

Role of chartered
accountants &

**ROMANCING
WITH
MEDIATION,
CONCILIATION
AND
ARBITRATION**



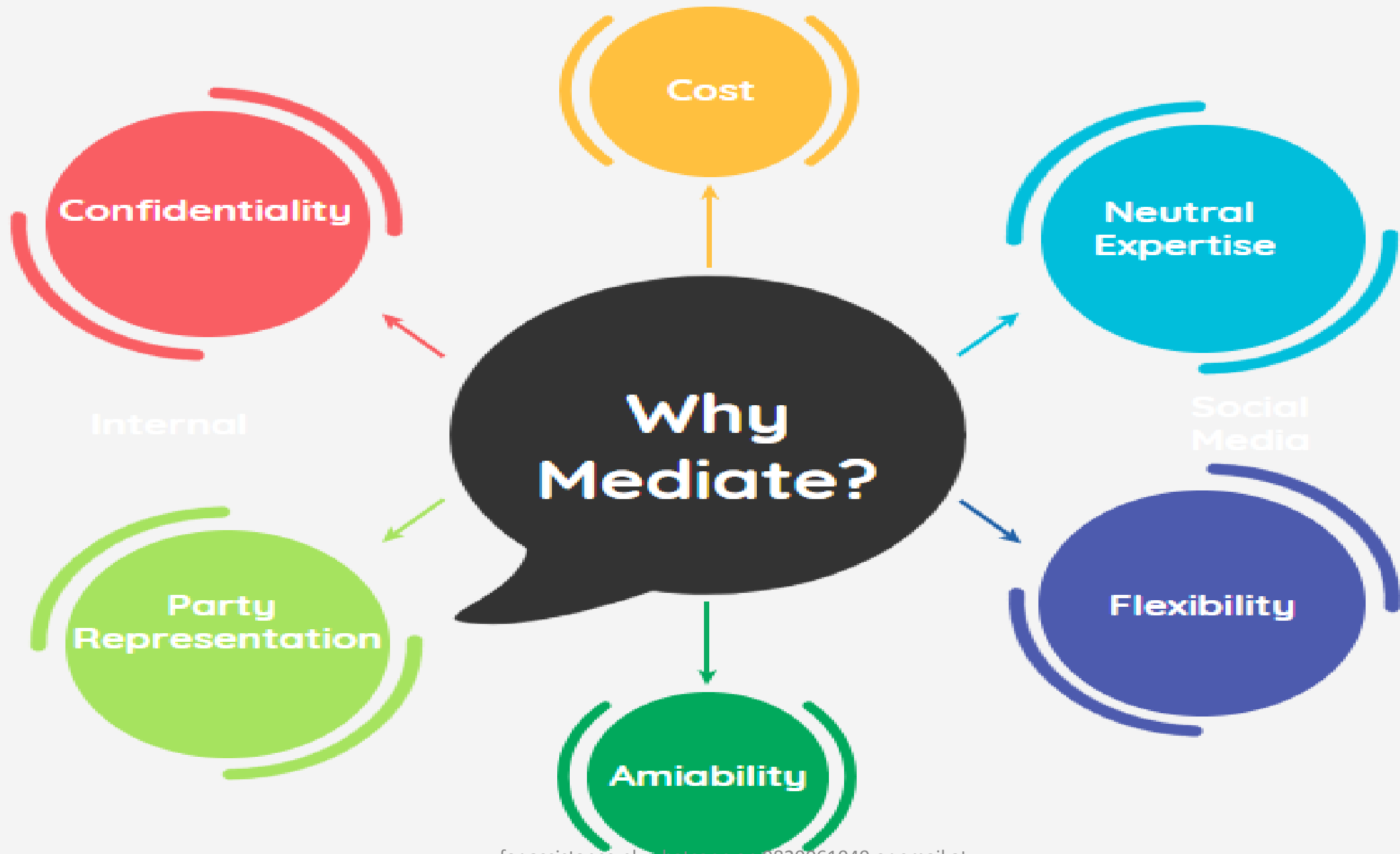


बचपन से एक सवाल सुनता आ रहा
था पर जवाब अब मिला

सवाल:- मियां बीबी राजी तो क्या
करेगा काजी ?

