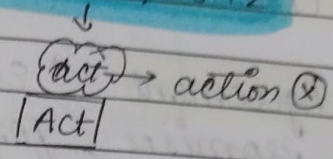
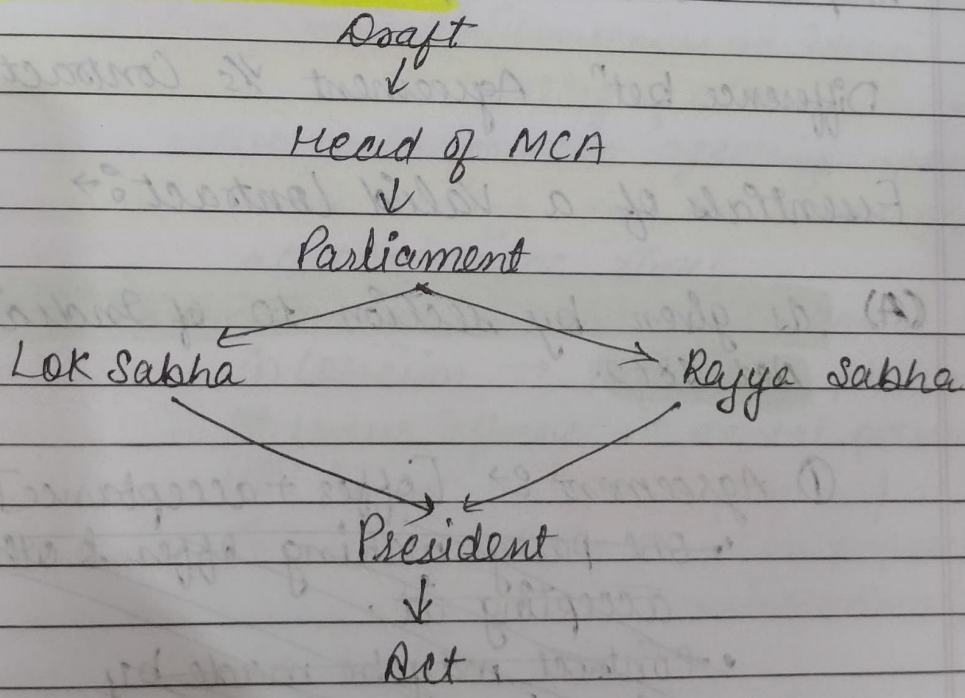


# The Indian Contract Act, 1872

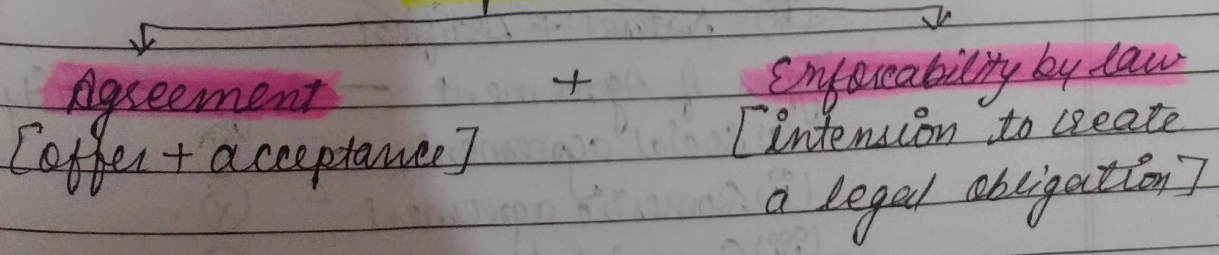
## Unit 1 :-



- date → 1<sup>st</sup> Sep 1872.
- Law = act + Rules + Case laws.
- Act → Section + Subsection + Clause + Sub-clause
- Applicable to whole of India
- How act is made →



## Contract





# **Contract** → "an agreement enforceable by law"

# **Agreement** → "Every promises and every set of promises, forming the consideration for each other"

# **Promise** → "When the person to whom the proposal is made signifies his assent there to, the proposal is said to be accepted. Proposal when accepted, becomes a promise."

# **Difference bet<sup>n</sup> Agreement & Contract**

# **Essentials of a valid Contract** →

(A) **As given by section 10 of Indian Contract Act 1872.**

(1) **Agreement** → [Offer + acceptance]

• one party making offer & other party accepting it.

• ~~Contract may be made by~~

~~(i) Natural Person~~

~~(ii) Artificial Person~~

~~(iii) Natural & Artificial~~

• Types of Agreement — Enforceability

(i) Social agreement — (X)

(ii) Domestic agreement — (X)

(iii) Commercial agreement — (✓) → Contract (✓)

• First essential of a valid Contract

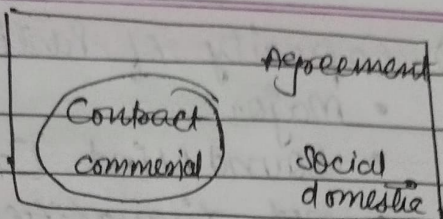


aggrieved → दुखी पार्टी [victim]

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\*



Every contract has an agreement, but every agreement may not become a contract. Thus, agreement is a broader term as compared to word contract.

## ② Free Consent → [Consensus ad idem]

meeting of minds (consent)

• two parties or more agreeing upon same thing in the same sense at the same time.

\* Consent is not free when.

(i) Coercion → physically pressure

(ii) Undue influence → mental pressure

(iii) Fraud → on purpose

(iv) Misrepresentation → not on purpose / unintentionally

(v) Mistake

→ If consent is obtained by above then contract is voidable at the option of aggrieved party.

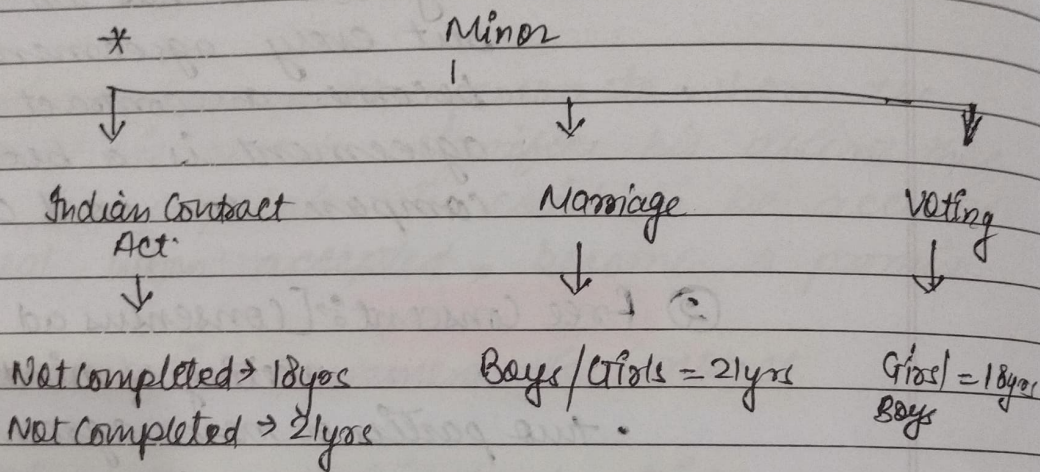
→ If by mistake — void



alien enemy → not a citizen of our country.  
Convict → मुर्खी  
foreign sovereign → supreme power (King)

### ③ Capacity of Parties :->

- Major
- Sound Mind [at the time of contract]
- not disqualified by law.



\* Disqualified by law :- Convict, insolvent, alien, enemy, foreign sovereign, etc

\* Not in sound mind → idiot; drunken,

### ④ Consideration :- [Quid Pro Quo]

Something in return

- can be in cash or kind

### ⑤ Lawful Consideration & Object :->

- Consideration / Object → lawful

### ⑥ Not expressly declared to be void :->

- illegal / void agreement is ~~void~~

murder,  
smuggling,  
killing

Agreement is  
restraint of  
marriage,  
trade etc.



Balfour vs Balfour  
Plaintiff (wife) sued (Husband) defendant

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[B] Not given by Section 10 but are also considered essentials:-

### ① Two Parties :->

- one party making offer and other party accepting it.
- at least two parties required:-
  - (i) 2 Natural Person
  - (ii) 2 Artificial Person
  - (iii) Natural + Artificial

### ② Intention to create legal obligation :->

- Only Commercial agreement.
- \* Social / domestic type of agreement are not enforceable.
- Parties must intend to create legal relationship

Balfour & Balfour.

### ③ Legal formalities :->

- A contract may be written or spoken
- In case of certain contract some other formalities to be complied with to make an agreement legally enforceable.

e.g. -> immovable property, insurance etc contracts.



~~not~~ vague → something that is not clear  
ceases → to stop

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#### ④ Certainty of Meaning →

- agreement must be certain & not vague.

#### ⑤ Possibility of performance →

- terms of an agreement should be capable of being performed.
- Impossible act → not enforced.

### # Types of Contract →

#### (A) On the basis of the validity →

##### ① Valid Contract → [Binding + Enforceable]

- an agreement when contains all the essentials of valid contract.

##### ② Void Contract →

- A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable.

