

A Defence of Content-Dependent Promissory Theories of Contract

Written by DORIAN ZHIZHONG **HAN** for partial fulfilment of the
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ABSTRACT. In modern contract theory, there are many distinct philosophical foundations for why contracts generate, transfer, or give rise to moral rights, and in what form. This essay focuses on the promissory theory of contractual morality and seek to defend the view that **promises are still the best explanatory mechanism for contract** despite various attacks. In doing so, I **first** defend a view of promising that places weight on the *content* of the promise for its moral character. This challenge against the orthodox content-independent views, such as by Joseph Raz, HLA Hart, and David Owens, forms the substantive core of this essay and may stand independently as a thesis on promissory philosophy. **Second**, I demonstrate that such a thesis on content-aware promissory theories are *necessary* for a coherent doctrine of contract theory. This involves discussions on common attacks against the promissory theory, in particular by Randy Barnett, Seana Shiffrin, and Mindy Chen-Wishart, and a brief draft on how promise-based secondary obligations in reliance may explain remedial doctrines of contract. This essay contributes to jurisprudential scholarship by grafting long-standing discussions in the philosophy of promising and trust with more recent developments in contract theory, and hopes to motivate further discussion on what, specifically, grounds a contract.