

## Sacred Impropriety

*I shall be a criminal—but a religious one.*  
—Antigone

Prof. Taussig-Rubbo's fascinating examination of "sacred property" in relation to the 9/11 sites raises a host of questions. Here I focus on just a few, in the hope of providing further context for thinking through the peculiar nature of the sacred. In developing my reflections, I attend to some key metaphors, images, and ambiguous substances in Taussig-Rubbo's essay—dust, rubble, dirt, garbage, and the half-life of the sacred—in order to elaborate those aspects of the sacred that make it so intractable.

Two notes: First, my thoughts are situated within the field of religious studies. That said, I hope that some of these observations might modestly illuminate, further contextualize, or usefully complicate the problem of the sacred in the cultural study of law. Second, the italicized epigraphs in this response are all drawn from Sophocles' *Antigone* (trans. David Grene). While space won't permit it here, I suspect that a fruitful comparison might be made between Sophocles' tragedy and the phenomenon of "sacred property" in the context of 9/11. I thus supply these epigraphs as a gesture toward some future comparative study.

### The Half-life of the Sacred

*How can such as I...not find a profit in death?*  
.....  
*Neither among the living nor the dead do I have a home in common—neither with the living nor the dead.*  
—Antigone

Taussig-Rubbo explicitly raises the first question I want to address, at the conclusion of Part One of the essay, "Sacralization": "What is the half-life of the sacred, when does it return to its 'objective' status as junk and abandoned property?" I want to extend this question to encompass the sacred status of dead human bodies as well.

"Half-life" is an appropriate metaphor for the sacred on at least two levels. First, it suggests that, like a radiate particle, the sacred is prone to decay; its potency declines without maintenance through ritual means. Second, on a somewhat more figurative level, "half-life" can be taken to signal something both alive and dead—a half-life that is also a half-death. Both of these senses should be held together in thinking through the sacred.

Taussig-Rubbo evokes Georges Bataille in explaining the uncanny nature of the materials found amidst the rubble at the World Trade Center: "That they are value-less and junk seems to be a possibility always lurking in the background and is, if we follow Bataille, a precondition of their sacred status." According to Bataille, the sacred is "sovereign" insofar as it exceeds or escapes mere use-value; the value of the sacred lies in its evasion of subordination to everyday use-value.

Bataille develops this idea in relation to the notion of the "formless" (*informe*). For Bataille, the power of the sacred is accounted for in part by its transgressive potency; it breaches forms—social, juridical, corporeal, etc.—and in doing so threatens the structural order that those forms seek to guarantee. Decay, the passage from form to formlessness, is one register in which the polluting, contagious dangers of the sacred threaten to erupt.

A comparable idea is developed by anthropologist Mary Douglas in her classic work *Purity and Danger*. In this monograph on the relation of the sacred to what societies deem unclean, she discusses the “powers and dangers” of disorder, that is, of dirt understood as “matter out of place” (to use William James’ epithet). Dirt, filth, decay, and formlessness are kinds of disorder, a (potentially creative) challenge to cultural systems. For this reason, disorder “symbolizes both danger and power.”

The sacred thus persists in dialectical relation to form—to order, to structure—with its dangerous power lying in its ability to pollute or disrupt cultural systems. The taboos surrounding the sacred arise in relation to its polluting or contagious potency: “Dirt is the by-product of a systematic ordering and classification of matter, in so far as ordering involves rejecting inappropriate elements. This idea of dirt takes us straight into the field of symbolism and promises a link-up with more obviously symbolic systems of purity.”

The symbolic dimensions of the sacred are what interest me here. And as Taussig-Rubbo points out, they also apparently captivated Judge Hellerstein, who presided over the case concerning the debris from the Fresh Kills site. In deciding against the Families for a Proper Burial, he wrote in “vivid prose” of the victims who “perished without leaving a trace, utterly consumed into incorporeality by the intense raging fires, or pulverized into dust by massive tons of collapsing concrete and steel.” He “declined to extend the quasi-property right in the dead body to an ‘undifferentiated mass of dirt that may or may not contain undetectable traces of human remains not identifiable to any particular human being.’”

Judge Hellerstein emphatically characterizes the stuff of the Fresh Kills site as *undifferentiated matter*: the refuse comprises an “undifferentiated mass,” mere “dust,” a heap of homogenous “dirt” whose particular contents are “undetectable” and therefore “not identifiable.” He further describes those who “perished without leaving a trace, utterly consumed into incorporeality by the intense raging fires, or pulverized into dust by massive tons of collapsing concrete and steel.” The emphasis on incorporeality, reduction to dust, the absence of even a trace of identity all serves at the symbolic level to constrain or eschew the dangerous powers that cling to the dead.

