2A) BUSINESS

Types of business, Proprietorship, Partnership, Joint-stock company, and cooperative society – their characteristics

Types of business entity **:** A business entity is an entity that is formed and administered as per commercial law in order to engage in business activities, charitable work, or other activities allowable. Most often, business entities are formed to sell a product or a service. There are many types of business entities defined in the legal systems of various countries. These include corporations, cooperatives, partnerships, sole traders, limited liability company and other specifically permitted and labelled types of entities. The specific rules vary by country and by state or province. Some of these types are listed below, by country. However, the regulations governing particular types of entity, even those described as roughly equivalent, differ from jurisdiction to jurisdiction.

When creating or restructuring a business, the legal responsibilities will depend on the type of business entity chosen.
Indian company law

(i) *Sole Proprietorship* - A sole proprietorship, also known as a trader firm or proprietorship, is a business form that is owned and run by one individual. A sole proprietor may use a trade name or business name other than his or her name.
- Registration not required - In summary, biggest advantage is quick formation and low compliances. However, the biggest disadvantage is unlimited liability.

(ii) *Partnership* - liability is joint and unlimited.
- Registration not compulsory.
- Active partners take part in day-to-day operations of the business, in addition to investing in it. Active partners are entitled to a share of the enterprise's profits.
- Sleeping partners invest in the business and are entitled to a share of its profits, but do not participate in day-to-day operations.

(iii) *Limited Liability Partnership* - Liability is limited

(iv) *HUF (Hindu Undivided Family)* - businesses owned by a joint family belonging to Hindu religion. Even though Jain and Sikh families are not governed by the Hindu law, they can still form a HUF.

(v) *Cooperative* – Explained later

(vi) *Dormant company* - A company which has been created for a future project or for holding assets including intellectual property of the company

(vii) *Family Owned Business*

(viii) *Pvt Ltd (Private Limited Company)*: ≈ Ltd (UK) - May have 2–200 shareholders; shares are held privately and cannot be offered to public.

(ix) *Small company* - A company other than a public company whose paid up share capital is not more than ₹ 50 lakh and turnover does not exceed ₹ crore.

(x) *Ltd (Public Limited Company)*: ≈ plc (UK)

(xi) *Public Sector Unit (PSU)* - Alternatively known as Public Sector Enterprise (PSE). It may be public limited company listed on stock exchanges with major ownership by a state government or a central government of India or it may be unlisted entity with major ownership by a state government or a central government of India. Some of these entities are formed as business entities through special legislation, where these entities are governed by the statutes of these legislation and may or may not be governed by company laws like a typical business entity.

(xii) *One-person company* - It is a type of private company which can have only one director and member.

(xiii) *Unlimited Company* - A company, similar to its limited company (Ltd, or Pvt Ltd) counterpart, but where the liability of the members or shareholders is not limited.

(xiv) *Incorporated Company*

***S**ole Proprietorship* **:** A Sole Proprietorship is one individual or married couple in business alone. Sole proprietorships are the most common form of business structure. This type of business is simple to form and operate, and may enjoy greater flexibility of management, fewer legal controls, and fewer taxes. However, the business owner is personally liable for all debts incurred by the business.

***G**eneral Partnership* **:** A General Partnership is composed of 2 or more persons (usually not a married couple) who agree to contribute money, labor, or skill to a business. Each partner shares the profits, losses, and management of the business, and each partner is personally and equally liable for debts of the partnership. Formal terms of the partnership are usually contained in a written partnership agreement.

***L**imited Partnership* **:** A Limited Partnership is composed of one or more general partners and one or more limited partners. The general partners manage the business and share fully in its profits and losses. Limited partners share in the profits of the business, but their losses are limited to the extent of their investment. Limited partners are usually not involved in the day-to-day operations of the business.

***L**imited Liability Partnership (LLP)* **:** A Limited Liability Partnership (LLP) is similar to a General Partnership except that normally a partner doesn't have personal liability for the negligence of another partner. This business structure is used most by professionals, such as accountants and lawyers.

