Are the variable functional capacities of social structures rooted in human nature?

Danie Strauss
School of Philosophy
North-West University
Potchefstroom Campus
dfms@cknet.co.za

Abstract

Reflections on "human nature" are found throughout the Western intellectual legacy. From Greek antiquity onwards human nature has been related to an understanding of human society. The effect was that human nature acquired a mediating or co-conditioning role in respect of the way in which society is shaped or structured. The implication is that the type laws for human society became dependent upon human nature instead of norming it. From a systematic perspective this amounts to a misunderstanding of the relationship between modal universality and the typicality of type laws. Concrete societal entities function in a typonomic way within the various modal aspects, thus reflecting their "typonomicity". However, the scope of the modal aspects of reality displays an unspecified universality. The link between human nature and human society recently surfaced in a work of Jonathan Chaplin. He argues that normative societal structures are "variable, historical channels for the communal pursuit of specific, though universal, functional capacities rooted in (created) human nature". The first part of this article investigates a number of significant historical lines, running via Socrates, Plato, Aristotle, Thomas Aquinas and Marsilius of Padua to modernity and post-modernity. Throughout this history the human person as a rational-ethical being embodies an impulse towards the formation of community. Since Marsilius of Padua the theme of human autonomy has surfaced in close relation to the so-

*called Copernican turn in epistemology which eventually has given birth to the motive of logical creation and the social construction of reality. In their own way Lakoff, Johnson and Merleau-Ponty have developed a view of the human subject in its supposed shaping of the very possibilities for conceptualization and categorization. Merleau-Ponty believes that "our body is not primarily in space, it is of it". The rest of the article discusses some elements of Chaplin's alternative view on the capacities of human nature and their role in the flourishing of being human. It commences with a misunderstanding of Dooyeweerd's idea of the act-structure as one of the bodily individuality-structures of a person (illuminated in a Diagram). His aim is to provide an alternative view – one in which the principles of possibility of which Dooyeweerd speaks are seen as fully embedded in human nature. These principles are viewed by him as emerging from the "possibilities or potentials given with the created structure of the human person". It turns out that this alternative view suffers from a number of problems, intimately related to an alternative understanding of the relation between modal universality and type laws, as well as four issues discussed in more detail (paragraphs 21-24). In these paragraphs modal universality and type laws are discussed as well as the distinction between constancy and change (principle and variable positivization) and the question whether or not the structural principle of the state has only emerged during the past few centuries. The overall conclusion reached is that neither modal laws (norms) nor type laws (norms) derive their norming meaning from **human nature**. Rather, these norms should be observed by human subjects, whether in a norm-conforming or antinormative way. The variable functional capacities of social structures are therefore not rooted in human nature – they are rooted in the applicable modal laws and societal type laws.*

Opsomming

Is die variabele funksionele moontlikhede van sosiale strukture in die menslike natuur gewortel?

Nadenke oor die "menslike natuur" word dwarsdeur die Westerse intellektuele tradisie aangetref. Sedert die Griekse oudheid is die menslike natuur in verband gebring met die aard van die menslike samelewing. Die effek daarvan was dat die menslike natuur 'n mede-bepalende rol

