

# Subsidiarity, sphere sovereignty, and state sovereignty

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## Abstract

An important question for liberal political theory is whether its account of political morality is compatible with religious political thought. This paper examines one aspect of that broad question, namely the compatibility of the Christian pluralist tradition with liberalism's account of state sovereignty. According to Cécile Laborde, a central commitment of liberalism—and perhaps its most radical—is the claim that the state possesses a form of sovereignty that she dubs 'competence-competence'. This refers to the state's meta-jurisdictional authority to decide the areas of competence of associations within it. The Christian pluralist tradition, in contrast, emphasises the independent authority of various kinds of social groups and the external limits this places on the state. The paper argues that, despite appearances to the contrary and the claims of many pluralist thinkers, these two views are compatible. It does so through a detailed examination of the two main strands of Christian pluralism, namely subsidiarity and sphere sovereignty, and by comparing pluralists' and liberals' approaches to the regulation of religious groups.

## Keywords

Christian political thought, liberalism, social pluralism, sovereignty, subsidiarity

An important question for liberal political theory is whether its account of political morality is compatible with religious political thought. This question is particularly pressing in the face of the re-emergence of religious politics in many countries in recent years, which is no doubt related to a growing sense of discontent with liberalism.<sup>1</sup> The aim

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of this paper is to discuss one putative tension between liberal political theory and Christian political thought, which revolves around these traditions' respective views of the authority of the state in relation to other groups and associations within society. More specifically, the paper explores—and ultimately seeks to defuse—a tension between liberalism's emphasis on state sovereignty and the Christian pluralist tradition. This is an important test case, given pluralism's centrality to prominent strands of Christian political thought and its influence in both European and US politics. In exploring this case, my argument also speaks to broader questions about how we should understand state sovereignty. The paper is thus relevant to political theorists generally, not only those with a particular interest in the compatibility or incompatibility of Christian political thought with liberalism.

The paper proceeds as follows. The next section explains the tension at a general level and sketches my central argument that the two views can be reconciled. The second and third sections advance this argument through a detailed examination of the two main strands of Christian pluralist thought—namely, subsidiarity and sphere sovereignty. The fourth section concretises the discussion by comparing how liberals and pluralists approach the question of state regulation of religious groups. I then conclude.

First, a quick comment on methodology. This is a paper in contemporary normative theory. I compare recent work on pluralism with contemporary liberal democratic theory in order to answer my central question regarding the two views' accounts of sovereignty. While I sometimes draw on past thinkers who have been influential in the development of Christian pluralist ideas, the focus is on (what I take to be) the best contemporary understanding of (relevant aspects of) those ideas. I am thus not seeking to develop a complete, transhistorical, account of subsidiarity or sphere sovereignty. Further, my presentation of both of those concepts below leaves room for differences in interpretation, since many of the features that I highlight could be elaborated and filled in in different ways. My focus is on articulating some of the central features of each, and particularly the elements that are relevant to my specific normative purpose. But before getting to those details, the next section sketches the putative tension between pluralism and liberal sovereignty, and how it might be defused, at a more general level.

## **Pluralism, liberalism, and sovereignty**

Prominent traditions of Christian political thought endorse social (or political) pluralism.<sup>2</sup> Broadly, this is the idea that a range of groups and associations within society possess rightful claims to a sphere of independent self-governance. The authority of such groups within their domain is not created or delegated by the state; it is inherent to the group, and thus foundationally independent from the state. Further, this authority places external limits on what the state may permissibly do. The state's sphere of jurisdictional competence is limited by the jurisdictional competence of other authoritative associations. For example, religious groups have a right to set their own criteria for membership, prescribed and proscribed practices, and decision-making structures, and the state lacks the right to interfere with these or to overrule the groups' decisions.

Universities have a similar right to make their own decisions regarding academic appointments, areas of research, and curricula. The claim here is not simply that it would be unjust for the state to interfere in such decisions, but that such interference would exceed the bounds of the state's authority. Such claims are also made with respect to the family, trade unions, professional associations, businesses, cultural associations, cities, and more. As Victor Muñoz-Fraticelli (2014: 32) puts it, social pluralism's concern is 'the preservation of a certain ambit of authority for corporate communities which, while not denying the authority of the state, nonetheless refuse to ground their own legitimacy on the state's acquiescence or permission, and insist on their own standing as arbiters of their own normative sphere'.

The two main strands of Christian pluralism are found in Catholic social teaching, particularly expressed through the concept of subsidiarity, and in Reformed political theology's notion of sphere sovereignty.<sup>3</sup> Notwithstanding some potentially significant differences between them,<sup>4</sup> both subsidiarity and sphere sovereignty emphasise the dispersion of authority between multiple social groups and the limits this places on state authority.

In her influential book *Liberalism's Religion*, Cécile Laborde argues that a central claim of liberalism—and perhaps its most radical—is that the state possesses a form of sovereignty that she calls 'competence-competence' (Laborde, 2017: 161–171). This refers to the state's authority to decide the extent of its own competence, and therefore the areas of competence of all associations within it. *It* ultimately decides what counts as public and private, as religious and secular, and as within the realms of church and state. Even if the state should only deal with civil interests and religious matters must be left to religious groups, what counts as 'civil' or as 'religious' is contested, 'and, ultimately, it must be set authoritatively by the final sovereign authority' (Laborde, 2017: 162)—the state. To use different language, even if non-state groups have jurisdictional authority within their domain, only the state possesses the *meta-jurisdictional* authority of determining the bounds of those domains.

The aim of this paper is to explore the (in)compatibility of these two views. Is the idea of state competence-competence compatible with social pluralism, or are the two irreconcilable?

The answer to this might seem obvious. A rejection of (exclusive) state sovereignty is central to the pluralist tradition (Muñoz-Fraticelli, 2014: 101–102). Social pluralist theorists often present their accounts in opposition to accounts of state sovereignty, a concept that Jacques Maritain—one of the most influential Catholic pluralists of the twentieth century—called 'intrinsically wrong' (Maritain, 1998: 29). More recently, Maria Cahill (2016) has presented subsidiarity as a competitor to sovereignty (see also Allard-Tremblay, 2018).

It is not clear that the notion of sovereignty that pluralists typically have in mind is the same as that endorsed by contemporary liberals, however. The critique tends to focus on early modern conceptions of sovereignty developed by theorists such as Bodin and Hobbes, according to which the sovereign 'has absolute power—nothing that he commands his subjects to do could be called injustice' (Cahill 2016, p. 113). Maritain (1998: 34) objects to sovereignty on the grounds that it involves a 'supreme power

separate and transcendent... and ruling the entire body politic from above', unaccountable to the people or any other body, and unrestricted in what it can authoritatively command. 'The sovereign holds supreme power to issue orders, promulgate laws, and decide conflicts for all individuals, authorities, communities, and associations within its territory, while it receives orders from none of them' (Ossewaarde, 2007: 108).

