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Christian Nondualism

Review of Jonathan Chaplin: Herman Dooyeweerd: Christian Philosopher of State and Civil Society

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by

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Abstract

Jonathan Chaplin's analysis of Dooyeweerd's philosophy is helpful in discussing (1) the state's role in harmonizing and protecting individual and communal interests within various societal spheres and (2) Dooyeweerd's ideas of public justice and public interest, which he uses to justify state intervention in other societal organizations. But Chaplin continues a conservative reading of Dooyeweerd. This is due to (a) his misunderstanding of the ideas of individuality structures and enkapsis (b) his misunderstanding of **enkaptic** relations among institutions, natural communities, organized communities and free associations, (c) a consequent incorrect distinction between internal and external functions of the state and (d) an inadequate discussion of the idea of human rights. Dooyeweerd's use of enkapsis allows him to develop a view of societal sphere sovereignty very different from that of Abraham Kuyper, and one that allows the intervention of the state in other societal organizations because there is a one-way **enkaptic** relationship.

I. Introduction

Reformational philosophy has frequently been used in a way that supports the politics of the religious right. For example, the idea of sphere sovereignty has been used to argue against any intervention by the state in other societal organizations. And it has been used to support the idea of a minimalist state. Such interpreters want to reduce the present role of the state—for example, by getting the state to abandon programs like Medicare and **The Affordable Health Care Act**, or to reduce business regulations that protect consumers and individuals (Friesen 2018).

So, I read with interest Jonathan Chaplin's book **Herman Dooyeweerd: Christian Philosopher of State and Civil Society**. I was eager to see whether his interpretation of Dooyeweerd might prevent reformational philosophy from being misused as it has in the past. I was particularly interested in Chaplin's assertion that Dooyeweerd did not view the state's "sphere sovereignty" in the sense of a minimal state, but that Dooyeweerd clearly acknowledged the right of the state to act in other non-state institutions like businesses or the family.

Far from advocating merely a Christianized, group-sensitive version of the minimal state, Dooyeweerd holds that the state is in principle empowered to act within every sector of society, insofar as an issue of public justice has arisen (Chaplin, 298).[1]

In an earlier article, Chaplin gives another example of proper state intervention. A state may regulate a business by requiring pollution controls.

From a Dooyeweerdian angle, by contrast, such regulation would consist not of undue interference with economic sphere sovereignty but rather of a legitimate and necessary enkaptic “binding” of the business enterprise by the state on behalf of the rights of citizens to enjoy a healthy environment (Chaplin 2007, 132).[2]

But in his book, Chaplin rejects any idea of such “binding” by the state (p. 69). Instead of one-way enkapsis, he proposes the **mutual** interlacement or interdependence of organizations (p. 285). This rejection of one-sided enkapsis and binding is a redefinition of Dooyeweerd’s idea of enkapsis. As we shall see, Dooyeweerd rejected any such idea of mutuality in relation to the state and other organizations.

Chaplin’s idea of mutual interlacement also redefines subsidiarity as a horizontal [not vertically delegated] way of mutual functional subservience and interdependence of spheres. Because of such redefinitions, it is often difficult to distinguish where Chaplin claims to be interpreting Dooyeweerd, and where he is giving his own ideas.

So, although Chaplin provides a helpful discussion of when the state may intervene in other organizations, based on principles of public justice and public interest, the actual examples he uses in his book frequently reinforce the ideas of the religious right, and hinder progressive reforms.

II. Chaplin’s Misunderstandings of Dooyeweerd

1. History of sphere sovereignty

Although he acknowledges my research in a footnote, Chaplin takes the traditional view that the idea of sphere sovereignty was developed by Abraham Kuyper based on the ideas of Groen van Prinsterer (Chaplin, 20-23). But Kuyper was also familiar with and recommended the ideas of Franz von Baader. Furthermore, as I have subsequently shown (Friesen 2019), Groen did not originate the principle of sphere sovereignty. The principle of sphere sovereignty comes from non-Calvinistic sources. Groen relied on many sources, including the anti-revolutionist theorists Friedrich Julius Stahl and Baader, and the theologians Daniël Chantepie de la Saussaye and J.H. Gunning, Jr.. The phrase “sphere sovereignty” [sovereiniteit in eigen sfeer] was used as early as 1852 by J.I. Doedes, a colleague of Ch. de la Saussaye. And even earlier, in 1840, Stahl referred to the principle of the sovereignty of the church in its own sphere.[3]

Groen followed Stahl to such an extent that he was known as “The Stahl of Holland.” Groen knew that this was not a compliment, because Stahl was viewed as a reactionary. Groen denied that he was reactionary. He pointed to a citation from Baader that advocated evolution over revolution (Friesen 2018). Evolution implies gradual change. I would add that one of Baader’s favourite sayings was ‘**non progredi est regredi**’ [not to progress is to regress] (Baader, **Werke** 11, 347).

In practice, the politics that Groen and Kuyper practiced were frequently regressive.[4] They did not promote change, even in a gradual sense, but tried to return to ideas prior to the French revolution.

The idea of sphere sovereignty, in the **limited** sense of resistance within a state to a tyrant, may derive from Calvin and his successors. But sphere sovereignty of organizations **with respect to each other** is an idea that is not Calvinistic in origin. It does not follow logically from the idea that God is sovereign over everything. Nor does it follow from the idea that God gives a separate law for every part of created reality. That would create a separate sphere for every created thing. And even if separate laws are given for different organizations, these organizations could still be linked hierarchically without sphere sovereignty.

What is required for sphere sovereignty of organizations with respect to each other is the combination of (a) an idea of organicism, where various temporal “limbs” are related to a central “head” and (b) the distinction between temporal and supratemporal, where a central supratemporal totality is split by time into temporal aspects (Friesen 2019). These ideas derive from Baader’s Christian theosophy.

Dooyeweerd criticizes Kuyper for referring to the temporal church as an organism (NC II, 524). Dooyeweerd opposes any organicism that is limited to the temporal. But Dooyeweerd follows Baader’s ideas of organicism and of center.[5] He refers to St. Paul’s metaphor of a religious organism (of head and members of a body) (NC II, 418). He uses terms like “organ,” “members,” “root,” “Christ as New Root,” the heart as the “religious root” and center. Our heart is the full human selfhood in the sense of the supratemporal center of our whole existence, of which the body is only the temporal organ. In

societal relations, the center is also supratemporal; we err when we try to find the center in the temporal. It is the **ecclesia invisibilis** [the invisible Church] that is the common root of temporal organizations (NC III, 535).[6] Organicism is also evident in his idea of cultural unfolding.

2. Pluralism

Chaplin refers to Dooyeweerd's philosophy as "structural pluralism" or "normative institutional pluralism" (Chaplin, 14). He distinguishes it from other kinds of pluralism, such as the romanticist rejection of atomized individualism in favour of meaningful organic communities, or the socialist rejection of industrial capitalism in favour of workers' groups. He says that structural pluralism affirms the vital role of distinctive communities and associations that are independent of the state.

But Dooyeweerd does not use "pluralism" in a positive sense. He specifically **rejects** the idea of political pluralism:

[Political pluralism] wants to dissolve the State into a federation of mutually independent syndicates or corporations, each administering a particular branch (function) of public services according to an economical viewpoint (NC III, 464).

Nor is Dooyeweerd's critique of pluralism directed only at such economic or syndicalist models of pluralism. He is against every form of pluralism that, in the sense of decentralization, would delegate power from the state to intervening bodies:

They then understand [sphere sovereignty] in the sense that all other spheres of life must be incorporated as independent parts of the state as a whole, but each retaining a certain autonomy. The task of the state could in this way allow itself to be decentralized, by creating "new organs" in addition to municipalities, provinces and water-board jurisdictions, invested with the ability to govern themselves by public law, under the supervision of the government. In this way, the central organs would be relieved of an important part of their task of law-giving and government. Then socialist, Roman Catholic and Anti-Revolutionary [groups] would indeed find themselves within this same principle of relieving the burden of the state. So, in each new historical-political situation, "sovereignty in its own sphere" would then be able to take on another meaning. How was it able to come so far that this principle [of sphere sovereignty] could be misunderstood in such a fundamental way? (Dooyeweerd 1959b, 47-48; my translation).

Chaplin says that he wants to use "pluralism" not in this sense of **delegated** power, but in the sense of a "normative institutional pluralism" –the plurality of temporal communities as **given** by the divine will in the creation order (Chaplin, 14, 155). But Chaplin's use of the term "pluralism" is confusing. There may be a plurality of organized communities, but that does not equate to the principle of pluralism. Indeed, Chaplin acknowledges that Dooyeweerd did not use the term "pluralism" to describe his own social and political thought (Chaplin 328, fn47). Chaplin further confuses the issue by his sympathetic discussion of the principle of subsidiarity, which concerns delegated power from the state to different levels of societal organization.

3. Subsidiarity

Dooyeweerd's idea of sphere sovereignty should not be confused with the Catholic idea of subsidiarity. Subsidiarity is the principle expressed in Pope Pius XI's 1931 encyclical, **Quadragesimo anno**, that political matters should be handled by a local level of authority if possible, and in any event by the least centralized agency possible. The idea of subsidiarity is that, instead of a large centralized state that legislates on everything, there should be numerous intervening levels of government, such as state or provincial, municipal, as well as other associations, organizations and agencies. But note that they are intervening levels of **government**, and not organizations that are independent of the state.