met betrekking tot die strukturering van die samelewing ontvang het. Die implikasie hiervan was dat die tipe wette vir die menslike samelewing van die menslike natuur afhanklik geword het in plaas daarvan dat dit normerend is daarvoor. Gesien vanuit 'n sistematiese perspektief het dit aanleiding tot 'n misverstaan van die verhouding tussen modale universaliteit en tipe wette gegee. Konkrete sosiale entiteite funksioneer op 'n tiponomiese wyse binne die verskeidenheid modale aspekte en bring sodoende hul "tipo-nomitiet" tot uitdrukking. Desnieteenstaande vertoon die skopus van die modale aspekte 'n ongespesifiseerde universaliteit. Die verband tussen die menslike natuur en die menslike samelewing het onlangs na vore getree in 'n werk van Jonathan Chaplin. Hy argumenteer dat die normatiewe sosiale strukture "veranderlike, historiese kanale [is] vir die gemeenskaplike strewe na spesifieke, hoewel universele, funksionele moontlikhede wat in die (geskape) menslike natuur gewortel is". Die eerste deel van hierdie artikel ondersoek 'n aantal betekenisvolle historiese lyne – vanaf Sokrates, Plato, Aristoteles, Aquinas en Marsilius van Padua tot by die moderniteit en postmoderniteit. In die loop van die geskiedenis is die mens as 'n redelik-sedelike wese gesien wat die impuls beliggaam om tot gemeenskapsvorming oor te gaan. Sedert Marsilius van Padua het die tema van die outonomie van die mens in noue verband met die sogenaamde Kopernikaanse revolusie in die kennisleer na vore getree. Dit sou eventueel aanleiding gee tot die motief van die logiese skepping van die werklikheid asook die sosiale konstruksie daarvan. Op hul eie manier het Lakoff, Johnson en Merleau-Ponty 'n siening van die menslike subjek ontwikkel wat aan hierdie subjek die vermoë toeken om vorm te gee aan die moontlikhede vir konseptualisering en kategorisering. Merleau-Ponty glo dat "our body is not primarily in space, it is of i.". Die res van die artikel bespreek sommige elemente in die alternatiewe benadering wat Chaplin ontwikkel rakende die menslike natuur en die opbloei daarvan. Dit begin met die behandeling van 'n misverstaan van Dooyeweerd se idee van die akt-struktuur as een van die liggaamlike individualiteit-strukture van 'n persoon (toegelig met 'n skets). Chaplin se doel is om 'n alternatiewe siening daar te stel – een waarin die beginsels van die moontlikheid waarvan Dooyeweerd praat waardeer word as ten volle ingebed in die menslike natuur. Hierdie beginsels sou dan volgens hom te voorskyn tree vanuit die "moontlikhede of potensiaal wat met die geskape struktuur van die menslike persoon meegegee is". Dit blyk egter dat hierdie alternatief gebuk gaan onder 'n aantal probleme wat intiem met die relasie tussen modale universaliteit en tipe wette verweef is,

asook met vier kwessies wat in paragrawe 21-24 in meer besonderhede bespreek word. In hierdie vier paragrawe word aandag gegee aan modale wette en tipe wette asook aan die onderskeiding tussen konstantheid en verandering (beginsel en uiteenlopende positiverings) en vervolgens aan die vraag of die struktuurbeginsel van die staat slegs gedurende die afgelope paar honderd jaar na vore getree het. Die oorkoepelende gevolgtrekking waartoe gekom word is dat nóg modale wette (norme) nòg tipe wette (norme) hul normerende aard aan die menslike natuur *ontleen. Dit is veeleerder die geval dat hierdie norme deur die menslike subjek in ag geneem moet word – en dit kan of op 'n norm-gehoorsame of op 'n antinormatiewe wyse geskied. Die veranderlike funksionele moontlikhede van sosiale strukture is daarom nie in die menslike natuur gegrond nie – hulle is gewortel in die toepaslike modale wette en tipe wette....*

Within the movement of *Reformational Philosophy* reflections on the nature of human society has always occupied a central position. This situation is certainly not unrelated to the fact that one of its founders, Herman Dooyeweerd, studied law before he expanded his intellectual pursuits towards more general philosophical questions during the early twenties of the 20th century. But in addition it should be remembered that philosophy as a scholarly discipline from its inception included the human being and human society in its purview.

The close link between human nature and human society more recently surfaced in an encompassing work written by Jonathan Chaplin on Herman Dooyeweerd as a *Christian Philosopher of State and Civil Society*.[1] One of his main concerns is captured in the title of this article. He believes that "the specific normative structures of uniquely modern institutions" such as "business corporations or trade unions or territorial states" are merely "variable, historical channels for the communal pursuit of specific, though universal, functional capacities rooted in (created) human nature". Nonetheless he still claims an *irreducible institutional identity* for these "structural principles" (Chaplin, 2011:272).

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1   This is an excellent work which invites the focus of scholars from different backgrounds. While working within the tradition of reformational philosophy it will nonetheless be helpful to serve as an orientation in Dooyeweerd's philosophy because it accounts for states of affairs confronting everyone working within the field of social and political philosophy (see Chaplin, 2011).

On the next page he emphasizes "that 'irreducibility' does not imply either 'invariance' or 'ubiquity' " as if the "structural norms for modern institutions like schools and businesses hold changelessly" (Chaplin 2011:273). Yet before we enter into a more detailed analysis of Chaplin's views in this regard some significant historical contours will be investigated.

