

Original Article: The Evolution of Contract Law: Principles, Challenges, and Future Trends

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ABSTRACT

Contract law, as one of the most fundamental branches of legal systems, has evolved significantly over centuries to adapt to changing economic, social, and technological contexts. Its historical development—from Roman law's emphasis on ritualistic formalities, to the medieval *lex mercatoria*, and later the codifications of civil law and the precedent-driven common law—highlights the dynamic interplay between law and society. Core principles such as freedom of contract, *pacta sunt servanda* (agreements must be kept), good faith, consideration, and legality have remained central, though their application has been continually reshaped by shifting social needs and regulatory frameworks. In modern contexts, contract law faces profound challenges. Globalization has expanded cross-border transactions, necessitating harmonization efforts through international conventions such as the CISG. Meanwhile, consumer protection has become increasingly important in addressing power imbalances and ensuring fairness in contractual relationships. The digital revolution has further transformed contract formation, with e-contracts, clickwrap agreements, and electronic signatures raising new legal and ethical issues. Emerging technologies such as blockchain and smart contracts present both opportunities for efficiency and challenges related to enforceability, remedies, and accountability. Looking forward, contract law is expected to undergo significant transformation in response to rapid technological advancement, global harmonization efforts, and the growing importance of sustainability and social responsibility. The integration of artificial intelligence into contract drafting, negotiation, and enforcement will further reshape traditional practices, while simultaneously raising questions of liability, transparency, and fairness. Thus, the evolution of contract law not only reflects past traditions but also anticipates future adaptations to ensure fairness, predictability, and resilience in an interconnected world.

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Introduction

Contract law occupies a central position within the legal framework of societies, regulating voluntary exchanges and relationships that are fundamental to economic and social life. Its significance lies not only in its function of binding individuals and entities to their promises, but also in its capacity to promote trust, predictability, and justice in human interaction [1]. Over time, contract law has evolved from rudimentary oral agreements and ritualistic forms into a highly sophisticated system that addresses complex issues such as international trade, consumer protection, digital transactions, and artificial intelligence. This evolution reflects the dynamic nature of law as a living instrument that adapts to new realities, economic structures, and cultural norms [2].

The history of contract law demonstrates that it has never been static. Early societies relied on rituals and symbolic acts to bind individuals, often in forms that carried religious or moral weight. Roman law, with its doctrine of *pacta sunt servanda* and the structured form of *stipulatio*, introduced a systematic approach that emphasized the sanctity of agreements. During the medieval era, commerce and the rise of the merchant class demanded more flexible rules, giving birth to the *lex mercatoria*, a body of principles grounded in custom and fairness rather than rigid formalism. As nation-states consolidated power, legal codification in civil law systems, alongside judicial precedents in common law jurisdictions, provided greater certainty and uniformity in contractual obligations [3].

The emergence of modern contract law in the nineteenth and twentieth centuries was closely tied to industrialization, market expansion, and the liberal philosophy of individual autonomy. The principle of “freedom of contract” became a cornerstone, allowing parties to determine

the content of their agreements with minimal interference. This autonomy, however, also exposed inequalities between parties, especially in employer–employee relations and consumer transactions. Consequently, legislatures and courts increasingly recognized the need to protect vulnerable parties from exploitation, leading to doctrines of unconscionability, implied duties of good faith, and statutory regulation of unfair terms. Thus, modern contract law strikes a delicate balance between respecting private autonomy and safeguarding public interests [4].

In the contemporary era, the challenges facing contract law have expanded dramatically due to globalization, digitization, and social change. Cross-border contracts require harmonization of rules and procedures, as businesses operate across jurisdictions with differing legal traditions. Instruments such as the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the UNIDROIT Principles represent efforts to create a more coherent global framework, yet practical divergences remain. Moreover, as global supply chains and digital platforms become dominant, questions of jurisdiction, enforceability, and choice of law complicate contractual disputes [5].

