

**2016 INTERNATIONAL CONFERENCE ON LAW & ECONOMICS**  
**IIT Kanpur, 3-4 September 2016**

**ABSTRACT OF KEYNOTE ADDRESS**

Title: Economic Benefits of Contracts—Effective Dispute Resolution is Key

**Anand S. Dayal<sup>1</sup>**, Juris Doctor, Cornell University  
Admitted in USA (NY, DC) and India

It is often said that a right without a remedy is an illusion. So also in contract law, a contract right is only worth something if there is recourse to a remedy for the violation of such right. If there is no remedy (or it is impractical), the right might as well not exist—it is an illusion.

Because enforcement makes the contract right “real”, it is a fundamental premise in the economic analysis of contract law. A contract is enforceable if upon a breach by one party the other party is entitled under law to a remedy, such as monetary damages or injunctive (specific) relief, and the state will compel such remedy.

When a contract is breached often the parties disagree as to the existence and extent of the breach and the damages if any payable. The resolution of such disputes therefore is at the heart of contract enforcement.

Besides the quantum of damages recoverable by the non-breaching party, a key aspect of enforceability is the timeliness and cost of enforcement and certainty of the outcome. If the resolution of a commercial dispute is time consuming it can lead to wasteful expense and inefficiencies. If in addition the outcome is unpredictable or arbitrary it lacks dependability, in that it cannot be counted upon. As a practical matter, these considerations often drive whether the non-breaching party seeks legal recourse to enforce the contract.

The reality in India is that enforcement of a contract and recovery of damages is usually a remote and somewhat frustrating prospect. In global rankings, India ranks almost at the very bottom on contract enforcement. There are many reasons for the poor enforceability of contracts. This paper focuses on innovations in court procedure and the use of technology to resolve commercial disputes faster, cheaper and with greater certainty.

July 25, 2016

---

<sup>1</sup>The author is a corporate lawyer with Koura & Company Advocates based in Delhi, where his practice focusses on commercial transactions including dispute resolution. He can be reached via email at [adayal@kouraco.com](mailto:adayal@kouraco.com) or 9810064787.