate Chamber No. 104, High Court Campus, M.G. Road, Indore (M.P.)



CERTIFICATE OF INTERNSHIP

THIS IS TO CERTIFY THAT

Navya
Shekhawat

SHREYA VATS

**DIRECTOR
JURIS CENTRE**

juriscentre.com

Has successfully completed 4-week online internship with Juris Centre in the month of June, 2021. The intern diligently performed all of the assigned duties during their tenure. All dues have been cleared.

CERTIFICATE ID D26062021S041

INTERNSHIP DIARY MAINTAINED BY THE STUDENT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN



SUMMER/WINTER INTERNSHIP REPORT DIARY

(INTERNSHIP REPORT)

Submitted before the Internship & Placement Committee of
Amity Law School, AUR, Jaipur

Submitted by:-

Name:- Parth Chaudhary

Class:- B.A.,LL.B (Hons.)

Batch:-2020-2025

Enrollment No.:- A21511120061

DETAILED REPORT OF DAILY PROCEEDINGS & OBSERVATION

1. Date & Time – 21/05/21 – 21/06/21, duration of one months.

2. Name of the Court/ Law Firm/ Organisation/ Institution: -
Umeed – A Drop of Hope (NGO)

3. Name of the Advocate / Industry Concern with whom case attached/ work assigned: - Mr. Ankur Srivastava.

4. Name of the Parties deal with in Presence: -Nil.

5. Nature of Assignment / Proceedings & Procedure Noted: -
Legal Research and Writing.

6. Stage of the Proceedings / Case: - Nil.

7. Observation of Intern: - In the one months with Umeed – A Drop of Hope (NGO), I feel I was able to learn as much as I could. However, I would like to learn about various other aspect of the legal profession as well. This internship experience was important

in building my legal research skills. I am grateful to have had the opportunity to get practical experience.

8. Task Assigned to the Intern: - Legal research on several Legal Contemporary issues and preparing case briefs and giving presentations on social issues.

SUMMARY OF THE WORK ASSIGNED IN COMPLETE INTERNSHIP

My duties at [Umeed – A Drop of Hope \(NGO\)](#) were to research on various laws prevailing in our country and I learned about a couple of laws during the research tasks given to me and submitted a case brief on Maratha Reservation, gave several presentations on social issues, submitted a research article on International Law related to controlling spread of infectious disease (Team task) all of this made my legal research skills a lot better. I gained valuable experience as well as learned how to manage my time and how to organize work to maximize efficiency.

NGO REGISTRATION NO. S/792/DIST.SOUTH/201

UMEED A DROP OF HOPE (NGO)

CERTIFICATE OF INTERNSHIP



THIS CERTIFICATE IS PROUDLY PRESENTED TO:

PARTH CHAUDHARY

This certificate is awarded for successfully completing **Legal Internship** in **Umeed A Drop Of Hope** (NGO). The duration of internship was one month starting from the Date: **21 MAY ,2021-21 JUNE 2021** . During the tenure of this internship the candidate was found to be dedicated, hard-working and efficient.



Subhajeet Gautam
**SUBHAJEET GAUTAM
(FOUNDER & SECRETARY)**

Certificate

Payal Jhorar <jhorarpayal@icloud.com>

Thu 8/5/2021 11:09 PM

To: Keshav Jha <kjha@jpr.amity.edu>

Yogesh Kr. Modi

Advocate

B.A., LL.B.

Punjab & Haryana High Court

Enrolment No.P-1212/2003

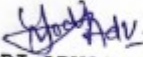
Justice for Humanity



Chamber no.209-210,
New Lawyers' Chamber Complex,
Sirsa
Off: 1st Floor, Modi Plywood,
Kathmandi, Sirsa.
Mob. 94161-06007
Email: yogeshmodiadv@gmail.com

TO WHOM IT MAY CONCERN

Payal Jhorar daughter of Shri Parveen Jhorar student of Amity University, Jaipur being the student of LL.B. Honors 3rd year (Enrolment No.A/21521519009) has attended the training period from 01-07-2021 to 31-07-2021 at my seat and office, under my guidance. She knows her responsibility towards the client. I have minutely observed her working and her dedication to learn, during this period and have found her most efficient. She is able and well conversant with the ethics of professional etiquettes.


YOGESH MODI ADVOCATE,
DISTT. COURTS, SIRSA.

INTERNSHIP DIARY MAINTAINED BY THE STUDENT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN



SUMMER/WINTER INTERNSHIP REPORT DIARY

(INTERNSHIP REPORT)

Submitted before the Internship & Placement Committee of
Amity Law School, AUR, Jaipur

Submitted by:-

Name:- *Radhika Singhal*

Year:- *3rd year 5th semester*

Batch:- *2019-2024*

Enrollment No. :- *A21521519029*

DETAILED REPORT OF DAILY PROCEEDINGS & OBSERVATION

1. Date & Time (Day – 1): - 1st July 2021, around 10:00 am.

2. Name of the Court/ Law Firm/ Organisation/ Institution: -

JGC Interns

3. Name of the Advocate / Industry Concern with whom case attached/ work assigned: -

Supreme Court Advocate Jeetender Gupta On Record.

4. Name of the Parties deal with in Presence: -

- Central Organizations for Railway Electrification
V. M/S Eci-Spic-Smo-Mcml(JV) A Joint Venture
Company.
- Eco Swiss china time ltd. V. Benetton
international NV
- Chintels india pvt. Ltd V. Bhayana builders
- State of bihar V. Bihar rajya bhumi vikas bank
samiti
- Bgs sgs soma jv V. nhpc ltd.

5. Nature of Assignment / Proceedings & Procedure Noted: -

6. Stage of the Proceedings / Case: -

There was many proceeding even before I joined as an intern. But there were few cases which were dismissed within 5-6 days.

- **Observation of Intern:** - The chamber was at Bar Council building, Civil court. I was asked to introduce myself to the whole staff of chamber. The court's chamber consisted of several staff members who works as junior advocates under the internship officer. Later on, I submitted the recommendation letter to them which was provided to me by College authorities. Formalities in the chamber were near about to zero. Later on, I was made to sit in the chamber of the Advocate under whom I was interning. On the very first day of my internship I had to give a brief introduction to them about myself and answer them a few questions of law and future planning of my career. On the very first day, excitement of visiting the court for the very first time in my life and anxiety of facing many advocates together

7. Task Assigned to the Intern: -

I was asked to draft some cases and I was asked for the research some particular cases of the given section.

And was involved in client briefing as well.

SUMMARY OF THE WORK ASSIGNED IN COMPLETE INTERNSHIP

It was a full time internship for the duration of 1 month and 9 days. I had to reach chamber at sharp 9 am each day. During my internship, Lok Sabha elections were about to start, so sir asked me “whom do you support and why?” I replied to his question and he just said ‘Ok’. We even had a little tour of the court where we shown the Court rooms, the proceedings, Judges, victims, criminals etc. I was asked to visit the courts on daily basis and supposed to attend the mediation proceeding, bail hearings etc. They used to give me the case files of different matters and initially I was not able to understand those case files, so they helped me to understand the case files easily and told me that which document I had to read first and then other. I learnt the methodology of preparing the documents and also observed that how first information report, charge sheet and issues etc. are framed. I used to assist the assistants in different types of work like drafting, preparing issues, researching and reviewing. After some period of time, I was asked to prepare case briefs on different topics and to do research on daily basis on issues relating to Criminal law, Civil law, Consumer Laws etc. I also accompanied by the internship officer to various courts for better understanding of the proceedings and the manner of litigation.

Certificate of Internship (At the end of Report)

INTERNSHIP DIARY MAINTAINED BY THE STUDENT

AMITY LAW SCHOOL
AMITY UNIVERSITY RAJASTHAN



**SUMMER/WINTER
INTERNSHIP REPORT DIARY**

(INTERNSHIP REPORT)

Submitted before the Internship & Placement Committee of
Amity Law School, AUR, Jaipur

Submitted by:-

Name:- **Ragini Agarwal**

Class 5th semester

Batch:- 2019-24

Enrollment No.:- A21521519016.

DETAILED REPORT OF DAILY PROCEEDINGS & OBSERVATION

1. Date & Time (Day – 1): -
28th June

2. Name of the Court/ Law Firm/ Organisation/ Institution: - Kuldeep Pathak and associates

3. Name of the Advocate / Industry Concern with whom case attached/ work assigned: - Kuldeep Pathak

4. Name of the Parties deal with in Presence: -

5. Nature of Assignment / Proceedings & Procedure Noted: - doc file,

6. Stage of the Proceedings / Case: - online

7. Observation of Intern: - how things work in court, how to draft paper in court, research work on cases (new and old), watching videos on different topics and making summary of it , overall it was a great experience

8. Task Assigned to the Intern: - research work of ongoing cases, case study, case brief on various cases (old and new), summary of videos (provided by him), attending online court hearing of indore.

SUMMARY OF THE WORK ASSIGNED IN COMPLETE INTERNSHIP

The day to day responsibilities are to summarize Research work and case summary on landmark judgments, research on topics Provided by the organization and attending High Court of Indore virtual session and note down relevant details, to summarize videos provided by the organization.

Certificate of Internship (At the end of Report)

Not given yet, it will be given by 10th August-



SHEFALI SHARMA

Advocate

RAJASTHAN HIGH COURT, JAIPUR

E-mail: advshfalisharma@gmail.com

Mob.: 9414255666

3rd February, 2022

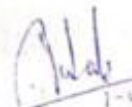
CERTIFICATE FOR INTERNSHIP

This is to certify that Ms. Rinku Chauhan, D/O Mr. Hukum Singh Chauhan, Pursuing B.B.A LL. B (Hons) from the Amity Law School, Amity University, Rajasthan and is currently in the sixth semester. She has successfully completed her internship with the firm from 3rd January 2022 to 3rd February 2022.

During her internship period, Ms. Rinku was involved in Drafting of will, application and list of witnesses, Agreement, case briefing, preparation of case analysis, case citation index and research on several issues pertaining various laws like Arbitration and conciliation act, Constitution of India, Contract Act, commercial laws, Civil and Criminal procedure code, RERA, Rent Control Act. She also attended the court proceedings.

Ms. Rinku was found to be very sincere towards the work assigned to her. She was regular and spend long hours in office to finish assigned work. The performance of Ms. Rinku Chauhan was found to be excellent. She is hardworking, soft spoken and always eager to learn.

We wish her all the best for all her future endeavours.


1-11-2022
SHEFALI SHARMA
(ADVOCATE)

Court: Chamber No. 31, 'B' Block, Ambedkar Bhawan Raj. High Court Bench, Jaipur

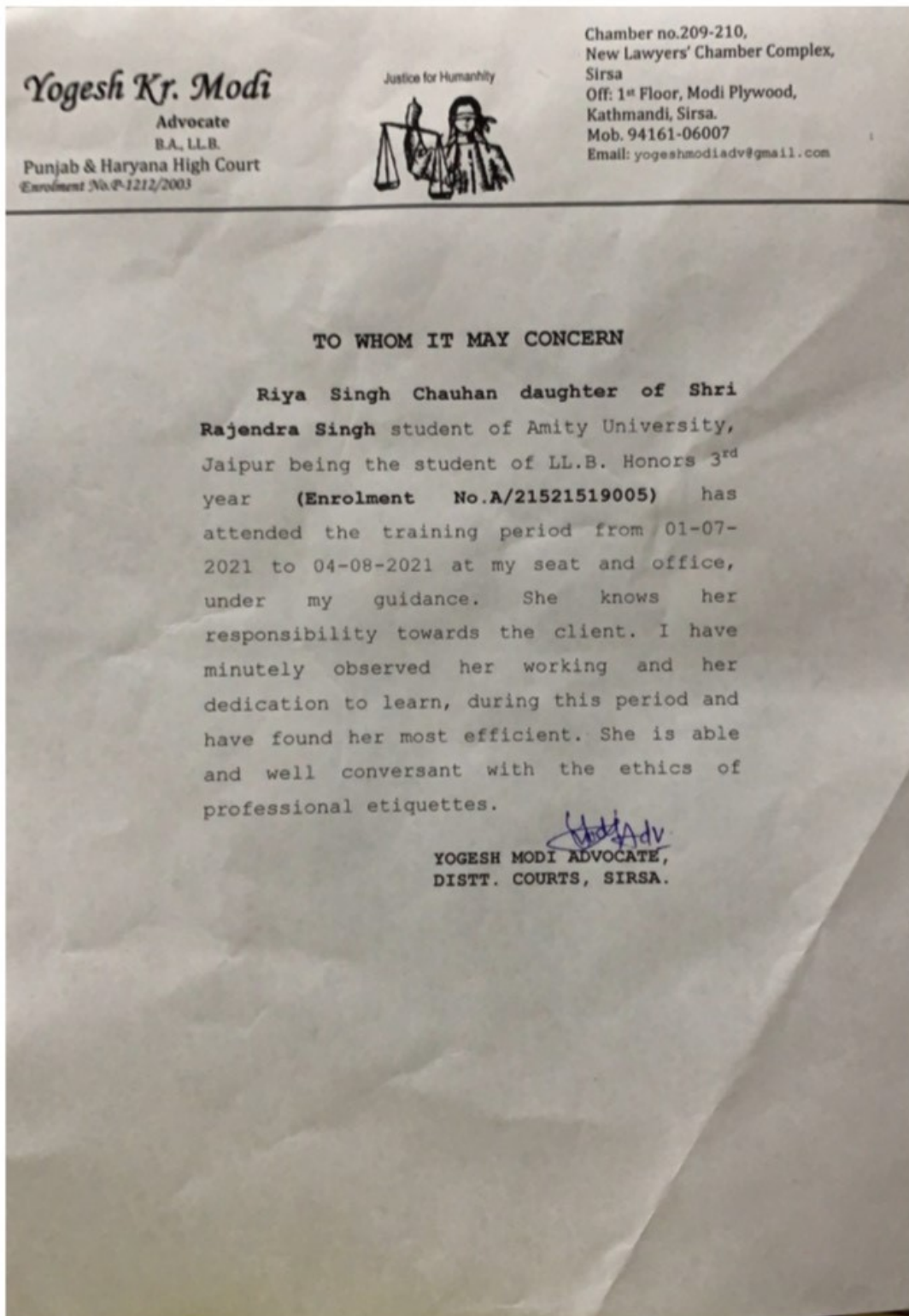
Office: House No. 1638, S.M.S Highway, Jaipur

(No subject)

Riya Singh <nishasingh7936@gmail.com>

Thu 8/5/2021 11:04 PM

To: Keshav Jha <kjha@jpr.amity.edu>





Legal And Works (LAW)

Date - 15 /01/2020

CERTIFICATE OF EXPERIENCE

This is to certify that **Ms. Shreya Nayak** , student of Amity Law School , Amity University Rajasthan , enrollment no.- A21521519006 of BALLB , has completed her internship of 3rd sem of 30 days i.e. from **16/12/2020 to 14/01/2021** under my guidance.

I found her to be motivated, duty-bound and hard working . She is well behaved and works sincerely on the assignments given to her .

I wish her best of luck for her future .

Ram Pd. Chapagain
Advocate/Notary Public



📍 Babarmahal, Kathmandu-44600, Nepal

☎ 9851029263,9813299363

✉ rchapagain1@gmail.com

🌐 legalandworks.com.np

SINGHAI & ASSOCIATES

Chamber No: 184
Saket Court Complex
Saket, New Delhi-110017
9873451320, 9971092084
office.singhaiassociates@gmail.com



TO WHOME IT MAY CONCERN


That Ms. Srishti Patwal has successfully completed her Internship at SINGHAI & ASSOCIATES.

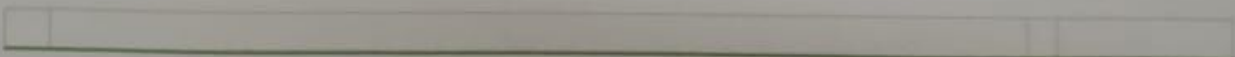
That during her internship program she has successfully displayed excellent performance with great dedication and enthusiasm. We want to congratulate her for this.

She is a talented person and has a deep knowledge of legal field. Her professionalism has impressed us very much. She is focused and committed to her work. We are pleased to have her as an intern in this short time.

We wish her all the best for the future.

Sincerely,


SINGHAI & ASSOCIATES



Rajat Ranjan
Advocate

Office and Residence
A-4, Yudhishter Marg,
C-Scheme, Jaipur
rajatranjandv@gmail.com
98929056944

Certificate of Work Experience

To whom It May Concern

It is certified that Mr. Vedant Bali S/o Mr. Shakti Bali Law student of Institute of Amity university, Jaipur has worked in my office as an Intern from the period of 31st December 2021 to 31st Jaipur 2022. During the said period Mr. Vedant Bali has been of good assistance to me in Drafting and Pleading and my appearance before Courts. Mr. Vedant Bali has assisted me in contesting important Cases. He has also been good at research in Case Laws.

Mr. Vedant Bali has a Good Moral Character and has worked efficiently towards the organizational goals in my Law Chamber. I wish him well for a good future ahead.

Jaipur

Dated: 31st Jaipur 2022

Rajat Ranjan

Advocate

Rajat Ranjan
RAJAT RANJAN

(Advocate)

A-1/4, Yudhishter Marg
C-Scheme, Jaipur 302005

DAMODAR SHARMA

Advocate

Rajasthan high court

35-a Govind Nagar East,

Jaipur (Raj) – 302002

Mobile: 9414358974

E-mail: advdamodarjpr@gmail.com

TO whom so ever it may concern

Tarannum a fourth-year student of BA-LLB Amity University at Jaipur Rajasthan interned with me from 13th December, 2021 to 17th January, 2022 during this period Tarannum worked under my guidance and attended the court proceedings before the Rajasthan high court and trial court she assisted me in preparation and research on various cases

I found her to be competent, enthusiastic, diligent, and hard-working Tarannum's keen interest in understanding and interpreting the law and grapes of the subject matter were evident in her research work.

Was happy to have her work with me and I am sure she will be an assist to any organization she works with

I wish her all the best in her future endeavours.



DAMODAR SHARMA
ADVOCATE.
(18-01-2022)



LAW OFFICES OF MITHU JAIN

ADVOCATE ON RECORD
SUPREME COURT OF INDIA

10, TANSEN MARG (FIRST FLOOR)
BENGALI MARKET,
NEW DELHI, 110001, INDIA

EST. 2020

MJ/IC/01/2020

26th July, 2020

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Mr. Aditya Kumar Upadhyay, a 3rd year B.A. LL.B. (Hons.) student at Amity Law School, Amity University, Jaipur, Rajasthan was associated with my office, as an Intern for 7 weeks that is between 29.05.2020 till 23.07.2020.

During this period, he has attended the cases listed before the Hon'ble Supreme Court of India and the Hon'ble High Court of Delhi as well as conducted legal research on various branches of law. During this period, he **assisted my office in Drafting Petitions relating to the following areas of law:**

- Domestic Violence
- Arbitrary Shipping and Demurrage charges levied on companies (*MRAI v. Union of India*; W.P. (C) No. 487/2020)
- Re-imbusement of Salaries to Doctors front lining COVID-19 (*Dr. Arushi Jain v. Union of India* Diary No. 10852/2020)

Aditya also researched on:

- Recovery/Summary Suit, Transfer Petitions under Article 139A
- Comparison of Consumer Protection Act, 1986 and 2019
- Comparison between RERA and the Consumer Protection Act, and
- Inordinate Delay in Concluding Trail (*Vinod Kumar IAS v. Union of India* MA No. 1159/2020)



LAW OFFICES OF MITHU JAIN

ADVOCATE ON RECORD
SUPREME COURT OF INDIA

10, TANSEN MARG (FIRST FLOOR)
BENGALI MARKET,
NEW DELHI, 110001, INDIA

EST. 2020

Aditya is an extremely dedicated and hardworking law student, who has displayed exemplary responsiveness, sincerity and met with deadlines. He will be an asset to any office he joins. I wish him all the best for his future endeavors.

A handwritten signature in black ink, appearing to read 'Mithu Jain', with a long horizontal stroke extending to the right.

(MITHU JAIN)

Advocate on Record
Law Offices of Mithu Jain
Supreme Court of India



Eduindex News - (A News Media Organisation)

in Association with Hariyali NGO (www.hariyali.net)

Experience Certificate

September 07, 2020 (Date of Issue) Certificate Ref. no.
EduINDEX000284

To Whomsoever It May Concern

This is certified that Astha Mishra (Pursuing degree in Amity Law School, Rajasthan Amity Law School, Rajasthan) has worked with us (Hariyali NGO with Training Support from Eduindex News) on the "Eduindex News" Content writing project undertaken our organization from 4th July 2020 to 4th August 2020

Intern has contributed intern time and expertise in researching and writing on selected topics. And intern content writing work can be viewed from

<https://eduindexnews.com/author/mishraastha/>

Intern has undertaken the assigned responsibility with due care and dedication. We wish intern grand success in future.

HR Team, EDUINDEX News (career@eduindex.org)

<https://eduindexnews.com> For News and Editorial news@eduindex.org & HR team career@eduindex.org



Eduindex News - (A News Media Organisation)

in Association with Hariyali NGO (www.hariyali.net)

Experience Certificate

August 10, 2020 (Date of Issue) Certificate Ref. no. EduINDEX000337

To Whomsoever It May Concern

This is certified that Bhagyashree Chauhan (Pursuing degree in Amity University, Rajasthan SP-1 Kant Kalwar, NH11C, R11CO Industrial Area, Jaipur, Rajasthan 303007) has worked with us (Hariyali NGO with Training Support from Eduindex News) on the "Eduindex News" Content writing project undertaken by our organization from 10th July 2020 to 10th August 2020

Intern has contributed intern time and expertise in researching and writing on selected topics. And intern content writing work can be viewed from

<https://eduindexnews.com/author/bhagyashreec18062000/>

Intern has undertaken the assigned responsibility with due care and dedication. We wish intern grand success in future.

HR Team, EDUINDEX News (career@eduindex.org)

<https://eduindexnews.com> For News and Editorial news@eduindex.org & HR team career@eduindex.org

Dated: 1.02.2022

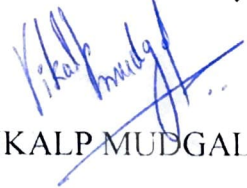
TO WHOMSOEVER IT MAY CONCERN

This is to certify that Ms. Deepti, student of 4th year, Enrollment No. A21511118017, B.A.L.L.B (Hons.), of Amity Law School, Amity University Rajasthan has completed her internship under my guidance, from 1st January 2022 to 31st January 2022.

During her internship she worked diligently, participated as a team member and did research on issues of Criminal law, Constitutional law, Civil law, family law, labour law and service matters. She assisted in drafting and pleading in various cases. She has keenness for learning and improving. She also possesses skill of analyzing the issues and applying the same in a given set of facts. During her internship, she prepared herself as a diligent and meticulous professional.

I wish her good luck in all her future endeavours.

Yours truly



VIKALP MUDGAL

DESIGNATED PARTNER

MUDGAL AND SHARMA, Advocates



PARTNERS: VIKALP MUDGAL AND KSHITIJ MUDGAL
LLPIN: AAN-6435

Office: Chamber No. 111, CK Daphtary Block, Supreme Court Lawyers' Chamber, Tilak Lane, New Delhi-01

Phone: 011-23073366

E-mail: mudgalandsharma@gmail.com

J.P.Sharma & Associates

Advocates

427/11, Mundra Sadan Behind Dr. Kshetrapal, Kutchery Rd., Ajmer (Raj.)-305001

Mo. No. : 9828572134, Ph. No. : 9982672134

Date:-01-08-2021

TO WHOM IT MAY CONCERN

This is to certify that Mr. Mudita Agarwal having enrollment no. A21511118041 STUDENT OF 4th YEAR B.A.LL.B. (Hons) pursuing the said course from AMITY UNIVERSITY, AMITY SCHOOL OF LAW JAIPUR was undertaken as an apprentice under my guidance from the period of 1st of July 2021 to 31st July 2021. I am glad that she has completed his internship successfully and during the tenure gain knowledge in the following field:

- 1- Legal Research
- 2- Drafting Legal Notices under section 138 of N.I.Act.
- 3- Drafting of matrimonial petitions under sec 13-B, sec 9 Hindu Marriage Act and sec 12 Domestic Violence Act.
- 4- Drafting of Sale agreement, Adoption deed, Gift deed, Release deed etc.
- 5- Attended permanent lok adalat and legal aid camps.

I have found her to be punctual, regular, hardworking and have shown keen in the field of law. He was worked sincerely and dedicatedly.

I wish her all the best for future endeavours.



J. P. Sharma
(Advocate)

CERTIFICATE OF INTERNSHIP

This acknowledges that

RIYA RAJ

Of Amity University, Rajasthan has successfully completed the 6 Weeks Internship at LexZilla starting from 20th July to 05th September ,2020.

During the course of internship,She has depicted immense interest and potential for sustained Legal Research and Analysis. She exhibited a great level of team work during the Internship period. She is dedicated, hardworking and possesses good leadership skills. She would be an asset to any Organisation /Firm she would join in future.

We wish her success in her future endeavors.



ADVISORY PARTNER

Handwritten signature of Yamini Atreya in black ink.

YAMINI ATREYA

FOUNDER
LexZilla

Handwritten signature of Aditya Singh in blue ink.

ADITYA SINGH

ADVISORY BOARD MEMBER
CHAIRMAN,
ALEXIS GROUP

Handwritten signature of Mohit Parihar in black ink.

MOHIT PARIHAR

CO-FOUNDER
LexZilla

Shri Dharmendra Kumar Sharma

Advocate

Disctriet & Session Court,
Near Gate no. 3 CJM Office
Road Civil Court Agra U.P.
Mob.No. 8218347108

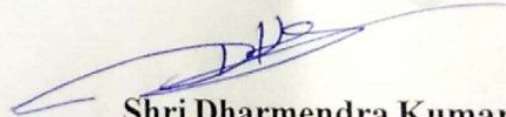
Ref.

