

INDIAN CONTRACT ACT 1872

CHART BOOK

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LAW OF CONTRACT

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INTRODUCTION

A contract is an agreement enforceable by law.

The Law of Contract governs the formation, execution, and enforcement of contracts in India. The Indian Contract Act, 1872 is the primary legislation regulating contracts in India.

It came into force on 1st September 1872.



The Indian Contract Act majorly deals with the general principles and rules governing contracts.

The Act is divisible into two parts:

- The first part (Section 1-75) deals with general principles of the law of contract, and therefore applies to all contracts irrespective their nature.
- The second part (Sections 124-238) deals with certain special kinds of contracts, namely contracts of Indemnity and Guarantee, Bailment, Pledge, and Agency.



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Key Definition

Section 2(a) – Proposal	When one person signifies to another his willingness to do or abstain from doing anything, with a view to obtaining the assent of the other, he is said to make a proposal.
Section 2(b) – Promise:	When the person to whom the proposal is made signifies his assent, the proposal is said to be accepted. A proposal, when accepted, becomes a promise.
Section 2(c) – Promisor and Promisee	The person making the proposal is called the promisor, and the person accepting the proposal is called the promisee.
Section 2(d) – Consideration:	When, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or abstain from doing something, such act or abstinence or promise is called a consideration for the promise.



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Key Definition

Section 2(e) - Agreement	Every promise and every set of promises, forming the consideration for each other, is an agreement.
Section 2(f) - Reciprocal Promises	Promises which form the consideration or part of the consideration for each other are called reciprocal promises.
Section 2(g) - Void Agreement	An agreement not enforceable by law is said to be void.
Section 2(h) - Contract	An agreement enforceable by law is a contract.



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Consensus ad Idem –

"Consensus ad idem" is a Latin term meaning "meeting of the minds."

It refers to a situation where both parties agree on the same thing in the same sense—an essential condition for a valid contract under Section 10 of the Indian Contract Act, 1872.

If there is no mutual understanding about the terms, no valid contract is formed.

Free Consent – Section 14, Indian Contract Act, 1872

Consent is free when it is not caused by:

Coercion (Sec. 15):

Using threats or unlawful acts to force someone into a contract.

Undue Influence (Sec. 16):

Taking unfair advantage by dominating the will of the other party.

Fraud (Sec. 17):

Deliberately deceiving someone to enter into a contract.

Misrepresentation (Sec. 18):

Innocently making a false statement that induces a contract.

Mistake (Sec. 20-22):

Both parties misunderstand a material fact, making the contract void.



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Essential Elements of a Valid Contract

As per Section 10 of the Indian Contract Act, 1872:

“All agreements are contracts if they are:”

- Made by the free consent of the parties,
- Between parties competent to contract,
- For a lawful consideration,
- With a lawful object, and
- Not expressly declared to be void under the Act.

Agreements which are not Contracts

Agreements in which the idea of bargain is absent and there is no intention to create legal relations are not contracts.

These are:

- Agreements relating to social matters
- Domestic arrangements between husband and wife

