



KARNAVATI
UNIVERSITY



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Quick Questions for Law Firm Interview

A Compendium

**UNITEDWORLD SCHOOL OF LAW
KARNAVATI UNIVERSITY**

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A Product of UWSL CSD Team

ABOUT THE COMPENDIUM

The compendium consists of nine sections dealing with questions on important subjects of law which are usually deemed important for the law interviews and which every law graduate should know. The subjects covered under this compilation are Intellectual Property Rights, Corporate Law, Public International Law, Constitutional Law, Alternative Dispute Resolution (Arbitration and Conciliation), Constitutional Law, Company Law and Income Tax, Information Technology Law, Indian Penal Code/Criminal Law. The first section deals with HR questions consisting of questions posed in the HR round of job interview, followed by the law subject questions. Each section has been prepared by UnitedWorld School of Law faculty members.

The compendium has 233 questions dealing with these subjects and has been prepared to aid the students in quickly revising the important areas of law before appearing for any legal job interview. The questions are *not exhaustive* and merely provide for a good reference material on important areas of law.

A law job interview requires thorough understanding of the key concepts, their application and case laws, for which sole reliance on the contents of this compendium is NOT enough. These quick questions and answers may, therefore, be regarded as a Ready Reckoner and must be read along with the Bare Acts, Rules, Regulations, and Case Laws.

Besides, the compendium has been prepared with the latest amendments in the subjects covered; however, students are expected to be conversant with the latest amendments post this period.

Although due care has been taken in preparing this compendium, the possibility of errors, omissions and/or discrepancies cannot be ruled out. Should there be any discrepancy, error/omission, doubt noted in the compendium, please feel free to contact the concerned faculty member.

Disclaimer: The Questions on any subject are not exhaustive and only cover the general and relevant subject knowledge.

This compendium is for Internal Circulation Only!

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H R QUESTIONS¹

¹ This section has been compiled by Dr. Malay Patel & Mr. Pranay Prakash

1. Tell me something about yourself?

Model Answer 1: “Thank you, Sir/Ma’am for this opportunity. I am from XYZ City and belong to a nuclear family. My father is a Central Government Employee and my mother is a Vice Principal at a private school. My younger sister will appear her CBSE 10th board this year. We are a very close-knit family. On an individual front, I perceive myself as a confident, conscientious and hardworking individual. I carry out any task assigned to me without hesitation, provided the instructions are clear. In the case of doubts, I never hesitate to put forth my questions. I have always been a fast learner, and I love to keep up my process of learning to figure out better ways of solving problems. Moreover, I love to compete with my own past performances than competing with my peers, as I believe that improvement is always better than perfection!”

2. What are your Strength & Weakness?

Model Answer 2: “I have several strengths namely – I am patient, committed, honest and self-motivated. I am the biggest dreamer I have ever come across! I forgive easily and hate to keep grudges in my heart. My greatest weakness is that I don't like getting interrupted when I am seriously into something. Another one of my weaknesses is that I trust people very easily. As I already said, I am a very patient person, so I am actively working on this lacuna.”

3. What motivates you?

Model Answer 3: I am a very result-oriented person. My primary motivation is to achieve the desired result. While I enjoy working on the project on my own, I am particularly motivated by the buzz of working in a team. It's very exciting working closely with others, who share the same common goal. I also like to take on the challenge and rise to that challenge as part of a concerted team effort.

4. Why should we hire you?

Model Answer 4: For this particular job, I have the perfect combination of skills and experience that is required. I also bring rich experience of strong analytical and problem-solving skills that I have gained while working with other companies. My dedication to excellent work standards will add value to the team and the company. I am also I inclined

to research and I am a passionate writer. Hence the company may expect good results from me when it comes to legal content writing, legal research or even policy making.

5. Are you a team player?

Model Answer 5: Yes, definitely. While I will deny the fact that I can work independently with minimal supervision, I'm also one companion every leader would ever want to be in his team. Whatever task is assigned to me, I make sure it meets and exceeds what is expected of me. I also make it a point to reach out to teammates whenever needed.

6. What is your philosophy towards work?

Model Answer 6: I have only one philosophy when it comes to work: every piece of work, regardless of size, has to be done on time and in the right manner.

7. What have you learned from mistakes on the job?

Model Answer 7: I learned that without proper coordination, even the simplest task could cause problems in a project. I had this problem during my first job. From that time on, I made sure every I think follows every detail and coordination.

8. How would you know you were successful on this job?

Model Answer 8: Being successful means goals that are set are being met. Being successful also means standards are not only reached but also exceeded wherever possible.

9. What have you done to improve your knowledge in the last year?

Model answer 9: I have attended several self-improvements, time management, and personality development seminars. I have also participated in training workshops related to [industry]. I have also participated in several academic conferences and seminars as participants and presenter and I have developed interest to learn law from contemporary perspectives and not from text book perspectives only.

10. What was the most difficult decision that you have made?

Model answer 10: It was a time when I had to choose between joining a group of employees protesting some issues in the company and staying away from the issue. I ended up being a mediator between the employees and our immediate supervisor, and I was glad I made that decision because it all ended well and without further conflicts in the workplace.

11. Why do you think you deserve this job?

Model answer 11. Because I believe my talents and skills will definitely be a big contribution to your company's continuing pursuit of excellence. I'm a fast worker and hardworking person who can be a very reliable asset to this company.

12. Would you rather work for money or job satisfaction?

Model answer 12. Job satisfaction is more important to me. Working just for the money may not be fulfilling if I don't like the job in the first place. Job satisfaction makes me stay productive; money would naturally come along as well.

13. Has anything ever irritated you about people you've worked with?

Model answer 13. I go along fine with co-workers. When I feel the other guy's, attitude is a negative one; I try my best to approach him and talk things over. I always make it a point to stay positive and transparent with people around me.

14. How do you cope with stress?

Model answer 14: I pause for a few minutes, look out into the window. Brief pauses in enough to get me charged again. I can manage stress well enough and does not decrease my productivity level.

15. How do you propose to compensate for your lack of experience?

Model answer 15: I am a quick learner. Every time there is something new thrown at me, I take time to study it at the soonest time.

16. Are you willing to make sacrifices for this company?

Model answer 16: I would be willing to do that to the best of my ability. I can manage personal matters on my own without causing conflicts when management needs me most. However, I will not compromise on my values.

17. What role do you tend to play in a team?

Model answer 17: I tend to be versatile when it comes to being a team player. I can act as a leader, an assistant, a communicator, a secretary, whatever role that will ensure the success of the team. That's because understanding the different roles will allow each player to take on the role of others, in times of need.

18. Describe your ability to work under pressure.

Model answer 18: I understand the nature of this position that I am applying for quite well, along with the pressure that comes with it. Being under pressure doesn't discourage me but motivates me more.

19. If you were hiring a manager for this job, what would you look for?

Model answer 19: I would look into two essential things: the ability to do the job right and the proper attitude to do it. Skills without the right attitude will not contribute to productive output.

20. Do you have any questions for me?

Model answer 20: I would like to know what next steps are for me. I would also be interested to know more details of this position I am applying for.

21. Tell me a little about yourself.

You have to tell your brief introduction from your name and important internships and achievements.

