

## Theories of contract law

The reading discusses the following theories of contract:

- classical contract theory at [\[1.10\]-\[1.15\]](#).
- promise theory at [\[1.20\]-\[1.22\]](#).
- consent theory at [\[1.25\]](#).

The concept of contract is not particular to Australia. It has been around since ancient times and exists in all countries around the world.

Like most if not all areas of law, the origin of contract law principles is sourced from the English legal system. However, as time went on the English precedent was considered, applied and distinguished in Australian contract law which created Australia's precedents on contract law.

Precedent is the body of authorities for courts to follow in cases with similar facts. The way a court applies the precedent is also how law students apply those cases to problem-based questions.

Historically in Australia, the most common contracts were conveyancing contracts for the sale of land.

# Contract Law And Theory

**Charles Fried**



## **Contract Law And Theory:**

Contract Law and Theory Eric A. Posner, 2011 Contract Law and Theory conveys a grasp of theory and policy that makes all of the contract rules easier to understand By explaining and applying contract theory to a wide range of contracts cases Eric Posner reveals not only the what of doctrine but also the why why one rule rather than another makes sense from a policy perspective An understanding of what contract theory is and how it is applied will help you to understand not only Contracts as taught in law school but also the many areas of law in which contractual ideas operate such as bankruptcy law secured transactions and corporate law An exciting new Student Treatise from an eminent authority Contract Law and Theory features Complete coverage of contracts that includes the principal cases covered in most first year contracts courses A general explication of the rules of contract that begins with the simplest ideas and gradually builds in complexity A consistent emphasis on the application of theory to doctrine through analysis of a rich selection of cases A readable and expert treatment of the role of economics in contract law Illustrative examples that point to noteworthy cases Suitable for use alongside any casebook

Contract Law and Theory Robert Scott, Jody Kraus, 2023-07-31 Contract Law and Theory the leading theoretical casebook on contracts is based on clear discernible themes and patterns that underlie much of contract law and as it develops them explicitly the student is invited to develop a working model of contract law The model that emerges views contract law through the theoretical lenses of autonomy efficiency and pluralism and asks students to decide if and when these perspectives conflict or converge in contract doctrine The model is also used throughout as a method for predicting the outcome of contract disputes and is tested through careful case and doctrinal analysis Contract Law and Theory begins with an overview chapter and many of the following chapters contain introductory essays presenting some of the basic doctrines and theoretical approaches covered in the chapter The sixth edition adds a new section in Chapter Eight Mistake and Excuse that provides a concise overview of recent COVID related contract litigation including two new cases and a set of notes describing variations For professors who cover Chapter Eight in depth this new section serves to illustrate the contemporary life of the mistake and excuse doctrines For those who prefer more concise coverage the section can serve as a stand alone alternative to the other sections of Chapter Eight providing professors with the option of introducing analyzing and summarizing the law of mistake and excuse in a contemporary context The book has been carefully edited for accuracy and concision and updated to reflect new scholarly and doctrinal trends with all main cases remaining substantially the same

**Contract Law and Theory** Robert E. Scott, Jody S. Kraus, 2013-06 To order a paperback version of this casebook please [click here](#) Contract Law and Theory the leading theoretical casebook on contracts is based on clear discernible themes and patterns that underlie much of contract law and as it develops them explicitly the student is invited to develop a working model of contract law This framework for analyzing and predicting the outcome of contract disputes is then tested through careful case and doctrinal analysis Contract Law and Theory begins with an overview chapter Many of the following chapters

contain introductory essays presenting some of the basic doctrines and theoretical approaches covered in the chapter The Fifth Edition has added new cases reflecting contemporary developments particularly in the areas of precontractual liability preliminary agreements and collaborative contracts The authors have also carefully rewritten and edited the text and essays and have shifted a number of principal cases to notes to both condense the book for easier coverage in four hour courses and to enhance the book s accessibility to students This book also is available in a three hole punched alternative loose leaf version printed on 8 5 x 11 inch paper with wider margins and with the same pagination as the hardbound book

**Contract Law and Theory** Robert E. Scott,1988     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

**Advanced Introduction to Contract Law and Theory** Brian H. Bix,2023-07-01 This comprehensive Advanced Introduction provides an overview of contract law and contemporary contract theory Demonstrating that an understanding of theory and policy is a vital aspect of being an effective practicing lawyer Brian H Bix explores which theoretical approaches can best explain and justify contract law arguing for greater critical attention to the connections between contract law theory practice and teaching

