

On doing what is just, right and fair: Essay on a Dutch example



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The 1848 Constitution of the Netherlands guaranteed civic freedoms within the frame of liberalism. In practice, this meant that the public sphere was not open to orthodox Protestants or Catholics. Abraham Kuyper changed this situation by accepting wholeheartedly the liberal maxim of the separation of church and state, but he rejected the exclusion of religion from the public sphere. He succeeded in changing the political climate and opened up a public sphere that was plural in nature, not open just for liberals, but for every citizen, whatever religion or worldview he had. This public regime was implemented in the late 19th century, and lasted until the 1970s. Then a new regime was implemented gradually. Religion and religious minorities were downplayed in a public sphere that was dominated by moral permissiveness and individual self-expression. This regime was challenged by Islam, and at present the debate is on the issue if a religious culture that denies individual freedom can be tolerated in a liberal democracy. This is a *déjà vu* of the debate Kuyper generated 150 years ago.

Keywords: Abraham Kuyper; Constitution; Neo-Calvinism; Democracy; Liberalism.

Introduction

Citizens of countries in the Western world would usually define their political system as liberal democracy, and rightly so. They function in a democracy, for the citizens vote their rulers, and the system enables a kind of control of political power. And it is liberal because it protects the freedom of citizens. The problem is that this basic idea of democracy and this basic idea of freedom collide. We experience today that individual freedom does not match with the equality democracy requirement (Watson 1999:4–5). It might seem that this is a more recent problem of the system we call liberal democracy, but it seems it is a systemic one. Today, this problem is expressed by the excessive individualism and identity politics that splinter the notion of a common ground. However, these phenomena did not create the tension, and they reveal a tension that was always present in the heart of liberal democracy. Doing what is just, right and fair has been a goal both supported and threatened by liberal democracy.

To show how this tension is endemic in liberal democracy and can only be softened temporarily and contextually, I will focus on the early development of liberal democracy in the Netherlands. This historical case study focuses on the question of how people as a whole could participate in a developing liberal democracy without the government getting grinded by competing factions. It turned out that political liberalism as such was not fit to facilitate participation in a mass democracy, for it would include only those who were deemed liberal. If liberal uniformity did not work, what could then be a common denominator? In reaction to this liberal dominance, the Netherlands experimented with religious pluralism. What turned out to be the potential of this approach, and where did it meet its limits in doing what is just, right and fair?

A Dutch Constitution

I'd like to introduce you to the Netherlands of the 19th century. It is a small country in the North-West corner of Europe, with 4 to 5 million inhabitants at that time. I will focus on the liberal constitutional democracy this nation was since 1848, when the government adopted a new Constitution, which has been amended several times, but its present frame still originates in the mid-19th century. The design and implementation of this Constitution were spurred by a liberal revolt that spread over Europe in that year. It was a remarkable and enduring feat, for where else in Europe could the freedoms be found that this Constitution guaranteed to the people? The freedoms included the freedom of expression, freedom of education, press freedom and freedom of association. The Constitution gave parliament the right to prepare budget and the right to

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amend laws, and it implied a separation of church and state. The parliament would represent citizens with a voting right based on census suffrage. This was an aspect that would be amended over time, for in practice this meant that only about 10% of the adult male citizens had the right to vote, and elections were held usually once in 4 years. Fifty years later, about 50% of the males would have voting right and by 1920, general suffrage was realised for both males and females.

This set of rights does not sound bad, even compared to the situation in many countries today. So, who would complain? Catholic and Jewish minorities as well as Protestant dissenters were happy with the freedoms this Constitution protected. They had been second-rate citizens in the decades before 1848, and sometimes in previous centuries of the history of this overall Protestant country, and now they all enjoyed civic freedoms on an equal footing. This Constitution seemed just, right and fair for everyone.

The lawyer and liberal politician Jan Rudolph Thorbecke (1798–1872) (Aerts 2018), who wrote this Constitution, had wanted to guarantee optimal freedom for the Dutch people. Most of his liberal party colleagues held the same opinion. In 1848, the Netherlands faced a brighter future.

Not everyone in the country shared the liberal opinion, but this was partly a matter of time before they would, so it seemed to the liberals, and from some religious minorities, the adoption of a liberal view was never to be expected. To be a true liberal, you had to accept reason as the guiding light of mankind. And it was clear that not everyone would be receptive to this worldview. The Dutchmen who still adhered to traditional Christianity were ‘dogmatic’, ‘orthodox’ or ‘sectarian’, and therefore would never accept his liberal view. They preferred tradition over reason, and revelation over research. And finally there were Dutchmen who just lacked education to understand what is just, right and fair. But, with these minor deficiencies set aside, liberalism would win the day.