A liberal account of sovereignty does not see the state as having this kind of unlimited, absolute power. While the state is the highest legal authority, and the sole bearer of meta-jurisdictional authority, this does not mean that its actions are normatively unrestrained. As Laborde (2017: 168) puts it, 'a sovereign state has liberal legitimacy only if it pursues a recognisably liberal conception of justice, and does so democratically. That is, sovereignty is *internally* limited by liberal democratic principles' (see also Cohen, 2017: 567–569). In other words, the state can act in ways that are deemed *illegitimate*, such that the relevant dictates lack authority and citizens lack a moral obligation to obey. For example, a state that prohibited religious association, sought to directly appoint religious leaders, or dictated religious doctrine would be acting illegitimately, due to violating basic rights to freedom of religion.<sup>5</sup> But the limits here are internal, set by the normative principles of freedom, equality, and fairness that justify state authority in the first place. They are not external limits imposed by other groups with the practical authority to define the limits of their own domains of competence; the state remains unique in its possession of competence-competence. The question, then, is whether social pluralist theories are compatible with this moderated view of state sovereignty.

If social pluralists sometimes trade on an implausibly simplistic view of state sovereignty, then their critics can be guilty of a similar error. Critics sometimes suggest that non-state groups cannot have the kind of jurisdictional authority that social pluralists claim, because this would exempt them from all state law. But that isn't the case. Pluralists recognise that groups' sphere of authority is limited, and state interference is permitted in order to enforce those limits. For example, religious associations lack the right to deny their employees safe working conditions, and the state can thus enforce health and safety requirements. While social pluralists see the state as one group among others, they typically hold that it has a distinctive role in protecting individual and associational rights and in adjudicating conflicts that arise between groups. Non-state groups possess an authority that is foundationally independent of the state, but that does not mean that state intervention is never permissible.

The precise way that different authoritative groups, including the state, are seen to relate to one another, and the norms that ought to shape this interaction, varies between different social pluralist views—as we will see in the later discussions of subsidiarity and sphere sovereignty. But both of these accounts recognise a distinctive overarching, coordinating, role for the state. The state has the ultimate responsibility to ensure that rights are respected, to intervene on behalf of the common good, and/or to mediate in disputes between other groups' conflicting claims to authority. But if that is so then it seems like the state might have competence-competence after all. It is the ultimate legal arbiter.

This suggests that social pluralists and liberal theorists might be describing the same thing in different ways.<sup>6</sup> Social pluralists talk about the independent authority of associations, which places an external constraint on the authority of the state. Liberals talk about

the limits on state authority that arise internally from the principles of liberal legitimacy. But since those liberal principles include respect for associational freedom, and since social pluralists recognise that the state can interfere with associations to ensure public justice and/or the common good, both sets of theorists end up in the same place. Both endorse state competence-competence while also recognising limits on the state's authority.

The rest of this paper explores whether this is the correct conclusion to draw, or whether there is in fact a structural difference between the liberal and pluralist views of state sovereignty, ultimately endorsing the former view. To this end, the next two sections examine subsidiarity and sphere sovereignty in detail.<sup>7</sup>

## Subsidiarity

Subsidiarity is often understood simply as a principle of decentralisation: tasks should be carried out at the lowest level possible (Chaplin 2014). If a social problem must be addressed, then it should be addressed by those closest to the problem. Higher levels should intervene only if lower levels lack capacity; their involvement is 'subsidiary'. Further, this intervention should often take the form of strengthening and resourcing lower-level groups. Higher levels should only take on the task of addressing the problem directly when lower levels cannot be equipped to do so. As McIlroy, who adopts this decentralisation interpretation, puts it, 'decisions should be taken at the lowest level possible which is compatible with good government' (McIlroy, 2003: 739).<sup>8</sup>

As stated, this presentation is ambiguous as to what the 'levels' or 'groups' are. Often, subsidiarity is taken to be about levels of *government*. It is understood as a principle that aims to strengthen and expand the powers of local and regional governments, with national and supranational governments only accomplishing tasks that cannot be done at a lower level. Subsidiarity's incorporation into the legal order of the EU takes this form. Article 5(3) of the Lisbon Treaty states that action should only be taken at a Union-wide level when its objectives cannot be 'sufficiently achieved by the Member States, either at central level or at regional and local level'.<sup>9</sup>

Understood in this way, subsidiarity is a rather limited principle. It does not include a substantive account of what purposes should be pursued, nor of what goals can effectively be achieved at each level. Its practical implications will depend on how these elements are filled out. Indeed, subsidiarity could have an unintended tendency toward centralisation, if it is the central (or highest level) authority that sets policy goals and decides at what levels they can effectively be carried out. Subsidiarity encourages the authority to decentralise the execution of its chosen policy goals. But if it adopts ambitious goals that require the deployment of a large central bureaucracy to be fulfilled, then subsidiarity will not prevent it from centralising power and usurping tasks that might have otherwise been performed at lower levels.<sup>10</sup>

However, this understanding of subsidiarity is a distortion of the principle as developed within Catholic social thought, in four interrelated ways. First, subsidiarity is concerned with a broad range of kinds of human community, not just with levels of government. All forms of intermediate bodies—families, churches, trade unions, professional associations,

voluntary associations, etc.—fall within its ambit. It is a principle concerning social pluralism, not just government decentralisation.

Second, that pluralism is rooted in a Thomistic view of natural law and an associated social ontology, in which ‘human society is envisaged as a divinely ordered hierarchy of diverse, teleologically-oriented communities each ‘ordered to’ distinctive, non-transferrable ends’ (Chaplin, 2014: 69). These ends are seen as inherent in human nature, and contribute to human flourishing. Humans naturally form associations to pursue these ends, because ‘only a multiplicity of qualitatively different types of community could secure true human flourishing as designed according to divine wisdom’ (Chaplin, 2014: 70). As John Paul II puts it in *Centesimus Annus* (1991: §13),

The social nature of man is not completely fulfilled in the State, but is realized in various intermediary groups, beginning with the family and including economic, social, political and cultural groups which stem from human nature itself and have their own autonomy, always with a view to the common good.

