

UNIVERSITATEA DE VEST DIN TIMIȘOARA

DOCTOR HONORIS CAUSA

LEGUM SCIENTIAE

Profesor Joseph Halevi Horowitz Weiler

Joseph Straus Professor of Law, New York University School of Law



Timișoara, 2025

Cuvânt
la deschiderea ceremoniei de acordare a titlului de
DOCTOR HONORIS CAUSA LEGUM SCIENTIAE
al Universității de Vest din Timișoara
domnului
Profesor JOSEPH HALEVI HOROWITZ WEILER

Distinși membri ai Senatului Universității de Vest din Timișoara,

Dragi colegi, dragi studenți,

Onorat auditoriu,

Stimate Domnule Profesor Joseph Halevi Horowitz Weiler,

Universitatea de Vest din Timișoara se află astăzi într-un moment de autentică semnificație academică și instituțională. Într-o lume în care schimbările sunt rapide, complexitatea socială este în creștere, iar provocările globale ne obligă la reflecție profundă, rolul universităților devine mai important ca oricând. O universitate modernă nu este doar un loc al formării profesionale. Ea este, mai ales, un spațiu al formării caracterului, al cultivării spiritului critic, al înțelegerii lumii și al responsabilității civice. UVT își asumă explicit misiunea de a dezvolta nu doar competențe, ci și conștiințe, nu doar specialiști, ci și cetățeni deplin ai unei societăți democratice. În această misiune, universitățile au datoria de a aduce în fața noilor generații modele autentice, personalități care întruchipează excelența intelectuală, integritatea morală și influența formativă. Astăzi, prin acordarea titlului de **Doctor Honoris Causa Legum Scientiae**, UVT îl aduce în rândurile sale pe unul dintre cei mai importanți gânditori contemporani ai dreptului internațional și ai integrării europene.

Domnul Joseph H.H. Weiler este profesor de drept internațional, drept al Uniunii Europene și drept constituțional comparat în cadrul New York University School of Law din Statele Unite ale Americii, *European Union Jean Monnet chair* și director al *Jean Monnet Center for International and Regional Economic Law and Justice* în cadrul aceleiași universități. În plus, domnul Joseph H.H.

Weiler este *Senior Fellow* al *Minda de Gunzburg Center for European Studies* din cadrul Harvard University.

A format generații de juriști în universități precum Harvard, Michigan și NYU, iar influența sa s-a extins dincolo de mediul academic, către spațiul civic și dezbateră publică globală. Este fost președinte al prestigiosului European University Institute din Florența și fondator al unor publicații de referință.

Recunoașterea internațională a activității sale este confirmată de distincții academice și civice de anvergură: Premiul Ratzinger conferit de Sanctitatea Sa Papa Francisc, Medalia Manley Hudson a *American Society of International Law*, Ordinul de Merit al Republicii Italiene, al Republicii Polone și al Ungariei, precum și nu mai puțin de șaisprezece titluri de *Doctor Honoris Causa* acordate de universități europene și americane. Profesorul Weiler este membru al American Academy of Arts and Sciences și fondator sau co-fondator al unor publicații și foruri academice de referință, precum *European Journal of International Law*, *ICON – International Journal of Constitutional Law* și *ICON-S*.

Universitatea de Vest din Timișoara își afirmă identitatea ca universitate comprehensivă, conectată la realitățile sociale, culturale și civice ale comunității. Universitățile devin repere de stabilitate, de dialog și de cultură a valorilor.

Relația domnului profesor Weiler cu România are o dimensiune aparte. Acesta a colaborat cu instituții academice și cercetători din țara noastră, iar recunoașterea conferită astăzi de UVT se așează firesc în această relație, întărind afecțiunea și respectul reciproc dintre un intelectual de talie mondială și o universitate tânără, dinamică și profund angajată în misiunea europeană a educației. Prin acordarea titlului de *Doctor Honoris Causa Legum Scientiae*, UVT onorează nu doar o personalitate de prim rang a lumii academice, ci și un gânditor care a redefinit felul în care sunt înțelese mecanismele integrării europene și ale ordinii juridice internaționale.

Stimate Domnule Profesor Joseph Halevi Horowitz Weiler,

Universitatea de Vest din Timișoara este onorată de prezența Domniei Voastre și de intrarea în rândurile comunității sale academice. Prin acordarea titlului de ***Doctor Honoris Causa Legum Scientiae***, celebrăm nu doar realizările dumneavoastră remarcabile, ci și valorile pe care le întruchipați și care sunt esențiale pentru misiunea UVT: excelență, etică, dialog, responsabilitate.

Vă dorim sănătate, energie și inspirație pentru a continua să oferiți lumii repere de înțelegere, echilibru și umanism.

Prof. univ. dr. Marilen-Gabriel Pirtea



Rectorul Universității de Vest din Timișoara

Timișoara, 1 Decembrie 2025

Address
at the opening ceremony for awarding the title of
DOCTOR HONORIS CAUSA LEGUM SCIENTIAE
of the West University of Timișoara
to Professor JOSEPH HALEVI HOROWITZ WEILER

Distinguished members of the Senate of the West University of Timișoara,

Dear colleagues and students,

Esteemed audience,

Distinguished Professor Joseph Halevi Horowitz Weiler,

The West University of Timișoara stands today at a moment of genuine academic and institutional significance. In a world marked by rapid change, growing social complexity, and global challenges that compel profound reflection, the role of universities has become more important than ever. A modern university is not merely a place of professional training. It is, above all, a space where character is shaped, critical thinking is cultivated, the world is understood, and civic responsibility is strengthened. UVT openly embraces its mission of developing not only skills but also principles, of forming not only specialists but true citizens of a democratic society. In fulfilling this mission, universities have the duty to present new generations with authentic models – personalities who embody intellectual excellence, moral integrity, and formative inspiration. Today, by conferring him the title of *Doctor Honoris Causa Legum Scientiae*, UVT welcomes among its ranks one of the most important contemporary thinkers in international law and European integration.

Professor Joseph H.H. Weiler is Professor of International Law, European Union Law, and Comparative Constitutional Law at the New York University School of Law in the United States,

holder of the European Union Jean Monnet Chair and Director of the Jean Monnet Center for International and Regional Economic Law and Justice at the same university. In addition, Professor Joseph H.H. Weiler is a Senior Fellow of the Minda de Gunzburg Center for European Studies at Harvard University.

He has educated generations of jurists at universities such as Harvard, Michigan, and NYU, and his influence has extended far beyond the academic sphere, into civic life and global public debate. He is a former President of the prestigious European University Institute in Florence and the founder of several landmark academic publications.

The international recognition of his work is confirmed by several major academic and civic distinctions: the Ratzinger Prize awarded by His Holiness Pope Francis, the Manley Hudson Medal of the American Society of International Law, the Orders of Merit of the Republics of Italy, Poland, and Hungary, as well as no fewer than sixteen honorary doctorates awarded by European and American universities. Professor Weiler is a member of the American Academy of Arts and Sciences and the founder or co-founder of important academic journals and fora, including the *European Journal of International Law*, *ICON – International Journal of Constitutional Law*, and *ICON-S*.

The West University of Timișoara affirms its identity as a comprehensive university, connected to the social, cultural, and civic realities of its community. Universities thus become anchors of stability, dialogue, and a culture of values.

Professor Weiler's relationship with Romania holds a special place. He has previously collaborated with academic institutions and scholars from our country, and the recognition granted by UVT today is naturally in this longstanding connection, strengthening the mutual affection and respect between a world-class intellectual and a young, dynamic university deeply committed to the European mission of education. By granting him the title of *Doctor Honoris Causa Legum Scientiae*, UVT honors not only a leading figure of the global academic world, but also a thinker who has redefined the understanding of European integration mechanisms and the international legal order.

Esteemed Professor Joseph Halevi Horowitz Weiler,

The West University of Timișoara is honored by your presence and by your membership in its academic community. By awarding you the title of *Doctor Honoris Causa Legum Scientiae*, we celebrate not only your remarkable achievements but also the values you embody – values that are essential to UVT’s mission: excellence, ethics, dialogue, and responsibility.

We wish you good health, energy, and inspiration to continue offering the world enduring reference points of understanding, balance, and humanism.

Professor Marilen-Gabriel Pirtea, PhD



Rector of the West University of Timișoara

Timișoara, 1st December 2025

LAUDATIO
în onoarea
Domnului Profesor JOSEPH HALEVI HOROWITZ WEILER
cu ocazia acordării titlului de
DOCTOR HONORIS CAUSA LEGUM SCIENTIAE
al Universității de Vest din Timișoara

Onorat prezidiu,

Distinși membri ai Senatului Universității de Vest din Timișoara,

Stimați invitați,

Dragi colegi, dragi studenți,

Onorat auditoriu,

Stimate Domnule Profesor Joseph Halevi Horowitz Weiler,

Avem astăzi privilegiul de a prezenta această *Laudatio* în onoarea domnului Profesor Joseph Halevi Horowitz Weiler, o personalitate de prim rang a lumii juridice contemporane, un gânditor a cărui influență s-a extins, în ultimele decenii, în cadrul, dar și dincolo de granițele disciplinelor dreptului internațional, dreptului Uniunii Europene și dreptului constituțional comparat. Cu ocazia decernării titlului de *Doctor Honoris Causa Legum Scientiae* al Universității de Vest din Timișoara, acordat la propunerea Facultății de Drept, celebrăm un intelectual a cărui operă academică a contribuit în mod fundamental la conturarea modului în care sunt înțelese astăzi ordinea juridică internațională și construcția europeană.

