

Law, Sacrifice and Morality: A Comparative View

15-16 May 2012

University of Antwerp, Hof van Liere
Prinsstraat 13, 2000 Antwerpen

Organizers

Institute of Jewish Studies
Centre for Law and Cosmopolitan Values
(University of Antwerp)

With the support of Institutum Iudaicum, Leuven

The idea of self-transcendence, or of leaving aside one's own self-interest and adopting the point of view of the other, is a central theme in moral philosophy and religious studies. Sacrifice, moreover, is an essential phenomenon for legal and political life. This workshop addresses the role that sacrifice plays in a political and legal order, with particular emphasis on the establishment and preservation of constitutional law. This question will be approached from the perspective of legal, political and religious studies.

The workshop raises the following questions: First, does a political and legal order need to be grounded on a sacrificial logic? The second question, arising from contemporary pluralism, considers how a given political order copes with moral conflicts arising from the performance of sacrifice. The third question considers how different monotheistic religions deal with the phenomenon of sacrifice and the extent to which they recognize a sacrificial logic. Finally, we ask how it can be prevented that sacrifice turns into a practice of idolatry, or, conversely, into a political order completely devoid of any sacrificial aspect (as the European Union has sometimes been described).

This workshop marks the beginning of a cooperation between the Institute of Jewish Studies and the Centre for Law and Cosmopolitan Values as pertains to the common research endeavor on the topic of 'Law and Religion'.

Tuesday, 15th May 2012

20.00 Welcome and Introduction
Prof. Vivian Liska (Institute of Jewish Studies, University of Antwerp)

Keynote public lecture:

Prof. Moshe Halbertal (Hebrew University of Jerusalem)
'Reflections on Biblical Sacrifice'

Wednesday, 16th May 2012

- 9.00-10.15 **Prof. Moshe Halbertal** (Hebrew University of Jerusalem)
'Self-Transcendence, Self-Sacrifice and Violence'
Respondent: **Prof. Arthur Cools** (Dept. of Philosophy, University of Antwerp)
- 10.15-11.30 **Prof. Paul Kahn** (Yale Law School)
'Two forms of Biopolitics: Conscription and Sacrifice'
Respondent: **Dr. Marco Goldoni** (Centre for Law and Cosmopolitan Values, University of Antwerp)
- 11.30-11.45 *Coffee break*
- 11.45-13.00 **Prof. Johan van der Walt** (University of Luxembourg)
'Gift and Sacrifice, Parameters of a future European Constitutionalism?'
Respondent: **Dr. Paula Schwebel** (Institute of Jewish Studies, University of Antwerp)
- 13.00-14.00 *Lunch*
- 14.00-15.15 **Prof. Wolfgang Palaver** (Institute of Systematic Theology, Universität Innsbruck)
'Abolition or Transformation? The Political Implications of René Girard's Theory of Sacrifice'
Respondent: **Prof. Luc Anckaert** (Institute of Philosophy, KULeuven)
- 15.15-16.00 Round Table and Discussion with the participation of **Prof. Jacques Haers** (UCSIA, University of Antwerp) & **Dr. Joseph Cohen** (School of Philosophy, University College Dublin)
moderated by **Prof. Vivian Liska**

Followed by a reception



Prof. dr. Moshe Halbertal

Hebrew University of Jerusalem

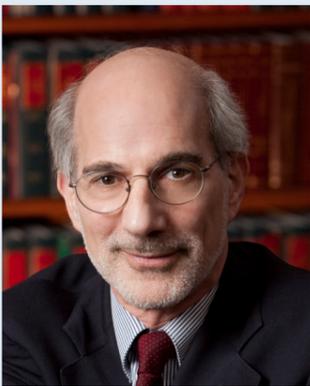
Reflections on Biblical Sacrifice

The lecture explores the meaning and implications of sacrifice, developing a theory of sacrifice as an offering and examining the relationship between sacrifice, ritual, violence, and love. Sacrifice as an offering is a gift given in the context of a hierarchical relationship. As such it is vulnerable to rejection, a trauma at the root of both ritual and violence. The lecture will equally explore the nature of sacrifice as an offering which constitutes an ambiguous gesture torn between a genuine expression of gratitude and love and an instrument of exchange, a tension that haunts the practice of sacrifice.

Self-Transcendence, Self-Sacrifice and Violence

In the moral and political domains, sacrifice is tied to the idea of self-transcendence, in which an individual sacrifices his or her self-interest for the sake of higher values and commitments. While self-sacrifice has great potential moral value, it can also be used to justify the most brutal acts. In the lecture I will try to unravel the relationship between self-sacrifice and violence, arguing that misguided self-sacrifice is far more problematic than exaggerated self-love.

Moshe Halbertal is the Gruss Professor at NYU Law School and a Professor of Jewish Thought and Philosophy at the Hebrew University, and he is a member of Israel's National Academy for Sciences and the Humanities. He is the author of the books *Idolatry* (co-authored with Avishai Margalit) and *People of the Book: Canon, Meaning and Authority*, both published by Harvard University Press. His latest book *Concealment and Revelation* was published by Princeton University Press in 2007.



