Chapter - 2

INDIAN CONTRACT ACT, 1872

UNIT - 1

Nature of contract :-

CONTRACT LAW BEFORE ICA 1872

1. In ancient times :-

→ There was no specific law
→ They refers Hindu law sources like Vedas, Dharam shastras, Smritis, Shrutis etc.

2. During Maurya period :-

→ Contracts were in the form of bilateral transactions which were based on free consent on all the terms and conditions involved.

★ Bilateral transactions :

A bilateral transaction refers to an agreement or contract where both parties make promise and incur obligation towards each other

027-338 • WK 04

27 SATURDAY JANUARY 2018

DEC 2017

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3. During Mughal rule in India :-

→ Contracts were governed by Mohammedan Law of Contract.

In this law some words are used

Aqd : Conjuction
Ijab : Proposal
Qabul : Acceptance.

→ So formation of a contract according to Islamic law doesn't require any kind of formality, the only requirement is express consent of both parties on the same thing in same sense.

4. Hindu Law :-

28 SUNDAY

→ Compilation of numerous customs and works of Smritikaras who interpreted Vedas to develop the various aspect of Hindu law.

→ Acc to this minor, intoxicated person, old man or handicapped cannot enter into a valid contract.

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WK 05 029-336

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→ Acc to Narada Smriti → Someone of age upto 8 years is considered as an infant.

- Age from 8 to 16 years is considered boyhood and after 16 a person can enter into a contract.

5. During British period :-

→ Before the advent of the Indian Contract Act & the Englis Law was applied in the Presidency Towns of
- Madras
- Bombay
- Calcutta.

UNDER CHARTER OF 1726
ISSUED BY KING GEORGE TO EAST INDIA COMPANY ...

→ If one of the parties of contract is from other religion then the [law of the defendant] is to be used

" **Law of defendant :** The law of defendant encompasses the legal rights and responsibili of individuals accused in criminal or civil cases.

030-335 • WK 05

30 TUESDAY JANUARY 2018

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Main Topics :-

Law →
- Act
- Rules
- Amendment
- Case laws.

Indian contract Act :-

- Extends to whole in India
- Effect : 1 Sep 1872.

* CONTRACT [Sec 2(h)]

→ AN AGREEMENT
→ ENFORCEABLE BY LAW. } CONTRACT

* Agreement - [Sec 2(e)]

→ Every promise
→ Every set of promise] forming consideration for each other

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* Enforceability by law :-

→ Must be legal obligation
or
→ Intention to create legal relationship

↓

is enforceable by law.

Agreement = Offer / Proposal + Acceptance

Contract = Accepted Proposal / Agreement + Enforceability of Law.

↓

A contract will be formed when a person will follow all these

→ Offer → Acceptance → Promise → Consideratio → Agreement → Legally enforceable → Contract

And the process continues

032-333 • WK 05

01 THURSDAY FEBRUARY 2018

JAN 2018

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Difference [Agreement & Contract]

→ **Meaning :**

Agreement : Offer + Acceptance

Contract : Agreement + legal enforceability.

→ **Scope :**

Agreement : Wider Term
↓
Includes legal & social agreements

Contract : Narrow Sense
↓
Includes only legal agreements.

→ **Legal obligation :**

→ **Agreement** : May / may not create legal relation

→ **Contract** : Always create legal relation.

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02 FRIDAY FEBRUARY 2018

MAR 2018

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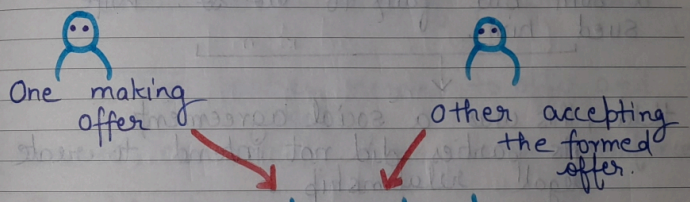
→ **Nature**

Agreement : All agreement are not contracts

Contract : All contracts are agreements.

Essentials of a valid contract
[NOT IN SEC 10]

→ Two parties →



→→→ **Case law :**

Case law : State of Gujrat vs Ramanlal S&
Dissolution of partnership, assets divided into partners. This is not sale.
Partners → Joint Owners. Thus no tax can be levied.

034-331 • WK 05

03 SATURDAY FEBRUARY 2018

→ Parties must intend to create legal relation

⇒ Intention to create legal relationship

By both the parties.

CASE LAW

Balfour vs Balfour.

Husband promises to pay wife every month a sum but fails to do so. Wife sued him.

