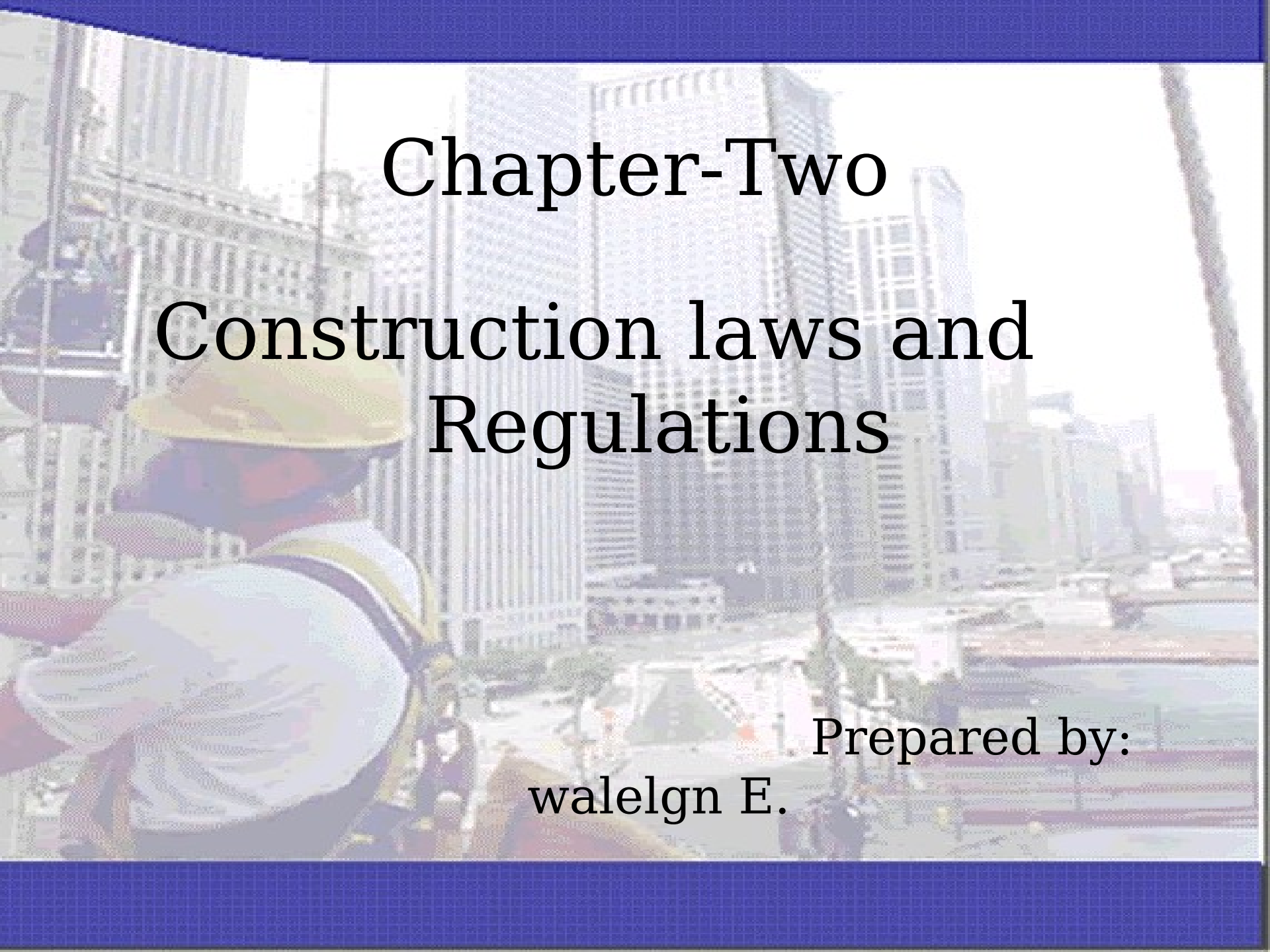
