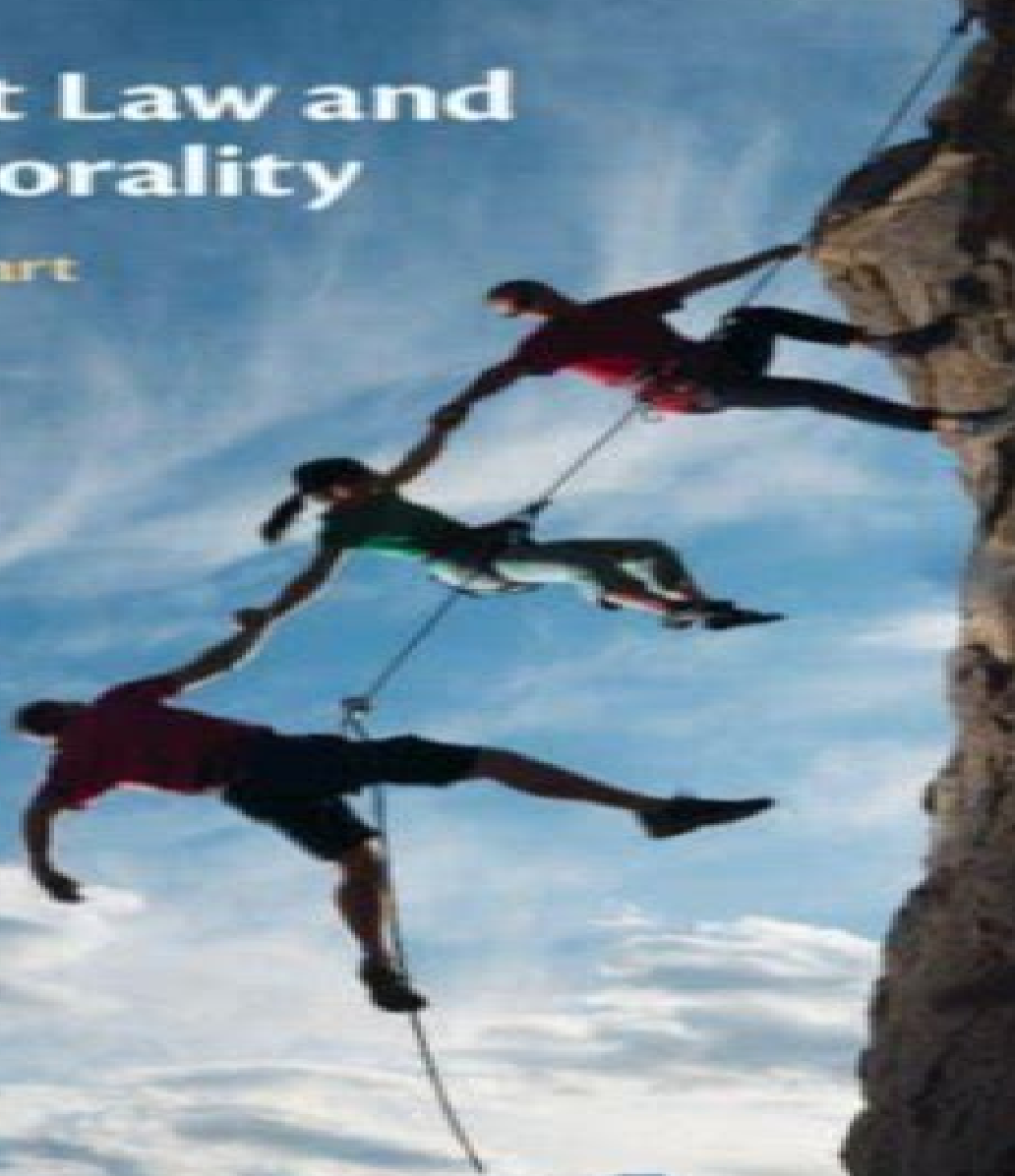


# Contract Law and Social Morality

Peter M. Gerhart



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# Contract Law And Morality

**Mindy Chen-Wishart, Prince Saprui**



## **Contract Law And Morality:**

*Contract Law and Morality* Henry Mather, 1999-02-28 Combining natural law theory reliance theory and economic analysis to develop a jurisprudential approach this is a prescriptive work presenting a vision of what contract law would be like if it were devoted to teaching moral virtue The jurisprudential approach draws upon insights of Aristotle Saint Thomas Aquinas and other thinkers in the natural law tradition The author applies this approach to selected legal issues to produce the only contemporary book that uses a natural law approach in prescribing specific reforms in American contract law Although this study is theoretical the author who practiced law for more than eight years explains technical terms for non specialist readers The book employs a pluralistic moral theory and presents a serious challenge to contemporary jurisprudential theories that focus on some single dominant value A key idea is that contract law should teach and employ certain moral principles when applied to legal issues related to enforceability remedies offer and acceptance and nondisclosure With respect to each issue the author compares his proposed resolution with the prevailing current law

**Contract Law and Morality** Nathan B. Oman, 2008 This brief piece introduces the contract law section of a symposium on law and morality I argue that notwithstanding the empirical turn in recent scholarship moral reflection remains important for the study of contract law for two reasons First because without normative theories we cannot construct what Hart called internal interpretations of the law In the absence of such interpretations we are left with a basic puzzle about the purposes and coherence of the law that we already have Second contrary to the claims made by some empiricists there are genuine conflicts about the merits and implications of our normative commitments Indeed when moral claims are stated at a level that commands universal assent they tend to become banal

**Contract Law and Social Morality** Peter M. Gerhart, 2021-02-18 A concise and readable guide to reasoning about the source and content of contractual obligations when disagreements arise

**Contract as Promise** Charles Fried, 2015 Contract as Promise is a study of the foundations and structure of contract law It has both theoretical and pedagogic purposes It moves from trust to promise to the nuts and bolts of contract law The author shows that contract law has an underlying unifying moral and practical structure This second edition retains the original text and includes a new Preface It also includes a lengthy postscript that takes account of scholarly and practical developments in the field over the last thirty years especially the large and rich law and economics literature

*A Theory of Contract Law* Peter A. Alces, 2011 In the past few decades scholars have offered positive normative and most recently interpretive theories of contract law This title confronts the leading interpretive theories of contract and demonstrates their interpretive doctrinal failures