Chaplin says that the principle of subsidiarity emerged from medieval society, where natural law theory and organic metaphors played a central role. This Catholic model has been the principal inspiration for Christian Democracy, a third way between socialism and capitalism. Chaplin argues that the idea of subsidiarity, in the sense of organizations intervening between the state and the citizen, should complement the idea of sphere sovereignty. But Chaplin re-defines subsidiarity in the sense of organizations that do not receive their authority in a vertical way from the state, but whose authority is horizontal, mutual with the state (Chaplin 138, 285). But if that is so, why would these intervening organizations expect any financial aid from the government? Why would organizations like Citizens for Public Justice advocate government funding of "faith-based" charities?[Z]

Paul Ryan, Speaker of the House of Representatives in the U.S., uses the idea of subsidiarity to support his idea of limited government:

If we want to maintain our freedoms and the space to operate freely in our society, we need to help make sure that our communities are strong, and that means we have a duty to help one another in our communities. What Catholics call this is “subsidiarity,” which is a conservative term of focusing on communities, on local control, on fixing problems where they are, and not going up to the higher level of authority, including government, in conjunction with the notion of solidarity — that we’re all in this together. We do need to help each other out, but we do this **voluntarily**... What I’m trying to articulate here is a vision of American life that is society-centered, based on collaboration, versus the Progressive vision of American life that is government-centered, based on coercion (Kaminsky 2014).

If subsidiarity is used in the sense of the funding by the state of other less centralized organizations, then this is clearly a case of delegated authority, which we have seen was decisively rejected by Dooyeweerd. If there is no funding by the state, but only a ceding of authority to these less centralized organizations, then we have Ryan’s use of subsidiarity to support a downsizing of the state. There is a shifting of responsibility to voluntary organizations.

We know from the Republicans’ proposed legislation what would result from this kind of downsizing of government: millions of Americans left without Medicare or medical insurance, and an attempt to abolish other “entitlements” in the federal budget. Instead of the government distributing welfare, or providing services like health care, these services would be left to other institutions like churches and benevolent societies, faith-based organizations, or lodges. Steve Bannon, who was an important adviser to President Trump, is also a strong supporter of subsidiarity, and he also uses the idea to support small-government conservatism (Green 2017).

Subsidiarity can therefore be used to support the idea of a downsized, minimalist state. It is clear from the Republican agenda that the goal is to make such charities **voluntary**, and not to fund them at all. Such organizations may end up carrying out a task that should be done by the state for its citizens.

4. Pillarization

Pillarization [**verzuiling**] is a principle in the Netherlands that began to develop in the 1840’s when different religious groups began asking for the right to educate their children in their own schools. Groen van Prinsterer was one of the politicians who argued for such denominational schools. It is said that he based this upon the idea of “sphere sovereignty.” But he himself did not use the phrase at that time.[8] A division was made between Protestant, Catholic and humanist schools. In the 20th century, this was extended to each group being allocated their own broadcasting networks in radio and television. And each group also had its own newspapers, promoting differing worldviews. These groups were the “pillars” of Dutch society; hence the term “pillarization.”

The division of education and media along denominational lines led to a mistrust of what was being taught and said by the other pillars. This is analogous to the present division in the United States, where some Christians use reformational ideas to promote distrust of the “liberal” media, and to label their reporting as “fake news.”[9] Citizens are caught in echo chambers where the only news sources that they read or listen to are by organizations or news outlets with which they agree.

It must be emphasized that pillarization is not the same as sphere sovereignty. Denominational differences within an organization are not the same as differences given in creation between different types of organization. To the extent that pillarization represents a delegation of state power to less centralized bodies, it is also a kind of subsidiarity or pluralism. Dooyeweerd did not support pillarization, although it is true that he did not support a plan to start afresh without denominational divisions after the war (Chaplin, 235-36). Dooyeweerd acknowledges that in the Netherlands, people act out of principled convictions. But he does not say that these principles should be followed by everyone. Furthermore, Dooyeweerd says that the principle of antithesis, which was the basis for the old denominational divisions, cuts through Christian life itself—through personal life, in Christian family life, within Christian organizations, political parties, and even the churches. It is not a line of division that places itself over against an anti-Christian part of the people. Christian principles are not the possession of a chosen group who think they can use it like a magical formula. It is a spiritual force that cannot be dammed up in the traditional boundaries. Dooyeweerd said that he was engaging in dialogue, and that the end result would not be what it was before. Taught by experience, he would take a different path from what had up to then been the usual one (Dooyeweerd 1959, 1-4).

John T. Daling, a Calvin College professor, argued something similar—that pillarization was more a result of historical and sociological conditioning of the Dutch people, and that it ought not to be seen as a principle to be incorporated into other societies. He said,

I now think that it will be a sad and tragic day for the Reformed faith if its ‘positions’ and ‘practices’ become frozen to a given time, country, and circumstance; if, in other words, these positions and practices must be universally accepted throughout the Reformed world because they are accepted in some part of it.[10]

Similarly, Henry Stob argued that antithetical organizations are not necessary, but that the Gospel should permeate existing organizations. James Bratt says that Stob

...advanced the thesis that the question of separate, antithetical organizations is not a matter of principle but one of Christian strategy. They asserted that there is no biblical demand for them, that the texts usually advanced (e.g., Matt. 12:30; 1 Cor. 15:33; 2 Cor. 6:17) apply to the individual and his relationship with the world and cannot be extended to cover Christian organizations without doing violence to the Scriptures.[11]

In South Africa, the idea of pillarization was used in racist ways to give different services according to race (Plantinga 2006). A further problem of pillarization is that it did not include all religious groups. Where do Jewish organizations fit? They are not Catholic, Protestant or humanist. What about other religions, such as Islam and Hinduism? The principle of pillarization is unworkable in today’s multi-religious societies.

5. Religious Presuppositions

Chaplin says that Dooyeweerd’s philosophy relies on religious presuppositions (Chaplin, 39). Chaplin incorrectly regards these as statements of belief.[12] But Dooyeweerd expressly says that this is not what his philosophy is based on. He distinguishes between theological presuppositions and ontical presuppositions (Friesen 2015, 233-40, 386, 400). By “ontical,” Dooyeweerd means our experiential distinctions between temporal, supratemporal and eternal. Dooyeweerd strenuously opposed Van Til’s view of presuppositionalism, and Van Til’s propositional use of Scripture.

Now it is true that Dooyeweerd is not consistent. His idea of the Christian Ground-Motive of creation, fall and redemption contains definite theological ideas. He says that all of these events occur **supratemporally** and are only worked out in time.[13] Those who do not share this view do not have the same view of creation, fall or redemption! His ideas of the creation of a supratemporal religious root, a fall in that root, and redemption by Christ the New Root, are certainly not Calvinistic.[14] These ideas derive from Baader’s Christian theosophy, and were adopted by certain Reformed theologians (Friesen 2015, 390-99).

Dooyeweerd also refers to other theological ideas, such as the Messiah, a belief in a physical resurrection, and a belief in the historicity of Adam and Eve (Dooyeweerd 1971). Instead of, or in addition to creation, fall and redemption, we might include promise, exile and deliverance. That might come closer to Jewish ideas of Messiahship and to “Son of God” as designation of the Messianic King.[15] These theological and historical issues are beyond the scope of this paper.

III. Enkapsis

Chaplin speaks of “**enkaptic** relations” between two different organizations. But he fails to understand what Dooyeweerd means by enkapsis.

1. A thing (or an **enkaptic** whole) is a combination of two or more individuality structures, like a set of nesting Russian dolls, with a more inclusive structure enclosing (or encapsulating) a less inclusive structure. The enclosing structure is qualified by its own leading function and is based on a founding function. But that founding function is in turn the leading function of the enclosed structure. The embracing structure has a binding function with respect to the less inclusive structure (NC III, 639). [16] A work of art, like the sculpture of Praxiteles, has many nested individuality structures. The work of the artist’s productive imagination encloses the historically formed marble, which encloses the natural marble, which encloses the individuality structures of its atoms (Friesen 2015, 357-58).
2. Chaplin misunderstands enkapsis as the encapsulation of some **functions** of a thing with the functions of another thing Chaplin (Chaplin, 69; 236-241 and Chaplin 2007). But Chaplin is wrong in two ways (a) is not the encapsulation of **functions** of things, but rather the encapsulation of one or more entire individuality structures by another entire individuality structure and (b) enkapsis is not the interrelationship of individual existents (Chaplin, 67). It is not that there are two separate things that

interact. Enkapsis results in a new individuality structure with several enclosed individuality structures.[17]

3. The enclosed structures are **internal to the enclosing structure**. Dooyeweerd says, 'In a genuine enkaptic structural whole, on the contrary, we always find different internal operational spheres of the structures interwoven in it, which maintain their sphere sovereignty' (NC III, 696). Chaplin fails to understand this internal nature of the enclosed structures, and so he mistakenly says that Dooyeweerd confuses the internal functioning of the state with its **enkaptic** interlacements (Chaplin, 337 fn42).
4. Dooyeweerd obtained the ideas of individuality structures and enkapsis from Max Wundt.[18] These ideas enabled Dooyeweerd to overcome the idea of substance and the idea that things exist in themselves. But when it is applied to societal structures, the idea of enkapsis—of one societal structure enclosing another—can lead to totalitarian ideas, as they did in Wundt, who was an advocate of National Socialism (Friesen 2015, 342-47). Dooyeweerd attempted to avoid this by (a) his emphasis that totality is never to be found in the temporal world, but only in the supratemporal and (b) by adding the idea of **sphere sovereignty** to the idea of enkapsis. Thus, there is a limit to the nesting of structures, so that the state is not all-powerful. And yet there is a tension between the ideas of sphere sovereignty and enkapsis. When and to what extent may the state interfere in the sphere sovereignty of other organizations that are enkaptically enclosed by the state? We will see that Dooyeweerd's use of enkapsis changes Kuyper's idea of societal sphere sovereignty and weakens the boundaries between organizations.
5. How does Dooyeweerd apply the idea of enkapsis to organizations? Chaplin is right that Dooyeweerd's idea of sphere sovereignty as it applies to institutions is underdeveloped.