22. What area of law most interests you

You have to prepare at least 2 areas of interest

23. Where do you see yourself in five years

If you are wish to proceed in law firm then tell our top law firms or if you want to start your law firm then talk about it but also remember to specify the area in which you want to start your law firm.

24. What subject of law you like most

Tell your strongest subjects at least 2

25. Out of all the other candidates, why should we hire you?

Tell your strong point and don't forget to mention that you are very good in drafting because in initial days law firm prefer those candidates who are good in drafting skill

26. What do you consider to be your biggest professional achievement?

Tell about your achievements like moot, client counseling, internships or any other.

27. Describe your dream job.

Let them know about top company or any foreign firms which you want to join

28. What kind of work environment do you like best?

If you do not know exactly what the work environment is like, make sure you show flexibility and a willingness to experience new things. Example: "In the past, I preferred a fast-paced working environment, but I also love to experience new things. Whenever I experience something new, I learn something valuable

29. 3 things which you have learned from your internships?

The best answer to this is Punctuality, court manner and team work. However, it depends on person to person basis.

30. What is your leadership style?

Democratic leadership style.

31. What can we expect from you in your first three months?

Try to understand and learn from seniors. Reflect and execute the plan fixed on day-1

32. What questions do you have for me?

What do you expect from team members in this position?

33. What Makes You Unique?

Mention skills listed in the job description.

34. What Should I Know That's Not on Your Resume?

Stress a strength or skill that is essential to the position (and is not listed in your resume)

35. What Are Your Salary Requirements?

It depends on person to person basis but please ready for the negotiation

36. When Can You Start?

Say you can start immediately the right way to confirm in your employer's mind that you are the right person for the job. Smile when your employer asks when you can start. Smile when your employer asks when you can start. Look excited about starting the new job.

37. Are You Willing to Relocate?

Definitely willing to relocate will show that you want to do whatever is necessary to be a part of the company and team. A formal answer would be: "For the right opportunity I am definitely willing to relocate. I believe that this position and company is that opportunity.

38. Why should we hire you?

I have just started my career, I don't have practical achievements, but I really want to practically explore and experience my potential by delivering the best services to the company. It will be my honour to work with you and this organization.

39. Why do you want to work here?

Learn about your career goals and how this position fits into your plan. Make sure that you are sincerely interested in the job and will be motivated to perform if hired. Find out what you know about the company, industry, position (and if you took the time to research)

40. What are you passionate about?

Select something that genuinely excites you. You also want to pick a passion that you are knowledgeable about. Pick a passion that you are actively involved with in some way. Keep in mind that your passion can be almost anything.

41. How you hear about this job?

You were looking actively for jobs and found it on a job board, careers website, LinkedIn, etc. and that's how you first saw the job. You have a colleague or friend in the company who suggested you apply or mentioned they were hiring.

42. Why you choose law as your career?

A career in Law is intellectually challenging, financially rewarding & personally fulfilling. For me personal fulfilment is most important. ... Law is also about rights, justice & understanding of human behaviour & society. I choose Law because it helps me in improving my standard of thoughts, skills & knowledge.

43. Describe your moot experience

Say few lines about your first moot and what you have learnt after that.

44. Why do you think you will succeed as a lawyer?

1. Comfortable with public speaking
2. Performing under pressure
3. Flair with words
4. Analytical mind
5. Available 24/7

45. What are the 5 most important qualities of a successful lawyer?

1. Good communication skill
 2. Research skills
 3. Analytical skills
 4. Creativity
 5. availability
-

**QUESTIONS
ON
INTELLECTUAL
PROPERTY RIGHTS²**

² This section has been compiled by Mr. Shrut Brahmbhatt

46. What is Intellectual Property?

Answer: Intellectual Property refers to a property that is an outcome of intellect of human being. e.g. Patent, Copyright, Trademark, Geographical Indication. Designs etc.

Detailed Description for revision: It is generally acknowledged that IP is the collective term for creations of the mind and for the commercial goodwill, as vested in business that can be protected by law. As to exactly what should be protected by IP, laws differ from country to country depending on the understandings of IP regimes. Neither the Convention Establishing the World Intellectual Property Organization (WIPO) nor the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) directly gives a definition of IP. Instead, they provide for various categories of rights covered by IP, enumerating them, and adding definitions and provisions as to their scope of protection. Looking at the provisions of various IP treaties, we can find that IP protection involves the following rights and legal relationships: (1) patents, including inventions, utility models industrial designs (for example, in China) and plant patents (for example, in the U.S.); (2) copyright and related rights; (3) distinctive signs used in commerce, such as trademarks, geographical indications, trade names and trade dress; (4) new plant varieties; (5) layout designs of integrated circuits; (6) trade secrets or undisclosed information; and (7) repression of unfair competition.

47. What are the characteristics of IP?

Answer: Intellectual Properties are intangible, exclusive for the owners, territorial and limited by time.

Detailed Description for revision: Compared with traditional property rights, IP rights are intangible in nature. Moreover, they are exclusive, territorial and time-limited. But this is true only in a relative sense and does not mean that all types of IP rights have these characteristics. There are some exceptions. For example, as long as it is not disclosed, a trade secret can exist forever in theory, subject to no time limit.

48. Does IP protection have a time limit?

Answer: Yes definitely. Each form of Intellectual property has a predefined duration until which the creators/owners of the IP are protected.

Detailed Description for revision:

IP is protected only for a limited period of time, beyond which it is no longer protected and falls into the public domain. When an IP right expires, everyone may use it with no restrictions from the right holder. This is not true for traditional or tangible property rights. As long as a piece of traditional property exists, it is always protected by law. A family heirloom if not damaged or sold, may always be passed down to one's descendants and enjoy legal protection.

49. What is the “transparency” principle?

Answer: As per the TRIPS Agreement provides that the member countries shall enhance transparency in their foreign-trade administration. All the Laws, regulations and court rulings shall be made known to each other unless the disclosure is detrimental to law enforcement.

Detailed Description for revision: As one of the bases of the TRIPS Agreement, the transparency principle aims to ensure the stability and predictability of the trading environment. Under the transparency rule, all member countries should enhance transparency in their foreign-trade administration. Universally applicable laws and regulations, trade agreements, court rulings and administrative decisions must be made known, unless such disclosure is detrimental to law enforcement, the public interest or the legitimate business interests of the parties concerned.

50. Can inventions be protected only by patents?

Answer: Well no. It may be protected by keeping it as trade secret. However, the protection under patent law is stronger than trade secrets.

Detailed Description for revision: The right holder of a technical creation may seek protection either through the trade secret (undisclosed information) system or through the patent system. Under patent law, right holders have to disclose their creations in exchange for protection, thus

making contributions to society, and the invention becomes part of the public domain when the patent expires. The owners of trade secrets, on the other hand, keep their technical solutions confidential and therefore receive weaker protection than that afforded to patent holders.

51. Why could a patent be invalidated after it has been granted?

Answer: The Patent can be invalidated if the granted patent is challenged on the reason of defect in designation.

Detailed Description for revision: A patent is not set in stone after it has been granted: it can be invalidated or have its scope of protection narrowed through a revocation or invalidation procedure. In the patent examination process, the examiner has only limited time and effort to devote to each patent application, due to the large quantity of applications. For example, in China, the total number of applications for the three types of patents in 2017 exceeded three million. The pressure on the examiners is enormous, and the time spent on an invention by each examiner averages only two days or so. For this reason, the extent of the examiner's job is limited to preliminary screening and designation of scope of protection. Should there be any defect in the designation, it is no surprise that a competitor may come forward to challenge the validity of the patent.

