

SPHERE SOVEREIGNTY 101

The real debate is not between libertarians and social democrats. It's about true political and social pluralism.

By Ray Pennings and James Brink

Be prepared. The old Boy Scout motto rings true in the boardroom as well as it does on the camp site. It's not that I wasn't prepared for the question; in a sense, I've been preparing my whole life for this sort of question. Still, one's language and examples must be appropriate to the situation. My pointer paused while my mind raced.

A moment before, I had been walking through my recent report bearing the hefty title *Competitively Working in Tomorrow's Construction*, explaining to the suits arranged around the table what the organization of work would look like in the construction sector of the future. Construction is a tough pool to stay afloat in, given the up-and-down nature of the industry. In fact, investors use construction as an indicator: where it goes, the rest of the economy is sure to follow. Market uncertainty is not the only variable. Safety regulations, labour laws, union interests, and the price of raw materials can run a company into the ground if it isn't fast on its feet. The men around the table in front of me were leaders in this industry. They were used to playing hardball.

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One man had been idly leafing through some of the Work Research Foundation's promotional material while I talked. He seemed interested, yet his expression was quizzical. Out of the corner of my eye, I saw him raise an inquiring finger. I stopped, and he leaned his capable bulk forward in the chair.

"Your materials here say that your think tank's mission includes influencing people to a 'Christian view of work'. What does *that* have to do with *this*?" He thumped his finger on the construction industry report.

Back to thinking fast. I'd given the speech before, but it wasn't the one I had prepared for this group. But the premise driving our think tank is that core assumptions do shape practical policy. I fumbled for a dry-erase marker.

“What does a Christian view of work have to do with the construction industry? A lot, I’d say. But let me show you what I mean.”

I stepped to the whiteboard and started scribbling out an array of lines and circles in black ink. “Let’s start with the dominant view of politics, work, and society today. While there are a few nuances that political theorists and historians would want to add, most would agree that we operate in essentially a rights-based model of society. You can use the trilogy of inalienable rights in the American Declaration of Independence—life, liberty, and the pursuit of happiness; others might prefer the list found in the Canadian *Charter of Rights and Freedoms*, which include certain democratic, mobility, legal, equality, and language rights; still others will reference a decision of some court that provides a newly defined right, such as the right to be protected from my own lack of common sense, meaning that McDonalds is supposed to warn me that the coffee I order is hot.

“The idea that every individual possesses irrevocable rights *has* led to magnificent changes in how the disadvantaged members of society are treated. It led to emancipation and civil rights for black slaves in the United States, women’s suffrage, the virtual elimination of child labour, and humane working conditions for the rest of us. Yet, like an over-exercised muscle that constricts the body’s normal movement, rights talk has begun to unbalance the public conversation.”

I drew a bunch of small circles on the board. “Most public policy thinking occurs in a framework where we view society as a group of individuals with rights who happen to live in a common area of geography.

“So how do individuals deal with each other and sort out issues when their rights conflict? Put over simply, we count noses and let the majority decide. Now since it’s too tedious and time-consuming to do this on every issue, we invented democratic processes to elect representative governments to sort through this stuff for us. But does this mean that government can pass any law it wants? Can it tell you how to run your business?”

Wrong question for this audience. The construction industry needs to contend with extensive environmental, employment, bidding, building code, training, investment, and other regulations. In the course of the conversation, someone asked for an update on one contractor’s court challenge to a particular tribunal decision. Not surprisingly, there were more than a few opinions about which regulations needed to be changed or scrapped.

“The fact that we have the right to challenge government decisions through the courts is evidence that a rights-society is not the same as majoritarianism. Our systems are rooted in social contract theory, which has its roots in the ideas of Thomas Hobbes, John Locke, and Jean-Jacques Rousseau. In a nutshell, this theory says that we are born

with all kinds of rights, but through our citizenship, we contract away certain of these rights to the government in order for our own safety and comfort. But the contract has limits. Only items contained in the contract are areas that the government can limit our freedom.

“Now I know we are meeting today to talk about construction regulations, not political theory, but bear with me for a few more minutes and I will try to connect this to everyday practice. There are two key assumptions that guide most thinking about public policy today. First, legitimate authority in the public realm rests only with individuals and with government. Second, every dispute ultimately comes down to some rights-based deal.

