

# Conference on Law & Morality

## *William & Mary School of Law*

## Contract Law

**Peter Benson** *University of Toronto School of Law*

**B.S., Harvard University; M.Sc., London School of Economics; J.D., Harvard University and University of Toronto**

Professor Peter Benson teaches and writes in the areas of contract law, tort law, the theory of private law, and theories of justice. He teaches courses on contracts, jurisprudence and torts, and supervises master's theses on the theory of contract, private law, and theories of justice. He is the editor of and a contributor to the collection *The Theory of Contract Law: New Essays* (Cambridge University Press, 2001), as part of its philosophy and law series. His other publications include contributions to several collections of essays including, most recently, *The Oxford Handbook of Jurisprudence* and to journals such as *Political Theory*, *The Columbia Law Review*, *The Iowa Law Review* and *The Canadian Journal of Law and Jurisprudence*.

Professor Benson served as law clerk to Chief Justice Bora Laskin at the Supreme Court of Canada and was an associate professor at McGill law school before moving to the University of Toronto. While at McGill, he founded the Annual McGill Lecture in Jurisprudence and Public Policy.

The aim of the paper is to make explicit and to explore the moral point of view that animates the law of contract as private law. This point of view is at once intrinsic to and distinctive of contract. The claim is that it is reflected in the basic doctrines of contract. It allows us to see how these doctrines fit together and how the resulting conception is complete in the sense that it has the resources to answer the main questions that arise within contract law. So understood, contract law has implications for the kind of theory that can purport to be a theory of contract. It rules out the morality of promising as a basis for contract as well as teleological justifications of any kind, even as part of a complete explanation. The paper ends by suggesting in outline the kind of theory that is able to illuminate and deepen our understanding of contract's moral point of view.