Ceremonia de astăzi are și un caracter simbolic aparte: acordarea titlului are loc în 1 Decembrie, Ziua Națională a României, la 107 ani de la Marea Unire din 1918. Această dată nu este doar o sărbătoare națională, ci un reper identitar care confirmă, o dată în plus, cât de profund este

legat destinul României de spațiul european, de valorile sale și de promisiunea unei conviețuiri politice și juridice întemeiate pe libertate, democrație și pluralism. De aceea, a-l onora astăzi pe domnul profesor Joseph H.H. Weiler, una dintre cele mai profunde voci academice din domeniul dreptului internațional și european, înseamnă și a reafirma, cu solemnitate, opțiunea României pentru Europa ca proiect politic, economic, juridic și civilizațional.

Domnul profesor Joseph Halevi Horowitz Weiler este membru al unei generații de intelectuali pentru care dreptul nu a reprezentat numai un domeniu academic, ci și un instrument de reflecție asupra modului în care comunitățile politice își construiesc sensul, identitatea și legitimitatea. Cariera sa, desfășurată în unele dintre cele mai prestigioase universități ale lumii – Michigan, Harvard, New York University – este impresionantă prin coerență, rigoare și impact. Domnia sa este în prezent *University Professor, European Union Jean Monnet Chair* și director al *Jean Monnet Center for International and Regional Economic Law and Justice*, în cadrul New York University School of Law.

Activitatea sa este dublată de numeroase poziții de cercetare și de conducere ocupate în cadrul unor instituții internaționale de prestigiu: co-director al *Academy of ASEAN Law* din cadrul *Center for International Law*, National University of Singapore, catedra *Radbruch-Kantorowicz* din cadrul Hertie School of Governance din Berlin și *Distinguished Fellow* al Facultății de Drept din cadrul Hebrew University din Ierusalim.

Profesorul Weiler a fost Președinte al *European University Institute*, cel mai important institut european dedicat științelor sociale și umaniste. Profesorul Weiler este totodată editor și fondator al unor publicații esențiale ale lumii juridice internaționale, precum și al unor foruri care au reunit, în ultimele decenii, cele mai importante nume și voci ale dreptului public comparat, ale filosofiei dreptului și ale dreptului (constituțional) european – *European Journal of International Law*, *ICON-International Journal of Constitutional Law* și *ICON-S*.

Distincțiile care i-au fost acordate sunt numeroase și cu rezonanță: Premiul Ratzinger, conferit în anul 2022 de către Sanctitatea Sa Papa Francisc, *Manley Hudson Medal*, cea mai înaltă distincție a *American Society of International Law*, ordine naționale de merit din Italia, Polonia și Ungaria, precum și multe titluri *Doctor Honoris Causa* conferite de universități din Europa și Statele Unite. Profesorul Weiler este membru al *American Academy of Arts and Sciences*, un statut rezervat unor

personalități academice de excepție.

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Contribuțiile academice ale domnului Profesor Joseph H.H. Weiler au avut un rol esențial în remodelarea paradigmelor privind studiul proiectului construcției europene. Lucrarea sa, *The Constitution of Europe – Do the New Clothes Have an Emperor?*, constituie o invitație la reflecție asupra legitimității Uniunii Europene și asupra tensiunilor care însoțesc procesul de integrare: între piață și societate, între identitate și comunitate, între tradiție constituțională și modernitate politică.

În aceeași măsură, dar într-un alt registru, lucrarea *Un'Europa Cristiana* a provocat un dialog intens și fertil despre rădăcinile culturale ale Europei, despre raportul dintre valorile spirituale și construcția politică europeană și, mai mult, despre însăși identitatea europeană. Publicarea traducerii în limba română a acestei cărți la Editura Universității de Vest din Timișoara, odată cu decernarea acestui titlu, este încă o recunoaștere a contribuțiilor Profesorului Weiler la înțelegerea proiectului european.

Un element definitoriu al lucrărilor domnului Profesor Joseph H.H. Weiler îl reprezintă insistența asupra dialogului între tradițiile juridice, ca motor esențial al evoluției dreptului public contemporan. Domnia sa a arătat că ordinea juridică europeană nu poate fi înțeleasă ca un sistem uniform, ci ca o interacțiune complexă între tradiții constituționale diverse, fiecare dintre acestea fiind încărcată cu un sens istoric, cultural și axiologic propriu. În viziunea domnului profesor Weiler, integrarea este viabilă atunci când respectă această pluralitate și cultivă dialogul, privilegiind convergența critică și înțelegerea reciprocă.

Opera intelectuală a domnului Profesor Joseph H.H. Weiler impresionează prin profunzime, complexitate și o remarcabilă capacitate de a pune în dialog dreptul cu alte domenii, precum filosofia politică, antropologia culturală, teologia sau istoria ideilor. Analiza juridică devine, în lucrările sale, o meditație asupra responsabilității, identității și sensului comunităților politice, transformând reflecția academică într-o contribuție durabilă la cultura juridică europeană și internațională.

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Doamnelor și domnilor,

Propunerea Facultății de Drept a Universității de Vest din Timișoara de a i se acorda titlul de *Doctor Honoris Causa Legum Scientiae* domnului Profesor Joseph Halevi Horowitz Weiler este pe deplin justificată. Ea reprezintă o recunoaștere a unei cariere academice excepționale și o confirmare a legăturii statornice dintre universitatea noastră și personalitățile definitorii ale dreptului internațional și european.

Stimate domnule Profesor Joseph H.H. Weiler,

Contribuția dumneavoastră la consolidarea Europei ca proiect juridic, politic și moral are o relevanță specială pentru România. În ultimele decenii, țara noastră a găsit în Uniunea Europeană un cadru al modernizării, al stabilității și al afirmării valorilor democratice. Gândirea dumneavoastră constituie un reper pentru cei care privesc integrarea europeană ca pe un proces viu, un dialog între tradiții culturale și juridice și un angajament pentru libertate și solidaritate.

Suntem onorați de prezența dumneavoastră astăzi în Timișoara, în această zi cu profundă semnificație pentru România. Prin acordarea acestui titlu, dorim să ne exprimăm admirația pentru întreaga dumneavoastră contribuție la gândirea juridică europeană și să vă primim cu căldură în comunitatea noastră academică.

COMISIA DE EVALUARE ȘI DE ELABORARE A *LAUDATIO*

Președinte:

Prof. univ. dr. Marilen Gabriel PIRTEA, *Rectorul Universității de Vest din Timișoara*

Membri:

Prof. univ. dr. Nicoleta-Claudia MOLDOVAN, *Președintele Interimar al Senatului Universității de Vest din Timișoara*

Acad. prof. univ. dr. Mircea DUMITRU, *Vicepreședintele Academiei Române, Universitatea din București*

Prof. univ. dr. Iulia Antoanella MOTOC, *Universitatea de Vest din Timișoara, Judecător al Curții Penale Internaționale*

Prof. univ. dr. Răzvan DINCĂ, *Decanul Facultății de Drept, Universitatea din București*

Prof. univ. dr. Marian NICOLAE, *Universitatea din București*

Prof. univ. dr. VALENTIN Constantin, *Universitatea de Vest din Timișoara*

Prof. univ. dr. Mircea MIHĂIEȘ, *Universitatea de Vest din Timișoara*

Prof. univ. dr. Lucian BERCEA, *Decanul Facultății de Drept, Universitatea de Vest din Timișoara*

Conf. univ. dr. Claudiu T. ARIEȘAN, *Magister Caeremoniae al Universității de Vest din Timișoara*

LAUDATIO
in honor of
Professor JOSEPH HALEVI HOROWITZ WEILER
upon awarding the title of
DOCTOR HONORIS CAUSA LEGUM SCIENTIAE
of the West University of Timișoara

Honoured Presidium,

Distinguished Members of the Senate of the West University of Timișoara,

Esteemed Guests,

Dear Colleagues, Dear Students,

Honoured Audience,

Esteemed Professor Joseph Halevi Horowitz Weiler,

Today we have the privilege of drafting this *Laudatio* in honour of Professor Joseph Halevi Horowitz Weiler, a leading figure of the contemporary legal world, a thinker whose influence has, in recent decades, extended both within and beyond the boundaries of the disciplines of international law, European Union law, and comparative constitutional law. On the occasion of the conferral of the title *Doctor Honoris Causa Legum Scientiae* of the West University of Timișoara, awarded at the proposal of the Faculty of Law, we celebrate an intellectual whose scholarly work has contributed in a fundamental manner to shaping the way in which the international legal order and the European project are understood today.