Third, as this statement from *Centesimus Annus* indicates, intermediary groups enjoy a measure of autonomy in the pursuit of their distinctive goods. Their authority within their own domain does not derive from the state, but instead from their distinctive role in promoting human flourishing. Subsidiarity is thus not simply a matter of lower-level groups having better practical capacity to respond to certain needs or pursue certain goals. It is about those groups having their own authority to autonomously pursue the ends they serve. As Cahill (2016: 121) puts it, ‘The key insight here is that honoring the existence of these groups will entail honoring their internal authority structures’. Michael Pakaluk (2002: 138) also explains this well:

people will spontaneously enter into a variety of associations with one another to achieve things that they could not achieve easily or at all working on their own. Each association will have its own autonomy, authority, power of discretion, and ‘law’. When one association falls under another, the higher will play the role largely of regulating and coordinating.

Fourth, as this quote from Pakaluk indicates, the role of ‘higher’ associations is to regulate and coordinate lower ones. And as the quote from *Centesimus Annus* indicates, this regulation and coordination should be guided by the common good. ‘The particular ends, and thus goods, of various lesser communities are construed as integral parts of this wider good... [T]he preservation of a proper freedom for many lesser communities to flourish in relative autonomy is itself integral to the common good’ (Chaplin, 2014: 71). But this also means that the autonomy of each group is limited by the requirements of the common good. The distinctive role of the state is to ensure that the overall common good is promoted. This crucially involves promoting the freedom and flourishing of various groups, which is central to the realisation of the common good. The state can do this both by establishing general background legal and economic conditions for groups’ flourishing, and by providing assistance to groups that need it. But the state

also might need to intervene in more preventative or adjudicatory ways if groups' actions threaten the common good, or if there are conflicts between them.

The implication of these four features, as Russell Hittinger and Jonathan Chaplin argue, is that subsidiarity is better understood as a principle of *non-absorption* than one of decentralisation. 'Subsidiarity is a call for social functions to be fulfilled, not *at the lowest possible level* but rather *at the right level*; that is, by the community properly fitted to fulfil them' (Chaplin, 2014: 72; see also Hittinger, 2002: 396). As Cahill (2016: 110, fn. 4) puts it, 'Subsidiarity may well have decentralizing effects but its purpose [is] to afford due recognition to the natural authority of existing groups, and not decentralization for its own sake'.<sup>11</sup> Each group should have the autonomy to pursue the functions fitting to its end, without those functions being absorbed or usurped by the state, or any other 'higher' authority, all within an overall 'right order' that promotes the common good.

This understanding of subsidiarity is much richer than the decentralisation interpretation. It also addresses the problems that we identified with that account, at least at first blush. It places subsidiarity within an account of the ends that should be pursued, grounded in a conception of human flourishing. It thereby provides resources to resist the centralisation and homogenisation of authority, by delineating the authority of various kinds of groups.<sup>12</sup>

This understanding of subsidiarity also seemingly makes it much more radical with respect to the limits placed on state authority, by making it properly pluralist. Nadia Urbinati (2018: 188) argues that subsidiarity fits into a 'pluralist paradigm of social communities against the unitary and bipolar paradigm of individual/state that constitutes political democratic sovereignty'. The state's authority is limited by that of other groups, whose autonomy it must respect. Urbinati criticises subsidiarity on this basis, arguing that it fails to adequately prioritise individual freedom and equality.<sup>13</sup> Defenders of subsidiarity, such as Cahill (2016), also present it as an alternative paradigm to that of state sovereignty, but see this as an attraction rather than a deficiency.

A key question remains, however: Who has the authority to decide on the scope of the authority of different groups, and to settle disputes about this? Who decides which functions should be fulfilled by which groups, when state involvement is required, and when groups are acting beyond their authority—for example by violating the rights of individuals (including group members)? This becomes the central question when sovereignty is understood through the lens of competence-competence.

An initial response is that these questions can be answered by appealing to the Thomistic conceptions of the human person, natural law, social ontology, and the common good that undergird subsidiarity. But this simply pushes the question back one step: who makes the decisions regarding what these conceptions say in any particular instance?

On one reading, the answer to this question is surely that anyone can decide, based on their judgment of natural law and the common good. Anyone can issue a verdict on these matters. Indeed, discussions of these matters would presumably be a central feature of a politics operated in accordance with subsidiarity.

But the more relevant reading of the question concerns who can make *authoritative* decisions. Who has the authority to make decisions about these matters which are then binding on all parties, such that all others are obligated to obey?

Of course, this question would not arise in such a pointed form if there was a shared conception of the common good, accepted by all (or most) citizens. In that context, subsidiarity—and the broader conceptions that give it specific content—would function as a shared guide. There would no doubt still be interpretative questions at the margins, but in broad terms, the allocation of social tasks and functions would be agreed by all relevant parties.

Indeed, this leads Invernizzi Accetti (2019: 128) to claim that a judicial order based on subsidiarity ‘effectively renounces its own sovereignty, by delegating the ultimate authority to decide over conflicts of competence to the extra-judicial dimension of substantive sociological agreement over a set of essentially religious moral values’. On this view, then, subsidiarity denies the state competence-competence by effectively holding that we do not need a theory of competence-competence at all, because of societal agreement concerning the common good.

I am not sure how coherent this is, even in such a unified society. Even there, disagreements would arise that require authoritative settlements. But in any case, the assumption of unanimity about the good clearly does not hold within contemporary societies. As John Rawls (2005: 36–37) famously argued, ‘reasonable disagreement’ about such matters is an inevitable consequence of citizens enjoying basic rights and freedoms—rights and freedoms that advocates of subsidiarity would themselves endorse. Disputes about the competing demands of different associations, and about what powers and authority different groups legitimately possess, thus arise frequently, and there are no agreed standards for how to settle them. Somebody must be empowered to make authoritative decisions. Even for advocates of subsidiarity, that body should be the state. After all, it is the state that has the responsibility for overseeing the realisation of the common good across the whole of society. The upshot of this is that the state enjoys competence-competence.

To be clear, this does not mean abandoning the notion of subsidiarity, or its underlying Thomistic conceptions. It just means abandoning the idea that everyone agrees on those notions, such that this sociological agreement can be relied upon to settle disputes (or to prevent them from arising).

Indeed, subsidiarity certainly gives guiding principles regarding how state authority should be exercised. The state should aim to support social groups and enable them to carry out their functions. Cahill (2017) argues that primary units (i.e., social groups of various kinds) should indicate to subsidiary units (i.e., the state) when they require assistance. Subsidiary units have no general right of initiative to intervene in primary units’ self-governance, except in exceptional circumstances. Decisions on when and how to intervene should always be made with the aim of promoting the common good. Cahill (2017: 233) claims that this means that ‘no group has ultimate and exclusive power because the authority of both primary and subsidiary units is the servant of the good that is sought’.