Surprisingly, and to the consternation of students of his social thought, Dooyeweerd nowhere sets forth a detailed statement of the principle of societal sphere sovereignty (Chaplin 139).

6. Dooyeweerd says that societal relationships have 'essential internal structural principles' (NC III, 257). But he does not explain very well why we have the societal organizations that we do. He seems to accept the societal institutions of his day as a given.
7. Communities are either (a) natural communities (like the family, which does not require organizing) or (b) organized communities (the state and other organized social communities). Both types require human actualization.[19]

Neither natural nor organized communities can be considered as independent personalities. They depend on human activity for their actualization (NC III, 298).

8. In primitive communities, the family is **enkaptically** interwoven with the sib or clan (NC III, 653). In a differentiated society, other organized communities are formed. **The only differentiated organized communities of an institutional nature are the church and the state** (NC III, 379). If this is so, it is incorrect to refer to schools or businesses as institutions. This appears to be very different from Kuyper's vision of sphere sovereignty, where different institutions correspond to each of the various spheres of life [**levenskringen**]. And Chaplin's characterization of sphere sovereignty as 'normative institutional pluralism' (Chaplin, 14) is therefore also incorrect, since only the church and the state are institutions.
9. For Dooyeweerd, the state as an organized community is qualified by the juridical aspect, but it is founded in the historical aspect. This means that it is a product of historical formation in the opening process.
10. In addition to institutions, there are free associations, which depend on opened-up inter-individual relationships. The rise of such non-political associations requires the prior differentiation of the institutions of church and state. There is a **one-sided foundational enkapsis** between the differentiated institutions of church and state and these non-political associations. Free associations presuppose the rise of a common private law; they depend on either contractual relations or on constitutional arrangements[20] of the community (NC III, 657-70).
11. No private law has developed outside of the state. On the Continent, Roman law was influential. In England, the common law developed a civil system 'based on the essential principles of juridical equality and freedom of all individuals in their inter-personal civil relations' (NC III, 450)
12. The state has **priority** over all differentiated voluntary associations because they rely on this private law (NC III, 572). Private law is **bound by** and included in the more embracing law of the state. For example, inter-individual industrial and commercial law is **enkaptically** interwoven with civil law. Often, parties to these agreements have very little private autonomy; they are bound by unilateral contracts, or **contrats d'adhésion** (NC III, 593-94). We can apply Dooyeweerd's reasoning to the codes of conduct that students are required to agree to when enrolling in many Christian colleges. These codes of conduct are unilateral contracts, or **contrats d'adhésion**; as private law, these codes are bound by state law in an **enkaptic** relationship. This has enormous implications for reformational philosophy, and has not been properly understood. The differentiated associations (e.g. business, education,

- labour) are not independent from the state in the way that Kuyper supposed. The private law by which they are formed can be regulated by the state law in which it is **enkaptically** enclosed.
13. There is a **one-sided enkaptic relation** between the state and these differentiated voluntary associations, Chaplin rejects this, and incorrectly reformulates societal relations in terms of interlinkages or interdependencies (Chaplin, 278-285). But the **enkaptic** relations of organizations with the state are not interdependent, but **one-sidedly** dependent. Chaplin also fails to sufficiently distinguish between institutions and differentiated voluntary associations that depend on the prior differentiation of the state (Chaplin 157-61).
 14. There is a second kind of enkapsis: correlative enkapsis.[21] This is a **mutual binding** of two communities. Mutual inter-related **enkaptic** structures are formed, **binding the one to the other**. But there is no further **enkaptic** whole that includes both of the correlative communities. Correlative enkapsis applies (1) in undifferentiated, primitive societies (2) between natural communities (the family) and other communities and (3) between two states. An example of correlative enkapsis is a family living on an uninhabited island. Such a family presupposes a relation to inter-communal relationships even where no actual community yet exists.[22] The community is not formed from out of the natural family (NC III, 655-57)
 15. But correlative enkapsis does **not** apply between the state and differentiated voluntary associations. Instead, the ‘quite different type of enkaptic interlacement’—the irreversible, one-sided foundational type—applies (NC III, 657-60).[23]
 16. We have seen that, as between the state and differentiated free associations, the state has priority by virtue of a one-sided foundational **enkaptic** relationship. This allows the state to intervene in those organizations. What about the relations between two non-political associations with respect to each other? Dooyeweerd says that opened, differentiated inter-individual societal relations have both types of enkapsis with respect to each other—foundational one-sided and correlative. I believe that most relations will show a one-sided foundational enkapsis. This is because societal structures, as free forms of positivization, have an historical foundation (NC III, 664). One example he gives of correlative enkapsis is the connection between a free market and economically qualified competition. [24] Dooyeweerd says that this is only an introduction to the subject, and another full book would be required to explore these **enkaptic** relations (NC III, 661). What this shows is that Dooyeweerd **does not adopt Kuyper’s simplistic idea of sphere sovereignty in societal relations**. Instead, he is developing and refining it.[25] For purposes of my present argument, it is sufficient that the relation of the state to all free organizations is one-sided and foundational, allowing intervention by the state.
 17. Because of Chaplin’s misunderstanding of enkapsis as a mere relationship of functions, instead of an encapsulation of entire structures, he makes distinctions that are too absolute between “internal” and “external” functions of the state (Chaplin, 223; 389 fn35). It is important to look at this extended quotation from Dooyeweerd:

Externally the task of the State cannot be delimited in a universally valid way, because the body politic, as a real organized community, functions in all the aspects of temporal reality. In principle, it is impossible even to exclude the State from the spheres of morality and faith. The State may promote the interests of science and the fine arts, education, public health, trade agriculture and industry, popular morality, and so on. But every governmental interference with the life of the nation is subject to the inner vital law of the body politic, implied in its structural principle. This vital law delimits the State’s task of integration according to the political criterion of the “public interest”, bound to the principle of sphere sovereignty of the individuality structures of human society.

The internal political activity of the State should always be guided by the idea of public social justice. It requires the harmonizing of all the interests obtaining within a national territory, insofar as they are enkaptically interwoven with the requirements of the body politic as a whole. This harmonizing process should consist in weighing all the interests against each other in a retributive sense, based on a recognition of the sphere sovereignty of the various societal relationships (NC III, 445-46).

Dooyeweerd gives as an example of this harmonizing of interests the administration of public health, which is ‘a real concern of the public legal sphere of the State.’

Chaplin thinks that Dooyeweerd is here confusing what is external and what is internal to the State (Chaplin, 223; 389 fn35). Chaplin says that when we refer to the functioning of the state in all aspects of reality, this is only an internal functioning of the state. And Chaplin says that the second paragraph above, referring to internal political activity, is actually external activity.

I doubt that Dooyeweerd was that careless in his use of words. The problem is that Chaplin assumes that the state is a discrete organization that deals with other discrete organizations such as businesses or schools, and that what is at stake here is the relation between such discrete organizations.[26] He fails to realize that the state, as an **enkaptic** whole, includes these other societal organizations in a one-sided

enkaptic relationship. Today's state does not exist without such encapsulation of other organizations, and so we cannot speak of some internal functioning of the state that is totally unrelated to those other organizations.[27] That is why, in harmonizing the interests of these other organizations, and in intervening in them, the state is acting as part of its 'internal political activity.'

IV. Problems with the idea of societal enkapsis

I believe that the idea of enkapsis is valuable in overcoming the idea of substance and things-in-themselves. It is similar to the idea of nested **holons** as expressed in the work of Arthur Koestler and later of Ken Wilber (Friesen 2010).

But Dooyeweerd's application of the idea of enkapsis to societal relationships is more problematic. He says that communities and organized societal wholes **resemble** a thing-structure (NC III, 197). This use of enkapsis is helpful in overcoming Kuyper's simplistic and rigid idea of societal sphere sovereignty. The boundaries between organizations are not as fixed as Kuyper imagined. Dooyeweerd's ideas of individuality structures and enkapsis make for a very complicated idea of societal sphere sovereignty, where there is a one-sided dependence of other organizations on the state, and where the state can regulate those organizations.[28]

But this same complexity makes Dooyeweerd's ideas incomprehensible to those who are outside his tradition of thought. As already noted, Dooyeweerd said that an entire additional volume would be required in order to set out the various types of relations of non-state organizations with each other.

A basic problem with applying the ideas of individuality structures and enkapsis to societal organizations is that they are human communities, and human beings cannot be defined in terms of any individuality structure. Humans transcend all temporal individuality structures.

Dooyeweerd recognizes this difficulty. He says that our individual selfhood or I-ness, which is supratemporal, **expresses itself** temporally in these communities, whether natural or organized. So when we say that a community has its own temporal sphere of action, we cannot mean anything else than the sphere of action of human beings in a particular unity of societal relationships (NC III, 298).

Temporal communities therefore have no substance or I-ness of their own. It is only **in comparison with one another** that these communities have an inner subjective structural unity.[29] But it is only the human members who can think, feel or act.

For a temporal societal relationship as such cannot be personal, but derives from human personality itself, whose supra-temporal spiritual ego, in its religious communion with the other human egos, is the very root of any temporal societal relationship whatsoever (NC III, 299).

Since the societal spheres are dependent on our (supratemporal) selfhood, we should be careful to ensure that our idea of institutions and organizations is used in the service of that selfhood.[30]

Chaplin does not see the necessity of such supratemporal unities of selfhood and invisible church (Chaplin, 154-55).[31] But this leads him to other difficulties, such as defining who "the public" is that we are concerned with in the ideas of "public justice" and "public interest." He uses a spatial analogy to try to explain the "space" that may be occupied (Chaplin, 231). But Dooyeweerd's idea is of humans who transcend all temporal structures, and yet who all participate in a state or states. It is in the interest of these transcendent humans that the state may intervene in other organizations in which these humans also participate.

