KUMAR LAW CLASSES
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DIFFERENCE BETWEEN -

Company	**Partnership**
A company is a distinct legal person.	A partnership firm is not distinct from the several persons who compose it.
Property of the Company belongs to the company and not to the individuals comprising it.	Property of the Partnership firm is the property of the individuals comprising it.
The creditors of a company can proceed only against the company and not against its members.	The creditors of a partnership firm are creditors of individual partners and a decree against the firm can be executed against the partners jointly and severally.
Members of a company are not its agents.	Partners are the agents of the firm.
A member of a company can contract with his Company.	A partner cannot contract with his firm.
Company	**Hindu Joint Family Business**
A company consists of heterogeneous (varied or diverse) members.	HUF consists of homogenous (unvarying) members since it consists of members of the joint family itself.
Company is an artificial person and is formed and registered by complying with the prescribed formalities prescribed under the Companies Act.	HUF is created by the operation of law.
A person becomes member of a company by acquiring share and whose name is entered in the Register of Members.	A person becomes a member of Joint Hindu Family business by virtue of birth.
Registration of a company is compulsory.	No registration is compulsory for carrying on business for gain by a Hindu Joint Family even if the number of members exceeds twenty.
Company	**Corporation**
A company is formed and registered by complying with the prescribed formalities prescribed under the Companies Act.	A Corporation is formed under any law for the time being in force.
A company includes a corporation sole, co-operative society.	A corporation includes a company but does not include corporation sole, co-operative society.
Company is narrow term than Corporation.	Corporation is broader term than Company.
Liability of members are limited.	Liability of members are unlimited.
Corpus is known as share capital.	Corpus is known as capital.
Company	**Limited Liability Partnership (LLP)**
A Company is governed by Companies Act, 1956 and various rules made thereunder.	LLP is governed by The Limited Liability Partnership Act, 2008 and various Rules made thereunder.
The word 'Limited' or 'Private Limited' is added with the name of a company.	The word 'LLP' or 'Limited Liability Partnership' is added with the name of a LLP.
Each Director required to have a Director Identification Number (DIN)	Each Designated partner required to have a DPIN before being

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before being appointed as a Director of any company.	appointed as a Designated Partner of LLP.
Minimum two for private Company and minimum seven persons are required for public company as per the Companies Act, 1956.	Minimum two partners are required for the formation of a LLP.
Maximum 50 in case of Private Company and Unlimited number of member in Public Company as per the Companies Act, 1956.	No cap of maximum number of its partners.
Private Company	**Public Company**
In case of Private Company, Minimum 2 members and Maximum 50 members.	In case of Public Company, Minimum 7 members and no Maximum limit of members.
The name of a Private company must end with the word "Private Limited".	The name of a Public company must end with the word "Limited".
In a Private company, the right to transfer the shares is restricted by the articles of association.	The shares of a Public Company is freely transferable.
A private company can commence its business soon after obtaining the certificate of incorporation.	A Public company can commence business only after obtaining the certificate of incorporation as well as the certificate of commencement of business.
A Private Company must have atleast 2 Directors.	A Public Company must have atleast 3 Directors.
Company Limited by Shares	**Company Limited by Guarantee**
A company in which the liability of its members is determined on the basis of the amount, if any, remaining unpaid on the share IS held by them is termed as a company limited by shares'.	A company having the liability of its members limited by its memorandum to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up is termed as a 'company limited by guarantee'.
The liability of the members is limited to the extent of nominal value of shares held by them.	The liability of the members is to pay the amount guaranteed by him only if the company is wound up while he is a member or within one year after he ceases to be a member.
The liability can be enforced against the members of the company during the existence of the company or during the winding up of the company.	The liability can be enforced against the members of the company during the winding up of the company. The members cannot be asked to pay the guaranteed amount during the life time of the company.
Holding Company	**Subsidiary Company**
Defined under Section 2(19) of the Companies act.	Defined under Section 2(47) of the Companies act.
Holding Company means a holding Company within the meaning of Section 4 of the Companies act.	A Company shall be deemed to be a subsidiary Company of another if, that other company holds more than half of the nominal value of its equity share capital or controls the composition of its Board or it is a subsidiary company of any company which is subsidiary company of the other company.