***L**imited Liability Limited Partnership (LLLP)* **:** A Limited Liability Limited Partnership is a Limited Partnership that chooses to become an LLLP by including a statement to that effect in its certificate of limited partnership. This type of business structure may shield general partners from liability for obligations of the LLLP.

***C**orporation* **:** A Corporation is a more complex business structure. A corporation has certain rights, privileges, and liabilities beyond those of an individual. Doing business as a corporation may yield tax or financial benefits, but these can be offset by other considerations, such as increased licensing fees or decreased personal control. Corporations may be formed for profit or nonprofit purposes.

***N**onprofit Corporation* **:** A Nonprofit Corporation is a legal entity and is typically run to further an ideal or goal rather than in the interests of profit. Many nonprofits serve the public interest, but some engage in private sector activities. If your nonprofit organization is, or plans to, raise funds from the public, it may also be required to register with the concern state or central government authorities. Charitable activities may require additional registration.

***L**imited Liability Company (LLC)* **:** A Limited Liability Company (LLC) is formed by 1 or more individuals or entities through a special written agreement. The agreement details the organization of the LLC, including provisions for management, assignability of interests, and distribution of profits and losses. LLCs are permitted to engage in any lawful, for-profit business or activity other than banking or insurance.

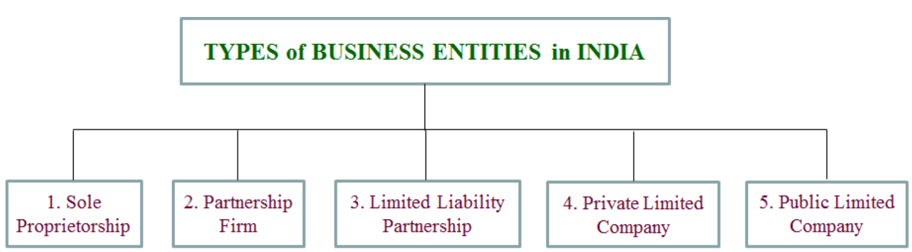
***T**rust* **:** A Trust is a legal relationship in which one person, called the trustee, holds property for the benefit of another person, called the beneficiary.

***J**oint Venture* **:** A Joint Venture is formed for a limited length of time to carry out a business transaction or operation.

***T**enants in Common* **:** A Tenants in Common allows 2 or more people to occupy the same business while retaining separate identities in regard to assets or liabilities resulting from business activities.

***M**unicipality* **:** A Municipality is a public corporation established as a subdivision of a state for local governmental purposes.

***A**ssociation* **:** An Association is an organized group of people who share in a common interest, activity, or purpose.



The Different Types of Business Entities in India

Starting a business in India requires one to choose a type of business entity. In India one can choose from five different types of legal entities to conduct business. These include Sole Proprietorship, Partnership Firm, Limited Liability Partnership, Private Limited Company and Public Limited Company. The choice of the business entity is dependent on various factors such as taxation, owner liability, compliance burden, investment and funding and exit strategy.

Lets look at each of these entities

1. ***S****ole Proprietorship* **:** This is the most easy business entity to establish in India. It doesn't need its own Permanent Account Number (PAN) and the PAN of the owner (Proprietor) acts as the PAN for the Sole Proprietorship firm.

Registrations with various government departments are required only on a need basis. For example, if the business provides services and service tax is applicable, then registration with the service tax department is required. Same is true for other indirect taxes like VAT, Excise etc. It is not possible to transfer the ownership of a Sole Proprietorship from one person to another. Assets of such firm may be sold from one person to another. Proprietors of such firms have unlimited business liability. This means that owners personal assets can be attached to meet business liability claims.