##### ③ Voidable Contract →

- A contract which is able to be void at the option of aggrieved party.
- the agreement which is enforceable by law at the option of one or more parties thereto, but not at the option of the other or others is a voidable contract.

- Coercion, undue influence, fraud, misrepresentation  
→ able to be void → voidable



void agreement → void-ab-initio  
• contract is not invalid  
• missing essential.

#### ④ Illegal Agreement :->

- forbidden by law → not enforceable
- The contract which the law forbids to made.
- \* All illegal agreement are void but all void agreements are not necessarily illegal.

eeg → Murder



illegal  
to haike

Also the object is  
not lawful →  
then void agreement

#### Treasure by Magic

not  
illegal

But is void  
agreement hai  
Bcz → Possibility of  
performance not  
possible.

#### ⑤ Unenforceable Contract :->

- The contract which has some technical defect, but when verified then it is enforceable



formation → बना करे  
Conduct → Behaviour (action)

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## ③ On the Basis of the formation of Contract

### ① Express Contract :-

• when the terms of the contract is expressed by words or in writing.

- Express Contract [words are being used] → orally
- written

### ② Implied Contract :-

words (X)      Conduct (✓)

• An contract in which terms & conditions are not known.

- e.g. → Coolie wala exp.

### ③ Tacit Contract :-

words (X)      Conduct (✓)

• An Contract in which terms & conditions are known.

- e.g. → Auction Sale.

### ④ Quasi Contract :-

words (X)      Conduct (✓)

• It is created by law in certain circumstances

- e.g. → founder of lost goods.



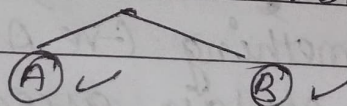
### ⑤ E-Contract :->

- When contract is entered into by two or more parties using electronic means. e-mails — e-Commerce contract

### ⑥ On the Basis of the Performance of the Contract

#### ① Executed Contract :->

- When both the parties have already completed their obligation



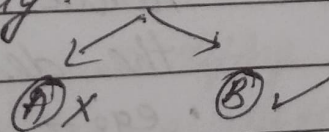
- Act done ✓

#### ② Executory Contract :->

- Act is not done x

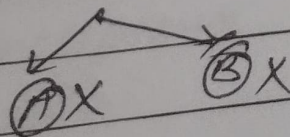
##### (i) Unilateral Contract :->

- When the obligation is not completed by one of the party.



##### (ii) Bilateral Contract :->

- When both the parties did not complete their obligation.





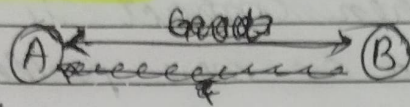
abstain - obtain  
not to do something.

assent - consent

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## # Offer / Proposal :->



[Offer Promise] [Person Making the offer]

Offeree

Offeror

Promisee

Promisor

Acceptor

[Offer Promise] [Person Making the offer]

[Offer Promise]

[Offer Promise]

[Offer Promise]

[The Person whom offer is given]

[Offer Promise]

- When person expresses to another his willingness to do (+ve act), or to abstain from doing something (-ve act) with a view (intention) to obtain assent (consent) of other party willingness with intention to obtain assent.

## # Classification of Offer :->

### ① General Offer :->

- An offer made to public at large and hence anyone can accept and do the desired act.

• e.g. -> Newspaper etc. / गन्धर्व

\* Carlill vs Carbolic Smoke Ball Co.

- Anyone performing the condition of offer can be said to have accepted the offer until offer is withdrawn.



Identical offer — exactly same (no diff'n)

② Special / specific offer :-

- When the offer is made to a specific [ascertained person, <sup>or group of persons</sup>] is it called special offer.
- offer is accepted by the person to whom offer is made.

Boulton vs Jones

③ Cross offer :-

- When two parties exchange identical offer in ignorance of time of each other. So, \* no contract come into picture. one of them should be accept the offer.

④ Counter offer :- [conditional acceptance]

- When the person to whom offer is made accepts the offer by modifying terms & conditions of offer.  
e.g. → Bargaining

⑤ Standing / continuing / open offer :-

- When the contract remain open for acceptance over a period of time.



#

## Essentials of a valid offer :->

① It must be capable of creating legal relations :->

- offer must be capable of being accepted in law & giving rise to legal relationship.

② It must be certain, definite & not vague :->

- If terms of offer are vague or indefinite, its acceptance cannot create any contractual relationship.

③ It must be communicated to the offeree :->

• Lalman Shukla Vs Grassi Sult

- offer communicated when offeree comes to know about offer

④ It must be made with a view to obtaining the assent of the other party :->

- offer must be made with intention to obtain assent (consent) :->

⑤ It may be conditional :->

- offer can be made subject to any terms & conditions by offeror.