Crucially, however, the subsidiary unit is the one with the final authority to decide when ‘exceptional circumstances’ have arisen that justify intervention with primary units, in order to protect and promote the common good. Such decisions should no doubt be made through transparent, accountable, and contestable political processes.



Non-intervention should be the state's default position, which is overridden only when there is a compelling reason to interfere. But competence-competence nonetheless rests with the state. The state ultimately has the practical authority to decide when the common good is threatened in ways that make intervention necessary.<sup>14</sup>

Cahill (2016) nonetheless insists that subsidiarity offers a fundamentally different conception of authority to that found within theories that endorse state sovereignty, including liberalism. One of her core contentions is that liberalism sees state authority as *superordinate*, whereas subsidiarity sees it as *supplemental*. Liberalism's primary focus is on the collective authority of all citizens, as free and equal, which should be exercised in accordance with abstractly derived principles of justice that have priority over competing claims. State authority is superordinate in that the state has a preeminent position with respect to the regulation of behaviour, and its commands override any conflicting requirements imposed by other groups. In contrast, subsidiarity sees the state as an authority of last resort, the central role of which is to buttress the efforts of other organically arising groups to fulfil their distinctive roles by exercising their authority. The authority of non-state groups is primary; the state's authority plays a supplemental role.

Cahill is right that contemporary liberal theories tend to focus on general principles of justice that apply at the level of the state and that are seen to have a certain kind of priority in regulating citizens' conduct. However, those principles both guide and constrain state action. For example, Rawls (2005: 450) argues that all reasonable political conceptions of justice recognise a set of basic rights, liberties, and opportunities and assign them special priority. Many of these are exercised within, and via, diverse groups and associations, which are thereby somewhat protected from state interference. Further, the standing of these groups arises not from state concession but from individuals' free exercise of their rights. To repeat a quote from Laborde (2017: 168), the state's exercise of 'sovereignty is *internally* limited by liberal democratic principles'. Importantly, in contrast to the Hobbesian conception of sovereignty, independent normative standards of legitimacy and justice can be used to assess state action. Further, liberal principles of justice are limited in scope, applying at the level of the basic structure of society, rather than governing citizens' lives comprehensively or regulating the internal life of associations.

Turning to subsidiarity, as we have already seen, the view still needs, and endorses, a state that enjoys competence-competence. Some of the exercises of that authority might well interfere with groups against their will, in order to protect the rights of individuals and to secure the conditions for the common good. In light of this, even if there is a sense in which liberal theory sees state authority as 'superordinate', it is not clear that this marks a fundamental or structural difference from subsidiarity's 'supplemental' state authority.

This is not to say that there are no differences in more substantive, policy, terms. Subsidiarity might well make distinctive recommendations with respect to what tasks the state takes on and what it leaves to other groups. For example, it might endorse a greater role for non-state agents within domains such as education, healthcare, and social services, with the state facilitating and empowering other groups' activities, rather than accomplishing all of these tasks itself. As Chaplin (2014: 74–75) puts it, quoting mid-twentieth century Catholic legal theorist Heinrich Rommen, 'The goal of

every state initiative should be, wherever possible, “a reconstitution of the order of self-initiative” (internal quote from Rommen). Even here, however, much will turn on the details of the account of the common good. As Chaplin writes,

It is crucial to emphasise that no classical liberal doctrine of the ‘minimal state’ is implied by Catholic pluralism. The state should not be as small as it can be but as big as it needs to be to fulfil its mandate. (Chaplin, 2014: 74)

Indeed, Catholic social teaching has advocated a wide range of state activities in response to the increasing complexity and interdependence of modern social conditions. It is thus not obvious that subsidiarity leads to a smaller state than that endorsed by liberal theorists,<sup>15</sup> even though it at least involves a tendency toward tasks being carried out by non-state groups.

In sum, subsidiarity is in no way inert. It can certainly be used as a guide when prescribing and evaluating political action. However, it is not a competitor to the liberal conception of state sovereignty, understood as competence-competence. The next section explores whether the same is true for sphere sovereignty.

## **Sphere sovereignty**

While subsidiarity is associated with Catholic social thought, the notion of sphere sovereignty has been developed within the Reformed (Neo-Calvinist) tradition. It holds that multiple areas of human life have their own God-ordained spheres, which have independent and equal God-given authority. Social pluralism is rooted in the nature of the created order. Each sphere has a distinct calling and should be structured according to internal principles specific to that sphere, and each has a juridical dimension—including the authority to impose duties on members, based on the norms appropriate to that sphere.<sup>16</sup> As Chaplin (2011: 193) explains, in a book expounding the views of sphere sovereignty theorist Herman Dooyeweerd, ‘the juridical dimension of each structure therefore possesses a uniqueness and irreducibility rooted in the created order. Juridical sphere sovereignty is thus grounded ultimately in divine sovereignty’.

The independent authority of the various spheres places limits on the state’s authority. ‘The diverse juridical spheres of the different societal relationships (and of persons) erect boundaries that the state, or indeed any other structure, may not cross’ (Chaplin, 2011: 194). Abraham Kuiper, who first formulated the modern concept of sphere sovereignty,<sup>17</sup> wrote that:

Although this Official [i.e., state] Sovereignty has certain proper powers to protect formally the mutual relations of the other spheres, and thereby make possible orderly human society, it may never present itself as having a sovereignty from which the sovereignty of the other spheres were merely derived. This is never the case. The sovereign authorities of the family, of the church, etc., are derived as directly from God as is the sovereign authority of the government. (quoted in McIlroy, 2003:752)

There is some debate as to whether subsidiary and sphere sovereignty are compatible with one another. Chaplin (2011: 147–148; 2014: 73–74) argues that they are, and indeed the most plausible versions of each concept converge. While they have different theological origins, the two theories ultimately present similar insights regarding social pluralism, associational authority, and the resulting limits on the state.

Others insist that there are fundamental differences between the two. MRR Ossewaarde argues that they are grounded in distinct, and incompatible, metaphysics. While ‘subsidiarity is grounded in Aristotelian metaphysics of the hierarchical part-whole relationship and the social and political nature of man’, sphere sovereignty ‘is grounded in the Calvinist metaphysics that each association must fulfill the given responsibilities assigned to it according to its calling’ (Ossewaarde, 2007: 107–108).<sup>18</sup> The key resulting difference is that subsidiarity does not genuinely recognise the existence or sovereignty of spheres. While communities have distinct ends, they are each part of the same hierarchically ordered overall social structure, oriented to the overarching common good.<sup>19</sup> In contrast, sphere sovereignty sees groups as having exclusive decision-making authority within their domains. There are norms of justice that apply within each sphere, based on its distinctive character, but these do not exist in a part-whole relation to other spheres. Sphere sovereignty is more deeply pluralistic, in this sense. While Ossewaarde presents this as an advantage of sphere sovereignty, Cahill (2017) highlights the same features as showing the superiority of subsidiarity, on the grounds that the latter permits shared competence and cooperation between groups in a way that the former forecloses.<sup>20</sup>

For our purposes, we do not need to settle these debates. But the putative differences that Ossewaarde and Cahill point to are relevant, because they suggest that sphere sovereignty might reject state competence-competence. All groups, including the state, enjoy exclusive God-given authority within their spheres. The state does not get to define the scope of its own or other groups’ competences. The extent of the competence of each is determined by the given normative principles that define each sphere, not by the will of the state.