उत्तर :- हलाला





Scope of Arbitration

- From birth to death we enter into agreements
- birth and death may be natural or legal like formation and liquidation
- Having difference of opinions and conflicts is natural

Birth place of scope of our work in Arbitration

- Dispute
 - Social disputes
 - family Disputes
 - commercial disputes
 - international disputes

What types of Disputes cannot be arbitrated

- Matrimonial matters, like divorce or conjugal rights.
- Insolvency matters, Ex – declaring a person insolvent.
- Criminal offences.
- Dissolution or winding up of a company.
- Matters relating to guardianship of minors or lunatics.
- Testamentary matters like validity of a will.

Types of Arbitration

- a. **Ad-hoc Arbitration** – One in which there is no institution to administer the arbitration.
- b. **Institutional Arbitration** – Usually administered by an arbitral institution.
- c. **Statutory Arbitration** – Imposed on the parties by operation of law.
- d. **Foreign Arbitration** – indian arbitration Proceedings are conducted in a place outside India.
- e. **Fast track and normal arbitration**
- f. **International commercial & domestic**
- g. **Physical /online**

Sector specific arbitration

1. Insurance companies
2. Railway
3. Construction
4. Investment
5. Textiles
6. Cement
7. Power
8. Intellectual property rights

Public sector undertakings – central & state

- www.scopeonline.in
- 339 CPSEs

Ministries – central & state

Eco System of Arbitration

- Eco system
 - Arbitration Agreement
 - Claimant
 - Respondent
 - Arbitration tribunal
 - Arbitration Institutions
 - Domestic
 - International
 - Appeal
 - To High Court
 - To Supreme Court

Form Where does the work flow?

It flows from the Eco system

Arbitration Agreement

- It is the the first document that creates the scope for Arbitration
- For any agreement to be a good documents, it must have an Arbitration Clause
- Either it should be incorporated into the main Agreement itself or
- It should be sepeartely drafted as an Arbitration Agreement

Good drafting is a skillfull job, we have to explain our clients the importance of Arbitration clause.

Arbitration Agreement

Following should be kept in mind while drafting Arbitration agreement or while one is signing an arbitration agreement

- Applicable law to arbitration
- Venue of Arbitration
- Number of Arbitrators
- Language of Arbitration
- Discovery procedure
- Limitation to arbitration powers
- Interim measures/Provisional Remedies
- Privacy
- Rules Applicable
- Appeal & Enforcement
- Be aware of local peculiarities

Form Where does the work flow?

Arbitration tribunal

- it may be a sole Arbitrator or
- Any odd number of Arbitrators

Empanelment at various institutions

- Ministries-Ministry will send data to the PSUs
- PSUs
- SCOPE

How to spread a word?

- Start from your own home-you require arbitrator not just in offices but at home too
- Housing societies where you live

Societies often face disputes between its members- offer to resolve their disputes through arbitration
- Social Circles-in your community
- Rotary
- BNI
- Trade Associations in your cities

Trade Associations

- They play active part in facilitation of grooming and expansion of trade in any city
- Be a part of Arbitration Committee of trade Associations
- if the trade association does not have one-motivate them to form an Arbitration Committee

Special Arbitration

- Commodity Arbitration
- Maritime Arbitration
- Investment Arbitration
- Construction Arbitration
- Securities Arbitration
- Information technology Sector Arbitration
- Intellectual property Arbitration
- Industrial Arbitration
- Labour Arbitration
- Statutory Arbitration

STATUTORY ARBITRATION

Refers to any form of a mandatory arbitration which is imposed on the parties by operation of law.

the parties have no option as such but to abide by the law of land.

It differs from the above types of arbitration because

- a. the consent of parties is not necessary;
- b. it is compulsory arbitration;
- c. it is binding on the parties as the law of land;

There are more than 25 Central Acts providing for statutory arbitration in India.