↓

Held, this was a social agreements
→ As parties did not intend to create legal relationship.

04 SUNDAY

→ Other formalities to be complied with in certain cases.

- Contract of Insurance
- Immovable property contracts

→ Must be in writing, registered & stamped.

WK 06 • 036-329

05 MONDAY FEBRUARY 2018

→ Certainty of meaning :

Agreement must be
- Certain
- Not vague
- Indefinite

→ Possibility of performance agreement :

- Should be capable of performance.

↓

Two parties needed to offer and accept

(Bcz it can't be done itself or enforced)

Example :

→ Making dead person alive

↳ Impossible agreement

So this type of contract are not done.

037-328 • WK 06

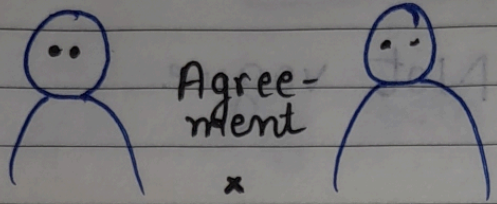
06 TUESDAY FEBRUARY 2018

JAN 2018

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Section - 10 Conditions :

• Offer and acceptance / Aggreement:



→ Lead's to consideration

↓

It should be done first.

• Free consent :

→ [Consesus ad idem]

Consent : same thing in same sense.

Free consent : So, when consent not caused by

- → Coercion
- → Undue Influence
- → Fraud
- → Misrepresentation
- → Mistake.

→ Voidable.

→ Void.

3. Capacity of parties :-

Section 11 → Competent to contract

- Major
- Sound mind
- Not otherwise disqualified by law.

Not competent →
- Minor (May / May be)
- Lunatic, idiot, Drunken person
- Alien enemy
- Convicts, foreign sovereigns
- insolvents.

4. Consideration :-

quid pro quo → Something in return

↓

Can be cash / kind.

5. Lawful consideration & object :

→ Consideration is unlawful if :
- → It's prohibited by law.
- → It would defeat provisions of law if fradulent.
- → Involves injury to person **OR** property of another.

039-326 • WK 06

08 THURSDAY FEBRUARY 2018

→ court regards it as immoral **OR** opposed to public policy

6. Not expressively declared to be void or illegal.

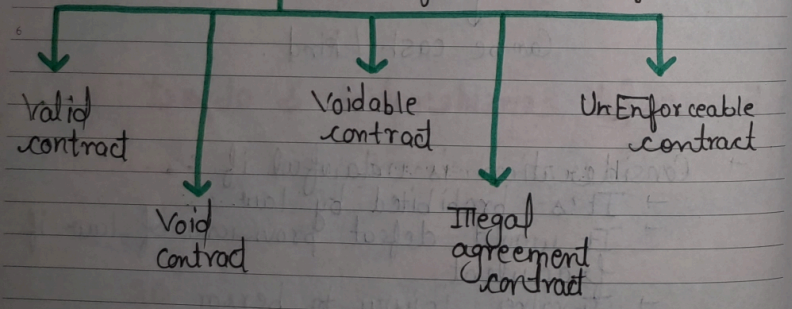
Illegal **OR** **VOID**

↓ ↓

Threat to commit murder making defamatory statements.

Restraint of trade, marriage, legal proceedings etc.

Types of contracts :
(On the basis of enforceability)



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1. Valid contract :
↳ Contains all essentials of valid contract

2. Void contract : [Sec 2(j)]
↳ A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable.

First valid → Then becomes void

Due to subsequent / supervening impossibility

3. Voidable contract :
↳ Enforceable by law at option of aggrieved party but not at option of others.

4. Illegal agreement / contract :
↳ Contract which forbids law

(All illegal agreements are void but all void agreements are not necessarily illegal)

041-324 • WK 06

10 SATURDAY FEBRUARY 2018

JAN 2018

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5. Unenforceable contract :

↳ Contract is good in substance, BUT Contains some technical defect i.e absence in writing, barred by limitation etc.

Parties cannot sue upon.

Difference b/w void and illegal agreement

1. Scope ÷

Void Agr : Not necessarily illegal

Illegal Agr : Always void

2. Nature ÷

11 SUNDAY **Void agr :** Not forbidden under law.

Illegal agr : Forbidden under law.

3. Punishment ÷

Void agr. : Parties not punished.

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MONDAY 2018 FEBRUARY 12

Illegal agr. : Parties → liable to punishment.

4. Collateral agreements :

Void agr : Contracts collateral to void may be valid

Illegal agr : Agreements collateral to illegal, always void.