Memorandum of Association	Articles of Association
MOA is the charter of the company and defines the scope of its activities.	AOA of the company is a document which regulates the internal management of the company.
MOA cannot be altered except in the manner and to the extent provided by the act.	AOA being only the byelaws of the company can be altered by a special resolution.
MOA is a supreme document of the company.	AOA are subordinate to the memorandum. It cannot alter or control the memorandum.
Every company must have its own memorandum.	A company limited by shares need not register its AOA. In such a case table A applies.
A company cannot depart from the provisions contained in its memorandum, and if it does, it would be ultra-vires the company.	Anything done against the provisions of articles, but which is intra-vires the memorandum, can be ratified.
Shelf Prospectus	**Information Memorandum**
It is defined under Section 60A of the Companies act, 1956.	It is provided under Section 60B of the Companies act, 1956.
'Shelf Prospectus' means a prospectus issued by any financial institution or bank for one or more issues of the securities or class of securities specified in that prospectus.	A public company making an issue of securities may circulate information memorandum to the public prior to filing of a prospectus.
A Company filing a Shelf Prospectus with the Registrar shall not require to file prospectus afresh at every stage of offer of securities by it within a period of validity of such prospectus.	However, It shall require to file an Information Memorandum at every stage of offer of securities by it.
Preference Share Capital	**Equity share Capital**
Preference shares are those shares which enjoy preference as regards payment of dividend and repayment of capital.	Equity shares are those shares who do not enjoy any preference as regards payment of dividend and repayment of capital.
The rate of dividend on preference shares is fixed.	The rate of dividend on equity shares is not fixed and usually depends on the profitability of the company.
Preference shareholders are paid their capital first.	Equity shareholders are paid their capital after the preference shareholders are paid.
Preference shareholders do not have normal voting rights.	Equity shareholders have normal voting rights.
Preference shareholders receives dividend in preference of equity shareholders.	Equity shares receive dividend after it is paid to preference shares.
Nominal Capital	**Issued Capital**
This is the sum stated in the memorandum of association of a company limited by shares as the capital of the company with which it is registered. It is the maximum amount which the company is authorized to raise by issuing shares.	It is that part of the authorised or nominal capital which the company issues for the time being for public subscription and allotment. This is computed at the face or nominal value.

This is the capital, on which the company had paid the prescribed fee at the time of registration; hence it is also called Registered Capital.	
Subscribed Capital	**Called-up Capital**
It is that portion of the issued capital at face value which has been subscribed for or taken up by the subscribers of shares in the company.	It is that portion of the subscribed capital which has been called up or demanded on the shares by the company.
Reserve Capital	**Capital Reserve**
Reserve Capital is that part of the uncalled capital of a company which the limited company decide by passing a special resolution, not to call except in the specified event.	Capital reserve is created out of capital profits (profit due to reevaluation of assets) and therefore it is not available for distribution as dividend to the shareholders.
Reserve capital can be used by the company only in case of winding up of the company.	Capital reserve can be used by company at any time for purchasing long term assets by the company.
Reserve capital is not disclosed in the balance sheet of the company.	Capital reserve is shown on the liabilities side of the balance sheet.
Reserve capital cannot be used for that purpose.	Capital reserve can be used by the company to write off capital losses which arises due to selling of assets at lower prices than the book value of that asset
Shares	**Stock**
A share has a nominal value.	Stock has no nominal value.
A share cannot be transferred into small fractions.	Stock can be transferred into any fractions.
Shares can directly be offered to public.	Unlike the shares, stock cannot be offered by the company to the public in the first instance. Only fully paid up shares can be converted into stock by the company.
All shares bear distinctive number.	Stock discloses the consolidated value of the share capital. Fraction of stocks does not bear any number.
A share may not be fully paid up.	A stock is always fully paid up.
Bonus Shares	**Right Shares**
Bonus shares means new shares given free of cost to all the existing shareholders of the company, in proportion to their holdings. For example, a company announcing bonus issue of 1:5, is issuing one (new) bonus share for every five shares held by the shareholders of the company.	Rights issues are a proportionate number of shares available to all the existing shareholders of the company, which can be bought at a given price (usually at a discount to current market price) for a fixed period of time. For example, a company announcing rights issue of 2:3 at Rs. 100 per share (current share price Rs. 130 per share), is issuing two (new) rights shares for every three shares held by the shareholders of the company at Rs. 100 per share.