V. The state's interaction with non-state organizations

Even if Dooyeweerd's general idea of **enkaptic** structural interlacements is too complicated for use in discussion with other political theorists, his idea of the **enkaptic** interlacement of private law with public law is readily understandable. The state has priority over other organized communities like businesses and schools by virtue of its binding of private law. This is so whether such private law has been codified or whether (as in English speaking countries) it is the result of common law.

[Common private law] is by its inner nature a legal sphere bound to the body politic. And the original competence to its formation cannot belong to any other organized community but the State. By means of this common private law the body politic can bind in an enkaptical way any specific (non-juridically qualified) private law to the principles of inter-individual justice, legal security and equity. But the internal spheres of these specific kinds of private law, qualified by the non-juridical leading function of the societal relationships to which they belong, remain exempt from the competence of the State (NC III, 451).

So, by means of common private law, the state can **enkaptically** bind non-state law. But what does it mean that the internal spheres of these associations remain exempt? I believe it means that these other organizations and associations do not owe their origin to the state. Their authority is distinct from that of the state. And yet the state can intervene when required by the principles of justice, legal security and equity. The state remains different from a family (although in cases of abuse, it may remove children from a family). The state is not the same as a business (although the state may regulate and even nationalize and run a business). The state is not a school or university (but it may build schools and require compulsory education, and it may set educational standards).

D.F.M. Strauss gives a useful history of private law. But he is incorrect when he interprets Dooyeweerd as saying that the state may intervene in private law for non-political organizations only when those organizations are acting outside of their sphere of competence (Strauss 2014). On the contrary, Dooyeweerd allows the state to intervene in the governing private law of those organizations even when they are acting in their sphere of competence. And it can do so based on the principles of 'inter-individual justice, legal security and equity.' And we have seen that he refers with approval to the common law's regulation of private law in accordance with the principles of 'juridical equality and freedom of all individuals in their inter-personal civil relations.'

Chaplin discusses the distinction between state law and non-state law. Within state law, there is public communal law and private civil law. Private civil law includes the civil rights and liberties of modern liberal democracies, such as freedom and equality of citizens, freedom of speech, association, religion, movement. He quotes Dooyeweerd as saying that 'civil private law is based on the rights of man.' The problem of the French Revolution was that it understood freedom and equality in an individualistic sense, and it did not recognize the private non-state communities in society.[32] Chaplin says

Just as individual rights cannot be pitted against the rights of communities, so civil law cannot be hermetically sealed off from the legal spheres of social structures. On the contrary, all these legal spheres are interlaced with—"have an enkaptic function with"—civil law. This interlacement fully respects the sphere sovereignty of the internal legal spheres in question, only effecting an external integration among them (Chaplin, 205).

Again we see the confusion between internal and external, caused by Chaplin's failure to understand the nature of enkapsis.[33] The example Chaplin gives of such external, **enkaptic** integration is the unilateral contracts or **contrats d'adhésion** that we looked at before, where the individual has no freedom to impose terms. Chaplin acknowledges that it is the role of civil law 'to protect the client against unfair agreements, and to this end it can place detailed and numerous restrictions on the terms of contracts.' But that surely is an intervention in the internal affairs of the business sphere! I believe that Chaplin is wrong when he says that this intervention by the state is 'without any suggestion of encroachment upon the economically qualified legal sphere of the company' (Chaplin, 206). On the contrary, this is an example of the intervention of state law within the non-state private law of companies.

The state is qualified by the juridical aspect, and its primary function is to administer public justice, and to harmonize the interests of other organizations. Dooyeweerd says that this harmonizing should be done in a "retributive" sense. But he also allows for distributive justice, with a proportional distribution of communal charges and communal benefits (NC III, 444-46).

With respect to rights of other structures, Chaplin says that public justice balances juridical interests arising from membership in communities other than the state (e.g. rights of trade unions against employers).[34] Chaplin correctly points out that this idea of harmonization of interests, although important, does not provide a sufficient reason for some of the valid services provided by the state, like a national postal service. For that, some other principle is required in addition to harmonization.

Chaplin acknowledges that the public itself has a distinct interest in more than merely the balancing of private interests. He gives as an example Dooyeweerd's statement that the state may construct a railway embankment or the fact that the state has an interest in the medical health of its subjects (Chaplin, 227). Chaplin says the state has a duty positively to promote the cultural advancement of its people, by enhancing their ability to 'positivize cultural norms,' i.e. to assume increasing responsibilities in the various cultural sectors such as education, industry, the arts, or politics, and to 'support, renew and stimulate' non-state communities such as families or industries, 'insofar as they are necessary for the health of the nation' [**volkskracht**] (Chaplin 390 fn47, citing **De Crisis**, 182).

These principles give some content to the idea of balancing interests. But Chaplin says that Dooyeweerd is ambiguous:

Ensuring public justice, however, involves more than simply legally protecting the boundaries of other spheres. It is quite clear that D. recognizes this, but his attempts to characterize it are undeveloped and ambiguous (Chaplin, 225)

Sometimes, Dooyeweerd uses the term “public interest” to describe how the state may provide such additional services, or when it may intervene in the private law of organizations that are **enkaptically** bound to it. As we have seen, he says that the state may promote the political cultural unity of the nation, national museums, monuments, national festivities, national history as taught in schools, science and art. This should be guided by ‘the public interest and public justice.’ Based on public justice, the state may have an integrating function with respect to languages. Belgium failed at this task (NC III, 487-88). He says that the public interest ‘binds the entire activity of the State to the typical leading idea of public social justice in the territorial relations between government and subjects.’ The state may promote the interests of science and the fine arts, education, public health, trade, agriculture and industry, popular morality, and so on (NC III, 445-46).

Chaplin combines these ideas of harmonization and public interest. He that the role of the state requires that the following interests be taken into account in the balancing:

1. Legitimate rights, duties and powers of persons
2. Legitimate rights, duties and powers of diverse social structures
3. Distinct claims of the public interest says (Chaplin, 295).

But Chaplin does not really specify how we arrive at the first point—the legitimate rights of individual persons within the diverse social structures. All that Chaplin says is that Dooyeweerd grants legal standing to the individual and that that is enough. But is it really? Rights of individuals may be granted by common law (as in the origins of English tort law, which specify a duty owed not to cause foreseeable injury to our neighbour). Or they may be codified in a constitution. I would note that a constitution may include a Bill of Rights. We will discuss this further below.[35]

I agree that Dooyeweerd’s ideas here are undeveloped. But in the lengthy quotation cited earlier, we saw how the internal/external distinction of functions of the state is not nearly as absolute as Chaplin assumes. And I disagree with how Chaplin proposes to develop Dooyeweerd’s ideas:

Public justice, then, requires the state to acknowledge the legitimate rights, duties, and competences of persons and structures and to create the necessary legal protection for them to realize or fulfill them. The state is not responsible for the internal legal domain of a social structure: it may not impose compulsory dieting on persons or families, or set prices for private industries (Chaplin, 225).

1. Business

Do we really want to say that the State may not set prices? That would undermine anti-monopolistic regulation and most consumer protection legislation. In the recent case of a drug manufacturer who has a monopoly on a drug and then raises its price 6,000%, do we not want to say that the state **should** intervene?[36] Of course, there are other ways that the State can intervene. The state could change its patent protection laws, encouraging generic drugs and more competition. But the setting of prices is not inherently beyond the power of the state. We see it all the time in the setting of electricity and other utility rates, and in the regulation of freight rates charged by monopolistic railways. There are laws against price-gouging in times of emergency, and other consumer protection laws related to misleading pricing. And in the case of banking, the state has anti-usury laws, prohibiting excessive rates of interest. And it will provide for relief from forfeiture in cases of mortgage arrears.

As Chaplin acknowledges, Dooyeweerd rejects a **laissez-faire** approach to business. He says that the idea that the state should not interfere with non-political society is related to the individualistic-nominalistic view of reality in classical liberalism (NC III, 426). Dooyeweerd also makes a plea against the exploitation of the proletarian[37] worker in modern capitalism (Dooyeweerd 1959, 188).[38] In the first phase of the industrial revolution, individualistic capitalism led to a class struggle:

The rationalized and absolutized idea of individual relations dominated the entire industrial sector of Western society and gave it an extremely individualistic and merciless capitalistic form (NC III, 595-96).

Chaplin acknowledges that Dooyeweerd does not in principle rule out the nationalization of industry by the State (Chaplin 233). Dooyeweerd says

...the State industries are real industrial organizations enkaptically bound by the body politic in the most narrow way, since it is the State itself which is the proprietor of the means of production... (NC III, 464)

2. Health Care

As already noted, Dooyeweerd believed that the state should involve itself in health care (NC III, 446). The aim is the improvement of public health. Chaplin acknowledges that the state may institute a public immunization program. This protects individuals, but also protects “public space” against the spread of infection (Chaplin, 229). Although I am happy that Chaplin opposes anti-vaxers, Dooyeweerd seems to support much more state intervention for the purpose of maintaining public health.[39]

Chaplin’s interpretation of Dooyeweerd’s ideas of health care seems to favour the Republican idea of a limited state, leaving medicine as much as possible to private business interests.[40] But as a resident of England (and previously of Canada) Chaplin surely knows that the U.S. spends more than any other nation on medical care. And yet the quality of its medical care is consistently ranked lower than England and Canada (and of most developed countries) by the World Health Organization.[41] In Canada, the **Canada Health Act** specifically states that its purpose is ‘to protect, promote and restore the physical and mental well-being of residents of Canada and to facilitate reasonable access to health services without financial or other barriers.’ While not a constitutional right, medical care is nevertheless seen as a legal right. Article 25 of the United Nations’ **Universal Declaration of Human Rights** (1948) states that ‘Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.’ We will return to this issue of human rights.

