

# Corporate Laws

BBA(FIA)

Lecture 2

**Dr. Nidhi Kesari**

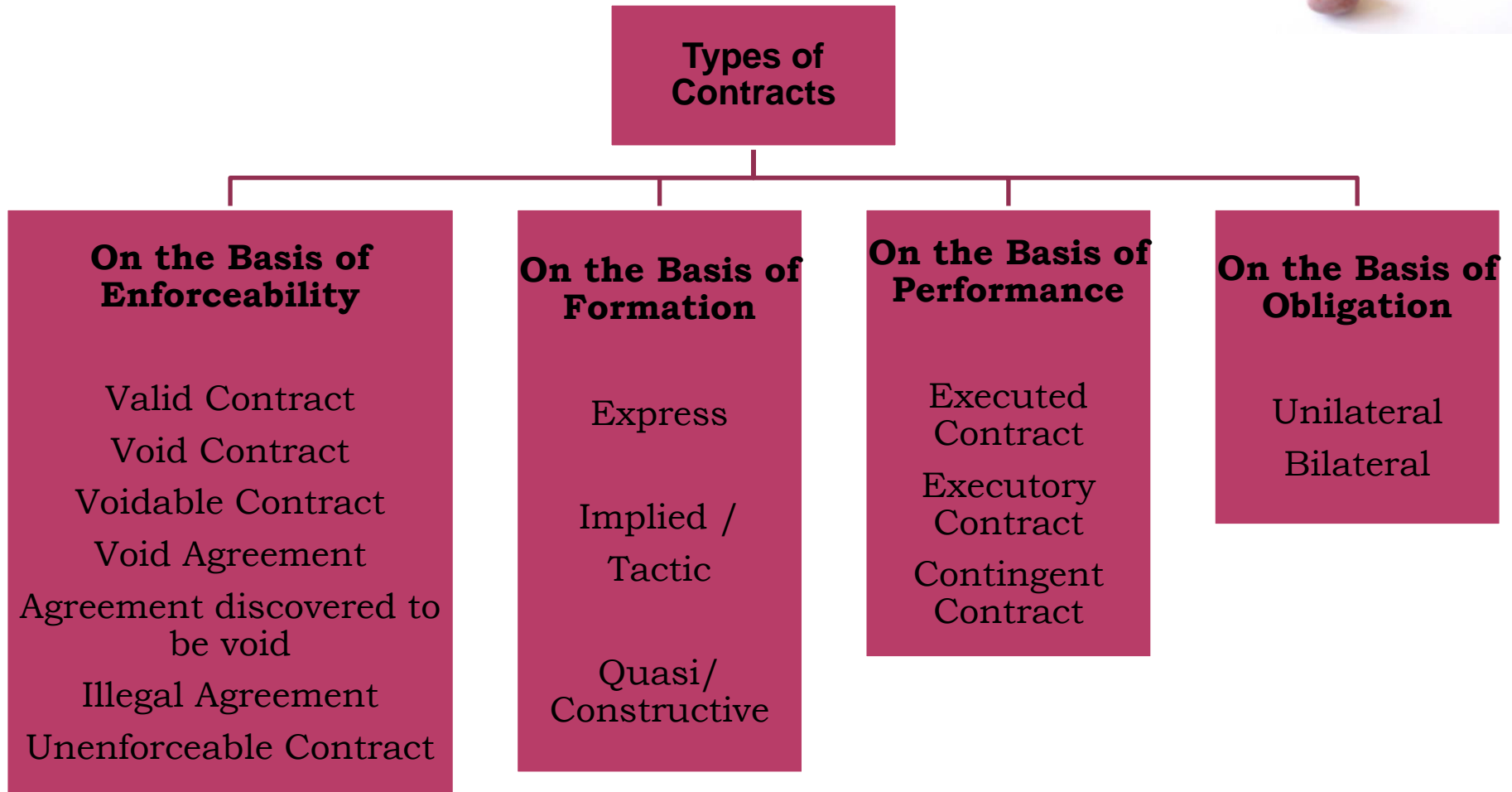
# Essential Elements of Valid Contract Contd.



