

## *Making Waves 3*

research workshop

BEYOND POLITICS? AESTHETICS & SOCIETY

### Table 4 LAW & AESTHETICS

#### **Short impression of the table conversation by Karsten Swaak.**

If the male/female ratio in legal training and education is more or less 50/50, why do people immediately associate law with a masculine image? Is it because law embodies reason and order, which are principles traditionally associated with masculinity? These introductory questions triggered the conversation on the role of aesthetics in law.

The aesthetics of law, the images associated with law, have certainly not appealed to women throughout history. Maybe this is because at the very root of law lies violence, which original images are war, old formations, tribal primitiveness. Law was born from violence. With institutionalized religion, however, law's violent nature became less explicit. Priests made it a form of secret doctrine that only a few could master due to their special religious knowledge; then governments took on the role of lawmakers and authorizers of violence while keeping the elitist character of law. Law became an elite system of authorization of violence.

Eventually, the citizen also became involved in law and it's making, although never really acquiring the expert knowledge, never learning the "secret doctrine".

This double character of law (as an authorizer of violence, and as "secret" or elite system) begins to explain its ritualistic character, one which we still see today: even law students currently speak in a special fashion in order to be taken seriously - and ultimately to establish a position of power in the (moot) court. The law is instantiated by forms of ritualized violence.

Currently, the focus is less on the rituals and more on the procedure and the conclusions that follow from it. The judge, however, who legitimizes and decides, is still seated higher, in robes and addressed as "your honour".

There's a trend nowadays to eliminate this ritualistic, elite and aesthetic aspect of law. Is this desirable?

It might make law more accessible and egalitarian. Although there might be an element of tradition that would be lost. And tradition is something we look up to and that inspires us. But if we live in a society that seeks to progress, aren't these elitist traditions something we should leave behind for the sake of more accessibility and equality?

Are the principles of law really independent of aesthetics? When the law becomes more accessible, does the quality of judgement remain the same?

The hierarchy must remain in order for the law not to return to the law of the strongest, that is, to its purely violent origins.

Does this hierarchy really need to be explicitly shown (by togas, honourable rituals, etc.), or is it enough if it's recognized by the public?

What must undoubtedly remain constant is that judgments are honest, rational and well-founded. To make such sound judgements it's also necessary that there's a set procedure for the execution of justice in order to arrive at right solutions, for the sake of legitimacy.

The concluding question of the conversation was:

Are aesthetics an intricate part of the procedure that legitimizes legal decision-making?