52. What rights do performers enjoy under IP regime?

Answer: Performers' rights are provided for in international conventions and national copyright laws to recognize their original intellectual labor in their performance activities. Performers' rights are divided into moral rights and economic rights.

Detailed Description for revision: The Rome Convention and the TRIPS Agreement do not address the moral rights of performers, but the WIPO Performances and Phonograms Treaty (WPPT) expressly provides for performers to have the right to claim to be identified with their performances and to object to any distortion, mutilation or other modification of their performances that would be prejudicial to their reputation, with the term of performance protection at least equal to the term of protection of the economic rights.

53. Is computer software copyrightable?

Answer: Yes, it is copyrightable.

Detailed Description for revision: Internationally, computer software is often eligible for copyright protection. The TRIPS Agreement provides that computer programs, whether in source or object code, shall be protected as literary works. As a work is automatically protected by copyright when it is created, computer software does not need to be registered for copyright protection. Considering the great value of software, however, right holders often register their work to prove ownership of copyright and to protect the time spent on their work.

54. What are the differences between copyright and patent protection?

Answer: Copyright subsists in original works including Literary work, Artistic work, Cinematographic work, Sound Recording etc which are protected for different durations. Whereas Patents are granted on Inventions fulfilling NUN test. (Novelty, Utility, Non-Obviousness)

Detailed Description for revision: Comparison of the two systems shows that the patent system is conducive to the protection of inventions in the field of technology, while the copyright system focuses on the protection of literary and artistic works. As copyrighted works may encompass works about scientific creations protected by patent law, overlapping may occur in this case. With regard to a technical solution, such as a new type of car engine, copyright protection and patent protection reflect entirely different focuses.

55. How is the ownership of a commissioned work determined?

Answer: Where a person commissions, or invests in, a copyrightable work created by another person, the first principle is that the agreement (if any) between them should be respected according to the principle of “freedom of contract.”

Detailed Description for revision: Usually, the investor is in a strong position and will claim ownership of the work in the agreement. If the investor has neglected to make a binding agreement, he or she might still own the work according to international practice. However, in

some countries, such as China, the copyright of the work belongs to the author in the absence of an agreement. Where the person who commissions the work owns the economic copyright, it is still necessary to consult national law to determine whether he or she may also own the moral rights. In some countries contracts cannot override or terminate the author's moral rights.

56. Will the creation of works about the same theme by different authors lead to infringement?

Answer: Copyright law distinguishes between “an idea and its expressions:” themes belong to ideas and so are not protected by copyright law.

Detailed Description for revision: The same theme may be expressed in different ways by different people. For example, love is an eternal theme in literature. It is obviously unreasonable that all subsequent love stories constitute infringement after someone wrote the first love story. Both *Romeo and Juliet* by Shakespeare and *Butterfly Lovers* (known as “Liang Shanbo and Zhu Yingtai,” one of China's four great folktales) are famous tragic love stories, but they were independent works by different authors.

57. What is a copyright notice?

Answer: The copyright notice is used to inform others that the work in question is protected by copyright, with a “©” sign, where “c” stands for copyright.

Detailed Description for revision: The copyright notice was first set forth in U.S. copyright law and was also provided for in the Universal Copyright Convention. According to the Berne Convention, enjoyment and enforcement of copyright do not require any formalities, regardless of whether or not a work is protected in the country of origin. In other words, copyright protection is not restricted by or contingent on formalities, such as a copyright notice. Given the practical benefits of providing information about the copyright status of a work and the right holder(s), current international practice is to mark works with a copyright notice to state explicitly that the work is protected by copyright and to identify the copyright holder. With works in digital form this information may also be provided through the metadata associated with the work.

58. What are the differences between a trademark and a trade name?

Answer: A trade name is used to differentiate one business from another. A trademark is a sign used on goods or services to distinguish them from those of other businesses.

Detailed Description for revision: Trade names and Trademarks are signs to identify businesses, but not necessarily the goods or services they offer. The distinction becomes more blurred with service companies, because very often the business name is also the name of the service, whereas with products, there is often a difference between the name of the business and the name of the trademark that is used on a specific product. From the perspective of corporate branding and reputation, there is no essential distinction, because both trademarks and trade names carry the goodwill of a company.

59. Must all goods be protected by registered trademarks?

Answer: The registration of a trademark is not a condition for its use. However, using unregistered trademarks carries significant legal risks.

Detailed Description for revision: In many countries, trademark rights are granted pursuant to the first-to-file rule. That is to say, whoever applies first will be granted the exclusive right to a trademark, regardless of whether it has been in use. If a company uses an unregistered trademark, there is a risk that it will be preemptively registered by others. In this case, the company can only use its trademark within the original scope and cannot expand its scope of use.

60. What is trademark distinctiveness?

Answer: Trademark distinctiveness refers to the features that enable a trademark to distinguish the source of a product or service.

Detailed Description for revision: If a sign is incapable of identifying the source of a product, it does not function as trademark. Gaining trademark distinctiveness is like running a marathon. It is important to have a certain advantage at the starting line, but it is even more important to keep a business going smoothly.

61. What is a generic name?

Answer: A generic name in the sense of trademark law refers to a product name established by operation of law or by usage as a generic term.

Detailed Description for revision: When considering whether a term is generic, national and/or industry standards are considered. If a relevant sector of the public believes that a name is capable of designating a class of goods, it should be considered a generic name established by usage. The fact that a name is listed as a product name in a professional reference book or a dictionary can be used as reference in determining whether a generic term has been established by usage. A generic name is a common name for a particular type of products, incapable of indicating the source of a product. It cannot be protected as a trademark for lack of distinctiveness.

62. What elements can be used as trademarks?

Answer: Trademarks shall be the marks capable of distinguished goods and services of one person from those of others.

Detailed Description for revision: A trademark helps identify the origin of a product through human senses. People receive messages through the eye, the ear, the nose, etc., but predominantly through the eyes. In reality, trademarks that can be seen are the most common form of trademark. The TRIPS Agreement provides that member countries may require, as a condition of registration, that signs be visually perceptible.

63. Why are some signs excluded from registration as trademarks?

Answer: A trademark similar to the name of a country or a national emblem, however, is not only incapable of distinguishing sources of products, but is potentially misleading as to the origin of the goods or services and may be considered detrimental to the dignity of that country.

Detailed Description for revision: Trademarks are a bridge between consumers and producers, helping consumers associate a product with its origin so that they can correctly choose the goods

they wish to buy. Likewise, a sign implying an insult to other people's religion or racial discrimination cannot be used as a trademark.

64. What are formality reviews and substantive reviews of trademarks?

Answer: In a jurisdiction favoring substantive review, the trademark office examines both the formal and substantive matters of an application. In a jurisdiction using formality review, the trademark office focuses on the formalities of the application documents and procedural matters.

Detailed Description for revision: There are two approaches taken by national trademark authorities to the examination of trademark applications: substantive reviews and formality reviews. In a jurisdiction favoring substantive review, the trademark office examines both the formal and substantive matters of an application. If the application meets the registration requirements, it will be approved for registration; if it does not, it will be rejected. In a jurisdiction using formality review, the trademark office focuses on the formalities of the application documents and procedural matters. Applicants meeting the formality requirements will be granted registration.