The thrust of this rhetoric is to deny the sacred status of the Fresh Kills remnants; the judge recognizes not only the legal complications raised by acknowledging property rights for the dead, but also, implicitly, the related affiliation of sacrality and *identity*—a relationship elaborated by Mary Douglas. She discerns two stages in the “attitude” toward refuse or garbage in relation to identity and the sacred:

First [rejected bits] are recognizably out of place, a threat to good order, and so are regarded as objectionable and vigorously brushed away. At this stage they have some identity: they can be seen to be unwanted bits of whatever it was they came from, hair or food or wrappings. This is the stage at which they are dangerous; their half-identity still clings to them and the clarity of the scene in which they obtrude is impaired by their presence.

After these pieces are pulverized, dissolved, or have rotted, “all identity is gone”:

The origin of the various bits and pieces is lost and they have entered into the mass of common rubbish. It is unpleasant to poke about in the refuse to try to recover anything, for this revives identity. So long as identity is absent, rubbish is not dangerous.

The point here is that merely to “poke about,” to “try to recover anything” is sufficient to “revive identity.” Taking up Douglas’s insight, it is clear that the efforts by victims’ families regarding the Fresh Kills site amounts to “poking about”—to maintaining, in symbolic form, the identities of loved ones lost in the attacks. But this revivification of identity, a natural impulse on

the part of those seeking to turn the site into a cemetery, into “consecrated” ground, produces something that appears intolerable to the law; it keeps the dead from being truly dead; it seeks to maintain them as ambiguously half-alive, even so far as to enjoy property rights—and in this way do they not pose a threat to the social structure that the law seeks to uphold?

In moving from victims’ bodies to damaged objects, a different tack is appropriate. Historian of religions and ritual theorist Jonathan Z. Smith provides grounds for thinking about the “junk” like the cruciform WTC I-beams that now form components of memorials.<sup>1</sup> Contesting the “ontological” accounts of the sacred by thinkers like Mircea Eliade (for whom the sacred “erupts” into everyday reality as a divine manifestation), Smith insists that the sacred is purely positional and human-made; it is, in a manner that recalls Emile Durkheim’s famous account of religion as a “representation” of society, a social affair.

To adapt the insights of these sociocentric thinkers, one might consider the damaged I-beams as nonrepresentational marks—a “demonstration of their social rather than natural nature.” The marks of damage—the burns, lesions, tears, and truncations—all come to serve as insignia of a kinship that is produced not by natural descent but by inclusion in what Durkheim called a “moral community”—in this case a community united, for a time, through identification with the national “sovereign” represented in the damaged objects.

But such communities require renewal, and this returns us to the question of the half-life of sacred, damaged objects. If we follow thinkers like Durkheim and Smith, we would expect that these objects, like all sacred objects, need maintenance, just as the communities require renewal. Such renewals are accomplished by ritual means, with objects and communities vivified in relation to each other. As Durkheim observes in the context of a discussion of sacrifice, “the effect of the cult really is to recreate periodically a moral being [namely the society itself] upon which we depend as it depends upon us.”

How does this illuminate the question of the half-life of the sacred? For one thing, it suggests that the I-beams will continue to be sacred so long as the sovereign entity in the name of which they were damaged continues to unite the community that the objects represent. In other words, the half-life of the sacred is bound up with the endurance of the values and way of life of the wider community.

Further, the damage incurred by objects is symbolically inseparable from the deaths caused by the attacks. In this way, the objects facilitate an “extended community encompassing both the living and the dead in a web of reciprocal obligations. [This characteristic] defines, for Durkheim, a moral community” (Smith, p. 109). The half-life of the sacred is connected to the sense of indebtedness that accompanies communal recollections of the dead. In that way, the sacred involves keeping the dead alive—in memory, in shared sentiments—through ritual means that may be as simple as pausing before an I-beam to recollect those “sacrificed” in attacks aimed at the U.S.

