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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **ENFORCING CONTRACTS IN INDIA: WITH RESPECT TO EASE OF DOING BUSINESS RANKINGS AND THE ROLE OF SMART CONTRACTS**

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## **ABSTRACT**

Thriving business environments require strong contract enforcement systems which determine investor belief and economic stability and worldwide market success. Although India has shown significant progress in its Ease of Doing Business positioning the country faces obstacles from court delays along with legal complexity and contradiction in dispute resolution systems. This paper examines the comprehensive legal structure of Indian contract enforcement through research of statutory guidelines and judicial decisions regarding enforcement of contracts along with significant case studies. The research investigates the current international rank positioning of India as it highlights the essential aspects needing improvement. The research investigates the revolutionary ability of blockchain-based smart contracts to change how contracts get executed and disputes get settled. This research conducts a jurisdictional comparison to recommend strategic reforms that will improve India's contract enforcement capabilities. Additional implementation of digital contracts with alternative dispute resolution systems and judicial reforms will create a better business climate in India because it minimizes litigation challenges and provides better legal clarity. A combined strategy between legislative frameworks and technological advancements and policy adjustments will create the future of contract enforcement in India through an efficient business-oriented legal framework.

**KEYWORDS:** Enforcing Contracts, Ease of Doing Business, Smart Contracts, Legal Framework, India, Business Law, Dispute Resolution, Judicial System, Arbitration

## **INTRODUCTION**

The success rate of enforcing contracts determines the overall efficiency of economic operations and business trust levels. The World Bank's Ease of Doing Business Report uses measurements of the quality and time along with costs in evaluating how effectively countries



enforce their contracts. The recent regulatory changes in India cannot overcome the existing judicial backlog combined with cumbersome procedural rules as well as contradictory dispute resolution systems.

The enforcement of contracts backed by law economics principles cuts transaction expenses along with protecting businesses from risks while creating dependable legal conditions. Commercial courts within the Indian judiciary assume an essential position in creating contractually certain relations by upholding legal certainty. The 163rd position India holds in contract enforcement of the 2020 Ease of Doing Business Index indicates the need for complete legal system reforms.

The current digital environment enables blockchain-based smart contracts as an innovative modern enforcement framework which replaces conventional traditional contract methods. These automatable contracts operate without human involvement which creates both decreased administrative expenses and clear program visibility. The current Indian legal structure lacks clarity about returning these possible solutions to governing bodies. The paper investigates how law and technology and economic policy create a strong contract enforcement system through examination of Indian legal structures and court decisions and worldwide implementation standards. The study establishes strategies to bolster India's contract enforcement system by outlining important problems during the current technological expansion period<sup>1</sup>.

### **Legal Framework Governing Contract Enforcement in India**

The contract enforcement framework of India operates under three components including legal statutes and judicial decisions together with regulatory controls to provide certain business transactions. The Indian Contract Act, 1872 provides all necessary rules regarding contracts from their creation through performance to their enforcement.<sup>2</sup> According to the Specific Relief Act of 1963 the court system can enforce contract compliance by granting specific performance remedies together with injunctions<sup>3</sup>. The 1996 version of the Arbitration and Conciliation Act provides support for alternative dispute resolution (ADR) which helps minimize judicial delays.<sup>4</sup> The 2015 Commercial Courts Act achieved its amendment in 2023 to create dedicated

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<sup>1</sup> World Bank, Doing Business 2020: Comparing Business Regulation in 190 Economies, THE WORLD BANK (2020)

<sup>2</sup> The Indian Contract Act, 1872, No. 9, Acts of Parliament, 1872 (India).

<sup>3</sup> The Specific Relief Act, 1963, No. 47, Acts of Parliament, 1963 (India).