3. Family

Dooyeweerd considers the family to be founded in the biotic aspect, and that it is qualified by the ethical aspect of love. But the family is not the building block of other societal relations. Rather, the family relates to those other associations in a correlative way. Even the first family (Adam and Eve) was not the only societal relationship. And those inter-individual relationships were not based on blood-bonds.[42]

How does the family relate to other organizations like the state? The State is entitled to regulate relations in the family to protect individuals within it. It can remove children who are subjected to abuse. It can enforce the parents’ obligation to provide food and medicine to their children. And it can intervene in cases of corporal punishment (NC III, 276, 281).

Dooyeweerd says that the family is founded in the biotic aspect, and that without a biotic foundation, there is no genuine love.

But a foster-child can never belong to the community of the family proper...He will never be one of the parents’ own children...he is not interwoven...by means of the immediate bonds of blood. His love-relations with them cannot display the same internal structure (NC III, 292).

I believe that Dooyeweerd is wrong. I am an adoptive parent as well as a natural parent, and the bonds with all my children are the same. It is not the case that there is merely a transferred kind of love, an **as-if** kind of love in the case of adoption.

Chaplin also acknowledges that Dooyeweerd takes a far too traditional approach in his view of headship of the husband over the wife; matriarchy is “abnormal” (NC III, 325-29; 339).

And does the foundation of marriage in the biotic aspect mean that gay couples should not be allowed to marry? Chaplin has set out some of the arguments here:

The case of marriage involves not only an assertion about human capacities in general (in this case especially moral, sexual, and emotional capacities) but also about the design of the institution or relationship most conducive to the flourishing of such capacities. Can the sexual and emotional capacities of two persons of the same sex adequately flourish if they enter the institution we have come to call “marriage,” or is that institution conducive to such flourishing only between persons of the opposite sex? (Chaplin, 109).

Chaplin also discusses whether gay couples should be allowed to adopt. But Chaplin doesn’t indicate what the conclusion should be either in the case of gay marriage or adoption (Chaplin, 245-46). I suggest it should be an unequivocal acceptance of the right of gay couples to marry and to adopt.

Both the issue of gay marriage and of adoption by gay couples raise the issue whether marriage and family are really biotically founded. Dooyeweerd says that marriage is not historically formed, but based on structural givens. Yet he also acknowledges that in an undifferentiated society, marriage has a close association with a contract of sale (NC III, 174). He regards polygamy not as marriage with several wives, but as several marriages. Even more complicated is his description of the structure of a harem,

which Dooyeweerd describes as enkapsis of marriage with a domestic and labour community. These changes in the nature of marriage suggest that it is related to the historical opening up process, although Dooyeweerd tries to characterize this unfolding as showing the structural nature of marriage 'all the more purely' (NC III, 186). But that seems to presuppose an idea of marriage that does not exist in the undifferentiated society.

Dooyeweerd distinguishes marriage from family, with which it exists in an **enkaptic** relationship. Because marriage and family are different, it is not correct to view procreation as the essential structural purpose of marriage (NC III, 305-7; 323). It seems to me that viewing marriage as not based on procreation allows for gay marriage. Dooyeweerd does not address gay marriage but he does say that marriage is qualified by faithful married love, and that its essence should not be confused with either an ecclesiastical nor a civil institution (NC III, 311). Cannot a gay marriage be equally qualified by love between the partners?

We need to fully respect the equality of others, to really follow the universalism of Paul, who said that in Christ, there is 'neither Jew nor Greek, male nor female.' And, in family issues, to also remember the words of Jesus, who said that in Heaven, we will 'neither marry nor are given in marriage, but are like the angels of God.'^[43] Or the words of Genesis, 'And God created man in his own image; male and female created he him.' Does this mean that God is both male and female? Some rabbinical writers and early church fathers thought so. The Reformed theologian J.H. Gunning, Jr. (following Baader and some church fathers) regarded Jesus as an example of androgyny.^[44] Kuyper rejected this idea of androgyny.

I am not suggesting that we need Scriptural proof texts to support the social positions that we take. Nor did Dooyeweerd believe that the Bible should be used in this way. But I find it of interest that there is a different narrative in the Bible that is contrary to the position taken by many evangelical Christians in these culture wars.

4. Schools

The schools issue was one of the major issues that led to the adoption of the principle of pillarization. Different denominations demanded the right to set up their own schools (Friesen 2018). Schools are organizations that are founded in the historical aspect, and qualified by the ethical aspect (NC III, 287). Chaplin says they are qualified by the logical aspect (Chaplin, 389 fn35), but that cannot be, since a qualification cannot be in an aspect earlier than the founding aspect. As free organized communities, schools and universities are **enkaptically** bound with the state in a one-way **enkaptic** relationship.

My own family experience is relevant here. My background is Anabaptist/Mennonite. Some Mennonite parents in Canada also believed that they had a right to educate their children as they saw fit. My grandfather sent his children to public school, and as a result he was shunned by the church. This affected not only his private relations (he could not even share meals with his relatives) but his business. He appealed to the Lieutenant-Governor of the Province of Saskatchewan for 'British justice and fair play.' A commission was set up, and shortly after, legislation was enacted providing for compulsory education up to a certain age.^[45] As a result, in 1922, about 8,000 Mennonites moved from that province and the neighbouring province of Manitoba to Mexico, Bolivia and Paraguay to preserve their right to set up education.

My grandfather didn't know anything about sphere sovereignty. But he knew that shunning, which prevented customers from frequenting his business, was contrary to British fair play (or the common law). We could call this 'interference with contractual relations,' which is a civil tort. And yet **the Mennonite church that imposed the ban thought that this was part of its religion**. As a society differentiates, that which was once thought to be part of the church's authority is acknowledged to be part of another sphere's competence.^[46] Or if I may use Dooyeweerd's terms from another context, this is a situation where 'inter-individual relations have not yet been completely emancipated from their binding to undifferentiated communities' (NC III, 659). The Mennonite church thought that education imposed by the government was secularization, and thousands of families moved to try to prevent this "destruction" of what they considered normal.

Were they right to move from Canada? I don't think so. Dooyeweerd says that the State has the right to demand the education of its citizens. If so, it surely has the right to set minimal curriculum requirements and educational standards.

The Mennonites who stayed in Canada set up their own schools. There was a Mennonite high school in my hometown; it was a boarding school and drew students from across the province. But, insofar as students needed to pass exams set by the province, its curriculum was approved by the government, although the school added classes on Anabaptist history. The Reformed tradition has done this in its own way. But Christian schools and colleges need to check to what extent their teachings are being

driven by theology, thus violating their own ideas of sphere sovereignty. In many cases, “Christian” schools are anti-science, opposing scientific evidence of evolution, global warming, and the findings of astrophysics with respect to the origins of our universe.

These schools and colleges also need to check to what extent their moral codes of conduct that are imposed on students infringe the rights of equality for those students and staff. In Canada, our Supreme Court has held that The King’s University (which purports to follow reformational ideas) may not discriminate against homosexual staff.[47] And in 2018, the Supreme Court of Canada held that another Christian university, Trinity Western University could be barred from setting up a law school because it required its students to sign a code of conduct, or covenant, which discriminated against LGBTQ students.

...the requirement that students sign the Covenant as a condition of admission effectively imposes inequitable barriers on entry to the school and ultimately, inequitable barriers on entry to the profession. It was reasonable for the LSBC [Law Society of British Columbia] to conclude that promoting equality by ensuring equal access to the legal profession, supporting diversity within the bar, and preventing harm to LGBTQ law students were valid means to pursue the public interest. The LSBC has an overarching interest in protecting the values of equality and human rights in carrying out its functions. Approving or facilitating inequitable barriers to the profession could undermine public confidence in the LSBC’s ability to regulate in the public interest.[48]

Cardus, a Christian think tank with reformational origins and with continuing links to reformational scholars (including Chaplin, who is a Senior Fellow), had supported Trinity Western and its discriminatory covenant.[49] Following the decision of the Supreme Court of Canada, Cardus issued a statement lamenting the decision and stating

Canadians of all faiths will have less latitude to publicly dissent from majority opinions on social issues that clash with their beliefs. Now more than ever, we need a robust and clear defence of freedom of conscience and religion and public faith.[50]

But Cardus is not fighting merely a majority opinion on a social issue. Equality rights are enshrined in Canada’s constitution. Why does Cardus believe that discrimination against homosexuals is fundamental to freedom of religion? I submit that reformational scholars should distance themselves from Cardus and its support for such discrimination. The decision of the Supreme Court of Canada is correct, and it is also in line with the interpretation of Dooyeweerd I have outlined in this article. The state may intervene in non-state organizations on the basis of equality, public justice, or in the public interest.

Apart from imposing a core curriculum,[51] does the government have the right to impose other educational requirements, such as the teaching of human rights? In my province of Alberta, the Roman Catholic schools are resisting a directive by the government to teach respect for all sexual orientations. [52] I believe that the government is right in its approach. Governments have the right to intervene in order to enforce equality rights and to end discrimination. But we will discuss the issue of human rights and how this affect sphere sovereignty in more detail below.

In the United States, the federal minister of education is Betsy DeVos, who has a Christian Reformed background. She has never attended a public school, and she favours a voucher kind of system for education (Stanton 2017). I believe that she is wrong. A voucher system will weaken the public-school system. It will benefit the wealthiest people most; they can choose to send their children to select schools. Furthermore, DeVos is weakening the protection of human rights in schools (Rizga 2017). This undoing of President Obama’s legacy is a regressive step and ought not to be supported by Christians.