1. The urge of Socrates to know himself

Although Greek philosophy commenced with the rise of natural philosophy as advanced by thinkers like Thales, Anaximines, Heraclitus and Anaximander, it was Socrates who eventually realized that "to know myself" precedes investigating anything else – as explained in Plato's dialogue *Phaedrus*. The options are dictated by the dialectic between the motive of the ever-flowing formless stream of life on the one hand and the cultural motive of form, measure and harmony on the other. In *Phaedrus* the conversation leader, Socrates, remarks:

> But I have no time for such things; and the reason, my friend, is this. I am still unable, as the Delphic inscription orders, to know myself; and it really seems to me ridiculous to look into other things before I have understood that. This is why I do not concern myself with them. I accept what is generally believed, and, as I was just saying, I look not into them but into my own self: Am I a beast more complicated and savage than Typhon, or am I a tamer, simpler being with a share in a divine and gentle nature? (Plato, 1997:510; *Phaedrus* 230 a).

2. Plato's ideal state

Although Socrates did not accept democracy he still subjected himself to the rules of the *polis* (the Greek city-state). Dooyeweerd explains the consequences of this attitude in connection with the poison-cup:

> When in the year 399 B.C. the infamous trial was conducted against him, which resulted in his condemnation to drink the poisonous hemlock, he refused to take advantage of the opportunity offered him to escape and save his life. By acquiescing to the death sentence, he wanted to show his judges that he was indeed the "outstanding citizen" of the cultural center of Athens. At the same time, by this act, he threw a glaring light on the internal crisis of the Athenian state, which no longer had a place for its best citizen (Dooyeweerd, 2012:125).

Apart from reconciling the static (*Phaedo*) and dynamic elements of his thought in *Politeia*, the appreciation of the "ideal state" in this dialogue returned to the primacy of the form motive in Plato's thought. This is evinced

in the totalitarian nature of the Greek city-state (*polis*), embodying the Greek form motive.

The ideal nature of Plato's state serves as a model for empirical states. Yet Plato did contemplate a process of decay, subject to the *Ananke* (blind fate), ultimately terminating in a "timocracy" (where the military has the highest power), an "oligarchy" (governed by a few rich people), a "democracy" (ruled by the masses of the third class), up to a "tyranny", where the state has to serve the egoistic desires of a tyrannical individual.

3. The polis in the thought of Plato and Aristotle

In spite of the negative remarks that could be made about the way in which Plato envisaged the "ideal state", his theory does touch upon two important structural features of a genuine state, namely the idea of *justice* and the role of the *guardians*. Unfortunately he did not come to terms with the distinction between the *public* and *private* domains. He denies any cross-cutting interlinkages between these spheres for his two public classes are excluded from the private sphere, while the third class has no function within the public sphere.

Both Plato and Aristotle elevated the *polis* to the self-sufficient goal or end of society, meant to bring its citizens to moral perfection. Aristotle says: "Also, the end of an activity, the reason why it is done, is the highest good; and self-sufficiency is the objective of the state and is the highest good." His teleological orientation implies that the state – as the highest and all-encompassing whole of society – must precede every part of it: "Therefore the state, according to its nature, is prior to the family and the individual, since the whole must precede the part" (Aristotle, 1963:384; *Politica* Book I, Chapter 2). Aristotle views the state as something prior to the individual: "an individual is not self-sufficient when separated; and, therefore, the relation between him and the whole (the state) will be that of part to whole" (Aristotle, 1963:385; *Politica* Book I, Chapter 2). At the basis of this view of human society one finds the characterization of human as rational-ethical beings which entails that human nature is reflected in the *polis* and in moral perfection as the highest good in society. This conception is continued within medieval thought and within modern philosophy, albeit within diverging contexts.

4. The Roman Catholic view of society

In following Aristotle, Thomas Aquinas appreciates the state (both the polis and the *Holy Roman Empire*) as the all-encompassing, self-sufficient community (*societas perfecta*). As the encompassing community within the natural domain, the state forms the natural foundation for the church as encompassing superstructure, as the supernatural institute of grace. The state carries human beings to their highest natural aim in life, namely goodness, whereas the church elevates them to their supertemporal perfection, *eternal bliss* ("ad finem beatitudinis aeterna" – Aquinas, *Summa Theologica*, I, II, 91, 4).

This view of Thomas strongly influenced the official position of the Roman Catholic church, articulated in the papal encyclical *Quadragesimo anno* (15 May 1931) where we read: "Surely the church does not only have the task to bring the human person merely to a transient and deficient happiness, for it must carry a person to eternal bliss" (cf. Schnatz, 1973:403).

The effect of the Greek basic motive of form and matter first of all surfaces in the Roman Catholic view of the human being and subsequently in its understanding of human society. The human soul is seen as the substantial form of the material body.

