

THE INDIAN CONTRACT ACT, 1872

CHAPTER-1 NATURE OF CONTRACT

1. DEFINITIONS

A. PROPOSAL/ OFFER - Sec 2(a)

- When one person signifies to another
- His willingness
- To do or to abstain from doing anything,
- With a view to obtaining the **assent** of that –
 - ✓ To such act; or
 - ✓ Abstinence,
- He is said to make a proposal (i.e., offer) (**Legal obligation**)



(Will you marry me ?)



(If you will not file a suit against me then I will give You Rs. 1 lakh.)

B. PROMISE Sec 2(b)

- When the person to whom the proposal is made,
- Signifies his assent thereto,
- The proposal is said to be accepted,

A **proposal**, when **accepted**, becomes a **promise**.



C. AGREEMENT Sec.2(e)

Every promise and every set of promises forming consideration for each other.



D. CONTRACT Sec.2(h)

An agreement enforceable by law.



E. ENFORCEABILITY BY LAW

An agreement which creates legal obligation on the part of parties.



F. CONSIDERATION

When, at the desire of the promisor,
The promisee or any other person
Has

- ✚ done/abstained from doing something; or
- ✚ does/abstains from doing something; or
- ✚ promises to do/abstain from doing something,

Such act/abstinence/promise is called a consideration for the promise.

1.)



2.)



3.)



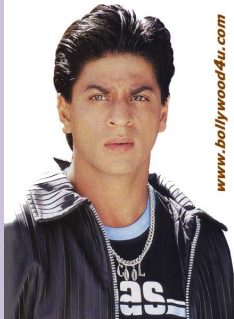
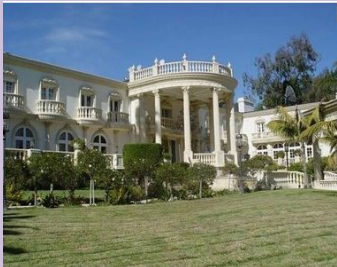
I WILL ALWAYS STAY WITH YOU

	<u>IN SIMPLE WORDS</u> Price paid by the one party for the promise of the other. Technical word meaning 'QUID PRO QUO' i.e. something in return
G. ESSENTIAL ELEMENTS OF A CONTRACT.	➤ Following are the two basic elements of a contract. (a) There must be an agreement (b) The agreement must be enforceable by law. In other words, Contract = agreement + enforceability of agreement

2. WHAT AGREEMENTS ARE CONTRACTS

SECTION 10

- There must be an **agreement** between the parties
- The parties must have an **intention to create legal relations**.
- The parties must **freely consent** to enter into the agreement.
- The parties must be **competent to contract**.
- There must be **consideration**.
- The consideration must be **lawful**.
- The **object** of the contract must be **lawful**.
- The agreement is **not** expressly declared to be **void**.
- The **legal formalities** for entering into such a contract are **completed**.
- It is **possible to perform** the agreement (Sec. 56)
- The **terms** of the agreement are **certain or are capable** of being made certain (Sec. 29)

ESSENTIAL ELEMENTS OF A VALID CONTRACT	
1. AGREEMENT	In order to constitute a valid contract, there must be an agreement between the parties. To form an agreement, there should be proper offer by one and its proper acceptance by the other.
2. FREE CONSENT	Consent means agreed upon same thing in the same sense i.e. there should be consensus-ad-idem. A consent is said to be free when it is not caused by coercion, undue influence, fraud, misrepresentation or mistake.    Example: - • 'Amrishi Puri' threatened to shoot 'SRK' if he (SRK) does not sell his house to him Rs. 20000 and • 'SRK' agreed to it. • Here the agreement is entered into under coercion and hence voidable at the option of 'SRK'.
3. COMPETENCY OF THE PARTIES	Parties must have the capacity to enter into a contract otherwise the contract is not valid.
Who is competent to contract	Who is incompetent to contract

• Major	• Minor
• Person of Sound mind	• Person of Unsound Mind
• Person not disqualified by law from contracting	• Person disqualified by law from contracting

4. LAWFUL CONSIDERATION

Consideration must **not be unlawful, immoral or opposed to the public policy.**

Examples:

Unlawful: - A agrees to sell narcotics to B for a sum of Rs. 100000. This agreement is not valid because the consideration is unlawful.