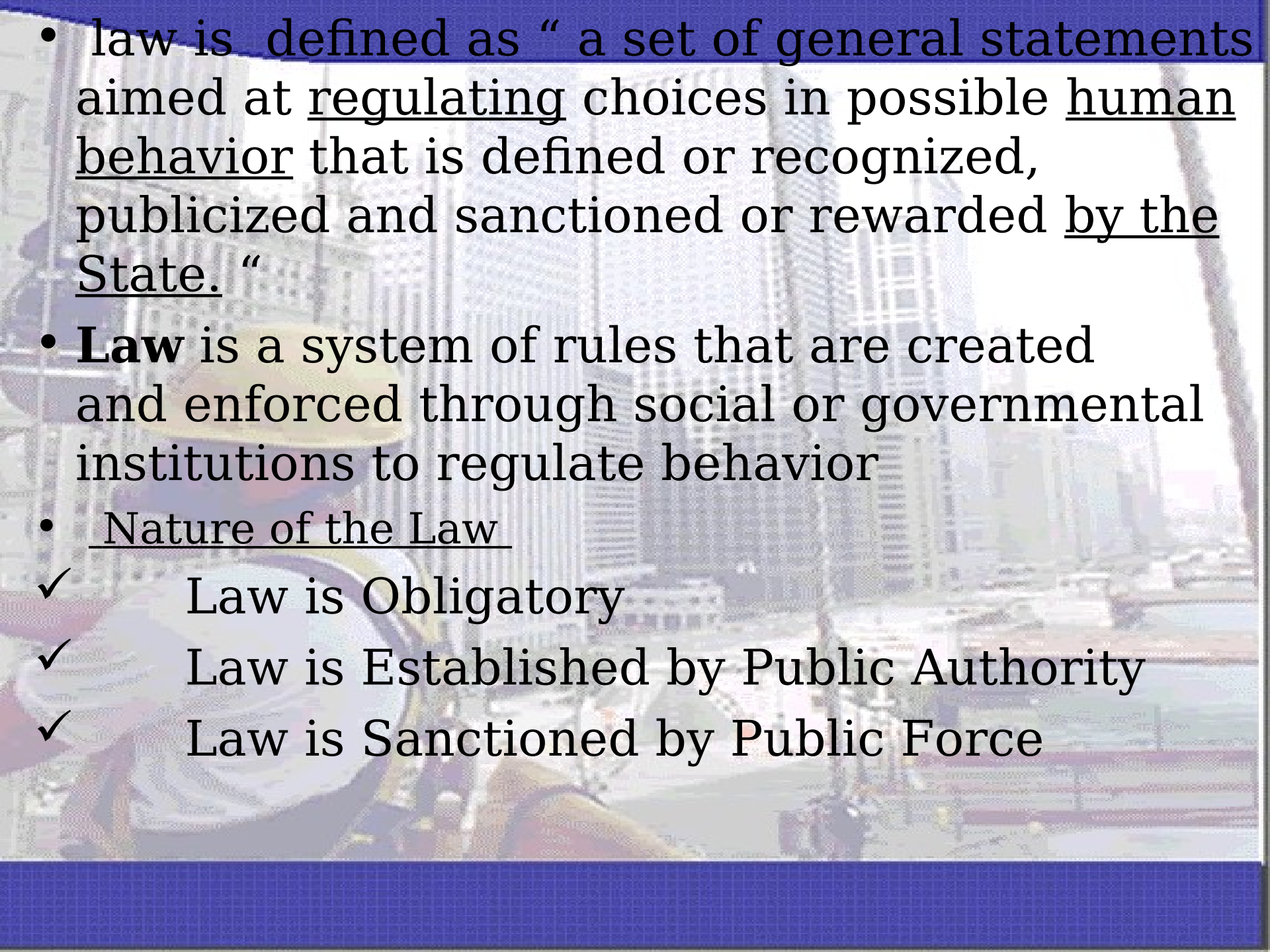


