



# The Indian Journal for Research in Law and Management

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## Types of Agreements: Void, Voidable and Illegal.

### Introduction

In this contemporary world, we have agreements in our day to day lives. Whether you're paying for your grocery at a shop, you take a taxi to go somewhere or taking a loan from a bank, we enter into agreements. Similarly, we enter into various agreements daily, whether consciously or subconsciously. According to the Indian Contract Act, 1872, agreement includes some kind of consideration<sup>1</sup> with it. According to section 2(e) of the Indian Contract Act: *every promise and every set of promises, forming the consideration for each other, is an agreement.*<sup>2</sup>

In an agreement there is a promise from both sides. For example, in case of a bank loan, an agreement is done where bank promises the person to give him a loan of certain amount, with consideration from the person of repaying it with the certain conditions agreed by both at the time of agreement.

In other words, *when there is a proposal from one side and the acceptance of that proposal by the other side, it results in a promise. This promise from the two parties to one another is known as an agreement.*<sup>3</sup>

Proposal + Acceptance = Promise

Promise + Consideration = Agreement.

Further, there are many types of agreements such as Void, Voidable and Illegal Agreements, etc.

### Void Agreement

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<sup>1</sup> THE INDIAN CONTRACT ACT, 1872, § 2(D), NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>2</sup> THE INDIAN CONTRACT ACT, 1872, § 2(E), NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>3</sup> DR. R.K. BANGIA, CONTRACT-I 2 (7<sup>th</sup> ed. 2017)

According to section 2(g) of the Indian Contract Act: *An agreement not enforceable by law is said to be void.*<sup>4</sup> There are many agreements which are considered as void. Further, are the sections of the Indian Contract Act, 1872 dealing with those agreements which are void.

- Section 24: *Agreement void if considerations and objects unlawful in part.*<sup>5</sup>  
For ex. - A promises B to give him a drug in the quantity which is banned by law, in return B agrees to pay him a sum of Rs. 20 thousand. The agreement shall be void as one of the objects is illegal.
- Section 25: *Agreement without consideration void, unless it is in writing and registered, or is a promise to compensate for something done, or is promise to pay a debt barred by limitation law.*<sup>6</sup>  
For ex. – R without any reciprocal promise, agrees to pay S, a sum of Rs. 8000. This is a void agreement.
- Section 26: *Agreement in restraint of marriage, void.*<sup>7</sup>  
For ex. – P, restrains her daughter A to marry S, who is a deaf person. This shall be a void agreement.
- Section 27: *Agreement in restraint of trade, void.*<sup>8</sup>  
For ex. – R enters into an agreement with I, restraining him from establishing similar institution in the same locality. This agreement shall be void as it restrains trade of I.
- Section 28: *Agreements in restraint of legal proceedings, void.*<sup>9</sup>  
For ex. – In a partnership agreement between A and B, it is mentioned that in any disputes no one is allowed to approach the court. This clause declares the agreement, void.
- Section 29: *Agreements void for uncertainty.*<sup>10</sup>  
For ex. – S agrees to sell 9 kgs of fruits to R. There is nothing which shows which fruit to sell, hence, this agreement is void.
- Section 30: *Agreements by way of wager, void.*<sup>11</sup>

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<sup>4</sup> THE INDIAN CONTRACT ACT, 1872, § 2(g), NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>5</sup> THE INDIAN CONTRACT ACT, 1872, § 24, NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>6</sup> THE INDIAN CONTRACT ACT, 1872, § 25, NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>7</sup> THE INDIAN CONTRACT ACT, 1872, § 26, NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>8</sup> THE INDIAN CONTRACT ACT, 1872, § 27, NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>9</sup> THE INDIAN CONTRACT ACT, 1872, § 28, NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>10</sup> THE INDIAN CONTRACT ACT, 1872, § 29, NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>11</sup> THE INDIAN CONTRACT ACT, 1872, § 30, NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

For ex. - An agreement to pay a sum of money to either of the parties on the basis of winning or losing of a cricket team shall be deemed void.

- Section 56: *Agreement to do impossible act.*<sup>12</sup>

For ex. - A agrees with B to discover treasure by magic. This agreement is void.

## **Voidable Agreements**

There's no particular definition as to what voidable agreement means, but, according to section 19<sup>13</sup>, 19A<sup>14</sup>, of the Indian Contract Act, where the consent of the party has been taken either by coercion, misrepresentation, or fraud OR by undue influence respectively, the agreement is a contract considered as voidable at the option of the party from which the consent is taken by any of the means mentioned.

Furthermore, section 53 of the Indian Contract Act states as *when a contract contains reciprocal promises, and one party to the contract prevents the other from performing his promise, the contract becomes voidable at the option of the party so prevented; and he is entitled to compensation from the other party for any loss which he may sustain in consequence of the non-performance of the contract.*<sup>15</sup>

Furthermore, *an agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other or others, is a voidable contract.*<sup>16</sup>

The key difference between void and voidable agreements is that the void agreements are invalid from the start whereas the voidable agreements are declared invalid by the party later because of specific reason(s).

## **Illegal Agreements**

Agreements which are unlawful or forbidden by law or are against any provisions of the law are considered as illegal agreements.

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<sup>12</sup> THE INDIAN CONTRACT ACT, 1872, § 56, NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>13</sup> THE INDIAN CONTRACT ACT, 1872, § 19, NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>14</sup> THE INDIAN CONTRACT ACT, 1872, § 19A, NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>15</sup> THE INDIAN CONTRACT ACT, 1872, § 53, NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

<sup>16</sup> THE INDIAN CONTRACT ACT, 1872, § 2(i), NO. 9, ACTS OF PARLIAMENT, 1872 (INDIA)

There lies a difference between an illegal agreement and a void agreement, that the latter may not be opposed to any public policy.<sup>17</sup> It can also be said that every illegal agreement is a void agreement, but every void agreement is not an illegal one.

The main difference between a void and illegal contract is that, a void contract is not punishable and its collateral transactions are not affected but on the contrary illegal contract is punishable and its collateral transactions are also void.<sup>18</sup>

## **Conclusion**

Understanding the different kinds of agreements will help one in protecting their rights and carrying out their duties in compliance with the law. Furthermore, it is important to keep in consideration that a person should only enter into an agreement if it is enforceable by law.

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<sup>17</sup> DR. R.K. BANGIA, CONTRACT-I 6 (7<sup>th</sup> ed. 2017)

<sup>18</sup> LEGALSERVICESINDIA, <https://www.legalservicesindia.com/article/315/Void-&-Voidable-Agreements.html#:~:text=The%20main%20difference%20between%20a%20void%20and%20illegal%20contract%20is%20that%20%2C%20a%20void%20contract%20is%20not%20punishable%20and%20its%20collateral%20transactions%20are%20not%20affected%20but%20on%20the%20contrary%20illegal%20contract%20is%20punishable%20and%20its%20collateral%20transactions%20are%20also%20void.> (last visited Mar. 31. 2024)