Why should schools be denominational anyway? That is a confused idea of sphere sovereignty. Kuyper’s idea of a Free University (obtained from J.H. Gunning Jr. and Baader) was that it should not be controlled by **either the state or the church**. To say that parents control education, or churches—represents a lack of societal differentiation.[53] The Free University was in fact controlled by the theology department, eroding the intended sphere sovereignty (Friesen 2018, Stellingwerff 1987).

Schools need to acknowledge the rights of students. These rights include their sexual orientation, whether straight, gay or transgender. That cannot be considered part of a religious worldview that is protected by some principle of sphere sovereignty. Just as the Mennonite church wrongly believed that its institutional religion included the right to control who did business with my grandfather, **so these schools wrongly believe that their institutionalized religion includes the right to discriminate** against those to whom the law has given equality of rights. The church and its schools need to acknowledge that such discrimination cannot be justified by the idea of sphere sovereignty.

V. Human Rights

How do we promote public justice and the public interest? How do we protect what Dooyeweerd called 'juridical equality and freedom of all individuals in their inter-personal civil relations' or 'inter-individual justice, legal security and equity'? Can we include the idea of human rights, which the state can use to correct abuses and to protect individuals in other organizations?

Many of the early reformational thinkers, like Groen van Prinsterer and the Anti-Revolutionary Party, objected to any list of human rights. They viewed the idea of rights as rationalistic. They argued for gradual evolutionary change instead of revolution. To draw up a list of rights for all time may have unintended consequences, for none of us is clever enough to anticipate future developments and what may or may not be needed.

Although I sympathize with such a gradualist approach to politics, it is no longer realistic in my country. Canada has adopted a **Charter of Rights and Freedoms** that is enshrined in our constitution. The courts have interpreted the **Charter** in some unexpected ways, but it is our law. Similarly, the United States has enshrined a Bill of Rights in its Constitution. And this Constitution is in many ways dependent on the ideas that led to the French Revolution. The European Union also has codified human rights, although in a somewhat different way, since so many different countries are involved. Perhaps Britain after Brexit will not have codified rights, but I doubt that human rights will be abolished.

To rely on human rights today is not to accept a revolutionary principle. After all, it is more than 200 years since the principle of equality was proclaimed in the French Revolution. To continue to disregard equality rights is indeed to be regressive. And we have already seen that Dooyeweerd makes reference to equality and equity when describing the state's interventions based on public justice and the public interest.

We have had a long time for courts to deal with the meaning of human rights. Some of those decisions are yet to be made by the courts. For a constitution is like any other statute, and liable to be interpreted differently in changing circumstances. Whether we agree that these rights should ever have been enacted, they are there, and we now need to work within them. Not everything that humanism has done is wrong.

Dooyeweerd acknowledges this:

...from a purely historical point of view [humanism] has done more for the recognition of public freedom for religious convictions than did seventeenth-century Calvinism (Chaplin 392 fn51, citing **Roots of Western Culture**, 83)

Some reformational scholars have tried to restrict the idea of human rights. In an article published by The Kirby Laing Institute for Christian Ethics, David McIlroy argued that human rights should not be interpreted as something that is possessed by individuals. McIlroy cites Nicholas Wolterstorff in support of his view that rights are to be viewed only in relation to obligations, and that these are to be interpreted in a way that does not promote litigiousness, but rather harmony within a community. McIlroy argues that what God gave Moses at Sinai was not a Declaration of Rights, but the Ten Commandments, a list of our obligations (McIlroy, 2014).^[54] McIlroy's ideas do not make sense to me. Dooyeweerd rejected any idea that legal theory is to be based on the Decalogue. And from my perspective as a lawyer, an individual has no legal standing unless he or she possesses rights. Canada's **Charter of Rights and Freedoms** says that everyone **has** fundamental freedoms. And Section 15 says every individual **has** rights:

15. (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Litigation is often required to enforce equality rights in communities and organizations. Enforcing these rights may cause disruption and disharmony within communities. Without litigation to enforce these rights,, the U.S. would still have racial segregation. And Christian colleges like The King's University and Trinity Western University would still be allowed to discriminate against homosexuals.

An interesting application of human rights and freedoms to Dooyeweerd's philosophy was made by his son-in-law Ernst Stern. See Stern's two-volume work, **Wat zal men doen? Een filosofie van de rechten van de mens**. He interprets Dooyeweerd's philosophy in terms of human rights. Now I don't think that Stern has a proper grasp of Dooyeweerd's philosophy. And yet his approach can provide insight into how human rights are related to each modal aspect of our experience. Stern also argues that we can apply Bonhoeffer's idea of "a world come of age" to the increasing secularization of our society.

Can it be said that our idea of human rights is itself the fruit of Christian thought? I know that this is not Dooyeweerd's view; he said that we must not regard the French Revolution as a continuation of the Reformation. But the culture that gave rise to the idea of human rights had been explicitly Christian. Today we see the difficulty of trying to get nations with different religious traditions at their base from accepting these ideas of human rights, or even the idea of "the rule of law." There seems to be something in these very ideas that grew out of our Christian traditions.

As against this, it could be argued that what makes the difference is that the Western world experienced the Enlightenment, and that this has nothing to do with Christian ideas. But I think that this sells Christianity short. Even the idea of tort liability was developed in English case law from out of the idea that we have a duty to our neighbour, as Jesus preached in the parable of the Good Samaritan. Such an attitude is very different from a culture where the misfortunes of our neighbour are due to his or her **karma**. Furthermore, ecclesiastical courts were influential in creating rules of Equity, which mitigated the harshness of the common law. Today, rules of Equity have been included within the very principles of common law.

If Christian principles are contained within the very idea of human rights and our rule of law, then we do not need to fear secularization when it decreases the reach and power of the institutional church. Dooyeweerd argues that increasing societal differentiation, and the unfolding of societal structures, is a good thing.

How does such secularization translate to the idea of a Christian state? O'Donovan argues for a state with an established religion, like the UK. He says that Christians should put a hand over their mouths when they speak of "religious pluralism." (Bartholomew 2002). But this kind of solution is not realistic in most countries. The state has a duty to protect the rights of citizens of all religious traditions, including Judaism, Hinduism, Islam and Buddhism. But such religious pluralism works only to the extent that it does not come up against common rights and freedoms. The courts have held that the rights of women override restrictions in Jewish divorce law or Islamic **sharia**.^[55] And with respect to Christian organizations that discriminate against homosexuals, the Canadian courts have ruled that respect for the rights of homosexuals takes precedence over those religious beliefs.

Conclusion

It is incorrect and unhelpful to refer to Dooyeweerd's philosophy as "structural pluralism," or to compare the principles of sphere sovereignty to subsidiarity. Chaplin does not understand the principle of enkapsis, and he has re-defined sphere sovereignty and subsidiarity in a way that confuses Dooyeweerd's ideas. But Chaplin's analysis is helpful in showing that Dooyeweerd supported state intervention in other spheres of life and other societal organizations. The state has a duty to protect the rights of individuals within those organizations, and in harmonizing the rights of organizations with respect to each other.

And yet in his practical application of these principles, with respect to business, health care, the family, and schools, Chaplin's analysis falls short. His rejection of Dooyeweerd's idea of one-way enkapsis, and his redefinition of the idea of enkapsis as a mutual relation between independently existing institutions and organizations give a much more conservative reading of Dooyeweerd than I believe is necessary. Chaplin's analysis allows for less state intervention in other societal organizations than I believe is inherent in Dooyeweerd's philosophy.

While conservatism, in the sense of gradual change, is to be preferred to sudden and sweeping political change, now that most Western states have adopted codifications of human rights, Christians need to work within that framework. Where an organized community like a university discriminates against others, human rights must prevail. To act otherwise is to be reactionary. It is the duty of the state to ensure that these human rights are not infringed upon, as well as to balance and to protect the rights of individuals and communities. This will include consumer protections against abuses by business and banks, the removal of children from families that abuse them, the protection of gays, lesbians and transsexuals in schools, the enforcement of minimal standards of education, and the support of a better health care system for its citizens.

Dooyeweerd wanted to find a middle ground between totalitarianism and individualism. But it is a mistake to use the idea of sphere sovereignty as a way of preventing the intervention of the state where there are issues of public justice, equality, or human rights. Dooyeweerd's philosophy is not an ideological superstructure to justify the anti-revolutionary politics of his day. His philosophy is based in our religious experience. Our actions, including our politics, arise from out of that supratemporal experience and they are to be expressed in our temporal world in love and justice, including the principles of 'juridical equality and freedom of all individuals in their inter-personal civil relations.'

Bibliography

Baader, Franz Xavier von (1851-60); **Sämtliche Werke**, ed. Franz Hoffmann (Leipzig).

Bartholomew, Craig et al (eds.) (2002): **A Royal Priesthood? The Use of the Bible Ethically and Politically** (University of Gloucestershire).

Bratt, James (1982): 'Dutch Calvinism in America,' in **John Calvin: His Influence in the Western World**, ed. W. Stanford Reid (Grand Rapids: Zondervan).

Chaplin, Jonathan (2007): 'Public Justice' as a critical political norm,' **Philosophia Reformata** 72, 130-50.

Chaplin, Jonathan (2011): **Herman Dooyeweerd: Christian Philosopher of State and Civil Society** (Notre Dame: University of Notre Dame Press).

Dooyeweerd, Herman (1953): **A New Critique of Theoretical Thought [NC]** (Philadelphia: Presbyterian & Reformed), a translation and revision of **De Wijsbegeerte der Wetsidee [WdW]**, 1935-36 (Amsterdam: H.J. Paris).