Date: 15-07-2021

Certified that Shikha Singh D/o Shri Virendra Singh Chahar Resident of Shatripuram Agra -282007 have gone through the internship from 1st day of june 2021 to 15th day of july 2021 under the supervision and direction of Shri Dharmendra Kumar Sharma Advocate.

She is a honest dedicated and hard working person

I wish her all success in her life.



Shri Dharmendra Kumar Sharma

Advocate

D K. Snarma
Advocate
Civil Court, Agra
F.n No. 9143 '11

INTERNSHIP DIARY MAINTAINED BY THE STUDENT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN



SUMMER/WINTER INTERNSHIP REPORT DIARY

(INTERNSHIP REPORT)

Submitted before the Internship & Placement Committee of
Amity Law School, AUR, Jaipur

Submitted by:-

Name:- Shriyank Kumar

Class- Ba.IIb.(H)

Batch:- 2018-2023

Enrollment No.:- A21511118025

DETAILED REPORT OF DAILY PROCEEDINGS & OBSERVATION

1. Date & Time (Day – 1): -

1.10.2020 10 a.m.- 5 p.m.

2. Name of the Court/ Law Firm/ Organisation/ Institution: -

BARUA SINGH & KUSHWAHA LEGAL

3. Name of the Advocate / Industry Concern with whom case attached/ work assigned: -

Adv. Harshal Narayan

4. Name of the Parties deal with in Presence: -

Adv. Harshal Narayan

5. Nature of Assignment / Proceedings & Procedure Noted: -

Criminal, family law nature and motor vehicle act.

6. Stage of the Proceedings / Case: -

Virtual Hearings of arguments, Research work and other procedures.

7. Observation of Intern: -

Arguments of lawyer, files submissions, other legal work

8. Task Assigned to the Intern: -

Submission of files, preparation of arguments, preparation of various applications.

SUMMARY OF THE WORK ASSIGNED IN COMPLETE INTERNSHIP

- **I was assigned with the work to maintain all the case files and applications.**
- **To write applications for affidavits and preparation for will.**
- **I was assigned to read charge sheet.**
- **Wrote Adjournment on behalf of advocate.**
- **I prepared arguments for my lawyer.**
- **I have done research work for my lawyer.**
- **I learned the procedure for transports seized.**
- **Heard various case proceedings.**

Certificate of Internship (At the end of Report)



BARUA, SINGH & KUSHWAHA LEGAL

Office:C-62, 1ST Floor, Nizamuddin (E), New-Delhi-110013

Date: 01.11.2020

CERTIFICATE OF EXCELLENCE

This is to certify that Mr. Shriyank Kumar, student of IIIrd year, B.A, LL.B from Amity University, Rajasthan (Jaipur) had completed his online internship for 30 Days i.e during the period 01.10.2020 to 01.11.2020 with our Legal Team.

During the course of this online internship, he has handled many assignments intending to enhance his legal knowledge, drafting skills, and acclimatizing working experience. He has been given exposure to virtual hearings of various Courts in India to understand the Court procedures and day-to-day work.

Mr. Shriyank Kumar has shown immense interest and keenness in day-to-day working and has shown great determination, dedication, and resolve during his stint in the internship.

We wish him great success and the best of luck in his future endeavors.

H. Narayan
Harshal Narayan
Partner (BSK Legal)
Harshal Narayan
Designated Partner

INTERNSHIP DIARY MAINTAINED BY THE STUDENT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN



SUMMER INTERNSHIP REPORT DIARY

(INTERNSHIP REPORT)

Submitted before the Internship & Placement Committee of
Amity Law School, AUR, Jaipur

Submitted by:-

Name:- Shruti Gupta

Class:- B.A.LL.B (Hons.)

Batch:- 2018-23

Enrollment No.:- A21511118044

DETAILED REPORT OF DAILY PROCEEDINGS & OBSERVATION

1. Date & Time (Day – 1): - 10th June 2021
2. Name of the Court/ Law Firm/ Organisation/ Institution: - Think India Legal Aid Forum, Delhi
3. Name of the Advocate / Industry Concern with whom case attached/ work assigned: - Adv. Veer Vikrant Singh, Deputy Advocate General, MP
4. Name of the Parties deal with in Presence: -
5. Nature of Assignment / Proceedings & Procedure Noted:
6. Stage of the Proceedings / Case: -
7. Observation of Intern :- I observed details regarding research and drafting of complaints in various forums and I also did a lot of drafting work to file complaints with various forums such as National Commission for Scheduled Castes, National Commission for Scheduled Tribes, National Commission for Women etc and along with it I also worked upon my research methodologies. I also observed how to frame arguments and how evidences are conducted and how to counsel the victims and provide them legal aid.
8. Task Assigned to the Intern: - Research, Drafting and Counseling

SUMMARY OF THE WORK ASSIGNED IN COMPLETE INTERNSHIP

Day and Date	Work Assigned
Day 1 (June 10, 2021)	Orientation
Day 2 (June 11)	Research on provisions of SC/ST Act
Day 3 (June 12)	Research on provisions of SC/ST Act
Day 4 (June 14)	Briefing about drafting complaints in National Commission for Scheduled Castes, National Commission for Scheduled Tribes.
Day 5 (June 15)	Drafting of complaints to be filed in NCSC, NCST for victims of post poll Bengal violence.

Day 6 (June 16)	Drafting of complaints
Day 7 (June 17)	Drafting of complaints
Day 8 (June 18)	Drafting of complaints
Day 9 (June 19)	Drafting of complaints
Day 10 (June 21)	Drafting of complaints
Day 11 (June 22)	Discussion regarding counseling of victims of post poll Bengal violence
Day 12 (June 23)	Counseling of victims
Day 13 (June 24)	Counseling of victims
Day 14 (June 25)	Counseling of victims
Day 15 (June 26)	Counseling of victims
Day 16 (June 28)	Counseling of victims
Day 17 (June 29)	Counseling of victims
Day 18 (June 30)	Counseling of victims
Day 19 (July 1)	Research regarding provisions to file complaint with National Commission for Women
Day 20 (July 2)	Research regarding provisions to file complaint with National Commission for Women
Day 21 (July 3)	Drafting of complaints
Day 22 (July 5)	Drafting of complaints
Day 23 (July 6)	Drafting of complaints
Day 24 (July 7)	Drafting of complaints
Day 25 (July 8)	Drafting of complaints
Day 26 (July 9)	Submission of the work assigned
Day 27 (July 10)	Detailed discussion regarding all the work done during internship

Certificate of Internship



Shruti Gupta .pdf

INTERNSHIP REPORT:-

PERSONAL DETAILS

NAME- RICHA BOHRA

FATHER'S NAME- Mr. RATAN LAL BOHRA

UNIVERSITY:- AMITY UNIVERSITY RAJASTHAN

YEAR OF STUDY:- 4TH YEAR.

COURSE:- BBA LL.B(IPR Hons).

INTERNSHIP DURATION:- 01/01/2022- 31/01/2022.

MAIL ID:- bohraricha512@gmail.com

ACTS AND STATUTES

- Rajasthan Service Rules, 1956.
- Rajasthan State Insurance.
- General Provident Fund Rules.
- The Copyright Act, 1957
- The Trademarks Act, 1999.
- The Negotiable Instruments Act, 1881.
- The commercial Courts Act, 2015.
- John Doe Order.
- Companies Act, 2013.
- The Companies (Incorporation) Rules, 2014.
- The Insurance Act, 1938.
- The Legal Services Authority Act, 1987
- Indian Penal Code, 1960
- The Code of Criminal Procedure, 1973
- Family Law
- Prevention of Money Laundering Act, 2002

- Prevention of Corruption Act, 1988
- Rajasthan Advocates Welfare Fund Act, 1987
- The Indian Constitution, 1950
- The Arbitration and Conciliation act, 1996

CASE BRIEFS, DRAFTING AND RESEARCH WORK:-

- ✓ Prepared case brief for the case “Sabina Bano v Max Life Insurance”.
- ✓ Prepared case brief on Purva Sevak v Max Life Insurance.
- ✓ Prepared case brief on Rahul Meena v Max Life Insurance Pvt. Ltd.
- ✓ Prepared case brief on Rohit v Bharti AxA insurance.
- ✓ M/s Nimawat Society v Shalini Bubna
 - Researched on the jurisdiction of commercial courts.
 - Researched on the topic whether “Blank Cheque issued for the purpose of security can attract the liability under section 138 NI Act”.
 - Researched on the criminal liability of the directors of company under section 141 NI act r/w Section 138 NI act.
- ✓ Researched the judgements whether a RAS officer is entitled to PF and other benefits after he lost his Pass Book and no e-passbook was available.
- ✓ Researched on the jurisdiction and prepared queries with regard to Sumit Bhalotia Case.
- ✓ Researched and drafted legal points about Sporta Technologies Pvt Ltd (Dream 11) case, particularly regarding John Doe order and Broadcasting rights.
- ✓ Researched recent case laws about Maintenance.
- ✓ Drafted statement of claims in Wirksam Pharma v M/s Nem Enterprise.
- ✓ Prepared case analysis on “Humdard National Foundation (India) v Sadar Laboratories Pvt Ltd” (Rooh Afza v Dil Afza case)
- ✓ Researched case laws on Order 41, Rule 7 CPC.
- ✓ Researched recent judgements with regard to the fundamental rights declared by the Supreme Court.
- ✓ Drafted reply for Dr Anshu Bharadwaj v University of Rajasthan (Meeta Impleadment).
- ✓ Vikas Lakhani v Devendra Agarwal and ors.
 - Prepared case brief.
 - Researched on class action and derivative suits.
 - Researched on section 166 of Companies Act, 2013.

- Researched on the remedies available against the director using his personal account for the transaction of company.
- Researched on different remedies available for the client.

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Ms. Yashvee Singhal, studying in Amity Law School, (Amity University), Rajasthan, 6th Semester, has undertaken virtual training as a law intern for a period of 4 (Four) weeks, commencing from the 4th of April, 2021 till the 3rd of May, 2021, in my law office at Kolkata.

During the period of virtual internship she has provided good assistance to my office as a law intern and helped in preparing summary of several cases. She was also found to be methodical and always used to furnish her assignments within time and had a keen interest in knowing the nuances of law. Some of the work done by her are as follows:-

1. Research pertaining to Negotiable Instruments Act, 1881 and its latest Amendment.
2. Drafting of Bail petitions.
3. Research pertaining to various case laws relating to miscellaneous criminal cases.
4. Making case synopsis including list of dates relating to different cases.
5. Research pertaining to Consumer Protection Act, 1986 and Consumer Protection Act, 2019.

Ms. Yashvee Singhal is a sincere, hardworking and diligent student. Her commitment and dedication towards work will be appreciated in the future also.



Subhanwita Ghosh

(SUBHANWITA GHOSH)

Advocate

Chairman/Designated Partner

VINOD DHANJANI & ASSOCIATES

ADVOCATES

Mahalaxmi Dirgha,
Opposite Court ADJ No.- 11
Jaipur Metropolitan,
District and Session Court,
Banipark, Jaipur.

Office :2/60,
Jawahar Nagar,
Opp. Bank of India,
Jaipur (Raj.)

Mob : 9001999990

E-mail : dhanjanivinod@gmail.com

Dated :7th October, 2021

TO WHOMSOEVER IT MAY CONCERN

This is to certify that **Miss Kirti Goyal**, student of Amity University Jaipur , Rajasthan of BBA L.LB(h) (Spz. in Corporate Law) , IV Year has completed her Summer Internship under my supervision w.e.f. 1st September to 30th September 2021.

I found she is sincere, hardworking, resourceful, creative person and result oriented. She worked well as part of a team during her tenure. During this period, she attended various Courts and Criminal proceedings under my supervision. She also assisted in research work of cases assigned to her. I have found her quite willing and any work assigned to her was attended with a sense of expedition.

I take this opportunity to thanks her and wish her All the Best for her Future.



VINOD DHANJANI

ADVOCATE

Vinod Dhanjani
Advocate,
Enrolment No. R-867/1999



Certificate of Internship

This to certify that

Monika Bagaria

Amity Law School, Jaipur

has completed an internship at
Indian School of Law, Policy & Governance (ISLPG)
from January 04, 2021 - February 04, 2021.

During this period, she carried out all tasks assigned
to her in a diligent and conscientious manner and we
wish her the very best in all her future endeavours.

S. Mohanty

SASWAT MOHANTY

Chief Executive Officer
ISLPG

Aditya Singh

ADITYA SINGH

Founder & Chair
ISLPG

Certificate Number: ISLPG/0121/003



Jus Commune

CERTIFICATE OF INTERNSHIP

This is to certify that **Gaurav Purohit** student of **Amity University, Rajasthan** is being awarded the certificate of internship for the successful completion of the internship from 1st December 2020 to 4th January 2021. Throughout the internship, he/she was found to be punctual, hardworking and sincere.

He/she furnished 4 articles through the period of one month. The articles were well researched and intricately written.



Lavanya Rai

Lavanya Rai
FOUNDER

A. Mishra

Aditi Mishra
CO-FOUNDER



August 2, 2021

This is to certify that Kashvi Katewa, daughter Mr. Alok Katewa student of 6th Semester, Amity Law School, Rajasthan, completed her Internship with our organization from July 1st, 2021 to July 30th, 2021 furthering her practical training during the five year integrated law programme.

During her internship, she was involved in various legal matters ongoing at our office and researched on several landmark judgments of the Supreme Court of India.

She concluded her Internship by submitting a Research Paper on " New IT Rules, 2021 : Privacy vs Public Safety".

Kashvi is an efficient and a diligent worker and reflects immense capabilities of doing research in various disciplines of law.

We wish her a bright future.



PURVI MATHUR

PARTNER

For

KP Associates

Advocates & Consultants

INTERNSHIP DIARY MAINTAINED BY THE STUDENT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN



SUMMER/WINTER INTERNSHIP REPORT DIARY

(INTERNSHIP REPORT)

Submitted before the Internship & Placement Committee of
Amity Law School, AUR, Jaipur

Submitted by:-

Name:- Tanmay Sharma

Class- B.Com LLB (H)

Batch:-2017-2022

Enrollment No.:- A21521617003

SUSHIL MALHOTRA
ADVOCATE
RAJASTHAN HIGH COURT

6, Panchwati colony
opposite P.W.D. choki
Kalwar Road, Jhotwara,
JAIPUR-302012 RAJ.
Mobile: 9414048718

DATE: 02-12-2020

CERTIFICATE

This is to certify that Mr. Tanmay Sharma studying in 4th Year (VII Semester) B.Com LLB (Hons) at Amity University, Rajasthan has worked under my guidance as an intern from 1st September 2020 to 30th November 2020. He has been a bonafide intern, his contribution and skills in understanding and following my guidelines is appreciated.

During his brief stint, he got himself acquainted with various laws and legal Procedures. He has observed and took keen interest in the cases related with Indian Penal Code, Code of Criminal Procedure, Domestic Violence Act, Hindu Marriage Act, The Negotiable Instrument Act, POCSO Act and Other Laws related to criminal and civil matters.

During his internship, his performance and level of knowledge has been excellent. He was diligent, sincere and hardworking with respect to the responsibilities and assignments allotted to him.

I wish him all the best for him future endeavors!


SUSHIL MALHOTRA
ADVOCATE
Rajasthan High Court, Jaipur
M. 9414048718, R. 0141-2341212
(Sushil Kumar Malhotra)
Advocate
Reg. No. R/549/1984

SHASHANK AGARWAL

ADVOCATE
RAJASTHAN HIGH COURT

President: National Law University Jodhpur Alumni Association
Ex Vice President: Rajasthan High Court Bar Association, Jaipur
Trustee: Satish Chandra Agarwal Memorial Charitable Trust

B.A.LL.B.(Hons.)
Certificate in Cyber Law
Advance Certificate in Companies Act

To Whom It May Concern

This is to certify that **Deepesh Katariya**, S/O **Chandraprakash Katariya** student of Fifth Year B.com LL.B.(Hons) at Amity University, Rajasthan, as intern with us at our office for the month of **September 2021**.

During the course of his internship, he conducted useful research on various legal queries arising out of Commercial Court Act, Arbitration and Conciliation Act, Consumer Protection Act, Contract Act, Negotiable Instrument Act, etc. He also observed Court proceedings before Hon'ble High Court and assisted in drafting of Writ Petitions, Arbitration matters, legal notices and vetting of Agreements.

We found him to be pleasant, sincere and hard working. He has a strong aptitude for learning.

We wish him all the best in his future endeavors.



Shashank Agarwal

KESHAV SANGHI
ADVOCATE
DISTT. & SESSIONS COURT NARNAUL



MOBILE NO.: 9355152200,

Advocate

Chamber No. 23, District Courts, Narnaul, District Mohindergarh (Haryana).
Resi-Cum-Office:- Mohalla Chanduwara, Narnaul, District Mahendergarh (Haryana) -123001

Law Internship Certificate
TO WHOM IT MAY CONCERN

This is to certify that Ms. Jhanvi Aggarwal a student of School of Law- Amity University, Jaipur has successfully completed has internship from 1st July 2021 to 30th July 2021 under the guidance of me.

During the period of her internship program with us, she had been exposed to different processes and was found diligent, hardworking and inquisitive. I have found her to be motivated, have excellent behavior and is punctual with her work.

We wish her every success in her life and career.

Date:- 01-08-2021

Submitted by

Keshav Sanghi, Senior Advocate,
District Court Narnaul.



Legal Trendsetters in association with Juhi Arora & Associates

CERTIFICATE OF VIRTUAL INTERNSHIP

This is to certify that *Parth Vaza*, a 2nd year student of Amity University Rajasthan, has successfully completed the virtual internship with Advocate Juhi Arora & Associates for a period from *1st July 2021 to 31st June 2021* and has researched actively on various aspects and subjects of Law.

During this internship, Parth Vaza attended the session on various topics such as Intricacies of Family law, Arguments & Presentation Skills, Art of cross-examination, and Drafting Skills. Also, He was involved in legal drafting.

He was found hardworking, duty bound and inquisitive. On the basis of this He is marked with Excellent. We wish Parth Vaza good luck for his future endeavours

Adv. Juhi Arora
(Advocate)

Juhi Arora Advocate & Associates

Add : Chamber No-622, 6th Floor, Lawyers's Chamber Block, Saket Court Complex, Saket, Delhi - 110017, Delhi

Joel

Advocate on Record, Supreme Court of India

M.L.F. (Oxford), A.C.S., B.B.A. LL.B.

F-10, LGF, Jangpura Extension,
New Delhi-110014

9873841456(m); 011-40348896(o)
pjjoel@yahoo.com

18th August, 2021

TO WHOMSOEVER IT MAY CONCERN

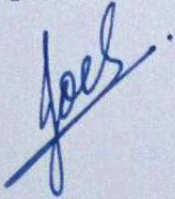
This is to certify that Ms. Rishika Jain, who is pursuing her BCom. LL. B (H), 5th SEMESTER (3rd YEAR) from Amity University Rajasthan, has completed her internship from 19th July 2021 to 18th August 2021 under my guidance and tutelage.

During the internship, she was assigned various tasks including drafting replies, written submissions, transfer petitions, RERA complaints, opinion notes and had researched extensively in matters relating to criminal trials, Binding Financial Agreement, Law of parity and RERA. She had also worked with me on various important cases.

Along with the above said activities, **Rishika Jain** has also attended various Virtual Court Proceedings at Supreme Court, District Courts and High Court as well as District Consumer Forum and has attended various professional meetings concerning various cases.

Rishika Jain has been an integral part of the office environment for the duration of her internship. She also possesses great interpersonal skills and has excellent insight towards the applicability of laws and is a great researcher. The best skill evaluation as per me is that she has good skills for research. She has been very punctual and immensely dedicated towards work during the said internship. Everyone in chamber relied on her as she executed all the tasks at hand with sincerity and honesty. I am assured she has a bright future in the field of Law, and

I wish her well for the same.



JOEL

Advocate-on-Record
Supreme Court of India
AOR Code - 2642

F-10, Lower Ground Floor,
Jangpura Extension, New Delhi-110014

*Ratnesh R. Gupta
Manish R. Gupta
High Court Advocate*



Mob. No. : 98260-35670
98264-65670

Office & Res. :
10/3, Jail Road, Indore (M.P.)
E-Mail- ratneshgupta898@gmail.com

DATE- 19/07/2021

TO WHOMSOEVER IT MAY CONCERN

This is to certify that **Mr. Rohit Modh** of Indore (M.P.) from **Amity University Jaipur** in 4th semester has completed his internship in my office from 15-06-2021 to 15-07-2021 at Indore his behaviour is good.

I wish him the best for his good work.

RATNESH R. GUPTA
High Court Advocate

S. NO. IC/2021/97
DATED- 16/09/2021



LAW INSIDER

CERTIFICATE OF INTERNSHIP

THIS IS TO CERTIFY THAT

GREEVA GARG

Has successfully completed virtual Internship between 14/06/2021 to 15/09/2021 at Law Insider.

ANUP K TIWARI
EDITOR IN CHIEF
WWW.LAWINSIDER.IN



Legalvise



22nd September 2021

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Ms. Sunidhi Jangir, a 4th Year [B. Com LL.B] student of Amity University has participated in our virtual internship program from 1 August 2021 to 22nd September 2021.

During this period she understood the process of drafting a legal notice, checking case status in various courts, basics of legal writing, and concepts of bail, consumer laws, laws on prevention of cruelty to animals and laws on Insolvency & Bankruptcy in India. She has also taken part in our virtual mock sessions for drafting an application seeking custody of the property during pendency of litigation.

Sunidhi Jangir has shown keen interest in research and writing. We wish her all the best for her future endeavours.



Gaurav Wadhwa
Associate & Project Head

Please Note: Do not hesitate to contact us at thelegalvise@gmail.com regarding any feedback on the intern!

 thelegalvise@gmail.com

 +91-9671404000

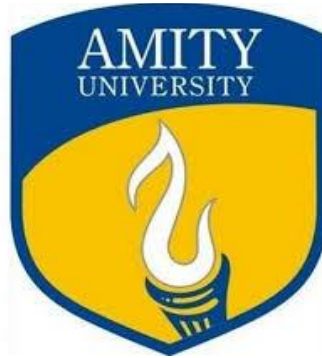
Address: B-43/2/1st Fl, New Pochhi, Gurgaon

Website: www.legalvise.in

**The Dissertation to be Submitted to
Amity Law School**

Constituent college of

**AMITY UNIVERSITY
Jaipur, Rajasthan**



Topic :- Police Investigation under Code of Criminal Procedure, 1973

**In partial fulfilment of the requirements for the Degree of Five Year
B.COM. LL.B. (Hons.) in Criminal Law**

**Under the Guidance of:
Dr. Vinod Kumar
Associate Professor
Amity Law School
Amity University, Rajasthan**

**Submitted by:
Aadil Hussain
B.COM.LL.B.(Hons.)**

DECLARATION

I, hereby declare that the dissertation entitled “**Police Investigation under Code of Criminal Procedure, 1973**” is a record of individual and original research work carried out by me under the supervision of Dr. Vinod Kumar, Faculty of law, Amity University, Rajasthan. The same has not been submitted for the award of any diploma, degree, or similar title to any other university

Date:25/04/2021

Aadil Hussain

B.COM. LL.B.(Hons.)

Enrolment No A21521616006

Batch 2016-2021

CERTIFICATE

This is to certify that dissertation Entitled “**Police Investigation under Code of Criminal Procedure, 1973**” Which is being submitted by **Aadil Hussain** for the award of the degree of Bachelor of Laws is an independent and original research work carried out by he/her.

The dissertation is worthy of consideration for the award of Five Year

B.COM. LL.B.(Hons.) Degree of Amity Law School, AMITY UNIVERSITY, Rajasthan .

Aadil Hussain has worked under my guidance and supervision to fulfill all requirements for the submission of this dissertation.

The conduct of research scholar remained excellent during the period of research.

Date:25/04/2021

Dr. Vinod Kumar
Associate Professor
Amity Law
School
Amity University,
Rajasthan

CHILD RIGHTS IN INDIA WITH REFERENCE OF POCSO ACT

Dissertation Submitted in Partial Fulfillment of the Academic Requirement of Degree of **Bachelor of
Laws (B.COM. LL.B.(H.))** in (Criminal Law)

At

AMITY UNIVERSITY RAJASTHAN

SUBMITTED BY

**Adnan Belim
A21521616003**

UNDER THE SUPERVISION OF

**Mr. Prateek Deol
Assistant Professor**



SP-1 Kant Kalwar,
NH11C, RIICO Industrial Area, Jaipur, Rajasthan
303007

SUPERVISOR'S CERTIFICATE

It gives me pleasure to certify that **Adnan Belim**, Student of B. COM.LL.B. (10th semester), bearing **Criminal Law Hons.** has completed his Dissertation entitled “**Child Right in India with reference of POCSO Act**” under my supervision **Mr. Prateek Deol**, has shown her keen interest in the aforesaid study of Law and has conducted this work for the submission in partial fulfillment of the requirement for award of the degree of Bachelor of Laws.

Place: Jaipur

Date: 30th April 2021

DECLARATION

I Adnan Belim, here by declared that this Dissertation Entitled as **“Child Rights in India with reference of POCSO Act”** is the result of my own research. All the primary and secondary sources of information have been duly acknowledged.

Date: 30th April 2021

Dissertation submitted in partial fulfilment for the academic requirement of Degree of Bachelor of
Law [B.Com. LL. B (H)] in (Corporate Law)

at

Amity University, Rajasthan

SUBMITTED BY

Ankit Runthala

A21521616011

Batch – 2016- 2021

UNDER THE SUPERVISION OF

Associate Prof. Dr. Puneet Bafna



AT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN

SP-1 Kant Kalwar, NH11C, RIICO Industrial Area, Jaipur, Rajasthan 303007

AMITY LAW SCHOOL
AMITY UNIVERSITY RAJASTHAN
JAIPUR



CERTIFICATE

This is to certify that **Ankit Runthala** enrollment number: **A21521616011** is a student of Amity Law School, Amity University Rajasthan has completed his dissertation, to be submitted in partial fulfilment of the requirement for the degree of Bachelors of Law bearing the title “**A study of corporate social responsibility practices in India- A critical Evaluation**”. To the best of my knowledge the dissertation is a result of his research, is an original work carried out by my student under by supervision.