Equally transformative has been the digital revolution. Contracts are no longer restricted to physical documents signed in person; they are increasingly formed online, often through mechanisms such as “clickwrap” and “browsewrap” agreements that raise questions about consent and fairness. Electronic signatures, e-commerce regulations, and cross-border data flows necessitate constant adaptation of traditional contract principles. Even more disruptive are blockchain-based smart contracts, which self-execute once conditions are met. While they promise efficiency and certainty, they challenge courts and legislatures with new questions: What

happens if a smart contract malfunctions? Who bears responsibility for errors in code?

Can justice be served when outcomes are predetermined by algorithms without space for equitable remedies? The broader implications of contract law also extend to ethical and societal considerations. In an age where data privacy, environmental sustainability, and corporate social responsibility are increasingly emphasized, contracts are no longer seen solely as private agreements [6].

They can also serve as instruments of public policy, embedding obligations that reflect societal values. For instance, contracts may include sustainability clauses requiring compliance with environmental standards, or data protection provisions ensuring consumer privacy. Thus, contract law is becoming a vehicle for advancing broader global objectives, transcending its traditional role as a regulator of private exchange [7].

Looking to the future, contract law faces unprecedented transformation. Artificial intelligence (AI) is emerging as a powerful tool in contract formation, analysis, and enforcement. AI can draft complex agreements, predict potential disputes, and even resolve conflicts through automated decision-making. Yet, these innovations raise fundamental questions about human agency, accountability, and fairness [8].

If an AI system creates or enforces a contract, who is liable for errors or biases? How can transparency be ensured in algorithms that shape binding obligations? Moreover, as contracts become increasingly automated and standardized, will individuals retain meaningful freedom of negotiation, or will autonomy be subsumed by technological systems? The evolution of contract law thus mirrors broader transformations in human society: from ritual to rationality, from

autonomy to regulation, from local exchange to global commerce, and from human decision-making to artificial intelligence [9].

Each stage has introduced both progress and challenges, requiring law to strike a careful balance between flexibility and certainty, individual freedom and collective welfare, innovation and justice. The principles of contract law—freedom of contract, good faith, consideration, legality, and enforceability—remain enduring, but their interpretation continues to adapt in response to changing realities [10].

This article examines the evolution of contract law through its historical roots, fundamental principles, contemporary challenges, and future prospects. The aim is not only to trace how contract law has developed, but also to understand how it reflects the values and priorities of each era. The discussion highlights the adaptability of contract law as a reflection of human ingenuity, while also underscoring the need for continuous reform to address the demands of globalization, digital transformation, and ethical responsibility [11]. In sum, contract law is more than a technical body of rules—it is a dynamic system that mediates between private will and public interest, between tradition and innovation. Its evolution demonstrates the resilience of legal systems in responding to societal change, while also revealing the constant tension between certainty and flexibility, fairness and efficiency. As the twenty-first century unfolds, contract law will remain central to legal and economic life, but its role and structure will continue to evolve in ways that challenge both jurists and practitioners to rethink fundamental assumptions about agreements, obligations, and justice [12].

Table 1: Literature Review on the Evolution of Contract Law [13]