Restrictions

But there was a dilemma. Liberalism was a property so precious, and in a way so fragile, that it had to be protected in a world that was for very large parts still living in darkness. For this reason, the suffrage was restricted by the liberals. Voters had to be reasonable people, educated, or with property of land, houses or capital, they had to administer. The politicians who were voted for parliament needed to have the same qualifications. They had to be reasonable people, who after reasonable deliberations would make reasonable decisions and laws. In practice, this meant that an elite of the citizens – the best of them, the liberals would say – had voting rights, and the country was ruled by a dominantly liberal elite. With this kind of liberal fellowship, this enlightened exclusivism, the common good would be served at best.

Another restriction was concerned with education. Thorbecke wanted education to be free, but to a majority of the liberals,

this was too risky. If you would grant the people full freedom to educate the younger generation, then a conservative or orthodox kind of education might develop, which would be detrimental to the development of liberalism. For this reason, it was decided that education would be free, but that the government would keep an eye on it, by ranking public education as a state priority.

Liberalism could not just mean freedom. In a situation where not everyone was enlightened yet, liberalism would have to guide the people on their way towards freedom, and sometimes protect them against themselves in the name of freedom.

Not everyone in the Netherlands liked this liberal guidance in the public sphere. They either preferred guidance from the Christian tradition instead, or they were averse to the shackles of liberalism. But thanks to the limited suffrage, this dissatisfaction was muted.

Kuyper

Such was the situation in the first 25 years under the new Constitution. But from the early 1870s, things began to change. If Thorbecke was the man who built the political structures of the Netherlands, who set up the house the Netherlands lives in, it was then Abraham Kuyper who refurbished this house in the next quarter of a century.

Who was Abraham Kuyper? He lived from 1837 until 1920, and started his career as a pastor in the Dutch Reformed Church, the main Protestant church in the Netherlands. About 55% of the population was affiliated to this church. And about 40% belonged to the Roman Catholic Church. Non-religious Dutchmen were still rare. Kuyper’s career is remarkable. He was a brilliant student of theology, and a prominent pastor, who was called to the church in Amsterdam, a position that was first in rank nationally, when he was only 35 years old. But after 4 years in Amsterdam, he abandoned ministry and turned to politics and the public debate instead. He became a Member of Parliament in 1874 and ended up as prime minister in the Netherlands (1901–1905). He founded two newspapers in the early 1870s and was the foremost Dutch journalist of his age; in 1879, he created the first modern political party in the Netherlands, and in 1880 he founded the Vrije Universiteit Amsterdam (Bratt 2013).

What was the theme or the motive in all of his activities? He had been educated at the state university of Leiden as a liberal or modernist theologian, who believed that religion had to be modified and updated in light of the developments in history and science. A supernatural revelation could neither be defended longer nor could miracles. The world was a reasonable universe and man had to live with a free conscience and according to reasonable norms. Institutional religion would make room for a mere humanitarian approach. This is the classic modernist, naturalist intellectual position, exchanging orthodox Christian religion for

Christianity, based on an immanent, reasonable moral code, a universal religion of mankind (Krijger 2017:406¹). Its effects were not yet visible in society, but clearly the trend was in the direction of secularization, often presented by the modernist theologians as the next phase of Protestantism.

This was how Kuyper had been educated at Leiden university. Then something odd happened. In his first congregation, in a village in the countryside, he converted himself from liberalism to Calvinism. This meant that Kuyper exchanged his modernist worldview for an orthodox view of the world as created by God, fallen into sin through Adam and being restored in Christ.

His conversion made Kuyper orthodox, but in order to understand this in the context of the 19th century, we need to realise that he did not just move a little bit to the right by becoming orthodox. No, in the context of the heyday of liberalism, this meant he crossed the Rubicon.

He now started to evaluate liberalism from the other side of the river, and in many ways from the outside. What he saw was this: the liberal worldview was the first experience of Europe with a fully-grown alternative for Christianity since the fourth century. The breakthrough of this alternative was the French revolution of 1789. Kuyper argued that modern liberalism was not simply a new political point of view or a new branch of the Christian tradition, but a new, alternative, an 'all-embracing *life-system*' next to Christianity (Kuyper 1899:4). Furthermore, it was its antithesis. This new life-system made deep and far-reaching *religious* claims concerning what is just, right and fair. The naturalistic life-system or worldview was encompassing, like Christianity, but it was immanent and opposed to the transcendental worldview of Christianity, and it was as exclusive as Christianity.