Today's ceremony also carries a distinctive symbolic significance: the conferral of this title takes place on 1 December, Romania's National Day, marking 107 years since the Great Union of 1918. This date is not merely a national celebration, but an identity-defining milestone that reaffirms, once more, how profoundly Romania's destiny is bound to the European space, to its values, and to

the promise of a political and legal coexistence grounded in liberty, democracy, and pluralism. Thus, to honour Professor Joseph H. H. Weiler today – one of the most profound academic voices in the field of international and European law – also means to solemnly reaffirm Romania’s commitment to Europe as a political, economic, legal, and civilizational project.

Professor Joseph Halevi Horowitz Weiler belongs to a generation of intellectuals for whom law has represented not merely an academic field, but also an instrument for reflecting upon the ways in which political communities construct meaning, identity, and legitimacy. His career, pursued within some of the world’s most prestigious universities – Michigan, Harvard, New York University – is remarkable for its coherence, rigour, and impact. He currently serves as University Professor, European Union Jean Monnet Chair, and Director of the Jean Monnet Center for International and Regional Economic Law and Justice at New York University School of Law.

His activity is complemented by numerous research and leadership positions held within distinguished international institutions: Co-Director of the Academy of ASEAN Law at the Center for International Law, National University of Singapore; holder of the Radbruch-Kantorowicz Chair at the Hertie School of Governance in Berlin; and Distinguished Fellow of the Faculty of Law at the Hebrew University of Jerusalem.

Professor Weiler was President of the *European University Institute*, the leading institute in Europe dedicated to social science and humanities. Professor Weiler is likewise the founder and editor of several seminal publications in the field of international law, as well as of fora which, over recent decades, have brought together the most important names and voices in comparative public law, legal philosophy, and (European) constitutional law—The European Journal of International Law, I·CON – The International Journal of Constitutional Law, and I·CON-S.

The distinctions bestowed upon him are numerous and of great resonance: the Ratzinger Prize, awarded in 2022 by His Holiness Pope Francis; the Manley Hudson Medal, the highest distinction of the American Society of International Law; national orders of merit from Italy, Poland, and Hungary; as well as many Doctor Honoris Causa titles conferred by universities in Europe and the United States. Professor Weiler is a member of the American Academy of Arts and Sciences, a status reserved for truly exceptional academic figures.

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The scholarly contributions of Professor Joseph H. H. Weiler have played a pivotal role in reshaping the paradigms through which the European integration project is studied. His book *The Constitution of Europe – Do the New Clothes Have an Emperor?* constitutes an invitation to reflect upon the legitimacy of the European Union and upon the tensions that accompany the integration process: between market and society, between identity and community, between constitutional tradition and political modernity.

To the same extent, though in a different register, *Un'Europa Cristiana* has sparked an intense and fruitful dialogue about Europe's cultural roots, about the relationship between spiritual values and the European political project, and, more broadly, about European identity itself. The publication of the Romanian translation of this book by the West University Press, coinciding with the awarding of this title, represents yet another recognition of Professor Weiler's contributions to understanding the European project.

A defining feature of Professor Joseph H. H. Weiler's academic works is his sustained emphasis on dialogue among legal traditions as an essential engine of the evolution of contemporary public law. He has shown that the European legal order cannot be understood as a uniform system, but rather as a complex interaction among diverse constitutional traditions, each endowed with its own historical, cultural, and axiological meaning. In Professor Weiler's view, integration is viable only when it respects this plurality and cultivates dialogue, privileging critical convergence and mutual understanding.

The intellectual work of Professor Joseph H. H. Weiler is striking for its depth, complexity, and remarkable capacity to place law in conversation with other domains such as political philosophy, cultural anthropology, theology, and the history of ideas. In his writings, legal analysis becomes a meditation on responsibility, identity, and the meaning of political communities, transforming academic reflection into a lasting contribution to the European and international legal culture.

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Ladies and Gentlemen,

The proposal of the Faculty of Law of the West University of Timișoara to confer the title Doctor Honoris Causa Legum Scientiae upon Professor Joseph Halevi Horowitz Weiler is fully

justified. It represents a recognition of an exceptional academic career and an affirmation of the enduring bond between our University and the defining figures of international and European law.

Esteemed Professor Joseph H. H. Weiler,

Your contribution to the consolidation of Europe as a legal, political, and moral project holds a special significance for Romania. In recent decades, our country has found in the European Union a framework for modernization, stability, and the affirmation of democratic values. Your thought provides a reference point for all those who regard European integration as a living process, a dialogue among cultural and legal traditions, and a commitment to liberty and solidarity.

We are honoured by your presence today in Timișoara, on this day of profound significance for Romania. By conferring this title, we wish to express our admiration for your entire contribution to European legal thought and to welcome you warmly into our academic community.

THE COMMITTEE FOR THE EVALUATION AND PREPARATION OF THE *LAUDATIO*

President:

Prof. Marilen Gabriel PIRTEA, *Rector of the West University of Timișoara*

Members:

Prof. Nicoleta-Claudia MOLDOVAN, *President Ad Interim of the Senate of the West University of Timișoara*

Acad. Prof. Mircea DUMITRU, *Vicepresident of the Romanian Academy, University of Bucharest*

Prof. Iulia Antoanella MOTOC, *West University of Timișoara, Judge at the International Criminal Court*

Prof. Răzvan DINCĂ, *Dean of the Faculty of Law, University of Bucharest*

Prof. Marian NICOLAE, *University of Bucharest*

Prof. VALENTIN Constantin, *West University of Timișoara*

Prof. Mircea MIHĂIEȘ, *West University of Timișoara*

Prof. Lucian BERCEA, *Dean of the Faculty of Law, West University of Timișoara*

Conf. univ. dr. Claudiu T. ARIEȘAN, *Magister Caeremoniae of the West University of Timișoara*

Cuvântul de acceptare
al Domnului Profesor **JOSEPH HALEVI HOROWITZ WEILER**
cu ocazia acordării titlului de
DOCTOR HONORIS CAUSA LEGUM SCIENTIAE
al Universității de Vest din Timișoara

Cain și Abel – Prima crimă

Vă mulțumesc pentru distincția onorantă care mi-a fost acordată astăzi.

Tema prelegerii mele de astăzi este prima crimă – Cain ucigându-și fratele mai mic.

Premisa acestei prelegeri este aceea că poveștile din primele capitole ale *Genezei* – precum Adam și Eva, Cain și Abel, Turnul Babel, Noe și Potopul – reprezintă, de fapt, o invitație la reflecție asupra a două probleme fundamentale: viziunea biblică asupra sensului de a fi o ființă umană în această lume și, de asemenea, asupra sensului de a fi o ființă umană care acceptă Suveranitatea Creatorului.

Protagoniștii acestor prime capitole din *Geneza* nu sunt cu adevărat individualizați. Ei sunt reprezentanți ai întregii umanități. Sunt prototipuri. Acesta este, de pildă, motivul pentru care se spune că întreaga umanitate a săvârșit Păcatul Originar și a pierdut paradisul. Aici, nuanța textului ebraic se pierde în traducere. În ebraică, cuvântul „Adam” funcționează atât ca substantiv propriu – numele unei persoane – cât și ca substantiv comun: o ființă umană. Expresia „Fiul Omului” (asociată imediat Cărții lui Daniel și autoapelativului preferat și omniprezent al lui Hristos) înseamnă, de fapt, același lucru: un om, o ființă umană. Atât în ebraica biblică, cât și în cea modernă, dacă, spre exemplu, vrei să admonestezi un prieten spunând: „Fii om!”, forma cea mai comună și corectă ar fi: „Fii Fiul Omului” (fii Fiul lui Adam).

Cain a fost fiul (biologic) al lui Adam. A fost, totodată, Fiul Omului. Un prototip pentru ființele umane. Asemeni tatălui său, și el a comis o transgresiune, deși există multe aspecte asupra cărora se poate reflecta comparând transgresiunile lor individuale. În cele ce urmează, doresc să

extrag câteva lecții din povestea lui Cain și Abel – prima comună și evidentă, celelalte poate mai puțin.

I. Sunt eu păzitorul fratelui meu?

Povestea lui Cain și Abel este una dintre acele narațiuni biblice care au devenit parte a patrimoniului civilizațional general, fără a necesita în mod neapărat un anumit angajament religios. A fost, la urma urmei, Prima Crimă. Cine nu a citit, rostit, scris (sau gândit pe furiș, cu un sentiment de vină): „Sunt eu păzitorul fratelui meu?” În mod similar, folosim frecvent expresia „Semnul lui Cain” pentru a desemna un stigmat care va marca un făptaș (real sau presupus) pentru totdeauna.