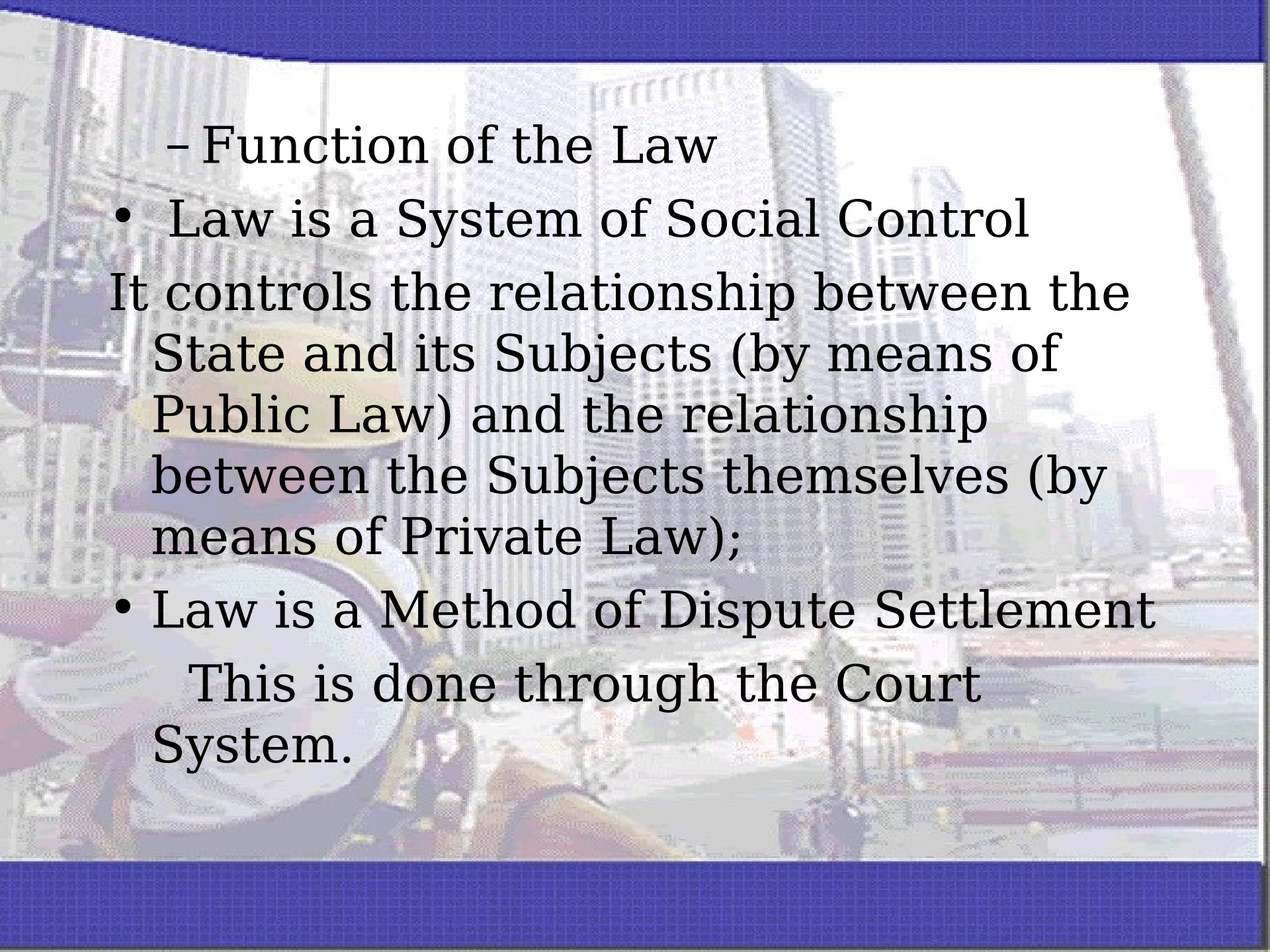


Chapter-Two

Construction laws and Regulations

Prepared by:
walelgn E.

- 
- law is defined as “ a set of general statements aimed at regulating choices in possible human behavior that is defined or recognized, publicized and sanctioned or rewarded by the State. “
 - **Law** is a system of rules that are created and enforced through social or governmental institutions to regulate behavior
 - Nature of the Law
 - ✓ Law is Obligatory
 - ✓ Law is Established by Public Authority
 - ✓ Law is Sanctioned by Public Force