But what is the role of the state on this view? Kuyper states that ‘it must provide for sound mutual interaction among the various spheres, insofar as they are externally manifest, and keep them within just limits’ (quoted in McIlroy, 2003: 755). Despite being one group among many, the state has a distinctive role in ensuring that other groups remain within the bounds of their authority and relate to one another in ‘sound’ ways. As Chaplin (2011: 201) puts it, ‘while each community would remain responsible for justice within its own sphere, only one agency could be responsible for arbitrating between different communities (and individuals). Such an agency is then a public-legal community’. The state is thus responsible for ensuring *public* justice. Further, this includes protecting the rights of individuals against communities in which they are members. No group’s authority extends to violating the civil rights of its members, and so the state can prevent such violations without infringing on the group’s jurisdiction. As Kuyper wrote, the state must both ‘compel mutual regard for the boundary-lines’ between spheres and ‘defend individuals and the weak ones, in those spheres, against the abuse of power of the rest’ (quoted in David, 2020: 132).<sup>21</sup>

This brings state competence-competence back into the picture. In ensuring that the rights of different individuals and groups are respected, the state will by definition be making judgments about the extent of those rights. If those judgments are authoritative, due to falling within the state's competence in providing public justice, then the state enjoys competence-competence. It ultimately decides on the extent of the authority of all groups recognised in public law. Those decisions should respect the dictates of sphere sovereignty, and thus recognise the independent authority of other groups. But they are still decisions for the state to make.

Dooyeweerd explicitly rejected competence-competence, however, on the grounds that it makes political power juridically unlimited by absolutising the state. The state should recognise limits to its law-making competence 'as intrinsic to its very nature' (Chaplin, 2011: 208) as one sovereign body among others. However, on Chaplin's telling, Dooyeweerd also recognised that the state

must be able finally to settle disputes about the boundaries of the legal competences possessed by other spheres... The state must retain the final say in *positivizing* the public-legal boundaries of legal sphere sovereignty. This surely is an inescapable implication of *political* sphere sovereignty. Other societal structures have original legal competence, but only the state also has final legal competence to determine the *positive* public-legal boundaries of other spheres' legal competence. (Chaplin, 2011: 210, emphasis in original)

As Chaplin (2011: 211–212) acknowledges, this seems like an admission of competence-competence. But he argues that it is not, on two grounds that we will consider in turn.

First, the *executive* branch certainly does not have competence-competence. Constitutional limits that reflect the idea of sphere sovereignty should be placed on the government and enforced by the courts. Groups who believe that their sphere sovereignty has been violated should be able to appeal against the relevant laws or executive actions.

This is an important point, but it does not distinguish sphere sovereignty from the liberal view. That view also endorses the state imposing limits upon itself, via legal (including constitutional) means. Such mechanisms still involve branches of the state deciding the limits on the authority of law, rather than those limits being decided by some non-state authority. They do not undermine the state's competence-competence.

Chaplin's second argument disputes this, on the grounds that all law, including state law, is subject to normative principles that constrain the competence of the juridical authority. Normatively, the state cannot set the bounds of its own authority because that authority is limited by given principles of the created order with which it is duty-bound to comply. The state is subject to those principles even as it carries out its role of positivising the legal boundaries between different spheres and between them and the state itself. Its authority in this respect is not unrestrained. Chaplin acknowledges that it cannot be guaranteed that the state will abide by the restraints that apply to it. Indeed, much political debate within a democratic society will (explicitly or implicitly) concern where those restraints fall. But the fact that they exist, objectively and independently of the state's decision-making, means that the state lacks competence-competence, according to Chaplin.

If this is indeed what is involved in rejecting state competence-competence, however, then the liberal view also rejects it. Liberals hold that the state is constrained by normative principles, and expects the state to self-limit its activities in line with those principles. They too look to mechanisms such as the separation of powers, constitutions, judicial review, and democratic debate to enforce those limits. Limits on legislative and executive action imposed by such mechanisms involve a legal ‘internalisation’ of external limits that already exist, normatively speaking. But it is still the state that makes the legal, enforceable, decision as to the nature and extent of those limits.

In sum, both views recognise that it is ultimately the state that will make decisions about the scope of its own and all other groups’ competencies, while entreating it to make those decisions in ways that respect the normative principles that apply. Perhaps Chaplin would conclude from this that liberals do not in fact endorse state competence-competence, in its true meaning. For her part, Laborde would conclude that Dooyeweerd (and Chaplin) endorse competence-competence. But this remaining disagreement is merely semantic.

As with subsidiarity, there might well be differences between liberal and sphere sovereignty views in terms of their substantive proposals.<sup>22</sup> The latter might endorse more extensive normative restrictions on state activity than the former (although Chaplin in fact attributes a fairly expansive conception of public justice to Dooyeweerd). But, again, there does not seem to be a structural difference here.

## Regulating religious groups

The discussion up to now has been fairly abstract. In this section, we will get somewhat more concrete by considering how liberals and pluralists would approach the issue of whether and when the state may permissibly interfere with religious groups.<sup>23</sup> At the risk of repetition, in examining this issue I will again articulate the way in which the liberal and pluralist analyses may seem importantly distinct, but then argue that they are in fact structurally similar because both acknowledge state competence-competence.

Let’s imagine a religious group that prohibits its members from engaging in extramarital sex and disciplines those that violate this requirement—for example, by requiring them to engage in practices of confession and penance, to attend courses teaching sexual purity, and ultimately by expelling and shunning those who refuse to submit to these requirements or continue to engage in the prohibited behaviour. Now imagine that a former member sues the group, claiming that being subject to these disciplinary practices caused undue emotional distress.<sup>24</sup> Can the state side with the dissenter and interfere with the group—for example, by requiring it to pay damages and/or to reform its practices?

Pluralists would say no. These kinds of membership requirements and disciplinary procedures fall within the rightful jurisdiction of the religious group. The state lacks jurisdictional authority to intervene. The imagined lawsuit is inadmissible. It is up to a religious group to decide what individuals must do in order to remain members in good standing, based on its own normative commitments.