⑥ Offer should not contain a term the non-compliance of which would amount to acceptance :->

-git ≠ Yes.

⑦ The offer may be either specific or general :->

- Offer can be made to either public at large or to any specific person.



mere statement → Sirf statement

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⑧ The offer may be express or implied →

- offer may be made either by words or by conduct.

⑨ Offer is different from:  
a mere statement of intention

(i) A statement of intention & announcement

(ii) Offer must be distinguished from an answer to a question

(iii) A statement of price is not an offer.

(iv) An invitation to make an offer or do business.

# What is invitation to offer →

Invitation to offer <sup>①</sup> → offer <sup>②</sup> → acceptance <sup>③</sup>  
Prospectus issue → applications → allotment

facts

eg. → ~~Cricket~~ Crane in Mall, auction sale.



Revoked = to take back. Absolute - exact (offer) & acceptance  
unqualified → uncondition (No condition)

### # Acceptance :-

- When the ~~performance~~ person to whom the proposal is made signifies his assent thereto, proposal is said to be accepted. The Proposal, when accepted, becomes a promise.

### # Relationship between offer & acceptance :-

Sir William Onson → Acceptance is to offer what a lighted match is to a train of gun powder.

- offer can withdrawn just before it is accepted
- Offer → Promise → Accepted → Cannot be revoked now.
- offer + Acceptance = Legal Relationship Create.

### # Legal rules regarding a valid acceptance :-

① Acceptance can be given only by the person to whom offer is made :-

- in case of specific offer, it can be accepted only by person to whom it is made.

② Acceptance must be absolute & unqualified :-

- Acceptance should not create any condition.
- Acceptance should be exact.

③ The acceptance must be communicated :-

- to conclude contract between parties, acceptance must be communicated in some perceptible form  
Brogden vs Metropolitan Railway

④ Acceptance must be in the prescribed mode :-

- Only in prescribed mode.



⑤ Time :->

• Acceptance must be given within specified time limit or reasonable time if not decided.

⑥ Mere Silence is not acceptance :->

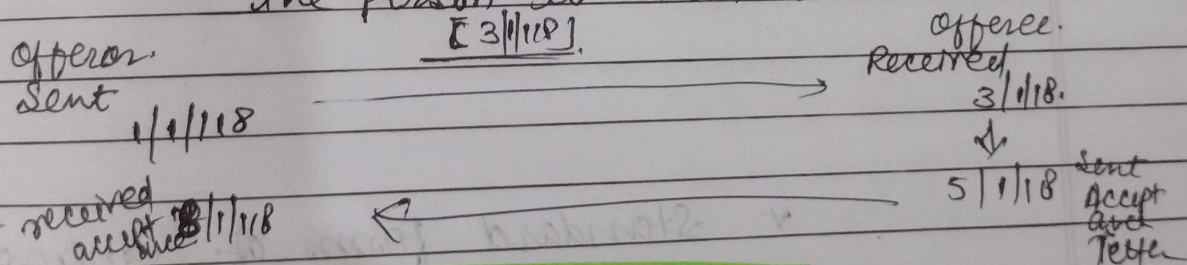
• Means acceptance should be communicated

⑦ Acceptance by conduct / Implied acceptance :->

# Communication of offer and acceptance :->

① Communication of offer :->

- जो offeror को offer के बारे में पता चलता है।
- When it comes to the knowledge of the person to whom it is made.



# ② Communication of Acceptance :->

(a) Mode of Communication :->

- (i) Communication by act (conduct)
- (ii) Communication by omission [जब कोई बात नही कही]

(b) when communication of acceptance is complete?



Acceptance by conduct  
Communication of Acceptance

As regard the offeror

- when it is put in the course of transmission [so, that it is out of the control of the acceptor]

As regard the <sup>offeror</sup> acceptor

- when it comes to the knowledge of the offeror

③ acceptance <sup>over</sup> by telephon / telex / fax

④ Communication of special condition

\* Standard forms of Contract



revocation → to take back

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## # Communication of Performance :-

## # Revocation of offer & acceptance :-

Offeror

Sent (1/1/18)

revocation

Before 5/1/18

offeree

received (3/1/18)

acceptance  
letter post 5/1/18

Revocation of offer ⇒ the offer can be revoked



revocation → to take back  
Precedent → condition पूरी नहीं करते तो No offer

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## # Modes of Revocation of offer :-

① By notice of revocation :-

② By lapse of time :-

③ By non-fulfillment of condition precedent :-

④ By death or insanity :-

⑤ By counter offer :-

⑥ By the non-acceptance of the offer according to the prescribed or usual mode :-

⑦ By subsequent illegality :-