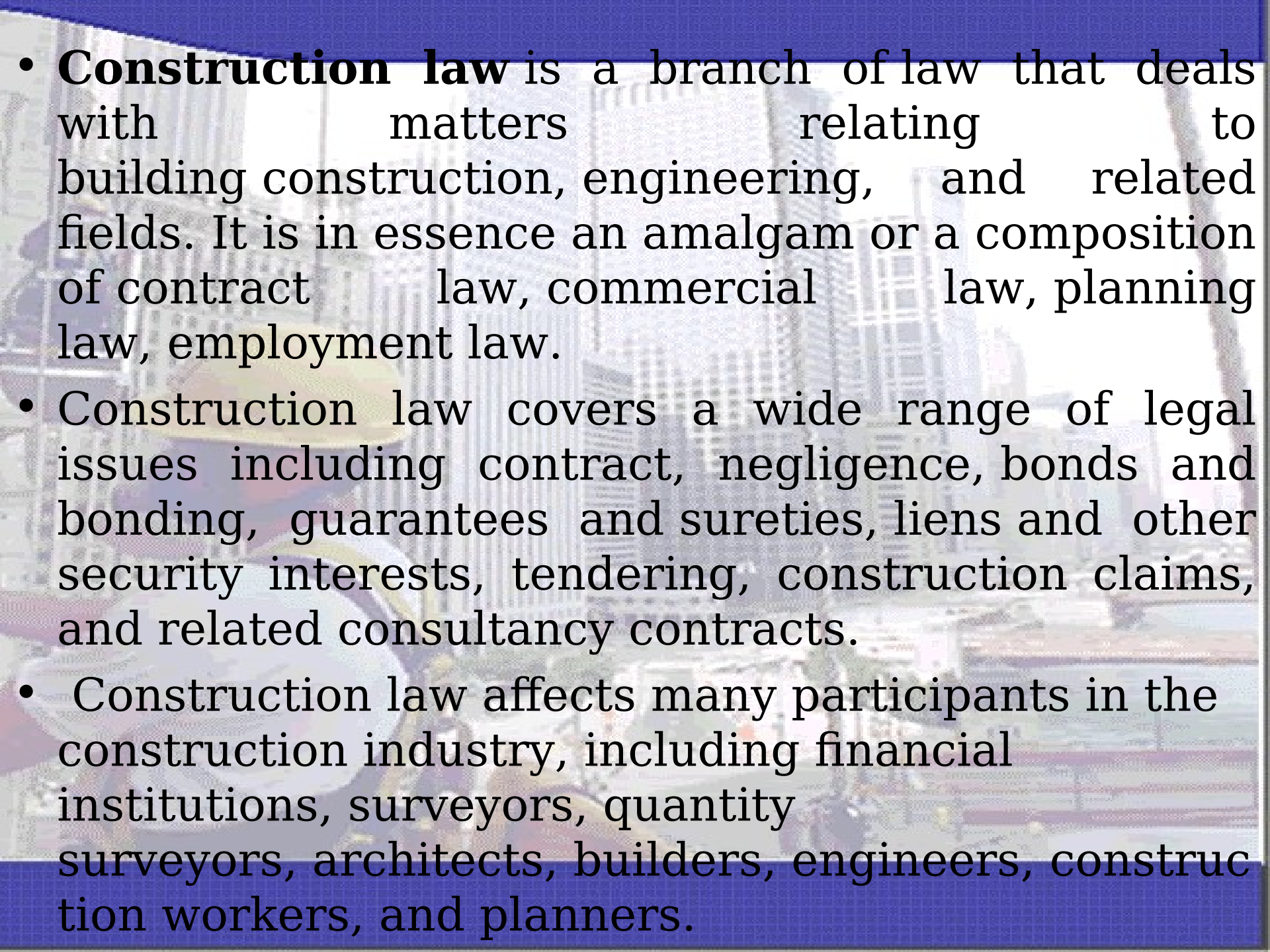
– Function of the Law

- Law is a System of Social Control

It controls the relationship between the State and its Subjects (by means of Public Law) and the relationship between the Subjects themselves (by means of Private Law);

- Law is a Method of Dispute Settlement

This is done through the Court System.

- 
- **Construction law** is a branch of law that deals with matters relating to building construction, engineering, and related fields. It is in essence an amalgam or a composition of contract law, commercial law, planning law, employment law.
 - Construction law covers a wide range of legal issues including contract, negligence, bonds and bonding, guarantees and sureties, liens and other security interests, tendering, construction claims, and related consultancy contracts.
 - Construction law affects many participants in the construction industry, including financial institutions, surveyors, quantity surveyors, architects, builders, engineers, construction workers, and planners.