De regulă, aceste două expresii modelează memoria noastră colectivă și semnificația pe care o atribuim descrierii despre Cain și Abel. (Nu mă refer aici la specialiștii în studiul Bibliei.) Cu toate acestea, putem extrage mai mult, mult mai mult, din această poveste.

Mai întâi voi spune câteva cuvinte despre tema Păzitorului fratelui. Nu vor fi prea multe elemente de noutate în această parte. Cât privește Semnul lui Cain, voi argumenta că acesta a fost adesea înțeles greșit atunci când a fost scos din contextul întregii narațiuni. În plus, povestea oferă mult mai multe învățăminte decât pot surprinde aceste două expresii celebre.

Revenind la Păzitorul fratelui: dincolo de repulsia instinctivă față de o crimă lipsită de sens, expresia este folosită ca metaforă pentru ideea de responsabilitate împărtășită sau colectivă. Sunt eu păzitorul fratelui meu? Da, suntem chemați să fim păzitorii fraților noștri! Iar acest lucru în sine, nu este deloc trivial. Răspunderea pentru multe rele din lume, mari sau mici, individuale sau colective, nu poate fi pusă exclusiv pe umerii făptașilor. Ea aparține și celor din jur, care întorc capul, se prefac că nu văd, că nu aud și, în consecință, rămân în tăcere.

Cea mai puternică articulare a acestui adevăr, pe care o cunosc, se află în cuvintele președintelui german Richard von Weizsäcker, rostite la ceremonia comemorării a 40 de ani de la sfârșitul războiului în Europa și al tiraniei național-socialiste, la 8 mai 1985, în Bundestag, la Bonn.

Vorbind despre ororile comise de regimul național-socialist împotriva evreilor, popoarelor Rusiei și Poloniei, romilor, homosexualilor și altora, el a spus (în acest pasaj referindu-se în special la *Shoah*):

„Comiterea acestei crime s-a aflat în mâinile câtorva oameni. Ea a fost ascunsă de ochii publicului, dar fiecare cetățean german a putut vedea ceea ce compatrioții lor evrei erau nevoiți să îndure: de la simplă apatie și intoleranță ascunsă până la ură fățișă. Cine ar fi putut rămâne nebănuitor după arderea sinagogilor, jefuirea lor, stigmatizarea prin Steaua lui David, lipsirea de drepturi, încălcarea neîncetată a demnității umane? Oricine își deschidea ochii și urechile și căuta informații nu putea să nu observe că evreii erau deportați. Natura și amploarea distrugerii au depășit imaginația umană dar, în realitate, dincolo de crima în sine, a existat și încercarea mult prea multor oameni, inclusiv a celor din generația mea, care erau tineri și nu au fost implicați în planificarea și comiterea acelor fapte, de a nu băga de seamă ceea ce se întâmpla. Au existat multe moduri de a nu-ți împovăra conștiința, de a evita responsabilitatea, de a-ți întoarce privirea, de a păstra tăcerea. Iar atunci când adevărul de negrăit al Holocaustului a ieșit la iveală la sfârșitul războiului, prea mulți dintre noi au pretins că nu știau nimic despre ceea ce se întâmplase sau că nici măcar nu bănuiseră ceva.”

Nu este nevoie să revenim la acea realitate terifiantă din 1939–1945 pentru a invoca avertismentul concis și impresionant de onest al lui von Weizsäcker. Acest „a-ți întoarce privirea” s-a repetat iar și iar, în forme mai mari și mai mici. Îl provoc pe oricare dintre cititorii acestui eseu să-și pună mâna pe inimă și să recunoască faptul că nu a încălcat niciodată principiul Păzitorului fratelui.

Cu toate acestea, așa cum am menționat, există mult mai multe învățăminte în narațiunea despre Cain și Abel în afara principiului Păzitorului fratelui. La acestea mă voi referi acum.

II. Nașterea Dreptului Natural și distincția față de Dreptul Transcendental

Reflectând asupra transgresiunilor lui Adam și Cain, ale Omului și Fiului Omului, observăm ceva ce ne intrigă. Dacă privim *actus reus* în sine, Adam a mâncat un fruct din pomul din care Tatăl său îi spusese să nu mănânce. Nu există nimic intrinsec rău în acest gest. Gravitatea sa (dacă există vreuna) rezidă în neascultare. Sărmanul Adam nu a primit niciun motiv pentru interdicție. Aceasta pare complet arbitrară. Animalele, la urma urmei, puteau mânca în mod liber din respectivul fruct. În mod interesant, interdicția seamănă cu legile alimentare detaliate din *Exod* și *Levitic* și repetate în *Deuteronom*: poți mânca găină, dar nu iepure; leul, pe de altă parte, le poate devora pe ambele. Poți mânca somon, dar nu sturion. Fără logică sau rațiune.

Adam ar fi putut întreba: De ce nu? Răspunsul ar fi fost: „Pentru că Eu (Domnul) îți poruncesc astfel”. Nicio reflecție kantiană autonomă nu l-ar fi condus pe Adam să se abțină de la a mânca fructul interzis în absența poruncii. Actul nu ar fi intrat sub Imperativul Categorie al lui Kant și nici sub Testul Vătămării care stă la baza normativității morale. A mânca fructul interzis nu era, în sine, lipsit de etică.

Cu totul diferit este cazul lui Cain, fiul lui Adam. Există ceva mai rău decât uciderea unui om nevinovat, a propriului frate? Nu este surprinzător că Atotputernicul reacționează:

„Ce ai făcut? Glasul sângelui fratelui tău strigă către Mine din pământ.”

Din contrastul dintre cele două transgresiuni – cea a lui Adam (Omul) și cea a lui Cain (Fiul Omului) – se pot extrage două lecții fundamentale.

Prima vine din tăcerea Scripturii, care uneori vorbește cel mai puternic prin ceea ce nu spune. Cain nu îi spune lui Dumnezeu: „Nu ne-ai poruncit să nu ucidem”. El își ascunde fapta, dar îi este limpede că a făcut un rău. Această tăcere introduce în modul cel mai sugestiv Dreptul Natural – legea care ne obligă prin însăși condiția umană, fără vreo poruncă explicită din partea lui Dumnezeu. Nu ai nevoie de Cele Zece Porunci pentru a ști că omorul este rău. Normativitatea sa ne obligă pe toți: credincioși și necredincioși. Aici Imperativul Categorie și Principiul Vătămării se aplică pe deplin.

A doua lecție privește o mare intuiție a concepției teologice cuprinse în Vechiul Testament, de esența monoteismului de legământ. O modalitate de a descrie diferența dintre cei care aleg, în mod liber (!) *Imitatio Dei* și cei care nu aleg astfel, poate fi exprimată pe baza terminologiei kantiene. Toți oamenii sunt chemați, prin umanitatea lor, să adopte o viață etică. Pentru ca alegerea să fie semnificativă din punct de vedere moral, ea trebuie să vină din propria înțelegere de sine și din liberul arbitru individual. Norma trebuie să fie interiorizată și forța sa față de actorul în cauză este deci autogenerată, autonomă. Acest lucru este valabil atât pentru credincioși, cât și pentru necredincioși. Eu fac sau nu mă abțin de la a face ceva pentru că înțeleg, prin rațiunea și etica mea umană, că așa se cuvine. Este datoria mea. Dacă încalc norma, sunt conștient(ă) de încălcare. Acțiune sau inacțiunea morală își pierde semnificația internă dacă ea este rezultatul simplei obediențe față de o autoritate externă sau indusă de un calcul egoist – de tipul „vreau să ajung în Paradis”. Și dacă nu ar exista Paradis – ar fi în regulă să comit o crimă? Dacă aleg să nu ucid, această alegere nu se întemeiază exclusiv pe interdicția cuprinsă în cele Zece Porunci. Ea se bazează pe o înțelegere a răului intrinsec

pe care îl presupune un astfel de gest. Spre deosebire de interdicția de a mânca fructul, în acest caz omul nu are nevoie să îl întrebe pe Atotputernicul „De ce ne-ai poruncit astfel?”

Dar pentru credinciosul din Vechiul Testament există un înțeles suplimentar: acceptarea liberă (!) a normelor heteronome, care nu se bazează pe rațiune umană, ci pe voința Celui Sfânt. „Arbitrarul” acestor norme – dincolo de înțelegerea noastră omenească – este ceea ce le dă semnificație relațională și de legământ. Nu fac sau mă abțin de la a face ceva din vreun interes instrumental, funcțional sau egoist. Nu evit o tocăniță gustoasă de iepure pentru că ar fi nesănătoasă. Fructul interzis nu este otrăvitor – animalele îl pot mânca fără niciun efect rău sau benefic. Mă abțin dintr-un singur motiv: aceasta este voia Domnului. Doar această natură neinstrumentală, transcendentală, conferă actului semnificația sa divină și creează acea relație particulară dintre oameni și Creatorul lor. Dreptul natural este pentru toți. Dreptul transcendental este pentru cei care aleg să se supună Celui Atotputernic.