65. What are associated trademarks?

Answer: Associated trademark means a mark of one business associated to brand new products and services with its primary mark or use derivative forms of its primary trademark.

Detailed Description for revision: The scope of protection of a trademark concerns both the sign, and the goods and services covered by the sign. To expand the scope of protection of a trademark and prevent others from "taking a free ride" on its reputation, the trademark applicant may apply for a number of similar marks and include more goods into the intended scope of protection.

66. Why is compulsory licensing not applicable to trademarks?

Answer: Compulsory or statutory licensing applies to invention and utility model patents and copyright, but not to trademarks.

Detailed Description for revision: This is because the subject matters of compulsory licensing should be intellectual creations, while a trademark is in essence a business sign. Suppose a health crisis breaks out, necessitating mass production of a patented drug owned by Company A. Under the circumstances, compulsory licensing of the drug is justified. But it is not necessary to label the drug produced by a licensee with Company A's trademark. Whether a trademark is used on the drug will not affect the efficacy of the drug. On the contrary, using Company A's trademark on the drug will lead the public to believe that the drug was made by Company A rather than the licensee.

67. What are the differences between an integrated circuit layout design and an industrial design?

Answer: An industrial design is a design that can be seen from outside, with aesthetic features, while an integrated circuit is installed inside a product, with the primary consideration given to the technical function, which is independent of the locations of the electronic components.

Detailed Description for revision: An integrated circuit layout design is similar to an industrial design in that both are graphic designs. However, there are substantial differences between the two. The purpose of an integrated circuit design is to increase integration, save materials and reduce energy consumption, and it is difficult for these points to meet the non-obviousness requirement for a patent. For this reason, integrated circuits are not eligible for patent protection.

68. What is the distinctness of a new plant variety?

Answer: The "distinctness" of a new plant variety is equivalent to the "inventiveness" of a patent. **Detailed Description for revision:** Different plant varieties have different properties, which cannot be assessed by their "inventiveness." Therefore, the concept of "distinctness" is introduced. It is necessary for a new variety to be distinctively different from the known varieties.

69. What are the differences between a GI and a trademark?

Answer: A GI indicates a specific product originating from a specific area that gives the product its unique features and characteristics, whereas a trademark indicates the products or services of a specific company.

Detailed Description for revision: Geographical indications and trademarks are both signs designating the sources of goods. The reputation of a trademark comes from business operation, publicity and promotion of an enterprise, while the reputation of a GI is derived from the gift of nature and cultural heritage. It is precisely because of this that a trademark can be transferred, while a GI cannot be transferred to others outside the particular region.

70. What is a trade secret?

Answer: Trade secrets are the confidential information of the business, a use of which helps the business to grow.

Detailed Description for revision: A trade secret, also known as undisclosed information, meets the following criteria: (1) it is a secret and unknown to the general public and (2) it has commercial value because of its confidentiality and commercial importance (if it has no value, it cannot become a type of IP right); and (3) the legitimate controller of the information has taken reasonable confidentiality measures. Generally speaking, most objects of IP protection need to be made public and are thus the objects of patent, trademark and copyright protection. However, the premise for business secrets to obtain protection is their “secrecy,” and the public is not aware of their content. Therefore, in many cases, business secrets have greater competitive advantages and have also attracted growing public attention.

QUESTIONS ON CORPORATE LAW³

³ This section has been compiled by Ms. Nishtha Agrawal

71. What is the difference between Corporate and Business Law?

While corporate law focuses on legal aspects governing sale and distribution of goods, business law covers legal aspects used in acquisitions, mergers, formation of companies and rights of shareholders. Companies need people who have in-depth knowledge of both laws.

72. What is the role of a Corporate Lawyer?

Many corporate lawyers work in law firms, particularly large or mid-size firms, where they counsel clients and handle business transactions including negotiation, drafting, and review of contracts and other agreements associated with the activities of the business, such as mergers, acquisitions, and divestitures.

74. Is Business Law and Commercial Law the same?

Commercial law focuses on the sale and distribution of goods, as well as financing of certain transactions. Business law focuses on the other aspects of business, including forming a company, mergers and acquisitions, shareholder rights, and property issues such as leasing office or warehouse space.

74. What are the responsibilities of a Corporate Lawyer?

The role of a corporate lawyer is to ensure the legality of commercial transactions, advising corporations on their legal rights and duties, including the duties and responsibilities of corporate officers. The practice of corporate law is less adversarial than that of trial law.

75. Did the salary we offer attract you to this corporate commercial lawyer job?

The salary was very attractive, but the job itself is what was most attractive to me

76. Do you have any questions to ask us?

Sir with your kind permission I would like to know more about induction and developmental programmes' or Sir, I would like to have my feedback so that I can analyze and improve my strengths and rectify my shortcomings.

77. What does a Commercial Lawyer do?

Commercial lawyers deal with issues pertaining to business transactions. They may draft client agreements, negotiate employment contracts or write purchase agreements. Commercial lawyers often practice in law firms on behalf of multiple clients of the firm's commercial transactions department.

78. State the Requirements for Restitutio In Integrum?

- Misrepresentation by the other party
- Inducement
- Intention to induce
- Materiality

79. What is meant by “nemo dat quo non habet”?

“No one can pass a better title than what he has”

80. What do you mean by Corporate Company?

A corporation is a legal entity that is separate and distinct from its owners. Corporations enjoy most of the rights and responsibilities that an individual possesses; that is, a corporation has the right to enter into contracts, loan and borrow money, sue and be sued, hire employees, own assets and pay taxes.

81. Discuss the impact of the Consumer Protection Act upon the Law of Contract with reference to Its Aims, Objectives, Scope, National Regulatory Institutions, and Sanctions?

The primary purpose of the Act is to protect consumers from exploitation in the marketplace, and to promote their social and economic welfare.

More specifically, it aims to:

- Establish a legal framework for the achievement and maintenance of a consumer market that is fair, accessible, efficient, and responsible, for the benefit of consumers generally;

- Promote fair business practices;
- Protect consumers from unconscionable, unjust, or unreasonable business practices

82. The term “Quid Pro Quo” is applied in connection with:

Consideration

83. In Case of Illegal agreements, the collateral agreements are Void? True or False

True

84. All Contracts are agreements, but all agreements are not contracts? Explain

All agreements are contracts if they are made with free consent of the parties, capable to contract for a lawful object and lawful consideration and not expressly declared to be void.

85. What is Corporate and Commercial Law?

Commercial law, also known as trade law, is the body of law that applies to the rights, relations, and conduct of persons and businesses engaged in commerce, merchandising, trade, and sales. It is often considered to be a branch of civil law and deals with issues of both private law and public law.

86. What does a Lawyer do for a business?

A business lawyer is an attorney who focuses his or her legal practice on issues that affect businesses, such as taxation, various types of business transactions, and intellectual property. Most lawyers will have to work longer hours at some point, often in preparation for a case.

87. What do you mean by consensus- ad-idem?

Consensus ad idem is a Latin word which means “meeting of the minds.” If two parties to a contract understand the terms and conditions of a contract in the same manner, then it is said that the parties are “ad idem” on the terms and conditions. Such meeting of minds is essential for a valid contract.

