

# THE CONCEPT OF A REMEDY

BY

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**13TH AUGUST 2015 (THURSDAY)**

**12.00 NOON – 1.00 PM**

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

## ABSTRACT

Enacting rules is an obvious way for authorities—legal or otherwise—to guide behaviour. Imposing sanctions, in turn, is an obvious way to help ensure compliance with rules, either by directly bringing about the outcomes they require or by providing incentives for compliance. It is less obvious why courts might want to issue orders. What is the point of telling individual defendants to do things when the law already has, or could have, rules that tell citizens to do these same things? This paper, which is based on Chapter 5 (together with parts of the Preface and Introduction) from a draft manuscript titled 'Remedies: Foundations, Scope, and Structure', seeks to answer this question. Focusing on private law orders (though its arguments apply more widely), the paper argues that orders provide different reasons for action from those provided by rules (or sanctions). Unlike rules, which seek to motivate on the basis of the rule-maker's purported authority to *declare* moral duties ('moral authority'), orders seek to motivate on the basis of their authors purported authority to *command* specific actions ('practical authority'). This difference explains why courts issue orders: orders can motivate action in cases where rules (and sanctions) have failed to motivate and, further, they can motivate action in cases where, because the desired behaviour does not give effect to a moral duty, rules cannot be used at all.

## ABOUT THE SPEAKER



Professor Stephen Smith teaches and researches common law and civil law obligations and legal theory. A former law clerk to Chief Justice Brian Dickson, Professor Smith taught for a number of years at St. Anne's College, Oxford University. He is the author of *Contract Theory* (2004) and *Atiyah's Introduction to the Law of Contract*, 6th ed (2005). In February 2008, Professor Stephen Smith received a Killam Research Fellowship from the Canada Council for the Arts for his project "Court Orders and the Replication, Transformation and Creations of Rights".

## REGISTRATION

There is no registration fee for this seminar but seats are limited.  
A light sandwich lunch will be provided on a *first come first serve basis*.

For enquiries, please contact Ms Finna Wong at [cb@nus.edu.sg](mailto:cb@nus.edu.sg)

Register at <http://bit.ly/1N8Ue6c>  
or scan the QR Code:

