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Legal and Ethical Issues Faced by the Start-Ups in India

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Enthusiast Businessmen who need to develop an innovative and problem-solving business model are said to be Startups. Startups have taken the world by storm with the emergence of the Silicon Valley Business. We can assume that the first Startups are Silicon Valley Businesses, for instance, Companies like International Business Machines (IBM) were founded in 1911, and since then it has been massive in the world.[1] Startups have brought in a surge not only in developed countries but also in developing countries as a result of betterment in technology advancement, business growth, and evolution in the fields of education. Innovative thinkers, Entrepreneurs, and investors have begun to be part of changing market trends. Regardless, the lack of a thriving business environment and a solid kickstart for startups in developing countries have reduced their effectiveness. This study aims to get aware of the toughest difficulties that business owners have while launching new products or services in the market that meet the requirements of customers and promote a thriving society. To put it subtly, this article gives insight into the significant difficulties a startup needs to overcome to thrive in a business. The study helps you understand the new-age businesses across the globe. The purpose of this case study is to describe the learning process and to know about entrepreneurship. To create a robust ecosystem or ecology in India and to provide greater opportunities for the nation's youth. The objectives of introducing start-ups, prerequisites, and the primary goal of the start-up are elaborated here.

Keywords: *entrepreneurship, start-up, developing nations, challenges.*

[1] David Einstein, 'IBM Forged Early Ties to Silicon Valley' (*Sfgate,* 30 November 1998) <https://www.sfgate.com/business/article/IBM-Forged-Early-Ties-to-Silicon-Valley-2975459.php> accessed 10 September 2022

INTRODUCTION

Innovation is the core of the economy at all times[2] and scales in a knowledge-based society Start-ups are small businesses that change the course of industries and business sectors of that industry, with innovative ways and technical changes that evolve the global business market. All the evolution of business, its funding process, and its growth is a strategic move. Start-ups are young and unique companies founded to develop unique products or services and create an impact with an intent to give back to society. Innovation being the key startup aims to provide solutions for deficiencies or shortcomings of the existing products or services or come up with something completely new and out of the blue making them better irresistible and irreplaceable for the industry.[3] Start-up is befitting for developing nations whose ultimate agenda for business is to create sustainable wealth and for the betterment of society in ways that can address industry issues.

Start-ups not only have untapped potential which can be in turn used for not only minting money but also to make a dent in society's standing on the global footing. Start-ups are essential to boost economic growth and increase productivity by bringing a boost to the youth. Start-ups are recognized as an engine of innovation.[4] Conventional harmony is that the start-ups are located within the developed country which can easily provide them with all the necessary resources. In India, the developing nation's start-up business has helped expedite the advancement of technology and foremost, has immensely impacted the locations they operate from. Thinking about how Microsoft remolded Redmond, Alibaba impacted Hangzhou, and Infosys influenced Bangalore. All of these businesses started modestly, but as they grew, they

[2] Jordan Bar Am et al., 'Innovation in a crisis: Why it is more critical than ever' (*McKinsey*, 17 June 2020) <https://www.mckinsey.com/capabilities/strategy-and-corporate-finance/our-insights/innovation-in-a-crisis-why-it-is-more-critical-than-ever> accessed 10 September 2022

[3] Rebecca Baldridge & Benjamin Curry, 'What is a startup' (*Forbes*, 16 October 2022) <https://www.forbes.com/advisor/investing/what-is-a-startup/> accessed 16 October 2022

[4] Ömer Tuğsal Doruk & Ergül Söylemezoğlu, 'The constraints of innovation in developing countries: too many barriers to start-ups?' (*Cyberleninka*, 10 February 2014) <https://cyberleninka.org/article/n/1055295> accessed 10 September 2022

completely changed the places where they operated and have put them on the global map. By providing work chances to both seasoned experts and emerging professionals, they enhanced employment trends Wherein, there is a misconception that start-ups can begin in only developed countries, whether it's developed, developing, or underdeveloped start-ups can operate anywhere, in a way it can benefit both the countries with the greatest necessity and majorly provide the biggest breakthrough. Start-up innovations, the creation of new employment, and the commencement of competitive dynamics are fundamental to the business environment.

