***Question # 2***

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**KINDS OF CONTRACT (Hand out)**

**Preamble:** The law relating to Contracts in Pakistan is contained in the Contract Act, 1872. Itextends to the whole of Pakistan and came into force on 1st September, 1872.

**Relevant Provisions/Law: Section 2(a, b, d, e, i, g, h), 9, 10, 14 to 19, 23, 29, 32, 55, & 56**

**Definitions of Contract (Juristic Opinions/Thoughts)**

***1.* Pollock:** “Every agreement and promise enforceable at law is a contract”.

***2.* Salmond:**“A contract is an agreement creating and defining obligations between theparties”.

***3.* According to Contract Act:**“An agreement enforceable by law is a contract.”

Thus, a Contract consists of two elements

**a.** An Agreement **b**. The agreement must be enforceable by law

**What is An Agreement:** “Every Promise and every set of promises, forming theconsideration for each other, is an Agreement.”

**What is enforceability:** “An agreement is enforceable when it is recognized by courts. Itmust create legal obligations between the parties. That’s why it is said that “All Contracts are agreements but all agreements are not Contracts”.

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| **Agreements are of two types:** | | | **a**. Social Agreements **b**. Legal Agreements |
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|  |  | **CLASSIFICATION OF CONTRACTS** | |
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| The Contract can be classified into four categories as follows: | | | |
|  | **1. According to Enforceability** | |  |
|  | **a.** | Valid Contract | **d**. Voidable Contract |
|  | **b.** | Void Contract | **e**. Unenforceable Contract |
|  | **c.** | Void Agreement | **f**. Illegal Agreement |

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| **2.** | **According to Formation** | |  |  |
|  | **a.** | Express Contract | **b**. Implied Contract | **c**. Quasi Contract |
| **3.** | **According to Performance** | |  |  |
|  | **a.** | Executed Contract | **b.** Executory Contract |  |
| **4.** | **According to Parties** | |  |  |
|  | **a.** | Unilateral Contract | **b.** Bilateral Contract | |

**A. Classification of Contract According to Enforceability**

**a. Valid Contract**

An agreement becomes enforceable by law when all essentials of a valid contract are present. In a valid contract all the parties are legally bound and responsible for the performance of the contract. In case of any breach it can be enforced through courts.

**Example:** If Asghar agrees to sell his house to Bilawal and all essentials of acontract have been fulfilled, it may be termed as a valid contract and enforceable by law.

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**b. Void Contract** **(Not binding by law)**

A contract ceases (comes to an end) when cannot be enforced by law is termed as Void. It means a contract in the very start is not void but a subsequent change in terms of law may make it void.

In void contracts both of the contracting parties are not legally responsible to fulfill their obligations and if any of the party have received the benefit is legally bound to return the same to the other party. **A contract is termed void in the following conditions:-**

**1. Destruction of Subject Matter**

A contract becomes void (impossible to be performed) due to destruction of subject matter or any other reason which makes the performance impossible makes a contract void.

**Example:** X agrees to sell his Corolla Car to Z for 7 Lac Rupees and the day when thiscontract was to be performed the same car is destroyed in an accident, the contract becomes void due to destruction of the car.

**2. Subsequent Illegality** ( A later on change in law)

A subsequent change in law makes a contract void thus makes it not possible to be performed.

**Example:** Jamal agrees to sell and send 1000 bags of wheat to District Khushab fromDistrict Sargodha. Later on the Punjab Govt. puts a ban on the transportation of wheat from one district to another, thus makes the contract void due to a subsequent change in law.

**3. Absence of Free Consent**

A contract may be termed as void if the consent of the parties is not free and the party whose consent is not free rejects the contract.

**Example:** If A forcibly wants to purchase B’sCar, B may reject the said contractbecause B’s Consent has been forcibly obtained.

**4. Contingent Contract** ( Subject to happening of an event)

A contingent contract is that, the performance of which depends upon the happening or non-happening of a certain event. Such contract becomes void if the said event doesn’t happen.