Thomas Aquinas follows the Aristotelian view according to which the *principium individuationis* (the *principle of individuation*) is found in *matter*. In his *Metaphysics* Aristotle holds that "all things that are many in number have matter" (Aristotle, 2001:884; *Metaph*. 1074a34-35). The Roman Catholic church doctrine caused Thomas Aquinas to accept rational souls as complete substances *distinct* from the material bodies. But since the persistence of the *anima rationalis* (rational souls) is viewed as independent from the material body, their immateriality will preclude that they could be *many in number* (see also Dooyeweerd, 2013:342 ff. and Ter Horst, 2008:239 ff.; 260-271). Ter Horst points out that in the substantial unity Thomas assigns *primacy* to the form – the form is not just one of the substantial components, since at once it is also "the principle through which the two components are united" (Ter Horst, 2008:51).

5. The Thomistic view of the human person in relation to society

According to the Roman Catholic view, the human being, constituted by a *rational soul* and *material body*, first of all has a natural inclination to pursue the perfection of human nature in the state as the perfect natural form of society, the *societas perfecta*. We noted that this sphere is viewed as the lower portal to the higher sphere in which the rational human nature is elevated to the supernatural sphere of grace where the church as the whole of Christian society, as the *Corpus Christianum*, embodies the supernatural perfection of society.

6. Human society embodies capacities rooted in human nature

Conceived within a whole-parts perspective the unfolding of human society embodies capacities rooted in human nature. This universalistic (holistic) perspective does acknowledge the relative autonomy of lower parts but cannot account for the unique identity of those societal entities distinct from the state (see Strauss, 2013a:99-102).

7. Marsilius of Padua continues to accept an inherent impulse in human nature to attain this sufficiency

When Marsilius of Padua, at the beginning of the 14th century, introduces his views on popular sovereignty, a switch from the traditional universalistic Roman Catholic understanding of society to an individualistic orientation took place. But it did not prevent him to hold on to the Aristotelian conviction that engaging in civil community flows from an inherent impulse in human nature to attain this sufficiency. Marsilius of Padua therefore still speaks of "perfect communities" (Marsilius of Padua, 2005:17). In his *Defensor Pacis* he writes:

> From what we earlier laid down as the foundation of almost everything that would be demonstrated in this book, viz. that all men desire the sufficient life and reject its opposite, we concluded … that they engage in civil community: because through it they can attain this sufficiency, and without it not at all. For this reason, too, Aristotle says in Politics I, chapter 1: "By nature therefore there exists in all men an impulse towards such a community" (Marsilius of Padua, 2005:73).

In this *work* Marsilius of Padua explains that he focuses only on "that mode of establishing laws and principates which results directly from a decision of the human mind" (Marsilius of Padua, 2005:65). This view is already embedded in the modern ideal of *autonomy*, which Rousseau later on defined as follows: "while obedience to a law which we prescribe to ourselves is liberty" (Rousseau 1966:16). Marsilius of Padua contextualizes this view where he holds that "any citizen will better observe a law that he seems to have imposed on himself" (Marsilius of Padua, 2005:70).

8. The Copernican turn in modern philosophy reifies the human subject

In the subsequent developments of early modernity we see how Descartes advances an element of the Copernican turn in modern philosophy because he attained certainty about God via clear and distinct *thinking*. Von Weizsäcker points out that this is a "characteristic modern" approach: "Not the world in which I find myself secures my existence. This guarantee is lost but when I regain the world, then it is as the object of my self-assured thinking and therefore as an object with which I can occupy myself" (Von Weizsäcker, 2002:130-131). Descartes also holds that number and all universals are mere "modes of thought" (Descartes, *Principles*, Part I, LVII – 1965a:187). The implication is that nominalism denies the existence of a universal *order for* creatures as well as the universal *orderliness of* creatures. What remains is an unstructured, chaotic multiplicity of phenomena. This prompted Thomas Hobbes to come up with a thought-experiment in which human understanding was assigned a constructive role, embodying the new motive of *logical creation*.

9. The human subject: as law-giver of the universe and involved in the meaningful construction of the social world

This line of thought had a profound influence on Immanuel Kant who claimed that the concepts or categories of understanding enables human understanding to be the a *priori* formal law-giver of nature.[2] Nominalism subsequently had a decisive impact upon the philosophical developments

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2   "Understanding creates its laws (a priori) not out of nature, but prescribes them to nature (Kant, 1783:320; § 36).

of the 19th and 20th centuries, particularly in the well-known idea of the social construction of the world. Just consider the titles of books such as: *The Social Construction of Reality; A Treatise in the Sociology of Knowledge* (Luckmann & Berger, 1967); and *Der sinnhafte Aufbau der sozialen Welt* ("The meaningful construction of the social world" – Schutz, 1974).