FAILURE OF STARTUPS WITHIN THE FIRST FIVE YEARS

Did you know that 90% of new-aged businesses fail within the first five years? Have you wondered why? [5] The tide of entrepreneurship is at an all-time high and is believed to go even higher. Today's entrepreneurs may find it both simple and complex to launch a business setup because of rising globalization and digitization. On one side, there are so many problem-solving mechanisms at your disposal that can help us understand and advance. Wherein on the other side, numerous traps are challenging us at every step that need to be avoided while starting a business from scratch. Businessmen need to obtain liquidity, create a growth plan, and strategic planning, hire key employees and work out the technicalities like shares for partners, investors, and stakeholders, and plan for the long run. It takes a lot of work to make a start-up successful. Start-up businesses in underdeveloped nations need different resources than those in wealthy nations.

The majority of the time developing countries' marketplaces are devoid of the benefits and advantages of developed ones, such as infrastructure varied industrial growth, and diversified market conditions. Such barriers and underlying structural issues reduce the energy of entrepreneurship. But the difficulties shouldn't be feared. The success of a start-up is correlated to an entrepreneur's capacity to identify possibilities and overcome market obstacles. Founders need more resources, advisers, and knowledge to assist them in developing the firm so that the

[5] Tom Eisenmann, 'why start-ups fail, It's not always the horse or the jockey' (*HBR*) <https://hbr.org/2021/05/why-start-ups-fail> accessed 10 September 2022

operation and finances are more readily sustainable.[6] In developing nations, the market is extremely challenging compared to developed and pronounced centers like Silicon Valley, which offers the crucial structure needed for start-ups. The needs and difficulties faced by markets in emerging nations differ from those faced by markets in developed nations.

Therefore, the first step in assuring a start-up's success and long-term survival is to identify the difficulties particular to developing countries. To comprehend the difficulties that start-ups face on a day-to-day basis, an analysis of the barriers resulting from entrepreneurial situations in developing countries will be offered as part of this study. In other words, the goal of this research is to assess the influence of economic, political, social, and cultural aspects of entrepreneurship on the ecosystem and start-up innovation in developing nations by first identifying the key obstacles in each of the aforementioned domains.

LIFECYCLE OF START-UPS

No matter in which stage your start-up is, the business need funds, the crew satisfied, and the momentum going. If founders are aware of the varied criteria at each stage of fundraising, Founders can confidently approach investors and lay out a clear-cut road map for what each party will benefit from this business exchange. You may get started by following the five steps indicated below:

Bootstrapping is a way of life in Entrepreneurial organizations.[7] At the preliminary stage, the founders start a series of initiatives on their own to transform their idea into a successful company, weigh a higher level of risk, works on the vision, assemble a team, spend their fortune, and solicit support from friends and family. Bootstrapping is a strategy for developing a

[6] 'Business Incubators: Pros and Cons' (*Accion Opportunity Fund*) <https://aofund.org/resource/business-incubators-pros-and-cons/> accessed 10 September 2022

[7] Alejandro Cremades, ' Pros and cons of Bootstrapping start-ups' (*Forbes*, 13 January 2019) <https://www.forbes.com/sites/alejandrocremades/2019/01/13/the-pros-and-cons-of-bootstrapping-startups/?sh=547b0a45273d> accessed 10 September 2022

successful start-up business without the aid of outside funding from angel investors and venture capitalists.[8]

Seed Fund is the prior investment in start-up businesses that usually come from seed funding. Friends and family, crowdsourcing, credit cards, and own fortune are some sources that are used.[9] In the absence of aforesaid financial sources, seed accelerators like Y-combinator, TechStars, and 500 start-ups are some viable alternatives. Accelerators invest in your business and also in your vision and ability to create an impactful solution for potential investors.[10] Angel Investors invest when start-ups need an hour an expansion and you need to scale or raise funds for product development, marketing or to expand resources to maintain the momentum. Angel investors vary from other investment organizations like venture capital firms and should be handled as such when seeking funds. [11]Venture Capital financing might give the means to expand Company's market, Customer reach, and marketing initiatives to bring in more and more consumers.