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Equity	Debenture
Shareholders are owners of the company.	Debenture holders are creditors of the company.
A shareholder enjoys the rights of proprietorship of a company.	Debenture holder can enjoy the rights of a lender only.
A shareholder has a right of control over the working of the company by attending and voting in the general meeting.	Debenture holders do not have any voting right, and therefore, they are unable to exercise any such influence.
A shareholder is entitled to receive dividend when there are profits. The rate of dividend varies from year to year depending upon the amount of profit.	Debenture holders are entitled to interest at a fixed rate which the company must pay whether or not there are profits.
Shareholders cannot be paid back (except in case of redeemable preference shares) so long as the company is a going concern.	Debentures are normally issued for a specified period after which they are repaid.
Preference Shares	**Debentures**
Preference Shareholders are effectively owners of the Company.	Debenture-holders are creditors of the Company.
Preference Shareholders receive profit in the form of dividends.	Debenture-holders receive a fixed rate of interest.
If there is no profit, the payment of dividend to Preference Shareholders can be postponed.	Interest is paid to debenture-holders regardless of whether or not a profit has been made.
In case of dissolution, Preference Shareholders holders are paid later than Debenture-holder.	In case of dissolution of firms debenture holders are paid first as compared to Preference shareholder.
Sweat Equity	**Employees Stock Option (ESOP)**
Sweat Equity Shares" means equity shares issued by the company to employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called.	Employee Stock Option (ESOP) means the option given to the whole-time directors, officers or employees of a company, which gives such directors, officers or employees the benefit or right to purchase or subscribe at a future date, the securities offered by the company at a pre-determined price.
Sweat Equity is grant of shares at discount or without monetary considerations.	ESOP/ESOS is grant of option to purchase share at predetermined price given to employees.
Sweat Equity can be issued to the promoters of the Company.	ESOP/ESOS cannot be issued to the promoters or promoter group.
Minimum lock in period of 3 years for Sweat Equity.	Lock in period of 1 year for ESOS/ESPS.
Alteration of Share Capital	**Reduction of Share Capital**
It is governed by section 94 of the Companies Act, 1956.	It is governed by section 100 of the Companies Act, 1956.
It is required to be done by ordinary resolution.	It is required to be done by special resolution
It does not required confirmation by the court	It requires confirmation by the court.
Alteration of share capital may be done in the following manner: 1.Increasing its nominal capital by issuing new shares. 2.Consolidating and dividing all or any of its share capital into shares of large denomination.	Reduction of share capital may be done in the following manner: 1.Extinguishing or reducing the liability of members in respect of the capital not paid up. 2.Writing off or canceling any paid up capital which is in excess of

