

Journée d'études à Nantes, les 20-21 janvier 2016
Fondements théologiques de la théorie constitutionnelle moderne: XVI^e-XVII^e siècles
Conference at Nantes, January 20-21, 2016
Theological Foundations of Modern Constitutional Theory: 16th-17th Centuries

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Organizer: Nantes IAS

Résumé

This conference aims to assemble different studies laying bridges between modern constitutional theories and theology from the perspective of intellectual history. Though modernity of law and politics has been usually accounted in the context of Reformation, the paper-givers' approaches to the question will not be restricted in any confessional perspective, Protestant or Catholic. For, whatever the word 'theology' may have connoted in the time of religious confrontations, theoretical attempts to legitimize human rights and political authority at those days can be regarded as part of the general current of philosophical investigations, in a new manner and with different foci than ever, into the concept of justice with reference to that of God.

Conference Description

Modernity of law and politics has been thought to consist, in a respect, in the separation from religion. When scornfully criticizing the French Revolution or Rousseauist political philosophy, Edmund Burke was in fact foreseeing with (unsuccessfully) veiled anxiety a great difficulty the traditional order had to have in defending itself against the up-coming changes. It is in this context that not a few reformative designs for political institutions had to be accused of and condemned for their alleged atheism since the early modern times. However, if scrupulously retraced up and down, history of modern constitutions shows us that most of the constituent drafters were all the same stuck to the conception of God as ultimate reference for justice, no less than to that of natural law. What played the role of guiding light for the "*représentants du peuple Français*" in 1789 was not derived from a different source than that for the thirteen united States of America in 1776 (More striking would be the fact that the privileged place is still given to God even in post-WWII constitutions: See *Grundgesetz für die Bundesrepublik Deutschland* of 1949). Given that, we are led to face a need to refresh our contextualizing modern politics and religion, which has been made so far on the so-called separatist framework. Undoubtedly, our survey does not, or cannot, aim to make an archeology of revealed theology in the history of ideas. But some hints will be cast on the possibility to expound the renewed concept of God as foundation of modern constitutional theories. This will hopefully help us, without channeling our view

through any confessional doctrines, to rediscover the place of core ideas such as liberty and equality deep in modern political sphere, which is conceivable, as suggested by John Witte, Jr., as “sanctuary of consciences” (*Religion and the American Constitutional Experiment*, 2005).

To do this, we will begin our survey from the early modern phase in intellectual history. Mario Turchetti’s and John Christian Laursen’s scholarship on Erasmus will highlight the rise of humanist doctrine of art of government and spirit of toleration, commemorating the quincentenary of the publication of *Institutio principis Christiani* (1516). Brewed and concretized all through the Revolts, the Dutch republicanism, it may be said, deserves our attentions to identify, as will be shown by Sarah Mortimer and Jonathan Israel, the intellectual roots of Western political modernity. The so-called heterodox theology continues thus to contribute, we’ll see thanks to André Santos Campos and Marta García-Alonso, to the development of modern political theories, particularly with respect to shaping of social contract tradition, and to modernize theoretical treatment of some key political issues including sovereignty and toleration. Finally, our questioning about relationship between theology and constitution will be wrapped up in conclusion by revisiting, under the guide by Thomas Poole and Thomas Ahnert, some important seventeenth-century figures like Hobbes, Harrington and Thomasius.

For program in detail, please see the attached PDF file.

For further information, please feel free to contact the coordinator by e-mail. Any questions (paper-giving, chapter contribution, audience, etc.) will be welcomed and appreciated.

