

UNIT - II

Capacity to Contract & Free Consent

Indian Contract Act, 1872 • Sections 10–30

Modern Legal Education Series

What We Will Cover

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Capacity to Contract

Who can enter into a valid contract

02

Minor's Agreements

Effects, exceptions & landmark cases

03

Unsound Mind & Disqualified Persons

Legal position under the Act

04

Free Consent

Coercion, Undue Influence, Fraud, Misrepresentation, Mistake

05

Legality of Object & Void Agreements

What makes a contract illegal or void

06

Contingent Contracts

Contracts dependent on future events

Who is Competent to Contract?

Section 11 of the Indian Contract Act states that every person is competent to contract who is of the **age of majority**, of **sound mind**, and is **not disqualified** from contracting by any law to which he is subject.

1

Age of Majority

18 years (or 21 if guardian appointed). Contracts by minors are void ab initio.

2

Sound Mind

Capable of understanding the contract and forming a rational judgment about its effects.

3

Not Disqualified

Persons disqualified by law (e.g., alien enemies, insolvents, convicts in some cases).

Effects of Agreements with Minors

LANDMARK CASE

Mohori Bibee v. Dharmodas Ghose (1903)

Privy Council held that a contract with a minor is **void ab initio**. The minor cannot be forced to repay money advanced to him. **No estoppel** against a minor.

Void ab initio

Agreement is void from the beginning. No legal effect.

No Ratification

Minor cannot ratify the agreement on attaining majority.

No Estoppel

Minor is not estopped from pleading minority.

Beneficial Contracts

Contracts for necessities or benefit of minor may be enforceable against his property.

Restitution

Courts may order restitution under Specific Relief Act in certain cases.

Agency

Minor can be an agent but cannot be personally liable.

Who Else Cannot Contract?

Persons of Unsound Mind

Section 12 defines sound mind as the capacity to understand the contract and form a rational judgment.

Includes:

- **Idiots**
- **Lunatics**

Persons under intoxication

A person who is usually of unsound mind but occasionally of sound mind
can contract when of sound mind.

Persons Disqualified by Law

Certain persons are disqualified by specific laws:

- **Alien enemies** (during war)
- **Insolvents** (to some extent)
- **Convicts** (in certain jurisdictions)
- **Foreign sovereigns & ambassadors**
- **Corporations** (limited by their memorandum)

Such persons cannot enter into valid contracts while the disqualification continues.

Section 14 – Consent Must Be Free

Consent is said to be free when it is not caused by **Coercion**, **Undue Influence**, **Fraud**, **Misrepresentation**, or **Mistake**. If consent is not free, the contract is usually **voidable** at the option of the aggrieved party.

1

Coercion

Sec 15

2

Undue Influence

Sec 16

3

Fraud

Sec 17

4

Misrepresentation

Sec 18

5

Mistake

Sec 20-22

When Consent is Forced

COERCION — Sec 15

Committing or threatening to commit any act forbidden by the **IPC**, or unlawful detaining/threatening to detain property, with the intention of causing any person to enter into an agreement.

Key Points:

- Threat can be against any person
- Act must be forbidden by IPC
- Includes threat of suicide in some cases

Case: **Ranganayakamma v. Alwar Setti** –
Consent obtained by not allowing dead body to be removed until adoption was done →
Coercion.

UNDUE INFLUENCE — Sec 16

When one party is in a position to **dominate the will** of the other and uses that position to obtain an **unfair advantage**.

Presumed in:

- Real or apparent authority
- Fiduciary relationship
- Mental distress / temporary illness

Burden of proof shifts to the dominant party once relationship is shown.

Effect: Contract is **voidable** at the option of the weaker party.

False Statements & Their Effects

FRAUD — Sec 17

Any of the following acts done with **intent to deceive**:

- False suggestion of fact
- Active concealment of fact
- Promise without intention to perform
- Any other act fitted to deceive
- Act/omission declared fraudulent by law

Silence is not fraud unless there is a duty to speak.

Effect: Contract is **voidable**. Damages can also be claimed.

MISREPRESENTATION — Sec 18

Positive assertion of that which is not true, though believed to be true; or any breach of duty which gains advantage; or causing a party to make a mistake about the subject matter.

Key Difference from Fraud:

- **No intention to deceive**
- Made innocently

Effect: Contract is **voidable**. Generally no damages (unless special circumstances).

When Both Parties Are Wrong

Mistake of Fact (Bilateral)

Sec 20

Both parties under mistake as to a matter of fact essential to the agreement → Agreement is void.

Mistake of Fact (Unilateral)

Sec 22

Mistake of only one party does not make the contract voidable.

Mistake of Law

Sec 21

Mistake as to Indian law is not excusable. Mistake as to foreign law is treated as mistake of fact.

Common Examples

Mistake about existence of subject matter, identity of parties, nature of transaction, or quality of subject matter.

When the Object is Unlawful

Section 23: The consideration or object of an agreement is lawful unless it is **forbidden by law**, defeats the provisions of any law, is **fraudulent**, involves injury to person/property, or is **opposed to public policy**.

Agreements without consideration

Sec 25 – generally void (with exceptions)

Agreements in restraint of marriage

Sec 26 – void

Agreements in restraint of trade

Sec 27 – void (with limited exceptions)

Agreements in restraint of legal proceedings

Sec 28 – void

Uncertain agreements

Sec 29 – void if meaning is not certain

Wagering agreements

Sec 30 – void (but not illegal)

Contracts Dependent on Future Events

Section 31: A contingent contract is a contract to do or not to do something if some event, **collateral** to such contract, does or does not happen.

Essential Features

- Dependent on a future uncertain event
- Event must be collateral (not the performance itself)
- Enforceable only when the event happens or becomes impossible

Rules (Sec 32–36)

- Happening of event → enforceable
- Event becomes impossible → void
- Non-happening within fixed time → void
- Impossible events → void from beginning

KEY TAKEAWAYS

Summary of Unit-II

01 Capacity
Only persons of majority, sound mind and not disqualified can contract. Minors' agreements are void ab initio (Mohori Bibee).

02 Free Consent
Consent must not be caused by coercion, undue influence, fraud, misrepresentation or mistake (Sec 14).

03 Effect of Vitiating Consent
Coercion, undue influence, fraud & misrepresentation → voidable. Bilateral mistake of fact → void.

04 Void Agreements
Agreements without consideration, in restraint of marriage/trade/legal proceedings, uncertain or wagering are void.

05 Contingent Contracts
Valid contracts dependent on a collateral future uncertain event. Enforceable only when the event happens.

Thank You

“A contract is an agreement enforceable by law.”

UNIT-II | Indian Contract Act, 1872