

FREE CONSENT

- According to the Section 10 of the INDIAN CONTRACT ACT, 1872 lays down that "all agreements are contracts if they are made by the free consent of the parties."
- Thus, for the enforceability of an agreement not only consent of the party should be there but should also be free one.

DEFINITION OF CONSENT

- Section 13 defines "Two or more persons are said to consent when they agree upon the same thing in the same sense".
- This means that there should be perfect identify of mind (consensus ad idem) Regarding the subject matter of the contract.

DEFINITION OF FREE CONSENT

Section 14, Consent is said to be free when it is not caused by :-

1. Coercion, Sec 15.

2. Undue influence, Sec 16.
3. Fraud, Sec 17
4. Misrepresentation, Sec 18.
5. Mistake, subject to the provisions of Sec 20, 21 and 22.

When consent to an agreement is caused by any one of the first four factors mentioned in the definition of free consent, there is 'no free consent' and the contract is voidable at the option of the party whose consent is caused (Sec 19 and 19A).

FACTORS AFFECTING FREE CONSENT

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| 1. COERCION | 4. FRAUD |
| 2. UNDUE INFLUENCE | 5. MISTAKE |
| 3. MISREPRESENTATION | |

COERCION

- When a person is forced to give his consent then coercion is said to be employed.
- Sec 15 defines coercion as follows: "Coercion is the committing or threatening to commit, any act forbidden by the Indian Penal Code (1860) or unlawful detaining, or threatening to detain, any property

to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement.

FEATURES OF COERCION

- Committing or threatening to commit any act forbidden by Indian Penal code.
- The unlawful detaining of property or threatening to detain any property.
- Place of coercion.
- coercion may be from the party to the agreement or a stranger.
- coercion may be directed at a party to the agreement or a stranger.
- Intention of the party.
- Threat to commit suicide.
- Threat to file a suit on a false charge amounts to coercion.