DR. PUNEET BAFNA
Associate Professor,
Amity Law School
Amity University Rajasthan

AMITY LAW SCHOOL
AMITY UNIVERSITY RAJASTHAN
JAIPUR



ACKNOWLEDGEMENT

With sincere regard, I **Ankit Runthala**, would like to thank **Dr. Puneet Bafna**, Associate Professor, AMITY LAW SCHOOL AUR, Rajasthan, for his proper and constant guidance in conducting this research titled “**A study of corporate social responsibility practices in India- A critical Evaluation** “. I sincerely admit that without his invaluable advice and constant guidance, this work would have been impossible. I must acknowledge that the effort which I was able to strive towards this work would have never be possible but for the concerns, guidance and well-wishes of him. And I could only hope that the lessons learnt during the entire interaction would help me a great deal in establishing a better path and gain in depth approach of topic involved herein. And I wish to emulate it with utmost sincerity.

I am also very thankful to our Director Mrs. Saroj Bohra Mam and all the teachers of the Amity Law School for their immense help. Co-operation love and affection extended towards me during the entire curriculum.

I would also like to thank my parents and friends who helped me a lot in finalizing this dissertation within limited time frame.

Ankit Runthala
B.com LL.b (H) 10th Semester
Amity Law School
A21521616011

**A CRITICAL STUDY OF CORPORATE GOVERNANCE WITH
REFERNCE TO INVESTOR PROTECTION UNDER COMPANY LAW**

A Dissertation Report

Submitted by

Aayush Singhal

In partial fulfilment for the award of degree

Of

BCOM-LLB (H)

IN

LAW



AT

AMITY LAW SCHOOL

AMITY UNIVERSITY RAJASTHAN

JAIPUR

Submitted By

Aayush Singhal

A21521616004

BCOM-LLB (H) X SEMESTER

Supervised By

Dr. Ashu Maharshi

ASSOCIATE PROFESSOR

AMITY LAW SCHOOL

CERTIFICATE

This is to certify that **Aayush Singhal** student of BCOM. LLB (H). 2016 – 2021 Batch, Amity Law School, Amity University Rajasthan has prepared a Dissertation on **A CRITICAL STUDY OF CORPORATE GOVERNANCE WITH REFERNCE TO INVESTOR PROTECTION UNDER COMPANY LAW** under my guidance and supervision.

Dr. Ashu Maharshi
Associate Professor
Amity Law School,
Amity University Rajasthan

**DIMENSIONS OF WHITE COLLAR CRIME IN
INDIA: COMPARATIVE ANALYSIS WITH UNITED
STATES OF AMERICA**

**DISSERTATION SUBMITTED TO THE AMITY UNIVERSITY,
JAIPUR IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE AWARD OF THE DEGREE OF
BCOM LLB (H)**



Submitted to = Vedansh Sir

Made by = Bharat Bengani

Course =Bcomllb{H}

Semester =10th

ACKNOWLEDGEMENT

The successful completion of the booklet remains a daunting task has succeeded with the participation of a large number of people. First and most importantly, I would like to thank Professor,(____*professors name here*_____) Vice-Chancellor,(____*vice chancellors name here*_____) of (_*University name here*_____) and

The registrar, (____*University name here*_____), who accepted my article and allowed me to work in an area of my interests.

I'm thnakfull for the constant guidance and support of these very extraordinarily talented people in their respective fields.

It would not have been possible without the support of our very supportive library staff so I would like to thank them too as they have inspired me also in one or the other way. I would also grateful to my batch mates who have helped me, supported me and always created a healthy competitive environment in the college and hence inspiring me and giving me power to attain what I have attained today, the knowledge and enhance in my experience by making this dissertation.

And lastly I want extend my gratitude to the ones who are always there for me, who have always been the pillar on my road of success that is my parents. They are the ones who have provided me every thing I needed and because of them today I'm able to make this dissertation. I thank them for their patience, believe and trust in me and being my pillars in my disheartened moments

**AN ANALYTICAL STUDY OF CORPORATE CRIMINAL
LIABILITY WITH SPECIAL REFERENCE TO LIABILITY OF
DIRECTOR**

**DISSERTATION SUBMITTED TO THE AMITY UNIVERSITY,
JAIPUR IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE AWARD OF THE DEGREE OF
BA LLB (H)**



Submitted to:

Dr. Ashu Maharshi

Associate Prof

Submitted By:-

Eshan Sharma

10th Semester

Enrollment Number

CHAPTER-I

INTRODUCTION

Historically transnational trading was conducted by Greek, Phoenician and Mesopotamian merchants; but gradually Europe and the Middle East stepped into feudalism following the fall of the Roman Empire, and trade between nations became more difficult because of the wars between feudal lords and the Church's influence in prohibiting trade with the Muslim States. The commerce established by the later merchant traders of Italy can be considered forerunners of the multinational firms. The Crusades, which started in 1095, caused the city States of Genoa, Venice, Florence and Pisa to flourish since these places served as staging areas and supply depots for the Crusades. As a money economy replaced the prevailing barter economy, banks and money leading institutions developed and flourished, leading to active trans-national operations. Multinationals, in the form of trading company started in 17th and 18th centuries. The Hudson Bay Co., the East India Co., the French Levant Co. are examples of export and import houses and commercial and financial institutions prospered.

One common concept MNC, running through all the definitions, is the significant role played by these corporations in the internationalization of the world economy. Non-declaration of information by these corporations is regarded as a sacred right, and secrecy shrouds their activities. It was in this context that Raymond Vernon was forced to delimit his study to foreign companies controlling a large cluster of corporations of various nationalities with sales, of 100 billion dollars or more, and he termed such a group as a Multinational Corporations¹. Largely influenced by this approach, the United Nations document on 'Multinational Corporations in World Development' has also taken the size and concentration as the basic criteria, for identification of Multinational Corporations, and has listed 650 industrial corporations with sales exceeding 300 million dollars in each case.² **Like Raymond Vernon** Dunning also avoids the expression 'corporation' possibly because of the

¹ Vernon, Raymond, 'Sovereignty at Bay: The Multinational Spread of US Enterprises', New -York, Basic Books, 1971, p. 4

² No. 7 (b) pp. 6 and 127

legal implications of the word 'corporation' which is a distinct and separate juristic person, and introduces the concept of International Enterprise. He classifies them into Four categories, viz., Multinational Producing Enterprise (MPE), Multinational Trading Enterprise (MTE), Multinational Owned Enterprise (MOE) and Multinational Controlled Enterprise (MCE).³ The government of Canada has fixed a minimum number of four or five countries across which a, single business enterprise straddles, as the basic criterion for defining a Multinational Enterprise.⁴ According to the Business International, a firm becomes multinational when foreign operations account for at least 35 percent of its total sales and profits.⁵ MacDonald and Parker consider a firm to be multinational if 20 percent of its assets are overseas.⁶

The US Tariff Commission Report points out that an enterprise can qualify itself a Multinational if it has at least 25 percent participation in the share of the foreign enterprise. But the US department of Commerce data are based on equity holding as low as 10 percent.⁷

David E. Lilienthal draws wider parameter when he defines multinational corporations as corporations which have their home in one country but operate and live under the laws and customs of other countries as well.⁸

Perlmutter's definition, frequently referred to in treaties on Transnational Corporations, classifies the corporations on the basis of geographic orientation of activities. The three suggested classifications are, ethno-centric (Home country oriented), polycentric (host country oriented) and geo-centric (world oriented). This definition suffers from an oversimplification because the orientation test is not capable of application in the absence of data regarding the interests involved in corporate decision-making. In this study various terms of Multinational Enterprise, Transnational Corporation, Multinational owned Enterprise and Multinational Controlled Enterprise have been used interchangeably with the Multinational Corporation (MNC).

³ Dunning, John H The Multinational Enterprise—The Background, Chapter I, Allen and Unwin, London, 1971

⁴ See discussion on Foreign Direct investment in Canada, Ottawa, 1972, p. 51. Report popularly known as Grey Report

⁵ Business International Organizing for Its World Wide Operations, New York, 1965, p. 15

⁶ International Enterprises; Creating a Strategy for International Growth, 1962, pp. 17-19

⁷ U.S. Tariff Commission, 'Report on impact of Multinational Firms', TC Publications, Washington, D.C. Feb. 1973. P.81

⁸ Lilienthal, Davide. The Multinational, Corporation: Development and Resources corporation, New York, 1960 P. 119

The first multinational corporation was I.M. Singer and Company whose name became synonymous with the sewing machine. Established in 1851 Singer relied at first on Independent foreign agents to sell its machines in Europe even transferring to a French entrepreneur, charter Callebaut, the right to its French patent.

Europe was a primary market for U.S. Industrial Goods, including heavy industrial machinery, steam Pumps cash registers, electrical generators, refers and consumer goods most of which were superior to European technology American firms grew abroad largely by reinvesting their overseas earnings. On the eve of World War I in other words, the United States had entered the still new world Multinational corporations although that term was still unfamiliar and would remain so to most of the people for another half century.

By the middle of the 1950s, in other words, economic growth had reached a point, and the world political situation had stabilized to such a degree, that many of the largest U.S. Corporations were looking again to invest abroad. The country's foreign aid programs, which increasingly tied foreign loans and economic assistance to the procurement of American goods and services, also helped stimulate direct foreign investment.

The result was expansions of multinational Corporations in the middle of the 1950s that has continued largely unabated. Between 1950 and 1965 alone the leading U.S. Corporations increased their manufacturing subsidiaries in Europe nearly four fold. In Australia, General motors made significant investments even during the war GM had decided to manufacture and sell cars in Australia, where it had earlier purchased plants and established distributorships for its automobiles. In 1948 it still only manufactured and sold 112 vehicles. By 1950 production was up, but only to 20,000 cars. By 1965 however, GM was manufacturing 1, 33,000 automobiles with expansion to a capacity of 1, 75,000 already under way.

The entry of multinational corporations (MNCs) in India, following the adoption of new industrial policy & opening up the market, has thrown number of challenges in the national economic scenario. Emerging as a new economic force to be reckoned with, MNCs call for a fresh approach in the mercantile laws in order to ensure that the national interests and sovereignty of the country are not compromised with while allowing the MNCs to function in India.

The size, growth and socio-economic dimensions of MNCs have given rise to skepticism about their real intentions, because MNCs have not shied away from using offensive and defensive strategies suited to their requirements. It is feared that by the turn of the century, entire world will be dominated by top 200 corporations.

In a country like India, political Interference by MNCs in the name of improving the state of economy cannot be ruled out. It is in this context that a law like the Indian Companies Act, 1956 assumes significance as it lays down detailed procedure and rules relating to regulation of Companies in India, including MNCs.

Historically, transnational trading was conducted by Greek, Phoenician and Mesopotamian merchants, but gradually Europe and the Middle East stepped into feudalism following the fall of the Roman Empire, and trade between nations became more difficult because of the wars between feudal lords and the Church's influence in prohibiting trade with the Muslim States. The commerce established by the later merchant traders of Italy can be considered forerunner of the multinational firms. As monetary economy replaced the prevailing barter economy, banks and money lending institutions developed and flourished, leading to active transnational operations. Multinational in the form of trading company started in 17th and 18th centuries. The Hudson Bay Co., the East India Co., the French Levant Co. are some examples. Export and import houses and commercial and financial institutions also prospered.

The fifteenth Century witnessed the transformation of guild-based industry into machine-based commodity production-oriented manufacturing industry. The feudal system of industry based on monopoly of guilds was no longer adequate for the growing needs of the market. As **Karl Marx puts it** "The feudal system of industry, in which industrial production was monopolized by closed guilds, now no longer sufficed for the growing wants of new markets. The manufacturing system took its place.⁹ "With the advent of industrial revolution, the machine superseded the work man. Revolutionized by the use of such power resources as steam, electricity and then in the latter half of the twentieth century, atomic energy, the place of the manufacturer was gradually taken by giant industry.

⁹ Karl Marx and Frederick Engels, "Manifesto of the Communist Party (Moscow, Progress Publishers, Reprinted 1975) P. 42

During the 19th century foreign investment flowed extensively from Western Europe to the under developed areas of Asia, Africa and America. Most of the Capital flow was in the form of direct investment inside the imperial boundaries. Consequently, British firms made extensive investments in India, Canada, Australia and South Africa. The colonial powers had captive markets and raw material resources in their colonies.

During earlier years of 20th century, substantial multinational corporate investment went into mining and petroleum industries, large oil companies such as British Petroleum and standard oil were the first multinationals in this area, and other mineral corporations, such as Anaconda Copper and International Nickel, moved in quickly. Multinational corporate investment got a boost following world war I, when protectionist policies of nations states spurred firms to jump the trade barriers raised by the nation states by replacing exports with foreign production, Gradually remanufacturing and merchandising multinationals such as Unilever, Nestle, Coca Cola, International harvester, Singer, Philips, Woolworth, imperial Chemical Industries, Ford Motors, Texas instruments etc. and various German drugs and Chemical firms, began operating on a world wide scale. American corporate multinational enterprises investment moved extensively to Canada, Europe and South America and to the Middle East for oil.

The modern multinational corporation is based on more than just trading. It tries to optimize its international Production and marketing, often doing so by the use of trade marks and patents. Its international operations are interwoven by technical, production, managerial, marketing, and financial and personnel point of view.

This study has been conducted at a time when India is at the threshold of a new era of economic boom. Global changes in the world economy have been throwing up newer challenges before the Third World, and India, as leader of the developing nations, cannot remain a mute spectator to the new economic order in the world, it is necessary that India too joins the race for progress but, in the process, does not compromise with its own interests.

Entry of MNCs in the country is one of the most crucial issues confronting the country today. While the import of foreign technical know-how and inflow of foreign exchange is the need of the hour, it is necessary at the same time that the sovereignty and security of the country is

not jeopardized. This study makes and attempts to put the issue in right perspective by touching its aspects.

The study, with its recommendations, is expected to be useful for both the Government and the industry as well as for the students of Law and has been undertaken with the overall objective of its usefulness for the economic growth of the country. While basically relying on the secondary sources of information and published data, including books, periodicals, economic and financial journals, care has been taken to incorporate views of all those whose opinion matters, such as big industrial houses, prominent industrialists, political thinkers and Government officials, especially those connected with framing and execution of industrial policies. It is sincerely hoped that this study will help all those who think that MNC's should be welcomed in the selected areas and there policies towards India should be taken with a punch of salt.

Whether the adoption of open trade policy was a correct choice for economic development of the country which touches the aspects of threat to sovereignty of the country and the apprehensions of take over takeover of India corporate sector by MNCs? It also deals with the suggestions related to industrialization and whether the current policy should be reversed the policies of the present united front government at the centre make the topic for discussion over the approach adopted towards MNCs entry and functioning in the country.

Free-trade argument, as developed in Britain in the nineteenth century is a product of the British Industrial Revolution. The remarkable success of British industrial development, which was unprecedented in economic history and which had broken the shackles on productive forces, had to be given a theoretical basis and what can be better than attribute it to British liberalism, from which flows the argument of free trade. There is close linkage between British Industrial Revolution and British colonialism. The historical method of economic analysis would have exposed this close linkage and the exploitative nature of this unique phenomenon of economic development, which dazzled the world, particularly the European world, in the second half of the nineteenth century. A theoretical justification will have to be built-up for this unique phenomenon to show the world, how British liberalism could cause economic miracles, while other conservative regimes with their outdated peasantry and production system were lagging behind. It was easy to attribute that impress sequence of undeniable success (Industrial Revolution) to the policy of economic liberalism

as its main or even only cause. Free trade was a corollary of British liberalism, which unleashed the productive forces. The concept of British free trade was designed for continuance of British industrial monopoly, particularly when an erstwhile British colony like U.S.A. with its vast resources was in the process of industrial development and other European countries had embarked on industrialization. According to this theory, France will be reduced to producing frivolous items like wines and silken wares, whereas the monopoly of manufacturing machinery and cotton goods remains with England. France will produce only fine wines, ladies' hats and silk goods; England, machinery and cotton goods; China, tea; Australia, wool; Russia, wheat, Switzerland, cheese and clocks; Greece, raisins.

MULTINATIONAL CORPORATION: HISTORICAL PERSPECTIVE

The influence of Multinational Corporation's on U.S. foreign policy is complex, but generally speaking, they have not played a major role in the formulation and execution of foreign policy.

The role of multinational corporations on U.S. foreign Policy, however, the following points need to be made:

- (1) the first multinational corporations were not established until the latter part of the nineteenth century;
- (2) most of the first multinational corporations became "multinational" by reinvesting their foreign profits abroad, not by making investments Overseas;
- (3) large businesses invested abroad -where and when their executives thought profits were to be 'made, not because of foreign policy concerns, and, with some exceptions, because they, did not unduly seek to influence the formulation of foreign policy;
- (4) while there were certainly loud calls for expanding markets overseas, even to the point of permitting businesses to engage in joint combinations otherwise prohibited by the nations antitrust laws, those business leaders advocating such policies were generally from smaller or midsize businesses and/or represented regional interests; and
- (5) to the extent that there was collision or collaboration between public policymakers and business leaders (as in the case of the oil industry), it was just as often government that

sought to use the nation's industrial giants to achieve foreign policy objectives rather than the other way around.

Corporations invest abroad for a variety of reasons. Among them are to open new markets or to hold onto existing ones; to avoid tariffs or other trade restrictions; to tap new sources of raw materials and agricultural production; and to take advantage of cheap foreign labor. Although the history of American MNCs goes back to at least the mid nineteenth century and a significant number of MNCs had been established by the turn of the twentieth century, their emergence as a key factor in international commerce is really a product of the post – World War II period.

Americans had of course, been involved in world commerce ever since the founding of the colonies in the seventeenth and eighteenth centuries. Europe was a primary market for U.S. industrial goods, including heavy industrial machinery, steam pumps, cash registers, electrical generators, reapers, and consumer goods, most of which were superior to European technology. American first grew abroad largely by reinvesting their overseas earnings.

On the eve of World War I, in other words, the United States had entered the still new world of multinational corporations, although that term was still unfamiliar and would remain so to most of the people for another half century.

1. World War I and Its Aftermath

The outbreak of war in Europe in 1914 offered MNCs both danger and opportunity at the same time. On the one hand the belligerent powers had to be fed and equipped. Furthermore, the war opened to the United States the opportunity to move into markets in Latin America and the Far East hitherto dominated by Europe's two major industrial powers, the United Kingdom and Germany, each of which had to concentrate its attention on winning the war for its side. Furthermore, the opening of the Panama Canal in 1914 afforded new opportunities for increased trade between ports along the East and Gulf coasts of the United States and the west coast of South America and the Far East. In order to promote the interests of employed agents abroad (frequently family members) they conducted significant commerce, most notably in London and the West Indies. By the end of the nineteenth century all that had changed.

2. Early Multinational Corporations

The first multinational corporation was I.M. Singer and Company (later changed to Singer Manufacturing Company) whose name became synonymous with the sewing machinery established in 1851, Singer relied at first on independent foreign agents to sell its machines in Europe, even transferring to a French entrepreneur, Charles Callebaut, the rights to its French patent. Having successfully developed its own sales force and branches in the United States, however, and unhappy with the lack of control over these agents, some of whom even sold competing machines, the company decided to rely on its own salaried sales force and branch offices to market its product. By 1879 Mississippi Valley it also kindled plans among the region's business and financial leaders to redirect some of the nation's largely east west commercial traffic to such Gulf ports as New Orleans, Mobile, and Galveston.\

After the war Washington passed two measures designed to strengthen the nation's position in foreign trade, especially in Latin America. Congress approved the measure as a way to help small businessmen enter the foreign field by being allowed to form joint selling agencies engaged in business abroad. Although fewer than two hundred associations ever registered under the Act, a number of supporters of the measure, including the Department of Commerce, continued to seek ways to strengthen it.

The second measure approved by Congress after the war was the Edge Act (1919), which provided for federal incorporation of long-term investment and short-term banking subsidiaries doing business abroad.

3. Expansion (1925 – 1930)

Not until the mid – 1920s, when the international economy seemed to stabilize, particularly in Europe, and the United States' own economy was booming, did U.S. Corporations start to make substantial direct foreign investments. Encouraged by President Calvin Coolidge and his fellow Republican Herbert Hoover, first in his capacity as Coolidge's secretary of commerce and then as Coolidge's successor in the White House, the largest U.S. firms began to invest heavily in Europe, both in search of new markets as a way of protecting themselves against trade barriers. Such investments usually in the form of foreign subsidiaries, branches, or joint ventures, also fitted well into the multidivisional, decentralized organizational

structure begun at General Motors (GM) under the leadership of Alfred Sloan but adopted very quickly by other major industrial concerns.

Although direct foreign investment as a percentage of the GNP remained about the same in the 1920s as it did at the turn of the century (about 7 percent), what made the 1920s different from earlier decades were where and what kinds of investment were being made. Almost as dramatic as the increase in direct investments in manufacturing abroad were those in petroleum, which increased from \$604 million in 1919 to \$1.34 billion by 1929. Although this included everything from the exploration of petroleum to its production, refining, and distribution, most of the increase was in exploration and production.

Even in the Middle East, which remained largely a British preserve, the United States made important inroads. Fearful of an oil shortage after the war and worried that the region might be shut to American interests, the United States pressured the European powers to give a group of American oil companies a 23 percent share of a consortium of British, French, and Dutch oil producers.

By that year petroleum had become the second-largest sector in terms of American direct foreign investment, with mining (\$1.23 billion) and agriculture (1986 million) falling to second and third places.

4. The Great Depression

The Great Depression of the 1930s, beginning with the crash of the stock market in 1929, affected multinational corporations worldwide. As purchasing power overseas dried up, and as governments sought to protect existing markets by erecting high tariffs and other trade barriers, some U.S. corporations closed or sold factories and other foreign facilities and curtailed or stopped entirely making investments abroad

At the same time, however, other American businesses sought to leapfrog obstacles to trade and protect existing markets by entering into business arrangements with foreign concerns, such as licensing and market-sharing agreements.

The companies also entered into a number of agreements among themselves and with two British and Dutch companies. Anglo-Iranian Oil (now British Petroleum, or BP) and Royal

Dutch Shell controlled the sale of crude oil and finished products to independent refiners and marketers. Of these agreements the most significant were the so-called "Red Line" and "As Is" agreements of 1928, which placed severe restrictions on where, with whom, and under what conditions the signatories could explore for oil and develop oil fields in the Middle East.

More generally, multinational corporations were able to weather the depression of the 1930 reasonably well. Between 1929 and 1940 total direct foreign investment by American firms declined only slightly, dropping from about \$7.53 billion in 1929 to \$7 billion in 1940.

5. World War II

As one might expect, U.S. entry into World War II in 1941 disrupted the normal channels of American commerce, discouraging or making impossible direct investments overseas. Between 1940 and 1946 such investments grew only marginally, from \$7.0 billion in 1940 to \$7.2 billion in 1946. In that year they amounted to only 3.4 percent of the GNP, the lowest percentage in the century. In Africa and the Middle East they remained steady at about \$200 million for each of these years, while in the rest of the world they declined from \$500 million in 1940 to \$400 million in 1946.

Most of these investments went to further the war effort. No commodity was more important in this regard than oil, on which the entire machinery of war depended. The project had little commercial utility, and after the war it was abandoned when none of the parties to the project showed any interest in continuing it.

During the war a number of major multinational corporations engaged in the production of strategic material, such as oil and synthetic rubber, were accused in commission hearings and on the floor of Congress of having conspired with the enemy before the war.

6. Postwar Investment (1945-1955)

Despite wartime criticism of the foreign operations of some American firms, including their ties with Nazi firms before the war, and notwithstanding the economic uncertainties that were bound to accompany the war's end, a few of the largest U.S. corporations; often with considerable assets seized or destroyed during the war, began to plan for the postwar period. Among these was General Motors. As early as 1942 the company had set up a postwar

planning policy group to estimate the likely shape of the world after the war and to make recommendations on GM's postwar policies abroad.

In 1943 the policy group reported the likelihood that relations between the western powers and the Soviet Union would deteriorate after the war. It also concluded that, except for Australia, General Motors should not buy plants and factories to make cars in any country that had not had facilities before the conflict.

Other MNCs, however, adopted more cautious positions. Even then, the type of oil investments before and after the war differed significantly. Previously they had been largely market oriented, their purpose being mainly to eliminate market competition. After the war Exxon, B.P., Shell, and Mobil shifted their emphasis from market control to control of supply. The companies found that the infrastructure called for by the Red Line and As is agreements of 1928, with their elaborate system of local and national cartels and quotas, was inefficient and difficult to maintain; moreover, the Red Line agreement established geographical limits to oil exploration in the Middle East. Much more effective, they concluded, would be control of a few crucial petroleum sources in the Midwest.

Beginning around 1950, however, the World Bank expanded its long-term lending program from a level of \$350 million in 1950 to more than \$750 million by 1958. By the fall of 1958 it had invested \$3.8 billion in development projects in forty-seven countries, mostly in the Third world.

In other ways as well, the government sought to spur direct foreign investments. For examples, the United States negotiated tax treaties with a number of countries to prevent American business overseas from being taxed twice.

7. The Oil Cartel Case

Near the end of Truman's term in office the Justice Department instituted an antitrust suit against the Multinational oil corporations operating in the Middle East. Both Truman and subsequently the Eisenhower administration sharply cut back the suit. The government charged the five major U.S. oil corporations---Exxon, Mobil, Shell, Texaco and Gulf Oil-- along with two alleged coconspirators, Royal Dutch Shell and British Petroleum with criminal violation of the nation's antitrust laws by having engaged in a worldwide

combination to restrain and monopolize U.S. domestic and foreign commerce in crude oil and petroleum products. The suit sought relief through divestiture of the defendants' joint production, refining, pipeline, and marketing operations.