**Research Handbook on the Philosophy of Contract Law** Mindy Chen-Wishart, Prince Saprai, 2025-04-09 With contributions from experts in the field this comprehensive Research Handbook provides a systematic overview of debates at the cutting edge of the philosophy of contract law Chapters explore key themes such as the limits of freedom of contract debates about monistic and pluralistic theories of contract law and the philosophical

challenges associated with resolving hard cases      **The Theory of Contract Law** Peter Benson,2001-02-05 Although the law of contract is largely settled there appears to be no widely accepted comprehensive theory of its main principles and doctrines or of its normative basis Contract law theory raises issues concerning the relation between law and morality the role and the importance of rights the connection between justice and economics and the distinction between private and public law This collection of six full length essays written by some of the most eminent scholars in the field explores the general theory of contract law from a variety of theoretical perspectives The volume addresses a wide range of issues both methodological and substantive in the theory and practice of contract law While the essays build upon past theoretical contributions they also attempt to take contract theory further and suggest promising ways to develop theory of contract law

**Principles of Contract Law and Theory** Larry D. DiMatteo,2023-12-11 This informative and accessible book reviews the core concepts of contract law and theory from an Anglo American perspective Larry A DiMatteo deftly analyses the key principles rules and frameworks which have shaped Anglo American contract law as well as highlighting important legislative acts that have changed and modernised its development      **From Promise to Contract** Dori Kimel,2003-03-14 Liberal theory of contract is traditionally associated with the view according to which contract law can be explained simply as a mechanism for the enforcement of promises The book bucks this trend by offering a theory of contract law based on a careful philosophical investigation of not only the similarities but also the much overlooked differences between contract and promise Drawing on an analysis of a range of issues pertaining to the moral underpinnings of promissory and contractual obligations the relationships in the context of which they typically feature and the nature of the legal and moral institutions that support them the book argues for the abandonment of the over simplified notion that the law can systematically replicate existing moral or social institutions or simply enforce the rights or the obligations to which they give rise without altering these institutions in the process and while leaving their intrinsic qualities intact In its place the book offers an intriguing thesis concerning not only the relationship between contract and promise but also the distinct functions and values that underlie contract law and explain contractual obligation In turn this thesis is shown to have an important bearing on theoretical and practical issues such as the choice of remedy for breach of contract and broader concerns of political morality such as the appropriate scope of the freedom of contract and the role of the state in shaping and regulating contractual activity The book s arguments on such issues while rooted in distinctly liberal principles of political morality often produce very different conclusions to those traditionally associated with liberal theory of contract thus lending it a new lease of life in the face of its traditional as well as contemporary critiques      *Promises and Contract Law* Martin Hogg,2011-07-14 *Promises and Contract Law* is the first modern work to explore the significance of promise to contract law from a comparative legal perspective Part I explores the component elements of promise its role in Greek thought and Roman law the importance of the moral duty to keep promises and the development of promissory ideas in medieval legal scholarship