Key Laws Relevant to Construction

- The Civil Code;
 - Especially Contract and Obligation related
- The Commercial Code
 - Law of Traders and Businesses
 - Law of Business Organizations;
 - Law of Bankruptcy & Scheme of Arrangement;
 - Law of Carriage & Insurance
- Civil Procedural Code
- Criminal Code
- Law of Finance
- Law of Taxation
- Environmental Impact Assessment Proclamation.
- Labor Law
- Procurement Laws; etc

CONSTRUCTION LAWS AND REGULATIONS

- Codes, laws, regulations govern construction works
- Standards, Specifications, Norms etc facilitate and standardize construction works
- Depending on needs, life styles, cultures, civilization status, etc the terms of these regulations and standards vary from country to country, province to province, municipality to municipality

Governance Frameworks

- The following six governance frameworks are more related to Construction Projects

1. The Laws and their Hierarchy plus Alignments

- Constitution, Proclamations, Regulations, Directives, Standards

2. The Public Regulatory Framework

- Public Authorities Establishment Laws (MoWUD, ERA, MoWR, ..)
- Physical Infrastructure Development related Laws (Building Laws, ...)
- Construction Environment, Health and Safety related Laws
- Construction Quality and Standards related laws
- Construction Companies Establishment Laws

3. The Construction Projects Framework

- The Delivery System
- The Contracting Method

Governance Frameworks

4. The Construction Procurement and Contract Framework

- Public Procurement related Laws
- Contract Regime of Laws

5. The Construction Security Framework

- Bonds, Guaranties and Warranties
- Retentions
- Insurances
- Remedial Rights

6. The Claim Administration and Dispute Resolution Framework

- Procedural and Substantive Requirements of Claim Administration
- Alternative Dispute Resolution Vs Litigation

Major regulations in construction

- In most cases, the following are the major issues covered in these systems:
 - Regulations and proclamations on who is responsible for specific sectors
 - Road sector: ERA
 - Power sector: EPCCO
 - Water sector: MoWR
 - Building sector MoWUD, municipalities, etc
 - Planning regulations,
 - Environmental protection regulations,
 - Waste and waste management and contamination regulations,

- 
- Health and safety regulations,
 - Bidding laws and regulations dealing with administration of disputes in construction,
 - Property ownership right laws,
 - Regulations on registered professionals and construction enterprises and administration of construction project quality,

Importance of the regulations and standards

- Reduce the **vulnerability of the built environment to risk & facilitate practices and protect stakeholders' interests**
 - **Improve the living standards and safety of the citizens**
 - ✓ **Urban planning regulations**
 - ✓ **Waste handling regulations**
 - ✓ **Building safety regulations and codes**
 - ✓ **Fire safety codes**

Importance of the regulations and standards

- Increase the efficiency and quality of the construction built environment
 - ✓ Professional licensing regulations,
 - ✓ Occupational health and safety regulations,
 - ✓ Material and machinery standardization
- Ensure fair trade within the sector and guarantee protection for investment
 - ✓ Bidding and tendering laws and regulations
 - ✓ Rules in contract administration
 - ✓ Property ownership rights

Importance of the regulations and standards

- Ensure uniformity and continuity of operation
 - ✓ Following a standard codes and procedure helps
 - ❑ Promote imports and exports of construction products and services
 - ❑ Transfer of Technology
 - ❑ Increase reliability to the industry to investors
 - ✓ Having a standard documentation and plan in licensing helps
 - ❑ Improves efficiency and avoids corruption and nepotism
 - ❑ Gives base for professional maintenance scheme and security access
- Ensure safety and the environment protection

CI related FDRE Laws

1. The FDRE Constitution

- The following seven provisions are major for physical infrastructure development:
 - Article 40: The Right to Property (1 & 2)
 - Article 41: Economic, Social and Cultural Rights
 - Article 43: the Right to Development
 - Articles 89 - 92: Economic, Social, Cultural and Environmental Objectives

2. Proclamations

- The following proclamations are major for physical infrastructure development:
 - Civil Code: The Contract Regime of Law
 - Commercial Code: the Business Regime of Law
 - FDRE Financial Law (Proc. No. 648/2009)
 - FDRE Building Law (Proc. No. 624/2009)
 - FDRE Government Procurement and Property Administration Law (Proc. No. 649/2009)
 - Commercial Registration and Business Licensing Proclamations (Proc. Nos. 650/2010)

CI related FDRE Laws and Facilitating Documents

- Environmental Impact Assessment Proclamation (No. 299/2002)
- Environment Pollution Control Proclamation (No. 300/2002)
- Labor Proclamation (377/2003)

• Regulations

- Commercial Registration and licensing Regulations (No. 13/1997)
- Investment incentives and areas reserved for domestic investors regulation (No. 84/ 2003)
- Financial Regulations (Reg. No. 140/2010??)