The oil cartel was one of a series of cases that the Justice Department brought against industries after the war believed to have collaborated with enemy powers before the conflict. In the short term, the cases were disruptive to a number of multinational Corporation that had major investments overseas before the war and may even have discouraged them from engaging in international business after the conflict; certainly this was the case with General Electric (GE), which had suffered losses during the war and had to fight a suit accusing it and its subsidiary, International General Electric, of having maintained a cartel in lamps and electric equipment. Eventually GE sold off a major part of its foreign holdings.

By the end of Truman's administration, however, the white House had begun to rethink its foreign antitrust policies. This was most apparent in the oil cartel case. In 1951 Iran nationalized British Petroleum's Iranian holdings. BP responded with a highly successful worldwide embargo of Iranian oil, which led to serious European oil shortages. For reasons of national security having to do with needing the same oil companies against, which it had brought a criminal antitrust action to meet these shortages, President Truman had the criminal charges reduced to much less punitive civil action. He did this over strong objections from Justice Department and Federal Trade Commission officials, who maintained that the agreement constituted a waiver of the antitrust laws as applied to the foreign cartel arrangements of the oil majors.

President Eisenhower believed that enforcement of the antitrust laws should not interfere with programs and policies deemed important or essential to the national interest, such as the promotion of trade and private investment overseas. Accordingly, he later ordered the oil cartel case confined strictly to firm headquartered in the United States and then pressured the Justice Department to grant a newly formed Iranian oil consortium (consisting of BP, Royal Dutch Shell, the five American majors, and a number of smaller independents) a waiver in the exploration and refining of Iranian oil. Since it was nearly impossible to prosecute the very actions it had encouraged and sanctioned on the grounds of national security, the antitrust case was now effectively reduced to just the marketing and price fixing of oil. Although the case was to drag through the courts until 1968, its final outcome left intact the

scaffolding of the cartel arrangements among the oil majors. The decrees obtained were limited to price-fixing and marketing arrangements only.

8. Multinational Corporations (1955-1990)

By the middle of the 1950s the wave of antitrust suits by the Justice Department against major industries with direct foreign investment had about run its course, although not all cases, such as the oil cartel case, had yet been settled. Furthermore, Western Europe had largely recovered from the worst ravages of the war and in 1957 would form what became known as the Common Market. Great Britain, which would not be invited to join the Common Market, was moving toward full convertibility of the British pound.

By the middle of the 1950s, in other words, economic growth had reached a point, and the world political situation had stabilized to such a degree, that many of the largest U.S. corporations were looking again to invest abroad. The country's foreign aid programs, which increasingly tied foreign loans and economic assistance to the procurement of American goods and services, also helped stimulate direct foreign investment.

The result was an expansion of MNCs in the middle of the 1950s that has continued largely unabated. Between 1950 and 1965 alone, the leading U.S. corporations increased their manufacturing subsidiaries in Europe nearly fourfold. In Australia, General Motors made significant investments. Even during the war GM had decided to manufacture and sell cars in Australia, where it had earlier purchased plants and established distributorships for its automobiles in 1948 it still only manufactured and sold 112 vehicles. By 1950 production was up, but only to 20,000 cars. By 1962, however, GM was manufacturing 133,000 automobiles with expansion to a capacity of 175,000 already under way.

As the industrialized world recovered from World War II and as the United States built plants and factories and other facilities abroad, the nation's balance of payments turned into a deficit and gold reserves declined sharply, while these measures had some immediate impact, in the long term they failed to prevent overseas investments by American firms.

Interestingly, while Washington was trying to limit direct investments in the world's largest Industrial nations it actually sought to promote such investments in the Third World, which through the Vietnam War of the 1960s and early 1970s was viewed as a battleground in the

Cold War between the United States and the Soviet Union. Even the IMF got into the soft-loan business despite the fact that this had not been part of its original mission.

As American-owned MNCs continued to expand abroad they met increased foreign resistance and growing competition from foreign rivals. The 1970s were a particularly troublesome decade for many of these enterprises, not so much in terms of competition as in overseas opposition to what many foreign nationals regarded as a form of rapacious American imperialism. Many respected national and international political officials, political theorists, international business leaders, and academics joined in the chorus against the MNCs. A spate of books appeared in the 1970s highlighting the world power of the multinational corporations and arguing that they had become states unto themselves beyond the control of any single nation.

A particular target, but certainly not the only one, of the critics was the oil industry. Drastic increases in energy prices resulted from huge consumer demand in the United States and the decision of the Organization of Petroleum Exporting Countries (OPEC), which had been formed in 1960, to use oil as a political weapon following renewed war between the Arab states and Israel in 1973. This led to a depletion of oil supplies, and prices for gasoline more than doubled in the United States.

None of the charge made in the 1970s against the oiled industry or, more generally, against multinational business prevented their further growth. In 1978 Congress passed legislation effectively deregulating most domestic commercial aviation, a process that had already been started by Alfred Khan, head of the Civil Aeronautics Board. Nor were direct foreign investment limited to American-headquartered firms as they had been for most of the postwar period prior to 1980. Businesses in South Korea, Taiwan, and most of western Europe competed against United States for foreign markets and, indeed, for the U.S. Market as well.

9. A Global Economy: the 1990s

With the development of a truly global economy by the 1990s, opinion with respect to the multinational corporations in home and host countries varied considerably. American multinational have often been viewed abroad as purveyors of technology and business efficiencies and as bearers of products meeting an instable appetite for American goods. But a more negative image also developed. The growing competitiveness of the new world's

economy and a heightened emphasis on case efficiencies, job reductions, retooling and relocation led to complaints in home and host nations about declining market shares, and lost jobs.

The transnational character of the multinationals proved problematic to the growing region of laid-off workers and lower-and mid-level managers who felt most victimized by the new competition and the search for cheaper labor markets.

By the beginning of the twenty-first century, the fact that more and more of the world economy seemed to be dominated by a relatively few multinational giants also led to the ringing of alarm bells. (Estimates of U.S. multinational corporations in 2001 ranged around three thousand, but the numbers were declining because of a wave of corporate mergers.) Other problems creating tensions between MNCs, host governments, and home governments included jurisdictional disputes, cultural differences, no tariff barriers to trade, international agreements among the multinational corporations, and conflicting political agendas on such matters of principle as the environment, energy, human rights, accessibility to proper medical treatment and high-cost pharmaceuticals, sweatshops, and child labor laws.

Public opinion and government policy with respect to MNCs, in other words, conjure up the image of a fault line along earth's crust, quiet for the moment but with pressures building below that could divide the earth above. Despite the best-educated guesses, however, nobody really knows just when and under what circumstances this will happen or how severe the damage will be already odd alliances have been formed among the parties most affected by the growth of MNCs. One of these took place in the beginning of 1991 when free-trade advocates in the United States found themselves jointed by the multinationals but strongly opposed by rank-and-file workers over the approval of the North American Free Trade Agreement (NAFTA), which was ratified in 1992 despite labor's objection. In 1994 the MNCs and free traders won a limited victory with the establishment of the World Trade Organization (WTO), which since its founding has focused much of its attention on breaking down remaining restrictions on the expansion of MNCs worldwide.

CHAPTER-II

A MACRO PICTURE OF MULTINATIONAL CORPORATIONS

1. Definition of Multinational Corporations

A corporation that has its facilities and other assets in at least one country other than its home country is a “**Multinational Corporation**”. Such companies have offices and factories in different countries and usually have a centralized head office where they co-ordinate global management very large multinationals have budgets that exceed those of many small countries. Sometimes it is also referred to as a "**Transnational Corporation.**"

There is a difference of opinion over the definition of multinational corporations. Almost all the scholars have put various degrees of emphasis on many acturing, servicing, trading selling and buying operations in more than one country.

Multinational Corporations (MNCs) are corporations whose home offices are in one country but have significant fixed investment in other countries. These investments might be in factories or warehouses, transportation or telecommunications, mining or agriculture. Businesses that merely maintain local or regional sales offices abroad are generally not thought of as multinational corporations.

According to Raymond Vernon "Multinational business enterprises can be thought of as a cluster of corporations of different nationalities that are joined together by a parent company through bonds of common ownership, that respond to a common strategy and that draw one common pool of financial and human resources. In comparison with the overage business enterprise most structures of this type are very large. "

According to David E. Lilienthal defines "multinational corporations as corporations, which have their home in our country but operate and live under the law and customs of other countries as well."

In the broad sense, the MNCs cover all enterprises, which control assets, factories, mines, sales offices and the like in two or more countries.

In India, a specific definition of MNC as such appears in Foreign Contribution Regulation Act, 1973. For the purpose of this Act a corporation incorporated in a foreign country or territory shall be deemed to be a multinational corporation, if such corporation:

(a) is a subsidiary or a branch or has place of business in two or more countries or territories;

(b) carries on business or otherwise operations in two or more countries or territories

Multinational Corporations or Enterprises, which own or control production or service facilities outside the countries in which they are based are not always incorporated or private. They can also be co-operative or State-owned entities.¹⁰

Multinational Enterprise is defined as a “sub regional Multinational corporation, comprising of a company established in one country with participation of at least two member countries each holding at least 15 percent of capital and a maximum 40 percent participation”: the majority sub-regional holding may be reflected in the technical, financial, administrative and commercial management of the enterprise.

¹⁰ U.N.Doc. E/5500/Rev. 1: ST/ESA/6. "The Impact of the Multinational Corporation on Development and international Relations P. 25

SOME MULTINATIONAL COMPANIES

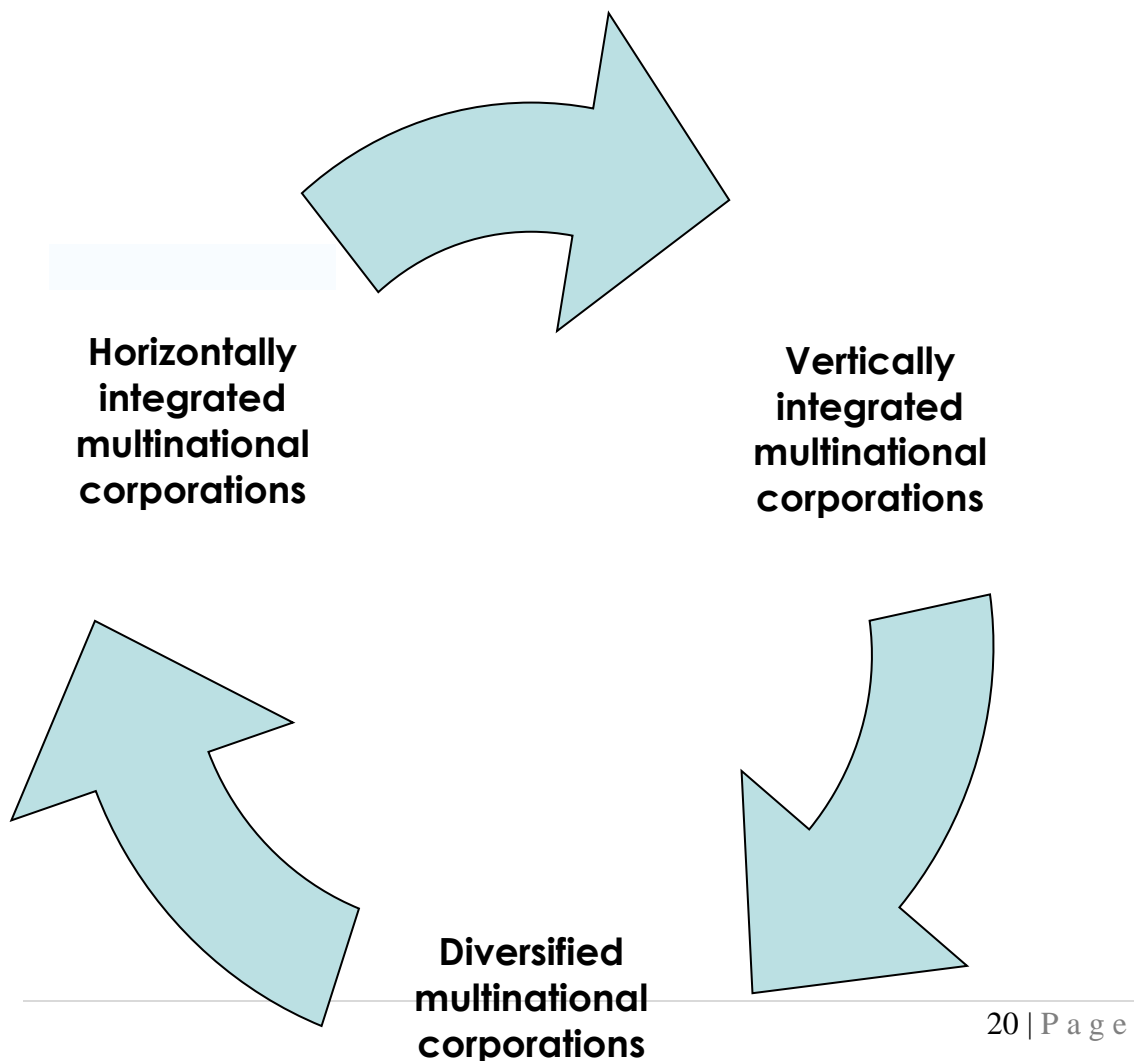


2. Classification of Multinational Corporations

Multinational corporations (MNC) are often divided into three broad groups:

- Horizontally integrated multinational corporations manage production establishment located in different countries to produce the same or similar products.
- Vertically integrated multinational corporations manage production establishment in certain country/countries to produce products that serve as input to its production establishments in other country/countries.
- Diversified multinational corporations manage production establishments located in different countries that are either horizontally or vertically integrated.

Multinational Corporations (MNC) are often divided into three groups



3. Duties of Multinational Corporations

Following are the duties of the corporations: -

- (a) MNCs have an obligation towards employers, customers, governments, suppliers and communities as well as towards shareholders. This is known as Corporate Social Responsibility (CSR).
- (b) Most agree that CSR includes a duty to behave honestly; legally and with integrity, not to be corrupt but to deal fairly and obey the host country's laws.
- (c) Some MNCs would say that no more than this bare minimum can be expected of them. They would argue that the cost of CSR could eat into their profits and push them out of business.
- (d) The UN once dealt with only governments. By now we know that peace and prosperity cannot be achieved without partnerships involving governments, international organizations, the business community and civil society. In today's world we depend on each other.

4. Role of the Multinational Corporations in India

MNCs as the name implies are large corporate conglomerates having a variety of business interests with their headquarters in one country. Their business operations transcend national boundaries. In the present century the MNCs have attained colossal dimensions, their annual income is comparable with the GDP¹¹ of many developing countries. In 1991 the measures for opening up of the economy were adopted. "An elephant awakens" said the west when the Indian government initiated Economic reforms. The reform package was far away from the traditional socialist approach. The policy contains relicensing, deregulation, disinvestment liberalization, 51 percent foreign equity, invitation of Non Resident Indians, Multinational Corporations etc.

The reforms introduced in 1991 had two dominant objectives: -

¹¹ Gross domestic product

- (i) Immediate objective of managing the balance of payments crisis and restoring viability in external payments.
- (ii) Setting the economy on the path of rapid and sustainable growth.

India is the second largest country in Asia and could ill afford to be marginalized in this dynamic and fast-growing region. "But marginalized we will be if we don't adopt the objective of achieving at least the same rate of growth as the region as a whole"¹². Therefore, rapid economic growth through liberalization was the most appropriate in the present context solution to solve the Indian economic problems that have burdened the country so long.

Economists believe that acceleration in growth depends upon higher rates of investment & higher productivity. Therefore, one aspect of the opening up of the economy through the new policy was welcoming foreign investment in all sectors. Developing countries all over the world are adopting similar policies to attract foreign direct investment¹³ not only for the resources build up but also as a source of technological & global market link age India's first Prime Minister¹⁴, made a statement in April, 1949 giving three important assurances to foreign investors: -

- (i) Not to discriminate between domestic and foreign undertakings.
- (ii) Reasonable facilities to foreign companies regarding profit repatriation.
- (iii) Fair and equitable compensation to foreign investors in case of nationalization of undertakings.

Since then these statements have formed the basis for the industrial policy of the government of India. In 1972, the government of India decided to permit the functioning of wholly owned subsidiary foreign companies, provided they undertake to export 100 percent of the output. Then in 1977, in the rule of Janata Party Government there was hot discussion on foreign inflow in the country through foreign companies. Two foreign corporate- giants Coca-cola and IBM were sent rolling back. However, foreign investments in non-priority areas were

¹² "Suryadipta Rats: "Economic reforms too little, too slot" Competition, Success Review, March 1995.

¹³ I.DI

¹⁴ Pt. Jawaharlal Nehru

allowed. The plea was import of sophisticated technology. The Janata Party government however failed badly in their resolve to set the house in order

Reforms initiated in 1991 have invited foreign investment as against the annual \$200 to \$300 million flowing in from abroad; currently \$200 to 3000 million is coming in¹⁵. With this India is lagging in the area of modern technology. India, with its large market, cheap labour, a sound legal system and the widespread use of English and democracy is often marketed as a land of opportunities to multinationals. These corporations operate in India through their branches and by their Indian subsidiaries, that is, Indian Companies in which the foreign companies hold more than 50 percent of the paid-up equity capital.

In the diversified industrial economy of India, the decision about which sector to invest in is quite complex. The choice of a sector may depend on the objective of a multinational: - Profit, sales, market share etc. A CMIE study of foreign companies shows that, so far, they have generally concentrated on consumer goods industries. For instance, of the top 10 foreign companies in terms of sales, four belonged to the consumer goods industry.¹⁶ For Example - Bata in footwear products, Philips and Murphy in Radios, Pilot and Parker Pen, Colgate Tooth Paste, Hindustan Lever Ltd. in soap and detergent products are dominant foreign companies.

It is obvious that foreign companies would prefer to invest only in such areas where the returns will be quicker and higher. The tendency has been to go in for the manufacture of luxury items like color TV, Refrigerators, electronic gadgets, computers, cars and so on.

From the earliest appearance of capitalism, the industrialized countries had constantly been looking for markets to absorb their surplus. The motive of more profit induced firms to shift operations to foreign markets where labour as well as raw material was cheap. *When these MNCs go to third world countries, they claim the following advantages from their operations:*

1. They are a vehicle for transfer of technology.
2. They bring capital and improve the balance of payments position of the host countries.

¹⁵ Dr. Mal Cokin Adiseshiah: "Foreign investment and liberalisation", Yojna , August 1994

¹⁶ Sanjeev Kumar: "The great _Indian market: the entire top Rankers'." Business Line, August 1996

3. They bring in new management with them.
4. Increase employment.
5. Establishment of social welfare institutions.
6. Provision of education and training.
7. Vehicle for peace.
8. Agents of Modernization.

These advantages may be right but it is also true that once the MNCs are invited by the host countries the host country may have to face their wider ramifications. It can be political and lead to economic insecurity.

Post reformation trend in India shows that during, these years foreign investment has been in non-priority sector, which has led to the domination of the market by a new consumerist boom characterized by Colas, Ice-creams, music systems, potato wafers, hamburgers, expensive bikes and cars. This range of goods caters to only the upper 180 million riche of India, while the rest of the population is still suffering from the lack of basic amenities and has nothing to do with this flashy and ostentatious life style. During 1980-93 the output of consumer durables increased at an annual average rate of 10 percent while that of wage goods was as low as 4.5 percents.

According to the report of U.N., Department of Economic and Social Affairs - "These MNCs have indicated that they are not interested in or that they are not equipped to enter areas such as elementary health requirements, nutrition, low-income housing etc. This lack of interest stems essentially from the fact that social benefits in these fields exceed and are not reflected in terms of private profitability."

A CMIE study of foreign companies for the year 1990- 96 shows that, so far, they have generally concentrated on consumer goods industries in terms of net profits, the top three were ITC,¹⁷ Maruti and Hindustan Lever Limited respectively.

¹⁷ Imperial Tobacco Company

However, in total assets Maruti occupied the top position with ITC coming second and Nippon Denso Pspat third. Four foreign companies- Smithline Beecham, Colgate Palmolive, Pond's and Cyanamid were among the top five companies in terms of composite ranking.¹⁸

The above survey shows that Multinational Corporations have caught a rapid growth rate in the country in such a short span of time. There are certain challenges or threats to every host country by these MNCs: -

1. Challenge by the MNCs to the National Sovereignty of the host Country.
2. Bringing in of a foreign culture to the host country, which influences the local culture.
3. Impact on political process and public policy in the host country.
4. Encouragement of brain drain from the host country.

To meet these kinds of challenges and threats appropriate domestic economic policies should be adopted like, - adopting an overall macro economic policy framework, which ensures a fair degree of competition in the system and the home industries including the foreign firms are not shielded from external competition. Even on the part of foreign firms there is an increasing recognition that they should pursue policies in line with the host countries overall development strategies and that their activities must be in tune with the local aspirations.

¹⁸ The great _Indian Market -Sanjeev Kumar: Business Line, Aug, 1996

CHAPTER-III

LEGISLATIVE PROVISIONS OF MULTINATIONAL CORPORATIONS

Law is regulatory in nature. There have been efforts both at international and national level to regulate and control the role of MNCs. But no developed or developing country has yet enacted a comprehensive regulation for dealing with MNCs in a single comprehensive instrument. Various aspects of their activities are dealt with in fragmented pieces of legislation. In India there are MRTP Act 1970, FERA 1973, FEMA 1999, Companies Act 2013 etc. relating to foreign companies.

1. Historical Perspective Recommendations of the Company Law Committee:

Section 591 to 602 of the Indian Companies Act, 2013 deals with foreign companies. These sections have replaced sections 277 to 277 (E) of the previous Act. The provisions of new Act are on the lines recommended by the company law committee¹⁹.

"The principle underlying sections 277 to 277 (E) of the Act of 1913 is that a company incorporated outside India, should in the matter of supplying information to the public about Its constitution, directorate etc. of submission of accounts to the Registrar of joint stock companies and of the registration and contents of prospectuses be placed as far as practicable on the same footing as a company incorporated in India. We have considered it desirable to recommend a redraft of these sections which follow very closely the wording of sections 406 to 423 of the English Act except that section 408, 416 and 418 of that Act which have no application to this country have been omitted from our redrafts.

¹⁹ Guide to the companies Act: A. Ramaiya

In these redrafts, the provisions of section 277 (D) are retained about registration of charges on properties in India, which are created or acquired by companies incorporated outside India but having an established place of business here. Similarly, the provisions of section 277 (E) are also retained, which extend to these companies the principles contained in section 118 and 119. The provisions of section 277(C) relating to canvassing for sale of shares is already covered by our general recommendation that the prospectus requirements of foreign companies should be the same as those of companies incorporated in this country. The requirements in the case of domestic companies prohibit such practice and it will be seen in the redraft that for the purpose of this section shares or debentures of foreign companies stand on the same footing as those of domestic companies:

The principal changes recommended in the redraft were as follows:-

- (i) As regards documents to be delivered to the registrar of joint stock companies by overseas companies carrying on business in India, the existing particulars about directors managers etc. required under section 277(1)(b) were recommended to be considerably amplified in respect of their former names, if any, the residential address, nationality, occupation details on the directorships which they hold, etc.
- (ii) As regards any alterations in the above documents which are to be delivered to the registrar by overseas companies, the alteration in the lists were recommended which are to be filed with the Registrar should contain particulars of any person occupying the position of a secretary, by whatever name called.
- (iii) As regards the accounts, the recommendation was that in substitution of sub section (3) of section 277 of the Act of 1913, a foreign company should be required to make out its balance sheet and profit and loss account, in such form and containing such particulars as it would have to do in this country, if it had been a company within the meaning of the Indian Companies Act.
- (iv) As regards the office, where the documents would have to be filed by companies incorporated abroad the recommendation was that they should submit them to the Registrar of the Joint stock company. New Delhi, in triplicate and one set to the Registrar of the State where the principal business of the foreign company is carried on. It was expected that the recommendation would facilitate the business

of the foreign company and at the same time enable the state in which the principal business is being carried on to keep track of such companies.

- (v) Another recommendation was that the prospectus requirements of foreign companies should be brought in line with those of companies incorporated in India, subject to certain minor changes, e.g.:- it would be no longer necessary for a foreign company to state its object.
- (vi) It was also suggested by the committee that it is most desirable that foreign companies operating in India and whose shares are quoted in a leading stock exchange in India, should maintain a branch register in India.

It was further proposed in the bill to put foreign companies of which not less than fifty percent of the share capital is held by one or more citizens of India or by one or more bodies corporate incorporated in India at par with Indian Companies for the purpose of compliance with such of the provisions of the Act as may be prescribed in that behalf. It was also proposed that the provisions relating to inspection of the books of accounts of companies and investigation into the affairs of the companies shall apply to a foreign company having an established place of business in India. This meets the demand that there should be more effective control over the working of foreign companies in this country.

2. Multinational Corporations and legal requirements of submission of documents etc.

Application under **Section 592 to 602** to foreign companies²⁰:-

- (1) Section 591 to 602 both inclusive, shall apply to all foreign companies that is to say, companies falling under the following two classes, namely -
 - (a) Companies incorporated outside India, which have before the commencement of this Act, established a place of business within India; and

²⁰ Section 591, Companies Act, 2013

(b) Companies incorporated outside India, which have before the commencement of this Act, established a place of business within India and continue to have an established place of business within India at the commencement of this act.

(2) Not with standing anything contained in sub-section (1) where not less than fifty percent of the paid up share capital whether equity or preference or partly equity or partly preference of a company incorporated outside India and having an established place of business in India, is held by one or more citizens of India or by one or more bodies corporate incorporated in India, or by one or more citizens of India and one or more bodies corporate incorporated in India, whether singly or in the aggregate, such company shall comply with such of the provisions of this Act as may be prescribed with regard to the business carried on by it in India, as if it were a company incorporated in India.

According to this section "A foreign Company" means a company incorporated outside India and having a place of business in India. It should be distinguished from a "foreign controlled company" which means a company, whether foreign or Indian, in which the majority shareholding and voting power is in the hands of foreign individuals or bodies corporate.²¹

In an English Case²² a Canadian Railway Company's four directors were in England who formed a London Committee for the purpose of raising loans for the construction of the railway in Canada. They were using the office of another company without rent and transacted no other business than that of raising loans. Court of Appeal held that the defendants were carrying on their business in the office used by the London Committee and could therefore be properly served with a writ.

