



# Contract Law and Contract Practice: Bridging the Gap Between Legal Reasoning and Commercial Expectation

*Catherine Mitchell*

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An oft-repeated assertion within contract law scholarship and legal cases is that a good contract law (or a good commercial contract law) will meet the needs and expectations of commercial contractors. Despite the prevalence of this statement, relatively little attention has been paid to why this should be the aim of contract law, how these 'commercial expectations' are identified and given substance, and what precise legal techniques might be adopted by courts to support the practices and expectations of business people. This book explores these neglected issues within contract law. It examines the idea of commercial expectation, identifying the expectations commercial contractors may have about the law and their business relationships (using empirical studies of contracting behavior), and it assesses the extent to which current contract law reflects these expectations. The book considers whether supporting commercial expectations is a justifiable aim of the law according to three well-established theoretical approaches to contractual obligations: rights-based explanations, efficiency-based (or economic) explanations, and the relational contract critique of the classical law. It explores the specific challenges presented to contract law by modern commercial relationships and the ways in which the general rules of contract law could be designed and applied in order to meet these challenges. Ultimately, the book moves contract law beyond a simple dichotomy between contextualist and formalist legal reasoning to a more nuanced and responsive legal approach to the regulation of commercial agreements.

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