PROGRAM

January 20, 2016, Wednesday

- 09:00-10:00 Registration and Opening
Welcoming and Opening Speech
- Samuel Jubé (Directeur de l'IEA de Nantes)
- 10:00-12:30 « **Bon prince et mauvais prince** » dans *l'Institutio principis Christiani* (1516)
d'Érasme (1469-1536)
- Mario Turchetti (Professeur émérite, Université de Fribourg)
- Erasmus and Arguments for Toleration from Christian Cynicism**
- John Christian Laursen (Professor, University of California at Riverside)
- 12:30-14:00 Lunch
- 14:00-16:30 **Hugo Grotius: Christianity, Liberty and the Commonwealth**
- Sarah Mortimer (Student and Tutor in Modern History, Christ Church, Oxford)
- Anti-Theological Foundations of Modern Constitutional Theory: The Dutch Revolt and the Dutch Republican Tradition in European Context (1572-1688)**
- Jonathan Israel
(Andrew W. Mellon Professor, Institute for Advanced Study, Princeton)
- 16:30-16:45 Coffee Break
- 16:45-19:15 **The Social Contract Tradition(s): Agreements and Reconstructions**
- André Santos Campos
(Assistant Professor and Research Fellow, Universidade Nova de Lisboa)
- Pierre Bayle: la souveraineté, condition de la tolérance**
- Marta García-Alonso
(Profesora titular, Universidad nacional de Educación a Distancia, Madrid)

January 21, 2016, Thursday

- 10:00-12:30 **Theological Foundations of G. W. Leibniz's Conception of Universal Republic**
- Ki-Won Hong (Lecturer in Law, Seoul National University)
- Political Philosophy of Christian Thomasius (1655-1728)**
- Thomas Ahnert (Senior Lecturer in History, University of Edinburgh)
- 12:30-14:00 Lunch
- 14:00-16:30 **Theology and Constitutional Theory in Thomas Hobbes and James Harrington**
- Thomas Poole
(Professor of Law, London School of Economics and Political Science)
- Closing Remarks

(Order of speeches in the program can be modified on technical reasons, if judged necessary.)

Participants

	Participants	Institution
1	Jonathan Israel	Institute for Advanced Study, Princeton
2	Mario Turchetti	Université de Fribourg
3	Marta García-Alonso	Universidad nacional de Educación a Distancia, Madrid
4	Sarah Mortimer	Christ Church, Oxford
5	Thomas Poole	London School of Economics and Political Science
6	John Christian Laursen	University of California at Riverside
7	Thomas Ahnert	University of Edinburgh
8	André Santos Campos	Universidade Nova de Lisboa, Portugal
9	Ki-Won Hong	Seoul National University
	Chapter contributors	Institution
10	John Witte, Jr.	Emory University Law School, Atlanta
11	Hugues Daussy	Université de Franche-Comté
12	Cécile Huchard	Université de Lorraine
13	Cristina Ciucu	EHESS, Paris

Topics

Jonathan Israel	Anti-Theological Foundations of Modern Constitutional Theory: The Dutch Revolt and the Dutch Republican Tradition in European Context (1572-1688)
Mario Turchetti	« Bon prince et mauvais prince » dans l' <i>Institutio principis Christiani</i> (1516) d'Érasme (1469-1536)
Marta García-Alonso	Pierre Bayle: la souveraineté, condition de la tolérance
Sarah Mortimer	Hugo Grotius: Christianity, Liberty and the Commonwealth
Thomas Poole	Theology and Constitutional Theory in Thomas Hobbes and James Harrington
John Christian Laursen	Erasmus and Arguments for Toleration from Christian Cynicism
Thomas Ahnert	Christian Thomasius (1655-1728)
André Santos Campos	The Social Contract Tradition(s): Agreements and Reconstructions
Ki-Won Hong	Theological Foundations of G. W. Leibniz's Conception of Universal Republic
John Witte, Jr.	Prophets, Priests, and Kings: John Milton and the Reformation of Rights and Liberties in England (Or, "A New Magna Carta for the Early Common Law: An 800th Anniversary Essay")
Hugues Daussy	Les « lois et constitutions du royaume » dans la pensée politique huguenote
Cécile Huchard	Théorie constitutionnelle dégagée des pamphlets protestants français des Guerres de religion
Cristina Ciucu	Giordano Bruno (1548-1600) sur la réforme religieuse et sociale

Some Abstracts

1. Jonathan ISRAEL, "Anti-Theological Foundations of Modern Constitutional Theory: The Dutch Revolt and the Dutch Republican Tradition in European Context (1572-1688)"

American "exceptionalism" has always played a large part in the way historians have understood the American Revolution and the American Enlightenment. British "exceptionalism" has played an arguably even bigger role both in explaining the American Enlightenment and especially in describing the alleged seventeenth-century roots of the Western Enlightenment as a whole. Hobbes, Newton and Locke are widely regarded as the essential intellectual roots of Western 'modernity' in a political as well as general sense. But 'mixed government' in the characteristic Anglo-American eighteenth century sense existed before 1688 only in the Dutch Republic and the striking lack of attention paid by historians generally to the theories of Dutch republicanism before 1688 has arguably led to a very high degree of distortion in our thinking about the origins of the Enlightenment including the foundations of modern constitutional theory, distortion that urgently needs correcting.