STATUTORY ARBITRATION

Some of the legislations which provide for statutory Arbitration

1. The Railways Act 1989
2. The Electricity Act 2003
3. The MSMED Act 2006
4. The Cantonments Act 2006
5. The Industrial Disputes act 1947
6. Cooperative Societies Act 1912 and state cooperative societies laws

STATUTORY ARBITRATION

The Cantonments Act 2006

Arbitral process

Step 1 Filing and initiation Stage Section 3 of the Act

Step 2 Arbitrator Selection Section 11

Step 3 Issuance of Notice

Step 4 Preliminary hearings

Step 5 Information Exchange and preparation

Arbitral process

Step 6 Drafting of minutes

Step 7 Written submissions and oral arguments

Step 8 Hearing

Step 9 Post hearing submissions

Arbitral process

Step 10 The Arbitral Award

Step 11 Enforcement of the arbitral Award

Step 12 Appeal

Appointment of Experts by Arbitrator

Section 26

The tribunal may-

- (a) appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal, and
- (b) require a party to give the expert any relevant information

Chartered Accountants As Technical Experts

CAs are experts in

- Trade & Commerce – Domestic and Cross Border
- Finance, Accounting and Valuation
- Taxation – Domestic and Cross Border
- Corporate structuring/restructuring
- Good knowledge of commercial and corporate law

International organisations

- UNCITRAL
- COMMERCIAL ARBITRATION AND MEDIATION CENTRE FOR AMERICANS (AAA)
- INTER AMERICAN COMMERCIAL ARBITRATION COMMISSION (IACAC)
- INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES
- INTERNATIONAL COURT OF ARBITRATION
- PERMANENT COURT OF ARBITRATION

International Arbitration Institutions

1. United Nations Commission on International Trade Law (UNCITRAL)
2. Commercial Arbitration And Mediation Centre For Americans (AAA)
3. Inter American Commercial Arbitration Commission (IACAC)
4. International Centre for Settlement of Investment Disputes (ICSID)
5. ICC International Court of Arbitration, Paris
6. Permanent Court of International Arbitration, Hague

Arbitration institutions in India for empanelment as arbitrator

- Delhi International Arbitration Centre (DIAC) – New Delhi
www.dacdelhi.org
- Indian Council of Arbitration (ICA) – New Delhi
www.icaindia.co.in
- Construction Industry Arbitration Council (CIAC)- New Delhi
www.ciac.in
- LCIA India – New Delhi
www.lcia-india.org

Arbitration institutions in India for empanelment as arbitrator

- International Centre for Alternative Dispute Resolution (ICDAR) – New Delhi

www.icadr.nic.in

- ICC Council of Arbitration – Kolkata

www.indianchamber.org

- Indian Institute of Arbitration and mediation

www.arbitrationindia.com

High Courts in India where panel of arbitrators is maintained

There are 25 High Courts in India.

- The Calcutta High Court, established in 1862, is the oldest High Court in India. The Bombay and Madras High Courts were also established in the same year.
- The newest High Courts are the Telangana Court and Andhra Pradesh High Court, both established in the year 2019.

High Courts in India where panel of arbitrators is maintained

List of High Courts in India			
Name	Year	Territorial Jurisdiction	Seat
Kolkata Website: https://www.calcuttahiighcourt.gov.in/	1862	West Bengal, Andman & Nicobar Islands	Kolkata (Bench of port Blair)
Bombay Website: https://bombayhighcourt.nic.in/	1862	Maharashtra, Dadar, & Nagar Haveli. Goa, Daman Diu	Mumbai (Bench at Panaji, Aurangabad and Nagpur)
Madras High Court http://www.hcmadras.tn.nic.in/	1862	Tamil Nadu & Pondicherry	Chennai (Bench at Madurai)