In a cases²³ where an overseas bank hired premises in England, had some staff there for the purpose of conducting external trade and financial relations, that was held to be a place of business, though no actual banking transactions was taken up there.

But in another cases where foreign company appointed a representative in India only for the purpose of eliciting orders from the company's customers, that was held to be not establishing a place of business in India.

²¹ Guide to the companies Act: A. Ramayya

²² As Dampridikib 'Hercules' of s Grand trunk Pacific Rly. Co., (912)1 KB. 222

²³ South India Shipping Corpn. Ltd s Export import bank of Korea (1985) 2 All ER 219 ChD

Thus it is obvious that a company should have a specified and identifiable place at which it carries on business, such as an office, storehouse, godown or other premises having some concrete connection between the locality and its business.

There arises a question about foreign companies collaborating with Indian Companies in several industrial enterprises in India, whether the place of Indian Company should not be considered a place of business in India of its foreign collaborator. It has been held in many cases²⁴ that such companies will amount to have established a place of business in the country. The regular presence or stay of the foreign collaborator's managerial or technical personnel for some period of time may well be construed as a place of business.

As per the corporation laws of several states in USA the following activities do not constitute carrying on of business:-

- (i) Maintaining or defending any suit or action or other proceedings or effecting the settlement of any claim or dispute.
- (ii) Holding meetings of share holders or directors,
- (iii) Maintaining Bank Accounts.
- (iv) Maintaining offices or agencies for the transfer, exchange and registration of shares or other securities.
- (v) Effecting sales through independent contractors,
- (vi) Soliciting or procuring orders where such orders require acceptance without the state for becoming binding contracts.
- (vii) Creating evidences of debts, charges on real or personal property.
- (viii) Securing or collecting debts or enforcing claims to property of any kind,
- (ix) Conducting any isolated transaction.²⁵

²⁴ Tovarishesto Manufacture Liuding Rahenek (1944) 2 All ER 55

²⁵ Harry Hann on Law

To start a procedure in establishing a place of business in India, a foreign company is not required to perform any formalities except the filling of documents required by section 592. This section provides what documents etc. are to be delivered to Registrar by the foreign companies carrying on business in India.

(A) Documents, etc., to be delivered to Registrar by foreign companies carrying on business in India

(1) Foreign companies, which after the commencement of this Act, establish a place of business within India shall, within²⁶ [thirty days] of the establishment of the place of business, deliver to the Registrar for registration-

(a) a certified copy of the charter, statutes, or memorandam and articles, of the company or other instrument constituting or defining the constitution of the company; and, if the instrument is not in the English language, a certified translation thereof.

(b) the full address of the registered or principal office of the company;

(c) a list of the directors and secretary of the company, containing the particulars mentioned in sub-section (2);

(d) the name and address or the names and addresses of some one or more persons resident in India, authorised to accept on behalf of the company service of process and any notices or other documents required to be served on the company; and

(e) the full address of the office of the company in India which is to be deemed its principal place of business in India.

(2) The list referred to in clause (c) of sub-section (1) shall contain the following particulars, that is to say:-

(a) with respect to each director-

²⁶ Substituted by the Companies (Amendment) Act, 1965

- (i) in the case of an individual, his present name and surname in full, any former name or names and stir name or surnames in full, his usual residential address, his nationality, and if that nationality is no: the nationality of origin, his nationality of origin, any his business occupation, if any, if he has no busines3 occupation but holds any other directorship or directorships, particulars of that directorship or ot some on of those directorships ; and
 - (ii) in the case of a body corporate, its corporse name and registered or principal office; and the full name, address. nationality, and nationality of origin, if different from that nationality of each of its directors ;
- (b) with respect to the secretary, or where there are joing secretaries, with respect to each of them
- (i) in the case of an individual, his present name and surname, any former name or names and surname or surnames and his usual residential address; and
 - (ii) in the case of a body corporate, its corporate name and registered or principal office

Provided that, where all the partners in a firm are joint, secretaries of the company, the name and principal office of the firm may be stated instead of the particulars mentioned in clause (bi) of this sub-section.

- (3) Clauses (2) and (3) of the explanation to subsection 91) of section 303 shall apply for the purpose of the construction of references in sub-section (2) to present and former names and surnames as they apply for the purposes of the construction of such references in sub-section (1) of section 303.
- (4) Foreign companies, other than those mentioned in sub-section (1), shall, if they have not delivered to the Registrar before the commencement of this Act the documents and particulars specified in sub-section (1) of section 277 of the Indian Companies Act,

2013, continue to be subject to the obligation to deliver those documents and particulars in accordance with that Act.²⁷

Delivery of name and address for registration under this section amounts to submission to the jurisdiction of the courts in this country.²⁸ Another Indian case²⁹ is a very glaring example of submission to the jurisdiction. A foreign company is deemed to carry on business in this country, when it carries on business through an agent. But a foreign company can not be sued in India for a cause of action which has arisen wholly outside India even it has a place of business in India.³⁰

When any change occurs in the above particulars the Registrar must be notified accordingly³¹

(B) Return to be delivered to Registrar by foreign company where documents, etc., altered:

If any alteration is made or occurs in:

- (a) The charter, statutes, or memorandum and articles of a foreign company or other instrument constitution defining the constitution of a foreign company; or
- (b) The registered or principal office of a foreign company; or
- (c) The directors or secretary of a foreign company; or
- (d) The name or address of any of the persons authorized to accept service on behalf of a foreign company; or
- (e) The principal place of business of the company in India:

The company shall, within the prescribed time, deliver to the Registrar for registration a return containing the prescribed particulars of the alteration.

²⁷ Section 592 of Companies Act, 2013

²⁸ Employee's liability assurance Corpn. v. Sedgwick Collins & Co. (1927) A. C.. 95

²⁹ Anant Narayan v. Massey Ferguson Ltd. (1965)1 Comp. L.J. 269

³⁰ Pratap Singh v. Bank of America (1976)46 Comp. Case:532, Boni

³¹ Section 593 of Companies Act, 2013

Foreign companies are no longer required to file with the registrar information as to changes in the particulars regarding their directors and secretaries. Such information's is not infect essential from the point of view of Government and may cause unnecessary harassment to the company.

It is also required that the annual accounts of the foreign company should be given every year³².

(C) Accounts of foreign company

(1) Every foreign company shall in every calendar year:

- (a) make out a balance-sheet and profit & loss account in such form, containing such particulars and including or having annexed or attached thereto such documents (including, in particular, documents relating to every subsidiary of the foreign company) as under the provisions of this Act it would, if it had been a company within the meaning of this Act, have been required to make out and lay before the company in general meeting and
- (b) deliver three copies of those documents to the Registrar

Provided that the Central Government may, by notification in the Official Gazette, direct that, in the case of any foreign company or class of foreign company the requirements of clause (a) shall not apply, or shall apply subject to such exceptions and modifications as may be specified in the notification.

- (2) If any such document as is mentioned in sub-section (1) is not in the English language, there shall be annexed to it a, certified translation thereof.
- (3) Every foreign company shall send to the Registrar with the documents required to be delivered to him under subsection (1), three copies of a list in the prescribed of an places of business established by the company in India as at the date with reference to which the balance-sheet referred to in sub-section (1) is made out.

³² Section 594 of Companies Act, 2013

With that every foreign company is required to state the name of foreign company whether limited and country where incorporated.³³

(D) Obligation to state name of foreign company, whether limited, and country where company is incorporated:

Every foreign company shall-

- (a) in every prospectus inviting subscriptions in India for its shares or debentures, state the country in which the company is incorporated;
 - (b) conspicuously exhibit on the outside of every office or place where it carries on business in India, the name of the company and the country in which it is incorporated, in letters easily legible in English characters, and also in the characters of the languages or one of the languages in general use in the locality in which the office or place is situated;
 - (c) Cause the name of the company and of the country in which the company is incorporated, to be stated in legible English characters in all business letters, bill-heads and letter paper, and in all notice, and other official publications of the company; and
 - (d) if the liability of members of the company is limited, cause notice of that fact -.
- (i) to be stated in every such prospectus as afore said and in all business letters, bill-heads, letter paper notices, advertisements and other official publications of the company in legible English characters; and
 - (ii) to be conspicuously exhibited on the outside of every office or place where it carries on business in India, illegible English characters and also in legible characters of the language or one of the languages in general use in the locality in which the office or place is situate.

³³ Section 595 Companies Act, 2013

Section 596 prescribes a procedure for service of any process, notice or any other document on the foreign company

(E) Service on foreign company

Any process, notice, or other document required to be served on a foreign company shall be deemed to be sufficiently served, if addressed to any person whose name has been delivered to the Registrar under the foregoing provisions of this Part and left at, or sent by post to, the address which has been so delivered

Provided that-

- (a) where any such company makes default in delivering to the Registrar the name and address of a person resident in India who is authorized to accept on behalf of the company service of process, notices or other documents; or
- (b) if at any time all the persons whose names and addresses have been so delivered are dead or have ceased so to reside, or refuse to accept service on behalf of the company, or for any reason, cannot be served;

A document may be served on the company by leaving it at, or sending it by post to, any place of business established by the company in India.

"Any place of business established by the company in India" means any existing place of business, that is established at the time of service and not any place where the company has at some time established its business.³⁴

In the case of a wholly owned subsidiary of a foreign company it would seem that service on the subsidiary will be per se service on the foreign company itself.³⁵

Service of notices of a writ on persons whose names were recorded in the Registrar's files was held to be sufficient though the company had closed its foreign branch and the employees had left for India³⁶

³⁴ Devarall vs. Grant Advertising Inc. (1954)3 All E.R. 389

³⁵ United States Scophony corporation of America (1948) 333 I_JS 795

Where these required documents should be delivered is provided under section 597:

(F) Office where documents to be delivered:

- (i) Any documents which any foreign company is required to deliver to the Registrar shall be delivered to the Registrar having jurisdiction over New Delhi, and references to the Registrar in this Part [except in sub-section (2)] shall be construed accordingly.
- (ii) Any such document as is referred to in sub-section (1) shall also be delivered to the Registrar of the State in which the principal place of business of the company is situate.(ii)If any foreign company ceases to have a place of business in India, it shall forthwith give notice of the fact to the Registrar, and as from the date on which notice is so given the obligation of the company to deliver any document to the Registrar shall cease, provided it has no other place of business in India.

Non compliance with the provisions of the Act is punishable under section 598:

Penalties:

If any foreign company fails to comply with any of the foregoing provisions of this part, the company, and every officer or agent of the company who is in default, shall be punishable with fine which may extend to one thousand rupees, and in the case of a continuing offence, with an additional fine which may extend to one hundred rupees for every day during which the default continues.

Non-compliance with any of the provisions of the Act relating to foreign companies by a foreign company will not however render any contract made by the company illegal or invalid.³⁷

Section 599 describes about the effect of non-compliance of above provisions on the contracts etc.

³⁶ Rome ifs PNB (No.2) 1199011 All ER 59 CA

³⁷ Curragh investments Ltd. s Cook (1974) 3 All ER 658(Ch.D)

Company's failure to comply with Part not to affect its liability under contracts etc.

Any failure by a foreign company to comply with any of the foregoing provisions of this Part shall not affect the validity of any contract, dealing or transaction entered into by the company or its liability to be sued in respect thereof; but the company shall not be entitled to bring any suit, claim any set-off, make any counter claim or institute any legal proceeding in respect of any such contract, dealing or transaction, until it has complied with the provisions of this Part.

If the Indian branch of a foreign company changes its objects, the court in whose jurisdiction its place of business is located will have jurisdiction to try shareholders objections.³⁸

Registration of charges, appointment of receiver and books of accounts

The provisions of Part V (sections 124 to 145) shall apply mutatis mutandis to-

- (a) charges on properties in India which are created by a foreign company after the 15th day of January, 1937 ; and
- (b) charges on property in India, which is acquired by any foreign company after the day aforesaid

Provided that where a charge is created, or the completion of the acquisition of the property takes place, outside India, sub-section (5) of section 125 and the provision to sub-section (1) of section 127 shall have effect as if the property. Wherever situated, were situated outside India.

- (2) The provisions of section 118 shall apply mutatis mutandis to a foreign company.
- (3) [(a)] the provisions of section 209 shall apply to foreign company to the extent of requiring it to keep at its principal place of business in India the books of account referred to in that section, with respect to moneys received and expended, sales and purchases made and assets and liabilities, in the course of or in relation to its business in India.

³⁸ ER Paymaster vs British Burmah Petroleum Co. (1976) 46 Comp. Cases 587 Bom

[(b)] on and from the commencement of the Companies (Amendment) Act, 2013, -

(i) the provisions of section 159 shall, subject to such modifications or adaptations as may be made therein by the rules made under this Act, apply to a foreign company having an established place of business in India, as they apply to a company incorporated in India

(ii) the provisions of sections 209, 209-A, 233-A and 233-B and sections 234 to 246 (both inclusive) shall so far as may be, apply only to the Indian business in India, as they apply to a company incorporated in India.

(4) In applying the sections referred to in sub-sections (1), (2) and (3) to a foreign company as aforesaid, references in those sections to the Registrar shall be deemed to be references to the registrar having jurisdiction over New Delhi, and references to the registered office of the foreign company shall be deemed to be references to its principal place of business in India.³⁹

The object of section 600 is that there should be more effective control over the working of foreign companies in this country. Every foreign company is required to keep proper books of account as referred to in section 209 for Indian Companies.

Where a foreign company has only one place of business established place of business: and principal place of businesses will be one and the same. If it has more than one place of business, the place where the head office in India is situated will be the principal place of business.

Under Section 601, some fees is required for the registration of documents -

(G) Fees for registration of documents

There shall be paid to the Registrar for registering any document required by the foregoing provisions of this part to be registered by him, such fees as may be prescribed.

³⁹ Section 600 of Companies Act, 2013

Meaning of some terms in relation to foreign companies are explained in section 602, like- 'certified', 'director', 'place of business', 'prospectuses and 'secretary'.

(H) Interpretation of foregoing sections of this Part:

For the purposes of the following provisions of this Part -

- (a) the expression "certified" means certified in the prescribed manner to be a true copy or a correct translation
- (b) the expression "director", in relation to a company, includes any person in accordance with whose directions or instructions the Board of directors of the company is accustomed to act
- (c) the expression "place of business" includes a share transfer or share registration office;
- (d) the expression "prospectus" has the same meaning as when used in relation to a company incorporated under this act ; and
- (e) the expression "secretary" includes any person occupying the position of secretary, by whatever name called.

Though the definition of "place of business" given in this sections is expressed to be "for the purpose of for going provisions of this part". It will probably also apply to the term as used in sections 603 to 608.

Where a foreign company which had formally carried on business in England but had ceased to do so, though it continued to maintain an office there for administrative purposes, has been held that it had a place of business in England.⁴⁰

⁴⁰ Sabatier vs Trading Companies (1927) I Ch. 495

3. Winding up of Multinational Corporation: The Legal Provisions:

Since long the MNCs are carrying on business in this country and after adopting the policy of liberalization there has been a steady growth in their number. Therefore the law relating to their winding up also requires special mansion.

Section 584 of the Act provides about winding up of foreign companies –

Power to wind up foreign companies although dissolved:

Where a body corporate incorporated outside India, which has been carrying on business in India, ceases to carry on business in India, it may be wound up as an unregistered company under this part, notwithstanding that the body corporate has been dissolved or otherwise ceased to exist as such under or by virtue of the laws of the country under which it was incorporated.

The effect of this section is that a company incorporated outside India, which has carried on business in India may be wound up as an unregistered company, even if it has been dissolved or otherwise ceased to exist in the country where it was incorporated. Winding up of a foreign company can only be made through court.

Where a foreign company ceases to carry on business or its substratum is gone or it carries on ultra virus business it may be wound up under the 'just and equitable ground'.⁴¹

A foreign company, which has been dissolved, cannot bring an action; but if a winding up order is passed in this country, the liquidator can sue in the name of the company.⁴²

Where a foreign company is wound up whatever the law of the country of incorporation, the surplus assets after paying the creditors should be dealt with in accordance with the provisions of this Act.⁴³

To justify the exercise of the power to wind up a dissolved company, it is enough to show the existence of assets in this country and the presence here of any person or persons claiming to

⁴¹ Rajan Nagindas Doshi vs British Burma Petroleum Company Ltd (1972) Comp. Cases 197

⁴² Russian & English bank v s Baring Bros. 1936 AC 405

⁴³ Re Banque Das Marchand like Moscow (1957)3 All ER 182

be creditors of the company and it is not further necessary to show that the company carried on business operations from any place of business in India.⁴⁴

In the winding up of a foreign company under this section, the foreign creditors of the company have as much right to prove their claims as the Indian creditors.⁴⁵ Other cases also hold judicial importance in the field of winding up of multinational corporations, that is, foreign company.⁴⁶

After a winding up order is made the liquidator has to deal with the entire body of creditors without making any distinction as regards the location of the debts.

In connection of winding up, the following summary statement of the law in HALSBURY'S LAWS OF ENGLAND⁴⁷ is worth mentionable-

"A foreign company partnership or association may be wound up as an unregistered company, irrespective of the number of its members, if it has assets in England, and notwithstanding that it has been dissolved or otherwise ceased to exist as a company under or by virtue of the laws of the country under which it was incorporated. When a winding up order has been made, the dissolved company must be deemed to be revived in order to secure the effective collection and distribution of the asset, thus the liquidator may be permitted to bring an action on behalf of the company. Such a revivification has no retrospective effect.

A dissolved foreign company may be wound up at any rate if it has before its dissolution conducted business at a place in England, even though it has never maintained in England an established place of business, such a branch office. It seems that the court always possessed the power to wind up a dissolved foreign company provided that there are assets of the company in England, even though the company may never have possessed any place of business there."

⁴⁴ Re Azoff Don Commercial bank (1954) 1 All ER 947

⁴⁵ Raja of Vizianagaram v Official Receiver (1962) 32 Com. cases 1 (S.C.).

⁴⁶ Inland Revenue v Highland Engineering Co. Scotland 11976] JBL 51; RBI v BCCI (Overseas Ltd) (No. 1) (1993)

⁴⁷ 3rd Edition, 1991, Para 1729, pp-843-4

4. Multinational Corporation and issue of prospectus (Section 603 to 608)

Its capital structure and other related provisions: -

Prospectus is an invitation issued to the public to take shares or debentures of the company or to deposit money with the company. According to section 2(36) "A prospectus means any document described or issued as prospectus and includes any notice circular, advertisement or other document inviting deposits from the public or inviting offers from the public for the subscription or the purchase of any shares in or debentures of a body corporate."

It is required that application forms for shares or debentures will not be issued unless they are accompanied by a memorandum containing such salient features of a prospectus as may be prescribed.

Foreign company may, even if it has no place of business in India, issue a prospectus offering shares or debentures for subscription. The prospectus shall have to comply with the provisions of the Act relating to prospectus, according to section 603 to 608.

(A) Dating of prospectus and particulars to be contained therein: -

(1) No person shall issue, circulate or distribute in India any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside India, whether the company has or has not established, or when formed will or will not establish, a place of business in India, unless the prospectus is dated and

(a) Contains particulars with respect to the following matter: -

(i) the instrument constituting or defining the constitution of the company;

(ii) the enactments or provisions having the force of enactments, by or under which the incorporation of the company was effected;

(iii) in address in India where the said instrument, enactments, or provision, or copies thereof, and if the same are not in English, a translation thereof certified in the prescribed manner, can be inspected ;

- (iv) the date on which and the country in which the company was incorporated ;
- (v) whether the company has established a place of business in India, and, if so, the address of its principal office in India; and
- (b) Subject to the provisions of this section, states the matters specified in Part 1 of Schedule II and sets out the reports specified in Part II of that Schedule; subject always to the provisions contained in Part III of that Schedule

Provided that sub-clauses (i), (ii) and (iii) of clause (a) shall not apply in the case of a prospectus issued more than two years after the date at which the company is entitled to commence the business; and in the application of Part I of Schedule 11 for the purposes of this sub-section, clause 2 thereof shall have effect with the substitution for references to the articles; of references to the constitution of a company.

- (2) Any condition requiring or binding an application for shares or debentures to waive compliance with any requirement imposed by virtue of clauses (a) or (b) of sub-section (1), or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.
- (3) No person shall issue to any person in India a form of application for shares in or debentures of such a company or intended company as is mentioned in sub-section (1), unless the form is issued with a prospectus which complies with the provisions of this Part and the issue whereof in India does not contravene the provisions of section 604:

Provided that this sub-section shall not apply if it is shown that the form of application was issued in connection with a bone fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures.

- (4) In the event of non-compliance with or contravention of any of the requirements imposed by clauses (a) and (b) of sub-section (1), a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if-
 - (a) as regards any matter not disclosed, he proves that he had no knowledge thereof or

- (b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part ; or
- (c) the non-compliance or contravention was in respect of matters which, in the opinion of the Court dealing with the case, were immaterial, or was otherwise such as ought in the opinion of that Court, having regard to all the circumstances of the case, reasonably to be excused

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters contained in clause 18 of Schedule 11, no director or other person shall incur any liability in respect to the failure; unless it is proved that he had knowledge of the matters not disclosed.

(5) This section-

- (a) shall not apply to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons; and
- (b) except in so far as it requires a prospectus to be dated, shall not apply to the issue of a prospectus relating to shares or debentures which are or are to be in all respects uniform with shares or debentures previously issued and for the time being dealt in or quoted on a recognized stock exchange;

But, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on or with reference to the formation of a company or subsequently.

(6) Nothing in this section shall limit or diminish any liability, which any person may incur under the general law or under this Act apart from this section.⁴⁸

(B) Provisions as to expert's consent and allotment

(1) No person shall issue, circulate or distribute in India any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated

⁴⁸ Section 603

outside India, whether the company has or has not established, or when formed will or will not establish, a place of business in India-

- (a) if where the prospectus includes a statement purporting to be made by an expert, he has not given, or has before delivery of the prospectus for registration withdrawn his written consent, to the issue of the prospectus with the statement included in the form and context in which it is included, or there does not appear in the prospectus a statement that he has given and has not withdrawn his consent as aforesaid; or
- (b) if the prospectus does not have the effect, where an application is made in pursuance thereof, of rendering all persons concerned bound by all the provisions (other than penal provisions) of sections 72, 73 and 74 so far as applicable.

(2) In this section, the expression "expert" includes an engineer, a valuer, an accountant and any other person whose profession gives authority to a statement made by him; and for the purposes of this section a statement shall be deemed to be included in a prospectus if it is contained in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.⁴⁹

(C) Registration of prospectus

(1) No person shall issue, circulate or distribute in India any prospectus offering for subscription shares in or debentures of a company incorporated or to be incorporated outside India, whether the company has or has not established, or when formed will or will not establish, a place of business in India, unless before the issue, circulation or distribution of the prospectus in India, a copy thereof certified by the chairman and two other directors of the company as having been approved by resolution of the managing body has been delivered for registration to the Registrar and the prospectus states on the face of it that a copy has been so delivered, and there is endorsed on or attached to the copy-

⁴⁹ Section 604

- (a) any consent to the issue of the prospectus required by section 604 ;
- (b) a copy of any contract required by clause 16 of Schedule II to be stated in the prospectus or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof; and
- (c) where the persons making any report required by Part II of Schedule II have made therein, or have, without giving the reasons, indicated therein, any such adjustments as are mentioned in clause 32 of that Schedule, a written statement signed by those persons setting out the adjustments and giving the reasons therefore

(2) The references in clause (b) of sub-section 91) to the copy of a 12[contract] required thereby to be endorsed on or attached to a copy of the prospectus shall, in the case of a contract wholly or partly in a language other than English, be taken as references to a copy of a translation of the contract in English or a copy embodying a translation in English of the parts which are not in English, as the case may be, being a translation certified in the prescribed manner to be a correct translation.⁵⁰

(D) Penalty for contravention of sections 603, 604 and 605

Any person who is knowingly responsible-

- (a) for the issue, circulation or distribution of a prospectus; or
- (b) for the issue of a form of application for shares or debentures; in contravention of any of the provisions of sections 603, 604 and 605, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.⁵¹

(E) Civil liability for miss-statements in prospectus

Section 62 shall extend to every prospectus offering for subscription shares and debentures of a company incorporated or to be incorporated outside India, whether the company has or has

⁵⁰ Section 605 of Companies Act, 2013

⁵¹ Section 606 of Companies Act, 2013

not established, or when formed will or will not establish, a place of business in India, with the substitution for references in section 62 to section 60 of this Act, of references to section 604 thereof.⁵²

(F) Interpretation of provisions as to prospectuses

- (1) where any document by which any shares in, or debentures of, a company incorporated outside India are offered for sale to the public, would, if the company concerned had been a company within the meaning of this Act, have been deemed by virtue of section 64, to be a prospectus issued by the company that document shall be deemed, for the purposes of this Part, to be a prospectus issued by the company offering such shares or debentures for subscription.
- (2) an offer of shares or debentures for subscription or sale to any person whose ordinary business it is to buy or sell shares or debentures, whether as principal or as agent, shall not be deemed to be an offer to the public for the purposes of this Part.
- (3) in this Part, the expressions "prospectus", "shares" and "debentures" have the same meanings as when used in relation to a company incorporated under this Act.⁵³

(G) Other Related Provisions

- (1) In some of the sections of the Act, the provisions have been made specifically applicable to foreign companies, e.g., sub-section (2) (b) of section 202, of which the object is to prevent an undercharged insolvent from discharging the functions of a director or manager of an Indian as well as a foreign company.
- (2) Some sections of the Act apply to foreign companies because of the use of the expression 'body corporate' in those sections, e.g. sections 4, 42, 43A, 370, 372 etc.
- (3) By amendment Act of 1974, section 600 is amended and the provisions of section 159 have been extended to foreign companies subject to such modifications and adaptations as may be made by rules drafted under the Act. Section 159 requires filing of annual returns.