Dooyeweerd, Herman (1959): **Vernieuwing en Bezinning** (Zutphen: J.B. van den Brink & Co.).

Dooyeweerd, Herman (1971): 'Na vijf en dertig jaren,' 36 **Philosophia Reformata**, 1-10.

Friesen, J. Glenn (2005): 'Individuality Structures and Enkapsis: Individuation from Totality in Dooyeweerd and German Idealism,' <https://jgfriesen.files.wordpress.com/2016/12/enkapsis.pdf> (<https://jgfriesen.files.wordpress.com/2016/12/enkapsis.pdf>)

Friesen, J. Glenn (2010): 'Integral Nondual Philosophy: Ken Wilber and Herman Dooyeweerd,' <https://jgfriesen.files.wordpress.com/2016/12/wilber.pdf> (<https://jgfriesen.files.wordpress.com/2016/12/wilber.pdf>)

Friesen, J. Glenn (2015): **Neo-Calvinism and Christian Theosophy: Franz von Baader, Abraham Kuyper, Herman Dooyeweerd** (Calgary: Aevum Books).

Friesen, J. Glenn (2016a): 'Dooyeweerd's Idea of Modalities: The Pivotal 1922 Article,' **Philosophia Reformata**, Vol. 81, Issue 2 (2016), 113-155.

Friesen, J. Glenn (2016b): 'Sophia, Androgyny and the Feminine in Franz von Baader's Christian Theosophy,' **Adyan/Religions**, Vol. 8, 130-145, online at http://www.dicid.org/english/Journals/Women_English_issue_8.pdf.

Friesen, J. Glenn (2018): 'The Complicity of Reformational Philosophy with the Politics of the Religious Right,' online at <https://jgfriesen.wordpress.com/herman-dooyeweerd/108-2/complicity/> (<https://jgfriesen.wordpress.com/herman-dooyeweerd/108-2/complicity/>).

Friesen, J. Glenn (2019): 'New Research on Groen van Prinsterer and the Idea of Sphere Sovereignty.' Forthcoming. **Philosophia Reformata**, Vol. 84, Issue 1 (2019), 1-30. The pre-peer reviewed version is online at <https://jgfriesen.files.wordpress.com/2018/04/new-research-on-groen-van-prinsterer.pdf> (<https://jgfriesen.files.wordpress.com/2018/04/new-research-on-groen-van-prinsterer.pdf>).

Green, Joshua (2017): 'Inside the Secret, Strange Origins of Steve Bannon's Nationalist Fantasia,' **Vanity Fair** (July 17, 2017).

Kaminsky, Ross (2014): 'Paul Ryan's Way Forward,' **American Spectator** (Sept. 3, 2014).

McIlroy, David (2014): 'The Problem of Human Rights,' Ethics in Brief, **Spring** 2014 (Vol.19 No.3), http://klice.co.uk/uploads/Ethics%20in%20Brief/EIB_McIlroy_19-3.pdf (http://klice.co.uk/uploads/Ethics%20in%20Brief/EIB_McIlroy_19-3.pdf)

Muskens, R.W.A. (2013): **Aan de goede kant: Een geschiedenis van de Nederlandse anti-apartheidsbeweging 1960-1990** (University of Amsterdam). Online at https://pure.uva.nl/ws/files/4498189/127379_08.pdf (https://pure.uva.nl/ws/files/4498189/127379_08.pdf)

Petersen, Melody (2016): 'How 4 drug companies rapidly raised prices on life-saving drugs,' <http://www.latimes.com/business/la-fi-senate-drug-price-study-20161221-story.html> (<http://www.latimes.com/business/la-fi-senate-drug-price-study-20161221-story.html>).

Plantinga, Theo (2006): 'The Reformational Movement: Technology and Verzuiling', *Myodicy*, Issue 26, June 2006, online at <http://www.plantinga.ca/m/MDLNOTES.HTM> (<http://www.plantinga.ca/m/MDLNOTES.HTM>).

Rizga, Kristina (2017) Betsy DeVos wants Schools to Build "God's Kingdom," *Mother Jones*, April, 2017; <https://www.motherjones.com/politics/2017/01/betsy-devos-christian-schools-vouchers-charter-education-secretary/> (<https://www.motherjones.com/politics/2017/01/betsy-devos-christian-schools-vouchers-charter-education-secretary/>).

Sloane, Andrew (2016): 'Male and Female He Created Them?' Theological Reflections on Gender, Biology and Identity," *Ethics in Brief*, Summer 2016, Vol. 21 No. 4, http://klice.co.uk/uploads/Ethics%20in%20Brief/EiB_Sloane_21_4_WEB.pdf (http://klice.co.uk/uploads/Ethics%20in%20Brief/%0bEiB_Sloane_21_4_WEB.pdf).

Stanton, Zack (2017): "How Betsy DeVos used God and Amway to take over Michigan Politics," *Politico Magazine*, Jan 15, 2017. <https://www.newsmax.com/FastFeatures/christian-transgender-conservative-religion/2015/> (<https://www.newsmax.com/FastFeatures/christian-transgender-conservative-religion/2015/>) 05/04/id/642241/

Stellingwerff, J. (1987): *De Vu na Kuyper* (Kampen: J.H. Kok).

Stern, Ernst (1995): *Wat zal men doen? Een filosofie van de rechten van de mens*, 2 volumes (Amsterdam: Olive Press).

Strauss, D.F.M. (2014): 'The Genesis of a new conception of the state in the philosophy of Dooyeweerd,' *Tydskrif vir Christelike Westneskap*, 50, Jan 2014, 75 – 99.

Thompson, Katie (2017): 'A Conversation with James Skillen,' *Public Justice Review* 5.

Riessen, Hendrik van (1953); *The Society of the Future* (Philadelphia: Presbyterian & Reformed).

Verburg, Marcel (1989): *Herman Dooyeweerd: Leven en werk van een Nederlands christen-wijsgeer* (Baarn: Ten Have).

[1] Unless otherwise indicated, all references are to Chaplin 2011.

[2] In many ways, I find Chaplin's 2007 article clearer than his 2011 book.

[3] Chaplin mentions Stahl only in relation to the idea of organicism, and not the idea of sphere sovereignty (Chaplin, 369 fn99).

[4] Chaplin acknowledges that this Dutch political tradition regarded itself as being emancipatory and progressive. But outsiders did not see it that way (Chaplin 2007, 144). Chaplin points out that Dooyeweerd rejected reactionary tendencies, and favoured "progressive" ones of integration, individualization and differentiation (Chaplin 2007, 148).

[5] Chaplin says that Dooyeweerd opposed Kuyper's organicism. But he does not discuss Dooyeweerd's own use of organicism (Chaplin, 14,139).

[6] Chaplin rejects this (Chaplin, 155): 'Individuals do not need to belong to a transcendent community **existing outside of time** in order to avoid being swallowed up in any particular temporal community.'

[7] See discussion of the Charitable Choice provision of the **Welfare Reform Act** and the Faith-Based and Community Initiatives program. 'The Faith-Based and Community Initiatives program goes beyond the Charitable Choice provision to allow governmental funding of nonwelfare-related services on a competitive basis, permitting religious organizations to pursue government funds to underwrite a whole range of social service related activities.' (Kemeny 2007, 150).

[8] See Friesen 2019. It is interesting that there were advocates of sphere sovereignty who did not support the idea of separate denominational schools. Furthermore, Catholics also wanted control over their own schools. In any event, to seek denominational control over education is not an example of sphere sovereignty, which should seek to separate church and schools. In my view, the schools issue is not based on the idea of sphere sovereignty, but rather reflects a lack of societal differentiation; religious denominations sought to maintain control over other areas of life.

[9] See my discussion of Nancy Pearcey, who misuses reformational ideas in this way (Friesen 2018).

[10] 'A Look at the Dutch,' in **Reformed Journal**, May 1957, p. 27, cited by Plantinga 2006.

[11] Bratt 1982, 306, cited in Plantinga 2006.

[12] Chaplin incorrectly regards religious presuppositions as the 'debate between theology and philosophy, faith and reason, natural and revealed knowledge.' He cites Roy Clouser, who uses religious presuppositions in the sense of theological beliefs (Chaplin, 39-40).

[13] Dooyeweerd tends to depreciate the historical Jesus in favour of Christ the New Root. Redemption has occurred in the supratemporal and is now only being worked out in the temporal. A positive consequence of this idea is his confidence in the efficacy of redemption in that nothing of the created world will be lost in Christ (NC I, 101).

[14] Chaplin fails to recognize this supratemporal meaning of 'root' and 'radical' (Chaplin, 47).

[15] In his response to the theologian H.M. Kuitert, Dooyeweerd refers to his belief in Jesus as Messiah, and the necessity of belief in a physical resurrection (Dooyeweerd 1971).

[16] Chaplin objects to the term "binding" but that is because he fails to see that **enkapsis** is a nesting relationship of two or more individuality structures (Chaplin, 69).

[17] Chaplin's mistakes seem to be a result of his adoption of Vollenhoven's idea of modal aspects as dimensions of things (Chaplin, 33). Vollenhoven rejected Dooyeweerd's ideas of individuality structures and **enkapsis**. He also had a very different idea of the meaning of the modal aspects. As a result, Chaplin conceives of the state as a separate entity from other organizations, with only an **enkapsis** of some of their functions. He incorrectly says that the individuality of existents is coupled with a theory of their interrelationships (Chaplin, 67). At p. 344 fn67, he acknowledges that some relationships may result in a new individuality structure. But in fact, all **enkaptic** relationships result in a new individuality structure.

[18] Dooyeweerd did not acknowledge Wundt, probably because Wundt was a National Socialist. For a detailed discussion of the idea of **enkapsis** in Wundt and Dooyeweerd, see Friesen 2005.