To many Christians, this naturalistic worldview was a threat, but the intriguing thing was that Kuyper saw it as an opportunity as well. What Christianity stood for was no longer self-evident after 1789, but had to be explained anew and accounted for in the light of this alternative. Liberalism challenged Christianity to redefine itself. And as a result, a vital part of this modern worldview was the separation of church and state; Christians had to reflect on their view and make explicit their role in public life. In politics, in education and in social life, Christians now had to ask themselves: what does it mean to be a Christian in this specific sphere of life?

Calvinism

Kuyper converted to Calvinism. One thing he learned from Calvin was the rejection of the distinction between a natural and supernatural sphere in life. At first sight, this may seem to be a concession to liberalism, which denied supernaturalism. But it was the other way round. The distinction of natural-supernatural was in Kuyper's neo-Calvinism replaced by an organic relation between God and this world. And this organic

metaphor was not defined by Hegel, but was defined by Calvin (Eglinton 2012:76). As Herman Bavinck (1854–1921) (2010), the co-founder of neo-Calvinism, put it in 1909:

[M]arriage and family, profession and labor were all restored to honor in society. Calvin in particular poured the luster of godly glory over the whole of earthly life, and he placed all of natural life in the ideal light of eternity. (p. 84)

God was sovereign over both the natural and the supernatural and therefore Kuyper's Calvinism was on the offence. It stimulated an appreciation of the world outside the church as God's world, and it was a driving force for active participation of orthodox Christians in education, politics, journalism, science and culture in general.

Another thing Kuyper concluded from Calvin's works was the key importance of the freedom of conscience. Kuyper realised that this freedom differed from its modern meaning and the practice of his times. Calvin described the conscience as *medium inter Deum et hominem*, that is, in between God and man, and as such not in full control of ecclesial or political authorities (Calvinus 1559:III, Ch. 19, Par. 15). According to Kuyper, Calvin's position was 'that, although in the essentials of our Christian confession no heresy was to be tolerated, yet toward those who diverged in minor points toleration should be shown' (Kuyper 1895:657). Kuyper noted that Calvin did not practice this principle in Geneva. But his argument was that (Kuyper 1899):

[W]e must not seek the true Calvinistic characteristic in what ... it has retained of the old system, but rather in that, which, new and fresh, has sprung up from its own root. (p. 130)

And that was the freedom of conscience as developed over time in Calvinistic countries, and constitutive to the modern notion of freedom of conscience. (f.e. Troeltsch 1919:607ff.)

Kuyper's focus on this principle sounds rather liberal. And indeed, the freedom of conscience was a core conviction he had learned at the university. After his conversion however, he started to defend *Calvin* and not liberalism as the champion of the freedom of conscience. And that was contrary to what the liberal theologians had taught him, for Calvin had suppressed rights of heterodox fellow citizens (Krijger 2017:140).² Notwithstanding this suppression, the new idea Calvin developed, according to Kuyper, was the principle that religion should not be enforced by the state, and that room should be left for dissidents and heretics, as creatures willed by God.

The Dutch Republic developed Calvin's principle further and tolerated different forms of worship in the 17th century, at least within closed doors. 'Still further developed', Kuyper (1895) argued:

[I]t led in England to the 'Toleration Act', until finally in the United States the last consequence is deduced in the emancipation of every form of worship and of everybody's conscience. (pp. 657–658)

1. '[I]ts earliest adherents tended to see it as the only form of Christianity that could develop into the universal religion of mankind'.

2. The *cause célèbre* is the trial in Calvin's Geneva against Michael Servetus, who in 1553 was burnt at the stake for heresy by the city council.

And this is the kind of freedom Kuyper wanted to practice in the Netherlands: not favouring liberal Christianity, but an accommodation of all religions without a preference of the state for one over the other.

A plural and democratic society

The small seed of Calvin's notion of freedom of conscience was developed by Kuyper into a view of a plural, democratic society, instead of the Christian society that Calvin and most of Kuyper's fellow-Protestants were after.

A part of this idea of a plural, secular society was the acknowledgement that the liberal or modernist worldview was as religious as the Christian one. Freedom of conscience implied for Kuyper on the one hand that there was not an aspect of life religion did not reach, and on the other hand the recognition that other worldviews were as encompassing as Christianity and in competition with Christianity.