2. ***P****artnership* **:** A partnership firm in India is governed by The Partnership Act, 1932. Two or more people can form a Partnership subject to maximum of 20 partners. A partnership deed is prepared that details the amount of capital each partner will contribute to the partnership. It also details how much profit/loss each partner will share. Working partners of the partnership are also allowed to draw a salary in accordance with The Indian Partnership Act. A partnership is also allowed to purchase assets in its name. However the owner of such assets are the partners of the firm. A partnership may/may not be dissolved in case of death of a partner. The partnership doesn't really have its own legal standing although a separate Permanent Account Number (PAN) is allotted to the partnership. Partners of the firm have unlimited business liabilities which means their personal assets can be attached to meet business liability claims of the partnership firm. Also losses incurred due to act of one partner is liable for payment from every partner of the partnership firm.

A partnership firm may or may not be registered with Registrar of Firms (ROF). Registration provides some legal protection to partners in case they have differences between them. Until a partnership deed is registered with the ROF, it may not be treated as legal document. However, this does not prevent either the Partnership firm from suing someone or someone suing the partnership firm in a court of law.

3. ***L****imited Liability Partnership (LLP)* **:** is a new form of business entity established by an Act of the Parliament. LLP allows members to retain flexibility of ownership (similar to Partnership Firm) but provides a liability protection. The maximum liability of each partner in an LLP is limited to the extent of his/her investment in the firm. An LLP has its owner Permanent Account Number (PAN) and legal status. LLP also provides protection to partners for illegal or unauthorized actions taken by other partners of the LLP. A Private or Public Limited Company as well as Partnership Firms are allowed to be converted into an Limited Liability Partnership.

4. ***P****rivate Limited Company* **:** A Private Limited Company in India is similar to a C-Corporation in the US. Private Limited Company allows owners to subscribe to its shares by paying a share capital fees. On subscribing to shares, the owners/members become shareholders on the company. A Private Limited Company is a separate legal entity both in terms of taxation as well as liability. The personal liability of the shareholders is limited to their share capital. A private limited company can be formed by registering the company name with appropriate Registrar of Companies (ROC). Draft of Memorandum of Association and Article of Association are prepared and signed by the promoters (initial shareholders) of the company. A Private Limited Company can have between 2 to 50 members with minimum share capital of Rs 1,00,000 (one lac). To look after the day to day activities of the company, Directors are appointed by the Shareholders. Minimum two Directors must be appointed to look after the daily affairs of the company. A Private Limited Company has more compliance burden when compared to a Partnership and LLP. For example, the Board of Directors must meet every quarter and at least one annual general meeting of Shareholders and Directors must be called. Accounts of the company must be prepared in accordance with Income Tax Act as well as Companies Act. Also Companies are taxed twice if profits are to be distributed to Shareholders. Closing a Private Limited Company is a tedious process and requires many months.

One the positive side, Shareholders of a Private Limited Company can change without affecting the operational or legal standing of the company. Generally Venture Capital investors prefer to invest in businesses that are Private Limited Company since it allows great degree of separation between ownership and operations. It also allows investors to exit the company by selling shares without being liable for company affairs.

5. ***P****ublic Limited Company* **:** is similar to Private Limited Company with the difference being that number of shareholders of a Public Limited Company can be unlimited with a minimum seven members. It is generally very difficult to establish a public limited company. A Public Limited Company can be either listed in a stock exchange or remain unlisted. A Listed Public Limited Company allows shareholders of the company to trade its shares freely on the stock exchange. A Public Limited Company requires more public disclosures and compliance from the government as well as market regular SEBI (Securities and Exchange Board of India) including appointment of independent directors on the board, public disclosure of books of accounts, cap of salaries of Directors and CEO. Like a Private Limited Company, a Public Limited Company is also an independent legal person, its existence is not affected by the death, retirement or insolvency of any of its shareholders.

Joint Stock Company : A joint stock company is an organization that falls between the definitions of a partnership and corporation. This type of company issues stock and allows for secondary market trading; however, stockholders are liable for company debts.
This is a type of company that has access to the liquidity and financial reserves of stock markets, but also has the restrictions of a partnership.
It is a business entity where different stocks can be bought and owned by shareholders. Each shareholder owns company stock in proportion, evidenced by his or her shares (certificates of ownership).This allows for the unequal ownership of a business with some shareholders owning a bigger proportion of a company than others do. Shareholders are able to transfer their shares to others without any effects to the continued existence of the company.