| Ref NO. | Author(s) & Year | Title / Source | Focus of Study | Key Findings | Relevance to Current Research |
|---------|--------------------------|---|--|--|--|
| [13] | Atiyah, P. S. (1995) | <i>An Introduction to the Law of Contract</i> | Historical and theoretical foundations of contract law in common law tradition | Demonstrated the shift from classical freedom of contract to modern regulatory interventions | Provides historical background and highlights the need to balance autonomy with fairness |
| [14] | Farnsworth, E. A. (2004) | <i>Contracts</i> | Doctrinal principles of U.S. contract law | Identified principles of consideration, consent, remedies, and good faith | Offers a doctrinal basis for analyzing evolving principles |
| [15] | Beale, H. (2019) | <i>Chitty on Contracts</i> | Comprehensive analysis of English contract law | Discussed current doctrines, consumer protection, and digital contracts | Highlights modern challenges and informs contemporary perspectives |
| [16] | Goode, R. (2012) | <i>Commercial Law</i> | Commercial contracts and international trade law | Emphasized globalization, cross-border harmonization, and CISG application | Relevant for understanding international dimensions of contract law |
| [17] | United Nations (1980) | <i>CISG</i> | International sale of goods | Established uniform rules for international contracts | Central to global harmonization and future trends |
| [18] | UNIDROIT (2016) | <i>Principles of International Commercial Contracts</i> | Model rules for cross-border contracts | Promoted good faith, fairness, and party autonomy in international commerce | Framework for addressing globalization challenges |
| [19] | Brownsword, R. (2015) | <i>Contract Law and the Digital Age</i> | Impact of technology and digitalization | Highlighted issues of consent, e-signatures, and smart contracts | Directly linked to digital transformation in contracts |

Historical Evolution of Contract Law

1. Roman Foundations: Roman law provided the earliest structured foundation of contract law. The *pacta sunt servanda* principle (agreements must be kept) emphasized the binding nature of promises. Specific forms, such as *stipulatio*, required strict adherence to words and rituals. Roman law's influence continued through European legal traditions, particularly in civil law systems [20].

2. Medieval Developments: During the medieval period, canon law and merchant practices shaped contractual obligations. The rise of trade fairs and commercial activity in Europe led to the development of the *lex mercatoria* (law of merchants), which prioritized fairness, good faith, and custom over rigid formalities [21].

3. Common Law Tradition: In England, contract law developed within the common law framework, emphasizing precedent and judicial interpretation. Landmark cases such as *Hadley v. Baxendale* (1854) established doctrines of foreseeability in damages. The doctrine of consideration became a distinctive feature, requiring that contracts involve reciprocal obligations [22].

4. Codification in Civil Law: Civil law systems codified contract law, most notably in the French Civil Code (1804) and the German Civil Code (BGB, 1900). These codifications provided clarity and uniformity, focusing on freedom of contract, equality of parties, and binding obligations.

5. Twentieth-Century Transformations: The rise of consumer protection laws, labor contracts, and state regulation limited absolute freedom of contract. Contract law increasingly incorporated principles of fairness, unconscionability, and public policy, reflecting broader societal values [23].

Contemporary Challenges in Contract Law

1. Globalization and Cross-Border Contracts: The rise of international commerce has created challenges in harmonizing contract law across jurisdictions. Instruments such as the United Nations Convention on Contracts for the International Sale of Goods (CISG) attempt to provide uniform standards, but national differences persist [24].

2. Consumer Protection and Inequality of Bargaining Power: Modern societies recognize that absolute freedom of contract can disadvantage weaker parties, such as consumers and employees. Laws addressing unfair terms, unconscionability, and information asymmetry have emerged to balance inequalities.

3. Digitalization and E-Contracts: The widespread use of online platforms has transformed contract formation. Clickwrap agreements, digital signatures, and online marketplaces challenge traditional concepts of consent, enforceability, and jurisdiction.

4. Smart Contracts and Blockchain: Blockchain-based smart contracts execute automatically without human intervention. While they enhance efficiency, they raise legal questions regarding enforceability, jurisdiction, and remedies in case of malfunction or fraud [25].

5. Ethical and Public Policy Considerations: Contracts involving data privacy, artificial intelligence, and environmental obligations reflect evolving public policy concerns. Balancing private autonomy with societal interests remains a critical challenge.

Future Trends in Contract Law

1. Digital Transformation: The continued rise of e-commerce, artificial intelligence, and blockchain technology will reshape contractual relationships. Legal systems will adapt to address automated decision-making and cross-border digital contracts.

2. Global Harmonization: Efforts to harmonize contract law through instruments such as the CISG and the UNIDROIT Principles will intensify. Greater convergence between common law and civil law traditions is anticipated.