### **The Remnants of Sacrifice**

*...the bloody dust due to the gods below...and ruin’s enchantment of the mind.*  
—The chorus

In the final section of his article, “Sacrifice,” Taussig-Rubbo begins by asking “how...sacred value is created, and, in particular,...whether the idea of sacrifice is helpful” for

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<sup>1</sup> My discussion here and in the section below owes much to Smith’s account in “The Topography of the Sacred,” in *Relating Religion*, esp. pp. 108-109

understanding how this value is created. He concludes the section by suggesting that the sacred may be latently present in human life and property, and that destruction moves the sacred from “an inert, stable status to a diffuse and uncontained one.” On this reading,

we might think of the attack as a desecration: the attack on a sacred thing, the civilians, the WTC. This seems helpful, so long as we are not too literal and mean by desecration an attempt to de-sacralize, render an *ex ante* sacred thing everyday, as this meaning of desecrate seems rather implausible in this setting. Indeed, this literal sense seems quite backward since the main effect of the attack was to elevate the sense of sacredness of American life.

But one might read the situation in very different terms, for the attackers were, I would suggest, provocatively engaging the symbolism of the sacred in their choice of targets: as the headquarters of the Department of Defense, the Pentagon upholds and enshrines the sacralized ideals of American democracy, while the twin towers of the World Trade Center—as vertical and apparently enduring as obelisks—represented the eternally inhering values of capitalism. Coupled, these value systems are held to be divine, integral to American civil religion. But what the attacks were meant to reveal, of course, was the fallible, earthly, and wholly profane nature of American democracy and capitalism.

Historian of religions Bruce Lincoln has coined a term that is applicable here. Articulating a revelatory process that inverts Mircea Eliade’s notion of the *hierophany* as the irruption of the sacred into the profane, Lincoln defines a *profanophany* as “a revelation of the profanity, temporality, and corruption inherent to someone or something” (*Discourse and the Construction of Society*, p. 125). By destroying the twin towers and penetrating that symbol of American national armor, the Pentagon, the attackers sought to reveal the earthly, merely human, and thus profane nature of both secular democracy and capitalism. For just as the clean, angular towers of the WTC were made to exude black smoke and eventually collapse, releasing pollution in the form of a rampant billow of toxic dust that spread over city blocks, so too was the American way of life shown to be corrupt, polluting, and indefensible, in both senses of the term.

In this way, then, the attacks demonstrate what Arthur Van Gennep called the “pivoting” of the sacred; the sacred can appear in anything, and what one person or group considers sacred, another sees as profane. But more than that, it reveals in dramatic fashion the ambivalences of sacrificial destruction, for in the case of the 9/11 attacks, the destruction stimulated a process of simultaneous hierophany and profanophany: in a single movement, American ideals were revealed to be profane, earthly, and imminently vulnerable, while being reasserted all the more emphatically by the Americans who had embraced them, stronger for having been challenged.<sup>2</sup>

As for the attackers themselves, the destruction was a sacrifice in which they were the sacralized victims on a mission to reveal the profanity of America; American blood and lives—agents of a profane way of life—were perceived corrupt, polluting forces. From this point of view, the “sacred” valence of this sacrifice lay in its iconoclastic action and in the self-immolation, not in the objects or American lives that were destroyed. That the American sense of sacrality has been heightened only underscores the “pivoting” nature of the sacred.

All this is to suggest that the use of sacrifice in a legal context should recognize that the sacred value produced (or revealed) by destruction is tied up with both religious and political ideas and ideologies. It should, in other words, recognize that what sacrifice appears to produce or reveal—the sacred—is always situated, “a product of human agency” and not merely “the human response to a transcendental act of self-display,”<sup>3</sup> whether that which is taken to be transcendent is of a civil or heavenly order.

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<sup>2</sup> See Bruce Lincoln, *Discourse and the Construction of Society*.

<sup>3</sup> Smith, “The Topography of the Sacred,” *Relating Religion*, 111.

## Sacred Impropriety

*Love that makes havoc of possessions....*  
—The chorus

Taussig inquires into who owns sacred objects and land, and how property rights are inflected by claims to the sacred. I want to extend that question to ask about ownership of the concept and category of the sacred itself. In his lectures on “The Right of Property,” Durkheim examines Roman law, finding a parallel between the structure of property and the structure of sacrality. Commenting on Durkheim, Jonathan Z. Smith notes, in terms that resonate with Taussig-Rubbo’s observations, that some property “cannot be appropriated by any individual: sacred things (*res sacrae* or *religiosae*) and things held in common (*res communes*)” (p. 104).

I think we might extend this observation to suggest that the concept of the sacred is, in some sense, also a sacred concept—a concept that behaves in a way that corresponds to what it names. By this I mean that the concept of the sacred will overwhelm property, whether it be physical property, such as Taussig-Rubbo makes clear, or the property of a cultural domain or academic discipline.