[19] The necessity of actualization points to the previous created givenness of these organizations, although only in ideal form. Is Dooyeweerd correct here? Was the individuality structure of a business corporation already given by in the created order as an ideal to be later actualized?

[20] An arrangement set out by founders of the community. For example, a labour contract or a contract of enrolment (NC III, 572).

[21] This is an odd use of the term '**enkapsis**' since it is hard to visualize mutually nesting communities. In my view, it would be better to speak of organizations that mutually presume the existence of other organizations. What mutual **enkapsis** does show is the 'intricate inter-wovenness of all societal relations' (NC III, 262). It also breaks down rigid ideas of sphere sovereignty between communities.

[22] Again, this implies a created ideal that must be actualized in order to exist.

[23] Some confusion is caused by Dooyeweerd's use of the terms "binding" and "bound" in two different senses. There is the **enkaptic** sense, where the enclosed organization is bound to the state. But there is also a more general sense of binding but not in an **enkaptic** sense. It is referred to at NC III, 658: 'free associations bind inter-individual societal relations in a more or less intensive way.' He says this is different from correlative **enkapsis**. Instead, he is referring to the 'binding integrating tendencies in modern society.' Modern society is increasingly individualized, differentiated and integrated (NC III, 601).

Another confusion is Dooyeweerd's reference to the "transcendental correlativity" of societal relationships. Again, this is not correlative **enkapsis**. Instead, he means that all societal relationships are founded in the historical but typified in the social aspect. They are differentiated according to their

interweaving with other structural types of inter-individual relations. For example, fashion in general is radical-typified by its leading function in social relations of intercourse. But it is differentiated according to particular subject-object relations and its interweaving with other structural types of inter-individual relations e.g. fashion in sporting clothes, in evening dress, travelling clothes, lounge-suits and street-dresses. **But transcendental correlativity should not be confused with correlative enkapsis, although Dooyeweerd says he made just such a confusion in the earlier edition of this work** (NC III, 592-95, 601, 658-59). One wishes that Dooyeweerd had changed his terminology to prevent this confusion.

[24] This is an odd example, since neither of these are associations or organizations.

[25] This underdevelopment of societal sphere sovereignty also confirms my historical analysis that Dooyeweerd first developed the idea of modes of consciousness in response to the epistemology of neo-Kantians. He then tried to apply the modalities to Kuyper's ideas. He did not work from societal sphere sovereignty to modal sphere sovereignty, but the other way around (Friesen 2016a).

[26] Chaplin describes these relations as external to social structures. He says that all social structures necessarily engage in numerous kinds of interlinkages [**maatschapsverhoudingen**] with others, and these are 'indispensable to their flourishing' (Chaplin, 276). He refers Wolterstorff's idea of human flourishing (Chaplin, 98). But for Dooyeweerd, the relation between the state and voluntary associations is not interdependent or interlinked; rather, there is a one-sided **enkaptic** relationship.

[27] We cannot understand the state apart from its enkaptic structural interweavings (NC III, 466).

[28] Dooyeweerd allows that some organizations are in a one-sided **enkaptic** relationship with the other organized institution, the church.

[29] It is in this sense of not capturing human supratemporality that societal organizations differ from other enkaptic structural wholes (NC III, 695-97). It is not that societal organizations have a different kind of **enkapsis**, as Chaplin incorrectly supposes.

[30] Chaplin correctly points out that we too often read Dooyeweerd as saying that individuals were created for the institutions instead of institutions for individuals (Chaplin, 34, 108).

[31] Nor is Chaplin correct that Dooyeweerd 'regards temporality as unambiguously a good creation of God' (Chaplin, 52). Dooyeweerd speaks of our **fall** into time NC II, 564 and **WdW** II, 496).

[32] Societal organizations are not to be understood as arising from the state alone nor are they to be understood a mere collection of individuals.

[33] With respect to only external integration, he cites Dooyeweerd's **Root of Western Culture**, 59, but there is no such comment on that page.

[34] Inconsistently, Chaplin says at p. 297 that he doesn't think that the state can impose terms between union and employer. Again, why not? A strike in the public sector causes damage to the country and it is entirely proper for the state to invoke a solution, whether by sending the parties to mandatory arbitration, or imposing settlement terms upon them.

[35] I find Chaplin somewhat clearer at p. 135 of his 2007 article, where he says

'...the legitimate juridical interests of a person or structure will consist of, or be an implication of, their various distinctive **rights, duties** and **competencies**. Where their rights are violated, their duties obstructed, or their competencies usurped, the state has the duty to act on their behalf. This is not state 'intervention', as if some boundary were being violated; it is simply the state being itself, fulfilling its own unique 'calling'.

But I disagree with the final sentence. Although that may be the state's calling, and although it may not be violating its own boundaries, it is clearly intervening in these other non-state spheres. To say that those spheres never had sovereignty in those areas where the state has intervened seems to me to be circular reasoning and not at all helpful as a political principle.

[36] The drug deflacazort, used for muscular dystrophy, increased in price 6,000%, for a yearly cost of \$89,000. Ciprimine jumped from \$500 to \$24,000 for a 30-day supply. Daraprim, used to fight parasites, jumped 5,000% overnight, from \$13.50 to \$750.00 a pill (Petersen 2016).

[37] Baader referred to the protection of the proletariat long before the term was used by Karl Marx.

[38] On the other hand, Dooyeweerd opposed the participation [**medezeggenschap**] of workers in a business enterprise unless they somehow became part owners of the business (Verburg 1989, 76, 128-30).

[39] Chaplin has advised me that he might consider a conscientious objection to vaccination. I would not. Those kinds of objections can cause new outbreaks of diseases otherwise brought under control.

[40] These may not be Chaplin's personal views. But his interpretation of Dooyeweerd lends support to those who take such a limited view of the state's powers.

[41] The 2000 World Health Report ranks the U.S. as 37th out of 191 countries. A 2017 study by the Commonwealth Fund ranked the U.S. last out of the health care systems of 11 developed countries. The top-ranked were the UK, Australia and the Netherlands.

[42] Even though these other societal relationships were not yet differentiated, they were already given in principle by God's creative law.

[43] This seems to suggest that marriage is not a structural given—at least, not in the afterlife. Dooyeweerd gives a different explanation that I find unsatisfactory—that the marriage bond is only a temporal, perishable tie, in contrast to the eternal union with Christ, and that that is 'the religious fullness of meaning of marriage' (NC III, 322).

[44] Friesen 2016b. Contrast Sloane 2016, in the newsletter of The Kirby Laing Institute for Christian Ethics, of which Chaplin was the director until 2017. Sloane is opposed to medical surgery for transgender individuals except as a last resort, 'an accommodation to an otherwise intractable disorder.' His language remains hurtful and discriminatory.

[45] Dooyeweerd says that the state may enforce compulsory education, since it is essential to its internal functioning (Chaplin, 245).

[46] I am intrigued by Chaplin's reference to Casanova's secularization theory—that modernity is characterized by a process of differentiation that problematizes the authority and location of religion. Established religions prove to be incompatible with modern societal differentiation (Chaplin, 306, citing **Public Religion in the Modern World** (Chicago, 1994).

[47] **Vriend v Alberta** [1998] 1 S.C.R. 493

[48] **Law Society of British Columbia v. Trinity Western University** [2018] SCC 32. The majority held that there was only a minor infringement of freedom of religion. The covenant was not necessary to study law in a Christian environment. Any infringement of freedom of religion was outweighed by its discriminatory effect on LGBTQ students contrary to the **Charter**. The more interesting ruling, and one that I find compelling, was by Mr. Justice Rowe, who held that there was no infringement of freedom of religion at all. "...it does not suffice that the claimants sincerely believe that studying in a community defined by religious beliefs contributes to their spiritual development. Rather, the claimants must show that they sincerely believe that doing so is a practice required by their religion." And, noting that the university was required to admit all students, whether Christian or not, he said "Where the protection of s. 2(a) is sought for a belief or practice that constrains the conduct of nonbelievers — those who have freely chosen not to believe — the claim falls outside the scope of the freedom. Therefore, interference with such a belief or practice is not an infringement of s. 2(a) because the coercion of nonbelievers is not protected by the Charter."

[49] Cardus was established in 1974 as the Work Research Foundation through the efforts of Bernard Zylstra and Harry Antonides. It publishes two magazines, **Comment** and **Convivium**. **Comment** is edited by James K.A. Smith. Its previous editor was Gideon Strauss.

[50] Statement issued on June 15, 2018. <https://www.cardus.ca/news/news-releases/statement-by-cardus-religious-freedom-institute-on-supreme-court-of-canada-against-trinity-western-university/> (<https://www.cardus.ca/news/news-releases/statement-by-cardus-religious-freedom-institute-on-supreme-court-of-canada-against-trinity-western-university/>).

[51] Chaplin does not agree that the government may set a curriculum (Chaplin 2007, 135).

[52] Chaplin takes the position that the state may not tie funding of the arts or education to political correctness (Chaplin, 233) or ideas of equal rights (Chaplin, 296). Why not?

[53] Dooyeweerd says that parents have the right to specify education for the early years of the child and perhaps into puberty. This is inconsistent with his view that the state has an interest in the education of its citizens.

[54] Chaplin was the director of the Kirby Laing Institute at this time.

[55] **Bruker v. Marcovitz**, [2007] 3 S.C.R. 607, 2007 SCC 54. A wife has the right to claim damages in civil court when her husband refuses her a Jewish divorce despite agreement. The majority of the Supreme Court held that just because a dispute may have a religious aspect does not make it non-justiciable. The husband's claim to religious freedom had to be balanced by countervailing right, values, and harm, including to the extent to which it was compatible with Canada's fundamental values such as equality rights.



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