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3.Converting fully paid up shares into stock or vice versa. 4.Sub dividing its shares or any of them into shares of smaller amount. 5. Canceling shares which have not been taken up and diminishing the amount of share capital by the amount of the shares so cancelled.	the needs of the company. 3. Paying off any paid up share capital which is in excess of the needs of the company.
Loan	**Deposit**
A loan is repayable the minute it is incurred.	Deposits are repayable upon the maturity date fixed or in accordance to the terms of the agreement.
Obligation to repay is immediate.	No immediate obligation to repay.
Deposit	**Debenture**
Deposit are repayable after the expiry of six months but not later than thirty six months from the date of acceptance or renewal of such deposits.	No such limit in case of Debenture.
Deposits are not transferable.	Debentures are transferable.
Debenture	**Debenture Stock**
It is an instrument of debt.	It is a debt or sum secured by an instrument.
Debenture need not be fully paid up.	Debenture stock must be fully paid up.
It can be transferred wholly.	It can be transferred in fraction.
It is identified by distinct number.	No distinct number
Mortgage	**Charges**
A mortgage is created by the act of the parties.	A charge may be created either through the act of parties or by operation of law.
A mortgage require registration under the Transfer of Property Act.	A charge created by operation of law does not require the registration But a charge created by act of parties requires registration.
A mortgage is for a fixed term.	A charge may be in perpetuity.
A mortgage is a transfer of an interest in specific immovable property.	A charge only gives a right to receive payment out of a particular property.
A mortgage is a transfer of an interest in a specific immovable property.	There is no such transfer of interest in the case of a charge. Charge does not operate as transfer of an interest in the property and a transferee of the property gets the property free from the charge provided he purchases it for value without notice of the charge.
Share Certificate	**Share Warrant**
The holder of a share certificate is a registered member of the company.	The bearer of a share warrant is not a registered member of the company.

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Holder of a share certificate is essentially a member of the company.	The bearer of a share warrant can be a member only if the articles so provide and only for the purposes as defined in the articles.
The issue of a share certificate does not require the approval of the Central Government.	Share warrant can be issued only if the articles authorise its issue and the Central Government has accorded its previous approval.
Both public and private companies must issue share certificates.	Share warrants can be issued only by public companies.
A share certificate is issued in respect of partly or fully paid shares.	A share warrant can be issued only in respect of fully paid shares.
Forfeiture of Share	**Surrender of Share**
Forfeiture is initiated by the Company for non- payment of calls.	It is initiated by the shareholders on his own for any other reason.
By forfeiture of shares, the company penalizes the member.	In surrender of shares, new shares are bought in exchange of surrender of old shares.
Forfeiture of shares may be initiated for non – payment of call.	Surrender shares may be accepted in the good faith in its own interest the shares which the shareholder is voluntarily surrendering.
Transfer of Share	**Transmission of Share**
Transfer is a voluntary act of a member.	Transmission is by operation of law.
Consideration is always involved in transfer.	No question of consideration, hence no stamp duty, etc.
Transfer is effected as transfer of property when a member intends to sell it.	Transmission takes place only on the death, bankruptcy and lunacy of the member.
In case of transfer, the member has to execute a valid instrument of transfer.	In case of transmission, execution of instrument is not possible.
Lien on Share	**Forfeiture of Share**
Lien can be exercised in respect of amount due on the shares and amounts due on other accounts.	Right of forfeiture is exercised for amounts due on shares only.
A lien is a kind of security for a debt and to be retained until the payment of debt in full.	Forfeiture is like a penalty clause to enforce the payment of money due on shares in time.
A lien is enforced by sale of shares to adjust the outstanding dues.	Forfeiture is act of depriving him of rights in forfeited shares.
In the event of exercise of lien, by sale of shares, surplus, if any, is to be returned to the member.	In the event of forfeiture, the member cannot claim refund of money already paid by him.
In case of lien, it does not result in reduction of capital as shares are sold to recover the due amount.	In case of forfeiture it may result in reduction of capital if shares are not sold or re-issued.
Shares in Physical Form	**Shares in Dematerialized form**
Share certificates are issued in physical form.	Shares are issued in electronic form.
Stamp duty is to be paid on transfer deed.	No stamp duty is paid on transfer.

