

Capacity to contract
is a concept meant to
protect those who are
disadvantaged in...



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Capa to Contract In law, a contract can be described as a deliberate legally binding agreement entered into by two or more parties that are competent according to McKendrick (2005). For an agreement to be considered a contract under common law, five main requirements must be fulfilled. These include consideration, formalities, acceptance and offer, the intention to enter into a legally binding relationship and legal capacity (Atiyah, 1979). This paper will analyze legal capacity as a vital element in contractual relationships.

Definition of Capacity

The capacity of both legal and natural parties to engage in making binding amendments to their obligations, duties and rights is determined by their capacity (LawofContract, n. d). Simply stated, a contract may be valid when made by parties recognized by law to be of legal personality be they natural or artificial persons. When the law forbids or limits a party from performing certain activities, any contractual relationships entered into by them to do so become either void or voidable on the basis of incapacity. In some cases, this incapacity is referred to as incompetence.

Capacity and Good Faith

In some cases however, certain classes of persons are only able to engage in contract only to limited extents as noted by Gaylord and LeRoy (2003). Some persons that are considered in these classes include minors, alien enemies, people who are mentally unsound or insane, bankrupts, drunkards, companies, receivers of companies, and partnerships among others according to the United Kingdom's law.

Such incompetence or incapacity in some cases may be regarded in terms of absence of good faith on the other party's side. What this means is that all <https://assignbuster.com/capacity-to-contract-is-a-concept-meant-to-protect-those-who-are-disadvantaged-in-the-society-explain/>

sober and sane adults can contract although their actions are controlled to protect other persons from being subject to exploitations. The intention of this measure is to protect those persons who may not be able to make decisions that are to their best interest according to Barnett (1986) and Barnett (2003).

The requirement for capacity however can be challenged in exceptional cases such as when the contact with a person who is not of legal capacity regards necessities of life which include shelter, clothing and food. The argument in this case is that certain goods or services are required for human survival and even those who are incompetent need them. In other cases an incompetent party may enter into a contract with a competent party out of social need (Austen-Baker, 2002) as in the case where a teenager purchases from a business person a tuxedo for their graduation.

Conclusion

In general, contracts may not be legally binding when they are entered into by minors, people whose judgments are impaired due to drugs/alcohol, hypnosis, disability, and illness, and people who have mental disability (Sakschools, n. d). In case a legally incompetent person such as a minor enters into a contract for necessities, they may not be obligated to pay the price of the contract if it falls out of their best interest. People with impaired judgment and disability are accorded the same treatment, through protection, as minors. The reason behind this is that always reasonable exchange must occur (Sakschools, n. d). The underlying principle behind legal capacity therefore is to protect persons who disadvantaged in society from exploitation.

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