

SINGAPORE SYMPOSIUM IN LEGAL THEORY

EQUITY: CONSCIENCE GOES TO MARKET

BY **Dr Irit Samet**
King's College London

6 MARCH 2015, FRIDAY

4.00PM – 6.00PM (TEA RECEPTION STARTS AT 3.30PM)

LEE SHERIDAN CONFERENCE ROOM, LEVEL 1, EU TONG SEN BUILDING
FACULTY OF LAW, NUS (BUKIT TIMAH CAMPUS)

ABSTRACT

The subject of this paper is the viability of the present dualist system of Equity and Common Law. I open by presenting two strands of the opposition to the idea that the doctrines of Equity should, in principle, retain their distinct features: (1) the fusion project, which calls to iron-out the differences between Common Law and Equity, and (2) the 'conscionability scepticism' of those who wish to do away with the most familiar mark of Equity, namely the 'conscience' category. These critiques are then put in terms of a Fuller-Raz formalist account of the Rule of Law ideal. My argument will be that these critiques can be successfully rebutted and that it is worthwhile to preserve the separate label of 'Law' and 'Equity' and the sensitivities that led to their separate development as two branches of private law. Equity plays the essential role of promoting a legal virtue that is neglected by Common Law's fixation on the ideal of the ROL. This legal virtue, which I call 'accountability correspondence', requires that legal liability tallies the pattern of moral duty in the circumstances to which it applies. I offer an explanation of why this legal virtue is important, and how Equity, by attending to the ethical underpinnings of the parties' rights and duties and employing an ex-post legal reasoning, introduces the necessary equilibrium between 'accountability correspondence' and the Rule of Law.

ABOUT THE SPEAKER



Irit Samet is a Senior Lecturer in The Dickson Poon School of Law, which she joined in 2008. She was previously a Lecturer in Law at Mansfield College, Oxford (2006-2007), and a lecturer at the University of Essex (2008). She read law and philosophy in Israel, and completed her doctorate at the University of Oxford. Irit's main research interests lie in the the Law of Equity, Property Law, and the theory of private law.

Participation is By Invitation Only

Registration commences at 3.30pm and light refreshments will be served. For more information, please contact Ms Yvonne Lim at lawylhh@nus.edu.sg