<sup>4</sup> The Arbitration and Conciliation Act, 1996, No. 26, Acts of Parliament, 1996 (India).



courts specifically for handling commercial disputes<sup>5</sup>. Through the Information Technology Act, 2000 the government provides valid legal status to electronic and smart contracts to enable digital deals<sup>6</sup>. Under the Insolvency and Bankruptcy Code, 2016 both creditors and their contracts obtain protection during times of insolvency<sup>7</sup>. Despite strong legal protections that exist, judicial delays and complex procedures discourage foreign investment in India's markets which impedes improvements to both contract enforcement and ease of doing business rankings.

### **Challenges in Contract Enforcement in India**

The problems with contract enforcement in India affect the country's stance on the Ease of Doing Business indexes. Multiple years of judicial backlog exists in contract enforcement because courts require extensive periods to determine disputes. Long judicial procedures worsen the situation because they both reduce the efficiency of contract enforcement and make it unpredictable. The combination of high legal expenses that increase in court fees along with attorney costs and additional bureaucratic costs makes businesses avoid seeking judicial enforcement remedies. Untaught commercial law competence of court personnel and judges causes a deterioration in commercial conflict settlement performance. The promotion of arbitration and mediation as alternatives does not eliminate the continuing difficulties regarding limited use of alternative dispute resolution mechanisms. Multiple conflicts which arise from unclear terms within contracts result in extensive legal proceedings. The validity of smart contracts remains unclear because courts do not recognize blockchain-based contracts through explicit legal provisions. The nation experiences delayed judicial proceedings because of inefficient bureaucracy and widespread corruption while different courts interpret laws inconsistently which makes contract law enforcement unpredictable. India must solve these business obstacles to enhance its market conditions and provide stronger protection for commercial agreements.

### **India's Performance in the Ease of Doing Business Rankings**

The World Bank's Ease of Doing Business Report uses time, cost and judicial process quality standards to assess contract enforcement. Business reform progress has improved widely throughout India while enforcement of contracts continues to pose substantial difficulties in

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<sup>5</sup> The Commercial Courts Act, 2015, No. 4, Acts of Parliament, 2015 (India).

<sup>6</sup> The Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India).

<sup>7</sup> The Insolvency and Bankruptcy Code, 2016, No. 31, Acts of Parliament, 2016 (India).

the country. India secured position 163 out of 190 nations in the 2020 Ease of Doing Business Index because the judicial process continues to face problems including slow case management and high court expenses with complicated legal steps.

These new reforms were established to enhance the reputation of India. Australia implemented the Commercial Courts Act 2015 as the national legislation to accelerate dispute settlements for business disputes. The digital transformation has brought modern court record systems as well as e-filing technology and web-based dispute settlement solutions to minimize judicial procedures. The Supreme Court raises arbitration and mediation up as two solutions which help replace old-style lawsuits.

Contract enforcement operations in India consume too much time and expense because most disputes require multiple years to reach resolution. Enforcing a contract in India takes an average of 1,445 days which exceeds the time requirements of other major economies. Specialized commercial courts need strengthening while Indian businesses must streamline their arbitration systems along with incorporating smart contracts for India to boost its position worldwide in enforcing contracts.

### **Role of Smart Contracts in Enforcing Contracts in India**

Smart contracts are a revolutionary innovation in enforcing contracts by making contractual obligations automatic using blockchain technology. In contrast to conventional contracts, which depend on legal enforcement in courts, smart contracts are self-executing contracts that automatically perform actions when specific conditions are fulfilled. This makes it much less reliant on humans, reduces conflicts, and speeds up contract execution, making them appealing to businesses.

### ***Legal Status of Smart Contracts in India***

When applied to the context of contract law, India lacks explicit acknowledgment of smart contracts under the current framework of the Indian Contract Act, 1872<sup>8</sup>. The Information Technology Act, 2000 of India incorporates electronic contracts into law which creates legal groundstones for smart contracts.<sup>9</sup> Their extensive acceptance remains limited because concerns about unchangeability plus court controversies and monitoring structures function as

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<sup>8</sup> The Indian Contract Act, 1872, No. 9, Acts of Parliament, 1872 (India).