There are chances of theft, loss etc.	No chance of theft, forgery or loss.
Not required to open account with anybody.	It is necessary to open a demat account with depository participant.
Transfer of shares takes longer time due to physical transit of documents.	Immediate transfer of shares, as it takes in the electronic form.
Whole Time Secretary	**Secretary in Whole Time Practice**
Section 383A(1) of the Companies act, 1956 provides that every company having paid up capital of not less than 5 crores shall have a Whole Time Company Secretary. The whole time Secretary shall be appointed as a whole time employee of the Company.	Section 2(45A) of the companies act, 1956 provides that a Secretary who shall be deemed to be in practice within the meaning of section 2(2) of the act and who is not in full time employment. He is a member of the Institute of Company Secretaries of India and has a certificate of Practice issued by the ICSI.
The whole time secretary has statutory and general duties prescribed in the Companies act. He also acts as Principal officer under various acts. He also acts as officer in default as per Section 5 of the Companies act.	Unlike, the whole time secretary, he does not have any statutory or Administrative duty. His area of practice have been specified and he must comply with the same.
Managing Director	**Manager**
Managing Director is defined under Section 2(26) of the Companies act, 1956.	Manager is defined under Section 2(26) of the Companies act, 1956.
A Managing Director means a director who, by virtue of an agreement with the company or of a resolution passed by the company in general meeting or by its board of directors or by virtue of its memorandum or articles of association is entrusted with substantial powers of management which would not otherwise be exercisable by him and includes a director occupying the position of a managing director, by whatever name called.	A Manager means an individual who subject to the superintendence, control and direction of the Board of Directors has the management of the whole or substantially the whole of the affairs of a company and includes a director or any other person occupying the position of a manager by whatever name called and whether under a contract of service or not.
Only a Director can be appointed as Managing Director.	Manager may or may not be a Director.
There may be two or more Managing Directors in a Company.	There shall only one Manager in a Company.
A 'Manager' by virtue of his office has the management of the whole or substantially the whole of the affairs of a company.	A 'Managing Director' is entrusted with substantial powers of management which would not otherwise be exercisable by him.
Whole Time Chairman	**Part Time Chairman**
A chairman-cum-managing director (CMD) is sometimes called a whole-time chairman.	A director, who is not a whole-time director of the company, is called a part-time chairman.
Motion	**Resolution**
Motion is a proposal submitted for a discussion. A motion becomes a resolution only after the requisite majority of members have adopted it.	A decision adopted by means of a resolution.

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Adjournment	**Postponement**
Adjournment means suspending a meeting after it has been duly commenced to be resumed at a later time or date fixed in that meeting itself at the time of such adjournment or to be decided later on.	Postponement of a meeting is to put off or defer the holding of a meeting before the date originally fixed for the meeting has arrived.
Adjournment is the act of meeting itself.	Postponement is the act of the convening authority
Statutory Books	**Statistical Books**
The Companies Act, 1956, requires certain books to be kept by a company for maintaining a record of its different activities in order to safeguard the interests of the shareholders and creditors. These books are known as Statutory Books. Few of them are as follows: (1). Register of investments not held by it in its own name (2). Register of fixed deposits. (3). Register of Securities bought back (4). Register of charges (5). Register and Index of Members (6). Register and Index of Debenture holders (7). Minutes Book of Board and General Meetings (8). Dividend Register (9). Register of directors, managing directors, manager and secretary (10). Register of Directors' Shareholdings.	Although there is no legal compulsion, a company usually maintains a number of statistical books in order to keep complete records of the numerous details connected with the business operations. Few of them are as follows: (1). Share Application and Allotment Book (2). Share Call Book (3). Share Certificate Book (4). Share Transfer Book (5). Debenture Interest Book (6). Director's Attendance Book (7). Dividend Mandate Register (8). Share Warrants Register (9). Register of lost share certificates (10). Register of lost share certificates.
Statutory audit	**Special audit**
The Statutory Auditor is appointed by the Company in accordance with the provision of Section 224 of the Companies act. First Auditor is appointed within one month of incorporation of the Company.	Section 233A of the Companies act empowers the Central Government to appoint either any Chartered Accountant or the company's own auditor to conduct a special audit in certain circumstances.
Under Statutory audit, Auditors Report is submitted to the Shareholder at the Annual General Meeting.	Under Special Audit, auditors submit their report to the Central Government.
Dividend	**Interest**
Dividend is paid on preference and equity shares	Interest is paid on debentures and long term and short term loans/borrowings including fixed deposits.
A dividend becomes a debt only after it has been declared by the company.	Interest is a debt which like all debts is paid out of the company's assets generally.
Generally, Dividend is not declared and paid in case of loss.	Interest is paid even in case of loss.
Dividend is an appropriation of profits.	Interest is a charge on profits.

