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**Tuesday, 10 September 2019 ✦ 4.00pm to 5.00pm**

(Registration starts at 3.30pm)

Lee Sheridan Conference Room, Eu Tong Sen Building, NUS Law (Bukit Timah Campus)

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## Legality, and Socialist Legality

**Speaker:** Dr Ewan Smith, Jesus College, University of Oxford

**Chairperson:** Associate Professor Michael Dowdle, NUS Law

### ABSTRACT

Recent works have described the role of law in China as “socialist legality” or “authoritarian legality.” The paper argues that this demands an eccentric account of legality, an attenuated account of authoritarianism, or both. Drawing on Party doctrine and socialist legal theory, it highlights two enduring ideas in this new theory of Chinese legality – the claim that law is not supreme and the claim that it is not distinctive. These ideas are embodied in recent constitutional developments in China, from the creation of the National Supervision Commission to the advent of Social Credit. The paper then shows why liberal theories of the rule of law ought to pay attention to authoritarian legality. The antithesis of these two claims ought to be central to any satisfying account of the rule of law. However, supremacy and distinctiveness have been underplayed in many formative accounts in the liberal canon, and occasionally omitted altogether. The seminar explains how legality came to be misunderstood as something that could be reconciled with authoritarianism, highlights the consequences of this misstep, and suggests a way forward.

### ABOUT THE SPEAKER



Ewan Smith is the Shaw Foundation Junior Research Fellow at Jesus College. He is an Associate at the Bonavero Institute for Human Rights, the Programme for the Foundations of Law and Constitutional Government and the Oxford University China Centre. Ewan reads law at Brasenose College and the University of Paris (B.A., DPhil) and at Harvard Law School (LL.M.). He has previously worked at Trinity and Hertford Colleges, at SOAS, and at Peking, Tsinghua and Renmin Universities in China. He is admitted to practice in New York, where he worked for Debevoise and Plimpton LLP. Before returning to Oxford, he spent ten years at the Foreign and Commonwealth Office. Ewan's work looks at how rules govern powerful institutions, with a focus on foreign relations law and comparative public law. His doctorate compared the unwritten constitutions of Britain and China. His research over the next two years will examine how the constitution regulates political parties, how Parliament scrutinises treaties, and how foreign policy is subjected to public law. Ewan teaches Constitutional Law, Administrative Law and Jurisprudence (FHS) and Constitutional Theory (BCL).

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### REGISTRATION

There is no registration fee for this seminar but seats are limited.  
Light refreshment will be provided on a first-come, first-served basis.  
Closing Date: **Friday, 6 September 2019**  
For enquiries, please contact Ms Gretel Chee at [rescle@nus.edu.sg](mailto:rescle@nus.edu.sg)

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