In modern-day corporate law, the existence of a joint-stock company is often synonymous with incorporation (i.e. possession of legal personality separate from shareholders) and limited liability (meaning that the shareholders are only liable for the company's debts to the value of the money they invested in the company). As a consequence, joint-stock companies are commonly known as corporations or limited companies.

Some jurisdictions still provide the possibility of registering joint-stock companies without limited liability. In the United Kingdom and other countries which have adopted their model of company law, these are known as unlimited companies. In the United States, they are known simply as "joint-stock companies".

Advantages
Ownership of stock confers a large number of privileges. The company is managed on behalf of the shareholders by a board of directors, elected at an Annual General Meeting. The shareholders also vote to accept or reject an Annual Report and audited set of accounts. Individual shareholders can sometimes stand for directorships within the company, should a vacancy occur, but this is uncommon.

The shareholders are usually liable for any of the company debts that exceed the company's ability to pay. Meanwhile, the limit of their liability only extends to the face value of their shareholding. This concept of limited liability largely accounts for the success of this form of business organization.

Ordinary shares entitle the owner to a share in the company's net profit. This is calculated in the following way: the net profit is divided by the total number of owned shares, producing a notional value per share, known as a dividend. The individual's share of the profit is thus the dividend multiplied by the number of shares that they own.

Cooperative : A co-operative is an autonomous association of people united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically controlled business.

Cooperatives include non-profit community organizations and businesses that are owned and managed by the people who use their services (a consumer cooperative); by the people who work there (a worker cooperative); by the people who live there (a housing cooperative); hybrids such as worker cooperatives that are also consumer cooperatives or credit unions; multi-stakeholder cooperatives such as those that bring together civil society and local actors to deliver community needs; and second and third tier cooperatives whose members are other cooperatives.

In short, a co-op can be defined as "a jointly owned enterprise engaging in the production or distribution of goods or the supplying of services, operated by its members for their mutual benefit, typically organized by consumers or farmers.“ Co-operative businesses are typically more economically resilient than many other forms of enterprise, with twice the number of co-operatives (80%) surviving their first five years compared with other business ownership models (41%). Co-operatives frequently have social goals which they aim to accomplish by investing a proportion of trading profits back into their communities. As an example of this, in 2013, retail co-operatives in the UK invested 6.9% of their pre-tax profits in the communities in which they trade as compared with 2.4% for other rival supermarkets.

In 2012 the turnover of the largest 300 co-operatives in the world reached $2.2 trillion – which, if they were to be a country, it would make them the seventh largest.

***S**ocial economy* **:** Co-operatives traditionally combine social benefit interests with capitalistic property-right interests. Co-operatives achieve a mix of social and capital purposes by democratically governing distribution questions by and between equal controlling members. Democratic oversight of decisions to equitably distribute assets and other benefits means capital ownership is arranged in a way for social benefit inside the organization. External societal benefit is also encouraged by incorporating the operating-principle of cooperation between co-operatives. In the final year of the 20th century, cooperatives banded together to establish a number of social enterprise agencies which have moved to adopt the multi-stakeholder cooperative model. In the years 1994–2009 the EU and its member nations gradually revised national accounting systems to "make visible" the increasing contribution of social economy organizations.