10. Lakoff, Johnson and Merleau-Ponty: the mediating role of the human bodily subjectivity

One of the consequences of a nominalistic orientation is found in the work of Lakoff and Johnson regarding conceptual metaphor. These authors believe that the embodied nature of (neural) human beings generate categories that are formed automatically and unconsciously (Lakoff & Johnson, 1999:18). On the one hand it should be granted that human beings have *subject functions* in all aspects of reality, including the physical, biotical and sensitive modes. These authors focus their attention on the concrete bodiliness of humans while neglecting the *conditioning* role of these modal aspects of reality in an ontic sense. They advance the view that our conceptualization and categorization are shaped by the peculiar nature of our bodies: "What is important is not just that we have bodies and that thought is somehow embodied. What is important is that the peculiar nature of our bodies shapes our very possibilities for conceptualization and categorization" (Lakoff & Johnson, 1999:19).

Surely our lived-through experience of reality does make us aware of our spatially-extended existence, of our movement, of being subjected to physical and even biotic laws. This embedded experience enables us to generate the fitting functional concepts regarding *spatiality*, *motion*, *force* and *vitality*. But this does not mean that the various modal aspects (or the human self-hood) *derive* from our *human subjectivity*. Just contemplate the claim of Merleau-Ponty when he holds that "space is rooted in existence" (Merleau-Ponty, 1970:148) and that I am my body (Merleau-Ponty, 1970:150). Space is *subjectivized*: "our body is not primarily *in* space, it is of it" (Merleau-Ponty, 1970:148).

11. Human subjectivity pre-supposes the correlation of law and subject

What we have to realize, however, is that reality has both a law side and a correlated factual side. It is therefore simplistic and one-sided to take into

account only the factuality of our bodily subject functions when it comes to the concepts we form, while neglecting the conditioning role of the various aspects (as law spheres) and of the type laws governing the various layers of the human body (we shall presently return to these distinctions below). Of course societal type laws are not 'strange' to humans because they are precisely meant to organize (unite and differentiate) multiple human beings in diverse communal and collective ways.

12. Human subjectivity functions in mutually cohering aspects

The various aspects in which the human being functions as subject pre-supposes an interconnection between these aspects which comes to expression in analogical links between them. What is remarkable is that the analogies between various aspects (known as retro- and anticipations), cannot be *replaced*. At most they can be *substituted* with *synonymous* terms, for example when the core meaning of the spatial aspect – *continuous extension* – is "synonymized" with expressions such as *being connected*, *coherence*, *uninterrupted* or even with the *whole-parts relation*. The problem is that the theory of conceptual metaphor avoids an analysis of the *ontic meaning* of the various modal aspects. For example, instead of commencing with an account of *love* as the unique and indefinable *meaning-nucleus* of the ethical aspect, Lakoff and Johnson embark on an investigation of the "concept of love" leading them to the secondary question whether or not it is "independent of the metaphors for love?" (Lakoff & Johnson, 1999:71).

13. Chaplin: an alternative view on the capacities of human nature and its role in the flourishing of being human

Chaplin contemplates Dooyeweerd's understanding of the nature and coherence between the aspects of reality by pointing out that "modal boundaries cannot be ignored without damaging consequences in thought and action" because they are "[R]ooted in the invariant order of creation" (Chaplin, 2011:57). These aspects "are mutually irreducible" – and each "modal aspect is sovereign in its own domain", captured by the expression *sphere-sovereignty*. Each aspect displays its own sphere sovereignty (see Chaplin, 2011:57).

14. Chaplin's account of the act-structure in Dooyeweerd's anthropology

Chaplin explains that according to Dooyeweerd all natural and societal entities[3] in principle function within all aspects of reality. He raises some questions about the pre-logical functions of the state and then continues to develop a modified view of societal entities. He relates his alternative to what he sees as an undeveloped distinction in Dooyeweerd's thought, namely to the act-structure. In an attempt to explain Dooyeweerd's view he says: "He [Dooyeweerd] conceives of the human body as not itself an individuality-structure but an act-structure, the field of free expression for the human spirit" (Chaplin, 2011:105; see Dooyeweerd, 1997-III:88). On the previous page he holds that the phrase "inner act-life" "alludes to Dooyeweerd's conception of the human body as an 'act-structure', an important but – as I remarked earlier – regrettably undeveloped notion in his philosophical anthropology."