88. Who are competent to contract?

Every person is competent to contract who is of the age of majority according to the law to which he is subject and who is of sound mind and is not disqualified from contracting by any law to which he is subject.

89. Discuss devolution of joint liabilities?

When two or more persons have made a joint promise, then, unless a contrary intention appears by the contract, all such persons, during their joint lives, and, after the death of any of them, his representative jointly with the survivor or survivors, and, after the death of the last survivor, the representatives of all jointly, must fulfill the promise.

90. What is the effect of failure to perform at fixed time, in contract in which time is essential?

When a party to a contract promises to do a certain thing at or before a specified time, or certain things at or before specified times, and fails to do any such thing at or before the specified time, the contract, or so much of it as has not been performed, becomes voidable at the option of the promisee, if the intention of the parties was that time should be of the essence of the contract.

91. Discuss Agent's duty in conducting principal's business?

An agent is bound to conduct the business of his principal according to the directions given by the principal, or, in the absence of any such directions, according to the custom which prevails in doing business of the same kind at the place where the agent conducts such business. When the agent acts otherwise, if any loss be sustained, he must make it good to his principal, and if any profit accrues, he must account for it.

92. What do you mean by sound mind for the purpose of contracting?

A person is said to be of sound mind for the purpose of making a contract, if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interests. A person, who is usually of unsound mind, but occasionally of sound mind, may make a contract when he is of sound mind. A person who is usually of

sound mind, but occasionally of unsound mind, may not make a contract when he is of unsound mind.

93. What is the obligation of person who has received advantage under void agreement, or contract that becomes void?

When an agreement is discovered to be void, or when a contract becomes void, any person who has received any advantage under such agreement or contract is bound to restore it, or to make compensation for it to the person from whom he received it.

94. Discuss the responsibility of finder of goods?

A person who finds goods belonging to another, and takes them into his custody, is subject to the same responsibility as a bailee.

95. Discuss the rights of Indemnity holder?

The promisee in a contract of indemnity, acting within the scope of his authority, is entitled to recover from the promisor—

(1) All damages which he may be compelled to pay in any suit in respect of any matter to which the promise to indemnify applies;

(2) all costs which he may be compelled to pay in any such suit if, in bringing or defending it, he did not contravene the orders of the promisor, and acted as it would have been prudent for him to act in the absence of any contract of indemnity, or if the promisor authorized him to bring or defend the suit;

(3) all sums which he may have paid under the terms of any compromise of any such suit, if the compromise was not contrary to the orders of the promisor, and was one which it would have been prudent for the promisee to make in the absence of any contract of indemnity, or if the promisor authorized him to compromise the suit

QUESTIONS
ON
PUBLIC INTERNATIONAL LAW⁴

⁴ This section has been compiled by Dr. Sanjay Pandey

96. Who coined the term ‘International Law’?

Answer: Jeremy Bentham

97. Who is the Secretary-General of the United Nations?

Answer: Antonio Guterres.

98. What is ‘Jus Cogens’ norm of International Law?

Answer: Peremptory norm of International Law

99. What is the maximum limit of Territorial water of coastal state?

Answer: 12 Nautical Miles.

100. What is *persona non gratata*?

Answer: an unacceptable or unwelcome person (It Is declared by the host country against a foreign diplomat when such diplomat does something against the host county).

101. What is diplomatic Immunity?

Answer: Diplomatic immunity is a form of legal immunity that ensures diplomats are given safe passage and are considered not susceptible to lawsuit or prosecution under the host country's laws, but they can still be expelled.

102. What do you mean by Piracy *hostishumani generis*?

Answer: Pirates are Enemy of all mankind.

103. Who are the subjects of International Law?

Answer: States, Individuals, and International Organizations.

104. What is continental shelf?

Answer: A continental shelf is a portion of a continent that is submerged under an area of relatively shallow water known as a shelf sea.

105. Where is the World Court?

Answer: The 15-member ICJ, or World Court, is the principal judicial organ of the United Nations, seated at The Hague in the Netherlands. It is charged with settling legal disputes submitted to it by states and giving advisory opinions on legal questions from U.N. bodies and agencies.

106. What do you mean by Treaty?

Answer: Treaty is a binding formal agreement, contract, or other written instrument that establishes obligations between two or more subjects of international law (primarily states and international organizations).

107. What is the function of the World Bank?

Answer: The World Bank is an international organization dedicated to providing financing, advice, and research to developing nations to aid their economic advancement. The bank predominantly acts as an organization that attempts to fight poverty by offering developmental assistance to middle- and low-income countries.

108. What is the recognition of a State?

Answer: Recognition of state under the International Legal System can be defined as “the formal acknowledgement or acceptance of a new state as an international personality by the existing States of the International community”.

109. What are the 4 requirements of a state?

Answer: The criteria of the convention are: (1) a permanent population, (2) a defined territory, (3) government and (4) the capacity to enter into relations with other States.

110. What are the modes of acquisition of nationality?

Answer: By Birth and by Naturalisation.

111. What do you mean by nationality?

Answer: A person's nationality is where they are a legal citizen, usually in the country where they were born.

112. What is Statelessness?

Answer: “a person who is not considered as a national by any State under the operation of its law”. In simple terms, this means that a stateless person does not have a nationality of any country.

113. What is dual nationality?

Answer: When a person possesses nationality of more than one state.

114. What is Extradition?

Answer: Extradition is the delivery of an accused or a convicted individual to the State on whose territory he is alleged to have been committed or to have been convicted of a crime, by the State on whose territory the alleged criminal happens to be for the time-being.

115. Where is the ICC headquartered?

Answer: The ICC's main office is in The Hague in The Netherlands.

116. What is Renvoi?

Answer: The Doctrine of Renvoi is a legal doctrine which applies when a court is faced with a conflict of law and must consider the law of another state, referred to as private international law rules. The word “Renvoi” comes from the French “send back” or “return unopened”.

117. What is lex loci celebrationis?

Answer: the law of the land (where the marriage was celebrated).

118. What is Lex Loci contractus?

Answer: “Law of the place where the contract is made”. Lex loci contractus is often the proper law to decide contractual disputes. This principle is applicable when there is a conflict of laws with regard to a contract and when the validity of a contract is in question.

119. What is Characterization?

Answer: Characterisation refers to the allocation of the legal issue in the dispute to a certain legal concept, establishing the link between the factual situation leading to the dispute and the particular legal concept that it falls under.

120. What is *Lex loci commissi*?

Answer: “Law of the place where the delict [tort] was committed” in the conflict of laws. The court may then be required to apply the choice of law rules to decide the *lexcausae*, the law to be applied to each cause of action.

121. What is Domicile?

Answer: The domicile of any person is that place in which that person's habitation is fixed, without any present intentions of removal there from, and to which, whenever absent, that person intends to return.

QUESTIONS
ON
CONSTITUTIONAL LAW⁵

⁵ This section has been compiled by Dr. Ayaz Ahmad

122. How was the Constituent Assembly to make the constitution of India constituted?

The Constituent Assembly was indirectly elected by the Provincial Assemblies constituted under the Cabinet Mission Plan of 1946.

123. Whether the Preamble of Indian constitution can be amended?

Yes, but the basic structure of the Preamble cannot be destroyed.