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Members' Voluntary Winding Up	Creditors' Voluntary Winding Up
A members' voluntary winding up results where, before convening the general meeting of the company at which the resolution of winding up is to be passed, the majority of the directors file with the Registrar a statutory declaration of solvency.	A creditors' voluntary winding up is one where no such declaration is filed.
In a members' voluntary winding up, the creditors do not participate directly in the control of the liquidation, as the company is deemed to be solvent	In a creditors' voluntary winding up, the company is deemed to be insolvent and, therefore, the control of liquidation remains in the hands of the creditors.
There is no meeting of creditors in a members' voluntary winding up.	In a creditors' voluntary winding up, meeting of creditors have to be called at the beginning.
In a members' voluntary winding up, the liquidator can exercise some of his powers with the sanction of a special resolution of the company.	In a creditors' voluntary winding up, he can do so with the sanction of the Court or the Committee of Inspection or of a meeting of creditors.
Winding up subject to the Supervision of the Court	**Voluntary Winding up**
In the case of winding up subject to the supervision of Court, Liquidator may be appointed by the Court.	In the case of voluntary winding up, Liquidator is appointed by the members / creditors and the Court has no role in this regard.
After commencement of winding up any transfer of shares/disposition of property can take place only with the permission of the Court in the case of winding up subject to the supervision of Court.	Transfer of shares/disposition of property in the case of voluntary winding up can take place only with the permission of the liquidator.
After commencement of winding up subject to the supervision of Court, any attachment, distress or execution against the company without the leave of the Court, is void.	However, it is not so in the case of voluntary winding up.
Limited Liability Partnership (LLP)	**Producer Company**
Suitable for partnership concerns set up by professionals viz. Charted Accountants, Company Secretaries etc. though anybody can join an LLP.	These companies are formed by the manufacturers, producers etc.
Two or more persons carrying on a lawful business.	Any ten or more individual producer or two or more producer institutions or their combination.
Limited to the Limited Liability Agreement.	Limited to the amount of unpaid share, held by them.
Appointment of directors is not required. Organization is run by the designated partners/partners.	Minimum five and maximum fifteen directors.
Capital contribution as given in the LLP agreement.	The share capital of producer company is divided into equity shares only.
May convert to other forms of business.	No conversion clause exists.

The word 'LLP' would form part of its name.	The word 'Producer Company Limited' would form part of its name.
Trust	**Bailment**
A trustee becomes the owner of the trust property.	Bailee does not become the owner of the bailed property.
The obligation of trustee is equitable.	The obligation of bailee is legal
A trust can be created both in respect of movable property as well as immovable property.	A bailment may be only in respect of movable property
In a trust, generally property doesn't come back to the author.	In a bailment, generally property comes back to the bailer
Agency	**Trust**
An agent has no title to the property.	A trustee is the full owner of the trust property.
An agent acts on behalf of the principal.	A trustee acts in his own right.
An agent is not personally liable, if he acts on behalf of the principle.	On the other hand, a trustee is personally liable.