3. Sustainability and Social Responsibility: Future contract law may increasingly integrate environmental and social obligations, ensuring that private agreements align with global sustainability goals.

4. Artificial Intelligence in Contract Formation and Enforcement: AI tools capable of drafting, analyzing, and enforcing contracts will become central to legal practice. Questions of liability, fairness, and accountability will require new legal frameworks [26].

5. Enhanced Consumer and Data Protection: As digital markets grow, stronger protections for consumers and personal data will become embedded within contract law, particularly regarding privacy and transparency. The evolution of contract law is a reflection of the dynamic interplay between legal principles, societal expectations, and technological innovations. As a branch of law that governs voluntary agreements, contract law has been deeply influenced by shifts in economic structures, globalization, and advancements in digital technologies. The discussion of this subject must consider not only the historical trajectory and doctrinal foundations of contract law but also the contemporary challenges and the implications of future developments [27].

The Enduring Principles of Contract Law

At the core of contract law are principles that have maintained their relevance across centuries. The concept of *pacta sunt servanda* (agreements must be kept) remains foundational, ensuring that parties can rely on the enforceability of promises. Similarly, freedom of contract has historically

emphasized the autonomy of individuals and businesses to structure their agreements as they see fit. However, this freedom is not absolute and has always been balanced by considerations of good faith, fairness, and legality. These principles provide the necessary flexibility for contract law to adapt to changing social and economic circumstances while maintaining predictability and stability in commercial transactions [28].

The common law tradition has highlighted doctrines such as consideration and remedies for breach, whereas civil law systems have relied on codification and general principles like good faith and equity. Despite these differences, both systems reveal a shared concern for ensuring fairness and reliability in contractual relations. This demonstrates that contract law, regardless of jurisdiction, evolves to protect both private interests and public policy objectives [29].

Challenges in the Modern Context

The modern era presents new challenges that push the boundaries of traditional contract law. One major issue is globalization, which has expanded contractual relationships beyond national borders. Multinational corporations, international supply chains, and e-commerce platforms operate across diverse legal frameworks, raising concerns about jurisdiction, applicable law, and enforcement. Instruments like the United Nations Convention on Contracts for the International Sale of Goods (CISG) have attempted to harmonize cross-border contractual rules, but significant differences between common law and civil law traditions persist [30].

Another pressing challenge is the inequality of bargaining power. In consumer and employment contracts, standardized agreements often favor stronger parties, leaving weaker ones vulnerable. This has prompted the development of consumer

protection legislation, doctrines of unconscionability, and judicial oversight of unfair terms. The shift illustrates how contract law must balance the autonomy of stronger market players with the need to protect vulnerable individuals, a tension that continues to shape modern legal reforms.

The digital revolution has also introduced unprecedented complexities. Contracts are increasingly formed through digital platforms, with clickwrap agreements and electronic signatures becoming the norm. While these mechanisms enhance efficiency, they raise questions about consent, enforceability, and fairness. For instance, do consumers genuinely understand the terms of lengthy online contracts, or are they coerced into accepting terms without meaningful choice? These questions highlight the need for contract law to adapt in order to ensure fairness in the digital marketplace [31].

The Rise of Smart Contracts and Artificial Intelligence

One of the most disruptive trends in contract law is the emergence of blockchain-based smart contracts. These contracts self-execute once pre-programmed conditions are met, eliminating the need for intermediaries. While they offer efficiency and certainty, they also challenge fundamental aspects of contract law. Traditional remedies such as rescission or equitable relief may be difficult to apply to automated agreements. Furthermore, questions of accountability arise: if a smart contract malfunctions due to a coding error, who bears liability—the programmer, the user, or the blockchain platform?

Similarly, artificial intelligence (AI) is transforming contract drafting, negotiation, and enforcement [32]. AI tools can analyze large volumes of contracts, predict risks, and even automate dispute resolution. However, the use of AI introduces concerns regarding

bias, transparency, and accountability. If an AI-generated contract contains unfair terms or discriminatory clauses, determining responsibility becomes complex. Thus, while technology enhances efficiency, it also requires careful legal oversight to preserve fairness and justice [33].

