Contract Law and the Legislature

Autonomy, expectations, and the making of legal doctrine

York Law School
11 & 12 January 2019

This two-day workshop seeks to revisit, reframe, and reconsider key debates about the nature and shape of contract law in the light of the impact that statutes have had on its development. Although theoretical scholarship on contract looks primarily to court decisions for principles and structure, statutes are also an important means through which political, social, and normative considerations influence contract law. Legislative action is potentially as significant as judicial decisions in understanding contract law and the principles that underpin it.

By bringing together a collection of papers focused specifically on contract statutes, this workshop seeks to produce an altered and more complete picture of modern contract law. The papers examine a broad range of statutes, and consider the general themes that characterise legislative action in relation to contract as well as the implications of legislation for how the law of contract is conceptualised, discussed, and taught.

Attendance at the workshop is free, and is open to individuals at any stage of their career including doctoral students and early career academics. Advance registration is, however, necessary so we can have an idea of the numbers attending. If you are interested in attending, please email the organisers at <t.t.arvind@york.ac.uk>

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Contract Law and the Legislature
University of York, 11 & 12 January 2019
Programme of Papers

Day 1: Contracts and the challenges of legislation
Friday, 11 January 2019

9:30 am	Arrivals and coffee
10:00 am	Introduction *Jenny Steele & TT Arvind, University of York*
10:15 am – 11:15 am	**Session 1: Statutes and the development of contract law**

1) 'Preservation, Removal and Freezing of the Common Law by Statute'
Andrew Burrows, University of Oxford

2) 'Contract and the challenge of consumer protection legislation'
Elise Bant and Jeannie Paterson, University of Melbourne, Australia

11:15 am – 12:15 pm	**Session 2: Legislation and the contract—equity relationship**

3) 'The Chancery Amendment Act 1858 and the law of contract'
Jenny Steele and TT Arvind, University of York

4) Outline presentations on behalf of absent contributors:
   a. 'The Judicature Acts and equity in contract'
   Catherine MacMillan, King's College London

   b. 'Partial Contract Codification: The New Zealand Experience'
   Warren Swain, University of Auckland

12:15 pm – 1:00 pm	Lunch
1:00 pm – 2:30 pm	**Session 3: Statute, fairness, and commerciality**

5) 'The Consequences of Defying the System of Natural Liberty: The Absurdity of the Misrepresentation Act 1967'
Dave Campbell, Lancaster University

6) 'Two laws of contract, or one?'
Steve Hedley, University College Cork, Ireland

7) 'The 2016 Reforms of French Contract Law: the Struggle to Reshape the Law Coherently'
Solène Rowan, London School of Economics

2:30 pm – 3:00 pm	Tea and coffee

3:00 pm – 4:30 pm	**Session 4: Incomplete contracts and imperfect rules**
	8) ‘Immutable or Default Rules? Compulsion, Choice and Statutory Intervention in Contract Law’ *Jonathan Morgan, University of Cambridge*
	9) ‘Statutes and Case Law: A Shared Methodology for Intervention in Incomplete Contracts?’ *Juliet Kostritsky, Case Western University, USA*
	10) ‘Contract Law Reform by Statute in a common law system’ *Hector MacQueen, University of Edinburgh*
4:30 pm – 5:15 pm	**Roundtable: Contract law through a statutory lens**

Day 2: Statutes outside the core: Contracting in other contexts
Saturday, 12 January 2019

9:00 am	Arrival and coffee
9:15 am – 10:45 am	**Session 5: Economic policy and the law of contract**
	11) ‘Private Law, Public Regulation and Techno-Law in the Law of Contract: What Can We Learn From The Housing Grants, Construction and Regeneration Act 1996?’ *Charlotte Ellis, Northumbria University*
	12) ‘Economic reform and contract law reform in China’ *Ding Chen, University of Sheffield* *Pengao Chang, Peking University*
	13) ‘“Contracting Out” Public Functions under the Human Rights Act and the Equality Act: Violence and Subjectivity’ *Máiréad Enright, University of Birmingham*
10:45 am – 12:15 pm	**Session 6: Statutes and the social limits of contract**
	14) ‘Contractualising environmental law’ *Stuart Bell, University of York*
	15) ‘The (re)regulation of private renting in England: Karl Polanyi, the rogue landlord, the responsible tenant and the decent home’ *Helen Carr, University of Kent*
	16) ‘Contracts and the Human Body: Mapping the moral limits’ *Aisling McMahon, Maynooth University, Ireland*
12:15 pm – 12:45 pm	**Roundtable: Social statutes and the law of contract**
12:45 pm – 1:30 pm	**Lunch and conclusion**