## Section 10 Features:

1. Free consent
  - Parties understand and agree upon the same thing in the same sense on the subject matter of the agreement.
  - The consent should have been induced freely.
2. Competency of parties: minor, unsound mind persons and persons disqualified by law.
3. Consideration: quid pro quo (consideration is something in return for the promise)
4. Lawful Object and consideration
5. Agreements expressly declared to be illegal or void: section 24-30
  - Restraint of marriage or trade
  - Possibility of performance

# Classification of Contracts



# Classification of Contracts Contd.



## On the Basis of Enforceability Contd.

### **Valid Contract:**

Contract which satisfies all the essentials of section 10 of Indian Contract Act like: lawful offer & acceptance, free consent, etc.

**For example:** A ask B if he wants to buy his Truck for Rs.10,00,000. B agrees to buy Truck. It is agreement which is enforceable by law. Hence, it is valid contract.

### **Void Contract: Sec2(j)**

A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable. Supervening impossibility, Subsequent illegality, Contingent contract.

**For example:** X agrees to sell his dog to Y for Rs. 5,000 but the dog died in an accident. It become impossible to perform the contract due to destruction of the subject. Thus, a valid contract changes into void contract because of **impossibility of performance**.

# Classification of Contracts Contd.



## On the Basis of Enforceability Contd.

### **Voidable Contract: Sec2(i)**

An agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of other, is voidable contract. Such a contract come into existence where **consent of one or more parties is not free.**

A voidable contract will operates as a valid contract unless and until one of the parties takes steps to avoid it.

**For example:** X promise to sell his scooter to Y for Rs. 5,00,000. however, the consent of X has been procured by Y at a gun point. X is an aggrieved party & the contract is voidable at X option.

### **Void Agreement: Sec2(g)**

An agreement not **enforceable by law** is said to be void. It is void ab-initio. There is absence of one or more essential elements of a valid contract.

**For example:** X supplies luxury goods to Y a minor for a consideration of Rs. 10,000. Y refused to make payment. X cannot enforce the agreement in the court of law since the agreement is void because Y is minor.

# Classification of Contracts Contd.



## On the Basis of Enforceability Contd.

### **Illegal Agreement: Sec (23)**

An agreement which is **prohibited by law or against the policy of law** is known as illegal agreement. It is void ab-initio. An agreement is illegal and void if its object or consideration:

- Is forbidden by law
- Is of such a nature that if permitted, it would defeat the provisions of any law
- Is fraudulent
- Involves or implies injury to the person or property of another
- The court regards it as immoral, or opposed to public policy

**For example:** X agrees to kill Y if Z pays him Rs.10,000. It is an unlawful as well as void agreement.

# Classification of Contracts Contd.



## On the Basis of Enforceability Contd.

### **Agreement discovered to be void:**

An agreement whose void nature becomes known to parties only subsequent to its formation.

**For example:** X agrees to sell his car to Y, both not knowing that the car has been badly damaged in accident the previous night.

### **Unenforceable Contract:**

A contract is good in substance but is not as per the provisions of Indian Contract Act, 1872, and hence cannot be enforced by law is called unenforceable contract. They are neither void nor voidable.