Liberals agree that religious groups should have freedom in this regard, in order to protect freedom of association. A religious group cannot maintain its identity as one

gathered around particular beliefs and practices if it cannot require members to abide by those beliefs and practices.<sup>25</sup> This might mean that the state should not intervene in the case under discussion. But this does not constitute a jurisdictional bar. The regulation of religious groups to ensure that individual rights and interests are adequately protected falls within the state's jurisdiction. This is what it means for the state to exercise competence-competence—it decides whether particular practices fall within the permissible exercise of religious freedom. As Laborde (2017: 166) writes, relevantly for the case under discussion, 'states define what constitutes *harmful* behavior—a key notion in the regulation of religion, as it sets out the boundary of permissible religious activities'. States can get this wrong, and thus act unjustly by imposing unwarranted burdens on religious groups. There is a strong argument that that would be true if the state interfered in the case under discussion. But this does not mean that such states exceed their authority or act *ultra vires*. The question of whether the state should intervene is one of just balancing the relevant interests at stake, rather than such intervention being off limits in principle.

The pluralist and liberal analyses look fundamentally different here. This apparent difference does not stand up to further scrutiny, however. To see this, consider a variant of the case. Imagine that the disciplinary courses that the individual was required to attend involved practices that appeared abusive, such as emotional manipulation, brainwashing, or physical assault. For liberals, courts would again need to balance the relevant interests that are at stake—i.e., the group's interest in freedom of religion and the individual's interest in being free from abuse (and the state's interest in protecting that interest).<sup>26</sup> The state must decide whether this practice falls within the scope of freedom of religion, or in fact violates individual rights. Even when individual rights are at stake, there might be further arguments for why the state should not interfere, for example, that the individual consented to the church's requirements. But, again, the state has the authority to decide whether to interfere with the group, in the light of the relevant normative considerations. We can easily imagine cases where liberal theorists would overwhelmingly agree that the state should intervene.

How would pluralists respond to this case? One possibility is to again say that it falls beyond the state's jurisdiction: criteria for membership, including disciplinary procedures, fall within religious groups' jurisdiction and the state is barred from engaging in any kind of review of them and from interfering with them in any way. This would maintain a sharp distinction with the liberal approach. But, as we have seen, it is not how Christian pluralists in fact respond. Instead, they recognise that protecting citizens' fundamental individual rights is part of the state's role. The group has a rightful claim to control its own membership as part of its self-governance, but the state has a rightful claim to prevent violations of citizens' rights. Further, and crucially, pluralists also recognise that the state has the authority to adjudicate such competing claims. While paying due attention to the group's independent authority, the state can consider whether the group should be permitted to act in this way, and can decide that it should not. Citizens' rights place restrictions on what groups can demand of their members and the way that they can treat those individuals, and the state has the authority both to decide where those restrictions lie and to enforce them. We can again imagine cases where most pluralists would agree that the state should intervene.

This again suggests that pluralists accept state competence-competence, at least in the way that I (following Laborde) have been using that term. The state has a unique responsibility to settle jurisdictional conflicts, which gives it the authority to make decisions regarding those conflicts that are binding on all parties. The state should exercise this responsibility with an active awareness of the authority of other groups and the limits that authority places on permissible intervention. But, nonetheless, it is the state that makes authoritative, final, determinations about where those limits lie. It decides the boundaries of all groups' authority, including its own.

Laborde (2017: 166–171) herself reaches this conclusion. She argues that despite their common self-presentation, pluralists ultimately accept the liberal view of state sovereignty.<sup>27</sup> They are best read as theorists who emphasise and make vivid the legitimate demands of associations to freely organise and manage their internal affairs. Their talk of sovereignty and jurisdictional authority is a way of marking that emphasis rather than being a genuine alternative to the liberal statist view. Pluralists are likely to argue for particularly extensive normative limits on the state with respect to inferences with religion, due to holding capacious views of associational and religious freedom. But that is not the same as genuinely rejecting state sovereignty, understood as competence-competence. As Andrew Koppelman (2013: 152) puts it, when making a similar argument, 'the boundary between church and state must be delineated by the state... Religious liberty is a right among other rights, and the state has to adjudicate among these'.

Of course, the state can make incorrect decisions about where the limits lie. It can choose not to interfere in cases where it ought to do so, and it can interfere in cases where it ought not do so. Pluralists would no doubt see this latter possibility as the more common occurrence, and thus the greater threat. When it eventuates, the state oversteps its proper bounds and violates other groups' legitimate jurisdictions. Perhaps pluralists would hold that all such cases involve illegitimate state action, such that the state's determinations are not authoritative and the subjects of those determinations have no obligation to obey them. This is how Jean Cohen, a vociferous critic of social pluralism, seems to understand the view. She claims that pluralists 'deem the priority accorded to the state in the modern sovereignty regime to be only factual, not moral' (Cohen, 2017: 555). The state is just one group among many making equally authoritative claims about where the boundaries of authority lie and how conflicts should be settled. Any apparently distinctive authority it has to settle these bounds must be *de facto* rather than *de jure*. If this is right, then the claims in the previous few paragraphs were too quick. The state does not enjoy genuine competence-competence here. In practice, it is the body that makes final determinations that other parties will comply with. But normatively speaking its claims about jurisdictional boundaries are no more authoritative than those of other groups, and they only have a legitimate moral claim to be obeyed in the cases where they are correct.

Another way to put this would be to say that liberals recognise a category of legitimate injustice, while pluralists do not. For liberals, the state sometimes makes unjust decisions regarding associational freedom, for example by interfering in group actions that fall within the proper scope of that freedom. But its decisions are nonetheless legitimate, and others ought to comply with them.<sup>28</sup> On Cohen's reading, pluralists reject this,

and hold that state decisions are legitimate only when just. Decisions that are unjust but legitimate cannot occur, because the injustice of the decisions means that the state's actions fall outside of the scope of its authority.

There are several reasons to reject this reading, however. First, it would leave the pluralist view unnecessarily conceptually impoverished. The idea of legitimate injustice—that the state can make decisions that are objectively unjust but where its actions are nonetheless permissible—is a highly plausible one. Take a different kind of example. When a state enacts economic policies that fail to realise the ideally just level of economic redistribution those policies still appear to be legitimate. They can be permissibly enacted and enforced, despite their being unjust. The same seems to be true if a state makes a church pay damages for abuse in a case where its conduct should not have been found to violate individual rights.