Această alegere conferă, de asemenea, o dimensiune religioasă noțiunii de libertate umană. De regulă, considerăm regulile prohibitive ca restrângându-ne libertatea. Animalele pot mânca tot fructul din Grădină. Tu nu poți. Unde este, atunci, libertatea? Nu sunt animalele mai libere? Răspunsul Vechiului Testament este: nu. Animalele sunt sclave ale naturii lor. Dacă ai fi liber să mănânci orice îți dorește inima, și tu ai fi sclavul naturii tale umane, al lăcomiei tale. Fructul părea atât de frumos și apetisant – Eva și Adam nu au putut rezista. Ce libertate este aceea? Acceptând aceste norme „arbitrare”, presupus restrictive, înrobindu-te pe tine însuși cu normele divine, heteronome și transcendente, te eliberezi de imanența acestei lumi. O noțiune mai profundă a libertății, în ochii unora.

Din această perspectivă, importanța poveștii lui Cain (Fiul Omului) este cel mai bine înțeleasă alături de povestea lui Adam (Omul). Împreună, și numai împreună, ele redau condiția existențială a persoanei credincioase în viziunea biblică.

III. Semnul lui Cain și accidentul nașterii

Ajung acum la ultima „lecție” care trebuie învățată din povestea lui Cain – adesea trecută cu vederea și, posibil, cea mai importantă.

Deși nimeni nu justifică reacția lui Cain, atât în comentariile antice cât și în cele moderne există un anumit sentiment de empatie și nedreptate. Atât Cain, cât și Abel au adus jertfe Domnului.

„Și, după o vreme, s-a întâmplat ca Cain să aducă Domnului o jertfă din rodul pământului. Și Abel a adus și el, din întâii-născuți ai turmei sale și din grăsimea lor.”

Fără vreo noimă sau explicație evidentă,

„... Domnul a privit cu bunăvoință spre Abel și spre jertfa lui, dar spre Cain și spre jertfa lui nu a privit cu bunăvoință.”

Reacția lui Cain nu a fost surprinzătoare:

„Și Cain s-a mâniat foarte tare și i s-a posomorât fața.”

Reacția lui Cain a fost, desigur, excesivă, dar sentimentul lui de nemulțumire nu a fost oare justificat? De ce jertfa fratelui său (mai mic!) a fost primită, iar a lui nu? Strategia tipică a comentatorilor este exegetică. Ei se apleacă asupra textului și încearcă să găsească o justificare pentru ceea ce pare a fi un rezultat nedrept. Și astfel, *Evrika!* Despre Cain se spune că a adus pur și simplu „rodul pământului”, în timp ce Abel a adus „întâii-născuți” și „grăsimea lor”. Vedeți diferența? Sensul simplu și literal al cuvintelor triumfă din nou, spre bucuria textualiștilor. Dar obiectul și scopul poveștii, semnificația ei adevărată și profundă, sunt complet ratate prin această abordare metodologică (așa cum se întâmplă adesea cu hermeneutica juridică...!).

Narațiunea evidențiază într-un mod dramatic, ca parte a condiției umane, realitatea socială a ceea ce numim Accidentul Nașterii. Aceasta aproape că nu are nevoie de vreo explicație. Să luăm spre exemplu doi copii: unul născut pe Upper West Side din Manhattan, celălalt la câțiva kilometri distanță, în South Bronx. Unul născut la Viena, Austria, celălalt la Harare, Zimbabwe. Ei pot fi înzestrați cu aceleași abilități înnăscute, și totuși, fără vreo noimă sau explicație, perspectivele lor de viață vor fi complet diferite.

Accidentul Nașterii nu ne afectează însă doar în circumstanțele sociale. Până la urmă, pentru acestea societatea poartă o anumită responsabilitate și, cel puțin în teorie, ele pot fi corectate. Să luăm însă, spre exemplu, doi frați, ambii născuți pe Upper West Side din Manhattan. Ei se pot naște cu abilități cognitive și intelectuale diferite. Se pot naște cu atribute fizice diferite. Unul poate fi înalt și frumos. Celălalt scund și gras. Unul, „Cain”, se poate naște, Doamne ferește, cu dizabilități fizice care i-ar putea afecta chiar speranța de viață. Numai că Dumnezeu nu l-a „ferit”. Și acestea sunt

reprezentări ale Accidentului Nașterii, pentru care societatea nu este responsabilă. Ele sunt, ca în narațiunea despre Cain și Abel, de la Dumnezeu, ca să spunem așa. Iar aceste diferențe le pot influența dramatic experiențele de viață.

Majoritatea celor care citesc acest eseu vor aparține primei categorii – Abel – cercetători de succes sau aspiranți la acest statut. Dar o mare parte din acest succes se datorează nu doar muncii lor, ci și Accidentului Nașterii. Munca asiduă poate explica succesul doar până la un punct. Modul în care vă invit, așadar, să citiți povestea lui Cain și Abel este ca pe o confruntare dramatică cu cruzimea și nedreptatea Accidentului Nașterii.

În lumina acestei perspective, răspunsul Domnului capătă sens și depășește particularitatea narațiunii în sine:

„Și Domnul i-a zis lui Cain: «De ce te-ai mâniat și de ce ți s-a posomorât fața? Dacă vei face bine, nu vei fi tu oare primit? Și dacă nu vei face bine, păcatul pândește la ușă. Dorința lui se va ține după tine, dar tu îl vei stăpâni.»”

Pe de o parte, aceasta este o respingere a sensibilității premoderne clasice: dacă te-ai născut iobag, înseamnă că ești sortit să fii iobag. Dimpotrivă: este o viziune foarte modernistă: destinul tău se află în propriile tale mâini, în pofida Accidentului Nașterii.

În plus, povestea reflectă și viziunea biblică asupra demnității umane. Demnitatea umană se manifestă în două moduri. Pe de o parte, faptul că oamenii sunt creați după chipul Atotputernicului sugerează o egalitate radicală. Niciun om nu este „superior” sau „inferior” altuia. Viața niciunuia nu valorează mai mult decât viața altuia. Ei sunt egali în demnitatea lor de ființe umane și revine fiecăruia dintre noi obligația de a accepta și respecta această egalitate în demnitate.

În același timp, demnitatea lor se manifestă și în unicitatea lor. Oamenii nu sunt păsări într-un stol. Fiecare individ este o lume în sine și experimentează lumea prin prisma identității sale unice. Acest lucru sugerează o „diferențiere” radicală (distinctă de „identitate”) a persoanelor, datorată, cel puțin în parte, Accidentului Nașterii. În această viziune biblică, revine fiecăruia dintre noi obligația de a accepta și respecta propria unicitate și unicitatea celorlalți.

Ați putea percepe o tensiune între aceste două poziții, dar această tensiune, reală sau aparentă, este cea care definește condiția umană. Demnitatea umană este inviolabilă în ambele sensuri.

Privită în această lumină, povestea capătă o cu totul altă nuanță. Circumstanțele Primei Crime au reprezentat o încălcare a ambelor dimensiuni ale demnității umane. Cain nu a respectat principiul valorii egale a fiecărei vieți umane. Și nici nu a respectat nici demnitatea diferenței și unicității umane.

Două alte elemente sunt prezentate pentru prima dată în narațiunea biblică despre Cain și Abel: virtutea Milei și posibilitatea Mântuirii.

În *Geneza* 9:6 citim:

„Cine varsă sângele omului, de om i se va vărsa sângele, căci după chipul lui Dumnezeu l-a făcut El pe om.”

Și totuși, Dumnezeu i-a arătat milă lui Cain. Pedeapsa aplicată lui Cain, oricât de dură ar părea, i-a cruțat viața.

Mai mult, Cain pare că a luat în serios admonestarea: „Dacă faci bine, vei fi primit.” Pentru că, acceptându-și pedeapsa (cea mai grea parte a acesteia fiind, în propriile lui cuvinte, faptul că a fost izgonit „... de la fața Domnului”), își ia destinul în propriile mâini. Nu lasă Accidentul Nașterii să-i determine soarta. Și, în mod evident, Domnul privește cu bunăvoință asupra strădaniilor lui.

„Și Cain a cunoscut pe nevasta sa; ea a zămislit și a născut pe Enoh; și el a zidit o cetate și a pus cetății numele fiului său, Enoh.”

Acest om, care se presupune că poartă un Semn al rușinii pentru tot restul vieții, a întemeiat o familie, a adus viață nouă în lume și apoi a trecut la a ridica nici mai mult nici mai puțin decât o cetate, introducând astfel viața urbană în civilizația noastră. Lecția mântuirii nu ar fi putut fi articulată mai puternic.