• Rules

- Arbitration Rules

• Standards

- Ethiopian Building Codes of Standard, MoWUD 1995 (11)
- Ethiopian Construction Practice Norms (5)
- Standard Conditions of Contract for Civil Engineering

CI related FDRE Laws and Facilitating Documents

- **Standards**
 - Standard Instructions to Bidders, MoWUD 1995
 - More than 2000 standards, QSAE 2005
 - Request for Proposal for Construction Consultancy Services, BaTCoDA 1987
 - Standard Design Manuals, ERA 2002 & 2011
 - Standard Technical Specifications, ERA 2002 & 2011
- **Guidelines**
 - Project Formulation Guideline - Volume II, MoFED 2000
 - Guidelines for Business License Requirements, 2006
 - Contractor's and Consultant's Certifications and Professional's Registration, MoWUD
 - Construction Machineries Registration, MoWUD
 - Procedures for Building Construction Practices
- **Checklists**
 - Checklist for Building Design Services

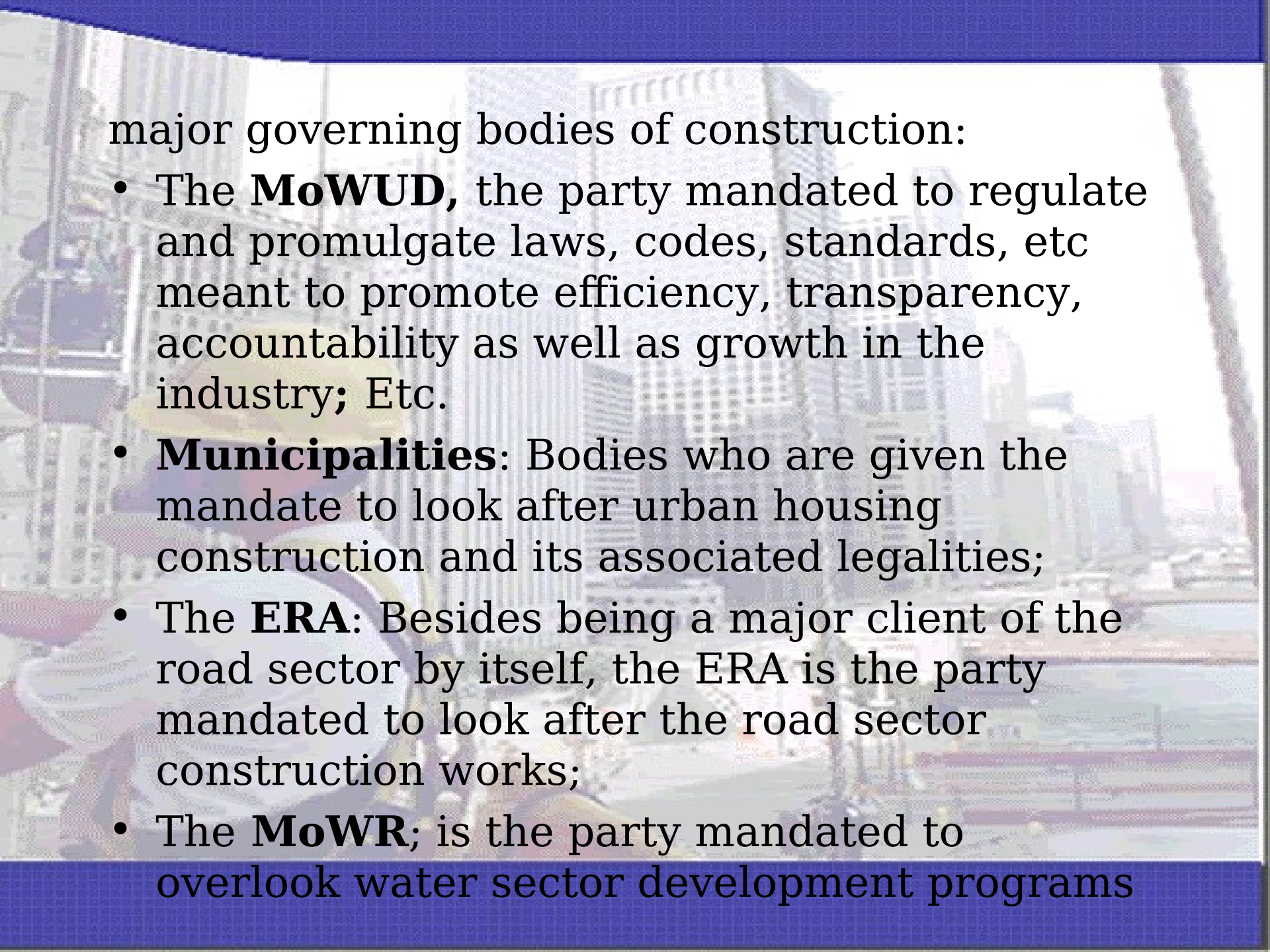
Construction Contracts

- Construction Contracts are mainly governed with:
 - Civil Code
 - Book IV: Obligation of Civil Code
 - Book V: Special Contracts (Titles XVI, XIX, XX)
 - Commercial Code
 - Book III (Title III)
 - Standard and Special Conditions of Contracts included in Contract
- Important Contract Articles and Some Laws:
 - Article 1953: Option to Substitute Third Party
 - Article 1976: Principle of Delegation
 - Article 2031: Professional Fault
 - Article 3039: Warranty Due by the Contractor
 - Article 3282: Warranty in respect of defects of construction
 - Article 315(2): Arbitration (Civil Procedure Code)
 - Some Public Body Establishment Proclamations:
 - Resolve Disputes Out of Court

Codes and Regulations

Ethiopian context

