

SECOND EDITION

CONTRACT  
AS  
PROMISE

*A THEORY OF CONTRACTUAL OBLIGATION*

CHARLES FRIED

OXFORD

# Contract As Promise A Theory Of Contractual Obligation

**Mindy Chen-Wishart, Prince Saprai**



## **Contract As Promise A Theory Of Contractual Obligation:**

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 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

**Contract as Promise** Donald Renshaw Harris, Charles Fried, 1983

**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 **From Promise to Contract** Dori Kimel, 2003-03-14 The book offers a careful philosophical investigation of the similarities and the much overlooked differences between contract and promise **The Choice Theory of Contracts** Hanoch Dagan, Michael Heller, 2017-04-17 This concise landmark in law and jurisprudence offers the first coherent liberal account of contract law The Choice Theory of Contracts answers the field's most pressing questions what is the freedom in freedom of contract What core values animate contract law and how do those values interrelate How must the state act when it shapes contract law Hanoch Dagan and Michael Heller two of the world's leading private law theorists show exactly why and how freedom matters to contract law They start with the most appealing tenets of modern liberalism and end with their implications for contract law This readable engaging book gives contract scholars teachers and students a powerful normative vocabulary for understanding canonical cases refining key doctrines and solving long standing puzzles in the 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 **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

Commercial Contract Law Larry A. DiMatteo, Qi Zhou, Severine Saintier, Keith Rowley, 2013-01-31 This book focuses on the law of commercial contracts as constructed by the US and UK legal systems Leading scholars from both sides of the Atlantic provide works of original scholarship focusing on current debates and trends from the two dominant common law systems The chapters approach the subject areas from a variety of perspectives doctrinal analysis law and economic analysis and social legal studies as well as other theoretical perspectives The book covers the major themes that underlie the key debates relating to commercial contract law role of consent normative theories of contract law contract design and good faith implied terms and interpretation policing contract behavior misrepresentation breach and remedies and the regional and

international harmonization of contract law Contributors provide insights on the many commonalities but more interestingly on the key divergences of the United States and United Kingdom s approaches to numerous areas of contract 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

**The American Journal of Jurisprudence** ,2002      **Oxford Essays in Jurisprudence** John Eekelaar,John Bell,John S. Bell,1987 This third book in the Oxford Essays in Jurisprudence series continues the established format and includes contributions from distinguished scholars in the field each attempting to relate legal theory to specific areas of the law Among the eminent contributors are Andrew Ashworth Peter Cane Hugh Collins Anne de Moor Jim Harris Simon Lee Bernard Rudden and Christopher McCrudden      *Philosophical Foundations of Contract Law* Gregory Klass,George Letsas,Prince Saprai,2014-12-18 In recent years there has been a revival of interest in the philosophical study of contract law In 1981 Charles Fried claimed that contract law is based on the philosophy of promise and this has generated what is today known as the contract and promise debate Cutting to the heart of contemporary discussions this volume brings together leading philosophers legal theorists and contract lawyers to debate the philosophical foundations of this area of law Divided into two parts the first explores general themes in the contract theory literature including the philosophy of promising the nature of contractual obligation economic accounts of contract law and the relationship between contract law and moral values such as personal autonomy and distributive justice The second part uses these philosophical ideas to make progress in doctrinal debates relating for example to contract interpretation unfair terms good faith vitiating factors and remedies Together the essays provide a picture of the current state of research in this revitalized area of law and pave the way for future study and

debate     **Michigan Law Review** ,1917     **The Yale Law Journal** ,1983     *The Law of Contracts* Edward Avery  
 Harriman,1901     **History and theory of English contract law** Thomas Atkins Street,1906     **The Foundations of**  
**Legal Liability: History and theory of English contract law** Thomas Atkins Street,1906     **Principles of the Law of**  
**Contracts** Sir William Reynell Anson,Charles Joseph Turck,1929     *Contract Law and Practice* Gerald E. Berendt,2009 The  
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## **Contract As Promise A Theory Of Contractual Obligation** Book Review: Unveiling the Magic of Language

In an electronic digital era where connections and knowledge reign supreme, the enchanting power of language has become more apparent than ever. Its power to stir emotions, provoke thought, and instigate transformation is really remarkable. This extraordinary book, aptly titled "**Contract As Promise A Theory Of Contractual Obligation**," published by a highly acclaimed author, immerses readers in a captivating exploration of the significance of language and its profound effect on our existence. Throughout this critique, we shall delve into the book's central themes, evaluate its unique writing style, and assess its overall influence on its readership.

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### **Table of Contents Contract As Promise A Theory Of Contractual Obligation**

1. Understanding the eBook Contract As Promise A Theory Of Contractual Obligation
  - The Rise of Digital Reading Contract As Promise A Theory Of Contractual Obligation
  - Advantages of eBooks Over Traditional Books
2. Identifying Contract As Promise A Theory Of Contractual Obligation
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in a Contract As Promise A Theory Of Contractual Obligation
  - User-Friendly Interface
4. Exploring eBook Recommendations from Contract As Promise A Theory Of Contractual Obligation
  - Personalized Recommendations
  - Contract As Promise A Theory Of Contractual Obligation User Reviews and Ratings

- Contract As Promise A Theory Of Contractual Obligation and Bestseller Lists
- 5. Accessing Contract As Promise A Theory Of Contractual Obligation Free and Paid eBooks
  - Contract As Promise A Theory Of Contractual Obligation Public Domain eBooks
  - Contract As Promise A Theory Of Contractual Obligation eBook Subscription Services
  - Contract As Promise A Theory Of Contractual Obligation Budget-Friendly Options
- 6. Navigating Contract As Promise A Theory Of Contractual Obligation eBook Formats
  - ePub, PDF, MOBI, and More
  - Contract As Promise A Theory Of Contractual Obligation Compatibility with Devices
  - Contract As Promise A Theory Of Contractual Obligation Enhanced eBook Features
- 7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Contract As Promise A Theory Of Contractual Obligation
  - Highlighting and Note-Taking Contract As Promise A Theory Of Contractual Obligation
  - Interactive Elements Contract As Promise A Theory Of Contractual Obligation
- 8. Staying Engaged with Contract As Promise A Theory Of Contractual Obligation
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Contract As Promise A Theory Of Contractual Obligation
- 9. Balancing eBooks and Physical Books Contract As Promise A Theory Of Contractual Obligation
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Contract As Promise A Theory Of Contractual Obligation
- 10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
- 11. Cultivating a Reading Routine Contract As Promise A Theory Of Contractual Obligation
  - Setting Reading Goals Contract As Promise A Theory Of Contractual Obligation
  - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Contract As Promise A Theory Of Contractual Obligation
  - Fact-Checking eBook Content of Contract As Promise A Theory Of Contractual Obligation
  - Distinguishing Credible Sources



13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
14. Embracing eBook Trends
  - Integration of Multimedia Elements
  - Interactive and Gamified eBooks

### **Contract As Promise A Theory Of Contractual Obligation Introduction**

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