

# Public Wrongs and the Criminal Law

Ambrose Y. K. Lee

© Springer Science+Business Media Dordrecht 2013

**Abstract** This paper is about how best to understand the notion of ‘public wrongs’ in the longstanding idea that crimes are public wrongs. By contrasting criminal law with the civil laws of torts and contracts, it argues that ‘public wrongs’ should not be understood merely as wrongs that properly concern the public, but more specifically as those which the state, as the public, ought to punish. It then briefly considers the implications that this has on criminalization.

**Keywords** Public wrongs · Private wrongs · Legal processes · Punishment · Compensation · Criminalization

## Introduction

The idea that crimes are public wrongs is a well-established one within the field of law. Its role in English Law was explicitly affirmed by Blackstone in his *Commentaries on the Laws of England*.<sup>1</sup> Recently, the idea of ‘public wrongs’ has also gained prominence among those working on the normative issues in criminalization, most notably in the works by Duff and Marshall.<sup>2</sup>

I have no intention to argue against this well-established idea. I do think that crimes are public wrongs, but a lot hinges on what we mean by ‘public wrongs’. This paper is an attempt to explore the concepts that come into play when thinking about what constitutes

<sup>1</sup> William Blackstone, *Commentaries on the Laws of England, Book 4* (Oxford: Clarendon Press, 1765–1769), p. 5.

<sup>2</sup> See for example, Antony Duff and Sandra Marshall, “Criminalization and Sharing Wrongs”, *Canadian Journal of Law and Jurisprudence* 11(1) (1998): pp. 7–22; and more recently, “Public and Private Wrongs”, in James Chalmers et al. (eds.), *Essays in Criminal Law in Honour of Sir Gerald Gordon* (Edinburgh: Edinburgh University Press, 2010), pp. 70–85.

A. Y. K. Lee (✉)

Centre for Criminology, University of Oxford, Manor Road Building, Manor Road,  
Oxford OX1 3UQ, UK  
e-mail: ambrose.lee@crim.ox.ac.uk