Și mai este ceva: familiei Primului Ucigaș îi datorăm, de asemenea, civilizația agricolă – agricultori și păstori. Îi datorăm Arta – muzica (hrană pentru suflet) – și îi datorăm industria. Acestea nu sunt realizări mărunte pentru cineva a cărui „jertfă nu a fost primită”:

„Și lui Enoh i s-a născut Irad; și Irad a născut pe Mehuiael; și Mehuiael a născut pe Metușael; și Metușael a născut pe Lameh. Și Lameh și-a luat două neveste: numele uneia era Ada, iar numele celeilalte, Țila. Și Ada a născut pe Iabal: el a fost tatăl celor ce locuiesc în corturi și cresc vite. Numele fratelui său era Iubal: el a fost tatăl tuturor celor ce cântă la harpă și la fluier. Și Țila a născut și ea pe Tubal-Cain, făuritorul tuturor uneltelor de aramă și de fier.”

Așadar, nu este vorba doar despre milă și izbăvire. Este o sensibilitate total modernistă și, în același timp, tipic biblică: soarta noastră și a urmașilor noștri nu este predeterminată. La urma urmei, regele David însuși a fost un descendent rezultat din incest și prostituție. Dacă există ceva excesiv de optimist în această perspectivă, vă las pe dumneavoastră, cititorii, să decideți.

Povestea Primei Crime reprezintă, așadar, mult mai mult decât o simplă reamintire a celei de-a Șasea Porunci: norma fundamentală: „Să nu ucizi.”

Este o reiterare a datoriei noastre de a fi păzitori ai fraților noștri; introduce noțiunea de Drept Natural; prin compararea transgresiunii lui Adam și a fiului său, ne invită să reflectăm și chiar să reevaluăm sensul libertății umane; ne confruntă cu dilema și provocarea Accidentului Nașterii; articulează dubla demnitate a condiției umane: egalitatea radicală în ceea ce privește valoarea fiecărei vieți umane, precum și „diferența” radicală și demnitatea inerentă unicității individuale. În cele din urmă, subliniază virtuțile milei și posibilitatea izbăvirii pentru toți – chiar și pentru Primul Ucigaș.

Nu sunt acestea, oare, printre fundamentele civilizației noastre comune?

Acceptance speech of
Professor JOSEPH HALEVI HOROWITZ WEILER
on the occasion of receiving the title of
DOCTOR HONORIS CAUSA LEGUM SCIENTIAE
of the West University of Timișoara

Cain and Abel – The First Murder

I thank you for the distinct honor bestowed on me today.

My theme today is the first murder – Cain killing his younger brother.

The premise of this talk is that the stories in the early chapters of Genesis – such as Adam and Eve, Cain and Abel, the Tower of Babel, Noah and the Deluge are but an invitation for reflection on two fundamental issues: The biblical view of what it means to be a human being in this world and, in turn, what it means to be a human accepting the Lordship of the Creator.

The protagonists of these first chapters of Genesis are not truly individualized. They stand as proxies for all of humanity. They are prototypes. It is, for example, for this reason that *all* humanity is said to have committed the Original Sin and lost paradise. Here, the nuance of the Hebrew text is lost in translation. Since in Hebrew the word ‘Adam’ serves both as a proper noun – a name of a person – as well as a general noun: A human being. The expression ‘Son of Man’ (which immediately is associated with the book of Daniel and with Christ’s favorite and most ubiquitous self-appellation), actually means the same thing: A man, a human being. Both in Biblical and modern Hebrew, if, say, one wishes to admonish a friend: “Be a Man!” the most common and correct form would be: ‘Be a Son of Man’ (be a Son of Adam).

Cain was the (biological) son of Adam. He was, too, the Son of Man. A prototype for human beings. Like father, like son, he, too, committed a transgression, though there is much to reflect in comparing their respective transgressions. In the following I want to draw several lessons from the Cain and Abel narrative, the first common and obvious, the others perhaps less so.

I. Am I My Brother's Keeper?

The story of Cain and Abel is one of these biblical narratives, which has become part of our general civilizational asset not necessarily requiring any particular religious commitment. It was, after all, the First Murder. Who has not read, said, written (or surreptitiously, with a guilty feeling, thought) *Am I my brother's Keeper?* Similarly, we regularly use the expression, The Mark of Cain or the Sign of Cain as a signifier to a badge of shame which will attach to an evildoer (real or presumed) forever.

Typically, these two expressions inform our collective memory and the significance we attach to the Cain and Abel narrative. (I am not talking about professional Bible scholars). There is, however, more, much more, that one may take out of the story.

I will first say a few words on My Brother's Keeper. There will be not much new in this part of the essay. As regards the Sign of Cain, I will argue that it has been commonly misunderstood when taken outside the economy of the whole story. Besides, there is a lot more to the story that is not caught by these two famous expressions.

Turning then to the Brother's Keeper. Apart from the instinctive recoil from the senseless murder, this saying is used as a metaphor for the notion of overall shared or collective responsibility. Am I my brother's keeper? Yes, we are meant to be our brothers' keepers! This, in and of itself, is, self-evidently, not trivial. Responsibility for plenty of evil in our world, both minor and major, both individual and collective, cannot be laid exclusively on the shoulders of the perpetrators who committed the evil deeds. Responsibility also lies on those surrounding them who turned their head the other way, who pretended not to see, not to hear and, consequently, remain mum.

The finest articulation of this with which I am familiar is found in the words of the German President, Richard von Weizsäcker during the Ceremony Commemorating the 40th Anniversary of the End of War in Europe and of National-Socialist Tyranny on 8 May 1985 at the Bundestag in Bonn.

Speaking of the horrors of the National Socialist regime, against the Jews, the peoples of Russia and Poland, Roma, homosexuals and others, he said (in this passage referring in particular to the Shoah):

“The perpetration of this crime was in the hands of a few people. It was concealed from the eyes of the public, but every German was able to witness what his Jewish compatriots had to suffer, ranging from plain apathy and hidden intolerance to outright hatred. Who could remain unsuspecting after the burning of the synagogues, the plundering, the stigmatization with the Star of David, the deprivation of rights, the ceaseless violation of human dignity? Whoever opened his eyes and ears and sought information could not fail to notice that Jews were being deported. The nature and scope of the destruction may have exceeded human imagination, but in reality there was, apart from the crime itself, the attempt by too many people, including those of my generation, who were young and were not involved in planning the events and carrying them out, not to take note of what was happening. There were many ways of not burdening one's conscience, of shunning responsibility, looking away, keeping mum. When the unspeakable truth of the Holocaust then became known at the end of the war, all too many of us claimed that they had not known anything about it or even suspected anything.”

One does not have to return to that awful reality of 1939-1945 to invoke the terse and impressively honest admonition of von Weizsäcker. This ‘looking away’ has, since, happened again and again in big and small ways. I defy any of the readers of this essay, to cross their hearts and avow that they have never violated the Brothers’ Keeper principle in their lives.

Be that as it may, as mentioned, there is a lot more to the Cain and Abel narrative than the Brothers’ Keeper principle. It is to these that I want to turn now.

II. The Birth of Natural Law and the Distinction with Transcendental Law

In reflecting on the respective transgressions of Adam and Cain, of Man and Son of Man, surely there is something curious. If we look at the *actus reus* itself, Adam ate a cookie from the cookie jar which his Father had told him not to. There is nothing intrinsically evil in this act. Its enormity (if it was) was in the disobedience. Think of poor Adam. No reason was given for the prohibition. It appears entirely arbitrary. The animals, after all, were free to eat the fruit. It looks, interestingly, very much like the elaborate Table law found later in Exodus and Leviticus and repeated in Deuteronomy. Chicken you may eat, but rabbit not. Yet lions may devour both to no ill effect. Salmon you may eat, but Sturgeon not. Neither rhyme nor reason.

Why not, Adam may then have asked? ‘Because I (the Lord) tell you so,’ would be the answer. No amount of Kantian autonomous reflection would have lead Adam to refrain from eating the forbidden fruit, absent the prohibition. The act, in and of itself, surely would not come under Kant’s Categorical Imperative. It would not fall under the Harm Test, one bedrock of moral normativity. To eat the forbidden fruit was not in and of itself unethical.

All this is different when it comes to the son of Adam, Cain. Is there anything worse than the killing of an innocent man, his own brother? Not surprisingly the Almighty reacts:

“What hast thou done? the voice of thy brother's blood crieth unto me from the ground.”

There are, I believe, two cardinal lessons to be learnt from contrasting the two transgressions of Adam, (Man) and Cain (Son of Man).

Sometimes Scripture speaks loudest in its silence, in what is *not* said. At no point does Cain turn to God and say ‘Thou hast no commanded us not to kill’ or words to that effect. He tries to hide his deed, but the wrongfulness of it is clear to him. This very silence is the most powerful way of introducing Natural Law, the law that binds us by virtue of our human condition without the need of an explicit revealed command by the Almighty. One does not need the Ten Commandments to know that murder is wrong. Its normativity is binding on all, believers and non-believers. Here the Categorical Imperative, the Principle of Harm apply with full force.