High Courts in India where panel of arbitrators is maintained

Allahabad http://allahabadhighcourt.in/	1866	Uttar Pradesh	Allahabad (Bench at Lucknow)
Karnataka http://karnatakajudiciary.kar.nic.in/	1884	Karnataka	Bengaluru (Bench at Dharwad and Gulbarga)
Patna http://patnahighcourt.gov.in/	1916	Bihar	Patna
Jammu & Kashmir http://jkhighcourt.nic.in/	1928	Jammu & Kashmir	Sri Nagar & Jammu
Punjab & Haryana https://highcourtchd.gov.in/	1947	Punjab, Haryana , Chandigarh	Chandigarh

for assistance pl. whatsapp on 9820061049 or email at
cadrrajkumaradukia@gmail.com

High Courts in India where panel of arbitrators is maintained

Guwahati http://ghconline.nic.in/	1948	Assam, Nagaland, Mizoram and Arunachal Pradesh	Guwahati (Bench at Kohima, Aizawl and Itanagar)
Orissa https://www.orissahighcourt.nic.in/	1948	Orissa	Cuttack
Rajasthan https://hcraj.nic.in/hcraj/	1949	Rajasthan	Jodhpur (Bench – Jaipur)
Madhya Pradesh https://mphc.gov.in/	1956	Madhya Pradesh	Jabalpur (Bench –Indore , Gwalior)

High Courts in India where panel of arbitrators is maintained

Kerala http://highcourtofkerala.nic.in/	1958	Kerala & Lakshadweep	Ernakulam
Gujarat http://gujarathighcourt.nic.in/	1960	Gujarat	Ahmedabad
Delhi http://delhihighcourt.nic.in/	1966	Delhi	Delhi

High Courts in India where panel of arbitrators is maintained

Himachal Pradesh https://hphighcourt.nic.in/	1966	Himachal Pradesh	Shimla
Sikkim https://highcourtofsikkim.nic.in/hcs/	1975	Sikkim	Gangtok
Chhattisgarh http://highcourt.cg.gov.in/	2000	Chhattisgarh	Bilaspur

High Courts in India where panel of arbitrators is maintained

Uttarakhand https://highcourtofuttarakhand.gov.in/	2000	Uttarakhand	Nainital
Jharkhand https://jharkhandhighcourt.nic.in/	2000	Jharkhand	Ranchi
Tripura http://thc.nic.in/	2013	Tripura	Agartala
Manipur https://hcmimphal.nic.in/	2013	Manipur	Imphal

High Courts in India where panel of arbitrators is maintained

Meghalaya http://meghalayahighcourt.nic.in/	2013	Meghalaya	Shillong
Andhra Pradesh http://hc.ap.nic.in/	2019	Andhra Pradesh	Amravati
Telangana http://tshc.gov.in/	2019	Telangana	Hyderabad

Regional Directors who keep panel of mediators and conciliators under section 442 of The Companies Act 2013

- There are seven Regional Directors (RD) are in-charge of the respective regions,
- supervise the working of the offices of the Registrars of Companies and the Official Liquidators
- liaison with the respective State Governments and the Central Government
- Certain powers of the Central Government under the Act have been delegated to the Regional Directors.

Regional Directors who keep panel of mediators and conciliators under section 442 of The Companies Act 2013

Regional Directors

- **EASTERN REGION**

Nizam Palace, IIMSO Building ,3rd Floor, 234/4 A.J.C.Bose Road Kolkata-700020

Phone: 033-22870383 Fax: 033-22870958 Email: rd.east@mca.gov.in

- **SOUTHERN REGION**

5th floor, Shastri Bhawan, 26 Haddows Road Chennai- 600006

Phone: 044-28271737

Fax: 044-28280436

[Email: rd.south@mca.gov.in](mailto:rd.south@mca.gov.in)

Regional Directors who keep panel of mediators and conciliators under section 442 of The Companies Act 2013

- **NORTHERN REGION**

b-2 wing, 2nd floor paryavaran bhawan, cgo complex new delhi - 110003

phone: 011-24366038 fax: 011-24366039, email: rd.north@mca.gov.in

- **WESTERN REGION**

Everest 5th Floor, 100 Marine Drive, Mumbai - 400002

Phone: 022-22817259, 22811493, Fax: 022-22812389,

Email: rd.west@mca.gov.in

Regional Directors who keep panel of mediators and conciliators under section 442 of The Companies Act 2013