Diff b/w Void contract / Voidable contact

- **Meaning :**

Void contract ÷

Contract (Void) → Uses to be enforceable by law.....
→ becomes void when it ceases to be enforceable.

- **Voidable contract ÷**

Voidable contract → Agreement enforceable by law at a option of one or more parties but not at option of others.

13 TUESDAY FEBRUARY 2018

Enforceability :

Void contract : Cannot be enforced at all.

Voidable contract : Enforceable only at option of aggrieved party.

Cause :

Void contract : Contract becomes void due to

Change in law, change in circumstances beyond contemplation of parties (Subsequently illegality or supervening impossibility)

Voidable contract :

Contract is voidable if consent of parties not free.

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WK 07 • 045-320

Performance of contract :

Void contract : Cannot be performed

Voidable contract : If aggrieved party doesn't avoid contract in reasonable time, contract valid

Rights :

Void contract : No legal remedy to partner.

Voidable contract : If not rescinded by aggrieved party, valid contract

Types of contract (on the basis of contract formation)

- Express contracts
- Implied contract
- Tacit contracts
- Quasi contract
- E-contract

048-317 • WK 07

17 SATURDAY FEBRUARY 2018

JAN 2018

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1. Express contracts :
Terms expressed by
- Words
- Writing

2. Implied contract :
- By action
- Conduct of parties
- Course of dealing

(Proposal / Acceptance made
→ Otherwise than words)

3. Quasi contracts :
- Not actual contract,
- Resembles contract
- Created by law under certain circumstances.

Eg : Obligation of finder of lost goods to return to true own.

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4. Tacit contract : Contracts inferred through conduct of partner.

Eg → ATM
→ Action sale — full of hammer.

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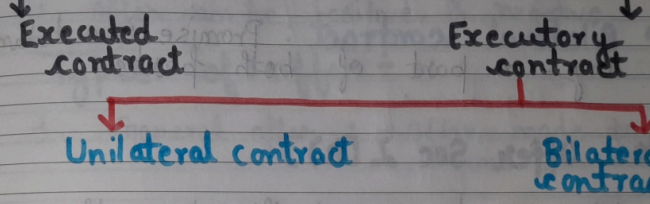
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5. E-contracts : Entered using electronic means → Email id etc.

Types of contract on the basis of performance of contract.



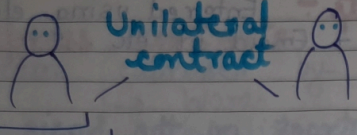
→ **Executed contract :**
- Act : → Done / Executed
- → Forbearance is brought in record.

→ **Executory contract :**
- Consideration is reciprocal promise
- To be performed in future
- Partially performed or whole unperformed.

→ **Unilateral contract :** One party performed other's outstanding

051-314 • WK 08

20 TUESDAY FEBRUARY 2018



Outstanding promise.

→ **Bilateral contract** : Promise is outstanding on part of both parties.

* Offer Sec 2 [(a)]

When one person signifies to another
this willingness
to do
to abstain from doing anything
with view
to obtain assent of other party
to such act or abstinence
he is said to make proposal.

* Essential of Proposal / offer :

1.
- Offeror - Offeree
- Promisor - Promisee
- Proposer - Acceptor

WK 08 • 052-313

21 WEDNESDAY FEBRUARY 2018

2. For valid offer, party making it must express willingness to do or not to do something.

3. Willingness must be with view to obtain assent of others.

4. Offer can be positive & negative.

Types of offer :

1. General offer : → Offer made to public.
→ Anyone can accept.

2. Special / specific offer :
Offer made to → Specific person / Ascertained person
It can be applied or accepted by only specied person to whom offer is made

3. Cross offer :
→ To parties exchange identical offers in ignorance of each others offer → Cross offer.
→ No binding contract.

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4. Counter offer :-

Offeree offers to qualified acceptance of offer i.e [makes modification or variations in term [of original offer]

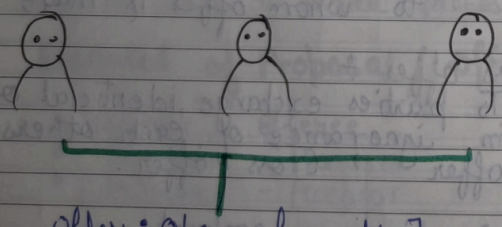
→ Counter offer / Conditional acceptance

Rejection of original offer.