Start-ups currently are either profitable or might benefit from such financing techniques. At this stage, Many Venture capitalists are managing other people's funds in such events it's their responsibility to invest wisely in companies that are guaranteed positive returns on investment for their clients. [12]Mezzanine Financing and Bridge Loans are_When Start-ups are expanding and use the product that is currently on the market to scale rapidly, even when the business is not yet profitable, at that time, the cash obtained will be used for entering new markets, pursuing mergers and acquisitions, or ready for an IPO (Initial Public Offering). Investors want to see a clear path toward the road to profits or returns on their investments.[13] Going public is a choice which is referred to the fact that the public is now interested in investing in your business by purchasing shares, Start-up's ultimate goal is to issue an Initial Public Offering. An initial public

[8]Anita Campbell, 'What is Bootstrapping in Business?' (*Small Biz Trends*, 23 November 2020) <https://smallbiztrends.com/2013/11/what-is-bootstrapping.html> accessed 10 September 2022

[9] Hai Truong, '5 Stages of Start-up Funding' (*Tech Day*, 2018) <https://techdayhq.com/community/articles/5-stages-of-startup-funding> accessed 15 September 2022

[10] *Ibid*

[11] *Ibid*

[12] *Ibid*

[13] *Ibid*

offering (IPO) occurs when a start-up decides to sell its shares to raise money from the general public, including institutional investors as well as individuals (Initial Public Offering). Founders are not required to make their financial statements public. However, the business is required to provide the SEBI with information regarding financial accounts, the reason for seeking funds, etc.[14]

CHALLENGES

According to the Economic Survey 2021–2022, India is the third-largest startup environment in the world.[15] The trend of startups is rapidly expanding in India. With annual growth of 12–15%, Over 14,000 startups are present in the nation as of 2021–2022[16]. As the nation experiences its second wave of the startup boom, [17]entrepreneurs must learn a lot and develop a variety of skills to be successful in their businesses. The appropriate business techniques can help you overcome these obstacles. In India, startups still have to deal with numerous challenges like Funding, lack of skill, and lack of marketing strategies. Young and developing start-ups are usually created by more than one entrepreneur. They are in the early stages of development and have limited resources and expertise. Additionally, Startups are obligated to operate within the laws and regulations following compliance norms.

A. Ethical Challenges

The pragmatic and analytical styles of an individual influence business ethics. Furthermore, a company's moral responsibility may be revealed by how it handles challenges. Understanding current ethical issues and putting into place policies that successfully avoid them is crucial for this reason. In India, the corporate sector faces several significant ethical difficulties, including

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[14] *Ibid*

[15] Arun Padmanabhan, 'Economic Survey 2022: At least 14,000 new startups recognised in India, up 20 times in five years' (*Economic Times*, 31 January 2022) <https://economictimes.indiatimes.com/tech/startups/economic-survey-2022-at-least-14000-new-startups-recognised-in-india/articleshow/89243366.cms> accessed 20 September 2022

[16] *Ibid*

[17] Sourav Majumdar, 'The Second Wave of Start-ups' (*Forbes India*, 8 June 2017) <https://www.forbesindia.com/article/column/the-second-wave-of-startups/47175/1> accessed 20 September 2022

discrimination. Recently, several businesses have come under fire for not hiring a diverse workforce, which can often be a result of discrimination. Contrarily, discrimination can happen in businesses of all sizes.[18] In some situations, discrimination is not just wrong, but it is also illegal. Laws that forbid discrimination based on age, gender, race, religion, handicap, and other considerations protect employees.