**Contract Law and Theory** Robert E. Scott,1998     *Contract Law* Brian H. Bix,2012-10-15 To gain a deep understanding of contract law one needs to master not only the rules and principles of the field but also its underlying theory and justification and its long and intricate history This book offers an accessible introduction to all aspects of American contract law useful to both first year law students and advanced contract scholars The book is grounded on up to date scholarship and contains detailed references to cases statutes Restatements and international legal principles The book takes the reader from contract formation through interpretation and remedies considering both the practical and theoretical aspects throughout Each chapter also includes helpful lists of suggested further reading

*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 Richness of Contract Law R.A. Hillman,2012-12-06 Scholars have produced a wide variety of theoretical work on contract law This is the first book to compile it to present it coherently to evaluate it and to supply numerous references to additional sources The author also offers his own practical perspective that emphasizes contract law s richness

and complexity and questions the utility of abstract unitary theories The author argues that notwithstanding contract law s complexity it successfully facilitates the formation and enforcement of private arrangements and ensures a degree of fairness in the process of exchange Each chapter presents a pair of largely contrasting theories to clarify the central issue of contract law and theory to set forth the range of views and to help identify a practical middle ground Among the contract theories discussed and analyzed are promise contextual feminist formal mainstream critical economic empirical and relational The book should interest legal theorists practising lawyers law students and general readers who want to learn more about contract law and theory

**Contract Law and Theory** Robert E. Scott, Jody S. Kraus, 2007-01-01 Contracts Daniel Markovits, Gabriel Rauterberg, 2018-06-16 Contracts Cases and Theory has two principal ambitions first to present the basic doctrine of contracts in a comprehensive and coherent fashion and second to encourage a rigorous and interdisciplinary approach to thinking about the values and principles that inspire the law The book provides a systematic survey of contract law while weaving in perspectives from economics philosophy sociology and legal theory to show how these disciplines can be used to both illuminate and criticize the law as it stands The book s treatments of law and ideas are designed to be free standing making the book an excellent introduction to interdisciplinary legal thought for students without prior training in other fields

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

Contract Law Brian Bix, 2012 This book offers an accessible introduction to all aspects of American contract law useful to both first year law students and advanced contract scholars

**Reasonableness and Responsibility: A Theory of Contract Law** Martín Hevia, 2012-09-14 If as John Rawls famously suggests justice is the first virtue of social institutions how are we to understand the institution of contract law This book proposes a Rawlsian theory of contract law It argues that justice requires that we understand contract rules in terms of the idea of reasonable terms of interaction that is terms that would be accepted by reasonable persons moved by a desire for a social world in which they as free and equal can cooperate with others on terms they accept On that basis the book explains the main doctrines of contract law including those governing third parties in both the Common Law and the Civil Law

*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.

*Contract Law and Theory* Robert E. Scott, Douglas L. Leslie, 1990 [Contract Law and Theory](#) Robert E. Scott, 1988 This companion does not yet require updating.

*Contract and Related Obligation* Robert S. Summers, Robert A. Hillman, 2006 This casebook focuses not only on the rules and principles of contract law but also on the lawyer's role in planning and drafting contracts and on the richness of contract theory. It has comprehensive coverage of contract law and related obligation, the latter including promissory estoppel, restitution, and tort arising in the contract setting. This book is primarily a casebook designed to help students develop important analytical and critical skills but also has ample notes, problems, and excerpts that focus on the nature, function, and limits of contract and related law. Features of the new Fifth Edition include several recent cases that bring important issues up to date, new notes and comments about recent developments in contract law, and recent contract controversies in the news and new excerpts from the secondary literature focusing on major recent developments.

*Justice in Transactions* Peter Benson, 2019-12-17 One of the most important contributions to the field of contract theory, if not the most important in the past 25 years. Stephen A. Smith, McGill University. Can we account for contract law on a moral basis that is acceptable from the standpoint of liberal justice? To answer this question, Peter Benson develops a theory of contract that is completely independent of and arguably superior to long-dominant views which take contract law to be justified on the basis of economics or promissory morality. Through a detailed analysis of contract principles and doctrines, Benson brings out the specific normative conception underpinning the whole of contract law. Contract, he argues, is best explained as a transfer of rights which is complete at the moment of agreement and is governed by a definite conception of justice. Justice in

transactions Benson's analysis provides what John Rawls called a public basis of justification which is as essential to the liberal legitimacy of contract as to any other form of coercive law The argument of Justice in Transactions is expressly complementary to Rawls's presenting an original justification designed specifically for transactions as distinguished from the background institutions to which Rawls's own theory applies The result is a field defining work offering a comprehensive theory of contract law Benson shows that contract law is both justified in its own right and fully congruent with other domains moral economic and political of liberal society

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