Prof. dr. Paul Kahn

Yale Law School

Two forms of Biopolitics: Conscription and Sacrifice

The American state claims the power to conscript. There is a logic to conscription, which leads to a juridified biopolitics in which the state acts on its interest in maintaining the strength and well-being of the population. This can take a variety of regulatory forms, including our recent effort to create universal health-care. The biopolitics of conscription is opposed by an alternative biopolitics of sacrifice. Sacrifice is always a free act; it resists juridification. A sacrifice is always a gift, and there can be no such gift without a separation between the individual body and the body politic. Sacrifice and conscription, accordingly, express different views of the nature of political violence. I plan to explore points of tension between these two logics, and the way in which the state manages their relationship.

Paul W. Kahn is Robert W. Winner Professor of Law and the Humanities, and Director of the Orville H. Schell, Jr. Center for Human Rights at Yale Law School. He earned his Ph.D. in Philosophy from Yale University and his J.D. from Yale Law School. He served as a law clerk to Justice White in the United States Supreme Court from 1980-1982. Before coming to Yale Law School in 1985, he practiced law in Washington, D.C., during which time he was on the legal team representing Nicaragua before the International Court of Justice. From 1993 to 1999 he was Nicholas deB. Katzenbach Professor of Law. He teaches in the areas of constitutional law and theory, international law, cultural theory and philosophy. He is the author of *Legitimacy and History: Self-Government in American Constitutional Theory*; *The Reign of Law: Marbury v. Madison and the Construction of America*; *The Cultural Study of Law: Reconstructing Legal Scholarship*; *Law and Love: The Trials of King Lear*; *Putting Liberalism in its Place*; *Out of Eden: Adam and Eve and the Problem of Evil*; *Sacred Violence: Torture, Terror, and Sovereignty*; and *Political Theology: Four New Chapters on the Concept of Sovereignty* as well as numerous articles.



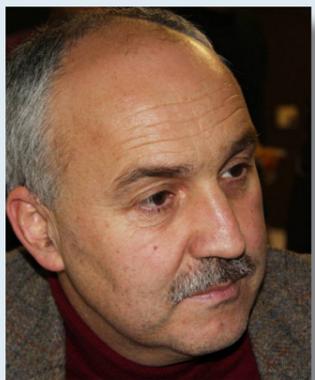
Prof. dr. Johan van der Walt

University of Luxembourg

Gift and Sacrifice, Parameters of a future European Constitutionalism?

The irreducible link between sovereignty and sacrifice has been pointed out poignantly in the work of Jean-Luc Nancy. This link would surely also apply to constitutions, the latter being an essential vehicle of all forms of sovereignty that one might imagine within the context of modern politics. I shall nevertheless argue in my paper that sacrifice is not the only foundational dynamic or economy that informs sovereignty and/or constitutional sovereignty. In fact, an exclusively sacrificial conception of constitutional sovereignty is bound to expose any constitutional form and tradition that may result from it to destructive forces that will seriously curtail the durability and duration of the sovereignty that one may hope to found with a constitution and the ideal of constitutionalism. The other essential component of constitutional economies that might stabilize otherwise purely sacrificial constitutions, is the economy of the gift and giving. I will argue this point with reference to thoughts of especially Marcel Mauss, Jacques Derrida, Jean-Luc Nancy and Hannah Arendt.

Johan van der Walt is Professor of Philosophy of Law at the University of Luxembourg (since August 2011). He previously held chairs in legal philosophy/legal theory at the Universities of Glasgow (2007-2011) and Johannesburg (1996-2006). His research currently focuses on the way the discourse of law and specific or specialised discourses within law (such as constitutional, public and private law) distinguish themselves from other discourses by means of economies of sacrifice and economies of giving. He is author of the monograph *Law and Sacrifice* (Routledge-Cavendish 2005) and has also published widely on the theme of law and sacrifice in law journals.



Prof. dr. Wolfgang Palaver

University of Innsbruck

Abolition or Transformation? The Political Implications of René Girard's Theory of Sacrifice

Against the background of the sacrificial thinking of political Catholicism it is easy to understand why Jürgen Habermas claims that the “normative core” of “enlightenment culture” consists “in the abolition of a publicly demanded sacrificium as an element of morality”. René Girard’s mimetic theory helps to explain the mythic roots of traditional sacrificial cultures as well as the protest of the enlightenment against these cultures. But does that mean that our modern world no longer depends on sacrifice at all? A closer look into the development of Girard’s theory makes clear that a simple abolition of sacrifice may result in the outbreak of violence surpassing traditional sacrificial cultures. Girard demands therefore a transformation of sacrifice that understands why the avoidance of the sacrifice of others may demand forms of self-sacrifice. Political thinkers and activists like Dag Hammarskjöld or Vaclav Havel took a similar position.

Wolfgang Palaver was born in 1958 in Zell am Ziller (Austria). He is professor of Catholic social thought and chair of the Institute for Systematic Theology at the University of Innsbruck (Austria). From 2007 to 2011 he was also president of the “Colloquium on Violence and Religion”. He has written articles and books on Thomas Hobbes, Carl Schmitt, René Girard and on the relationship between religion and violence. An English translation of his book *René Girards mimetische Theorie* (3rd. ed., 2008) is forthcoming with Michigan State University Press.

Jan Morrens

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