124. In which case changes made in the Preamble were upheld by the Supreme Court?

Minerva Mills Ltd v. Union of India, AIR 1980 SC 1789

125. In which case it was held that Preamble is part of the basic structure of the constitution?

Keshvanand Bharti v. State of Kerala, AIR 1973 SC

126. Whether University is a “State” under Article 12?

Yes, University is a “State” within the meaning of Article 12.

127. Which is the leading case to determine whether a body is State or not?

Ajay Hasia v. Khalid Mujib AIR 1981 SC 487

128. Is Judiciary ‘State’ for the purpose of Part III of Indian Constitution?

No, judiciary while acting in judicial capacity is not State for the purpose of Part III of Indian Constitution.

129. What is the definition of ‘State’ under Article 12 of the Constitution?

According to Article 12 ‘the State’ includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

130. What is the definition of ‘Law’ under Article 13 of the Constitution?

As per Article 13 “law” includes (a) any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law; (b) “laws in

force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution.

131. What are the two facets of equality as enshrined under Article 14?

Article 14 provides that the State shall not deny to any person (a) equality before the law or (b) the equal protection of the laws within the territory of India.

132. What are the grounds of prohibition mentioned under Article 15?

Article 15 mandates that the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

133. What can be the nature of ‘special provision’ as envisaged by Article 15 for women, children and socially and educationally backward classes of citizens?

Any measure which can empower these classes of citizens including special laws for their safety, security, education, coaching, training, reservation in schools, colleges etc.

134. Can you enumerate the six ‘freedoms’ of Article 19?

Under Article 19 All citizens shall have the right (a) to freedom of speech and expression; (b) to assemble peaceably and without arms; (c) to form associations or unions or co-operative societies; (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India; (g) to practice any profession, or to carry on any occupation, trade or business.

135. Can a person be prosecuted and punished for the same offence more than once?

No, under Article 20 there is a prohibition against any person being prosecuted and punished for the same offence more than once.

136. What do you understand by prohibition against ‘self incrimination’?

It means that no person accused of any offence can be compelled to be a witness against himself. No one can be forced to confess to a crime.

137. What do you understand by prohibition against ex post facto laws?

It means that no person can be convicted of any offence except for violation of a law in force at the time of the commission of the Act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence.

138. What is the meaning of right to life under Article 21?

It means that every person must get all those basic facilities and amenities which are necessary to support a life of dignity like food, cloths, shelter, clean water, fresh air etc. Right to life does not mean mere animal existence.

139. What is the fundamental right to education?

Article 21 A mandates the State to provide free and compulsory education to all children of the age of six to fourteen years.

140. What is the provision for arrest of a person till his production before Magistrate?

Every person who is arrested and detained in custody must be produced before the nearest magistrate within a period of twenty-four hours and be informed, as soon as may be, of the grounds for such arrest.

141. If there is a clash between freedom of religion and some fundamental rights, what will prevail?

Fundamental rights will prevail over freedom of religion as Article 25 specifically subjects freedom of religion to public order, morality, health and other fundamental rights.

142. Whether a person can be compelled by the State to pay tax for for the promotion or maintenance of any particular religion?

No, Article 27 prohibits the State from compelling a person to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion.

143. If fundamental right of a person is violated by the State then what remedies can be invoked?

Such a person can approach High Court under Article 226 or Supreme Court under Article 32.

144. What is the fundamental duty of a citizen with regard to environment?

Under Article 51 A, every citizen has the duty to protect and improve the natural environment including forests, lakes, rivers and wild life; and to have compassion for living creatures.

145. What is the fundamental duty of a citizen with regard to Constitution of India?

Every citizen has the duty to abide by the Constitution and respect its ideals and institutions.

146. What is the fundamental duty of a citizen with regard to scientific temper?

Under Article 51 A, every citizen has the duty to develop the scientific temper, humanism and the spirit of inquiry and reform.

QUESTIONS
ON
COMPANY LAW AND INCOME
TAX⁶

⁶ This section has been compiled by Mr. Nitesh Nanvati

147. Defined Tax. Is there any broad classification of taxation system?

A tax may be defined as a "pecuniary burden laid upon individuals or property owners to support the Government; a payment exacted by legislative authority. A tax "is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority".

Taxes are broadly classified into direct and indirect taxes.

148. What is income tax? How is it calculated?

Income tax is an annual tax charged on income of a person by the government. It is charged for the corresponding assessment year at the rates laid down by the Finance Act for the assessment year in respect of the previous year.

149. Define company.

A company is an association of both natural and artificial persons incorporated under Company Law.

150. What are the essential characteristics of a company?

- It is a voluntary association of persons.
- It is a separate legal entity.
- It has a common seal.
- It has a perpetual succession.
- It is created by law with limited liability

151. What are key differences between a partnership firm and a company?

Company is artificial person whose existence by recognized by law having perpetual succession, separate legal entity. The liability of members of company remains limited.

On the other hand, Partnership is contractual relation, in which the liability of partners is unlimited. Partnership firm has no separate legal existence.

152. What is the legal status of director of company?

The director is agent of company and relationship between director and company is governed by law of agency.

153. What do you mean by private company? Reliance India Limited is private company or public company?

“Private company” means a company whose Articles of Association provides restriction of transferability of shares, restriction of invitation to public for subscription of securities.

154. Explain the concept of Constructive Notice?

The constructive notice doctrine under company’s law implies that every person dealing with company is assumed to full knowledge of MoA and AoA of the company.

155. Where can aggrieved party file appeal against order of NCLT?

Any person aggrieved from the order of NCLT may prefer appeal before NCLAT.

156. Highlight the appellate authorities under Income Tax Act.

Appellate authority under Income Tax Act includes Commissioner of Income Tax Appeal (CIT- A), Income Tax Appellate Tribunal (ITAT) , High Court and Supreme Court.

157. Whether Indian Evidence Act applies to income tax proceedings?

The word ‘evidence’ is not defined under the Income-Tax Act, the concept of ‘Evidence’ is statutorily and judicially recognized in the Income Tax proceeding.

However, the strict provisions of the Evidence Act do not apply to income-tax proceedings and Income Tax authorities are not bound by the technical rules of evidence.

Rules of Evidence and Indian Evidence Act are applicable to proceedings in the courts before the judges and the magistrates. They apply to judicial proceedings. Further, the proceedings for assessment are not proceedings relating to a civil right. The liability to income-tax is not a civil right enforceable as such in courts of law. Such proceedings are of the nature of revenue proceedings.

158. What do you mean by term “Direct Tax”? Give one Example of Direct Tax.

A direct tax is a kind of charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons (juristic or natural) on whom it is imposed. A direct tax is one that cannot be shifted by the taxpayer to someone else.

Example: Income Tax

159. What do you mean by term “Indirect Tax”? Give one Example of Indirect Tax.

An indirect tax is one that can be shifted by the taxpayer to someone else. Its incidence is borne by the consumers who ultimately consume the product or the service.

Example: GST

160. Give brief idea about GST.

GST is a value added tax levied on manufacture, sale and consumption of goods and services. It is part of Indirect Tax.