“That’s why we end up with so many tribunals, courts, contracts, and lawyers. Labour relations becomes a process of negotiating and enforcing contracts. Gender relations becomes avoiding sexual harassment charges and complying with employment and pay equity requirements. Running a local baseball team becomes a process of obtaining criminal checks for coaches, ensuring liability insurance is in place, and ensuring that every child receives exactly the same amount of playing time.”

I paused a moment for dramatic effect, went to the board, and drew a thick diagonal line across.

“At the Work Research Foundation [later renamed Cardus], we operate with a very different paradigm. It’s labelled ‘Christian’

because of its history. Those who developed this framework worked from an explicitly religious framework. They believed that the rights-framework I just described reduces human relationships to a single dimension and does not do justice to the full humanity with which people are created. But before we quibble about labels, let me outline what this framework looks like.”

I drew another bunch of small circles at the bottom of the board, indicating that these were the same rights-bearing individuals we just talked about on the other side. Above them, I drew a series of boxes. I turned to the gentlemen seated closest to me.

“Got kids?”

“Three teenagers,” he replied.

“And I suppose that when you have a disagreement with them, the rights model we just described is what you have in mind to sort through this disagreement?”

The nervous laugh in the room betrayed the tension that the question evoked. I filled in the silence. “I too have a teenager, and while in most cases we sort our disagreements out as two rational people, there are situations that arise where I have said, ‘Sorry, but this isn’t a democracy. I know you want to do X, but I love you, and I know X isn’t good for you, and because I am the parent and get to set the rules around here, X isn’t going to happen even though you think you should be able to do it.’”

I went to the board and labelled the first box “Family” and asked, “Would you not agree that when it comes to family relationships, it is *love* rather than *rights* that ought to be the standard by which we define our relationships?”

While at the board, I labelled the second box “Business.” “I don’t think that either love or rights provide the defining standard for business relationships,” I started. They were catching on and completed the sentence without prompting. “Without profits there is no business.”

“But is that true of all business relationships?” I asked. “What about this group? You are meeting here as an industry association. Is profit what defines your involvement in this group?” The executive director squirmed, evidently not welcoming a visitor raising a subject too closely linked to organizational finances, so I answered the question myself before the conversation could veer too far off topic.

“Industry associations exist to share information, build networks, and provide a voice for the industry. Of course, having revenues meet expenditures is part of the equation for an industry association—like it is for a family, a church, or any other institution for that matter—a more appropriate measurement standard is stewardship. The task of an industry association is to take care of, or steward, the infrastructure of an industry on behalf of its members.”

I went back to the board and labelled several more boxes. “There are service and

community groups who define their relationships by solidarity or helping each other. Churches define relationships by their understanding of truth and faith. Government has a box of its own; here rights—although I prefer the broader notion of justice, but let’s not make an issue of it here—are the defining standard.”

I stepped back from the board so that they all could see as I contrasted the rights-model with the alternative model I was outlining. “In the rights model, there is only one public norm to which we can appeal in our relationships with each other, namely rights. But as we know from our everyday existence, the world doesn’t work that way.

The rights framework has a validity in the public sphere, but it isn’t the only valid public standard. And when we use the rights framework to sort out difficulties in other spheres, we end up using a square peg to fill round holes: the only way it fits is to shave the corners off the peg and lose something.

“Back to the examples I gave earlier, we know that good labour relations is more than having a good contract; that good gender relations is not measured by merely avoiding sexual harassment or keeping up with pay equity; and that a good baseball program is not measured by keeping the checklist of legal obligations filled out. We know that in different spheres of life we behave and evaluate behaviour by different standards.



“A stark emphasis on rights simply doesn’t give us enough options to resolve issues such as privatization in health care and energy, the direction of education, or the jurisdiction of municipalities—and these are all the hottest topics in politics today! Neither social contract theory nor the broader project of modern liberalism tells us anything about society in the big space between the walls of the legislature and the skin of the individual. We participate in a vast array of social structures: families, businesses, unions, churches, schools. Yet despite the immense influence that these institutions wield, their roles, privileges, and obligations are not addressed in the social contract.”

I went to the board and drew lines from a circle to each of the boxes. “You see, I am not only a father and husband in my family, I am also in the business world, belong to an industry association, belong to a church, have a child in school. . . . Now let me draw some lines from each of these other individuals, and we begin see a diagram of the world as it is: a complex weave of relationships. This gives us a much richer picture of reality.