Although Chapin correctly understands Dooyeweerd's view that "various human acts – praying, thinking, feeling, dancing, and so on – are individuality structures each qualified by various modal aspects" (Chaplin, 2011:104), he misunderstood Dooyeweerd's view of the act-structure. His following remark is incorrect: "the human body is not itself an individuality-structure but an act-structure".[4] For Dooyeweerd the human body is an individuality-structure embracing *four* distinct (enkaptically interlaced) sub-individuality-structures. Therefore the human body cannot be equated with the act-structure because it is just *one* of the four (enkaptically) interlaced bodily individuality-structures. The act-structure is founded in the sensitive-psychic, the biotic and the physical substructures. The act-structure serves as the qualifying, but in itself unqualified ("undifferentiated") structure of the human body.
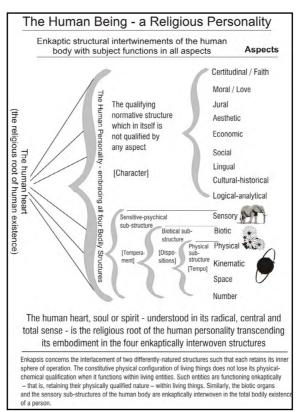
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3   I consider the switch from "ding" (entity) [*De Wijsbegeerte der Wetsidee* (WdW)] to "social structure" [or: the "structures of individuality of human society,"[*A New Critique of Theoretical Thought*, (NC) Volume III] as a mere terminological issue. My own preference is simply to distinguish between natural and societal entities.

4   The just-quoted remark made by Chaplin, namely that "the human body is not itself an individuality-structure but an act-structure" is therefore mistaken. Compare the following two paragraph headings: "*The act-structure as an undifferentiated corporal individuality-structure*" (Dooyeweerd, 2011:175); and: "*The individuality-structure of the act-structure*" (Dooyeweerd, 2011:179). Apparently Chaplin did not have access to the third volume of *Reformation and Scholasticism* (the first print of this work is in 2011, the same year in which Chaplin's book was published. Chaplin's view that the notion of the act-structure is undeveloped in Dooyeweerd's anthropology should be compared to Part Two, Chapter Three of *Reformation and Scholasticism in Philosophy*, Volume 3 – compare pages 165-188 – for in this Chapter we find a rather well-developed account of the nature of the act-structure.

These bodily structures find their religious root in the human selfhood (see the Diagram below as well as Dooyeweerd, 2011:174 ff.). Earlier in this work Dooyeweerd discusses the "Human Body: An Enkaptic Structural Whole" and then explains the fact that the lowest individuality-structure of the human body has a physico-chemical qualifying function while the second is of a typical biotic qualification (Dooyeweerd, 2011:147-148). Then he remarks:

> This third individuality-structure in turn, and in combination with both earlier individuality-structures, functions enkaptically within a fourth individuality-structure, which I wish to call the *individuality-structure of the human acts* or *act-individuality-structure* of the body. By the word "acts" – differentiated in their basic dimensions of knowing, imagining and willing – I understand those activities which issue from the human selfhood but function within the enkaptic body individuality-structure. Through them, one orients oneself *intentionally* (i.e., with a purpose) towards states of affairs in temporal reality – or in the world of one's imagination – under the guidance of normative points of view (Dooyeweerd, 2011:148).

Diagram

The Human Being - a Religious Personality

Enkaptic structural intertwinements of the human body with subject functions in all aspects

Aspects

The Human Personality - embracing all four Bodily Structures

The human heart (the religious root of human existence)

The qualifying normative structure which in itself is not qualified by any aspect

[Character]

Certitudinal / Faith
Moral / Love
Jural
Aesthetic
Economic
Social
Lingual
Cultural-historical
Logical-analytical
Sensory
Biotic
Physical
Kinematic
Space
Number

Sensitive-psychical sub-structure
Biotical sub-structure
Physical sub-structure [Tempo]
[Temperament]
[Dispositions]

The human heart, soul or spirit - understood in its radical, central and total sense - is the religious root of the human personality transcending its embodiment in the four enkaptically interwoven structures

Enkapsis concerns the interlacement of two differently-natured structures such that each retains its inner sphere of operation. The constitutive physical configuration of living things does not lose its physical-chemical qualification when it functions within living entities. Such entities are functioning enkaptically – that is, retaining their physically qualified nature – within living things. Similarly, the biotic organs and the sensory sub-structures of the human body are enkaptically interwoven in the total bodily existence of a person.