161. Which Article of Indian Constitution empowers Central Government to levy and impose GST?

Article 246A of Indian Constitution empowers government to make laws with respect to Goods and Services Tax

162. List out the laws you need to comply with in case of merger and amalgamation.

1. Companies Act, 2013
2. SEBI Takeover Regulations
3. Competition Act, 2020
4. The Indian Stamp Act, 1899

163. What is *Ultravires* Acts as per Companies Act, 2013?

Ultravires is any act done outside the limits of memorandum of association. It is void and cannot be ratified even by the whole body of the shareholders whereas in the case of Articles

of association the acts done by the company beyond the articles can be ratified by the shareholders if such acts are not beyond the memorandum and illegal.

164. Define Prospectus. Explain legal requirements of Prospectus.

Prospectus is defined as any document described or issued as a 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 purchase of any shares in, or debentures of a body corporate.

165. What is preference share capital?

Preference share capital describes part of the issued share capital of the company which carries a preferential right in payment of dividend and capital repayment.

166. Is there any difference between term transfer of shares and transmission of shares?

The term transfer refers to voluntary transfer of ownership by shareholders and the term transmission refers to compulsory change in ownership by operation of law.

Example:

1. Sale of shares (Transfer)
2. Change in ownership due to death (Transmission)

167. Who is an assessee under Income Tax Law?

An "Assessee" is a person who is liable to pay tax or any other sum of money under the Act.

168. Explain the benefits of Goods and Services Tax, GST.

The biggest benefit of GST is an elimination of multiple indirect taxes. GST is a comprehensive indirect tax that is designed to bring the indirect taxation under one umbrella. It eliminates the cascading effect of tax. Cascading tax effect can be best described as 'Tax on Tax'.

169. What is assessment year?

Assessment year is the period that starts from 1 April and ends on 31 March. It is the year immediately succeeding the financial year wherein the income of the previous financial year is assessed. Government uses assessment year for calculating tax on the previous year.

170. What is class action suit under Companies Act, 2013?

A class action suit refers to a lawsuit that allows a large number of people with a common interest in a matter to sue or be sued as a group.

171. Is there any difference between public company and Government Company?

Yes, the public company is one whose Articles of Association does not contain restrictions applicable to private company. On the other hand, the Government Company means a company in which more than half of the paid up capital is held by government.

QUESTIONS
ON
ALTERNATIVE DISPUTE
RESOLUTION (ARBITARTION)⁷

⁷ This section has been compiled by Dr. Amit Bhaskar

172. What are the main objectives of Arbitration and Conciliation Act, 1996 as opposed to Arbitration Act, 1940?

To minimize Judicial Intervention in Arbitration Proceeding and also to provide legal sanctity to Conciliation as a mode of dispute resolution.

173. Is it the requirement of Law that Arbitration Agreement should always be in Writing?

Yes, the Law mandates that Arbitration Agreement should always be in Writing.

174. Could the Arbitration Award be set aside under the Act?

Yes, the Arbitration Award could be set aside under Section 34 of the Arbitration and Conciliation Act, 1996.

175. List out some of the grounds for setting aside Arbitral Award.

The Award being violative of Public Policy, Morality and Justice or the Party was under some incapacity.

176. Does the Arbitrator required to pass Reasoned Award under New Arbitration Act?

Yes, the Arbitrator should pass Reasoned Award under the mandate of new Act.

177. Does Arbitration and Conciliation Act, 1996 covers both Domestic Arbitration and International Commercial Arbitration?

Yes, the 1996 Act covers both Domestic Arbitration and International Commercial Arbitration.

178. Is the Arbitral Award Final and Binding?

Yes, under Section 35 of the 1996 Act, it is always final and binding although there is limited ground for setting aside it under Section 34 of the Act.

179. Can Arbitral Tribunal refer parties to other modes of ADR such as mediation and conciliation?

Yes, under Section 30 of the Act.

180. Is there provision for Interim Measures by Court under Arbitration and Conciliation Act, 1996?

Yes, under Section 9 of the 1996 Act, interim measures can be taken by Court and under Section 17; interim measures can be taken by Arbitral Tribunal to preserve the subject matter of the Dispute.

181. Can the appointment of arbitrators be in even number?

No, the appointment of Arbitrators shall always be in **odd number**.

182. Can a person of foreign Nationality be appointed as Arbitrator under 1996 Act?

Yes, a Person of Foreign Nationality could be appointed as Arbitrator under 1996 Act as per Section 11 of the 1996 Act.

183. Does 1996 Act require that Arbitrator should be independent and impartial?

Yes, the 1996 Act mandates that Arbitrator should be Independent and impartial.

184. What is the most important case on International Commercial Arbitration in India.

The *BALCO v. Kaisar Aluminium* (2012 SC) is the important judgment on International Commercial Arbitration passed by Supreme Court of India.

185. Does Limitation Act, applies to Arbitration and Conciliation Act, 1996?

Yes, it does apply. Section 43 of the 1996 Act talks about it.

186. What is the timeline within which Arbitral Award need to be passed?

The Law mandates to pass the award within the period of one year from the commencement of arbitral proceeding.

187. What is the important amendment in the 1996 Act in 2019?

It Provides for Establishment of Arbitration Council of India as per Section 43-A of the 1996 Act.

188. Does the law provide for Confidentiality of Information under 1996 Act?

Yes, under Section 42-A of the 1996 Act (**Added by 2019 Amendment Act**).

189. Is there any scope for correction of Arbitration Award under 1996 Act?

Yes, there is scope for Correction of Arbitration Award under Section 33 of the 1996 Act.

190. How is the Arbitral Award enforced under the 1996 Act?

It should be enforced in the same manner as the Decree of Court under Section 36 of the Act.

191. The Provision for Fast Track Procedure for Arbitration was added by which Amendment?

It was added by **Arbitration (Amendment Act), 2015** wherein Award could be made under the period of 6 months.

192. Does the 1996 Act provide for Equal Treatment of Parties?

Yes, it provides for Equal Treatment of Parties under Section 18 of the 1996 Act.

193. Is the Arbitrator bound by CPC and Evidence Law?

No, the Arbitrator is not bound by CPC and Evidence Law and Parties can determine the procedure to be followed. However, Arbitrator is mandatorily required to apply the Principle of Natural Justice.

194. Lok Adalat is given legislative Sanction under which Parliamentary Statutes?

It is given Legislative Sanction under Legal Services Authority Act, 1987.

195. Who shall decide on Place of Arbitration?

Under **Section 20** of the 1996 Act, Parties are free to agree on the place of arbitration.

196. Is Arbitral Tribunal competent to Rule on its Own Jurisdiction?

Yes, Arbitral Tribunal is competent to rule on its own Jurisdiction under **Section 16** of the 1996 Act unlike Arbitration Act, 1940.

QUESTIONS
ON
INFORMATION TECHNOLOGY
LAW⁸

⁸ This section has been compiled by Dr. Debarati Halder

197. What is meant by hacking?

Hacking as such is not recognized by laws in India. It is legally known as unauthorized access to data, device, computer resource etc. The IT Act, 2000(amended in 2008) addresses this from Ss. 66, 65 and 43.

198. What is meant by data?

According to 2(o) of Information Technology Act, "Data" means a representation of information, knowledge, facts, concepts or instructions which are being prepared or have been prepared in a formalized manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network. ,and may be in any form (including computer printouts magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computer;

199. What is meant by communication device?

According to s2(ha) of the Information Technology Act, 2000(amended in 2008) communication device may mean and include Cell Phones, Personal Digital Assistance (Sic), or combination of both or any other device used to communicate, send or transmit any text, video, audio, or image

200. What is meant by cyber security?

According to S.2nb of IT Act, "Cyber Security" means protecting information, equipment, devices, computer, computer resource, communication device and information stored therein from unauthorized access, use, disclosure, disruption, modification or destruction.

