

2013 Summer School: Reciprocity & the Normative Foundations of Legal Orders

PROGRAMME

Course coordinator: Hans Lindahl

More information on this Summer School can be found on www.ozsw.nl

DAY 1: SUNDAY, AUGUST 25

15:00 - 18:00 Arrival

18:00 - 19:30 Dinner

DAY 2: MONDAY, AUGUST 26

08:00 - 09:00 Breakfast

09:00 - 10:30 Lecture 1, by Dora Kostakopoulou

"When the Fixation of Nationality Negates Reciprocity"

Citizenship has been an oligarchic good and that this has given rise to a number of important externalities. Citizenship might be best conceived of as a network good with low excludability. Although we tend to believe that being together and doing things together presuppose either a prior cultural cum political homogeneity or the favourable reception of a national culture, I argue that domicile and equal participation in the social, economic and political spheres of the community may provide a better foundation for citizenship than the priority thesis underpinning liberal nationalism and contractarian moral theory.

10:30 - 11:00 Coffee/Tea

11:00 - 12:30 Lecture 2, by Wibren van den Burg

"Legal Interactionism: a Non-Foundationalist Account of Reciprocity"

Theories of law in the beginning of the twenty-first century must be able to address at least four phenomena: global legal pluralism, the regulatory explosion, the emergence of interactional law, and the dynamics of law and society. My claim is that legal interactionism provides the best answer to those challenges. Legal interactionism (inspired by the work of Lon Fuller and Philip Selznick) takes interactional (or implicit) law seriously, however, without reducing all of law to interactional law. It is thus consistently pluralist in its approach by accepting a multiplicity of sources of law. Interactional law and contract may be characterised by a horizontal form of reciprocity between citizens and between citizens and lawgivers, but enacted law may be embedded in a weaker type of reciprocity. In all these cases, however, speaking of interaction and reciprocity as the 'foundations' of normativity is too strong and the metaphor of foundations may lead us on the wrong track if we want to understand law.

DAY 2: MONDAY, AUGUST 26 (continued)

- 12:30 - 14:00 Lunch
- 14:00 - 16:00 Participant Presentations
- 16:00 - 16:30 Coffee/Tea
- 16:30 - 18:00 Tutorials
- 18:30 - 19:30 Dinner
- 19:45 - 21:45 Intersession

DAY 3: TUESDAY, AUGUST 27

- 08:00 –09:00 Breakfast
- 09:00 –10:30 Lecture 3, by David Dyzenhaus

"The public conscience of the law: Hobbes on the morality of legal order"

Dyzenhaus will in the paper be exploring the idea in Leviathan that 'the law is the publique Conscience, by which [the subject] ... hath already undertaken to be guided'. His argument will be that for Hobbes it is an ideal of justice as reciprocity that underpins this idea: public normative order is legal order, and it has a moral quality to it, that is, it is a moral order, because of the way that ideal is instantiated in the laws of nature that are the structural or formal principles of legal order, the jus of lex. His argument is much influenced by Fuller and likely quite sympathetic to Selznick, but the path to its conclusions is via Hobbes and Oakeshott.

- 10:30 - 11:00 Coffee/Tea
- 11:00 - 12:30 Lecture 4, by Oliver Lembcke

"Autonomy, Humanity, and the Duty of Reciprocity. Some Reflections on Kant's Practical Philosophy"

Reciprocity is not a Kantian term. Taken as a concept, however, reciprocity can provide insights into the Kantian architecture of the binding force of normativity. In this respect the paper aims at reconstructing the fundamental elements of Kant's moral and political philosophy with a two-fold purpose: first, to analyze the limiting effects of the unconditional command of the moral law for morality and legality alike; second, to discuss Kant's critical approach to reciprocity in the context of the concurring ideas of autonomy and humanity.

- 12:30 - 14:00 Lunch
- 14:00 - 16:00 Participant Presentations
- 16:00 - 16:30 Coffee/Tea
- 16:30 - 18:30 Tutorials
- 18:30 Organized social evening (including dinner)

DAY 4: WEDNESDAY, AUGUST 28

08:00 - 09:00 Breakfast

09:00 - 10:30 Participation Presentations

10:30 - 11:00 Coffee/Tea

11:00 - 12:30 Tutorials

12.30 - 14:00 Lunch

14:00 - 18:00 Panel Session.

Panelists: Aafke Komter, Dorien Pessers, Klaas Rozemond, Sanne Taekema and Pauline Westerman. Chairperson: Thijs Jansen (Short Lectures & Discussion)

18:30 - 19:30 Dinner

19:45 - 21:45 Intersession

DAY 5: THURSDAY, AUGUST 29

08:00 - 09:00 Breakfast

09:00 - 10:30 Lecture 5, by Hans Lindahl

"The Non-Reciprocal Origins of Reciprocity: Normative Blind Spots of Legal Orders"

Lindahl will defend the view that every legal order claims to be binding, hence objective, by dint of having instituted or being capable of instituting relations of reciprocity between the members of the collective; but this claim has a blind spot that cannot be suspended by reciprocity. To the contrary: this blind spot is the condition of possibility of reciprocity. And this means that acts which institute relations of legal reciprocity are also always exposed to being a form of domination because they bring about and enforce relations of reciprocity. He will illustrate this thesis with, amongst others, an analysis of the well-known Quebec Secession Reference of the Canadian Supreme Court.

10:30 - 11:00 Coffee/Tea

11:00 - 11:30 Evaluation

12:00 - 13:00 Lunch