3. Marta GARCÍA-ALONSO, "Pierre Bayle: la souveraineté, condition de la tolérance"

More than a few of Bayle's interpreters point out the contradiction between the Rotterdam philosopher's doctrine of tolerance and his political philosophy. For many, his vindication of sovereign power — which some describe as absolute — is paradoxical when combined with his defense of universal tolerance and of freedom of conscience. This is so much the case that some — one of whom is the editor of the selection of Bayle's political texts in English, Sally Jenkinson¹ — modulate this "conservative" side of the author by looking among Bayle's texts for those that are more in favor of democracy and the merits of popular politics.

The hypothesis that I will present in this talk is the following: Bayle's criticism of the pactist theory in fashion during his time and his proposal of indivisible sovereignty are not just provisional proposals related to the moment, arising from the criticism of his Protestant co-religionists in the Refuge — mainly, Pierre Jurieu. On the contrary, I believe that his concept of political power constitutes an essential element for the effective implementation of his doctrine of tolerance. In effect, if the vindication of freedom of conscience that he advocates in his *Commentaire philosophique* is to have any real meaning, it can only be through its implementation by the pertinent political authorities. But for this implementation to be effective, these authorities cannot have their power disputed, there must be no cracks through which the sedition systematically promoted by clergymen, theologians, and members of religious orders can slip. Only an indivisible sovereignty, a strong power, independently of the kind of government that is finally established, is capable of defending Bayle's most prized freedom: freedom of conscience. Only an ahistorical reading allows us to think that this proposal is paradoxical or contradictory within the thinking of the philosopher from Rotterdam.

¹ Cf. S. Jenkinson, *Pierre Bayle, Political Writings*, Cambridge University Press, 2000, "Introduction," pp.18-41. Similarly, "Two Concepts of Tolerance: Or Why Bayle Is Not Locke," *Journal of Political Philosophy*, 4 (1996), pp.302-321.

4. Sarah MORTIMER, "Hugo Grotius: Christianity, Liberty and the Commonwealth"

Grotius's distinctive views about the nature of the commonwealth and the limits of civil law were directly related to his heterodox religious views. In this paper, I will suggest that Grotius drew on an eclectic mix of Protestant and Catholic thinking in order to develop his own understanding of the purposes and advantages of civic life, and of the 'constitutional' principles by which that life should be organized. This led him to a position which was quite different from other contemporary theorists, Protestant and Catholic, but would be extremely influential in the seventeenth century.

8. André Santos CAMPOS, "The Social Contract Tradition(s): Agreements and Reconstructions"

In this presentation, I will try to defend two claims that somehow contradict the widespread view on the different modern theories of the social contract. (1) The first is that there is no single social contract tradition, but rather an array of social contract traditions. I will identify at least four different trends that use the conceptual framework of the social contract quite differently: i) the Catholic trend emerging during the sixteenth century in the Iberian school of natural law, with authors such as Bartolomeu de las Casas, Francisco de Vitoria, and Francisco Suarez; ii) the Protestant trend emerging in the seventeenth century, with authors such as Hobbes, Pufendorf and Locke, which became the predominant version of the social contract during the Enlightenment (including authors associated with Catholicism); iii) the contemporary theories of contractualism developed by authors such as John Rawls, T. M. Scanlon and David Gauthier; and iv) what I call the inner reconstruction of the social contract, which can be traced back to Spinoza's semantic revolution. (2) The second claim I will try to defend is that the social contract has a variety of forms of agreement and consent beyond the old series of negotiation-celebration-effects derived from classical Private Roman Law. In order to prove this, I will focus on the way Spinoza's contractarianism evolved from its earliest formulations in the *Theological-Political Treatise* to its more developed and complex formulations in the *Political Treatise*.