The second major ethical issue that firms face is harassment, which is typically connected to sexism or racism. Another reason why some businesses lack diversity is that harassment can lead workers to quit the company early in addition to making the workplace unfriendly. Employees who experience harassment suffer long-term psychological, financial, and even career-altering effects.[19] Some business owners hire people they know or are connected to because of a personal relationship. Partiality can also occur when senior managers give some workers preferential treatment for no apparent reason.

These moral ambiguities in the workplace might demoralize other workers and reduce productivity. Additionally, there is a decline in job satisfaction, when employees feel they must put in more time or effort than others to be rewarded. '[20] According to the International Labor Organization, workplace accidents or illnesses result in the deaths of about 2.3 million people annually.[21] Workplace ethical problems could result from mental health conditions including stress and migraines.[22] Unwanted lifestyle choices, such as drinking alcohol, might be influenced by a weak compensation system, long hours, and low job satisfaction. According to

[18] Robin J. Ely & David A. Thomas, 'Getting Serious About Diversity: Enough Already with the Business Case' (*HBR*, December 2020) <https://hbr.org/2020/11/getting-serious-about-diversity-enough-already-with-the-business-case> accessed 20 September 2022

[19] Heather Mclaughlin et al., 'The Economic and career effects of Sexual Harassment on working women' (*SAGE E-Journal*, 10 May 2017) <https://journals.sagepub.com/doi/10.1177/0891243217704631> accessed 20 September 2022

[20] Ali Tatar, 'Impact of job satisfaction on organizational commitment' (2020) LAP <https://www.researchgate.net/publication/339401568_Impact_of_Job_Satisfaction_on_Organizational_Commitment> accessed 20 September 2022

[21] World Statistic, 'The enormous burden of poor working conditions' (*ILO*) <https://www.ilo.org/moscow/areas-of-work/occupational-safety-and-health/WCMS_249278/lang--en/index.htm#:~:text=The%20enormous%20burden%20of%20poor,6000%20deaths%20every%20single%20day> accessed 20 September 2022

[22] T. Rajgopal, 'Mental wellbeing at the workplace' (2010) 14(3) IJOEM <https://www.ijoem.com/article.asp?issn=0019-5278;year=2010;volume=14;issue=3;spage=63;epage=65;aulast=Rajgopal> accessed 20 September 2022

the ILO Declaration on Social Justice for a Fair Globalization, (2008) social security and fundamental values and rights at work are intimately linked, interdependent, and mutually supportive.[23] More than half of the workers in the private sector do not have access to the needed legal employment protections in the developing world, where regulations are frequently created by national governments.

B. Legal Challenges

Co-Founders Dispute: When starting your business with co-founders, each founder should decide on the specific working arrangement early on. Failure to do so may result in serious legal issues down the road; For Example, the famed Zuckerberg/Winklevoss Facebook dispute is a prime illustration of this.[24]

Non-Disclosure: A lot of companies are concerned that former and current employees would steal information, particularly client information that could be used against them by rivals. Legal repercussions follow the theft or leak of intellectual property or private customer information.[25] To prevent these kinds of ethical issues, businesses may establish required nondisclosure agreements with high financial penalties if they are broken.

Non-Compliance with Securities Laws: When Issuing Stock to Angel Investors, Family, or Friends Failure to comply with applicable securities laws requirements can result in significant financial penalties for the start-up's company's founders[26].