According to Dooyeweerd "the fourth corporal individuality-structure itself cannot possess a typically modal qualification" for it "must bear an undifferentiated character" (Dooyeweerd, 2011:176). On the same page Dooyeweerd explains that a thought-act, an imaginative act or a volitional act "can assume the differentiated individuality-structure of a typical act of faith but it can also manifest a typically moral, historical, jural, or other modal qualification". If any normative modal aspect qualified the act-structure, act guided by other normative modal aspects would be impossible.

15. The normative design of social structures and the human person

Chaplin now develops a particular conception of the relation between the "normative design of social structures" and the human person – where the former is embedded in the latter as principles emerging from the human person:

> What such a line of argument would aim to show is that the normative design of social structures emerges out of a *normative conception of the human person*. The principles of possibility Dooyeweerd speaks of would then be seen as fully embedded in human nature, viewed as principles emerging from the possibilities or potentials given with the created structure of the human person (Chaplin, 2011:106).

In order to understand this move suggested by Chaplin it should be mentioned that he opts for a view in which only the modal aspects retain their ontic universality. Relations within human society are traced back to unique historical structurations of possibilities embedded in human nature.

16. The dynamic unfolding of the created structure of the human person

Chaplin believes that one can view the "problematic phenomenon of 'laws without subjects'" as "undisclosed human possibilities" (or "unactualized potential"). He continues: "Normative structural laws could then be reconceptualized as inescapable imperatives rooted in and guided by the deeper norm of promoting human flourishing" (Chaplin, 2011:106). He is convinced that this approach will transcend the idea of constant (invariant) structural laws as well:

The term *invariant* structural law could then be dispensed with and replaced with a notion of normative imperatives grounded in and directed to this given, stable, but dynamically unfolding, created structure of the human person, with its complex arrangement of functions (capacities, potentials, needs). Structures have an enduring design only in the sense, and only to the extent, that they answer to enduring human functional capacities (Chaplin, 2011:106-107).

17. Invariant typical structural principles replaced by normative structures rooted in universal irreducible human functions

This argument hinges upon the two key phrases: "normative imperatives grounded in" and "dynamically unfolding, created structure". In elaborating his proposed alternative view Chaplin suggests that we "replace the notion of invariant typical structural principles" with the idea of "normative structures rooted in universal irreducible human functions" (Chaplin, 2011:108). What he has in mind is the following:

It is these capacities that are the deeper sources of irreducible institutional identity, in the sense that the structural configuration of an institution is not presented as an independent imperative operating on humans from without but as a requirement recognized by humans in the course of historical experience as being necessary for particular kinds of social human flourishing (Chaplin, 2011:108).

18. A lurking ambiguity

This explanation hides a lurking ambiguity, because on the one hand he wants to avoid the idea of invariant (ontic) societal structures by calling upon "the deeper sources" (embedded in human nature) and on the other he attributes a *necessity* to be recognized "by humans in the course of historical experience".

It appears as if Chaplin wants to stop short of a fully *subjectivistic view* in which societal entities – states, churches, schools, business enterprises – ultimately are purely human *social constructs*, reminiscent of the above-mentioned views of Berger, Luckman and Schutz. What Chaplin questions is Dooyeweerd's social ontology with its claim "that social structures possessed invariant structural principles" (Chaplin, 2011:272). There are no "specific [creational] normative structures of uniquely modern institutions" which are

"waiting for historical disclosure". Dooyeweerd's view "obscures the sense in which social structures like these are variable, historical channels for the communal pursuit of specific, though universal, functional capacities rooted in (created) human nature" (Chaplin, 2011:272).

While Dooyeweerd wants to distinguish between the typical leading or qualifying function of societal entities and specific *purposes* such an entity can pursue (which may be *typical* or *a-typical* – Dooyeweerd, 1997-III:425), Chaplin does not hesitate to equate the qualifying function of a societal entity with its "structural purpose" (Chaplin, 2011:272). Consider the paragraph heading which reads: "The theories of the 'purposes of the State' bear no reference to the internal structural principle of the body politic" (Dooyeweerd, 1997-III:425 ff.) and look at what Chaplin holds:

> This account turns essentially on the qualifying function (or structural purpose) of particular social structures—the specific human functional capacity to which the structure in question is designed to give organized communal expression (Chaplin, 2011:272).

