



Since, commercial transactions are the basic market forces of an economy. hence, a robust contract law gives a kind of a confidence for a robust commercial and business relationship and hence the foundation of all business. It is kind of a law that actually promotes and protects business relationship between the parties.

There are few books that the CEERA team has authored and which can be useful for further references and readings while we understand contract law in this course. The first book is published by the National Law School of India University. it is titled Contracts, Agreements and Public Policy in India. We call it the NLS book series 1. It has some very interesting articles on modern forms of contract it has included different aspects of development that the courts have actually contributed in understanding and interpreting contract law. It is a very interesting book that can be read to understand contract law in a much better way.

The sage law book on law of business contract is also very interesting. It has some modern kinds of contracts like joint ventures and franchisee contracts. The legal development of these contracts are very important for this course to look at contract law in the current context especially as in understanding about the challenges of globalization of contract law.

There is another book that has been published by Eastern Law House. It is on privatization and globalization. This is an era that has brought in a lot of multinational dimensions in contract law especially when we talk about international principles of contract law and how arbitration has moved away from India. Further, there is an influence of other jurisdictions especially the American law, the common law (that is the United Kingdom) on the contract law in India. Some principles from Singapore are also influencing contract law. This book will help to understand the impact of privatization and globalization to Indian businesses.

If you want to look at specialized contracts especially in the energy sector, for example, we talk about power purchase agreements. The energy sector is the sector that is actually booming, it is a sector that has a lot of opportunities both in the renewable sector about in terms of solar, in terms of wind and so on and so forth. There is a lot of emphasis on renewable sector because of climate change and other policies. The entire law and policy on that is available in this book. It looks at the non-renewable sector as well including coal and other fossil fuels that have been contributing to energy and power. The production and distribution of the same is done through contracts. And hence, contracts play an important role in the dimension of energy policy in India as well.

This book has discussed about the privatization of the energy sector post the Electricity Act, 2003. It talks about the regulators that has come into place. It talks about the powers of the central electricity regulated commission, which include the power to moderate contractual prices in the energy sector. There are some very interesting cases from the energy sector that we will discuss in contract law. So, this book can also be an additional useful tool.

Finally, coming to public private partnership. This is the mantra for government contracts right now. The government does not want to entirely privatize because, there are a lot of risks involved in entire privatization. India is a welfare state based on a socialistic model at least in the benchmark of grassroots policy and developmental debate. And hence, the PPP model has become the model of doing contracts and businesses at the governmental level. Government holds a great amount of opportunity for business and contracts and hence government contract has received a whole new dimension through public private partnership.

The last book that you see on the slide is a book that actually gives a fantastic introduction to the model or the history of PPP, the current model on PPP and the development into EPC contracts. Engineering, Procurement and Construction (EPC) contract is also one of the methods that the government now adopts in its model. We see PPP in so many sectors right from the airports to the highways to the defence to even the railways. The public private partnership model is an interesting model and the bedrock of a PPP is a contract. Everything happens through the contract model. they are long-term concession agreements and hence there are a lot of implications of how this can be looked into.

Let us move on to understanding the different aspects of contract law i.e. the Indian Contract Act, 1872. You can keep a bare act of the same or you can download it online, It is the foundation law, it is the mother law in understanding which is a valid contract and what is an enforceable contract.

Some of the contracts in India are not going to be enforced by the courts of law. There are strict regulations of which contracts are acceptable and which contracts are not acceptable. So, understanding the entire law becomes critical and hence this is the first law that we will take into consideration in this course.

The Indian Contract Act, 1872 does have certain remedies for breach of contract. So, if the parties do not fulfil their promises if they do not fulfil their obligations there is a penalty and liability. So, one cannot get away with the law, one cannot get away with contractual

obligations simply like that. The law imposes certain obligations if a party fails to honour the contract. And hence, while damages are one of the remedies that are looked in the law of contract there are several other remedies that are also available to the parties and those are mentioned in the Specific Relief Act of 1963. It has been amended in 2018. So, when we talk about what courts can do in case a contract is breached, what is the function of the court and how do they remedy the relief that the parties require for breach, the Specific Relief Act is a very important legislation to refer.

Next, we have the Indian Partnership Act, 1932. It is a form of business and is a very integral form of business. But, in India we have two laws on partnership. One is the Limited Liability Partnership Act of 2008 which is a recent law. It is mostly part of business and corporate law. It is an alternative model of doing business if you do not want to form a company for business.

The earliest form of doing business through partnership was the Indian Partnership Act of 1932. Again a law made during British times. One man is limited in terms of resources manpower or finance which may not be sufficient to propel the economy and business. So, two or more people can come together, put in their human resources, capital and can actually start doing business in India.

So, when two or more people come together and join their stocks together either a public limited company or a partnership model of business can be formed. However, when two or more persons come together and they want to do business, the bedrock of this kind of a business is also a contract. This is called the partnership deed which is the basis on which the two or more people decide to form a partnership, actually go about their business. And hence there is a strong linkage of contracts even for formation of a business and even for running of a business.

The fourth law that is be useful for the present course is the Information Technology Act of 2000. This law was amended in 2008. We will refer to this legislation because, we are talking about modern forms of contract which we call as electronic contracts or digital contracts or contracts in the internet world. These forms of contracts are now increasing. Most of us are actually ordering online, we are booking online, everything is online right from hotels to flights to trains even food or grocery, everything has moved to the digital space and internet is widely used for contract making.

While the Indian Contract Act, 1872 encompasses all kinds of contract. It is a good law that has withstood the test of times. But the aspects of information technology law which governs internet and commercial transactions or what we call as E-commerce transaction is also very important. There are a couple of sections in Information Technology Act that are very critical for our understanding of contract including Section 10A. We will refer to this law to actually look into E-contracts.

Finally, we have the Sale of Goods Act. This was a law that was brought about in 1930. It is a special enactment that deals with goods or commodities or material that are kept on sale. There are two kinds of sales that can take place - one is a moveable property the other is of immovable property. "Goods" which are part of the moveable property are covered under this special legislation. The Sale of Goods Act interestingly gives us the dimension of what can be a warranty, when does sale actually take place. Incoterms (i.e. international commercial terms) are also covered under this law. It is a complimentary law, a special law because it talks about special remedies for sale of goods. There are special rights to the parties especially to the sellers and the buyers. The aspect of auction sale for the first time gets defined under this law and hence this law adds a lot to our understanding of contracts.