Three consequences follow from the above discussion –

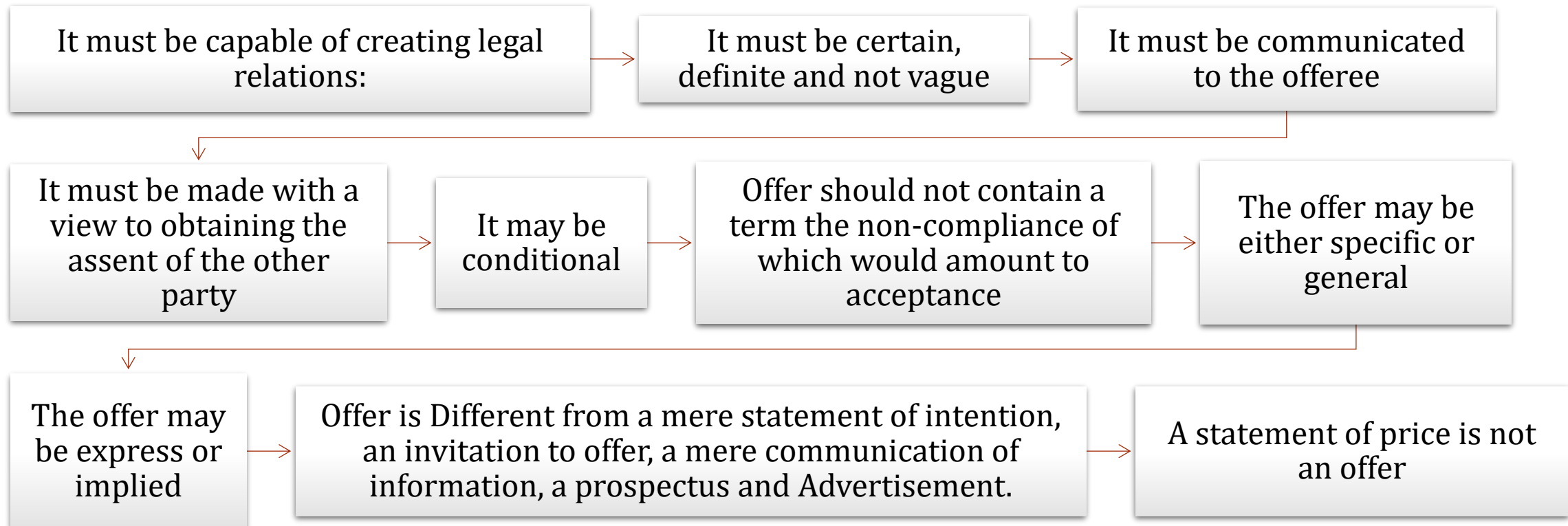
- To constitute a contract, the parties must intend to create legal relationship.
- The law of contract is the law of those agreements which create obligations, and those obligations have their source in agreement.
- Agreement is the genus of which contract is the specie and, therefore, all contracts are agreements but all agreements are not contracts.



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PROPOSAL / OFFER CONTRACT ACT, 1872





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Contracts over the Telephone

Contracts made over the telephone are treated the same as those made in person.

Acceptance must be clearly heard and understood by the offeror. If the line goes dead and the offeror does not hear the acceptance, no contract is formed. Only when the acceptance is audible and understood, the contract is considered complete.

Case: Kanhaiyalal v. Dineshwarchandra (1959)

When Consideration is Not Necessary (Sections 25 & 185)

- **Promise out of natural love and affection:**
If a written and registered agreement is made between close relatives out of love and affection, it is valid even without consideration.
- **Compensation for past voluntary services:**
A promise to compensate someone who has already done something voluntarily for the promisor is enforceable without consideration.
- **Promise to pay a time-barred debt:**
If a person promises in writing, and signs it, to repay a debt that is no longer legally recoverable, the promise is valid without consideration.
- **Contract of agency:**
As per Section 185, no consideration is required to appoint a person as an agent.
- **Gift actually made:**
Once a gift is given, it is valid and binding even if no consideration is involved.



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Flaws in a Contract

Void Agreement

An agreement that is not enforceable by law and has no legal effect from the beginning.

Voidable Contract

A valid contract that may be legally canceled or enforced at the option of one party.

Undue Influence

Undue influence occurs when one party uses their dominant position to unfairly influence the other into a contract.

Coercion

Coercion means forcing someone to enter into a contract by threatening or using unlawful force.

Illegal Agreement

An agreement that involves doing something unlawful or forbidden by law, and is therefore not enforceable.



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Void Contract - A contract that was valid at the beginning but becomes unenforceable due to certain reasons like impossibility or illegality.

Illegal Contract - A contract that involves doing something forbidden by law and is void from the beginning.

Contracts Uberrimae Fidei (Utmost Good Faith)

- These are contracts where parties must fully disclose all material facts.
- If any important fact is hidden, the contract becomes voidable.

Wagering Agreements

An agreement where two parties bet on an uncertain event, with the outcome depending purely on chance, is void in India.

**Why
Void?**

It lacks consideration and lawful purpose; no real intention to perform — hence void under Section 30 of the Indian Contract Act.



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Void Agreement

An agreement not enforceable by law and has no legal effect. Due to unlawful object, lack of consideration, or uncertainty in terms.

Contingent Contract

A contract that becomes enforceable only when a specific future uncertain event happens or does not happen.

Quasi-Contracts –

A legal obligation imposed by law to prevent unjust enrichment, even without a formal agreement.

E-Contract (Electronic Contract):

An e-contract is a legally valid agreement formed digitally, often using electronic signatures, governed by the Indian Contract Act, 1872 and supported by the IT Act, 2000 for authentication and enforcement.