Second, losing the category of legitimate injustice prevents authority from playing its crucial practical role. Pluralists recognise that there will always be disagreement about the boundaries of groups' jurisdictions. Different people will have different views regarding the just determination of where the boundaries lie. The purpose of an adjudicative body is to settle this disagreement by making decisions with which all parties must comply. This does not mean that all parties must agree that the decision is correct. Those whose views have not won out might well disagree with it. But they nonetheless must comply with the verdict of the adjudicator. The disagreement has been settled in that practical sense.<sup>29</sup> This practical role would be lost if there was no legitimate injustice. After all, those who disagree with the decision believe that it is unjust. So their reason to comply with it cannot be its justice. It must instead be that the decision is legitimate despite being unjust. There can be no authoritative settlement of the dispute if ongoing disagreement about the justice of the settlement undermines its legitimacy, and this would undercut the purpose of having an adjudicator in the first place.

Third, as we have already seen in the case of both subsidiarity and sphere sovereignty, pluralists do in fact endorse state adjudication. While they see the state as one group among many, they also recognise that it has a distinctive function as the body that adjudicates jurisdictional disagreements. Indeed, for many pluralists, this is the fundamental reason why we need a state. Endorsing the state's adjudicative function means accepting that there can be legitimate injustice, and that means accepting that the state has competence-competence.

The position we have reached is the following. Both pluralists and liberals see the state as having competence-competence, and thus the authority to adjudicate on the scope of other groups' authority and freedom, and both recognise that the state's verdicts in this regard can be unjust yet legitimate.

We should add to this picture that both views also hold that there are cases where state intervention would be illegitimate, rather than merely unjust. I think pluralists would reach this verdict on the case with which we opened this section. Control over membership of the kind exercised there is a core part of religious groups' jurisdiction. If the state interferes with it then it acts *ultra vires*. The state cannot legitimately hold that the group is not permitted to impose and enforce standards of sexual conduct. Such a holding would effectively declare that it, rather than the group, is in control of religious doctrine.



Liberals also recognise that the state can overstep the bounds of its authority its ways that render its decision illegitimate. Laborde (2017: 167–169) distinguishes between cases where the state's determinations are contestable, with some considering them to involve unjust encroachments on associational freedom (or, on the flip side, unjust failures to interfere), and cases where the state's determinations violate basic standards of liberal legitimacy. We can use another variant of our original case here. Imagine that the state decreed that religious groups were not permitted to teach (let alone enforce) standards of sexual conduct. The state believes that all teaching regarding sexual morality and immorality is damaging to members of religious groups, and so all such teaching is prohibited. Here, the state directly dictates religious dogma. This violates the core of freedom of religion, and so would be seen as illegitimate by most liberals. An even more obvious case would be one where the state simply banned all religious associations. The liberal principles that justify the state's authority in the first place rule out these uses of that authority.

Pluralists might insist that this means that religious groups have a domain of jurisdictional authority that the state is not permitted to infringe. The fact that there are some decisions about the scope of its own and associations' competencies that the state cannot authoritatively make means that it does not enjoy unlimited competence-competence. If pluralists accept state competence-competence, then perhaps it is equally true that liberals accept a degree of social pluralism. But whatever terminology we apply, the key point for my purposes is that both views recognise the state's role in setting the bounds of associations' autonomy, but both also think that role can be exercised in illegitimate ways.

There is of course a question of how these limits to state legitimacy can be enforced. Here, both liberals and pluralists are likely to point to the same familiar mechanisms for enforcing other basic rights: a division of powers, the rule of law, the constitution, judicial review, supranational human rights conventions, perhaps a supranational court that hears cases relating to those conventions (such as the European Court of Human Rights). In all of these ways, states bind themselves to abide by the limits to their own authority.

It is important to again acknowledge that pluralists and liberals are likely to have different views on where those limits lie. I have argued that the two views are structurally similar. Both recognise state competence-competence, the possibility of legitimate injustice in the exercise of that authority, and limits on the legitimate exercise of that authority. But pluralists' emphasis on group authority and self-governance is likely to mean that they endorse greater restrictions on state authority, such that more cases fall into the category of illegitimate interference.<sup>30</sup> Returning to our opening case, imagine that the state prohibits practices of shunning by religious groups in relation to former members, empowering those who are subject to shunning to seek legal compensation, in order to protect individual citizens' interests against what it sees as the overbearing exercise of religious authority. Liberals might well hold this to be a legitimate exercise of state competence-competence, even if most conclude that it is unjust, due to excessively interfering with religious groups' practices. Pluralists, in contrast, are likely to see this as straightforwardly illegitimate. Something similar would be true regarding certain kinds of regulation of churches' employment decisions, such as prohibitions on discrimination

on grounds of sex and race. Nonetheless, this does not detract from my central conclusion regarding both views' endorsement of state competence-competence.

Some might think that this last claim is too quick, however. Pluralists and liberals might have extensive disagreements about where the bounds of legitimacy lie. Pluralists might often view as illegitimate decisions that liberals view as falling within the domain of reasonable disagreements about justice. If so, then why does it matter that they both endorse competence-competence? And what is the purpose of the distinction between legitimacy and justice if it no longer picks out an agreed set of decisions where we agree about legitimacy but disagree about justice? A critic might argue that the substantive disagreement between the views is what matters most, and if that disagreement is extensive then pluralists do not endorse the liberal view of sovereignty after all.<sup>31</sup>

There are several things to say in response to this objection. First, it matters in itself that the two views have a similar conceptual structure—i.e., that they both endorse state competence-competence while recognising that the state's actions can sometimes be illegitimate, and can also be more or less just even when legitimate. As we have seen, this rebuts interpretations of pluralism that hold that it rejects competence-competence and/or cannot recognise the category of legitimate injustice. It also rebuts interpretations of liberal sovereignty that see it as absolutising the state such that its actions can never be illegitimate. The structural similarity makes room for the possibility of the two views being compatible—or at least for some versions of the two cohering. It also means that our focus should be on these substantive questions regarding the views' accounts of justice and legitimacy, as opposed to the current tendency for pluralists to decry liberal sovereignty and liberals to decry pluralists' (apparent) rejection of state sovereignty.

Second, disagreement about the bounds of legitimacy does not undermine these points. After all, liberals themselves also disagree on this. For example, debates about public reason and perfectionism are about legitimacy, with public reason theorists viewing as illegitimate various perfectionist policies that liberal perfectionists see as perfectly legitimate (see Quong, 2011). Public reason theorists also disagree among themselves regarding the conceptualisation of 'public reason', and thus about what laws are and are not publicly justified (see Billingham and Taylor, 2022). But the distinction between justice and legitimacy is still important here, precisely because it picks out two different kinds of disagreement and enables us to understand the normative implications and stakes of the disagreements that fall into each category.

