

# SINGAPORE SYMPOSIUM IN LEGAL THEORY

## THE POLITICAL MORALITY OF CRIMINAL LAW

BY Associate Professor James Edwards  
*University of Oxford*

4 APRIL 2017, TUESDAY

5.00PM – 7.00PM (TEA RECEPTION STARTS AT 4.30PM)

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

### ABSTRACT

To criminalise is to prohibit. And it is also to permit. Those suspected of crime can—under certain conditions—permissibly be searched, arrested, detained, spied on, imprisoned, and much more. No such set of permissions exists if a wrong is not criminal. Nor does the criminal law make the permissions in question equally available to all. Some state officials (and some of their delegates) are granted permissions that are much more extensive than those granted to private persons (who are not delegates). The upshot is that steps taken to achieve criminal justice are often serious crimes if taken by members of the latter group, while being perfectly lawful when taken by members of the former. My question here is what justifies this asymmetry.

I begin with an asymmetry that is often discussed separately. It is an asymmetry in the principles of distributive justice that apply in different spheres. Many claim that officials have duties of justice, when they shape our political institutions, that are inapplicable to private persons in their everyday lives. There are competing explanations of why this might be. One appeals to efficiency. Another appeals to impossibility. Similar explanations, I suggest, can be offered when it comes to criminal justice. We can give justifications of the asymmetry identified above that appeal to each of the aforementioned ideas. In the second half of this paper, I offer some reasons to doubt appeals to impossibility in the context of criminal justice. And I offer a preliminary defence of a view that appeals to efficiency.

### ABOUT THE SPEAKER



**James Edwards** joined the Oxford Law Faculty in October 2014 as an Associate Professor. He is Tutorial Fellow in Law at Worcester College, and Lecturer in Law at Brasenose College. Before taking up his current post, James was Stipendiary Lecturer in Law at Hertford College, Oxford, and Fellow and Lecturer in Law at Christ's College, Cambridge.

James's current research focuses on the limits of the criminal law. He is particularly interested in the ends the state legitimately uses the criminal law to pursue, and in the means by which the criminal law legitimately makes its contribution. His work has been published in a number of leading journals, including *Legal Theory*, *Law and Philosophy* and the *Oxford Journal of Legal Studies*.

### Participation is By Invitation Only

Registration commences at 4.30pm and light refreshments will be served. For more information, please contact Ms Yvonne Lim at [lawylhh@nus.edu.sg](mailto:lawylhh@nus.edu.sg)