⁵² Section 607 of Companies Act, 2013

⁵³ Section 608 of Companies Act, 2013

(4) Similarly, provisions of section 209-A, 233-B, and 234 to 246 have been made applicable to the Indian business of a foreign company. Section 209-A contains provisions about inspection of accounts. Section 233-A empowers the government to direct special audit, and section 233-B, audit of cost accounts. Section 234 to 246 provide for investigations.

Some relevant Indian cases are worth mentionable. It was held by Calcutta High Court in a case that a director functioning in India may be regarded as a principle officer for the purposes of Income Tax.⁵⁴

For purposes of liability in the host state as to when a foreign company is to be regarded as an instrumentality of the foreign state so as to require Government permission under section 88 of the civil procedure code before instituting proceedings, the court said that the government should examine the question objectively and permit proceedings in civil matters of contractual or tortuous nature⁵⁵.

All the activities of a government company should not be held as those of an instrumentality of the state.

5. Comparison with English Company Act

Indian Companies Act 1956 is made on the lines of English companies Act, as is the case with many other Indian Acts. A distinction is made between foreign companies and oversea companies in English Act.

A foreign company, i.e. a company incorporated outside Great Britain, which has an established place of business within Great Britain is called by the Act an oversea company.⁵⁶

Regarding prospectuses, the company must state the name of the company and the country in which it was incorporated. Prospectuses of the companies incorporated out of Great Britain - whether overseas or other foreign companies - are subject to the same rules as apply to prospectuses of companies registered in England with some modifications.⁵⁷

⁵⁴ Hunger Ford Investment trust vs ITocal. (1977) 47 Comp. Case 181

⁵⁵ Veb Dent Nackt Seericieri Roetch v s New Central Jute (1994)1 Comp. LI 138 SC

⁵⁶ Section 744 of Companies Act, 2013

⁵⁷ Section 693,72, 75, 79 of Companies Act, 2013

If the liability of members is limited, notice of that fact must be stated in legible letters in every prospectus and bill-heads, letter papers, notices and other official publications in Great Britain and must be affixed to every place where it carries on business.⁵⁸

An overseas company has to register the name and address of at least one person resident in Great Britain who is authorised to accept on behalf of the company service of process or notice.⁴³ Service on an overseas company can only be effected in the manner indicated in section 694.

In the case of non compliance the overseas company and every officer or agent of the company who knowingly and willfully authorised the default are liable to a fine⁵⁹

Another important feature of English companies Act is that overseas companies or former overseas companies may be investigated by the secretary of state under sections 432 to 437, 439, 441 and 452(1).

In England, state-owned or state controlled foreign corporations are governed by the State Immunity Act, 1978. It provides that a separate entity enjoys immunity if it acts in the exercise of sovereign authority but does not enjoy immunity if it has engaged in commercial transactions.⁶⁰

A foreign company whether an overseas company or other foreign company, may be wound up by the court. In a case⁶¹ Megarry J. stated that the law relating to the existence of jurisdiction to make a winding up order in respect of a foreign company is as follows: -

- (1) There is no need to establish that the company ever had a place of business here.
2. There is no need to establish that the company ever carried on business here, unless perhaps the petition is based upon the company carrying on or heaving carried on business.
3. A proper connection with the jurisdiction must be established by sufficient evidence to show (a) that the company has some assets within the jurisdiction and (b) that there are

⁵⁸ Section 693 (d) -13. Section 695 of Companies Act, 2013

⁵⁹ Section 697 of Companies Act, 2013

⁶⁰ Palmer's Company Law

⁶¹ Re Compania Merabello San Nicholas S.A. 1973 Ch. 75, 91

one or more persons concerned in the proper distribution of the assets over whom jurisdiction is exercisable.

4. It suffices if the assets of the company within the jurisdiction are on any nature, they need not be commercial assets.
5. Assets need not be assets, which will be distributable to creditors by the liquidator in the winding up.
6. If it is shown that there is no reasonable possibility of benefit accruing to creditors from making the winding up order, the jurisdiction is excluded.

It is evident from Megarry J.'s statement that a foreign company may be wound up under these provisions even though it did not have an established or indeed any place of business in Great Britain.

Where the English Court has made a winding up order with respect to a foreign company the English winding up is conducted in accordance with English and not foreign winding up procedure.

A foreign company, which has been carrying on business in Great Britain, but has ceased to do so, may be wound as an unregistered company even if it has been dissolved according to its own law of incorporation.

A foreign company, which has been dissolved, cannot bring an action but after a winding up order the liquidator can sue in the name of the company though it has been dissolved.

6. Security and Exchange Board of India (SEBI)

To eradicate the irregularities of capital market and to provide a healthy atmosphere to the investors, Security and Exchange Board of India was established under the SEBI⁶² Act 1992. The object clauses of the Act states –

⁶² Security and Exchange Board of India

"An Act to provide for the establishment of a board to protect the interests of investors in securities and to promote the development of and to regulate, the securities market and for matters connected therewith or incidental thereto."

SEBI is functioning by subdividing its workload into two divisions, one for controlling primary market, namely issue of securities and the other for controlling the market transactions in securities. For issue of securities it has laid down guidelines as to disclosures in accordance with which prospectus must be prepared for vetting. For transactions in securities market it has identified a number of market intermediaries who have been subjected to discipline through registration and conduct rules.⁶³

On the initiative taken by government as part of new policies, SEBI has allowed Foreign Institutional Investors such as mutual fund, pension fund, investment trust, assets management companies and institutional portfolio managers to enter capital market in the country. Accordingly guidelines were issued for the registration procedure, ceiling on investment and tax laws. SEBI has also allowed foreign agents to work in the Indian Capital market on behalf of foreign investors.

Since its establishment SEBI has made available a well managed and regular capital market on which both the Indian and foreign private and institutional investors can rely.

7. Foreign Exchange Management Bill 1999 (FEMA)

As a part of the on going process of economic liberalization relating to foreign investments and foreign trade in India and as a measure for closer interaction with the world economy the Foreign Exchange Regulation Act, 1973 (FERA) was reviewed in the year 1993 and several amendments were made therein. Further review of the FERA was undertaken by the Central Government of India in the light of subsequent developments and on account of the experience in relation to foreign trade and investment in India, the Central Government felt that instead of further amending the FERA, the better course would be to repeal the existing Act and to enact a new legislation in its place. In view of the same, the RBI was asked to suggest a new legislation based on the report submitted

⁶³ Company Law : Avtaar Singh, 11th Edition

by a task force constituted for this purpose by the RBI recommending substantial changes in FERA.

There has been a substantial increase in the Foreign Exchange Reserves of India. Since the current account convertibility, has taken place such as up increased access to external Development has taken place such as current account convertibility, liberalization in investments abroad, increase access to external commercial borrowings by Indian Companies an participation by foreign institutional investors in securities markets in India. Keeping in view these changes the Central Government of India has introduced the FEMA to repeal FERA.

A marked digression from the general rule that the Accused is presumed to be innocent until proved guilty beyond reasonable doubt, is found in the FEMA. A presumption regarding documents, contained in this Bill is contrary to the general rules of evidence. For example, when documents pertaining to a crime under FEMA are discovered the Court will presume that the contents of the documents are true and correct and will not go into the question whether the incriminating documents may have been forged. Thus, it becomes the responsibility of the Accused to prove, in case that the documents are fabricated. The main change between FERA and FEMA is in the approach. FERA seeks to regulate almost all the transactions involving foreign exchange and inbound/outbound investments. In FERA every provision is restrictive and starts with a negative proposition stating that whatever is mentioned in that section is prohibited unless the prior permission either general or special, as may be required in the specific case, of RBI is obtained. FERA provides that nothing can be done without RBI's permission. In comparison to this existing negative piece of legislation, the provisions of the proposed Bill have a positive approach. This can be found from the provisions of FEMA dealing with capital account transactions, which are to be regulated. Unlike FERA which provides that these transactions cannot be entered into without prior permission of RBI, FEMA provides that any person may sell or draw foreign exchange for such transactions and then specifies the powers of the RBI to regulate the class or limits of such capital account transactions. Thus the basic proposition in the proposed FEMA Bill is positive. FEMA classifies foreign exchange transactions into capital account transactions and current account transactions and amongst the two regulates the former more closely.

Under FEMA residential status will not depend upon the intent of the person to reside in India but would depend upon the exact period of his stay in India.

The provisions of the FEMA Bill aims at consolidating and amending the law relating to foreign exchange with the object of facilitating external trade and payments and for promoting the orderly payment aid amendments in foreign exchange markets in India. The FEMA Bill empowers the RBI to authorize persons to deal in foreign securities specifying the conditions for the same. It also provides for a person resident in India in holding, owning, transferring or investing in foreign security and for a person resident out side India in holding, owning, transferring or investing in Indian Securities.

CHAPTER-IV

REGULATION OF MULTINATIONAL CORPORATIONS

The consideration of any kind of regulatory framework in the host countries economies brings in the question of relationship between government and business (between MNCs and government), between government and government (between host and home countries). Complexities of present problem indicate that there are more than one questions involved here.

Any control mechanism aiming to minimize or eliminate the adverse effects of the activities of the MNCs cannot be directed solely to one aspect of the activities to the exclusion of others. Nor can this control mechanism be of universally international character in a standardized form applicable to all.

The need for regulating the economic processes in a market-oriented economy is not in doubt. But in the developing economies where large corporations in their oligopolistic character exploit the imperfections of the market and the foolproof regulation is all the more necessary albeit difficult.

1. The Existing Regulatory System

There have been efforts both at the international and national level to regulate and control the activities of the MNCs. Some of the international conventions have also deliberated in detail on this issue. Efforts for thrashing out the issues conceptually and functionally have been made by India and Columbia by defining the MNCs in their respective legal framework.

National regulations are there in the developed and developing countries dealing with foreign investment but no developed or developing country has yet enacted a comprehensive regulation for dealing with MNCs in a single comprehensive in- torment. Various aspects of their activities are dealt with in fragmented pieces of legislation. Anti-trust legislations are

there in the USA in the form of the Sherman Anti-trust Act (1890) The Clayton Act (1914) ; The Federal Trade Commission Act (1914) and the Webb-Pomerene Act (1918) ; in UK in the form of MRTP Act (on the lines of which Indian MRTP Act was formulated), in Germany, Anti-Trust Act 1957 ; in India MRTP Act 1970, FERA 1973, FEMA 1999 etc.

Apart from the absence of any specific legislation on the activities of the MNCs existence of un-coordinated enactments dealing with specific machinery to administer these enactments have tended to create a certain amount of uncertainty about the rights, duties and obligations of these corporations.

2. Regional Efforts to Regulate the Multinational Corporation

At the regional level, two significant developments have been made in regard to the formulation of norms for controlling the activities of various enterprises though even here there is no specific code or set of rules applicable solely to the MNCs. The leading example of the regional attempt to have an agreement among member countries for limiting the influence of foreign capital is that of the ANDEAN Foreign Investment Code (Decision 2 4) made under the Cartagena Agreement of 1968. Under this agreement the member countries⁶⁴ restricted the total foreign ownership in enterprises within the sub-region and laid down a rule for majority participation by Latin American countries in any joint ventures with foreigners.

There have been attempts for forming similar groupings, for example by ASEAN countries to achieve a common trade and investment policies, but no concrete, results have emerged so far. Prove effective in harmonization of the company law regulations within the community.

A specific formulation for MNCs on a regional basis is the well known as OECD, laying down specific guidelines for regulating the conduct of multinational corporations and the policies to be adopted by the member countries for these MNCs. These guidelines deal with the problems that arise from the study of the impact of MNCs activities, suggesting to adopt the general policies by the MNCs such as giving due consideration to the -member countries' objectives and priorities, favoring close co-operation with the local community, refraining from corrupt practices and abstaining from involving in local political processes.

⁶⁴ Peru, Columbia, Bolivia, Ecuador, Venezuela (Chile Withdrew in Oct. 1976)

3. International Efforts to Regulate Multinational Corporation

At the international level, there has been as yet no instrument dealing with the affairs of MNCs. The maiden effort in this direction started with the report from the Group of Eminent Persons Impact of MNCs on Development and International Relations. However, attempts have been made at the international level, even before the resolutions of the Economic and Social Council at its fifty seventh session, to deal with the matter relating to the activities of the MNCs and private foreign investment. In 1948, the UN considered international investment and restrictive trade practices, as reflected in Article 12 and 46-54 of the Havana Charter.⁶⁵ The principle of permanent national sovereignty over natural resources has been the subject matter of many General Assembly resolutions.⁶⁶

The UNCTAD Conference at its second session in 1968 (held at New Delhi), called for a work programme on restrictive business practices and for a study of the issues on flow of private capital to developing countries. The issue of transfer of technology to LDCs also received special attention. Various General Assembly resolutions (1713-xvi) and Economic and Social Council resolution (834•xxxiii), the Department of Economic and Social Affairs of the UN examined in 1961 various aspects of the problem. In 1970, the UNCTAD initiated a programme of work for revision of international patent system and for framing a, code of conduct for transfer of technology. The harmonization of tax problems by undertaking necessary studies on tax treaties has been carried out right since 1968 by an Expert Group, assisted by the UN Department of Economic and Social Affairs.

In considering these problems, the related questions of transfer pricing and tax evasion have also been examined. Following the adoption of resolution (UN resolution No. 2918-xxcii) the United Nations Commission on International Trade and Law, (UNCITRAL) has taken up the legal questions related to MNCs and international law. But no code has been formulated, may be for want of proper code of conduct to be formulated by the 'UN Commission on Transnational Corporations which would then be considered for formulating the appropriate legal instrument.

⁶⁵ See UN Document, Sales No. 1948 III D. 4 ; The UN Conference on Trade and Employment held at Havana from 21-24 March 1948, Final Act and Related Documents

⁶⁶ Resolutions No. 626 (vii), 1803 (xvii), 2158 (xxi), 2386 (xxiii), 2692 (xxv), 3016 (xxvii), 3171 (xxviii), 3175 (xxviii)

4. Indian System of Regulation

In India also there is no system of regulation, which deals exclusively with the activities of multinational corporations. Like others, India too, has fragmented piece of legislation dealing with some specific activities of foreign companies as well as domestic firms. For example, the Companies Act, 1956 deals only with the rules to be observed by the foreign company.⁶⁷ The Foreign Exchange Regulation Act, 1973 is concerned with the matters relating to equity and loan arrangements by foreign companies in India and use of foreign trade marks and patents.⁶⁸ In the, same manner, the Foreign Money Contribution Act Prohibits contribution by foreign companies; the Industrial Development and Regulation Act,1951 deals with licensing for establishing a business in scheduled industries ; the control of Capital Issues Act, 1947 relates to the issue of capital and conversion of Companies' share capital ; the MRTP Act, 1969 details the regulation for curbing the concentration of economic power by industrial undertakings (Sections 20-26); the Patent and Designs Act, 1970 provides for registration of patents including patents of foreign companies ; the Trademarks and Merchandise Act, 1958 deals with registration of trademarks. From this list of various legislations, except, FERA and Foreign Contribution Act, all other are common to foreign and domestic enterprises. The Foreign Contribution Act alone has a definition of Multinational Corporation for the purpose of placing a ban on such corporations' financing persons, or individuals or bodies for prevention of corrupt practices.

5. Mechanism for Controlling the Multinational Corporation

There has been a great debate over the issue that what should be the mechanism of controlling the MNCs activities. In fact it is not the MNCs, which are to be controlled, but their activities, which have, and adverse impact on the economies of the host countries.

Following are the various mechanisms to control the MNCs' activities is considered to be formulated:

- (a) Nature of control,
- (b) Entities to be covered,

⁶⁷ Section 591 of the Companies Act, 2013

⁶⁸ Sections 28 and 29 of the FERA 1973, 18, See for definition Chapter 1

(c) Means for effective implementation.

(a) Nature of Control

Two important questions have to be considered here. One, whether the control should be legislative or voluntary and two, whether it should be formulated at the national level or at the international level in the form of Code of Conduct as attempted by the UN. It has already been made clear that the primary concern of the MNCs activities is national and this would imply regulations at the national level. Though the international level instruments (of course not in terms of legal binding) are there but they should be supplementary to the national legislative regulations. Also the fragmented pieces of regulations are not going to deliver the goods but a comprehensive enactment should be there instead of many acts.

(b) Entities to be covered

It has to be considered whether the control should apply to only private MNCs or to State owned MNCs also at the same time whether the regulation to be applied to all types of activities like manufacturing, trading or servicing or to the specific type of activities.

It may be submitted that control should not be confined only to private or one type of activities but to all MNCs, including the State owned. For, it is incorrect to imagine that an investment or collaboration from a State owned firm would behave only in the interest of the host country. Because all of these are strictly business agreements whose motive cannot be other than profit or other political and economic influence from it., For example IDPL a public undertaking) having Russian Collaboration has experienced same type of difficulties as others do.³³ The presence of foreign government entity in the form of a commercial concern is capable of same political interference as has been found in the case of private corporations.

At the same time all MNCs working in different sectors-- primary, secondary or tertiary should be treated alike under these national regulations, though they may differ in their impact on host countries' economies in terms of time and intensity. Here the adequate consideration should be given to the vertical and horizontal integration of these multinational corporations. Further, in this time of technological innovations they can easily diversify their activities. For example, Indian tobacco, which started as cigarettes manufacturer has fanned

out into hotel and engineering industry into hotel and engineering industry. Union Carbide, originally started as dry battery cell manufacturer is now engaged with the production of pesticides, marine fishing and export of garments. Another relevant question is whether the regulation should cover both host and parent countries while dealing with the MNCs. In legal terms these corporations owe their creation to a national law and operate under laws of the country where they carry on their activities. They are just nationals of a State and are not subjects of international law, whereas States are sovereign entities which subject to the international law.

(c) Means for Effective Implementation

Another very important question is how to enforce the existing mechanism and what new form of control mechanism be evolved. It may be recalled that the various forms and instruments used in the UN practices are treaties, conventions, protocols, agreements, declarations and resolutions. But the main problem is that convention; declarations have no legal binding on the countries and become non-functional in practice.

Following directive principles should be considered while formulating and executing the national regulation:

- (a) The MNCs should function within the socio-economic framework of the country, and must be within the national priority of the host countries;
- (b) The host country must have the right to regulate the MNCs under their national laws. In case of any conflict between national and international law the former should prevail;
- (c) The MNCs must refrain from any involvement in the political process, directly or indirectly and must honour the human rights by not indulging in supporting the racist regimes. In such cases the MNCs should be asked to quit;
- (d) The MNCs should not indulge in corrupt practices including bribery or payment of money to parties and individuals under the dubious name of political contributions or donations;

- (e) The MNCs should not indulge in restrictive business practices (RBPs) which would have an adverse effect on the world trade and prevent countries from getting the benefits of competition;
- (f) Transfer pricing should not be allowed in any case so as to under price or overprice the intra-firm transactions so as to save tax
- (g) Reasonable price of transfer of technology must be ensured by an appropriate body on the basis of cost-benefit studies and the MNCs should be asked to establish research facilities in the host countries not in parent countries;
- (h) MNCs should be allowed only in the sectors and in those lines of products where indigenous capabilities are not available. What can be produced domestically should not be opened for MNCs;
- (i) Those MNCs should be encouraged which have high export potentiality and less import intensities.
- (j) Repatriation of profits, technical fee and royalties should be made in such a manner that substantial proportion thereof should be re-invested in the host countries.

6. National Entry Control System

Although individual and diverse laws on FDI inflows have been in existence in a few LDCs (for example in Mexico) for a number of years many of these nations have confronted MNCs with their respective collective of FDI regulations being administered by the government agency or agencies. For our purpose here, we will prefer the name 'National Entry Control System' (NECS) to mean a collection of certain regulations directed at both entry and operational phases of various MNCs' projects.⁶⁹

The existing entry control systems of a number of LDCs (as well as developed countries) were studied in order to permit us to obtain all the essential details and also identify any common policies among various NECS. The results indicate that for a majority of the

⁶⁹ Robinson was the first writer to refer to a collection of FDI regulations as an entry control system, op, cit

surveyed countries especially the LDCs—the respective NECS contain several distinct elements, with each element directed at specific characteristics of foreign investment. Furthermore, a comparison of various NECS shows the existence of a number of common elements thought with differing details and specifications.

7. Regulatory System under Companies Act, 2013

In India there are multiplicities of regulation dealing with the activities of industrial and commercial enterprises both foreign and domestic alike. There is a case for separate legislation for dealing with the MNCs in India on the lines of Companies Act and MRTP Act. Until the separate legislation is enacted the existing ones should be suitably amended to give more teeth to deal with the MNCs.

The present position with regard to foreign companies in the Companies Act is the following:

- (a) They are not companies within the meaning of the Act and the provisions of the Act would not, in general, apply to them unless any section in the Act either specifically refers to a foreign company or refers generally to bodies corporate.
- (b) In some of the sections of the Act, the provisions have been made specifically applicable to foreign companies, e.g., subsection (2) (b) of Section 202;
- (c) Some sections of the Act apply to foreign companies because of the use of the expression 'body corporate' in those sections, e.g., sections 4, 42, 43A, 370, 372, etc.;
- (d) By the amendment .Act of 1974, a new clause, vi Clause (b) of sub-section (3) of Section 600 has been added and by virtue of this clause, sections 159, 209, 209(A), 233(A), 233(B) and 234 to 246 have been made applicable to foreign companies;
- (e) The specific provisions which are applicable to a foreign company are incorporated in a separate part, namely, Part XI that appears in the present Act in Sections 591 and 602.

- (f) A new sub-section namely, sub-section (2) of section 591 has been added by the Amendment Act 1974 by which a new class of foreign companies namely, 'deemed companies,' has been created.

According to the Sacher Committee⁷⁰ the present position regarding the foreign companies is quite unsatisfactory. "We are particularly against the practice of first allowing certain bodies corporate incorporate outside India to be registered as foreign companies and then apply a large number of sections in the Act, not otherwise applicable to them by making indirect provisions here and there and from time to time. Instead, it would be desirable to lay down certain conditions under which all bodies corporate desirous of establishing place of business in India must necessarily subject themselves to the discipline of law of this country by following the normal procedure of registration and incorporation under the law of the land. We are aware of the fact that advantage has been taken and is likely to be taken in future by persons incorporating themselves as a company under the very liberal laws obtaining in some countries and by operating their business from this country as foreign companies. This practice is particularly objectionable when the real persons in the control of these companies happen to be Indian citizens." Following suggestions were given to rationalize the Companies Act vis-a-vis the foreign companies:

(1) In section 11, a new sub-section, viz., sub-section (3) should be added to read as follows:

- (a) no body corporate incorporated outside India shall be allowed to establish or operate any place of business in India for the purpose of engaging in agriculture including plantation, production, processing, manufacturing or mining activities or for the distribution of goods produced in India or for generation of electricity or power of any kind or in construction activities, unless it is registered as a company under this Act ;
- (b) no body corporate incorporated outside India of which not less than fifty per cent of the paid up share capital (whether equity or preference or partly equity or partly preference) is held by one or more citizens of India or by one or more bodies corporate incorporated in India, whether singly or in aggregate, shall be

⁷⁰ "Report of the High Powered Expert Committee on Companies and MRTTP Acts," Ministry of Law, Justice and Company Affairs, Government of India, August 1977, pp, 26-27

allowed to establish or operate a place of business in India unless it is registered as a company under this Act."

- (2) Sub-sections (3), (4) and (5) of Section 11 may be redrafted as sections (4), (5) and (6) respectively.
- (3) Sub-section (2) of Section 591 may be deleted.
- (4) All existing foreign companies which fall within subsection (3) of Section 11 must register themselves under the new Act within a period of six months from the commencement thereof.
- (5) The existing provisions relating to foreign companies should be streamlined to remove the existing obscurities on the lines indicated above and should then be made applicable to the existing foreign companies which do not fall within any of the categories mentioned in subsection (3) of Section 11. For example, the provisions contained in Sections 603 to 608 dealing with prospectus issued by foreign companies may be deleted and suitable provisions made in Section 600 including the prospectus provisions contained in part-III of the Act. In future, foreign companies should be exempted from registration as company under the Act only if they do not fall within those categories. However, it is recommended that the provisions of clauses (c), (e) and (f) of Section 433, should be made applicable to foreign companies and all the provisions relating to winding up of companies, following the applicability of those clauses of Section 433, shall apply to foreign companies.

CHAPTER-V

FREE TRADE POLICY IN INDIA

The Indian Government initiated a major programme of economic reform and liberalization in 1991, reversing a policy direction followed for decades. Since then, successive Governments have progressively reduced tariff protection and relaxed and simplified India's restrictive import licensing regime. Internal reforms have included reduced control over location and industrial licensing controls, in addition to some loosening of controls on administered prices in some sectors. In this process, however, the policy focus was principally on liberalization of capital goods and inputs for industry, to encourage domestic and export-oriented growth: by and large, imports of consumer goods remained regulated.

These reforms contributed to a dramatic increase in growth in the 1990s, accompanied by larger flows of inward foreign investment and increased international trade. The balance of payment situation also improved greatly. To build on this success, India has recognized the need to continue the economic reform process, with an increased emphasis now on improving infrastructure, which appears to be a major constraint on the growth of industrial activity and exports; further liberalizing trade through reduction in tariffs and non-tariff measures reforming the subsidy structure, which is estimated to coast around 14 percent of GDP and restructuring public sector enterprises, which continue to be fiscal drain.

Trade policy making in India has been perceived as confused, contradictory and ill conceived. While several authors have attributed to the need to deal with an internal clientele used to a protectionist environment on the one hand and the advantages of openness in trade on the other, very few have recognized the changes in negotiating stances that India has been taking in recent years.

1. Historical Background (1952 to 1991)

Any analysis of India's existing trade agreements as well as its position on important WTO issues has to bear in mind the economic and policy environment from which these strategies have evolved. On a historical perspective, the period 1947 to 1991 was an era of protectionism based on a development strategy anchored on the concept of large-scale import substitution. The Planning Commission⁷¹ document had the following to say on matters concerning trade:

"The expansion of trade has, under our conditions, to be regarded as ancillary to agriculture and development rather than as an initiating impulse in itself in fact, in view of the urgent need for investment in basic development, diversion of investment on any large scale to trade must be viewed as a misdirection of resources."