Third, however, it is true that my argument would be less significant if there was no, or very little, agreement between pluralists and liberals about the bounds of legitimacy. The structural similarity I have emphasised would matter less if the substance of the views was radically divergent, such that pluralists routinely deemed illegitimate state actions that liberals consider legitimate. While I do not think this situation would make my argument completely insignificant, I also do not think it is the situation that obtains in any case. Liberals' focus on freedom (including associational freedom) means that they recognise the live possibility of illegitimate interferences with religious (and other kinds of) associations. Pluralists' concern with the common good and/or public justice means that

they recognise that certain interferences with those groups can be legitimate. Further, more broadly, the two views have significant areas of agreement regarding the role of the state and the legitimacy of its actions in various policy areas. Of course, both pluralism and liberalism are broad schools, and the level of overlap between them will depend on the specific pluralist and liberal views we have in mind. Exploring all of the possibilities here is beyond the scope of this paper. It is the kind of substantive investigation that would follow on from the argument in this paper. For our purposes here, though, what matters is that pluralists' substantive views on legitimacy (and justice) generally will not diverge so far from those of liberals as to undermine the significance of my argument regarding pluralists' endorsement of competence-competence.

## Conclusion

This paper's central claim is that Christian pluralism does not present a different view of state sovereignty, as competence-competence, than that found within liberal political theory. It does not provide a conceptually or structurally distinct perspective on how the liberal state should relate to other groups, or even about how decisions regarding particular claims by groups should be made. This is good news for political liberals, in as much as they hope their political morality is compatible with religious political thought.<sup>32</sup> In my view, it is also good news for pluralists, since it means that pluralism can be presented as offering a competing conception of justice to other conceptions that fall within the liberal family.<sup>33</sup> Indeed, pluralism contains important insights regarding the nature of social life, individuals' competing allegiances and sources of obligations, and the importance of group life to individual freedom. These insights should inform our views concerning the normative limits on state authority, leading to a conception of justice that gives wide scope to associational freedom.<sup>34</sup> But my argument does mean that some of the ways that pluralism is commonly presented—such as that it presents a fundamental challenge to prevailing views of state sovereignty—are mistaken.

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## Notes

1. For discussion of these trends, see Vallier (2023).
2. I use the term ‘social pluralism’ throughout. Some authors use ‘political pluralism’ instead, but for my purposes I take these two terms as equivalent.
3. There are also non-theological pluralist theories. The heyday of the view was in the early 20th Century, with the ‘British pluralists’, but there has been an increase in interest in pluralism within contemporary political and legal theory. The most sophisticated contemporary discussion is Muñiz-Fraticelli (2014).
4. Some of which are explored below.
5. As I discuss further below, the state can also act *unjustly* but legitimately.
6. This is something that Laborde (2017: 166–171) herself argues. For a contrasting view, see Cohen (2017) and Cohen (2020).
7. On some readings of the history of these concepts my conclusion might seem unsurprising. Arguably, the concepts were developed as part of Christian social teaching adapting to the demands of modern liberal democracy. Even if this is true, however, many pluralists (and liberals) have claimed that pluralism is incompatible with liberal ideas of sovereignty. In the light of this, my conclusion does seem surprising, and is certainly worth articulating and defending. Thanks to an anonymous reviewer for raising this issue.
8. For other examples of authors understanding subsidiarity in this way, see Bosnich (1996) and O’Brien (2007).
9. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C:2008:115:TOC>.
10. McIlroy (2003: 749–750) critiques the EU’s incorporation of subsidiarity on these grounds.
11. Indeed, Cahill notes that if ‘decentralisation’ assumes that the state has original authority which it then chooses to bestow on other groups then it is the opposite of subsidiarity. Hittinger (2002: 395) makes the same point.
12. Thus also better achieving the goals of the decentralisation interpretation.
13. Cohen (2017) presents a similar critique targeted at all pluralist views.
14. Muñiz-Fraticelli (2014: 64–73) argues that this appeal to the common good means that subsidiarity is not genuinely pluralist, because it does not see the claims of different groups as incommensurable. I am unconvinced that incommensurability is a necessary feature of pluralist views. Further, Laborde (2017: 170) argues that even Muñiz-Fraticelli ultimately endorses state competence-competence.
15. Of course, there is also extensive disagreement on these matters among liberals.
16. A sphere’s juridical dimension also includes rights, including rights of members within the association.
17. Johannes Althusius is often credited with an earlier, and perhaps the earliest, articulation.
18. Ossewaarde’s presentation of sphere sovereignty focuses on Althusius, but it seems safe to assume that he would make the same argument regarding later articulations.
19. A defender of subsidiarity would no doubt emphasise that the common good is itself highly pluralistic, according to Thomistic social ontology, such that groups enjoy extensive domains of self-governance.
20. Chaplin would argue that Cahill’s claims rest on a misunderstanding of sphere sovereignty, in its most persuasive form. According to his exposition, Doeyeweerd’s version explicitly acknowledges the many ways that different spheres relate to one another and cooperate.

21. McIlroy (2003: 755–756) explains that not all followers of Kuypers agreed on this second point. Some held that sphere sovereignty bars *all* interferences with groups. McIlroy rightly argues that this position is unsustainable.
22. Again, there will also be differences among both camps in this respect.
23. In this section, I write of ‘pluralists’ as a general category, including advocates of subsidiarity and sphere sovereignty, and also of secular versions of social pluralism.
24. For a relevant legal case, see *Westbrook v. Penley*, 231 S.W.3d 389 (Tex. 2007). See also *Paul v. Watchtower Bible & Tract Soc’y of N.Y., Inc.*, 819 F.2d 875 (9th Cir. 1987). For discussion, see Lund (2014: 1212–1214).
25. For relevant discussion, see Billingham (2019a).
26. Such balancing should also be done when enacting relevant legislation. I focus on courts because they are ultimately responsible for adjudicating these kinds of cases, guided by legislation.
27. Laborde primarily discusses Muñoz-Fraticelli (2014) and Smith (2016) here. It would take us too far afield to examine whether she is right with respect to those theorists in particular.
28. At least within certain bounds (a point I return to presently), and as long as other conditions for legitimacy (e.g., democratic enactment) are fulfilled.
29. Of course, there might well be channels for appeal. But the point here still stands, once a final determination has been made.
30. Laborde seems to overlook this. See Billingham (2019b).
31. Thanks to both Marilee Coetsee and an anonymous reviewer for pressing me on these points.
32. For a wider discussion of whether Christians can be part of the Rawlsian overlapping consensus, see Billingham (2021).
33. On the idea of a family of conceptions of justice, see Rawls (2005: 450–452); Laborde (2017: 150–159).
34. For a broader examination of the place of pluralist thought within liberalism, see Levy (2015).

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