<sup>9</sup> The Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India).

obstacles. A combination of difficulties exists for courts when they interpret cryptographic agreements as well as when they manage jurisdictional matters and ensure enforceability during disputes.

### **Advantages of Smart Contracts**

Through their modern operational format smart contracts excel in contract enforcement by providing increased efficiency combined with transparency and strengthened security and affordable operations. Through blockchain-based self-executing contracts parties can complete their contractual obligations automatically which eliminates court involvement along with mediation staff so delays become non-existent while risks of lawsuits decrease. The tamper-proof nature of blockchain records provides strengthened transparency alongside security because the systems make it impossible for anyone to carry out fraudulent modifications or gain trust from parties.<sup>10</sup> Transaction costs decrease heavily because the implementation of blockchain-based contracts eliminates the need for traditional legal fees and administrative costs of contract enforcement including court fees and attorney fees. Thanks to their ability to bypass maintenance fees businesses can benefit from smart contracts since they cut down disposable costs while making transactions smoother. Smart contracts enable worldwide accessibility because they eliminate issues related to cross-border transactions that normally require handling jurisdictional complexities and delays. Such advantages prove essential in international trade and finance since smart contracts enable instant execution of contractual negotiations. The lack of clear legal regulations in India about smart contracts hinders their practical enforcement methods. India requires complete regulations and legal acceptance of smart contracts and appropriate dispute resolution procedures to maximize their potential use. The implementation of smart contracts into the legal system will help India gain better positions in Ease of Doing Business rankings while improving efficiency in contract enforcement.

### **Challenges and the Way Forward**

The implementation of smart contracts in India faces barriers because the country needs a regulatory structure and clear enforcement guidelines and systematic judicial understanding of these digital agreements. India needs to modify its contract laws by officially defining smart contracts under legal statutes to successfully implement these digital agreements. Specialized

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<sup>10</sup> R. Chawla, Blockchain and Smart Contracts: The Future of Commercial Transactions in India, 10(2) NUJS L. REV. 112 (2020)



dispute resolution systems created to handle blockchain-based contracts should emerge because they provide solutions to legal ambiguities. The alignment of Indian practices with international best standards will create both legal clarity and global applicability of smart contracts. When India establishes proper legislation for smart contracts it will induce monumental changes in how we enforce contracts while boosting operational efficiency and minimizing legal disputes which will strengthen the country's Ease of Doing Business status thus creating a better environment for business growth.

### **Global Impact of Contract Enforcement and Smart Contracts**

The way contracts are enforced stands as one vital aspect which determines how well economies grow as well as national investment environments and global business operation ease. Parties rely on countries including the United States, United Kingdom and European Union when their judicial systems achieve high efficiency because these regions provide standard contract regulations along with efficient arbitration practices which enable trust between trading partners. EU member states follow the Rome I Regulation to enforce contracts in identical ways throughout all member nations which ensures consistent legal rules in international deals. Singapore and Hong Kong serve as worldwide arbitration centers that provide technological dispute resolution platforms. Smart contracts have gained legal validity worldwide with successful legal recognition in specific jurisdictions across the United Kingdom and Arizona and Tennessee as U.S. states. EU Digital Finance Package undertakes blockchain-based solutions standardization within legal guidelines and Chinese courts protect smart contracts used in electronic and financial commercial operations.<sup>11</sup> The Indian economy needs to realign itself with worldwide best practice by reforming contract laws to accept smart contracts along with new dispute resolution approaches to upgrade its Ease of Doing Business positions and welcome international investment. The combination between conventional contract regulations and modern smart contract capabilities will help India maintain its international economic leadership by promoting innovative solutions and secure transactions and investor reliability.

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<sup>11</sup> M. Peters, International Perspectives on Enforcing Smart Contracts: A Comparative Study, 33 HARV. INT'L L. J. 85 (2021).