[23] 'ILO Declaration on Social Justice for a Fair Globalization' (*ILO*, 2008) <https://www.ilo.org/global/about-the-ilo/mission-and-objectives/WCMS_099766/lang--en/index.htm#:~:text=The%20International%20Labour%20Organization%20unanimously,the%20ILO's%20Constitution%20of%201919> accessed 20 September 2022
[24] Nicholas Carlson, 'How Mark Zuckerberg booted his co-founder out of the company' (*Business Insider*, 15 May 2012) <https://www.businessinsider.com/how-mark-zuckerberg-booted-his-co-founder-out-of-the-company-2012-5?IR=T> accessed 20 September 2022
[25] Geetika Rustagi, 'Indian law only determines the situations where privacy will be afforded legal protection' (*Livemint*, 05 September 2014)<https://www.livemint.com/Consumer/x32Rcm7l26gT1cRNMDPAMP/Indian-law-only-determines-the-situations-where-privacy-will.html> accessed 20 September 2022
[26] Richard Harroch, '15 Big Legal Mistakes Made By Start-ups' (*Forbes*, 1 February 2020) <https://www.forbes.com/sites/allbusiness/2020/02/01/legal-mistakes-made-by-startups/?sh=e0c194822a6b > accessed 20 September 2022

Having inexperienced legal counsel: To cut costs, start-up companies frequently hire inexperienced legal counsel, including attorneys who are friends or relatives of the business or who offer significant fee discounts. By doing this, the founders forego seeking the advice of knowledgeable attorneys who may assist them in avoiding several legal Pitfalls. [27]

Intellectual Property Issues: Founders and investors of the company have a vested interest in seeing that the business upholds its intellectual property rights and refrains from infringing those of others. When you created a novel object, technology, or service, necessary precautions need to be taken to safeguard your intellectual property.[28] Other Intellectual Properties like Copyright protect original works of authorship, including artwork, advertisements, books, essays, music, films, and software, among others. A Trademark is when a company uses a term, name, or symbol, to identify or set apart its goods from those of others.

Tax and revenue: In developing economies, it is challenging to create an effective system for collecting taxes without a highly educated and trained workforce. Making matters more difficult is the fact that taxpayers have a constrained capacity for account maintenance. Founders' choices are influenced by the tax system, in comparison to less successful entrepreneurs, the government claims a bigger portion of paybacks from successful entrepreneurs.[29] Wen and Gordon (2014) discovered in a recent study that tax progressivity affects people's choices between self-employment and paid employment. Fewer people will choose the former when tax progressivity is higher. [30]

Permit and Licencing: Start-up mandate licenses like Registration certificates, GST registration, FSSAI licenses, import and export codes, Udyog Aadhar registration, and many more.[31] This is

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[27] *Ibid*

[28] Peter Ackerman, 'The 4 Main Types of Intellectual Property and Related Costs' (*Innovation Asset*, 6 January 2017) <https://www.innovation-asset.com/blog/the-4-main-types-of-intellectual-property-and-related-costs> accessed 20 September 2022

[29] William M Gentry, and R. Glenn Hubbard, 'Tax Policy and Entrepreneurial Entry' [2000] 90 American Economic Association

[30] Wiji Arulampalam and Andrea Papini, 'Tax Progressivity and Self-Employment Dynamics' (*Oxford University Center for Business Taxation*, July 2018) <https://oxfordtax.sbs.ox.ac.uk/files/wp18-18pdf> accessed 20 September 2022

[31] Anubhav Gupta 'Legal and Ethical Issues Faced By the Start-Ups in India' (*Mondaq*, 17 February 2021) <https://www.khuranaandkhurana.com/2021/02/17/legal-and-ethical-issues-faced-by-the-start-ups-in-

crucial because businesses should spend their money on increasing productivity rather than paying fines and penalties. You might require the following permissions, licenses, or credentials depending on the sort of business permits for regulated enterprises that are specific (aviation, agriculture, alcohol, etc.) For instance, governing labor laws, and governing laws for intellectual property rights, in Organization for economic co-operation and development countries, take 9 days to comply with dispute resolution criteria whereas, In India, it takes 30 days to comply.[32] The complexity of government procedures makes it challenging for start-ups to register and obtain necessary licenses and permissions.