# Void Agreement vs. Voidable Contract



Basis of Distinction	Void Agreement	Voidable Contract
<i>Definition</i>	An agreement not enforceable by law is void	an agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of other, is voidable contract.
<i>Void ab-initio</i>	Void from the beginning	Not void when made and remains valid till it is rescinded by one party
<i>Enforceability</i>	Cannot be enforced by any party	Continues to be enforceable as long as both the parties give their consent
<i>Missing Element</i>	Enforceability by Law	Free consent of party missing



# Void And Illegal Agreement



Basis of Distinction	Void Agreement	Illegal Agreement
<i>Definition</i>	an agreement not <b>enforceable by law</b> is said to be void.	an agreement which is <b>prohibited by law or against the policy of law</b> is known as illegal agreement.
<i>Effect on collateral transaction</i>	Any agreement which is collateral to the void agreement is enforceable.	Any agreement or transaction which is collateral to illegal agreement is not enforceable.
<i>Punishment</i>	It is not punishable.	It is punishable.
<i>Void ab initio</i>	May not void <i>ab initio</i> .	Always void <i>ab initio</i> .
<i>Prohibition</i>	Void agreement is not prohibited by law.	It is prohibited by law.
<i>Scope</i>	Wider All void agreements are not illegal	Narrower All illegal agreements are void

# Classification of Contracts Contd.

## On the Basis of Formation



### **Express Contract:**

The contract is said to be an express contract when terms of contract have been agreed upon between the parties expressly i.e., oral or written, at the time of formation.

### **Implied Contract:**

An implied contract is one which come into existence by the acts, the conduct of the parties. For example:

- Shoe shiner.
- A stops a taxi by waving his hand and boards it. There is an implied contract that A will pay the prescribed fare on reaching his destination.

### **Quasi Contract:**

There is no intention of the parties to form a contract but created by law.

**For example:** X, a trader, leaves certain goods at house of Y by mistake. This imposes an obligation on “Y” either to return the goods to X or to make the payment if he treats the goods as his own.

# Classification of Contracts Contd.



## On the Basis of Performance

### **Executed Contract:**

A contract is said to be executed contract where both the parties to a contract have performed their respective obligations.

For example: all the transactions of cash sales are executed contract.

A sells his car to B for 1 lakh. A delivered the car and B paid the price. This is an executed contract.

### **Executory Contract:**

An executory contract is one where both the parties are yet to perform their respective obligations.

Example: A sells his car to B for 1 lakh. If A is still to deliver the car and B is yet to pay the price, it is an executory contract.

\* Where one of the parties has performed their part of obligation but other party has not yet completed their part of obligation the contract is executed for one and executory for another.

# Classification of Contracts Contd.



## On the Basis of Performance

### **Contingent Contract: Sec (31)**

“a contingent contract is a contract to do or not to do something, if some event collateral to such contract, does or does not happen.”

For example:

- A promise to pay B a sum of money if a certain ship returns within a year. The contract may be enforced if the ship returns within the year. If the ship gets lost in sea the agreement will become null and void.
- A agrees to pay B 1,000 rupees if two straight lines meet in space. The agreement is void as it is an impossible act.

# Classification of Contracts Contd.



## On the Basis of Obligation

### **Bilateral Contract:**

A bilateral contract is one in which both the parties obligations are outstanding at the time of formation of the contract.

**For example:** X promises Y to pay Rs.1200 for his cycle. Neither of them has performed their obligation.

### **Unilateral Contract:**

A contract is said to be unilateral where one party has performed their obligation at the time of formation of contract or even before and the performance of obligation is outstanding on the part of other party at the time of formation of contract.

**For example:** X buys a railway ticket for journey from Amritsar to Delhi. X has performed his obligation under the contract by paying the fare. But, the railways are yet to perform their duty i.e., carrying 'X' from Amritsar to Delhi.

# Classification of Contracts Contd.



## **E-Contracts:**

All contracts made on cyber space are e- contracts.

