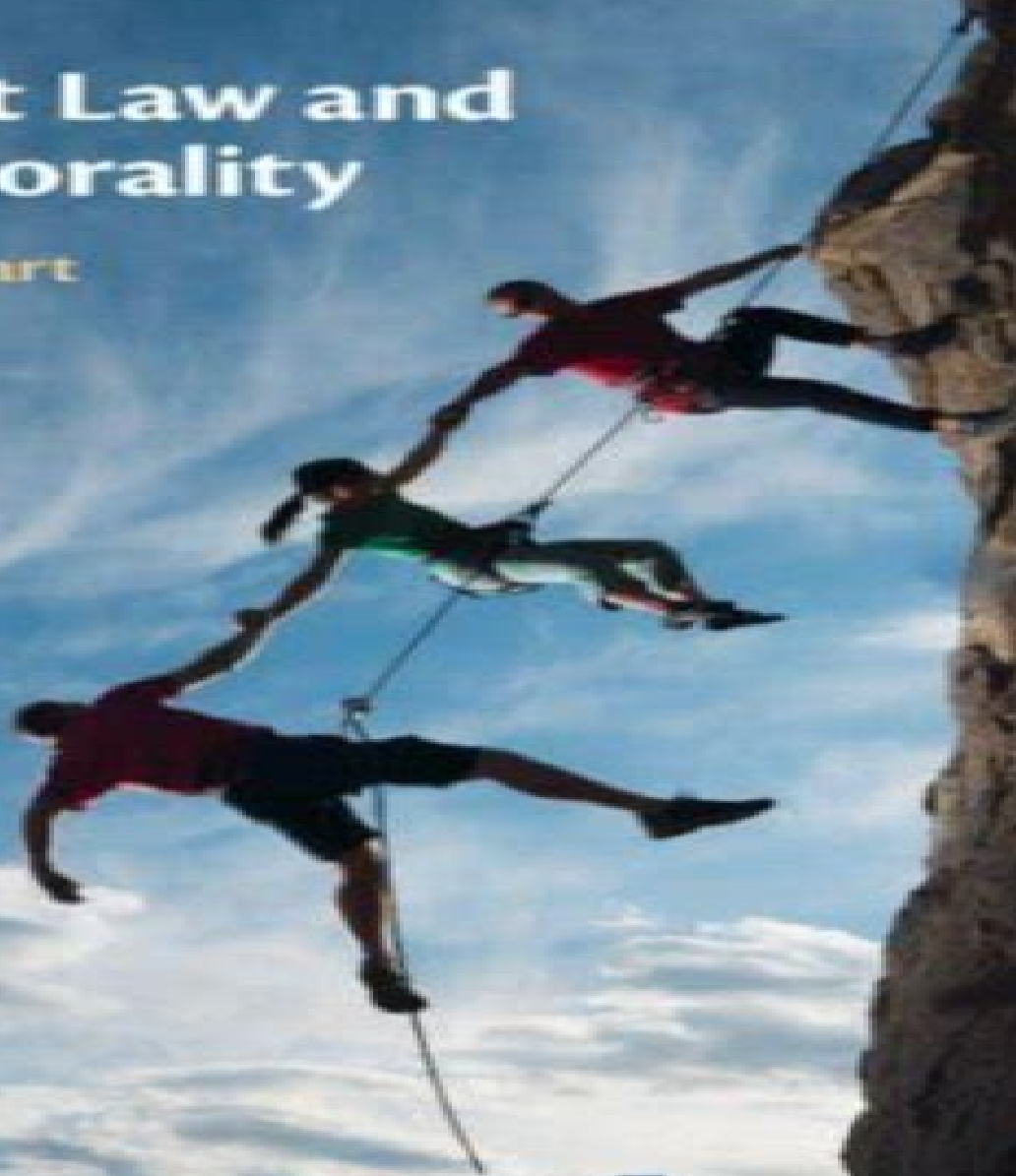


Contract Law and Social Morality

Peter M. Gerhart



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Contract Law And Morality

Yuliya Chernykh, Joshua Karton



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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 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 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 as Promise* Charles Fried, 2009-06-01 This book displays the underlying structure of a complex body of law and integrates that structure with moral principles Charles Fried grounds the basic legal institution of contract in the morality of promise under which individuals incur obligations freely by invoking each other's trust Contract law and the promise principle are contrasted to the socially imposed obligations of compensation restitution and sharing which determine the other basic institutions of private law and which come into control where the parties have not succeeded in invoking the promise principle as in the case of mistake or impossibility Professor Fried illustrates his argument with a wide range of concrete examples and opposing views of contract law are discussed in detail particularly in connection with the doctrines of good faith duress and unconscionability For law students and legal scholars *Contract as Promise* offers a coherent survey of an important legal concept For philosophers and social scientists the book is a unique demonstration of the practical and detailed entailments of moral theory **Exploring Contract Law** Jason W Neyers, Richard Brunaugh, 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 Brunaugh 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

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 *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

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

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

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

Contract Law Without Foundations Prince Saprai, 2019-02-28 This book advances a theoretical

account of contract law grounded in value pluralism Arguing against attempts to delineate branches of legal doctrine by reference to single unifying values the book suggests that a field such as contract law can only be explained and justified by the interaction of a multiplicity of moral values In recent times the philosophy of contract law has been dominated by the promise theory according to which the morality of promise provides a blueprint for the structure shape and content that contract law rules and doctrines should take The promise theory is an example of what this book calls a foundationalist theory whereby areas of law reflect or are underlain by particular moral principles or sets of such principles By considering contract law from the point of view of its theory rules and doctrines and broader political context the book argues that the promise theory can only ever offer part of the picture The book claims that top down theories of contract law such as the promise theory and its bitter rival the economic analysis of law seriously mishandle legal doctrine by ignoring or underplaying the irreducible plurality of values that shape contract law The book defends the role of this multiplicity of values in forging contract doctrine by developing from the ground up a radical and distinctly republican reinterpretation of the field The book encourages readers to move away from a top down theory of contract law such as the promise theory and instead embrace a distinctly republican approach to contract law that would justify the legal rules and doctrines we find in particular jurisdictions at particular times

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

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

Contract Law Minimalism Jonathan Morgan, 2013-11-07 Commercial contract law is in every sense optional given the choice between legal systems and law and arbitration Its doctrines are in fact virtually all default rules Contract Law Minimalism advances the thesis that commercial parties prefer a minimalist law that sets out to enforce what they have decided but does nothing else The limited capacity of the legal process is the key to this minimalist stance This book considers evidence that such minimalism is indeed what commercial parties choose to govern their transactions It critically engages with alternative schools of thought that call for active regulation of contracts to promote either economic efficiency or the trust and co operation necessary for relational contracting The book also necessarily argues against the view that private law should be understood non instrumentally whether through promissory morality corrective justice taxonomic rationality or otherwise It sketches a restatement of English contract law in line with the thesis

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

Civil Wrongs and Justice in Private Law Paul B. Miller, John Oberdiek, 2020-02-05 The notion of a civil wrong is one of the most fundamental concepts in private law Without the concept of a civil wrong areas of private law like tort law or property law would not be able to fulfil their aims This volume brings together a wide variety of scholars who have written original papers exploring the centrally important notion of a civil wrong

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

The Law and Ethics of Restitution Hanokh Dagan, 2004-08-12 This 2004 book

provides a comprehensive account of the American law of restitution *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

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

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