***Cooperatives as legal entities* :** A cooperative is a legal entity owned and democratically controlled by its members. Members often have a close association with the enterprise as producers or consumers of its products or services, or as its employees.
There are specific forms of incorporation for cooperatives in some countries, e.g. Finland, Sweden, and Australia. Cooperatives may take the form of companies limited by shares or by guarantee, partnerships or unincorporated associations. In the UK they may also use the industrial and provident society structure. In the US, cooperatives are often organized as non-capital stock corporations under state-specific cooperative laws. However, they may also be unincorporated associations or business corporations such as limited liability companies or partnerships; such forms are useful when the members want to allow some members to have a greater share of the control, or some investors to have a return on their capital that exceeds fixed interest, neither of which may be allowed under local laws for cooperatives. Cooperatives often share their earnings with the membership as dividends, which are divided among the members according to their participation in the enterprise, such as patronage, instead of according to the value of their capital shareholdings (as is done by a joint stock company).

Coop Principles and Values
Cooperative Principles are the seven guidelines by which Co-ops put their values into practice, often called the seven Rochdale Principles **:**
- Voluntary and open membership
- Democratic member control
- Economic participation by members
- Autonomy and independence
- Education, training and information
- Cooperation among cooperatives
- Concern for community

Cooperatives Values, in the tradition of its founders, are based on "self-help, self-responsibility, democracy, equality, equity and solidarity." Co-operative members believe in the ethical values of honesty, openness, social responsibility and caring for others.
Such legal entities have a range of social characteristics. Membership is open, meaning that anyone who satisfies certain non-discriminatory conditions may join. Economic benefits are distributed proportionally to each member's level of participation in the cooperative, for instance, by a dividend on sales or purchases, rather than according to capital invested. Cooperatives may be classified as either *Worker*, *Consumer*, *Producer*, *Purchasing* or *Housing* cooperatives. They are distinguished from other forms of incorporation in that profit-making or economic stability are balanced by the interests of the community.

The United Nations has declared 2012 to be the International Year of Cooperatives (IYC)
Types of cooperatives
1. ***N**on-monetary cooperative*
2. ***R**etailers' cooperative*
3. ***W**orker cooperative*
4. ***V**olunteer cooperative*
5. ***S**ocial cooperative*
6. ***C**onsumers' cooperative*
7. ***B**usiness and employment cooperative (BECs)*
8. ***N**ew generation cooperative (NGCs)*

1. ***N**on-monetary cooperative* **:** Provides a service based on entirely voluntary labour in the maintenance and provision of a particular service or good, working in the identical manner of a library. These co-ops are locally owned and operated and provides the free rental of equipments of all kinds (bicycles, sports, gear). This idea has been said to reduce general human consumption of goods, a key subject in sustainable development.

2. ***R**etailers' cooperative* **:** A retailers' cooperative (known as a secondary or marketing cooperative in some countries) is an organization which employs economies of scale on behalf of its members to receive discounts from manufacturers and to pool marketing. It is common for locally owned grocery stores, hardware stores and pharmacies. In this case the members of the cooperative are businesses rather than individuals.

The Best Western international hotel chain is actually a retailers' cooperative, whose members are hotel operators, although it refers to itself as a "nonprofit membership association." It gave up on the "cooperative" label after some courts insisted on enforcing regulatory requirements for franchisors despite its member-controlled status.

3. ***Worker cooperative*** **:** A worker cooperative or producer cooperative is a cooperative, that is owned and democratically controlled by its "worker-owners". There are no outside owners in a "pure" workers' cooperative, only the workers own shares of the business, though hybrid forms exist in which consumers, community members or capitalist investors also own some shares. In practice, control by worker-owners may be exercised through individual, collective or majority ownership by the workforce, or the retention of individual, collective or majority voting rights (exercised on a one-member one-vote basis). A worker cooperative, therefore, has the characteristic that the majority of its workforce owns shares, and the majority of shares are owned by the workforce. Membership is not always compulsory for employees, but generally only employees can become members either directly (as shareholders) or indirectly through membership of a trust that owns the company.
The impact of political ideology on practice constrains the development of cooperatives in different countries. In India, there is a form of workers' cooperative which insists on compulsory membership for all employees and compulsory employment for all members. That is the form of the Indian Coffee Houses. This system was advocated by the Indian communist leader A. K. Gopalan. In places like the UK, common ownership (indivisible collective ownership) was popular in the 1970s. Cooperative Societies only became legal in Britain after the passing of Slaney's Act in 1852. In 1865 there were 651 registered societies with a total membership of well over 200,000. There are now more than 400 worker cooperatives in the UK, Suma Wholefoods being the largest example with a turnover of £24 million.

