



Centre for Legal Theory
Faculty of Law

THE MYSTERY OF THE STATE: STATE-CONCEPT, STATE-THEORY AND STATE-MAKING IN MICHAEL OAKESHOTT & CARL SCHMITT

BY **Professor Nehal Bhuta**

Professor of Public International Law, European University Institute

Chairperson: Professor Simon Chesterman

27 APRIL 2015, MONDAY, 4.00PM – 6.00PM

BTC STAFF LOUNGE, LEVEL 2, BLOCK B, FACULTY OF LAW, NUS (BUKIT TIMAH CAMPUS)

ABSTRACT

Both Schmitt and Oakeshott were antagonists of the rationalist style of thought in politics. Today we might label them 'realists,' although the term is anachronistic. Both of them were deeply skeptical (and in Schmitt's case, ideologically hostile) to the idea that cognitively derived normative principles could be the foundation for political orders and the answer to problems of state-formation. Neither accepted that the foundation of state power and authority lies in the voluntaristic assent of citizens persuaded by the best arguments for such authority. Rather, both thinkers approach the modern state and its nature through a historical understanding of the emergence of the state, and the determination of its conceptual architecture and normative languages through inherited modes of authority and apparatuses of government, the content and functioning of which is transformed by a series of highly contingent historical developments in Western Europe. In this paper, I develop a comparative reading of Schmitt and Oakeshott's diagnoses of the origins and nature of the modern state, in order better to grasp the implications of their theories for our contemporary understanding of the state. I compare two dimensions of their state theories: their concepts of state and rulership (state-concepts), and their understanding of historicity and contingency in the development of the state form and its distinctive kinds of authority and sociology (state-formation). Despite very different practical commitments in politics, I suggest that along both of these dimensions Schmitt and Oakeshott share essential commonalities in their analyses of the state, and that together they leave us with an understanding of the state that has significant implications for how we think about the state and state-formation today.

ABOUT THE SPEAKER



Nehal Bhuta is Professor of Public International Law at the EUI. He is also co-director of the Academy of European Law, and of the Global Governance Program's Global Governance by Indicators project. He is a member of the editorial boards of the European Journal of International Law, the Journal of International Criminal Justice, Constellations, and Humanity. He is also a series editor (with Anthony Pagden and Benjamin Straumann) of the new Oxford University Press series in the History and Theory of International Law. He came to the EUI from the New School for Social Research, and before that taught at the University of Toronto Faculty of Law. Before entering academia, he worked with Human Rights Watch and the International Center for Transitional Justice. He is currently working on a book on the concept and theory of the state in Grotius, Pufendorf and Vattel.

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 lawylh@nus.edu.sg