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Law of Agency

A contract of agency is when one person (agent) is authorized to create contractual relations between another (principal) and third parties.

Creation of Agency

Express Agency

Created by an oral or written agreement; often formalized via a Power of Attorney.

Implied Agency

Formed through conduct, relationship, or necessity without a formal agreement.

Types of Implied Agency

Agency by Estoppel (Sec 237)

When a principal allows others to believe someone is his agent, he cannot deny the agency later.

Wife as Agent

A wife living with her husband is presumed to have his authority to purchase household necessities.

Agency of Necessity (Sec 188-189)

When a person is forced to act to protect another's property in urgent situations without prior authority.



CONTRACT OF INDEMNITY

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Contract of Indemnity – section 124

Meaning

A contract of indemnity is a contract in **which one party promises to compensate the other party for any loss caused** either by the conduct of the promisor himself or by the conduct of any other person.

Illustration

A promises to compensate B for any loss suffered by B due to a fire in B's warehouse. If the warehouse catches fire and B suffers loss, A is legally bound to compensate B.

Parties Involved

- **Indemnifier** – The person who promises to compensate the loss.
- **Indemnified** – The person whose loss is to be compensated.

Diagram

Indemnifier —————▶ Indemnified
(Compensation for loss)



CONTRACT OF GUARANTEE

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Contract of Guarantee – section 126

Meaning

A contract of guarantee is a contract to perform the promise or discharge the liability of a third person in case of his default.

Illustration

B takes a loan from A. C gives a guarantee to A that if B fails to repay the loan, C will pay the amount.

If B defaults, C becomes liable to pay A.

Parties Involved

- **Surety** – The person who gives the guarantee.
- **Principal Debtor** – The person whose liability is guaranteed.
- **Creditor** – The person to whom the guarantee is given.

Diagram

Surety

|



Creditor ←———— Principal Debtor



CONTRACT OF BAILMENT

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Contract of Bailment – section 148

Meaning

A contract of bailment is a contract in which goods are delivered by one person to another for some purpose, upon a contract that the goods shall be returned or disposed of when the purpose is completed.

Illustration

A gives his laptop to B for repair. After the repair work is completed, B is bound to return the laptop to A.

Parties Involved

- **Bailor** – The person who delivers the goods.
- **Bailee** – The person who receives the goods for a purpose.

Diagram

Bailor —————▶ Bailee

(Goods delivered for a specific purpose)



CONTRACT OF PLEDGE

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Contract of Pledge – section 172

Meaning

A contract of pledge is a special type of bailment in which goods are delivered as security for the payment of a debt or performance of a promise.

Illustration

A pledges his gold ornaments with a bank as security for a loan. The bank has the right to retain the gold until the loan is repaid.

Parties Involved

- **Pawnor** – The person who gives goods as security.
- **Pawnee** – The person to whom the goods are pledged.

Diagram

Pawnor —————▶ Pawnee
(Goods given as security)



CONTRACT OF AGENCY

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Contract of Agency – section 182

Meaning

A contract of agency is a contract by which one person employs another to do any act for him or to represent him in dealings with third persons.

Illustration

A appoints B as his agent to sell goods on his behalf. The contracts entered into by B with customers bind A.

Parties Involved

- **Principal** – The person who appoints the agent.
- **Agent** – The person who acts on behalf of the principal.

Diagram

Principal —————▶ Agent —————▶ Third Party



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Distinction between Contract of Indemnity and Contract of Guarantee

Contract of Indemnity

In a contract of indemnity there are only two parties: the indemnifier and the indemnified.

In a contract of indemnity, the liability of the indemnifier is primary.

The indemnifier need not necessarily act at the request of the debtor.

In the case of indemnity, the possibility of any loss happening is the only contingency against which the indemnifier undertakes to indemnify.

The indemnifier cannot sue third-parties in his own name, unless there be assignment.

Contract of Guarantee

In a contract of guarantee, there are three parties; the surety, the principal debtor and the creditor.

In a contract of guarantee, the liability of the surety is secondary.

The surety gives guarantee only at the request of the principal debtor.

In the case of a guarantee, there is an existing debt or duty, the performance of which is guaranteed by the surety,

The surety, on payment of the debt when the principal debtor has failed to pay is entitled to proceed against the principal debtor in his own right.