Part II considers the modern contract law of a number of legal systems from a promissory perspective. The focus is on the law of England, Germany, and three mixed legal systems: Scotland, South Africa, and Louisiana, though other legal systems are also mentioned. Major topics subjected to a promissory analysis include formation of contract, third party rights, contractual remedies, and the renunciation of contractual rights. Part III analyses the future role which promise might play in contract law, especially within a harmonised European contract law. Law, Economics, and Morality Eyal Zamir, Barak Medina, 2010-02-24

Law Economics and Morality examines the possibility of combining economic methodology and deontological morality through explicit and direct incorporation of moral constraints into economic models. Economic analysis of law is a powerful analytical methodology. However, as a purely consequentialist approach which determines the desirability of acts and rules solely by assessing the goodness of their outcomes, standard cost-benefit analysis (CBA) is normatively objectionable. Moderate deontology prioritizes such values as autonomy, basic liberties, truth-telling, and promise-keeping over the promotion of good outcomes. It holds that there are constraints on promoting the good. Such constraints may be overridden only if enough good or bad is at stake. While moderate deontology conforms to prevailing moral intuitions and legal doctrines, it is arguably lacking in methodological rigor and precision. Eyal Zamir and Barak Medina argue that the normative flaws of economic analysis can be rectified without relinquishing its methodological advantages and that moral constraints can be formalized so as to make their analysis more rigorous. They discuss various substantive and methodological choices involved in modeling deontological constraints. Zamir and Medina propose to determine the permissibility of any act or rule infringing a deontological constraint by means of mathematical threshold functions. Law Economics and Morality presents the general structure of threshold functions, analyzes their elements, and addresses possible objections to this proposal. It then illustrates the implementation of constrained CBA in several legal fields including contract law, freedom of speech, antidiscrimination law, the fight against terrorism, and legal paternalism. **Foundational Principles**

**of Contract Law** Melvin A. Eisenberg, 2018-09-20 Foundational Principles of Contract Law not only sets out the principles and rules of contract law, it places more emphasis on what the principles and rules of contract law should be based on: policy, morality, and experience. A major premise of the book is that the best way to grasp contract law is to understand it from a critical perspective as an organic, dynamic subject. When contract law is approached in this way, it is much easier to grasp and learn than when it is presented simply as a static collection of principles and rules. Professor Eisenberg covers almost all areas of contract law, including the enforceability of promises, remedies for breach of contract, problems of assent, form, contracts, the effect of mistake and changed circumstances, interpretation, and problems of performance. Although the emphasis of the book is on the principles and rules of contract law, it also covers important theories in contract law, such as the theory of efficient breach, the theory of overreliance, the normative theory of contracts, formalism, and theories of contract interpretation. Contract Law Minimalism Jonathan Edward Morgan, 2013-11-07 Critically examines moral promissory

economic and socio legal perspectives on contract law arguing that it should be formal and minimalistic by design

*Philosophical Foundations of Contract Law* George Letsas, Prince Saprai, 2014 The 17 essays of this collection explore key philosophical questions underlying the institution of contract and the philosophical issues arising in specific contract law doctrines including contract formation contract interpretation unfair terms the principle of good faith defences and remedies

