

Contract Enforcement in India - Ease Of Doing Business Ranking

What is the issue?

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- India ranked 100 out of 190 countries in the World Bank's Ease of Doing Business report 2018.

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- Despite this being an improvement of 30 places, the low performance on sub-index of 'enforcing contracts' needs attention.

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How is contract enforcement in India?

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- The WB's ease of doing business ranking is based on the average of 10 sub-indices, '**enforcing contracts**' being one among them.

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- India's ranking in the 'enforcement of contract' component is **164 out of total 190 economies** in the index.

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- The reports' projections on improvement in India's 'enforcing contracts' score is also feeble, indicating the dismal performance.

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- This ranking is directly dependent on a country's ability to provide an effective **dispute resolution** system.

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- The report says that it takes an average of nearly 4 years to enforce a contract in India.

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- The all-told cost to a litigant to recover amounts legitimately due to him/her is 31% of the value of the claim.

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What was the legislation in this regard?

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- The **Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act** was passed.

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- This was primarily to address the dispute resolution concerns in India's business environment.

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- It provides a forum with upgraded infrastructure to resolve those classified based on a specific value as "**commercial disputes**".

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- The value specified ensures that the courts are not burdened with small claims.

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- It paves way for setting up commercial courts at the district level.

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- And also a commercial division in High Courts that have original jurisdiction.

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- This will be along with a commercial appellate division in the High Courts to hear appeals arising under the Act.

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- The Act requires the State governments to establish the required **infrastructural facilities**, in consultation with the HCs.

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- They are also required to establish **facilities for training** of judges who may be appointed to these courts.

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- It mandates the High Courts to show the levels of disposal of such claims on their website, thereby ensuring **transparency**.

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What are the concerns?

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- There is generally a gap in enforcement when the implementation is left to State governments.

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- The Act contemplates the “appointment” of commercial court judges in districts.
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- However, most State governments have merely vested the presiding district judge with powers to act as a commercial court.
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- The principal district judges are already overburdened with workload.
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- Given this, vesting them with the powers of commercial courts in districts defeats the very intent and purpose of the Act.
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- The presiding judges' experience in dealing with commercial disputes is also doubtful.
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- Also, the implementation of institutional and infrastructural mandates specified to the States is largely lacking.
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- Addressing these shortfalls is essential to make the commercial courts truly business-like.
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- As also to make meaningful the commercial disputes Act to improve India’s ranking in “enforcing contracts”.
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Source: The Hindu

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