Privacy of Data and Abuse of technology: In Digital Era, Privacy is a myth.[33] Start-ups and other e-commerce businesses record and make use of user data, including search history. The greatest option for shielding start-ups from legal repercussions suggests that they avoid accessing users' private data without their consent. For example, if you downloaded and logged in to Health kart to look at some supplements and entered your name, address, and agree to the terms and conditions popup without reading them, what would happen to your details, such as your phone number and address? Additionally, you'll see advertisements based on the search terms you entered into search engines the next time you open Google Chrome or YouTube.

GOVERNMENT INITIATIVE FOR START-UPS

The government of India has taken several initiatives to motivate and encourage the growth of start-ups to promote entrepreneurship and employment opportunities. MUDRA lending program is the centerpiece initiative of Start-up India the program, introduced by the prime minister in 2016, is governed by Industrial Policy and Promotion aims to aid Indian business

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india/?utm_source=Mondaq&utm_medium=syndication&utm_campaign=LinkedIn-integration> accessed 20 September 2022

[32] Ashish Mittal, 'Indian Start-ups: Challenges and Opportunities' (*Economic Times*, 25 November 2014) <https://economictimes.indiatimes.com/small-biz/startups/indian-startups-challenges-and-opportunities/articleshow/45272839.cms?from=mdr> accessed 20 September 2022

[33] Prathameshsk, 'Digital privacy is a myth' (*Times of India*, 23 August 2022) <https://timesofindia.indiatimes.com/readersblog/like-to-call-my-blog/digital-privacy-is-a-myth-44442/> accessed 20 September 2022

owners in the development of 10 lakh new mobile app startups[34]. The first online platform that enables government-to-business (G2B) communication is the 2013-founded e-Biz Portal. Its main goal was to make the nation more hospitable to entrepreneurship[35]. Credit Guarantee Funds Trust for Micro and Small Businesses (CGTMSE) Under a partnership with SIDBI (Small Industries Development Bank of India), the government-established program enables business units to get collateral-free loans at a low rate of interest for a maximum of Rs. 100 lakhs to promote new enterprises and relaunch current ones. However, Non-Compliance in regards to these laws or unethical behavior within the organization or outside the organization may put start-ups in a difficult position, resulting in fines, penalties, revocation of license, and court proceedings.

CONCLUSION

Start-ups that manage to avoid these legal and ethical pitfalls and missteps have a better shot at success than those companies that fail to anticipate and plan. The main reason why start-ups fail is that they progressively encounter the issue of having a very small market for the service or product they developed. With numerous foreign investors targeting the Indian start-up market, the Indian start-up business has been on the rise over the past few years and is expected to expand more than ever. The path to success is not, however, as straightforward as it would seem. The majority of individuals believe that registering a domain name, creating a website, and utilizing social media are difficult, expensive, and time-consuming tasks. However, the unorganized and dispersed nature of Indian markets makes it difficult for start-ups to prosper. The majority of start-ups tend to stagnate and eventually fold. When it comes to generating the funds needed to run the business. The Indian telecom sector is expanding quickly, and both the rural and urban populations are becoming more mobile-connected. The government of India's digital push will advance data and connectivity to new heights.

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[34] 'Pradhan Mantri Mudra Yojana' (*Startup India*) <https://www.startupindia.gov.in/content/sih/en/government-schemes/micro-units-development-refinance-agency.html> accessed 20 September 2022

[35] Sujay Mehdudia, 'eBiz portal launched' (*The Hindu*, 29 January 2013) <https://www.thehindu.com/business/Industry/ebiz-portal-launched/article4354318.ece> accessed 20 September 2022

SUGGESTIONS

- To create a holistic startup ecosystem that provides opportunities to everyone with a diversity of abilities, a focus on multi-sector businesses is essential.
- The earliest success stories come from startups and the IT sector. Priorities should be established from policy to implementation for sectors including manufacturing, agriculture, information technology, health, etc.
- Non-tech startups should be carefully reviewed to keep local startups that are innovatively resolving local issues.

Ignorance is the main barrier to effective implementation. It was discovered that neither startup community members nor those wishing to join are aware of the benefits, advantages, and initiatives offered by the government.