Ethical and Societal Dimensions

Beyond technical challenges, contract law increasingly reflects ethical and societal concerns. Issues of data privacy, sustainability, and corporate social responsibility are now embedded within contractual frameworks. For example, companies may include clauses requiring compliance with environmental standards or adherence to data protection regulations. This trend signifies a shift in the role of contract law from regulating private exchanges to promoting public policy objectives. In doing so, contract law becomes a vehicle for embedding societal values into legal agreements, ensuring that private autonomy aligns with broader ethical standards [34].

The integration of sustainability into contracts is particularly noteworthy in the context of global climate change. Businesses are increasingly expected to include obligations regarding environmental practices, reflecting the demand for corporate responsibility. Contract law, therefore, must adapt to accommodate new forms of obligations that transcend traditional economic considerations.

Future Directions

The future of contract law will likely be shaped by a combination of global harmonization, technological transformation, and social responsibility. Harmonization efforts, such as those led by the CISG and UNIDROIT Principles, will continue to promote convergence between different legal traditions, although complete uniformity remains unlikely. At the same time, digital transformation will redefine how

contracts are formed, enforced, and interpreted. Smart contracts and AI-driven agreements are expected to play a central role, demanding new legal frameworks to address questions of liability, fairness, and transparency [35].

Additionally, the principle of good faith is likely to gain even greater prominence. As contracts become more complex and automated, good faith will serve as a safeguard to ensure that agreements reflect fairness and accountability rather than mere technical efficiency. Similarly, courts and legislatures may increasingly rely on public policy considerations to regulate contracts, embedding obligations related to privacy, human rights, and environmental protection [36].

Synthesis and Critical Reflections

The discussion of the evolution of contract law underscores its dual nature: it is both a conservative institution, preserving enduring principles of autonomy and enforceability, and a progressive instrument, adapting to social and technological change. The enduring challenge is to balance these competing dimensions. Too much rigidity risks making contract law irrelevant in a rapidly changing world, while too much flexibility risks undermining predictability and certainty [37]. In this light, contract law can be seen as a mirror of human society. Each era's interpretation of contractual principles reflects its economic structures, cultural values, and technological advancements. In Roman times, ritual and formality dominated; in the industrial era, autonomy and freedom were paramount; in the digital age, fairness, accountability, and technological adaptability take center stage [38].

The future will likely bring further evolution, particularly as AI challenges fundamental assumptions about human agency in legal agreements. Contract law is a living discipline,

one that continuously evolves in response to the demands of globalization, digital transformation, and societal values. Its enduring principles—freedom of contract, *pacta sunt servanda*, good faith, and enforceability—remain relevant, but their application must adapt to new realities. Contemporary challenges, such as cross-border disputes, consumer protection, and the impact of emerging technologies, underscore the necessity for legal innovation [39].

Looking forward, contract law will increasingly serve not only as a framework for private agreements but also as an instrument of public policy, embedding ethical, social, and environmental obligations into the fabric of legal practice [40].

Conclusion

The evolution of contract law illustrates the law's ability to adapt to societal, economic, and technological transformations. From Roman rituals to blockchain smart contracts, the principles of freedom, fairness, and enforceability remain central, albeit with new interpretations. Contemporary challenges—globalization, digitalization, and inequality—demand innovative legal solutions. Looking ahead, contract law will continue to evolve in response to digital transformation, sustainability concerns, and the role of artificial intelligence, ensuring that it remains a vital instrument for regulating human interaction in a rapidly changing world.

The evolution of contract law demonstrates the adaptability and resilience of legal systems in response to changing social, economic, and technological realities. From its earliest origins in Roman law, which emphasized ritual, formalism, and the sanctity of promises, contract law has grown into a sophisticated framework governing private agreements across diverse jurisdictions. Over centuries, the law has shifted from rigid structures to more

flexible doctrines that balance autonomy, fairness, and public interest. This transformation highlights contract law's enduring role as both a guarantor of predictability in private exchanges and a reflection of society's values.

