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UNDERSTANDING THE INDIAN CONTRACT ACT

~ *Meher Khan*

INTRODUCTION

The Indian Contract Act, 1872¹ is a statute that specifies the principles of formation, validity, and enforcement of contracts. This Act describes the meaning of a contract and its essentials like offer, acceptance, consideration, and intention to create a legal relationship. It classifies the contracts into various types and deals with the questions of validity and mode of execution and also specifies the legal consequences of a breach of contract. It is a fundamental statute that promotes commercial activities, supports equity, and provides legal machinery for regulating and enforcing contractual relationships in India. The courts follow the principles laid down here by this Act in deciding the questions relating to the formation and enforcement of contracts and in giving effect to agreements.

HISTORY OF THE INDIAN CONTRACT ACT

The Indian contract law in ancient India can be traced primarily from the Vedic and medieval periods from the writings of the ancient Dharmashastras, Vedas, Smritis and Shrutis which contain principles similar to those of contracts. The Vyavaharmayukha of Hindu law contains provisions relating to entering into contracts and the obligations and duties incurred therefrom. It lays down the rules and formalities that the contracting parties should fulfill². The Manusmriti and Narad Smriti admit the essentials of a contract and illustrate sales, debts, deposits, pledges and gifts as examples of contracts. They have emphasized the capacity of the contracting parties and have declared the disability of minors, of those who live by others or who are declared wrongdoers.

¹ Indian Contract Act, No. 9 of 1872, INDIA CODE (1872)

² Srishti Choudhary, History of the Indian Contract Act, 3 JUS CORPUS L.J. 572 (2022)

In the British era, there was no general code or body of principles governing contracts and the relations arising therefrom. The then-existing law was applicable according to the respective religious laws. The East India Company made regulations but there was no uniformity. The growth of trade and commerce needed a general code or law on contracts.

Therefore, in 1866, the Indian Contract Act was drafted and in the year 1872 it was enacted. This was modelled on the English law of contract and it is not exhaustive.

Later on, the 13th and 97th Law Commission reports recommended for further amendments to the Indian Contract Act to cope with the emerging situations. The 13th Law Commission report pointed out that there is no general principle governing the law of contracts and recommended for the clear enunciation of the principle and suggested amendments to the sections relating to consideration to enlarge the principle of estoppel and to recognize prospective consideration.

ESSENTIALS OF CONTRACT

- I. Offer and Acceptance (Consensus Ad Idem): According to the article, for a contract to be valid, one party must make an offer which is definite and unambiguous while the other party accepts it without any ambiguity and which expression shows that the two have come together in terms of their thoughts about what constitute the agreement.³
- II. Intention to Create Legal Relations (Animus Contrahendi): Agreements entered into by contracting parties should be legally binding in nature and create obligations enforceable at law such that they are not mere acts of friendship or social relationships.
- III. Lawful Consideration (Quid Pro Quo): The trade-off of lawful consideration involving valuable items like money, promises to act or refrain from acting, as well as goods or services cannot be avoided as this is a sine qua non whereas any other consideration falling under illegal, immoral or against public policy would nullify the contract.
- IV. Capacity of Parties (Locus Standi): This provision stipulates that it is important for parties involved in a contract to have legal capacity so they know what they are getting themselves into; hence having a sound mind, no legal disqualification and attaining a majority age.
- V. Freedom of Consent: To create a valid contract, the agreement between parties must be made out of free will and without any element of fraud, coercion, or undue influence that could make it void.
- VI. Legality of Object: The object or purpose of the contract should not contravene any statutory provision, moral principle, or public policy

³ Dhivyalakshmi T., A Brief Introduction to Contract and Its Types, 1 ILE Contract L. Rev. 1 (2023)

- VII. Certainty: All terms of a contract should be clear with no confusion to guarantee understanding by the parties concerned otherwise the agreement becomes unenforceable.
- VIII. Legal Formalities (Solemnitatis): Some types of contracts are required to satisfy certain legal formalities including being written down or registered as provided for in an Act while others must meet some other particular requirements all of which if not complied with may affect their enforceability and validity according to law.

THE INDIAN CONTRACT ACT

Section 2(h)⁴ – It is defined by section 2(h) that “contract” is “an agreement enforceable by law.” It shows two essential elements; which are ‘agreement’ and ‘enforceability.’

Agreement:

According to Section 2(e), an "agreement" is "every promise and every set of promises, forming the consideration for each other."

2. The recipient completely comprehends the proposal.
3. The recipient assenting to the proposal.
4. After it is accepted, a promise is formed thereby.
5. An agreement consists of a pair of reciprocal promises.

Enforceability:

For an agreement to be enforceable at law as a contract, it must be able to impose binding legal obligations on the parties involved within limits recognized under law. For instance, if there was a contract to sell a bicycle for an agreed price, it will only become enforceable by law thus creating legal rights and obligations among the parties concerned.

Void and Voidable Contracts:

- Legally unenforceable
- Maybe affirmed or rescinded at the option of one part

Express and Implied Contracts:

- Stated explicitly
- Conduct inferred

⁴ Indian Contract Act, No. 9 of 1872, §§ 2(h), 2(e), 2(b), 15, 16, India Code (1872)

Offer and Invitation to Offer:

- Definite proposal to accept
- Solicits proposals for negotiation

Acceptance:

- Must be absolute, unqualified, communicated before offer lapses

Revocation:

- Offer revocable before acceptance
- Acceptance revocable before communication

Privity of Contract:

- Only contracting parties can enforce

Vitiating Factors:

- Coercion (Section 15): Illegal compulsion
- Undue Influence (Section 16): Domination to gain advantage

Standard Form Contracts:

- Pre-determined terms with minimal negotiation

Remedies for Breach:

- Damages: Compensation for loss
- Rescission: Cancellation with restitution

CONCLUSION

The Indian Contract Act, 1872, is a major piece of legislation inherited from the British that governs contracts and agreements in India. It provides prerequisites for forming a valid contract, curbing unfair terms imposed by one party upon another, and giving guidelines where breaches occur. This Act aims to balance rights, create enforceable legal obligations, and facilitate equitable transactions. It continues to be a fundamental legal framework governing contractual relationships and serving as safeguards to contracting parties across the globe including India.