In fact, the sacred seems to display a kind of *impropriety* when attempts are made to turn it into property of whatever sort. According to Durkheim, the sacred cannot be personal; it exceeds, and thus cannot be converted into, individual property. In the context of the 9/11 attacks, the sacred appears to overwhelm property and in doing so proves an intractable matter to the judicial bodies attempting to delineate and adjudicate on the sacred.

With this in mind, I want to conclude with a final speculation. To sacrifice, as Taussig-Rubbo and others point out, is to make sacred. If the sacred is itself a sacred concept, perhaps it might be thought of as related to a sacrifice of sorts. Perhaps the sacred is, or is like, a sacrificial scapegoat. René Girard, Jacques Derrida, and others have identified the sacrificial scapegoat as a *pharmakon*: both a remedy and a poison; at once holy and cursed; polluted but purifying, taking on the guilt and impurities of a community, but in doing so ridding the community of its ills.

The *pharmakon*, Derrida writes, “properly consists of a certain inconsistency, a certain impropriety, this nonidentity-with-itself always allowing itself to be turned against itself” (*Dissemination*, 119). The impropriety of the sacred relates to a question raised by Taussig-Rubbo. He notes that attempts to contain the sacred do not always work; the sacred “can exceed its designated space. In other words, the ‘religious’ is not the only place we find the sacred. We might ask, then, whether, within our current constellation, we should think of the sacred as a religious category.” Is the sacred, in other words, the property of the “religious”?

In response to that question, I would first ask, with Kristen Tobey, “about the tensions that may arise when [a] transcendent, event-generated sacred, not bound by or coextensive with religion, comes into contact with notions of the sacred that *are* grounded in a particular religious sensibility or frameworks.” In the 9/11 cases, as Tobey’s question suggests, the religious beliefs, backgrounds, and sensibilities of the victims and their families should not be put aside in deference to a more abstract or general notion of the sacred.

That said, we might ask about whether the sacred can or should be contained by the “religious.” Without knowing precisely the parameters of what Taussig-Rubbo considers the “religious” I would suggest that the ambivalence at the heart of the sacred, its capacity for “being turned against itself,” allows it to be a quintessentially religious concept that is yet not the exclusive property of the “religious.” It is, rather, a term that not only names but also *effects* the kinds of ambiguities and confusions that make it so intractable to adjudicate on.

As *pharmakon*, the concept of the sacred can both ensure order and sew chaos; it can both illuminate and obscure; it can secure structures and transgress borders; it is at once a boon and a

curse; the grounding of the law and what threatens it with dissolution. I want to end on a note that further emphasizes, rather than tries to resolve, the confusion around the sacred, in part to suggest that the field of religious studies, while not “owning” the sacred, still needs to be about the business theorizing it. The following short series of quotations from some major thinkers on sacrifice, the sacred, and pollution is far from inclusive, but it may provide a kind of modest overview of some classical and contemporary thought on the sacred, and give a hint as to the contradictions that remain lodged at its core. Ultimately, theorizing the sacred may prove an impossible task, but the urgency of attempting to do so is something that Taussig-Rubbo’s essay makes clear.

## Rubble

*There is no city possessed by one man only.*  
—Haemon

~ “...there is nothing in it which is really characteristic of the sacred.” Durkheim, *Elementary Forms*, p. 52.

~ “...there is nothing left with which to characterize the sacred in its relation to the profane except their heterogeneity.... It is *absolute*. In all the history of human thought there exists no other example of two categories of things so profoundly differentiated or so radically opposed to one another.” Durkheim, *Elementary Forms*, p. 53.

~ “ ‘Holiness’—‘the holy’—is a category of interpretation and valuation—peculiar to the sphere of religion.” Rudolph Otto, *The Idea of the Holy*, p. 5

~ “This mental state [of the numinous holy] is perfectly *sui generis* and irreducible to any other...it cannot be strictly defined.... [The holy] cannot, strictly speaking, be taught, it can only be evoked, awakened in the mind; as everything that comes ‘of the spirit’ must be awakened.” Otto, p. 7

~ The sacred “has something spectral in it.... ‘awe,’ ‘aweful,’.... ‘incalculable’ and ‘arbitrary’.... ‘might,’ ‘power,’ ‘absolute overpoweringness’.... *tremenda majestas*, or ‘aweful majesty’.... ‘plenitude of power’ becomes transmuted into ‘plenitude of being’.... *mysterium tremendum*.... taken in the religious sense, that which is ‘mysterious’ is...the ‘wholly other’, that which is quite beyond the sphere of the usual, the intelligible, and the familiar, which therefore falls quite outside the limits of the ‘canny’ and is contrasted with it, filling the mind with bland wonder and astonishment.... dread... daemonic... awakening strong interest and curiosity.... something whose special character we can *feel* without being able to give it clear conceptual expression.... *fascinating*.... harmony of contrasts.... potent charm.... dizzy intoxication .... fundamentally non-rational elements.... passes all understanding.” Otto, *The Idea of the Holy*