201. What is meant by intermediary?

According to S2 (w) of the IT Act, "Intermediary" with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web hosting service providers, search engines, online payment sites, online-auction sites, online market places and cyber cafes.

202. What is meant by sensitive personal data?

If we see from the perspective of Personal data protection Bill, S.3 (35) says, “Sensitive Personal Data “means personal data revealing, related to, or constituting, as may be applicable—

- (i) Passwords;
- (ii) Financial data;
- (iii) Health data;
- (iv) Official identifier;
- (v) Sex life;
- (vi) Sexual orientation;
- (vii) Biometric data;
- (viii) Genetic data;
- (ix) Transgender status;
- (x) Intersex status;
- (xi) Caste or tribe;

203. What is meant by cheating by personation? Which laws may be used for punishing the offender?

Plainly speaking when an individual uses the profile, data including sensitive personal data etc for cheating purposes, we may say that impersonation has happened. This may be punished both by S.66C & D of the IT Act and Ss. 419 & 420 of the IPC especially when it is a matter of illegal economic gain by way of impersonation.

204. If an adult is watching a porn content in the office space, can he be punished?

We have to see whether it is child porn content. In this case, he may be punished by way of POCSO Act and IT Act provided proper due process has been followed. In case of watching adult porn, the workplace policy must be properly explained in this matter. In general, watching porn may not be considered illegal if this is not created, produced or conveyed by the viewer and he is watching it in the four corners of his home.

205. What is the punishment for breach of confidentiality and privacy by any person who in pursuance of power conferred under this act or any other law, has breached the confidentiality of any document etc and has disclosed the same without consent to other?

Such cases are dealt with by S.72 of the IT Act which prescribes punishment for imprisonment for maximum 2 years or with fine of up to an amount of Rs.1 lakh or with both.

206. Do you think intermediary may seek exemption of liability in case of political hate speech?

Yes it may under S.79 (3) of the IT Act, which speaks about due diligence clause and exemption from intermediary liability.

QUESTIONS
ON
INDIAN PENAL CODE/CRIMINAL
LAW⁹

⁹This section has been compiled by Dr. Debarati Halder

207. Is attempt to commit an offence punishable under laws?

Yes. S.511 of the IPC says attempt to commit an offence is an offence.

208. What is the difference between murder and homicide?

In homicide intention to kill a person may not be present. In murder, intention to kill a person may exist. Accordingly S.299 discusses about homicide and S.300 of the IPC discusses about murder.

209. Is gay marriage possible in India?

Yes, After the NALSA judgement which has decriminalised consensual homosexual relationships between adults (U/S 377, IPC), Gay marriages are possible in India.

210. Can spitting be considered as nuisance? What may be the punishment?

Yes spitting may be considered as a nuisance, especially public nuisance under S.268 IPC. The punishment may be fine as it may be considered as injurious to public health.

211. Can a man be raped?

No. If we see S.375 and 376 IPC, men cannot be raped. But a male child can be sexually assaulted (including penetrative sexual assault) by an adult female under POCSO Act.

212. What is meant by defamation?

S.499 IPC speaks about defamation and says Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person. This provision also lays down several exceptions and they suggest that certain speeches, expressions etc may not be considered as defamation like criticising the government etc.

213. What is meant by sedition?

Sedition basically means any word, speech etc which suggests any rebellious conduct against the State. S.124A IPC gives a clear definition of sedition which says Whoever, by words,

either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by law in India, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

214. What is meant by offence against state?

Offence against the state has a broader understanding which has been explained in Chapter 4 of IPC, this may include sedition, waging war, harbouring terrorists etc.

215. Can a judicial magistrate be arrested without proper orders?

No. As per Delhi Judicial Service Association vs. State of Gujarat, (1991) 4 SCC 406, a judicial magistrate cannot be taken to custody without prior order direction of the districts and sessions judge.

216. Can a lawyer be brought under consumer protection act?

No. The scope of Consumer protection act exempts lawyers unlike the medical practitioners.

217. Is abortion legal in India?

Yes but only within a prescribed period of time under the Medical termination of pregnancy Act. Otherwise, abortion may not be permissible as legal in India.

218. Is surrogacy legal in India?

Yes. But commercial surrogacy is not legal in India.

219. Is pre-natal sex determination legal in India?

No. Pre-natal sex determination is considered as illegal by MRTP Act and also this is against general child rights.

220. Can a child be arrested for committing non penetrative sexual assault?

Yes, As per POCSO Act any one including a child may be arrested for non-penetrative sexual assault. But while applying this provision, one also has to see minimum age for criminal liability in India which is 12 years.

221. Is eve teasing punishable in India?

Yes. S.509 IPC may be applied for punishing eve teasing in India. Apart from this, depending upon the facts of the case some other provisions may also be applicable like stalking etc.

222. Can a woman commit penetrative sexual assault on males as per Indian legal understanding?

Yes under the POCSO Act.

223. Which provision looks into the cases of sexual harassment of women at workplace?

Protection of Women from Sexual Offences Act

224. Can a case of sexual harassment of women in workplace directly be lodged to the police?

In general Protection of women from sexual offences Act says that there should be an internal committee who should look into any complaint of sexual harassment first. But if the committee is not formed or the victim is not aware of the existence of such committee, the victim may prefer a direct report to the police.

225. Can a child be arrested for begging in the street?

Begging as per Juvenile justice care and protection act has not been considered as an offence if the child is found to be begging for his/her own hunger/want of money for younger siblings etc. in such case, the child must be considered as a child in need of care and protection and must be rescued and rehabilitated. But if it is found that the child is made to beg by any adult, the said conduct by the adult may be considered as an offence.

226. In your understanding, which is a criminal offence: surrendering of child by a mother or abandoning a child?

Abandoning a child, because this would attract the penal provisions for negligence of the child by care givers.

227. Is complaint and police report is same?

No. Complaint is an allegation orally or in writing about a criminal occurrence to the magistrate. Police report is a report made generally after the investigations and they are sent to the magistrate.

228. Can a woman be prosecuted for the offence of stalking under the IPC?

No. Because S-354D IPC considers only men as offenders.

229. Can a police start investigation in non-cognizable offence?

No, unless the officer gets the direction from the magistrate, a police officer may not start an investigation in non-cognizable offences.

230. Is rape a cognizable or non-cognizable offence?

It is a cognizable offence as per S.375 and 376 IPC.

231. Can a first time offender be admonished?

Yes, but only in cases where it is a petty offence or not a very serious offence. But such person may be needed to furnish security bond.

232. Are parole and furlough same?

No. Parole is granted for some serious familial responsibility reasons like attending funeral of parents or family members, taking care of hospitalisation of family members etc. Furlough is a kind of holiday for a specific period from the prison while the prison sentence is running. In both cases, the main objective is social reintegration of the prisoner and making him understand his responsibilities. In both cases prisoner may be under the supervision of probation officer and Jail authorities.

233. Can the police be held guilty for not arresting a teacher of a child who may have been sexually assaulted?

Yes, because this is considered as a cognizable offence as aggravated sexual assault under the POCSO Act.

THANK YOU!