- Parliament
- Ministry of Infrastructure
 - Ministry of Works and Urban Development
 - ERA,
 - Ministry of Water Resources
 - Ministry of Mining and Energy
 - EEPCo
- Provincial infrastructure departments
- Municipalities



major governing bodies of construction:

- The **MoWUD**, the party mandated to regulate and promulgate laws, codes, standards, etc meant to promote efficiency, transparency, accountability as well as growth in the industry; Etc.
- **Municipalities**: Bodies who are given the mandate to look after urban housing construction and its associated legalities;
- The **ERA**: Besides being a major client of the road sector by itself, the ERA is the party mandated to look after the road sector construction works;
- The **MoWR**; is the party mandated to overlook water sector development programs

Major standards and regulations

- Procurement & Contract related:
 - Proclamation 430/2005
 - The PPA SBDs
 - The MWoUD's standard condition of contracts
 - The ERA's NCB's and ICB's documents
- International ones
 - **FIDIC procurement and contracting documents**
 - **the bank harmonized version of FIDIC**
 - **The world bank conditions of contracts**

Major standards and regulations

- Standard codes and specification related
 - The Ethiopian Building Code Standards
 - Standard technical specifications for building construction by MoWUD, BaTCoDA
 - Technical Specifications for Road Works (ERA)
- Internationals
 - BS, ASTM, AASHTO, ACI, Euro code, TRL specs, etc are also quite in common use.

Major standards and regulations

- Norms
 - The EBCA standard productivity, the BaTCoDA productivity standard and the MWoUD's Ethiopian Construction Productivity (buildings)