5. Standing / continuing / open offer.

– Offers allowed to remain open for acceptance over period of time

Eg : Tenders invited for supply for goods



Offers : Open for all]

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* Essentials of valid offer :-

1. Must be capable of creating legal relations
2. It must be → Certain
   → Definite
   → Not vague
3. Must be communicated to offeree.

Case law : Lalman Shukla Vs Gauri Dutt.

[An acceptance of offer in ignorance of offer is not acceptance]

4. Must be made with view to obtain assent of other party.
5. May be conditional
6. Offer should not contain a term of non – compliance of which would amount to acceptance.
7. Offer : Specific or General
8. Offer : Expres or implied.
9. Statement of price is not offer
   Eg : → Advertising
   → Auction sales

24 SATURDAY FEBRUARY 2018

10. Offer different form
- Mere statement of intention
- Invitation to offer
- Mere communication of info
- An answer to question [Haney Vs Facie]
- Prospectus & Advertisement

Types of offer :- (Examples) [Main 2]

- **General offer :**
  - → Offer made to public at large
  - → Anyone can accept.

Case law : Carlill Vs Carbolic

25 SU **Special / Specific order.**

Eg : A gives offer to B that if we book a order he will get 500 Rs discount on it.

MAR 2018

WK 09 • 057-308

MONDAY 26 FEBRUARY 2018

Diff. between offer & invitation to offer :-

- Meaning :

Offer : Offer is willingness by offeror to be bound by it if other party accepts

Invitation to offer :- Party without expressing willingness proposes certain terms on which he is willing to negotiate

he does not makes offer but invites other person to make offer.

- Intention of parties :

Offer : Offeror has intention to be bound by it if accepted

Invitation to offer : Intentions of negotiating on terms.

- Sequence :

Offer : An offer cannot precede invitation to offer

Invitation to offer : Invitation to offer is precedent to offer.

27 TUESDAY FEBRUARY 2018

Acceptance [Sec2(b)]

When person to whom
Proposal is made
Signifies his assent.

Proposal → Accepted → Promise

Relationship b/w offer & Acceptance :-
(Sir William Anson)

Acceptance is to offer what a lighted match is to a train of gun powder.

Offer in itself
Can't create legal relationship
But becomes a contract as soon as it's accepted.

Means offer can be withdrawn just before it's accepted. i.e offer after acceptance.

It is too late to revoke it & both parties

28 WEDNESDAY FEBRUARY 2018

Legal rules regarding acceptance

1. Acceptance can be given only by person to whom offer made:

Specific offer : Accepted by only one person.

Case law : Boulton Vs. Jones (1857)

Bought a business from Brocklehurst. (Boulton bought)
Creditor of Brocklehurst is Jones
Placed an order with brocklehurst for supply of certain goods.
Boulton supplied the goods even order was not in his name.
Jones refused to pay.
So boulton and Jones has no contract bcz jones want to set off his debt against brocklehurst.

NO CONTRACT

01 MARCH 2018

General offer :

Accepted by any person who has knowledge of offer.

Case law Cartill v/s Carbolic Small ball Co. (1893)

2. Acceptance must be absolute and qualified

- Complete
- Unconditional

3. Acceptance must be communicated.

Case law : Brodgen vs. Metropolitan Railway Co. (187)

B a supplier sent at draft to the supply of coal to manager of Railway Co.

He signed it and wrote approved and put in the table so he will send. to make a formal contract

But it remained in the drawer

02 FRIDAY MARCH 2018

- So there was no contract as manager has not communicated for Acceptance.

4. Acceptance must be in prescribed mode.

Where mode of acceptance is prescribed] It must be accepted in that manner.

5. Time

→ Must be in specified time
→ If no time specified, within reasonable time.

6. Mere silence is not acceptance :

The acceptance of an offer cannot be implied from

- Silence of the offeree
- Or his failure to answer

Unless offeree has in any previous conduct indicated silence is evidence of acceptance.

062-303 • WK 09

03 SATURDAY MARCH 2018

Case law : Felthouse vs. Bindley (1862)

F offered to buy his nephew's horse saying,

If I had hear no more about it I shall consider the horse is mine.

Nephew didn't replied at all But told his auctioneer, (B) to keep the particular horse out of sale of his farm stock as he intended to reserve it for his uncle.

By Mistake, auctioneer sold the horse

Nephew sued F (Uncle

04 SUNDAY

[[Held, F could not succeed bcz no acceptance was communicated.]]

Mere silence is not accepted.

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05 MONDAY MARCH 2018

7. Acceptance by conduct / Or Implied acceptance :-

- Verbal → Word / Mouth
- Written
- By conduct / Performance

] Modes of Acceptance

☆ COMMUNICATION

[Offer & Acceptance → When complete ?]