This sounded strange in modernists' ears. They had labeled Catholics and Calvinists as 'dogmatic' and 'sectarian'. They claimed themselves to be beyond dogma, and were of the opinion, in the words of the liberal Prime Minister in 1874, that those sects 'have no right to exist in our society'. (Kuyper 1875:20–21) To them, "Catholics and Calvinists were, in essence, a "religious" problem that demanded a "secular solution" (Kaemingk 2013:120).

The modernists' presumption that they were beyond dogma was challenged by Kuyper. He playfully exposed liberals as 'doctrinaire revolutionaries' (Kuyper 1879:476). He spoke of liberals' mystical devotion to 'the Catechism of Rousseau and Darwin' (Kuyper 1899:260). He labeled their academies 'sectarian schools of Modernism' (Kuyper 1879:563). They were the 'counter-churches' (Kuyper 1879:470, 530; cf. 573) of the modern priesthood. Kuyper's message was clear: 'Liberalism had not risen above the dogma, ritual, tradition, and allegiance of religion – it had simply developed a new one' (Kaemingk 2013:121).

Kuyper invested a lot of energy to explain why his neo-Calvinism was qualified to sustain a plural society, where worldviews could be tolerated on equal footing.

In the Stone lectures he delivered in Princeton in 1898, he explained that neither Catholicism, nor Lutheranism, nor Islam, nor the modernist worldview could secure civic freedom. He sided himself with the liberals in their defence of freedom, but he rejected their revolutionary idea of freedom. The true liberal is the Christian liberal, Kuyper stated. In the French revolution there was (Kuyper 1899):

[A] civil liberty for every Christian to agree with the unbelieving majority, in Calvinism, a liberty of conscience, which enables every man to serve God, according to his own conviction and the dictates of his own heart. (p. 142³)

3. The third lecture, on Calvinism and politics, reads as follows in the unpublished 1898 version of Kuyper's lectures on Calvinism, 38: 'In the French Revolution a liberty of conscience, which emancipates men from God; in Calvinism a liberty of conscience,

Here Kuyper presented the historically developed principle of Calvin as well as the consequence of the restricted liberal idea of freedom: it was freedom for liberals only. The public sphere was liberal, and traditional religion was not allowed in.

Kuyper's opinion was that the liberals defended an elitist exclusive view of modern society, a view opposite to his understanding of democracy (Kuyper 1869).⁴ They believed that the public sphere should be dominated by one worldview, either the liberal or the Christian, and he believed this sphere was public, that is, open for all worldviews that were present in the nation. According to Kuyper, this pluralism was the consequence of the fact that the Netherlands was not a Christian nation anymore, but at least also not a liberal one. The state had to facilitate the factual situation that people in the Netherlands had different worldviews. It should not judge about which one was right and could be accepted in the public sphere, and which one was wrong and should therefore be excluded from the public sphere. Being just, right and fair meant here making room legally for the reality that people differ in their worldviews.

He wanted a free society, where the state would not decide about, for example, the nature of primary education, but let the parents decide what kind of education they wanted for their children. The state should facilitate and finance schools of all sorts, liberal or Catholic, Christian or Jewish.

Common ground

Kuyper's campaign for a plural society that, within the limits of the law, would make room for any worldview on an equal footing, fitted hand in glove with the development of the Netherlands into a both socially and religiously more diverse society. In the 1848 Constitution, the right to vote had been restricted according to the liberal mindset: only those who could reason, that is, had been educated or had property – had the right to vote.

The liberals opposed to the extension of the suffrage. They wanted to keep politics a reasonable debate between civilised men, not a clash of worldviews or classes – they feared the arrival of lower-class members in parliament. But by and by, Catholics, Calvinists, Socialists and others pleaded for the extension of the voting rights.

This development strengthened Kuyper's position in his struggle against the public school. As a result, the Constitution was changed and in 1888, the first Dutch coalition government of Protestants and Catholics was formed. One of the first issues it addressed was the school struggle. With the support of conciliatory liberal politicians, a law was adopted in 1889 that facilitated public financial support for Christian schools.

.....
which enables every man to serve God, according to dictates of his own heart'.
Kuyper Papers, inv. nr. 321. Historical Documentation Center for Dutch Protestantism,
Vrije Universiteit Amsterdam.

4. 'Een dubbele strijd wordt hierbij met warmte gevoerd: die van de democratie tegen het liberalisme, en die van het intellect tegen het geld, en zonder aarzeling verklaren we ons, in den gegeven toestand voor de democratie in de eerste, en voor het intellect in de tweede worsteling'.

This was the first of many laws that would turn the Netherlands into a plural democracy (Postma 1990:166–168). This democracy to Kuyper was a means to realise optimal freedom for citizens (Van de Giessen 1948).