Immoral: - An agreement for letting a house to a prostitute for carrying on her vocation there.



Opposed to the public policy: - Trading with enemy, Agreement in restraint of marriage, trade, legal proceedings etc.



LAWFUL OBJECT

Object means the purpose or design. The object of the agreement must be lawful.

Example:- 'A' and 'B' make an agreement for smuggling out some goods from India to another country. This agreement cannot be enforced in the court because the object is unlawful.



(SMUGGLING)

NOT EXPRESSLY DECLARED VOID

An agreement should not be one which is expressly declared void by the law.

Example:- Agreement in restraint of trade, marriage or legal proceedings are expressly declared void by the law and hence not enforceable.

INTENTION TO CREATE LEGAL RELATIONSHIP

Parties must have an intention of creating the legal relationship. An agreement of a **purely domestic or social nature** is not a contract.

Example 1:-

➤ 'A' invites his friend 'B' to his birthday party.



➤ 'B' accepts the offer.
➤ But he fails to turn up for the party.

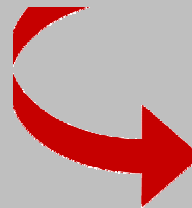


(Mr. A is Sad)

- This agreement creates social and personal relationship between 'A' and 'B'. It cannot be enforced in the court.
- Thus A has no legal remedy against B.

Example 2:-

- 'S' borrows sum of Rs. 500 from his friend 'L' for three months.



(Money Borrowed)

- 'L' gets legal right to sue upon 'S' if he fails to return money.
- It is because this agreement creates legal relationship, which can be enforced in the court.

BALFOUR Vs. BALFOUR (1919)

- ✓ In this case a husband just makes a promise to pay his wife monthly allowance of £30 for her maintenance.



- ✓ Later on they separated and husband failed to pay stipulated amount to his wife.



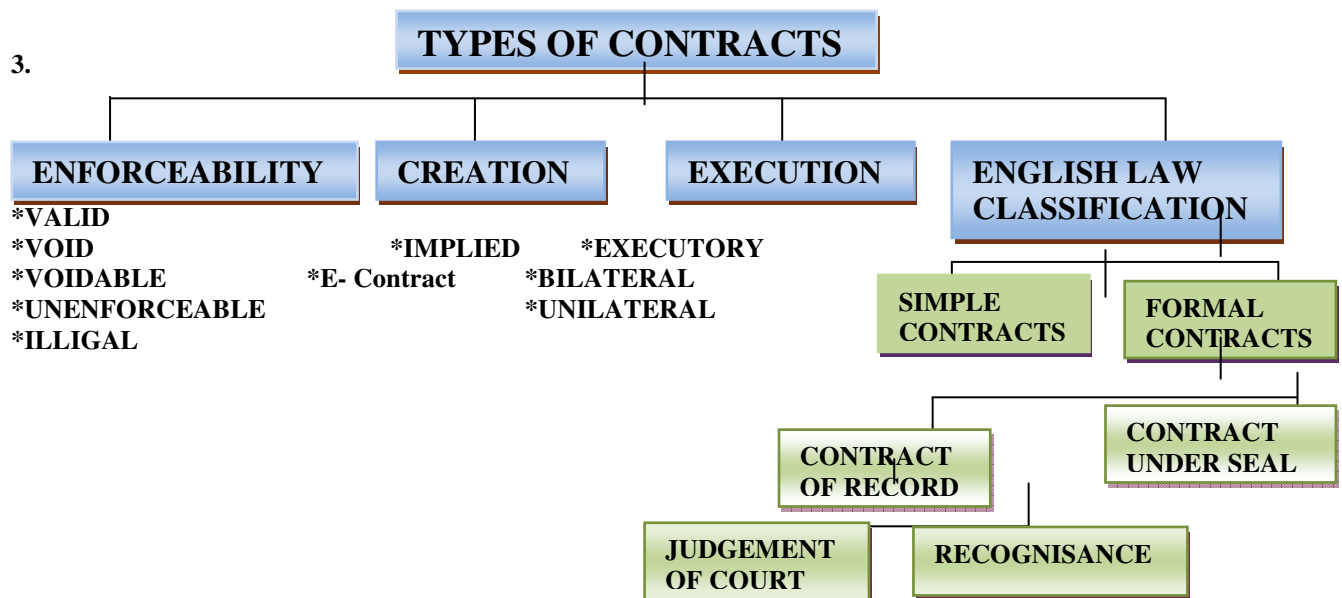
- ✓ She filed suit for that allowance.
- ✓ But it was held by the court that such arrangements are not contracts or do not result in a contract because parties did not intend to create legal relationship and finally the suit was dismissed.