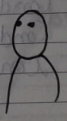
Offer (Sec 4) — When it comes to knowledge of person to whom it is made

(Sec 4) Acceptance

As against offeror (Proposer)

As against offeree (Acceptor)





06 TUESDAY MARCH 2018

Modes of acceptance

By act

would include expression of
- words (whether written or oral)
- Oral words (Msgs.)
- Positive acts or signs

so other person understand.

By omission to do something

- In this case

Conveyed by a conduct or by forbearance on the part of one person to convey his willingness

Communication by acceptance of conduct :

- Conduct to convey acceptance
- Conduct to agree for acceptance.
- Conduct for forming consideration

07 WEDNESDAY MARCH 2018

Eg : Offeror (Mr A) Letter dispatched 1st June 2021 —Offer→ Offeree (Mr B) Letter received by offeree on 4th April 2021

Letter of the acceptance dispatched on 6th April 2021 → Letter of acceptance reached Mr A

Communication completes on : 4th April 2021

Communication of acceptance complete

As against A (Proposer) ↓ On 6th April 2021

(A can't withdraw offer after posting of letter i.e after 6th April 2021)

As against B (Acceptor) ↓ On 9th April 2021

(B can't withdraw acceptance after 9th April 2021)

067-298 • WK 10

08 THURSDAY MARCH 2018

COMMUNICATION OF PERFORMANCE :-

(i) From the viewpoint of proposer

(ii) From the other point of acceptor himself

From the viewpoint of proposer

When the acceptance is put into a course of transmission
(When it would be completely out of the power of acceptor)

From the viewpoint of acceptor :

It would be complete when it comes to the knowledge of the proposer.

Communication of performance is required by offeree. → By the way of acceptance.

WK 10 • 068-297

09 FRIDAY MARCH 2018

COMMUNICATION OF REVOCATION
[OFFER & ACCEPTANCE]

I: Offeror (Mr A) letter of revocation of offer dispatched on 2nd April 2024 → Offeree (Mr B) letter of revocation of offer reaches 3rd April 2024

Revocation of offer.

Offer revoked on 3 April 2021 → B's acceptance not valid / can't accept offer

I: Offeror (Mr A) letter of revocation of offer dispatched on 2 April 2024 → Offeree (Mr B) letter of revocation of offer reaches 5 April 2024

Revocation of offer

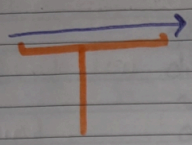
Offer revoked on 5 April 2021 : B's acceptance invalid / B can't accept offer

072-293 • WK 11

13 TUESDAY MARCH 2018

III Offeror (Mr A) letter of revocation of offer dispatched on 2 April 2021

Offeree Mr B (letter of revocation) of offer reaches 7th April



Revocation of offer

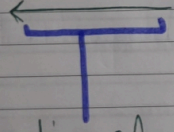
Revocation is invalid

→ Both parties bound by contract

★ Revocation of Acceptance :-

I: Offeror (Mr A) receives revocation of acceptance on 10th April 2021

Offeree (Mr B dispatches letter of revocation of acceptance on 7th April 2021



Revocation of acceptance

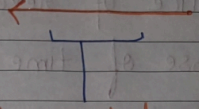
Acceptance revoked.

WK 11 • 073-292

WEDNESDAY 14 MARCH 2018

II. Offeror (Mr A) receives revocation of acceptance on 10th April 2021

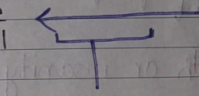
Offeree (Mr B) dispatches letter of revocation of acceptance on 7th April 2021



Acceptance can't be revoked. Contract valid

III Offeror (Mr A) receives revocation of acceptance on 10th April 2021

Offeree (Mr. B) dispatches letter of revocation of acceptance on 7th April 2021



Same condition will happen with other circumstances.

* When revocation of offer and acceptance can be done (Sec 5)

Offer

↓

Anytime before acceptance is complete as against proposer

Acceptance.

↓

Anytime before communication of acceptance complete as against acceptor (7th April 2021)

15 THURSDAY MARCH 2018

* Modes of revocation of offer :-

1. By notice of revocation
2. By Lapse of time.

Case law :-
Ramsgate victoria Hotel Co. Vs Montefiore

3. By non-fulfilment of condition precedent.
4. By death or insanity.
5. By counter offer.
6. By non-acceptance of offer according to prescribed or usual mode
7. By subsequent illegality.