Major standards and regulations

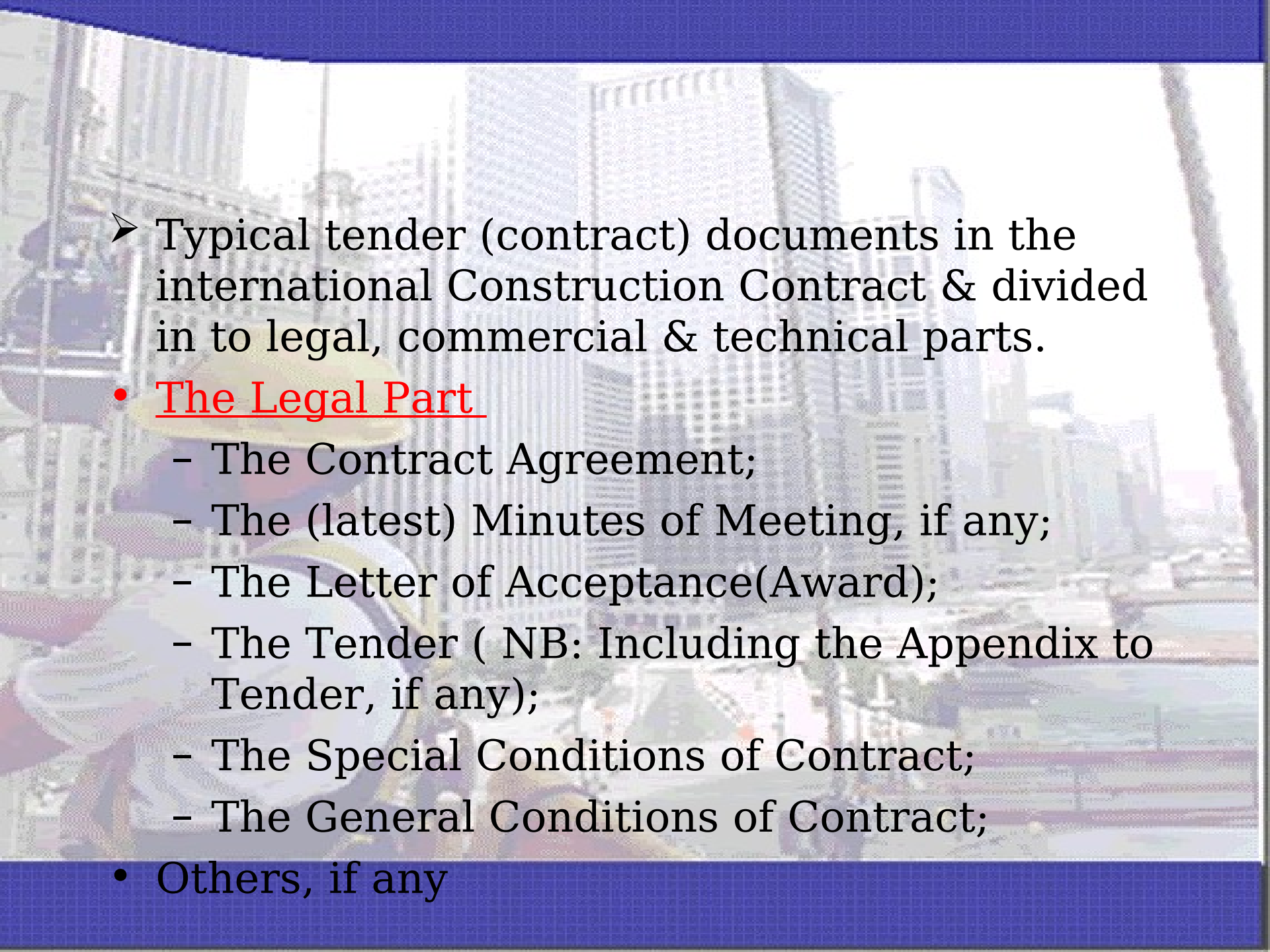
- Construction Services Practices and Ownerships
 - Ethiopian Building Proclamations
 - Building Permit Regulation (Addis Ababa)
 - The Property Ownership Law (the CIVIL Code and the Condominium proclamations)

Major standards and regulations

- Others
 - labor laws (employment laws)
 - Health and safety regulations,
 - Environmental protection acts, etc

International Law of contract

- different standard conditions of contract are developed by certain institutions or recommended by international financing or development institutions;
 - FIDIC is developed by an international federation of national association of independent consulting engineers.
 - Its full name is Federation International Des Ingenieurs-Conseils ;
 - It was founded in 1913 by five national associations of independent consulting engineers within Europe;
 - The objectives were to promote in common the professional interests of the member associations and to disseminate information of interest to members of its component

- 
- Typical tender (contract) documents in the international Construction Contract & divided in to legal, commercial & technical parts.

- The Legal Part

- The Contract Agreement;
 - The (latest) Minutes of Meeting, if any;
 - The Letter of Acceptance(Award);
 - The Tender (NB: Including the Appendix to Tender, if any);
 - The Special Conditions of Contract;
 - The General Conditions of Contract;
- Others, if any

- The Commercial Part

- The Performance Security Form;
- The Payment Security Form;
- The Advance Payment Guarantee Form;
- The Bid Security Form;
- The Insurance Forms;
- The Retention Money Security Form;
- Others, if any



The Technical Part

- The Technical Specifications;
- The Drawing;
- The Bill of Quantities;
- Schedule of Requirements, if any;
- Others, if any;

A close-up photograph of a pair of light-skinned hands, palms up, holding a small, rectangular piece of white paper with deckled edges. The paper is held between the fingers of both hands. On the paper, the words "Thank You" are written in a black, elegant cursive script. The background is a solid, dark color, making the hands and the paper stand out.

Thank You