**Example:** If A promises to pay D a sum of 50,000 Rupees if he got admission in HaileyCollege. Now if D fails to get admission in Hailey College the contract becomes

void since the condition of the promise is not fulfilled.

**5.** **Voidable Contract**: An agreement enforceable by law at the option of one or more ofthe parties but not at the option of other is voidable contract.

**Example:** A deceives B by saying that his factory produces 200 KG of sugar daily andinduces B to buy it. The contract is voidable at the option of B.

**6. Unenforceable Contract**

An unenforceable contract is a contract which cannot be enforced by the court of law due to technical flaws like absence of writing or registration, requisite (required) stamps etc. when these technically faults are removed only then such contracts can be enforced.

**Example:** Ali sells his house for 15 Lac rupees and doesn’t get the transfer deedregistered in his name; the other party is not released from his obligation of transferring the same house to Ali’s name.

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**B. Classification of Contract According to Formation**

Formation means action of forming or process of being formed. According to formation, a contract has the following three kinds:

* 1. Express Contract
  2. Implied Contract
  3. Quasi Contract

1. **Express Contract**

Express contract is one which is expressed in words spoken or written. In such contracts

there is no ambiguity of terms and conditions because both of the parties understand their rights and duties.

**Example:** A gives an advertisement in the newspaper to sell his car while offering its make,model and the price and if accepted by the other party, one can say that both of the parties know their rights and responsibilities. It’s an express Contract.

**b. Implied Contract**

An implied contract is a contract other than the words spoken or written. It’s a form of contract which arises from the action of the parties or from their conduct. It often arises when one of the party acts without being requested to do so.

**Example:** K, a shoe shiner starts polishing the shoes of Rand R doesn’t object at hisaction, it means that R has to pay after K’s services. It’s a form of Implied Contract.

**c. Quasi Contract**

Quasi is often meant as different from reality. In quasi contracts the law imposes certain obligations under some special circumstances. Quasi contracts are though

actually not legal contract but are like relation similar to a contract.

**Example:** A finds a few lost goods of H. A is bound to return them to H. It’s a form ofquasi contract where A is responsible to take care of the goods and return them to the actual owner that is H.

**C. Classification of Contract According to Performance**

According to performance a contract is of the following two kinds:

**i.** Executed Contract **ii.** Executory Contract

1. **Executed Contract**

When the contracting parties fulfill or perform whole of their obligations and responsibilities the contract is said to be executed.

**Example:** J buys the desired book from a shop and pays the price. It’s an executedcontract.

1. **Executory Contract**

A contract is said to be Executory when something is yet to be performed by any of the parties.

**Example**: T promises to teach P and P promises to pay him 1000 Rupees at theend of the month. It’s an example of Executory contract since some obligations are yet to be performed by the contracting parties.

**D. Classification of Contract According to Parties**

According to Parties a contract may be of the following two kinds: **i.** Unilateral Contract **ii.** Bilateral Contract

1. **Unilateral Contract (Contract promised by one person)**

When commitments/promises from one party are made forms a Unilateral Contract. In other words where one party is bound to perform his part of promise is termed as Unilateral Contract.

**Example**: A promises to pay Rs 2000 to anyone who finds his lost bag. If H finds thebag A is then bound to pay the promised amount to H.

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1. **Bilateral Contract (Contract between two parties)**

When both of the parties are under an obligation to perform their part of promises is termed as a Bilateral Contract.

**Example**: F promises to paint a picture for T and T promise to pay him 5000Rupees. Here both of the parties have promised to perform their part of obligations, hence forms a Bilateral Contract.

**Conclusion:**

The Law of Contract is not the whole law of agreement, nor is it the whole law of obligations. It is the law of those agreements which create obligations and such obligations are created by virtue of binding force of law. Thus legally enforceable promises are termed as contracts. Contracts have been grouped under various classifications due to the difference of their formation.

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| **EXPECTED UNIVERSITY QUESTIONS:** | |  |
| **1.** | Define Contract and write down it various classes of formation. | **(OR)** |
| **2.** | Contracts are classified in various groups. Comment. |  |

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