~ “The first possible definition of the *sacred* is that it is *the opposite of the profane*.... Man becomes aware of the sacred because it manifests itself, shows itself, as something wholly different from the profane ....the manifestation of a wholly different order, a reality that does not belong to our world, in objects that are an integral part of our natural ‘profane’ world.” Mircea Eliade, *The Sacred and the Profane*, pp. 10-11

~ “These two worlds, the sacred and the profane, are rigorously defined only in relation to each other. They are mutually exclusive and contradictory.” Roger Caillois, *Man and the Sacred*, p. 19

~ “...the scrambling [as opposed to rigorous separation] of the sacred and the profane is common....” Colleen McDannell, *Material Christianity*, p.8

~ “ ‘sacred’ is a product of human agency, this or that is made or designated ‘sacred.’ ‘Sacred’ is not the human response to a transcendental act of self-display.” J. Z. Smith, *Relating Religion*, p. 111

~ “Religious forces are of two sorts. Some are beneficent, guardians of the physical and moral order, dispensers of life and health and all the qualities which men esteem.... The respect they inspire is mixed with love and gratitude.... These are holy things and persons.... —On the other hand, there are evil and impure powers, productive of disorders, causes of death and sickness, instigators of sacrilege. The only sentiments which men have for them are a fear into which horror generally enters. Such forces upon which and by which the sorcerer acts, those which arise from corpses or the menstrual blood, those freed by ever profanation....” Durkheim, *Elementary Forms*, p. 455-6

~ “Both holy and filthy, the sacred is simultaneously attractive and repulsive, alluring and forbidding. Such ambiguity and ambivalence render the sacred *fascinating*.” Mark C. Taylor, *Altarity*, p. 136.

~ “The corpse is a paradigmatic ‘transitional’ object. As the point at which life and death intersect, the corpse is neither merely living nor dead. [D]ecay...is...life renewing itself. As unassimilable ‘remainder,’ the corpse is a grotesque monstrosity that is disgusting yet strangely fascinating and attractive.” Mark C. Taylor, *Altarity*, p. 127

~ “The sacred...is essentially *communion*, communication of dangerous, *contagious* forces set loose, against which it is necessary to protect the world of useful and reasonable mechanisms of life.” Georges Bataille, cited in *Essential Writings*, p. 40.

~ “The sacred is precisely the opposite of transcendence...the sacred is, in a very precise way, immanence.” Bataille, p. 42

~ “The approach is a difficult one, in that *sacred* simultaneously has two contradictory meanings. Whatever is the subject of a prohibition is basically sacred. The taboo gives a negative definition of the sacred object and inspires us with awe on the religious plane. Carried to extremes that feeling becomes one of devotion and adoration.... Men are swayed by two simultaneous emotions: they are driven away by terror and drawn by an awed fascination. Taboo and transgression reflect these two contradictory urges. The taboo would forbid the transgression but the fascination compels it. Taboos and the divine are opposed to each other in one sense only, for the sacred aspect of the taboo is what draws men toward it and transfigures the original interdiction.” Bataille, 58-59.

~ “A sacrifice can only posit a sacred *thing*. The *sacred thing* externalizes intimacy: It makes visible on the outside that which is really within.” Bataille p. 64.

~ “In short, our pollution behaviour is the reaction which condemns any object or idea likely to confuse or contradict cherished classifications.” Mary Douglas, *Purity and Danger*, p. 37

~ “...chaos *only* takes a significance within a religious world view. Chaos is a sacred power; but it is frequently perceived as being sacred ‘in the wrong way.’ It is that which is opposed to order, which threatens the paradigms and archetypes but which is, nevertheless, profoundly necessary for the very creativity that is characteristic of...the sacred.” Jonathan Z. Smith, “The Wobbling Pivot,” *Map Is Not Territory*, p. 97

~ “Formlessness is therefore an apt symbol of beginning and of growth as it is of decay.... The danger which is risked by boundary transgression is power.... The final paradox of the search for purity is that it is an attempt to force experience into logical categories of non-contradiction. But experience is not amenable...” Mary Douglas, *Purity and Danger*

—Jeremy Biles, 2009