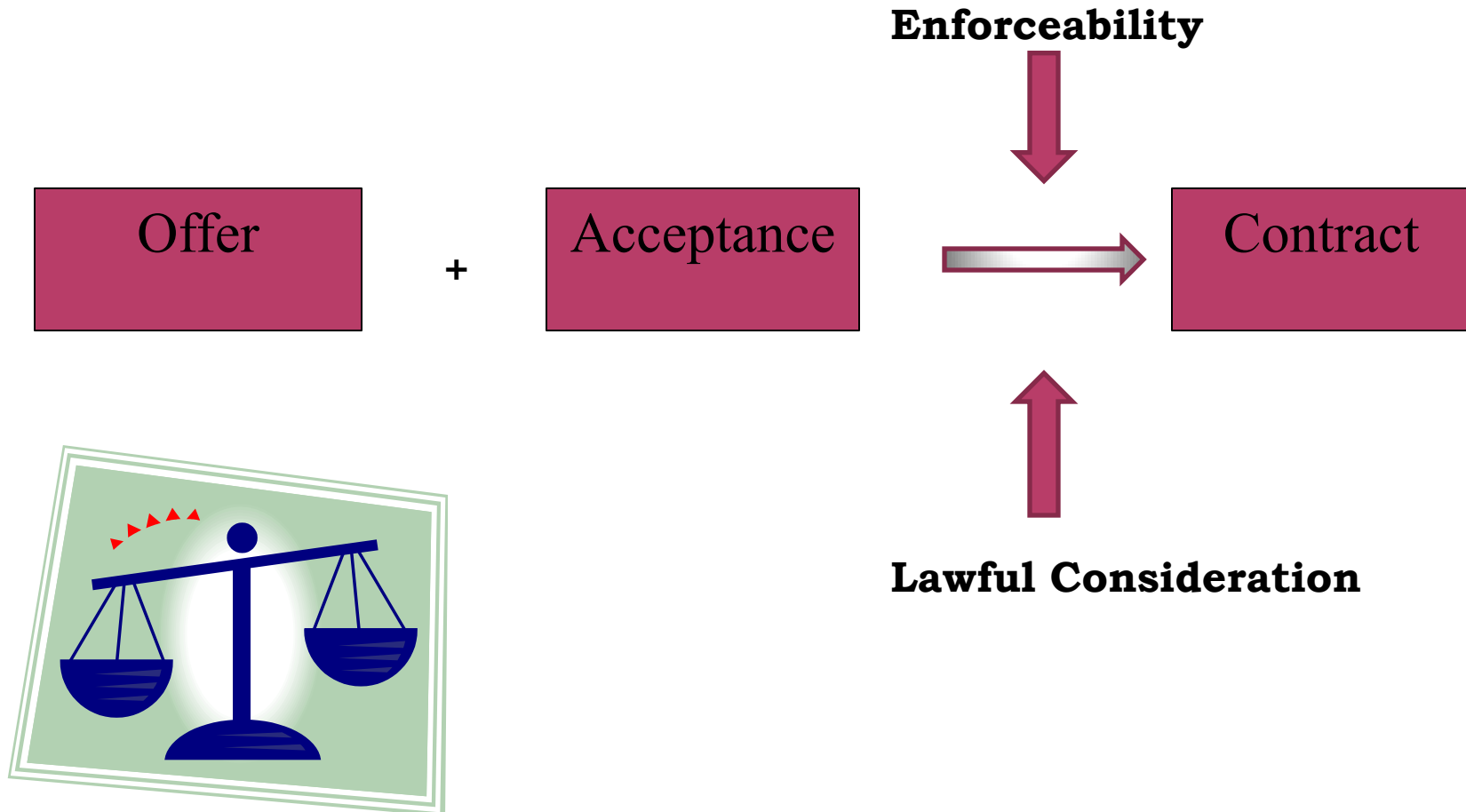
E-contracts have derived their validity from the Information Technology Act of 2000. These are admissible u/s 65B of the Indian Evidence Act, 1872.

All provisions applicable to face-to-face contracts are also applicable to e-contracts unless specified otherwise. A contract made through a chat bot is a valid contract.

E-Contracts are of two types:

- Web-wrap agreements or click-wrap agreement: “Click to Agree” contract
- Shrink-wrap agreements: the terms and conditions come along with the packaged product.

# Contract Summarized



# Discussion Point



All legal obligations are not contracts. Only those legal obligations constitute contract which arise out of agreement.





THANK YOU