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Public Wrongs and Public Reason

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Public Wrongs and Public Reason

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Abstract

The distinction between crimes that involve wrongs in themselves and crimes that are wrong because the law makes them so has long puzzled theorists. This essay argues that the distinction, while getting at something real, is based on a mistake. That mistake is made both by those who see moral wrongness as a necessary condition for criminality and by those who believe merely making something illegal is sufficient to make it criminal. Neither is correct. Rather, what makes something a criminal wrong is that it involves a violation of a law that has been justified in terms of “public reason.”

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