NORTH WESTERN REGION

Roc Bhavan, Opp Rupal Park Society, Behind Ankur Bus Stop, Naranpura, Ahmedabad-380013

Phone: 079-27437597, Fax: 079-27438371, Email : rd.northwest@mca.gov.in

• SOUTH EAST REGION

3rd Floor, Corporate Bhawan, bandlaguda, Nagole, tattianaram Village Hayat Nagar Mandal, ranga Reddy District, hyderabad-500 068, Telengna
Phone: 040 29804127, 29803127(off), Email: rd.ser@mca.gov.in

Regional Directors who keep panel of mediators and conciliators under section 442 of The Companies Act 2013

- NORTH EASTERN REGION

MORELLO BUILDING,GROUND FLOOR, Near Meghalaya High Court & Shillong GP, Kachahari Road,SHILLONG - 793001

PHONE: 0364-2222519 Email:rd.northeast@mca.gov.in

Internationally Recognised Institutions for empanelment

- Kovise Foundation Conflict Resolution International (www.kfcri.org)
- Permanent Court of Arbitration (www.pca-cpa.org)
- American Arbitration Association (www.adr.org)
- International Chamber of Commerce International Court of Arbitration(www.iccarbitration.org)
- International Centre for Settlement Investment Disputes (www.worldbank.org/icsid)
- London Court of International Arbitration (www.lcia.org)
- WIPO Arbitration and Mediation Centre(www.wipo.int)

Internationally Recognised Institutions for empanelment

- Swiss Chambers' Court of Arbitration and Mediation (www.sccam.org/sa/en)
- Singapore International Arbitration Centre(www.siac.org.sg)
- Hong Kong International Arbitration Centre (www.hkiac.org)

WHAT IS INTERNATIONAL ARBITRATION

- Arbitration is a consensual means of resolving disputes.
- More precisely: Arbitration is the parties consensual submission of a dispute to a non-governmental decision maker, selected by or for the parties, to render a binding decision finally resolving the dispute in accordance with adjudicatory procedures affording the parties an opportunity to be heard.
- Arbitration has also been for centuries to resolve various disputes relating to – commercial, investment, interstate.

CASES WHEN WHERE WE CANNOT HAVE A DOMESTIC ARBITRATION

- AN INDIVIDUAL WHO IS A NATIONAL OR A RESIDENT OF ANOTHER COUNTRY
- BODY CORPORATE INCORPORATED IN ANOTHER COUNTRY
- AN INSTITUTION WHOSE CENTRAL MANAGEMENT OR CONTROL IS EXERCISED IN ANOTHER COUNTRY
- THE GOVERNMENT OF A FOREIGN COUNTRY

OBJECTIVES OF INTERNATIONAL COMMERCIAL ARBITRATION

- Neutral Dispute resolution Forum (v. local courts)
- Commercial Expertise of Tribunal (v. courts of general jurisdiction)
- Enforceable Agreements and Awards (v. jurisdictional uncertainties)
- Party Autonomy and procedural flexibility (v. domestic procedural codes)
- Cost and speed (v. lengthy delays and appeals)
- Confidentiality or privacy (v. public trials)

LEGAL FRAMEWORK OF INTERNATIONAL COMMERCIAL ARBITRATION

UNCITRAL Model Law on International Commercial Arbitration

- Adopted by more than 60 countries
- Enforced in 1985
- Comprehensive legislative treatment of international arbitral process