Kuyper's concept of democracy is rooted in Calvinism. It is grounded in the acknowledgement of a sovereign power beyond and opposite the people and the state, which provides the frame for what is just, right and fair in society. Kuyper's articulation of this basically religious starting point was not very profound (Kuyper 1899:126⁵). As long as a kind of theism or public religion was acknowledged in the public sphere, this starting point was self-evident.

His concept implied a give and take, an acknowledgement of the fact that democracy is a system that provides a common ground for people who differ. Liberal democracy is a means to protect and develop civic liberties. In the Netherlands, this worked until the 1960s because Kuyper's theism and Christian moral codes were part and parcel of Dutch society. Problems with the Kuyperian system arose after half a century, when because of secularization the self-evidence of a sovereign power beyond and opposite society disappeared.

From means to end

After 1960, an important change took place. The abolition of a transcendental sovereign was compensated by turning liberal democracy from a means to an end. Liberal democracy as a *means* safeguarded a public sphere of equality for citizens with differing worldviews and opinions. Democracy provided freedom. Liberal democracy as an *end* required equality for citizens with different opinions. Democracy now provides equality. This change became explicit in article 1 of the Dutch Constitution of 1983 (The Constitution of the Kingdom of the Netherlands, 2008), a major update of Thorbecke's Constitution of 1848:

All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever shall not be permitted. (p. 5)

Kuyper would have playfully called this article a 'confession of faith'. Christian parties were worried that equality would trump other constitutional civic freedoms, like the freedom of religion, and that article 1 would not only be applied to the rights of citizens opposite the state, but also of citizens opposite each other, the so-called horizontal function of constitutional laws. Over time, what is just, right and fair would indeed be determined by this first article.

This tendency revealed itself in parliamentary debates in the 1980s, when Christian parties in parliament were accused of being anti-democratic because they did not adhere to the ideal of equality, and kept on recognizing sovereignty that transcended the law (Klei 2011:223–229).

5. 'Let it suffice to have shown, that Calvinism protests against state-omnipotence; against the horrible conception that no right exists above and beyond existing laws; and against the pride of absolutism, which recognizes no constitutional rights, except as the result of princely favour'.

What is just, right and fair was no longer up to the citizens, but to the Constitution and the laws it generated, like the law on equal treatment of 1993.

Religion returned

In a way, the Netherlands has returned to the liberal era of the first decades after 1848, when civic freedoms were subjected to the liberal ideology. Nowadays, however, citizens define righteousness, justice and fairness differently, and it is individualism, diversity and identity politics that dominate the public debate, undergird the law-making process and define the meaning of these notions (Van der Veer 2006).

This new regime aims to domesticise religion, that is, restrict religion and religious arguments to the *domus*: the house and the personal life – while religion, as we have seen, was the agent of change in 19th century society and politics. Religion has again become a problem that demands a secular solution. It is the law that will teach what is right, just and fair, and not the religion. The irony of history is that when this new ideology became dominant, from the 1960s onwards, a new religion, Islam, emerged in Dutch society. At present, about 8% of the Dutch population is Islamic, that is, about the same amount that supported Kuyper. Religion, and Islam in particular, causes a lot of unease in Dutch society, the latter especially for its alien character and its non-democratic background. Populist parties, and not only these, call for a new ideology, for the ruling ideology is considered to be too permissive to the Islamic minority. Their call has Christian-Judeo overtones and their support is substantial (Van den Hemel 2017). At present, more than 10% of the Members of Parliament represent populist parties. A new regime is on its way, and religion may play a significant role again.

Conclusion

Kuyper's world has become history. But his religion-based criticism of liberalism and his coping with the tension between individual freedom and the equality democracy are still relevant today. At least this historical example holds a promise: situations and ideological regimes can change, and the regime we live in today may be gone tomorrow. This historical case study focused on the question of how people as a whole could participate in a liberal democracy without the government getting grinded by competing factions. The Dutch experience with facilitating religious pluralism has worked for three generations. The advantage over the previous liberal regime was that it provided access to the public sphere for religious minorities. The emphasis was on diversity and the definition of national unity was not very profound. As such, it was successful in making mass democracy work. A clear disadvantage came to the fore, when Dutch society secularised, and religion was not considered a social denominator anymore. The next regime promoted liberalism as the common denominator again and was dogmatically secular. With the rise of Islam, it faces the same kind of problems Kuyper confronted liberalism with. What differences in opinions and worldviews does Dutch society

take into account when it comes to issues of righteousness, justice and fairness? Liberal democracy has an inherent tension that demands permanent maintenance.

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