## CASE LAWS

### 1. **Fateh Chand v. Balkishan Das (1964 AIR 1405)**<sup>12</sup>

The legal dispute examined liquidated damages together with penalty clauses in contractual agreements. The Supreme Court stipulated that damages need to be proportionate to actual losses while exceeding the limit thereof. Fair contract enforcement received support through this decision which prevents contractual penalties from being needlessly harsh.

### 2. **ONGC v. Saw Pipes Ltd. (2003 5 SCC 705)**<sup>13</sup>

The decisive case confirmed that Indian legal institutions have authority to reject arbitral decisions which represent contravening public policy guidelines. Court involvement with arbitration expanded because arbitral awards received less strict enforcement when they failed fairness standards.

### 3. **Bharat Aluminium Co. v. Kaiser Aluminium Technical Services (2012 9 SCC 552)**<sup>14</sup>

The Supreme Court declared that foreign-seated arbitrations fall outside Indian court authority thus establishing India as a more attractive arbitration destination.

### 4. **M/S Perkins Eastman Architects DPC v. HSCC (India) Ltd. (2019 SCC Online SC 1517)**<sup>15</sup>

According to the decision in this case impartiality in arbitration is preserved since contracting parties cannot individually select arbitralators. The dispute resolution systems achieved more neutrality and fairness through this development.

### 5. **ICICI Bank Ltd. v. Sidco Leathers Ltd. (2006 10 SCC 452)**<sup>16</sup>

In this scenario the legal system focused on safeguarding the rights of creditors who are involved in cases of insolvency. The court stated that bankrupt debtors still need to uphold their contractual agreements because it matches the rules of the Insolvency and Bankruptcy Code 2016.

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<sup>12</sup> Fateh Chand v. Balkishan Das, (1964) 1 SCR 515 (India).

<sup>13</sup> ONGC v. Saw Pipes Ltd., (2003) 5 SCC 705 (India).

<sup>14</sup> Bharat Aluminium Co. v. Kaiser Aluminium Technical Services, (2012) 9 SCC 552 (India).

<sup>15</sup> M/S Perkins Eastman Architects DPC v. HSCC (India) Ltd., (2019) SCC OnLine SC 1517 (India).

<sup>16</sup> ICICI Bank Ltd. v. Sidco Leathers Ltd., (2006) 10 SCC 452 (India)

## CONCLUSION

At this critical moment India's contract enforcement system needs judicial system advancements as well as technological progress and new legislative approaches to enhance its Doing Business position. Despite recent reforms in the Commercial Courts Act and other legislation and Arbitration and Conciliation Act and Insolvency and Bankruptcy Code, judicial delays continue to exist alongside high litigation costs and inconsistent interpretations and judicial inefficiencies remain major obstacles. Blockchain technology through smart contracts introduces a revolutionary approach to automatically speed up secure contract performance processes. The definitive standing of such agreements requires legal amendments and regulatory agreement due to their present uncertain status.

India's contract enforcement environment will become more efficient by employing smart technologies together with specific commercial courts and mediation solutions in combination with legal system improvements.<sup>17</sup> The policy reforms in India should follow the successful models demonstrated by Singapore and the UK because these jurisdictions have successfully developed efficient dispute resolution along with legal acceptance of smart contracts which strengthened their business conditions. The enforcement of blockchain contracts becomes possible with strengthened regulations of blockchain technology and dispute resolution systems for smart contracts as well as reduced judicial restriction points. The combination of legal support for digital systems along with a friendly judiciary setup will empower India to attract more investors while boosting economic performance and international business competitiveness thus becoming a major global force for contract enforcement and commercial law evolution.

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<sup>17</sup> M. Singh & V. Sharma, Arbitration in the Age of Smart Contracts: Legal Challenges in India, 5(1) JINDAL GLOBAL L. REV. 88 (2022).