UNCITRAL MODEL LAW comprises of following broad provisions

- Validity and enforceability of arbitration agreement (Art. 7-9)
- Competence-competence of arbitrators (Art. 16)
- Judicial non interference in arbitral process (art. 5)
- Choice of arbitral seat (art.1(2), 20)
- Appointment of and challenges to arbitrators (art 10-15)
- Provisional measures (art. 17)
- Conduct of the arbitral proceedings (art. 18-26) & evidence taking (art. 27)
- Applicable substantive law (art. 28)
- Arbitral Awards (art. 29-33)
- Setting aside or annulling awards (art.34)
- Enforcement and recognition of foreign arbitral awards, including bases on of non-recognition (art. 35-36)

AFFIRMATIONS FOR OUR MIRACLE MORNING

1. I am in charge of my mind.
2. I am strong in mind, body and spirit.
3. I feel good about being me.
4. Amazing opportunities exist for me in every aspect of my life.
5. I choose to be happy right now.
6. I am grateful for all that I have.
7. I live in joy.
8. I am positive and optimistic.

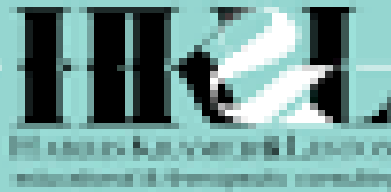
PAMPERING ONESELF IS MOST IMPORTANT

- Make yourself most happy person
- Doing what one likes
- Hobby
- Job
- spiritualism
- Entertainment
- Eating
- Movie
- Keep the company you like
- Etc. etc.. etc..

ENHANCE CONTINUOUSLY OUR MARKET PRICE/REPLACEMENT VALUE

- Keep on learning new things
- New courses
- New hobbies
- New methods of marketing
- Leaving impression of Increase with customers
- Scaling up our activity
- MONEY –MONEY –MONEY IS IMPORTANT





FIXED MINDSET

AVOIDS CHALLENGES

GIVES UP EASILY

**SEES EFFORT AS
FRUITLESS**

**IGNORES NEGATIVE
FEEDBACK**

**FEELS THREATENED BY
SUCCESS OF OTHERS**

GROWTH MINDSET

**EMBRACES
CHALLENGES**

**PERSISTS IN FACE OF
CHALLENGES**

**SEES EFFORT AS PATH
TO MASTERY**

**LEARNS FROM
CRITICISM**

**FINDS LESSONS
AND INSPIRATION IN
SUCCESS OF OTHERS**



Be aware of the self talk



LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES

1. Specialized Audits, Certifications and other Statutory Recognitions
2. The Companies Act 2013 /other corporate laws/formation/annual compliance
3. The Insolvency and Bankruptcy Code 2016/recovery laws
4. Micro, Small and Medium Enterprises (MSMEs)
5. Corporate Governance /independent director
6. Drafting, Registration and Stamping of Documents
7. Representation Before Authorities and Tribunals

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-2

- 8. Competition Laws /consumer laws/metrology laws compliance
- 9. will/succession laws/family settlement
- 10. Labour Law- locked down/advisory /drafting of documents/HRM
- 11. Laws Relating to Alternate Dispute Resolution – arbitration, conciliation, mediation & negotiation
- 12. The Banking industry – loans, credit , stock, revenue, OTS, fema, pmla , risk management

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-3

13 financial planning –wealth management – income, incometax, insurance, investment, retirement, succesion plannings

14. Energy audit/carbon credit/renewal energy

15. The Laws relating to Intellectual Property Rights (IPR)- IPR valuation/audit/registration

16. IFSC/SEZetc- setting up /taxation/

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-4

- 17. Valuation- section 247 of companies act- regd valuer
- 18. Capital market services – securities laws compliances
- 19. Virtual CFO services/virtual general legal council
- 20. Economic offences benami properties/PMLA/Black Money/Fugitive
- 21. Charitable trusts/NPO/societies/FCRA/social stock exchange capital
- 22. International & NRI taxation
- 23. Private equity/restructuring