“How do these theoretical observations from 30,000 feet up in the air connect to the everyday world of policy on the ground? Let me use the simple example of a screwdriver. Understanding the purpose of the screwdriver is helpful to getting a job done properly. You can use a screwdriver as a wedge or a chisel, sometimes even with successful results. But in the long run, we would all agree that

knowing the purpose of the tool and using the proper tool for the appropriate task will get the job done best.

“Rights are like that screwdriver. We’ve been using the rights tool to sort through problems of business and working with a two-dimensional public-private framework. The real world is multi-dimensional.”

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As far back as the sixteenth century, the legal theorist Johannes Althusius was arguing that the government, through its powers, “creates a legal and policy framework in which private associations can actualize their rights and acknowledge their responsibilities.” The emphasis here is on the *associational* nature of society. Government is limited, not only by the rights of the lonely individual, but by public and private associations with their own responsibilities and spheres of authority.

In the late nineteenth century, Althusius’s idea that the institutions of society have distinct realms of influence and authority was picked up by Abraham Kuyper, the Dutch prime minister at the time. Kuyper was adamant that every social institution is “sovereign in its own sphere.” To a large extent, his idea of sphere sovereignty was rooted in his theology. As a strong Calvinist, Kuyper could not attribute to any human institution an absolute authority—not even an absolute temporal authority. To do so would be idolatrous. Thus, placing limitations on the power of

government was a simple acknowledgement that only God has the right to absolute sovereign rule.

The timeless truth of God's rule was balanced by the organic, unfolding nature of human society. Kuyper thought that human social structures are latent in creation. As a culture develops, its people discover organizational principles and structures to meet developing needs. These structures are not artificial creations. They reflect something about what it means to be human and in society. Each also has a unique purpose, a mission distinct from that of every other social structure.

In a series of guest lectures he gave at Princeton in 1898, Kuyper argued what we are to understand by this idea of sphere sovereignty:

that the family, the business, science, art and so forth are all social spheres, which do not owe their existence to the State, and which do not derive the law of their life from the superiority of the State, but obey a high authority within their own bosom; an authority which rules, by the grace of God, just as the sovereignty of the State does.

The spheres of society are not subsidiaries of the state. Within the bounds of their purposes, they have no other authority than God above them. Kuyper has received criticism on this point. Later thinkers have accused him of advocating sphere *autonomy*. The criticism is not unwarranted, given such remarks as, "the State . . . has nothing to command in their domain."

However, here domain refers to the unique purposes of the institutions, not the broad scope of their influence. What we need to remember is that while the structures of society are diverse in their purposes they hold many things in common (for example, their members) and often operate in relation to one another. Thus, the state does have an interest in seeing that justice is maintained *within* and *between* the different institutions. Kuyper wanted to prevent a hierarchical model of society. His model was horizontal, where each institution assumed authority over its particular function.

Unfortunately, Kuyper's fear of a hierarchical society caused him to see a rift between his social thinking and Catholic social thought, which advocated the notion of *subsidiarity*. Kuyper's rejection of subsidiarity was based on an obsolete top-down understanding of subsidiarity. In his time, subsidiarity was being interpreted as a bottom-up, decentralized approach. The functions of society, in this new interpretation, are to be performed by the lowest or, rather, the most local community possible.

In some ways, sphere sovereignty and subsidiarity overlap: one leads to a decentralization of role and the other to a decentralization of responsibility. In other words, the institution that picks up responsibility for a task will have the most authority to speak on a particular issue, and it will have the closest proximity to the concerns about, potential solutions to, and results leading from any actions taken.

While there are many discussions that have and will take place between promoters of sphere sovereignty and subsidiarity, on the essential point, we are co-workers: the structures of society, the multitudes of non-governmental institutions, are of key importance in the building of a participatory civil society.

As I explained to my construction industry friends, the mission of the Work Research Foundation is not simply to cultivate a Christian view of work but to do so within the context of sphere sovereignty as part of a framework for thinking about the renewal of the economic sphere and public life.

We have the beginnings of a strategy that will take the idea of sphere sovereignty, originating with Althusius and further

developed by Kuyper in the nineteenth century, and translate it into the North American context. Here in Canada, we have been torn between the so-called right and left, not realizing that these were simply two sides of the same coin. We at the WRF want to change the coinage of public conversation. The really interesting debate is not between libertarians and social democrats. The real problem is that of forging a true political and social pluralism.

The institutions of business, family, education, and religion are *not* simply social clubs or lobby groups. They have unique roles and wield real authority in their respective spheres. It's about time we gave them some respect. 



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