Trade and trade policy were not of primary importance and the Letter would be determined automatically by whatever was needed to augment and make more favorable, conditions under, which domestic industry and agriculture had to operate. Over the year, this gave rise to rise to architecture of permits, permissions and licenses to provide protection to domestic industry. At the, same time, overseas investments, flow of technology and trade was strictly controlled by bureaucratic mechanisms, a complicated tariff structure and quantitative restrictions. The Chief Controller of Imports and Exports was a powerful figure that could decide the incentives for exporters, the concessions for importers and thus, alter terms of trade. It has been argued that the two outstanding features of the tariff regime were that the development of a large confusing system of exemptions and the lack of economic and/or welfare rationale in the tariff structure.

In the international arena, India has been a founder member of GATT since 1948. However, India's approach to trade issues in the multilateral context was conditioned by its political perception as a spokesperson of the developing world rather than as a negotiator for any trade or commodity bloc. During these years, India did not leverage its position to gain advantage in trade or improve relations for itself or for the developing countries it professed to represent.

⁷¹ First 5 year plan (1951-1956)

By the 1970s, the Quantitative Restrictions regime and the license/permit systems had developed into a very complex, costly, administrative system. A process of liberalisation that began in 1980 was slow and fragmented. This was also the period that saw strong debates between trade reformists and government views. Reformists argued that a semi-managed exchange rate should be used to manage trade flows. They also argued that as long as import of consumer manufactures remained banned, industrialists would have strong incentives to raise capital intensity of production, as this was the cheapest way to replace these imports. It was further argued that restricting the imports of capital goods and essential raw materials was inhibiting productivity and creating unnecessary economic wide inefficiencies.

2. Objective of Trade Policy

In 1991, India initiated a wide-ranging programme of trade liberalization and economic deregulation, with the objective of integrating the Indian economy more closely with the world-economy. The objectives of this policy are:-

- (i) to accelerate the country's transition to a globally-oriented, vibrant economy, with a view to deriving maximum benefits from expanding global market opportunities;
- (ii) to stimulate sustained economic growth by providing access to essential raw materials, intermediates, components, consumer goods and capital goods required for augmenting production;
- (iii) to enhance the technological strength and efficiency of Indian agriculture, industry and services thereby improving their competitive strength, while generating new employment opportunities, and to encourage the attainment of internationally accepted standards of quality;
- (iv) to provide consumers with good quality products at reasonable prices.

Moreover, the Eight Five Year Plan (1992-97), called for the movement of India's trade policy regime "towards greater openness and to reap the full benefits of international trade". This has been sought to be achieved through (i) a reduction of the "negative" list of imports and exports, (ii) a gradual reduction in the level of tariff rates, and (iii) other trade policy reforms.

3. Liberalisation Phase (1991 to 2004)

India's balance of payment position worsened to crisis point in 1991. This led to a change in attitudes and policies. The Eight Five Year Plan⁷² document has the following comments on the 1991 crisis.

"The Balance of Payment situation has been continuous under strain for over almost a decade. During the Seventh Plan period the ratio of the current account deficit to GDP average 2.4% for above the figure of 1.6% projected for this period in the Plan documents. This deterioration in the Balance of Payments occurred despite robust growth in exports in the last three years. The already difficult Balance of Payments situation was accentuated in 1990-91 by a sharp rise in oil price and other effects of the Gulf War. With the access to commercial borrowings going down and the non-residents deposits showing no improvements, financing the current account deficits' had become extremely difficult. Exceptional financing in the form of assistance from IMF, the World Bank and the Asian Development Bank had to be sought. While the immediate problems have been resolved to some extent, it is imperative that during the 8th Plan steps are taken to curb the fundamental weakness in Indian's Balance of Payments situation so that it does not cause serious disruption to the economy."

The events described above finally tipped opinions in favour of reform and the policy environment became more amenable to change. Internal trade became freer as the license/or permit system loosened its control of economic activity and increasing emphasis was placed on the need for a more competitive export sector. Slowly but surely, the two biggest events in Indian economic history – the emergence of a market-based reform project and an incremental re-introduction to the global economy – began to take shape. But even in these circumstances, the policy for reform was not led by trade strategy. Rather, the effort was to liberalize licensing, reduce restrictions on production and investment, and open up financial markets, and correct fiscal, monetary and currency rate policies. Trade policy reform was slower in coming, and emerged more from restructuring of tariffs and import duties rather than from a clearly articulated vision. This was due to the focus on getting the financials of the country right in the first instance. India prided itself on never having been an external

⁷² Eight five year plan document (1992-1997)

debt defaulter, and policy makers were concerned about keeping up this image. Trade policy, was thus, at best, only a secondary issue.

Consequently, India's stand in the Uruguay round of trade initiatives strongly suggests that reforms process did not immediately translate into a greater willingness to engage in trade negotiations. On the domestic front, the Uruguay Round of negotiations seems to have played almost no role at all in molding or accelerating the liberalization process. Initially India was unhappy with the invitation to new round in the first place and opposed the inclusion in the GATT agenda of services, intellectual property and trade related investments. A group of developing countries including Brazil got together into Like Minded Group, to articulate their objections. However, the position weakened soon and, in the end, India stood alone in its opposition to a new round. Thus, though India engaged in the preliminaries, its absence became conspicuous during the Round itself.

There were several forays that India made to get some advantage to itself. About the middle of the round of negotiation, with help from Argentina (carols Correa) and Brazil (Ricuperco), India participated in an organised pushback on TRIPS. It also took advantage of those situations, particularly in mode 4, where IT professionals could gain access. And even in the area of Agricultural strategies, India's effort to protect its producers and markets was largely successful. In some sense, its marginalization in the main discussions provided ample time and space to campaign the cause of special and differential treatment and to concentrate on items of its defensive interests. By declining to aggressively seek concessions from its major trading partners, India had found a way to deflect attention from its major own protection levels, and thus effectively prevented UR negotiations from interfering with its reform process at home. This desire to minimize external pressures to liberalize, arising potentially from the WTO and bilateral agreements has remained an important feature of the Indian trade strategy.

India saw two coalition Governments in 1996 and 1997, which were therefore the years of some political instability. The political environment in 1996 and 1997 put trade and reform issues on the backburner. It was only in 1998 that Parliament had occasion to examine the implications of the Marrakesh agreements. A Parliamentary Standing Committee of the Commerce Ministry, headed by the eminent left wing economist and parliamentarian, Ashok Mitra went into the implications of the agreement for the country. Membership of the

committee spanned across the political spectrum, and contained several eminent figures including one who would be a future Minister for Commerce. The report of this committee was tabled in both houses of the Parliament in December 1998. The reports starts with the leftist concern that the Marrakesh agreement calls upon the member countries to surrender some of their sovereign rights to the decisions and wishes of the WTO. It also expresses concern over the lack of transparency in the negotiations, absence of consensus building inside and outside Parliament, and the lack of consultation with the States. The Committee makes the following broad observations.⁷³

- (1) Developing countries in general have failed to extract any significant leverage out of the WTO system.
- (2) India failed to extract concessions pertaining to its interests in the agreement on IT products.
- (3) Global free trade over which WTO presides is quite some distance from the concept of fair and equitable international trade, and that the balance is tilted in favour of the developed world.
- (4) India should reiterate its reservation with reference to Articles 70.8 and 70.9 of the TRIPS in ministerial meetings.
- (5) There is need to introduce transparency in the government actions in respect of WTO related issues. There is also need to improve coordination between various ministries dealing with WTO issues.

Other changes were seen as well from 1999. The consultation process encompassed an active effort to communicate. During that year, over 30 seminars were held in different parts of the country. There were talk shows and media briefings. The Ministry of Industry conducted workshops in most states on the TRIPS agreement and the implications of the product patent regime. The debate on multilateralism became much more inclusive. The Ministry of Commerce and industry lost some of its secretiveness.

⁷³ Marrakesh Committee, a committee of the Commerce ministry

Trade policy in India is primarily the responsibility of the Ministry of Commerce and Industry (MoCI) and it plays a major role in defining and setting policy. The MoCI occupies a privileged and exclusive space in Indian politics, and formulates policy largely in isolation earlier, that is, without consulting other government branches, often taking instructions directly from the Prime Minister. The MoCI⁷⁴ also negotiates bilateral agreements. However, the consistency of domestic and external policies is addressed at the cabinet with the assistance of advisory committees. Inter-ministerial consultations always include the Ministry of Finance (MoF), and the Ministry of External Affairs (MoEA). Ministry of Textiles (MoT), Ministry of Agriculture (MoA) are involved in the process on specific agenda. A small group of ministers, consisting of the Ministers for Commerce, Finance, External Affairs, Agriculture, assists the Prime Minister at stages leading up to the ministerial. The cabinet is invariably consulted on negotiating stances and strategies, and the Prime Minister is kept informed daily on the progress of the negotiations. After each of these, the Commerce Minister briefs Parliament.

India's trade policy can be said to consist of three levels: (i) its multilateral negotiating position at the international level; (ii) the framing and operation of import-export policy at home ('traditional' trade agenda), and (iii) sectoral policy affected by trade agreements ('new' trade agenda). The first level deals mainly with trade agreements, WTO, Free Trade Agreements (FTAs), etc. The second one focuses on changes in the tariff level, duty drawback, subsidies, and incentives for exporters and the concession for importers etc, and in a sense is a support mechanism for its exporters to deal with uncertainties of the exposure to globalisation. The last level deals with emerging sectoral trade agreements such as General Agreements on Trade in Services (GATS).

Though the structure remained the same, there was more interaction and more thinking on issues. That this resulted in greater maturity in handling the WTO agenda can be evidenced from several subsequent developments.

The negotiations and the failure of movement at Seattle demonstrated to the Indian public and legislators the weaknesses of a consensus bound arrangement, that lack of consensus could derail transactions. Introduction of labour standards and Singapore issues was strongly resisted by several, India including and leading several groups. At Doha, the stand that India took,

⁷⁴ Ministry of Commerce and Industry

considered intransigent by all, won domestic legitimacy to the MOC in the process of negotiation, and the acceptance of Parliament and States. That India was an important client to be consulted, was evident subsequently from the discussions on agriculture, and way forward could be found only after several countries, including India, had agreed on the approach.

4. Internal and International free Trade

(A) Internal free trade

Free trade within national borders is in some countries a comparatively recent development. Jean Baptiste Colbert tried to abolish internal trade barriers in France in the 17th cent., but that was not accomplished until the French Revolution, a hundred years later. In the German states Prussia took the lead in organizing the Zollverein movement after 1818. The desire to assure freedom from internal trade barriers in the United States was a factor in calling the Constitutional Convention. In Britain, the classic home of the free-trade movement, the term free trade was first used during the agitation for removal of the privileges of the chartered companies in the 17th cent.

(B) International Free Trade

In 18th century Britain, free trade eventually came to mean the desire for a moderate tariff policy in international trade, especially with France. The rapid growth of British industry in the late 1700s (see Industrial Revolution) gave added force to the attack on international trade restrictions. Adam Smith's *Wealth of Nations* (1776) provided a powerful intellectual basis for the free trade movement and the later work of David Ricardo was important in developing the notion of comparative advantage as an argument in its favor. The most important practical blow in favor of the free-trade movement came with the formation (1846) of the Anti-Corn-Law League, and the repeal (1846) of the, corn laws. The Anglo-French commercial treaty of 1860 represented perhaps the High-water mark of free trade.

After World War I, Britain reintroduced protection and a system of imperial preference in an attempt to establish greater measure of economic autonomy. France, along with other European nations, historically followed a policy of protection. In the period of international economic dislocation in the mid-1930s, the United States reversed earlier policy and signed reciprocal trade treaties with many foreign governments, embracing a policy of selective tariff

reduction for economic and political reasons. At present the United States is a relatively low tariff nation, although it still maintains a fairly restrictive system of import quotas. Japan also has restrictive import quotas, as well as high tariffs and other trade restrictions.

After World War II, strong sentiment developed throughout the world against protection and high tariffs and in favor of free trade. The results were new organizations and agreements on international trade such as the General Agreement on Tariffs and Trade (1948), the Benelux Economic Union (1948), the European Economic Community (Common Market, 1957), the European Free Trade Association (1959), Mercosur (1991), and the World Trade Organization (1995). In 1993 the North American Free Trade Agreement (NAFTA) was approved by the governments of Canada, Mexico, and the United States. In the early 1990s the nations of the European Union (the successor organization to the Common Market) undertook to remove all barriers to the free movement of trade and employment across their mutual borders.

Critics of free trade zones argue that such measures are detrimental to domestic economies. In the case of NAFTA⁷⁵, for example of opponents contended that the jobs of some American workers would be "exported" to Mexico, where labour costs are lower. Many have continued to oppose the international impetus toward free trade, arguing the accords not only fail to protect jobs in more developed nations but also harm workers and the environment in less developed nations, where the laws are more lax or less enforced despite such objections.

5. Free Tread Policy with reference to World trade organization

India 'has also leveraged the structural advantages of the WTO agreements. At Doha, interventions by Indian accounted for the inclusion of Public Health concerns in TRIPS. Interventions in Geneva have been pointed and effective. Before the dispute settlement board, there has been considerable success, and some failures. Indian won the dispute on shrimp fishing against the US and against Turkey on textiles. India defended steel exports to US before adjudication proceedings in the US. Patents issued in the US for items in realm of public knowledge in India, like the medicinal uses of name, were effectively contested.

India emerged a major user of the provisions of anti-dumping & safeguards between 1999 and 2002. Over 300 cases were taken up, and dozens of anti-dumping notifications issued, several

⁷⁵ North American Free Trade Agreement, 1993

against imports from China. In 2003, as a conscious decision to liberalize trade further, recourse to anti-dumping measures was reduced.

As a further proof of moving forward, India has, in the last few years engaged itself more openly in advocating regional trade. The initialing of the South Asian Free Trade Agreement may have more to do with politics than with trade, but the FTA with Thailand has opened up opportunities for bilateral trade that did not exist before. In the next few months, the Comprehensive Economic Cooperation Agreement with Singapore would be signed. India is engaging with ASEAN, China and even exploring possible bilateral sectoral arrangements with the US.

India is a founding member of the GATT (1947), it actively participated in the Uruguay Round Negotiations, and is a founding member of the WTO. India strongly favors the multilateral approach to trade relations. India participated actively in the last Ministerial Conference held in Singapore. Within the WTO, India is committed to ensuring that the sectors in which the developing countries enjoy a comparative advantage are adequately opened up to international trade, and also that the Special and Differential Treatment Provisions for developing countries under the different WTO⁷⁶ Agreements are translated into specific enforceable dispensations, in order that developing countries are facilitated in their developmental efforts. India feels that the multilateral system would itself gain if it adequately reflected these concerns of the developing countries, so as to create the necessary impetus to enable developing country members to catch up with their developed country

6. Present foreign trade policy of India

Present declaration of ministry of relating to foreign trade policy Commerce and Industry announce Export Import Policy every five years. The current Gaily covers the period 2002-2007. The Export Import Policy (Foreign Trade Policy) is updated every year on the 31st of March and the modifications, improvements and new schemes are effective w.e.f. 1st April of every year.

⁷⁶ World Trade organization

(A) Context of new Foreign Trade Policy

Trade is not an end in itself; but a means to economic growth and national development. The primary purpose is not the mere earning of foreign exchange, but the stimulation, of greater economic activity.

For India to become a major player in world trade, an all encompassing, comprehensive view needs to be taken for the overall development of the country's foreign trade.

While increase in exports is of vital importance, we have also to facilitate those imports, which are required to stimulate our economy. Coherence and consistency among trade and other economic policies is important for maximizing the contribution of such policies to development. Thus, while incorporating the existing practice of enunciating an annual Foreign Trade Policy, it is necessary to go much beyond and take an integrated approach to the developmental requirements of India's foreign trade.

The Foreign Trade Policy is built around two major objectives. These are:

- To double our percentage share of global merchandise trade within the next five years; and
- To act as an effective instrument of economic growth by giving a thrust to employment generation.

(B) Strategy

For achieving these objectives, the following strategies need to be adopted:

- Unshackling of controls and creating an atmosphere of trust and transparency to unleash the innate entrepreneurship of our businessmen, industrialists and traders.
- Simplifying procedures and bringing down transaction costs.
- Neutralizing incidence of all levies and duties on inputs used in export products, based on the fundamental principle that duties and levies should not be exported.

- Facilitating development of India as a global hub for manufacturing, trading and services.
- Identifying and nurturing special focus areas which would generate additional employment opportunities, particularly in semi-urban and rural areas, and developing a series of 'Initiatives' for each of these.
- Facilitating technological and infrastructure up gradation of all the sectors of the Indian economy, especially through import of capital goods and equipment, thereby increasing value addition and productivity, while attaining internationally accepted standards of quality.
- Activating our Embassies as key players in our export strategy and linking our Commercial Wings abroad through an electronic platform for real time trade intelligence and enquiry dissemination.

7. Export Promotion Schemes

The new Policy envisages merchant exporters and manufacturer exporters, business and industry as partners of Government in the achievement of its stated objectives and goals. The new Exam-Policy is essentially a roadmap for the development of India's foreign trade. It contains the basic principles and points the direction in which we propose to go. By virtue of its very dynamics, a trade policy cannot be fully comprehensive in all its details. It would naturally require modification from time to time. We propose to do this through continuous updating, based on the inevitable changing dynamics of international trade. It is in partnership with business and industry that we propose to erect milestones on this roadmap. With a view to doubling our percentage share of global trade within 5 years and expanding employment opportunities, especially in semi urban and rural areas, certain special focus initiatives have been identified for the agriculture, handlooms, handicraft, gems & jewellery and leather sectors.

The thrust sectors indicated below shall be extended the following facilities faculties of export promotion scheme: -

- Target plus scheme to accelerate growth of exports.
- Vishesh Krishi Upaj Yojana for agro-exports.
- Served from India Scheme

- Additional flexibility under EPCG
- Import of fuel under DFRC entitlement allowed to be transferred to marketing agencies authorized by Mines of petroleum and Natural Gas.
- The DEFB Scheme will be continued.
- EQUs shall be exempted from Service Tax in proportion to their exported good and services.
- A scheme to establish free trade and Warehousing Zone is introduced to create trade related infrastructure to facilitate import and export with freedom to carry out trade transactions in free currency.

In order to showcase India's industrial and trade prowess to its best advantage and leverage existing facilities to enhance the quantity of space and service the govt. plans to transform **Pragati Maidan** into a world-class complex with visitor friendliness ingress and egress system.

(A) Special Economic Zones (SEZ)

SEZ are growth engines that can boost manufacturing, augment exports and generate employment. The private sector has been actively associated with the development of SEZs. The SEZs require special fiscal and regulatory regime in order to impart a hassle free operational regime encompassing the state of the art infrastructure and support services. The proposed legislation on SEZs to be enacted in the near future would cover the concepts of the developer and co- developer, incorporate the provision of virtual SEZs, have fiscal concessions under the Income Tax and Customs Act, provide for Offshore Banking Units (OBUs) etc.

Out of the 24 new Special Economic Zones (SEZs) approved for establishment SEZs at Salt Lake (Manikanchan), Indore and Jaipur have become operational and another two zones are now ready for operation. The new SEZs are being set up largely by the State Governments or their agencies or by the private sector in association with the State Governments or by the private sector on their own. Periodic meetings are held by the Department of Commerce with the State Governments/promoters of the SEZs to expedite the projects. Eight SEZs at Kandla and Surat (Gujarat), Santa Cruz (Maharashtra), Cochin (Kerala), Chennai (Tamil

Nadu), Vishakapatnam (Andhra Pradesh), Falta (West Bengal) and NOIDA (UP) converted from Export Processing Zones (EPZs) are operational.

(B) Agriculture

A new scheme called the **Vishesh Krishi Upaj Yojana**⁷⁷ for promoting the export of fruits, vegetables, flowers, minor forest produce, and their value-added products has been introduced.

Funds shall be earmarked under ASIDE for development of **Agro Export Zones** Units in AEZ shall be exempt from Bank Guarantee under the EPCG Scheme.

Import of capital goods shall be permitted duty free under the EPCG Scheme. Units in AEZ shall be exempt from Bank Guarantee under the EPCG Scheme.

Capital goods imported under EPCG shall be permitted to be installed anywhere in the AEZ⁷⁸.

Import of restricted items, such as panels, shall be allowed under New towns of export excellence with a threshold limit of Rs 250 crore shall be notified the various export promotion schemes. Import of inputs such as pesticides shall be permitted under the Advance Licence for agro exports.

(C) Handlooms

Specific funds would be earmarked under MAI/ MDA Scheme for promoting handloom exports.

Duty free import entitlement of specified trimmings and embellishments shall be 5% of FOB value of exports during the previous financial year. Duty free import entitlement of hand knotted carpet samples shall be 1% of FOB value of exports during the previous financial year.

⁷⁷ Special Agricultural Produce Scheme

⁷⁸ Agro Export Zones (AEZ)

Duty free import of old pieces of hand knotted carpets on consignment basis for re-export after repair shall be permitted. New towns of export excellence with a threshold limit of Rs 250 crore shall be notified.

(D) Handicrafts

New Handicraft SEZs⁷⁹ shall be established which would procure products from the cottage sector and do the finishing for exports.

Duty free import entitlement of trimmings and embellishments shall be 5% of the FOB value of exports during the previous financial year. The entitlement is broad banded, and shall extend also to merchant exporters tied up with supporting manufacturers

The Handicraft Export Promotion Council shall be authorized to import trimmings, embellishments and consumables on behalf of those exporters for whom directly importing may not be viable Specific funds would be earmarked under MAI & MDA Schemes for promoting Handicraft exports

CVD is exempted on duty free import of trimmings, embellishments and consumables.

(E) Gems and Jewellery

Import of gold of 18 carat and above shall be allowed under the replenishment scheme.

Duty free import entitlement of consumables for metals other than Gold; Platinum shall be 2% of FOB value of exports during the previous financial year.

Duty free import entitlement of commercial samples shall be Rs 100,000.

Cutting and polishing of gems and jewellery, shall be treated as manufacturing for the purposes of exemption.⁸⁰

⁷⁹ Special Economic Zone

⁸⁰ Under Section 10A of the Income Tax Act, 1961

8. Relation Between Free Trade Policy and Multinational Corporation

"If policy makers in the developed countries do not take note of the social disruption and inequalities generated by current trade and investment policies, then these policies will be replaced by ad-hoc responses unlikely to be much of an improvement"⁸¹

Looking at the Indian economic situation in the first quarter of 1996, there is little debate or questions that India and Indian industry needs external capital and technology resources to supplement domestic availability of funds and to speed up economic and industrial growth. The technology that MNCs bring is not just that of a product but also management, R&D, marketing, HRD, finance, services and every other aspect of management of an enterprise. The gains to India, therefore, go beyond just the product or the money -there is a learning, which will stay in the country and there is, obviously, an asset building which also remains in the country. This, in brief, it is an India Interest Agenda vis-a-vis MNCs capital, technology, learning and asset building and, of course, employment generation.

The MNCs Agenda is access to a Growing Indian market and to a very competitive Indian human and natural resource base which enables them to be competitive and to enlarge marketing.

There is, therefore a mutuality of interest in partnership which has been the objective and the process seen especially since 1991 in India.

Looking back at the last few years and reviewing the situation between MNCs and Indian companies there are clearly several errors in strategy and approach on both sides. Indian companies are reaching out to MNCs to access products and technology essentially to raise their market share and market presence but in quite a few cases it is unclear what the Indian company brings to the table, what the Indian company adds in terms of Value to the Joint Venture other than local knowledge and Government access and liaison (which is of less consequence now). Indian companies have Strong points knowledge of domestic markets and managerial resources to mention only two: sometimes.

⁸¹ Thea M. Lee Trade Policy, and development ; Spurring good growth." Current History November 1996.

There are some trends emerging, which need to be highlighted debated and understood so as to move towards a stronger partnership mode in the context of the obvious mutuality of interest.

The first trend is the sales approach towards India as distinct from manufacturing. This is an issue, which reflects reluctance to invest in India but to access the market through minimum production on the ground and maximum production at home, wherever that is a by-product of this approach is to rely on continued import of components rather than India made components and parts.

The second trend is focusing on the short-term rather than the long-term. Strategy seems to be to generate profits quickly rather than go for the long haul be patient stay in India and build credibility as a steady process.

The third is to bring in technology and products, which are being phased out in the home country of the MNC. Not to bring in state-art technology or the most modern products.

The fourth is to leverage an Indian partner to get into India on 50/50 or 40/40 bases to get sanctions and approval quickly and then having reached a certain minimum level of comfort in India, to want to move quickly to 51% equity holding.

Another trend is that inspire of having a Joint Venture Company with an Indian partner, the MNC sets up a 100% subsidiary without any partner and where it has total control.

Another trend is the use of expatriate, managers and CEOs for the Joint Venture Company rather than the competitive Indian management available in the country often the expatriate CEO comes with little understanding of India, Indian culture, Indian ethos, Indian Government or Indian Industry, Orientation at best is inadequate and, therefore, the expatriate faces differently.

Another trend is that the MNC investment is limited essentially to the supply of second-hand plant and machinery, which has been declared obsolete in their country and is available relocation to a country like India.

Another trend is the "Cowboy" approach of landing in India hastily choosing a partner, making a mistake and then wanting to break the relationship. A new dimension is that a

single MNC ties up with different Indian companies for different product lines. Interestingly, in the Telecom Sector, of the Joint Venture Partners, which bid for the cellular tender, almost all have parted company already.

These are obviously generalizations and there are many exceptions but it is necessary to focus on areas of weakness in MNC strategy so that these are recognized and taken note of as we go forward and try to build strong partnerships.

The issues, which come out of these trends and indications is that MNCs actual financial investments are low when compared to the size of the company. The process of coming in a modest manner is a safe and conservative strategy but where this is limited only to second-hand plant and machinery, there is a question mark to be addressed.