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES-

CONTD-5

- 24. Internal audit- all industries /section 138 /psus/insurance /mutual funds/pension funds /COSO internal control framework/SOP/IFC under section 134(5)(e) of companies act 2013
- 25. Risk management – COSO ERM-risk audit –risk dept
- 26. CSR- section 135/policy /international and national grants/ MDG 8/SDG 17/sustainability reporting/business responsibility reporting /ESG /GRI standards/CSR project implementation, monitoring/schedule VII of Companies Act 2013 compliance
- 27. FEMA/cofeposa/safema/foreign exchange related matters
- 28. Cyber security- personal data protection/non personal/gdpr
- 29. Forensic audit/fraud prevention/ section 447 of companies act 2013

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-6

- 30. Atma Nirbhar Bharat Schemes
- 31. Foreign trade Policy consultancy/export growth
- 32. Central and State Subsidies , countervailing measures– new policy for Gujrat /Haryana- standupmitra.in
- 33. IFRS/Ind AS/all countries GAAP
- 34. Insurance & pension sector/Insurance Surveyor/Insurance Broker
- 35. Agriculture business/insurance/marketing

LIST OF UNEXPLORED GOLDMINE

PROFESSIONAL OPPORTUNITIES- CONTD-7

- 36. Real estate laws/RERA/title certificate/conveyance/redevelopment/development plan/land laws
- 37. Industry specific specialization – pharma/telecommunications/electricity
- 38. Guidance in Setting up new business/mentoring to become entrepreneur
- 39. NBFCs/HFCs/Money lenders/ Chit Funds/MFIs
- 40. Cooperative Sector
- 41. Commodity markets-future –derivatives-warehousing authorities
- 42. Commercial contracts management/litigation
- 43. Mergers/amalgamation/cross border mergers/due diligence

LIST OF UNEXPLORED GOLDMINE PROFESSIONAL OPPORTUNITIES- CONTD-8

- 43. Assistance and advise in documentation – peer review, quality review
- 44. Appearance before and handling NFRA matters & disciplinary matters CS CMA , advocates
- 45. ISO , BIS registration

LIST OF UNEXPLORED GOLDMINE

PROFESSIONAL OPPORTUNITIES- CONTD-9

- 46. training – personal development topics – time management/personality developments/stress management
- 47. training professional topics – income tax, GST ,trade bodies /large companies
- 48. Blog writing /books writing /content development
- 49. Our hobbies converted into profession – astrology /numerology
- 50. Becoming entrepreneur- making entrepreneur/agriculturist/any service provider/www.nsdcindia.org/ministry of skill development & entrepreneurship

PRINCIPLE OF IMPRESSION OF INCREASE

- Wallace wattles in 1910 propounded this principle
- In the book science of getting rich
- Napoleon Hill in book Think & Grow Rich reconfirmed
- If clients gives X Rs – value given by us is X+++++

TONY BUZAN'S MIND MAPPING TECHNIQUES TO REMEMBER FAST





USING SOCIAL MEDIA

- Facebook
- LinkedIn
- Instagram
- Pinterest
- Twitter
- Snapchat
- You Tube
- Blog
- WhatsApp

13 STEPS TO BECOME RICH

The 1937 bestselling book 'Think and Grow Rich' by Napoleon Hill contains 13 principles which convey the path to making money;