4. ***Volunteer cooperative*** **:** A volunteer cooperative is a cooperative that is run by and for a network of volunteers, for the benefit of a defined membership or the general public, to achieve some goal. Depending on the structure, it may be a collective or mutual organization, which is operated according to the principles of cooperative governance. The most basic form of volunteer-run cooperative is a voluntary association. A lodge or social club may be organized on this basis. A volunteer-run co-op is distinguished from a worker cooperative in that the latter is by definition employee-owned, whereas the volunteer cooperative is typically a non-stock corporation, volunteer-run consumer co-op or service organization, in which workers and beneficiaries jointly participate in management decisions and receive discounts on the basis of sweat equity.

5. ***Social cooperative*** **:** A particularly successful form of multi-stakeholder cooperative is the Italian "social cooperative", of which some 7,000 exist. "Type A" social cooperatives bring together providers and beneficiaries of a social service as members. "Type B" social cooperatives bring together permanent workers and previously unemployed people who wish to integrate into the labor market. They are legally defined as follows **:**
- no more than 80% of profits may be distributed, interest is limited to the bond rate and dissolution is altruistic (assets may not be distributed)
- the cooperative has legal personality and limited liability
- the objective is the general benefit of the community and the social integration of citizens
- those of type B integrate disadvantaged people into the labour market. The categories of disadvantage they target

may include physical and mental disability, drug and alcohol addiction, developmental disorders and problems with the law. They do not include other factors of disadvantage such as unemployment, race, sexual orientation or abuse.
type A cooperatives provide health, social or educational services
various categories of stakeholder may become members, including paid employees, beneficiaries, volunteers (up to 50% of members), financial investors and public institutions. In type B cooperatives at least 30% of the members must be from the disadvantaged target groups1
voting is one person one vote

6. ***Consumers' cooperative*** **:** A consumers' cooperative is a business owned by its customers. Employees can also generally become members. Members vote on major decisions and elect the board of directors from among their own number. The first of these was set up in 1844 in the North-West of England by 28 weavers who wanted to sell food at a lower price than the local shops.
The world's largest consumers' cooperative is the Co-operative Group in the United Kingdom, which offers a variety of retail and financial services. The UK also has a number of autonomous consumers' cooperative societies, such as the East of England Co-operative Society and Midcounties Co-operative. In fact, the Co-operative Group is something of a hybrid, having both corporate members (mostly other consumers' cooperatives, as a result of its origins as a wholesale society), and individual retail consumer members.

7. *Business and employment cooperative (BECs)* : are a subset of worker cooperatives that represent a new approach to providing support to the creation of new businesses.

Like other business creation support schemes, BEC's enable budding entrepreneurs to experiment with their business idea while benefiting from a secure income. The innovation BECs introduce is that once the business is established the entrepreneur is not forced to leave and set up independently, but can stay and become a full member of the cooperative. The micro-enterprises then combine to form one multi-activity enterprise whose members provide a mutually supportive environment for each other.

BECs thus provide budding business people with an easy transition from inactivity to self-employment, but in a collective framework. They open up new horizons for people who have ambition but who lack the skills or confidence needed to set off entirely on their own – or who simply want to carry on an independent economic activity but within a supportive group context.

8. *New generation cooperative (NGCs)* : are an adaptation of traditional cooperative structures to modern, capital intensive industries. They are sometimes described as a hybrid between traditional co-ops and limited liability companies. They were first developed in California and spread and flourished in the US Mid-West in the 1990s.[31] They are now common in Canada where they operate primarily in agriculture and food services, where their primary purpose is to add value to primary products. For example, producing ethanol from corn, pasta from durum wheat, or gourmet cheese from goat's milk