A second conclusion that emerges is that the MNCs are not committed to partnerships in the long-term and there seems to be unwillingness to accept questioning or disagreement from the Indian partner. There is a one-way street approach not a two-way partnership approach. This is reflected in wanting to raise their equity holding to 51% or setting up a parallel 100% subsidiary.

Another conclusion is that there is lack of trust and, therefore, the preference for expatriate managers who might be completely out of place in India rather than using experienced, capable Indians as CEOs.

Another perception which has emerged, and this is largely from the fast-track power projects, is that the MNCs have pitched their investment costs at a higher than necessary level and the price of power similarly. Renegotiation has taken place in almost every case and the project cost as well as the price of power has been reduced. The perception has therefore, developed that some kind of cartel might have been operating and renegotiation has been helpful to India and the States concerned.

These are early days for freer Foreign Direct Investment into India in fact; the process is in its infancy if 1991 is taken as a watershed for opening up the economy and deregulation of foreign investment. And, in this process, India has been more open, certainly, to prove itself and its credentials of liberalisation, than some of the Southeast and East Asian Countries

where limits on foreign equity are more stringent and Joint Venture partners are insisted upon where the domestic market is to be accessed.

Perhaps, the greatest concern relates to actual management. Here, Indian management capability is underestimated by MNCs because of the pre 1991 environment but the deregulation process has given space and opportunity to Indians and there is a resurgence of spirit and confidence and a realization of both leadership and management potential. Therefore, a mature, strong partnership with MNCs based on mutuality of respect and advantages is possible. Perhaps, it has not been possible in other countries. Perhaps, the management and the entrepreneurship capability in several other developing countries are not as well developed as India.

The feedback from Indian Industry is that they want to have MNCs here but even though MNCs have much to contribute to India's development and a great deal to gain from being a strong partner, there is discomfort with dominance and control, there is discomfort with a one-way street approach and there is clear discomfort with outdated or obsolete technology and products.

There is an initiative by the MNCs also to improve their image through trying to involve themselves in community related activities. Here again, some initiatives are limited to developing an exclusive club for MNCs. Fortunately, MNCs have been in India, in the long-term, wish to be integrated with Indian efforts and Indian projects rather than charting their own independent path into the community area in India. Both are therefore happening side by side.

On the whole, consensus is growing. There is a new whisper in the wind going beyond ideology and focusing on practical issues such as finance, management, technology, products, control, etc. These are whispers in the wind within business and Industry who do want partnerships and who realize that going forward rapidly, without MNC partnership, will be much more difficult though not impossible.

On the other hand, there are clear success stories of MNCs in India such as ABB where management is completely Indian including the CEO, where no expatriates are employed except for short-term technical assignments and where there is a true merging interest with India. There are many ABB, in India and there are long-term players, like ICI, which have

expatriate CEOs but have adopted a strong India-based strategy and policy. The focus is on two-way "win-win" policies not one-way "win-win" policies. Therefore, MNCs generally can learn from such successful long-term players in India, which have operated with success and have totally absorbed themselves into India.

On the Indian side, there is need to have clarity on their objective and what they contribute to a Joint Venture so as to add value to the Partnership. Government relations are now of less consequence and the real strength must be in management and in the market place.

Indian industry must also invest/insist on product/ technology up gradation to strengthen the company in the long-term and to avoid excessive reliance on continued imports.

India must continue its open-door policy and actively and strongly promote foreign Investment. In this policy framework the onus shifts from Government policies to industry strategy, Industry thinking and Industry action-both Indian and foreign companies.⁸²

However, we should not be influenced by western Propaganda. One man's food may be another man's poison. What is suited to America, Japan or Germany may not suit us. We have to see what is best for us. One cannot say that all countries, which opted for private enterprise, have fared well. Pakistan is a glaring example. Secondly, we should not be caught in the net of the multinationals, cartels and monopolies all above we have to become self-reliant. Entry of multinationals may be good in the short term till we Indian Companies are alive but not necessarily if we all get wiped out.

⁸² MNC"s : IndiaStrategy needs rethink ": A paper on confederation of Indian Industry”

CHAPTER-VI

CONCLUSION AND SUGGESTIONS

In a word, **the MNC's are welcomed, but with a smile and punch of salt.** They have to act like a friend not a master. Their role is not to be over emphasized; yet their basic interest cannot be undermined. **We have to look in totality, review with a heart of gold and hand of justice.** The issue of MNC's is like mathematics, the more liberal the attitude towards them, the more it goes out of hand.

Multinational Corporations are important factors on the world stage. The international production of these corporations including their affiliates and subsidiaries is somewhat larger than the total exports of all economies. The value added of all multinational corporations is roughly one-fifth of the world's gross national product excluding the centrally planned economies. Their annual sales are more than the gross national product of many developing countries.

The rise of multinational corporations has been one of the most remarkable phenomena of the post-war period. Of course, they had their existence as back as three to four hundred years ago. They are defined as firms, which command production and distribution activities in more than one country. They are big and dynamic enterprises with operations in many product lines and in many countries growing at a spectacular rate. Their activities are globally co-coordinated by groups of persons, organised in their head offices, exercising tight control on men, money and markets. They derive strength from their vast capital, sophisticated technology and trade names.

MNC's are too big to be ignored. The very fact that their annual sales are more then Gross National Product (GNP) of many developing countries itself indicate that neither the problems & prospects of MNC's could be ignored nor looked down upon in order to study the impact and total consequence of pouring in of MNC's, including their overall impact on

the socio-economic-political scenario of the country. Care has been taken to examine each aspect in detail with an eye on its legality and legislation consequences.

Chapter-I states the introduction of the present studies i.e., Multinational Corporations & Free Trade policy.

Chapter-II deals with brief historical background, origin of Multinational Corporations and with the conceptual framework. It deals with the analysis of the power of multinational corporations on account of their sales and worldwide network. 50 top ranking Multinationals are discussed in this connection How the flow of funds from the host economies to parent firms countries have adversely affected the development of the third world countries in variety of ways have been analysed in this chapter. At the same time the investment pattern of multinational corporations in the Indian economy has been discussed at length with the help of analyzing their size and rate of growth in their assets and investments in different sectors of the Indian economy. This chapter also deals with the objectives and methodology of the study. In brief the objectives of the study are three-fold:

- (a) the objective of asserting developing countries', especially India's sovereignty over their own political and economic life;
- (b) the objective of compelling or persuading the foreign corporations to make more contribution to developing countries' growth and welfare or to fall in line with the national priorities and
- (c) the objective of emancipating the under-developed countries from having to contribute 'captive production' to a vertically integrated corporate system that did not sub serve host countries' interest.

With the historical perspective of MNC's right from the beginning to the present day giving detailed outline of its socio-political consequences. The historical background in the chapter gives insight knowledge about the forces that led to formation of the present companies act.

Chapter-III deals with the Multinational Corporation it also discusses historical perspective, legal requirements of submission of documents, winding-up, issue of prospectus relating to Multinational Corporation.

Chapter-IV deals the legal aspects of the present Companies Act, SEBI and the role of RBI in controlling the activities and sphere of influence of the MNC's. A comparison with the English Companies Act has also been made to draw logical linkage between the Indian legal system and its English Counterpart.

Chapter-V discusses the choice between national regulatory system and international regulatory system. It is attempted to submit that preference should be given to the national regulatory system of course, with keeping in mind the existence of international conventions and codes. But in case of deciding any matter relating to the MNCs the former should prevail and the national interest must be the commanding consideration. A detailed analysis has been made for the existing regulatory system and various efforts made at the international and regional level to control and regulate the activities of multinational corporations. It is generally seen that no country has separate acts to deal with the activities of the multinational corporations exclusively but they are having fragmented pieces of legislation to regulate the domestic and foreign industrial enterprises alike. Somewhere more provisions have been inserted in the existing regulatory system regarding the control of foreign direct investment. But this has resulted in duplication and lot of confusion among the executors of such regulations. Also the multinational corporations do take the advantage out of the multiplicity of regulations.

Chapter-VI deals with the Free Trade Policy in India. It discusses historical background, basic of FPT i.e. very important objectives of trade policy. This chapter also ascertains internal and International free trade concept, as well as it defines present foreign trade policy of India it emphasizes on export promotion schemes like Special Economic Zones. (SEZ)

At this stage of its development India is looking forward to engage more progressive not only at the multilateral level but also at the bi-lateral and regional level. The integration of South Asian countries into a trading block may take some time to realize, but would be pursued at a pace that would be acceptable to all constituents. Participation in ASEAN trade is of important and India would pursue this opportunity vigorously. Regional trade pacts with China and with Japan are in the area of consultation. Trade with. China will continue to grow.

Significant Trade Policy Reforms

With increased liberalization and globalization of trade, India's focus is on areas of her strength and advantage to meet global competition, as also areas having trade potential.

This is the rationale, which has given the impetus for shortening of the Negative List of Imports considerably and for expanding the freely importable list. Currently, approximately 6,647 items are freely importable; 58 items are prohibited, 168 items are canalized, and as notified by India to the WTO certain products included in 2,714 tariff lines at the eight-digit level of the Indian tariff classification are restricted for balance-of-payments reasons as per Article XVIII-B of GATT⁸³, and certain products included in some 600 tariff lines are restricted under Articles XX and/or XXI of GATT, the two categories being non-additive. Compared to 1.4.96, when the percentage of restricted items came to 37%, the figure for 1.4.1997 is only 32%. There is a decrease of 5% in the restricted items, whereas there is increase of 488 items in the free list. Out of the restricted items, 1,051 are importable against Special Import Licenses (SIL), which are freely tradable and transferable. Among the items importable under freely transferable SILs are a number of consumer durables.

Many of the canalized items (equivalent to 47 items out of 176 in total) are also under the SIL regime, and imports of canalized items have fallen from 27% of merchandise imports in 1988-89 to 19% in 1996-97, with all canalizing agencies amongst the PSUs being required to follow commercial principles in carrying out their operations.

Various report prescribed in context of Free trade policy

Several stages of reforms have lifted all licensing restrictions on imports of capital goods, liberalized partially imports of consumer goods and reduced maximum tariffs from over 300% to 45% (including a surcharge of 5%). Collection rates, which are better indicator of protection than declared rates, came down from the level of 47% in 1990-91 to 29% in 1995-96'

⁸³ General Agreement on trade & tariff

Exchange Market Reforms

The Eight Plan had envisaged exchange rate reforms as part of the general trade policy reforms and in March 1993 the exchange rates were unified and transactions on the trade account were freed from foreign exchange control. Further measures taken to simplify procedures related to the purchase of foreign exchange so as to enhance current account convertibility. These included permission to Exchange Earner's Foreign Currency (EEFC) account holders to use these funds for business-related current account transactions. Authorized dealers were allowed to export surplus currency to private moneychangers abroad, in addition to their own branches and correspondents. They were empowered to allow Indian resident families to remit US\$5,000 per year to close relatives abroad, without reference to the RBI. Monetary ceilings on remittances for a wide range of purposes were also removed.

Reforms in the Foreign Investment Regime

Since export growth depends on the existence of a strong production base in thrust sectors, which could expand to meet further growth needs, the stimulus in such thrust areas has been provided by streamlining the procedures for foreign investment. The Foreign Investment Promotion Board (FIPB) has been revamped to make the rules and regulations pertaining to foreign investment more transparent. The first-ever guidelines for approving FDI by the FIPB have been announced to expedite approval of foreign investment in areas not covered under automatic approval. Priority areas for allowing 100% foreign equity have been spelt out and an expanded list of 46 industries eligible for automatic approval up to 51% foreign equity, three industries relating to mining activity eligible for automatic approval up to 50% foreign equity.

Institutional investors (FIIs) in a company have been raised from 5% to 10% of the company's shares, while the aggregate limit has been increased from 24% to 30%. Falls' have also recently been allowed to invest in non-listed companies. It is no longer necessary for automatic approvals by the Reserve Bank of India (RBI) that the amount of foreign equity should cover the foreign exchange requirements for import of capital goods needed for the project. To impart flexibility in sourcing of technology imports, technology transfer has been delinked from equity investment.

Reforms in the Infrastructure Sector

Removing infrastructure bottlenecks has been another key component of the trade reforms package. In the telecommunications sector, significant progress has been made in involving the private sector in value-added services, such as cellular, mobile and paging services. A Telecom Regulatory Authority was established in March 1997, which will separate the regulatory functions from policy formulation and operational functions. New guidelines allow private participation in ports, investments being on B.O.T. basis, and already approval for a private container terminal valued at Rs 70 billion has been awarded. Similarly, fresh guidelines for private investment in the highway sector have been announced, procedures have been simplified and environmental clearance and equity participation made easier. Approval has been given for a rail-based mass rapid transit system (MRTS) in Delhi, and the cities of Bangalore, Hyderabad, Mumbai and Calcutta have proposed major improvements in their public transport system through the introduction/augmentation of rail-based transit systems. A new policy for private investment in civil aviation has been announced, and this includes allowing 40% equity in domestic airlines.

Domestic Tax Reforms

Several new measures for streamlining and rationalizing the tax structure have been initiated. The MODVAT scheme has been extended to the textile sector by rationalization of rate structure to modernize and revive the textile industry. The direct tax regime has been strengthened by measures like moving towards a "presumptive" tax system, greater reliance on "pay as you earn" and self assessment schemes, restricting "scrutiny assessment" to a limited number of cases, broadening of the tax base through the "four economic criteria" scheme and the introduction of the Minimum Alternate Tax (MAT) for the corporate sector (with the exception of companies engaged in power and infrastructure sectors) and measures such as progressive computerization. The rates of corporate tax have also been progressively reduced to 35% for assessment year 1998-99 and the corporate surcharge has been eliminated.

Chapter-VII of the decision talks about relation between free trade policy and Multinational Corporation. The essence out of the chapter that both are reciprocal and both have no existence without each, and we must see them in context of Indian economy and welfare.

Some Suggestions

According to Sachar Committee,⁸⁴ the present position regarding the foreign companies is quite unsatisfactory. "We are particularly against the practice of first allowing certain bodies corporate incorporated outside India to be registered as foreign companies and then apply a large number of sections in the Act not otherwise applicable to them by making indirect provisions here and there and from time to time. Instead it would be desirable to lay down certain conditions under which all bodies corporate desirous of establishing place of business in India must necessarily subject themselves to the discipline of law of this country by following the normal procedure of registration and incorporation under the law of the land. We are aware of the fact that advantage has been taken and is likely to be taken in future by persons incorporating themselves as a company under the very liberal laws obtaining in some countries and by operating their business from this country as foreign companies. This practice is patricianly objectionable when the real persons in the control of these companies happen to be Indian Citizens."

Following suggestions are given to rationalize the companies Act vis-a-vis the foreign companies: -

(1) In section 11, a new sub-section, viz. sub-section (3) should be added to read as follows:

- (a) no body corporate incorporated outside India shall be allowed to establish or operate any place of business in India for the purpose of engaging in agriculture including plantation, production, processing, manufacturing or mining activities or for generation of electricity or power of any kind or in construction activities, unless it is registered as a company under this Act.
- (b) nobody corporate incorporated outside India of which not less than fifty percent of the paid up share capital. (Whether equity or preference or partly equity or partly preference) is held by one or more citizens of India or by one or more bodies corporate incorporated in India, whether singly or in aggregate, shall be allowed to establish or operate a place of business in India unless it is registered as a company under this Act."

⁸⁴ Report of the High-Powered Expert Committee on Companies and MRTP Acts, "Ministry of Law, Justice and Company affairs, Government of India, August 1977 pp. 26, 27

- (2) Sub-section (2) of Section 591 may be deleted.
- (3) All existing foreign companies which fall within subsection (3) of section 11 must register themselves under the new act within a period of six months from the commencement thereof.
- (4) The existing provisions relating to foreign companies should be streamlined to remove the existing obscurities on the lines indicated above and should then be made applicable to the existing foreign companies which do not fall within any of the categories mentioned in sub-section (3) of section 11. For example, the provisions contained in section 603 to 608 dealing with prospectus issued by foreign companies may be deleted and suitable provisions made in section 600 including the prospectus provisions contained in Part II of the Act, in future, foreign.

Besides the changes in legal provisions these are some other suggestions to meet the challenges the country is facing with entrance of multinationals: -

- (1) Multinational Corporations should be allowed only when a country's economy is in self-sustaining stage of growth the fact is that even the developed countries of today restricted such foreign investments in their countries to protect their economies. For example; The Australian Government's Committee of Economic Enquiry recommended to the parliament in September 1965 to limit the new overseas investment to an annual limit of 336 million dollars. Japan not only restricted the aggregate inflow of foreign equity but also effectively kept foreign investors out of 'strategic' and 'key' industries such as electrical, chemicals and automobiles. Such restrictions would be effective in reducing tensions arising from the spread of multinational enterprises.
- (2) If the foreign collaboration is at all necessary the firms from and to the developing countries should be encouraged because most of the developing countries have nearly identical problems or developmental priorities. This will not only boost the development potentials of the countries like ours, but also expand and develop the markets and additional generation of wealth and income will help, companies, should be exempted from registration as company under the act, only if they do not fall within those categories.

The position regarding FFRA is also not satisfactory so far as the multinational corporations are concerned. Section 26 and 28 are not very much clear as to what exactly it seeks to do. The manner of enforcement of the equity dilution provisions has been left to the RBI, which can withhold remittances of profits and dividends unless its directives are complied with. This is hardly satisfactory situation. Withholding does not amount to forfeiture. It only adds to the value of shares and ultimately the share values get strengthened in the capital market and the beneficiary are the foreign companies and foreign shareholders. Secondly, it could lead to discriminatory practices by allowing one company to retain the same capital by permitting enlargement of capital base by fresh issue or issue of bonus shares so as to make existing share capital conform to the percentage. There is thus no disinvestment but only greater extension of business with more profits accruing on the foreign holding instead of concentrating in the hands of few capitalist countries of the world. It should be very well understood that the interest of developed and developing nations are bound to clash and so with the multinationals.

- (3) There should be legislation for preventing the multinationals from taking part in any type of political activity directly or indirectly. If some multinational firm is found to have involved in such activities, it must be declared illegal unequivocally. There should be an independent body, with assertive rights, to keep constant watch on the foreign firms activities related to its business or otherwise.
- (4) There should be an Independent National Agency to screen and review the technology, which is proposed to be transferred from the multinationals. The technocrats should name this body. Every technology transfer proposal must be approved by this agency.
- (5) All the technical collaboration agreements must be viewed keeping in mind the various restrictive clauses, over pricing (at the international standard) and the clauses making a recurring liability (like payment of royalty etc.) on the domestic firms and on the foreign exchange resources of the recipient country.
- (6) Effect on balance of payment of the country should also be considered. In case MNC's activities appear to cause any negative impact on it, such foreign investment or technology should be discouraged, unless and otherwise required for serving the national interest.

- (7) Our economy needs both foreign and domestic investment; it should be encouraged while undertaking the necessary safeguards against their ill effects and misuse. For instance, the restructuring of the National Environmental Tribunal Bill 1992, recommended by the standing parliamentary committee should be followed without modification. This relates particularly to pollution caused by any factor and not only when hazardous substances are involved.
- (8) At a time, when 70 percent of our population is still devoid of the basic facilities of life, there is little sense in proliferating the market with the luxury items. It will be quite justified to temper the consumerist euphoria at least for the time being. First of all, the infrastructure sectors like roads, railways, telecommunications, power and the light should be offered to the MNCs because it is here that we need their latest technology. The non-priority areas should be clearly kept for our domestic entrepreneurs who have the requisite capability and drive to excel.
- (9) In addition to changes in the legal norms, as discussed above, it should be made mandatory in all MNC's to give adequate employment opportunities to all eligible displaced youths of the area where they are setting up their industry. Infact, it should be our guiding principle in giving 'go ahead' signal to all the MNC's that only such MNC's would be allowed who gives maximum employment opportunities to the qualified and deserving '**sons of the soil**', who are, in non polluting sector and which are 'export oriented' so that 'foreign reserves' are also adequately maintained.
- (10) Peaceful and economic labour are equally important for sustained growth of industries. It is a well-known fact that 'facilities and incentives' tend to become 'disincentive' if labour force is not well disciplined. A time has come that we should give a fresh look at the provisions of the Industrial Dispute Act, 1947 and all the provisions giving too much liberty to 'workmen' should be screened and properly worded if so required.
- (11) In order to improve the future role of the multinationals, the following, steps are recommended: -
- The level of existing technological developments in the country and the availability of domestic know-how should, at no cost, be ignored.

- Invitation to foreign firms when a particular industry is facing crisis can be very damaging and therefore should be studied carefully and, if possible, be avoided.
- Various restrictive -clauses employed by the 'parent companies be particularly evaluated: prior to entering into collaborations. Such restrictive-business-practices should be effectively -checked through either legislative action or administrative acumen.
- In areas where contractual joint ventures or turnkey arrangements are possible they may prove to be mom suitable in view of the problems stated above. ,
- Finally the ultimate remedy lies in establishing a separate Act regarding the multinationals. Such an Act would provide clear guidelines to bureaucracy, subsidiaries and the parent companies. The issues such as transfer of technology, transfer pricing, restrictive business practices, foreign trade regulations with regard to the multinational corporations operations and other related controls and incentives can be unambiguously put forward in such an- Act. Correct and honest implementation of such Act- need not he overemphasized.

(12) The last but not the least, is the attitude of judiciary towards the MNC's. While taking every care to ensure that law of land is fully respected and the country's basic interest and sovereignty is fully protected, the MNC's should not be subjected to too much legal 'review and control', lest it may act as a detrimental to their commercial interest.

The need for Multinational Corporations therefore is unavoidable but a constant vigil on the part of the Government and the competing corporate sectors is the need of the hour. The terms and conditions of transfer of technology and investment needs, cooperative understanding on the part of the Government and corporations both. The above suggestions regarding the rock of multinational corporations, therefore, can yield fruitful results in India's export promotion and developmental efforts

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CONCEPT OF CITIZENSHIP: NATIONAL & INTERNATIONAL PERSPECTIVES

*Dissertation Submitted in Partial Fulfillment of the Academic Requirement of Degree of
Bachelor of Laws (B.COM. LL.B. (H.)) In (Corporate Law)*

At
Amity University Rajasthan

SUBMITTED BY

Rupal Sinha
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UNDER THE SUPERVISION OF

Dr. Vinod Kumar,
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DECLARATION BY THE CANDIDATE

I hereby declare that the dissertation entitled “**The Concepts of Citizenship: National & International Perspectives**” submitted at is the outcome of my own; carried out under the supervision of **Dr. Vinod Kumar, Associate Professor**.

I further declare that to the best of my knowledge the dissertation does not contain any part of work, which has not been submitted for the award of any degree either in this university or any other institutions without proper citations.

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CERTIFICATE BY THE SUPERVISOR

This is to certify that the work reported in the dissertation entitles “**The Concepts of Citizenship: National & International Perspectives**”, submitted by **Rupal Sinha** at **Amity Law School, Amity University Rajasthan, Jaipur** is a bonafide record of her original work carried out under my supervision. To the best of my knowledge and belief, the dissertation: (i) embodied the work of the candidate herself; (ii) has duly been completed; and (iii) is up to the standard both in respect of contents and language for being referred to the examiner.

Dr. Vinod Kumar,
Associate Professor,
Amity Law School.

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Rupal Sinha

A21521616008

**An Analytical Study of
BANK FRAUDS IN INDIA**

*Dissertation submitted in partial fulfilment for the requirement of the
Degree of*

B.Com. LL.B. (H)



Submitted by:

Sandeep Singh Sandhu

B.Com. LL.B (2016-2021)

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Amity University, Rajasthan
2016-2021**

DECLARATION

I declare that the dissertation entitled “**Bank frauds in India**” is the outcome of my work conducted under the supervision of Dr. Govind Singh Rajpal, Assistant Professor, Amity Law School, Amity University, Rajasthan.

I further declare that to the best of my knowledge, the dissertation does not contain any part of work, which has been submitted for the award of any degree either in this University or in any other University or Deemed University.

Sandeep Singh Sandhu

Amity Law School

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**CORPORATE CRIMINAL LIABILITY: EMPHASIS ON LEGAL SCENARIO OF
VICARIOUS LIABILITY OF DIRECTOR**

A Dissertation Report

Submitted by

THANESHWAR JANGID

In partial fulfilment for the award of degree

OF

Bachelors of Commerce and Bachelors of Legislative Laws (Honours)

IN

CORPORATE LAW



AT

AMITY LAW SCHOOL

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CERTIFICATE

Certified that the seminar work entitled “**CORPORATE CRIMINAL LIABILITY: EMPHASIS ON LEGAL SCENARIO OF VICARIOUS LIABILITY OF DIRECTOR**” is a bonafide work carried out by Thaneshwar Jangid (A21521616007) in partial fulfilment for the award of degree of Bachelors of Commerce and Bachelors of Legislative Laws (Hons.) Amity University Rajasthan, Jaipur, during year 2016-2021. It is certified that all the corrections/suggestions indicated for internal assessment have been incorporated in the report. The Dissertation report has been approved as it satisfies the academic requirements in respect of seminar work prescribed for the Bachelors of Commerce and Bachelors of Legislative Laws (Hons.) degree.

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Thaneshwar Jangid

**PROTECTION OF TRADEMARKS IN VIRTUAL WORLD WITH
REFERENCE TO INDIAN LEGISLATIVE FRAMEWORK.**

DISSERTATION

**Submitted by
Vishal Ramchandani**

In partial fulfilment for the award of degree

**Of
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CERTIFICATE

This is to certify that **Vishal Ramchandani** a student of B.COM. LL.B (H.) 10th Semester has work on topic “**PROTECTION OF TRADEMARKS IN VIRTUAL WORLD WITH REFERENCE TO INDIAN LEGISLATIVE FRAMEWORK**” under my supervision and guidance. Her work is original and meets the requirement laid down by Amity University Rajasthan, and the said assignment has not previously formed the basis for the award of any other degree, diploma, fellowship or any other title.

Date:

SUPERVISOR

Dr. Puneet Bafna
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