One of the most striking features of contract law is its ability to preserve core principles while constantly reshaping their interpretation. The doctrine of *pacta sunt servanda* has survived across civilizations, ensuring that agreements remain binding and enforceable. Likewise, freedom of contract has long been celebrated as a cornerstone of private autonomy. Yet, both principles have been progressively limited by doctrines of good faith, unconscionability, and statutory regulation. These developments reflect an important truth: absolute freedom can lead to exploitation, and enforceability must be tempered by fairness. In this sense, contract law embodies a delicate balance between liberty and justice, predictability and equity.

In the modern world, globalization has elevated the importance of harmonizing contractual rules. Cross-border transactions create complexity, as differences between common law and civil law traditions lead to uncertainty in enforcement and interpretation. Instruments such as the CISG and the UNIDROIT Principles represent meaningful steps toward convergence, yet divergences in practice remain significant. These challenges underscore the need for ongoing international cooperation, as commerce increasingly transcends national boundaries. The future of contract law will depend in part on how effectively it can bridge these divides, offering consistent rules while respecting local legal traditions.

At the same time, technological transformation has introduced unprecedented complexities. Digital contracts, electronic signatures, and online platforms have fundamentally altered

how agreements are formed and enforced. While these innovations increase efficiency, they also raise pressing concerns about consent, fairness, and accessibility. The rise of smart contracts—self-executing agreements built on blockchain—further complicates the picture. They challenge traditional remedies, limit judicial discretion, and raise difficult questions of accountability when errors occur. Similarly, the growing role of artificial intelligence in drafting, analyzing, and enforcing contracts signals a future in which human decision-making may be partially supplanted by machines. While AI offers efficiency and precision, it also raises profound concerns about bias, transparency, and liability.

Beyond globalization and technology, contract law now faces demands to integrate ethical and societal concerns. Increasingly, contracts embed obligations relating to data privacy, sustainability, and corporate social responsibility. This reflects a broader transformation in legal philosophy: contracts are no longer viewed solely as private exchanges but also as vehicles for advancing public policy. Clauses on environmental standards, human rights, and ethical practices exemplify how contract law aligns with global values in the twenty-first century. This development highlights the growing convergence between private autonomy and collective responsibility.

Looking forward, contract law must confront several critical challenges. First, it must develop frameworks that ensure digital and smart contracts remain subject to principles of fairness and justice. Second, it must respond to the growing inequality of bargaining power in consumer and labor markets, ensuring that contracts do not become tools of exploitation. Third, it must address the ethical implications of AI-driven contracts, establishing rules of accountability that protect both individuals

and institutions. Finally, it must embrace its role in promoting sustainability and social justice, ensuring that private agreements contribute positively to global well-being. The trajectory of contract law reveals that it is not a static body of rules but a living institution that evolves with society. Its capacity to adapt without losing its core identity is what makes it indispensable to both legal systems and economic life. As we move further into an era defined by globalization, digital transformation, and societal change, contract law will remain central to organizing relationships, protecting parties, and promoting justice. However, its future will depend on its ability to balance technological innovation with human values, private autonomy with public interest, and efficiency with fairness. In conclusion, the story of contract law is one of continuity and change. Its fundamental principles have endured for centuries, yet their interpretation has been continually reshaped to reflect new realities. The future will undoubtedly bring further transformations, particularly as AI and digital systems challenge traditional assumptions about human agency and accountability. Nevertheless, contract law's adaptability suggests that it will continue to serve as a vital framework for managing relationships in an increasingly complex world. Ultimately, its success will lie in its ability to remain faithful to enduring principles while embracing new challenges and opportunities—ensuring that agreements, whether written on parchment or encoded in blockchain, continue to embody trust, fairness, and justice

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