The second lesson goes to a deep truth about Old Testamental theology, to the essence of Covenantal monotheism. One way to describe the difference between those who elect, freely (!) *Imitatio Dei* and those who do not, can be expressed with Kantian terminology. All humans by virtue of their humanity are to choose an ethical way of life. For this choice to be morally significant, it must come from the self-understanding and free will of the person. The norm has to be internalized and its authority vis a vis the actor is thus self-generated, autonomous. This is true for believers and non-believers alike. I do, or refrain from doing something, because my human cognition and ethical understanding require such. It is my duty. If I transgress, I am aware of my transgression. The moral act or omission lose some of their internal significance if they are the result of simple obedience to an external authority or driven by a calculation of self-interest – e.g. I want to go to Paradise. And if there were no paradise, would killing be OK? If I choose not to murder, it is not simply and only because I was so commanded by the Ten Commandments. It is because I understand the intrinsic

wrongfulness of the act. Unlike the prohibition on eating the fruit, one has no need to ask the Almighty ‘Why hast thou commanded such?’

But for the Old Testamental believer there is an additional layer. He or she autonomously (!) choose to accept heteronomous norms which come from the Holy One Blessed be He. And somewhat strangely, the very “arbitrariness” of the norms, beyond our human understanding, is that which gives them their relational covenantal significance. I do not do or refrain from doing something for any instrumental, functional or self-serving interest. I do not eschew a tasty rabbit stew because it is unhealthy. The prohibited fruit is not poisonous – the animals could eat it with no ill or virtuous effect. I do so for the simple reason that it is the will of the Lord. It is only this non-instrumental, *transcendental*, nature which imbues the act with its divine significance and creates this particular relationship between humans and their Creator. Natural Law is for all. Transcendental Law for those who choose so to submit to the Almighty.

This choice also gives a religious twist to the notion of human liberty. We normally think of prohibitive rules as restricting our liberty. The animals can eat all the fruit in the Garden. You cannot. Whence liberty? Are the animals not freer? No, is the Old Testamental reply. They are slaves to their nature. If you were free to eat whatever your heart desires, you, too, would be a slave to your human nature, to your human greed. The fruit looked so beautiful and tasty – Eve and Adam could not resist. What freedom is that? By accepting these supposedly restrictive “arbitrary” norms, by enslaving one’s self to the heteronomous divine transcendent norms, you liberate yourself from the immanence of this world. A deeper notion of liberty in the eyes of some.

Under this perspective, the importance of the Cain (Son of Man) narrative is best understood in conjunction with the narrative of Adam (Man). Together, and only together, they encapsulate the existential condition of the person of faith in the biblical view.

III. The Sign of Cain and The Accident of Birth

I come now to the last, often overlooked and possibly the most important ‘lesson’ to be learnt from the narrative of Cain.

Though no one justifies Cain’s reaction, there is in the commentaries, both ancient and modern, a sense of empathy and injustice. Both Cain and Abel made offerings to the Lord.

“And in process of time it came to pass, that Cain brought of the fruit of the ground an offering unto the LORD. And Abel, he also brought of the firstlings of his flock and of the fat thereof.”

With no apparent rhyme or reason

“... the LORD had respect unto Abel and to his offering: But unto Cain and to his offering he had not respect.”

Cain’s reaction was not surprising:

“And Cain was very wroth, and his countenance fell.”

Cain’s reaction was surely excessive but was his sense of grievance not justified? Why would his (younger!) brother’s offering be respected and his not? The typical strategy of the commentators is exegetical. Poring over the text and trying to find a justification for what appears as an unjust outcome. And thus, Eureka! Of Cain it is said that he brought simply the fruit of the ground whereas Abel brought the *firstlings* and the fat thereof. You see the difference? The plain and simple meaning of the words triumphs again. Let the textualists rejoice. But the object and purpose of the narrative, its true and profound significance, are entirely missed by this methodological approach (as is often the case with legal hermeneutics...!)

The narrative highlights in a dramatic way, as part of the human condition, the social reality of what we call the Accident of Birth. It hardly needs explanation. Take two children, one born on the upper West Side of Manhattan the other a few kilometers away in the South Bronx. One born in Vienna, Austria the other in Harare, Zimbabwe. They may be endowed with the same innate abilities yet, with no rhyme or reasons, their life prospects will be entirely different.

It is not only in social circumstances where the Accident of Birth affects us. After all, that is something for which society is responsible and may, at least in theory be corrected. Take, however, two siblings, both born on the Upper West Side of Manhattan. They may have been born with different cognitive and intellectual abilities. They may have been born with different physical attributes. One may be tall and handsome. The other short and fat. One, the “Cain”, might have been

born, God forbid, with physical disabilities which might even affect his or her life expectancy. Except that God did not forbid. These, too, are instances of the Accident of Birth, for which society is not responsible. They are, as in the narrative of Cain and Abel, from God, so to speak. And these differences might well affect their life experiences in dramatic ways.

Most people reading this essay will belong to the first class – the Abels -- successful or aspiring to be successful, academics. But a lot of such success owes not only to their hard work but to the Accident of Birth. Hard work can explain only so much. The way I, thus, invite you to read the Cain and Abel narrative is as a dramatic confrontation with the cruelty and injustice of the accident of birth.

It is in the light of this perspective that the reply of the Lord makes sense and goes beyond the particularity of the specific narrative.

“And the LORD said unto Cain, Why art thou wroth? and why is thy countenance fallen? If thou doest well, shalt thou not be accepted? and if thou doest not well, sin lieth at the door. And unto thee shall be his desire, and thou shalt rule over him.”

On the one hand it is a rejection of the classical pre-modern sensibility: If you are born a serf, it means you are destined to be a serf. Quite the contrary: It is very modernist: Your destiny is in your hands, the accident of birth notwithstanding.

The narrative also reflects the Biblical view on human dignity. Human dignity manifests itself in two ways. On the one hand, humans being all created in the image of the Almighty, suggests a radical equality. No human is “superior” or “inferior” to another. The life of no one is worth more than the life of another. They are equal in their dignity as humans and it is incumbent on all of us to accept and respect this equality of dignity.

At the same time, their dignity is also manifest in their uniqueness. Humans are not birds in a flock. Each individual is a world on to his or her own and experiences the world through the prism of their unique identity. This suggests a radical “diferentity” (as distinct from “identity”) of persons which is owed, at least in part, to the Accident of Birth. Under this Biblical position, it is incumbent on all of us to accept and respect our own uniqueness and that of others.

You might sense a tension between these two positions, but this tension, real of apparent, is what defines the human condition. Human dignity is inviolable in both senses.

In the light of this, the narrative assumes an altogether different hue. The circumstances of the First Murder constituted a violation of both dimensions of human dignity. Cain did not respect the principle of the equal worth of all human life. Nor did he respect the dignity of human difference and uniqueness.

Two other elements are presented for the first time in the Biblical narrative of Cain and Abel: The virtue of Mercy and the possibility of Redemption.

In Genesis 9:6 we read:

“Whoso sheddeth man’s blood, by man shall his blood be shed: for in the image of God made He man.”

And yet God showed mercy on Cain. The punishment meted out to Cain, harsh as it may seem, spared his life.

Moreover, it seems that Cain took to heart the admonition: “If thou does well, you will be accepted.” For having accepted his punishment (the worst part of which was in his own words, being driven “...from the face of the Lord”) he takes his destiny into his own hands. He does not let the Accident of Birth determine his fate. And self-evidently the Lord smiles on his endeavors.

“And Cain knew his wife; and she conceived, and bare Enoch: and he builded a city, and called the name of the city, after the name of his son, Enoch.”

This man, supposedly carrying a Sign of shame for the rest of his life, created a family, brought new human life into the world and then proceeded build, no less, a city, thus introducing urban life to our civilization. The lesson of redemption could not be more powerfully articulated.

And there is more: To the family of the First Murderer we owe, too, agricultural civilization

– farmers and shepherds. We owe Art – music (food for the soul) and we owe industry. No mean achievement for someone whose “offering was not accepted”

“And unto Enoch was born Irad: and Irad begat Mehujael: and Mehujael begat Methusael: and Methusael begat Lamech. And Lamech took unto him two wives: the name of the one was Adah, and the name of the other Zillah. And Adah bare Jabal: he was the father of such as dwell in tents, and of such as have cattle. And his brother's name was Jubal: he was the father of all such as handle the harp and organ. And Zillah, she also bare Tubalcain, an instructor of every artificer in brass and iron.”

This is not, then, only about mercy and redemption. It is a totally modernist sensibility and typically Biblical: Our fate and destiny and that of our descendants are not pre-determined. After all, King David himself was descendant of incest and prostitution. If there is something over-optimistic in this vision, I will let you, the reader, decide.

The narrative of the First Murder stands, thus, for much more than a simple reminder of the Sixth Commandment: the fundamental norm: Thou shall not Murder.

It is a reminder of our duty to be our brothers' keepers; it introduces the notion of Natural Law; in the comparison of the transgression of Adam and his son, it invites us to reflect and even reassess the meaning of human liberty; it confronts us with the dilemma and challenge of the Accident of Birth; it articulates the double dignity of the human condition: the radical equality as regards the worth of all human life as well as the radical 'differentity' and the dignity inherent in individual uniqueness. Finally, it extols the virtues of mercy and the possibility of redemption for all – even the First Murderer.

