

Centre for Law &
Cosmopolitan Values

IJS
INSTITUUT VOOR
JOODSE STUDIES

Law, Sacrifice and Morality : A Comparative View

International workshop

15 - 16 May 2012

University of Antwerp



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With the support of Institutum Iudaicum



 **Universiteit
Antwerpen**

Institute of Jewish Studies

The Institute of Jewish Studies at the University of Antwerp is dedicated to interdisciplinary, internationally embedded research on Judaism. The Institute is active in the fields of academic research, university teaching and educational services for a general public.

Each academic year, the Institute organizes more than twenty lectures by national and international experts. These Thursday evening lectures are aimed at a broad audience and are freely accessible. The Institute also organizes language courses Yiddish and modern Hebrew, as well as reading groups. It also offers courses in Jewish studies, which are embedded in the curriculum of Arts and Philosophy at the University of Antwerp, but are also accessible for free students. Finally, the Institute organizes academic conferences, seminars and workshops, often in cooperation with Belgian and international academic and cultural institutions.

The Institute of Jewish Studies is fully integrated into the University of Antwerp and is supported by the Ministry of Education of the Flemish Community. It was established in the autumn of 2001.

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Centre for Law & Cosmopolitan Values

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The Centre brings legal doctrinal analysis and philosophical argument to bear on key questions of globalisation, with a view to demonstrating that globalisation raises substantive questions of justice, human rights and democracy, questions that need to be taken very seriously by lawyers, policy-makers, politicians and citizens at the international and national levels.

On the face of it, it seeks to make a contribution to the current debate on two levels: first, to subject existing legal institutions to sustained criticism; second to propose new forms of legal regulation by suggesting a fresh way of thinking about the role law can play in a globalised world.

It is envisaged that this line of enquiry will amount to important conclusions about the content, form and institutional validity of a Constitution of Globalisation.

The Centre collaborates on permanent basis with a number of prominent international research units for a variety of activities: joint conferences, graduate colloquia, joint research projects, collaborative publications and exchange schemes for scholars.

www.lcv.ua.ac.be

Law, Sacrifice and Morality : A Comparative View

International workshop

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 which contemporary institutions are best equipped to tackle a politics that can turn self-sacrifice 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'.

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Program

TUESDAY, 15TH MAY 2012

20:00 Welcome and Introduction

Prof. Vivian Liska - Institute of Jewish Studies,
University of Antwerp

Keynote lecture

Prof. Moshe Halbertal - Hebrew University of Jerusalem
'Offering, Rejection and Violence'

WEDNESDAY, 16TH MAY 2012

09.00 **Prof. Moshe Halbertal** - Hebrew University of Jerusalem
'Self-Transcendence and Self-Sacrifice and Violence'

Respondent

Prof. Arthur Cools - Dept. of Philosophy, University of Antwerp

10:15 **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 *Coffee break*

11:45 **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 *Lunch*

14:00 **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 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

Offering, Rejection and Violence

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 and 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.

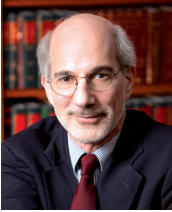


Moshe Halbertal is the Gruss Professor at NYU Law School and a Professor of Jewish Thought and Philosophy at the Hebrew University, and he is a member of Israel's National Academy for Sciences and the Humanities. He is the author of the books *Idolatry* (co-authored with Avishai Margalit) and *People 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

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

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

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.

International Workshop Law, Sacrifice and Morality : A Comparative View Organizers

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Conference in English - participation free of charge, registration required.