*Research Methods for Contract Law and Scholarship* Yuliya Chernykh, Joshua Karton, 2025-09-10 This is an open access title available under the terms of a CC BY NC ND 4.0 License It is free to read download and share on Elgaronline.com This timely and comprehensive book reveals the multifaceted nature of modern contract law and practice Providing a broad overview of research methods in contemporary contract law it identifies the various modes of inquiry and argumentative techniques in this dynamic field providing theoretical depth and practical tools for legal scholarship Yuliya Chernykh and Joshua Karton bring together a range of specialists in contract law research to address emerging topics within legal scholarship that work well with a combination of methodological approaches *Contract Law and Social Morality* Peter M. Gerhart, 2021-02-18 When people in a relationship disagree about their obligations to each other they need to rely on a method of reasoning that allows the relationship to flourish while advancing each person's private projects This book presents a method of reasoning that reflects how people reason through disagreements and how courts create doctrine by reasoning about the obligations arising from the relationship Built on the ideal of the other regarding person Contract Law and Social Morality displays a method of reasoning that allows one person to integrate their personal interests with the interests of another determining how divergent interests can be balanced against each other Called values balancing reasoning this methodology makes transparent the values at stake in a disagreement and provides a neutral and objective way to identify and evaluate the trade offs that are required if the relationship is to be sustained or terminated justly

*Comparative Contract Law* Larry A. DiMatteo, Martin Hogg, 2016 Bringing together leading commercial and contract law scholars from the United Kingdom and United States *Comparative Contract Law British and American Perspectives* offers an insightful and comprehensive assessment of the commonalities and divergences in the contract law of these two jurisdictions Approaching the subject area from a variety of perspectives doctrinal analysis behavioral analysis law and economics and theoretical the book examines familiar areas of contract law as practiced in the UK and US Topics include contract theory and structure contract formation and defects of consent policing contracts and the duty of good faith contract interpretation damages speciality contracts and legal reform The volume provides a thorough assessment of the current state of commercial contract law in the UK and US and addresses the strengths and weaknesses of the national and European approaches to many issues of contract law In particular it focuses on how commercial contract law should be improved and whether harmonization of the different contract law regimes is a suitable and appropriate solution *Contract, Status, and Fiduciary Law* Paul B. Miller, Andrew S. Gold, 2016 Contractual and fiduciary relationships are the two primary mechanisms through

which the law facilitates coordinated pursuit of our personal interests These fields are often represented in oppositional terms and many accept the distinction that contract law allows an individual to pursue their interests independently while fiduciary law allows an individual to pursue their interests in a dependent or interdependent way Relying on this distinction however seems to suggest that the boundaries between the fields of contract and fiduciary law are fixed rather than fluid Bringing together leading theorists to analyse critically important philosophical questions at the intersection of contract and fiduciary law *Contract Status and Fiduciary Law* demonstrates that popular characterizations of the relationship between contract and fiduciary law are overly simplistic By considering how contract and fiduciary law interact and not just how they differ the contributors to this volume offer new insights into a range of topics including status relationships voluntary undertakings duties of loyalty equity employment law tort law the law of remedies political theory and the theory of the firm

**Exploring Contract Law** Jason W Neyers, Richard Bonaugh, Stephen G.A. Pitel, 2009-05-14 In this book leading scholars from Australia Canada Hong Kong New Zealand Singapore the United Kingdom and the United States deal with important theoretical and practical issues in the law of contract and closely related areas of private law The articles analyse developments in the law of estoppel mistake undue influence the interpretation of contracts assignment exclusion clauses and damages The articles also address more theoretical issues such as discerning the limits of contract law the role of principle in the development of contract doctrine and the morality of promising With its rich scope of contributors and topics *Exploring Contract Law* will be highly useful to lawyers judges and academics across the common law world Contributors Rick Bigwood Richard Bonaugh Mindy Chen Wishart Helge Dedek Gerald H L Fridman Mark P Gergen Andrew S Gold Kelvin F K Low Jason W Neyers Stephen G A Pitel Andrew Roberston Stephen A Smith Robert Stevens Andrew Tettenborn Chee Ho Tham Catherine Valcke Stephen Waddams Charlie Webb Foreword by Justice Ian Binnie of the Supreme Court of Canada *Contract Law* Brian Bix, 2012-10-15 This book offers an accessible introduction to American contract law useful to both first year law students and advanced contract scholars

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