

# PRIVATE LAW RESEARCH GROUP PUBLIC SEMINAR

## **Contracts as Expectation: Explaining the Futurity Aspect of Contractual Claims and the Nature of Simultaneous Transactions**

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Durham University

Tuesday 13 December 2022, 6.00pm to 7.30pm (SGT) via Zoom

In this paper, I challenge what can collectively be referred to as exclusionary theses—similar, yet importantly different, theoretical claims that common transactions such as retail sales—the quotidian at-the-till or over-the-counter purchase of goods in a shop—should not (or, on some exclusionary theses, should not always or ‘by default’) be regarded as contractual, as they supposedly only give rise to general, and not special, rights and duties; more specifically, such exchanges do not involve an undertaking (or a ‘promise’) to perform in the future, which is thought to remove any aspect of futurity or expectation—an aspect that is normally regarded as essential for the contractual obligation. On exclusionary theses, therefore, simultaneous or instantaneous transactions (should) belong to the law of property, while any consequences of a deviation from the normal cause of the transaction should be governed by tort law and/or unjust enrichment law. I agree that the notion of expectation is indeed, and should be, central to our understanding of contracts, but in this paper, I seek to offer an account of the nature of expectation in contractual relationships that not only succeeds in vindicating the contractual status of those simultaneous transactions that have traditionally been regarded as contracts but also does so without introducing new complications in the analysis of private law relations.



### **ABOUT THE SPEAKER**

Dr Irina Sakharova is a Lecturer in Contract Law at Durham Law School, where she is also a member of the Durham Centre for Law and Philosophy. Irina’s current research is focused on issues concerning the nature of contractual rights and persons’ power to contract, while her broader research interests lie in private law and its philosophical foundations.

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