	
CERTAINTY OF MEANING	➤ Agreement made by the parties must be certain or capable of being made certain. Example: ✓ 'A' is a dealer of kerosene oil and coconut oil.   ✓ 'B' makes an agreement with him for buying 10 lts of oil. ✓ Meaning of this agreement is uncertain and therefore it cannot be enforced.
POSSIBILITY OF PERFORMANCE	✓ An agreement to do an act impossible in itself is void. Example: - An agreement to discover treasure by magic is void. 
LEGAL FORMALITIES	✓ Such as in writing, registration etc must be completed otherwise the contract is not enforceable at law.

DISTINCTION BETWEEN AN AGREEMENT AND A CONTRACT

Basic of difference	Agreement	Contract
Meaning	Agreement= offer+ acceptance	Contract = agreement+enforceability
Creation of legal obligation	An agreement does not create a legal obligation unless it satisfies the requirements of various provisions of law.	A contract necessarily creates legal obligations
One in other	The term agreement is wider than contract. An unenforceable agreement is not a contract.	Every contract is an agreement

3.



A. ON THE BASIS OF ENFORCEABILITY

1. VALID CONTRACT

- ✓ An agreement which satisfies all the requirements prescribed by law.

2. VOID CONTRACT [SEC. 2(j)]

- A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable.

3. VOID AGREEMENT [SEC. 2(g)]

- ✚ An agreement which is not enforceable by law is said to be void.
✚ It is an agreement which cannot be enforced from the date when they were made.
✚ It is **void ab initio**.

void ab initio

קולי



4. VOIDABLE CONTRACT [SEC. 2(i)]

- An agreement is a voidable contract if –
- It is enforceable by law at the option of one or more of the parties thereto,
 - It is not enforceable by law at the option of the other or others.

For example: -

- Mr. A, at knife - point, asks B to sell his scooter for Rs. 50.
➤ Mr. B gives consent.
➤ The agreement is voidable at the option of B, whose consent is not free.

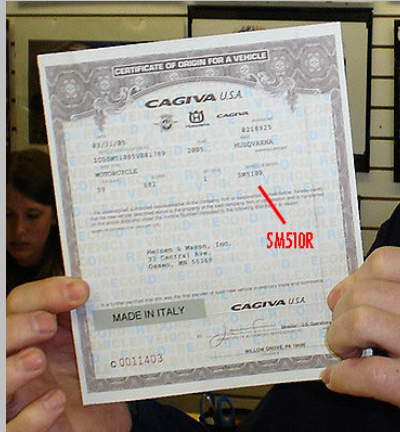


5. UNENFORCEABLE CONTRACT

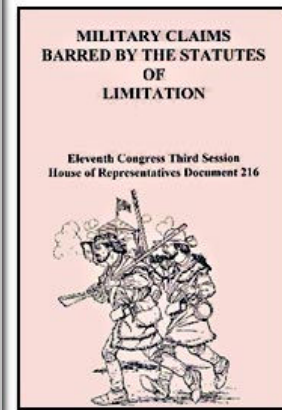
- A contract which fulfils all requirements of a contract except some technical requirements.
➤ It becomes enforceable when the defect is subsequently removed.

For example: -

- ✓ under stamping, absence of writing, barred by limitation.



(Under Stamping)

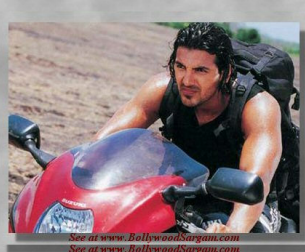


(Barred By limitation)

6. ILLEGAL CONTRACT

A contract which is forbidden by law.

For example: - Agreement to commit crime.



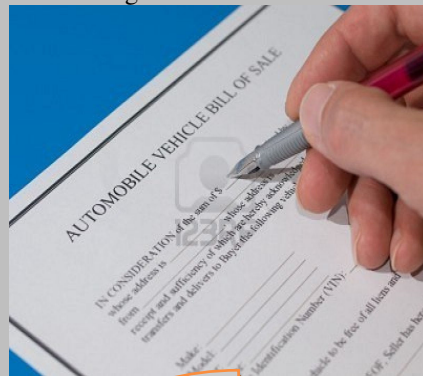
B. CLASSIFICATION ON THE BASIS OF CREATION

1. EXPRESS CONTRACT

- ✓ A contract which is created either by word spoken or written.

For example:

- If 'A' of Agra offers to sell his car for Rs. 150000 to 'B' of Delhi by a letter and



- 'B' accepts the offer by writing a letter.
- Thus the contract between 'A' and 'B' is said to be an express contract.

2.IMPLIED CONTRACT	The contract which is created otherwise than by words spoken or written. i.e. these contracts are:-	
	A. Tacit Contract	➤ A contract which is inferred from the conduct of the parties is said to be tacit contract. For example: - (i) When we enter into a bus without asking any question from bus conductor, we enter into implied contract.  (ii) Obtaining cash form ATM 
	B. Quasi Contracts	➤ A contract inferred by the circumstances of the case. (some writers called it as contract created by Law) For example: - If 'A' leaves his goods at 'B''s shop by mistake, then it is 'B''s duty to return the goods or to compensate the price. (In fact, these contracts depends upon the principle that nobody will be allowed to become rich at the expense of the others. This principle is known as doctrine of unjust enrichment.)
3. E-CONTRACT	An e-contract is one, which is entered into between two parties via internet.	

C. CLASSIFICATION ON THE BASIS OF BASIS OF EXECUTION

1. Executed Contract

- ✓ An executed contract is a contract in which both the parties have performed their obligation.
 - ✓ This is a contract which has been completed.
- For example:-**
- If 'A' agrees to sell his Scooter to 'B' for Rs. 100000.
 - The contract is said to be executed if 'A' delivers Scooter to 'B' and B pays the price to 'A'.



(Ok, Thanks)

J. Sivola



(Ye lo mera Scooter)



(Ye lo Cash)

2. Executory	An Executory contract is the contract which is to be performed in future.
3. Unilateral Contract	Where obligation is pending on the part of one of the parties. (In Simple words Partly executed and partly executory.)
4. Bilateral Contract	A Bilateral Contract is a contract in which obligation is pending on the part of both of the parties.

D. ENGLISH LAW CLASSIFICATION

1. Simple Contracts	A simple contract is the contract that is not formal. These can be made orally or in writing and must be supported by consideration.
2. Formal Contracts	A formal contract is one which is entered into the prescribed form. These contracts may be subdivided as follows:
a. Contract of Record	(i) Judgment of Court:- It is an obligation imposed by the court upon one or more persons in favour of the other/s. (ii) Recognizance:- It is a written acknowledgement of a debt due to state. It is met in connection with criminal proceedings.
b. Contract under Seal	It is a contract which derives its binding force from its form alone. It is also known as deed or specialty contract.

End of Topic