1. Desire
2. Faith
3. Auto-Suggestion
4. Specialized Knowledge
5. Imagination
6. Organized Planning

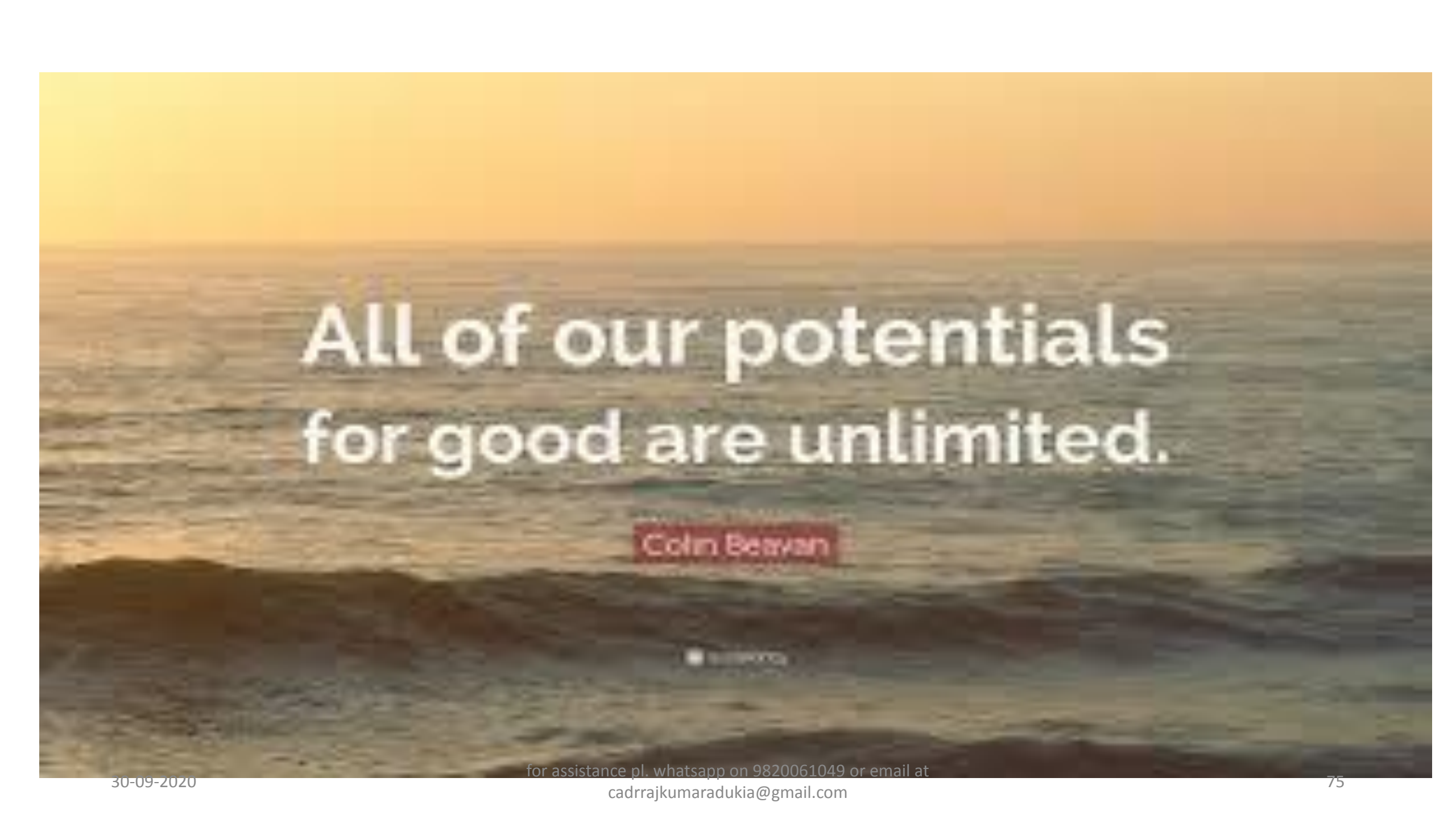
13 STEPS TO BECOME RICH

- 7. Decision
- 8. Persistence
- 9. Power of the Master Mind
- 10. Enthusiasm (Mystery of sex transmutation)
- 11. Sub-conscious Mind
- 12. The Brain
- 13. The Sixth Sense

I AM PASSIONATE TO ASSIST ANYONE

1. Book writing
 2. Doing additional courses
 3. Expanding non traditional area of practice
 4. Writing articles
 5. Studying together any subject in world as co-learners
- Pl. whatsapp on 9820061049 alongwith your interest and profile or email to me at cadrrajkumaradukia@gmail.com



A photograph of a sunset over the ocean. The sky is a gradient of orange and yellow, and the water is dark with some whitecaps. The quote is centered in white text.

All of our potentials
for good are unlimited.

Colin Beavan

Instagram



THANK YOU FOR
YOUR LISTENING

DO YOU HAVE
ANY QUESTIONS?



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