



"A Jurisprudential and Legal Analysis of the Capacity of Discerning Minors and the Feeble-Minded in Concluding Gratuitous Contracts"

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Introduction

The Iranian Civil Code, in Clause 2 of Article 190 and Article 210, underscores the necessity of legal capacity for contracting parties and prohibits those lacking capacity from entering into transactions. Among those considered legally incapacitated are discerning minors and the feeble-minded, who are restricted from managing financial affairs due to their inability to distinguish benefit from harm. Nevertheless, Articles 1212 and 1214 of the Civil Code grant them capacity in specific instances, allowing them to independently engage in certain legal acts. This article explores key questions: In which contracts do discerning minors and the feeble-minded possess legal capacity? Are they limited to accepting gratuitous transfers in their favor, or can they engage in all types of gratuitous contracts? If such transfers include obligations or conditions, does their competence remain intact? Can they initiate gratuitous contracts involving their own property—such as wills, agency contracts, or charitable gifts—and include conditional terms for their benefit?

Drawing on a descriptive-analytical method, this study investigates these questions through the lens of Imami jurisprudence and Iranian civil law. The findings reveal a divergence among jurists: while some consider all financial acts by these individuals void, others allow for non-commercial acts that increase wealth, such as acquisition of unowned property or the revival of dead land. Iranian law reflects this latter view, barring independent contract formation but permitting gratuitous acquisitions under certain conditions. Scholars differ further on non-proprietary gratuitous contracts, with some

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permitting limited cases, like loans for use. Where reciprocal obligations exist, however, guardian intervention becomes necessary. Although many jurists support allowing such individuals to initiate gratuitous acts like wills or endowments, legal provisions such as Articles 835, 796, and 57 impose full capacity requirements—though some scholars argue for more leniency in posthumous dispositions like wills.

This study contributes to the nuanced understanding of legal capacity and its boundaries in the context of gratuitous contracts involving legally vulnerable parties.

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