Are these not among the fundamentals of our common civilization?

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Dl. Joseph H.H. Weiler este *University Professor* la NYU School of Law și *Senior Fellow* la Center for European Studies, Harvard. A ocupat anterior funcția de *Professor of Law* la Michigan Law School, Harvard Law School, precum și funcția de *President of the European University Institute* din Florența.

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Dl. profesor Joseph H.H. Weiler a primit *Ratzinger Prize* în 2022, acordat de Papa Francisc, și *Manley Hudson Medal*, cea mai înaltă distincție pentru întreaga carieră a American Society of International Law. Deține titluri *Doctor Honoris Causa* din partea a 16 universități din Europa și Statele Unite. Este *Fellow* al American Academy of Arts and Sciences, *Honorary Senator* al University of Slovenia, *Honorary Professor* la Faculty of Law, University College London și *Honorary Professor* la Department of Political Science, Copenhagen University.

Printre distincțiile sale civice se numără *Officer, Order of Merit*, Republic of Hungary; *Cavaliere di Gran Croce Ordine al Merito della Repubblica Italiana*; *Commander, Order of Merit*, Republic of Poland.

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A fost co-fondator al *European Journal of International Law* și *Co-Editor-in-Chief* timp de 17 ani al aceluiași jurnal, fiind în prezent *Co-Editor-in-Chief* al *ICON – International Journal of Constitutional Law*. A fost fondator al *ICON-S – The International Society of Public Law* și primul său co-președinte.

Are cinci copii și patru nepoți. Este un apicultor pasionat, iar lucrările sale fotografice au fost expuse în Italia și New York.

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Reviste științifice

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Experiență anterioară de conducere academică și administrativă (selecție)

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- *Integration through Law: Europe and the American Federal Experience* (co-director, alături de M.Cappelletti and M. Secombe)
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- *Present: Integration Through Law – the ASEAN Way in a Comparative Context* (co-director, alături de Hsien Li Tan), <http://cil.nus.edu.sg/research-projects/asean/>

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World Trade Review; European Law Journal; American Journal of International Law; Journal of Common Market Studies; Cahiers de Droit Européen; Common Market Law Review; etc.

Publicații reprezentative - monografii

- *The Constitution of Europe – Do the New Clothes Have an Emperor?* (Cambridge University Press)
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- *Israel and the Creation of a Palestinian State* (Routledge)
- *Una Europa Todavía Cristiana?* (CEU, Madrid)
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He was the recipient of the Ratzinger Prize in 2022 awarded by Pope Francis and received the Manley Hudson Medal, the highest honor for lifetime achievement of the American Society of International Law.

He has received Honorary Doctorates from 16 Universities in Europe and the United States. He is a Fellow, of the American Academy of Arts and Sciences, Honorary Senator at the University of Slovenia, Honorary Professor, Faculty of Law, University College, London and Honorary Professor, Dept. of Political Science, Copenhagen University.

His Civic Honors include Officer, Order of Merit, Republic of Hungary, Cavaliere di Gran Croce Ordine al Merito della Repubblica Italiana, Comander, Order of Merit, the Republic of Poland.

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He was co-founder of the European Journal of International Law and served as its Co-Editor in Chief for 17 years and is currently Co-Editor in Chief of ICON – the International Journal of Constitutional Law. He was Founder of ICON-S, the International Society of Public Law and served as its inaugural co-president.

He has five children and four grandchildren. He is a passionate beekeeper and his photographic work has been exhibited in Italy and New York.

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Membership of Governing, Advisory and Scientific Boards, Academic Institutions (past and present, partial list):

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- The Institute for Global Legal Studies, Washington University School of Law, St. Louis
- The Concord Research Center of Human Rights at the College of Management, Israel
- The Contemporary Europe Research Centre of the University of Melbourne, Australia
- The Advisory Panel of the National University of Singapore
- The Ortega Y Gasset Institute, Madrid
- The University Institute of European Studies of the San Pablo CEU University

Membership of Editorial, Scientific and Advisory Boards of Learned Journals (past and present, partial list):

World Trade Review; European Law Journal; American Journal of International Law; Journal of Common Market Studies; Cahiers de Droit Européen; Common Market Law Review; European Foreign Affairs Review; Maastricht Journal of European and Comparative Law; Columbia Journal of European Law; Harvard International Review; Harvard Journal of International Law; Transnational Legal Theory; The (Australian) Federal Law Review; The Journal of European Integration; The European Foreign Policy Bulletin online; ELSA-Selected Papers of European Law; The Irish Journal of European Law; The Slovenian Law Review; The Asia-Pacific Journal of EU Studies; *Atlantide*; The Italian Journal of Public Law; The European Research Paper Archive; European Law Open (ELO); Romanian Yearbook of European and International Law

Representative Publications:

Monographs (partial list):

- The Constitution of Europe – Do the New Clothes Have an Emperor? (Cambridge University Press – translated into 8 languages)
- Un’Europa Cristiana (Rizzoli – Translated into 9 languages)
- Israel and the Creation of a Palestinian State (Routledge)
- Una Europa Todavía Cristiana? (CEU, Madrid)
- Der Fall Steinmann (Piper) – A novel

LISTA PUBLICAȚIILOR / LIST OF PUBLICATIONS

JOSEPH H.H. WEILER

List of Publications / Lista publicațiilor

(Not listed: Book Reviews, Op-Eds) / (Nu include: recenzii de cărți, op-eds)

Monographs including Translations: / Monografii, inclusiv traduceri:

1. *The European Parliament and Its Foreign Affairs Committees* (Cedam, Padua/Oceana, New York, 1982).
2. *Israel and the Creation of a Palestinian State - A European Perspective* (Croom Helm, London, 1985).
3. *Il Sistema Comunitario Europeo: Struttura Giuridica e Processo Politico* (Il Mulino, Bologna, 1985).
4. *Europe's Middle East Dilemma: The Quest for a Unified Stance* (with I. Greilsammer) (The Davis Institute for International Relations, Jerusalem/Westview, Boulder, 1987).
5. *Europa: Fin de Siglo* (Centro de Estudios Constitucionales, Madrid, 1995).
6. *Certain Rectangular Problems of European Integration* (with A. Ballmann, U. Haltern, H. Hofmann, F. Mayer, and S. Schreiner-Linford) (1996).
7. *L'Unione Europea: Istituzioni, Ordinamento e Politiche* (with B. Beutler, R. Bieber, J. Pipkorn, and J. Streil) (Il Mulino, Bologna, 1998).
8. *Der Fall Steinmann* (M. Cochu trans.) (Verlag Bettina Wassmann, Bremen, 1998; 2nd ed. 1999; 3rd ed. 2000; paper back edition, Piper, München, 2000).
9. *Yoroppa no henyo--EC kenpo taisei no keisei (The Transformation of Europe)* (M. Yoshikiyo, H. Kazuya, A. Norio trans.) (Hokujū Shuppan, Tokyo, 1998).
10. *Kompetenzen und Grundrechte: Beschränkungen der Tabakwerbung aus der Sicht des Europarechts* (with B. Simma and M. Zöckler) (Duncker & Humblot, Berlin, 1999).
11. *The Constitution of Europe: "Do the new clothes have an emperor?" and other essays on European integration* (Cambridge University Press, Cambridge, U.K., 1999).
12. *'T Is Liberty's Bold Note I Swell: The Edinburgh Lectures* (1999).
13. *L'Italia in Europa: Profili istituzionali e costituzionali* (with M. Cartabia) (Il Mulino, Bologna, 2000).
14. *Dos visiones norteamericanas de la jurisdicción de la Unión Europea* (with R. Stith) (Universidade de Santiago de Compostela, Santiago de Compostela, 2000).
15. *L'Unione Europea: Istituzioni, Ordinamento e Politiche* (with B. Beutler, R. Bieber, J. Pipkorn, J. Streil), 2nd ed. (Il Mulino, Bologna, 2001).
16. *Ustava Evrope: "Ali nova oblačila imajo cesarja?" in druge razprave o evropski integraciji* (M. Accetto et al. trans.) (Pravna fakulteta, Ljubljana, 2002).
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18. *La Costituzione dell'Europa* (F. Martinez ed.) (Il Mulino, Bologna, 2003).
19. *Un'Europa Cristiana: Un saggio esplorativo* (M. Zanichelli, ed.; A. Ciampi and G. Scala trans.) (Jean Monnet Center, New York, 2003).
20. *L'Europe a-t-elle besoin d'une constitution?* (Université de Montreal, Montreal, 2003).

21. *Un'Europa cristiana: Un saggio esplorativo* (M. Zanichelli, ed.) (BUR Saggi, Milano, 2003).
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 Volume XIII – The Internal Effects of ASEAN External Relations
 Volume XIV – Comparative Regional Integration: Governance and Legal Models
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