The issue is that the state may pursue typical or a-typical purposes/goals/ aims, from which it follows that one cannot derive what is *typical* about the norming structural principle of a state from any connotation given to the term 'purpose'.

19. The necessities of historical changefulness and experience

Accepting "universal, functional capacities rooted in (created) human nature" entails for Chaplin that "when humans organize institutional channels for the common exercise of such capacities, the institutions they establish possess a defining qualifying function that is irreducible to those of other types" (Chaplin, 2011:273). Yet he immediately adds the remark:

> It should be emphasized that 'irreducibility' does not imply either 'invariance' or 'ubiquity'. It is not meaningful to suggest that the structural norms for modern institutions like schools and businesses hold changelessly, as if they were valid even prior to the actual historical emergence of such institutions. Rather such norms come to exercise cultural holding power through a process of complex, often unruly, and vigorously contested historical development, and the normative validity they possess derives from their demonstrable necessity for a particular kind of (universal) human flourishing (Chaplin, 2011:273).

So universality appears to be restricted to the universal functional capacities rooted in created human nature, while the structural norms for modern institutions like schools and business enterprises are handed over to the necessities of historical changefulness. He explains "that irreducible structural norms are discovered principally through long, careful, and critical reflection on historical experience". The "normative validity" at issue does not follow from the human ability to positivize such norms, for rather they are grounded in the created imperatives of human nature itself: "Yet such normative validity is not finally grounded in the human subjective capacity to demonstrate such necessity or give concrete shape to such norms (i.e., to positivize them) *but rather in the created imperatives of human nature itself*" (I am italicizing – Author; Chaplin, 2011:273).

Because there are different types of things functioning within all the aspects of reality no single modality 'belongs' to any kind of entity or is 'owned' by any entity. The substructures enkaptically interwoven within the structural whole of the human body share with things, plants and animals the realms of physical things, plants and animals (with their distinct type laws). Yet these entities do not belong to the law side of reality but to the subject side. Only when laws would (partially) coincide to what they determine and delimit would it be possible to uphold the position assigned by Chaplin to "human nature". However, since the universal conditions (laws) for being human or for being green are not themselves human or green, the position assumed by Chaplin can no longer account for the difference between conditions and what factually meets those conditions.

20. Some systematic philosophical issues

A number of systematic philosophical issues co-determine the way in which Chaplin explains his particular elaboration of Dooyeweerd's view.

a) The first issue concerns the relationship between the modal aspects of reality and the concrete functioning of natural and social entities within them (the issue of modal universality and typical specificity). In particular the relationship between the jural aspect and differentiated societal entities generated difficulties for Chaplin.

b) The second issue is that an account is required of the difference between modal laws and type laws.

c) Thirdly, the nature of principles and the way in which they are positivized also need a more detailed analysis.

d) And finally the question has to be addressed whether or not the state as societal institution only appears with the rise of the modern constitutional state.

21. Re. (a): The functioning of natural and social entities within the modal aspects

Chaplin explains that 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). However, it is not the "diverse juridical spheres of the different societal relationships" that "erect boundaries", for they are spheres because *being a sphere* presupposes *having* boundaries.

He proceeds: "The theory of juridical sphere sovereignty is intended to give account of and safeguard the distinct character of the juridical spheres of each differentiated societal structure" (Chaplin, 2011:194). But it cannot be the task of a *theory* to "safeguard the distinct character" of "differentiated societal" spheres. A theory is called to *investigate* "differentiated societal structures" and to (theoretically) *acknowledge* the distinct character of these spheres. A theory may help us to understand principles better (modal or typical) but in practice we do not apply theories but positivize ontic principles.

He correctly holds that "[E]ach of these structures has a responsibility to see that justice is done within its internal sphere" and that the "[J]uridical norms apply in every societal structure". Perhaps it may be more precise to say that every societal structure has its own internal legal sphere or its internal legal functioning. Having the multi-aspectual nature of societal entities in mind Chaplin states that no structure can be governed merely by appealing to "norms of ethical love" or the "imperatives of efficiency". According to Chaplin retribution as jural norm is "universally valid" although "the content of its demands differs according to the nature of the various societal spheres" (Chaplin, 2011:194).

Implicit in these considerations is an account of the nature of modal universality and the way in which various kinds of entities *specify* the universal meaning of the aspects in a *typical* way. Unfortunately Chaplin confuses "modal universality" with "universal validity". He writes: "The juridical or legal aspect is a universal, normative, and irreducible aspect of reality. First, the juridical aspect is *universally valid*, a specific instance of the general principle of *sphere universality*" (Chaplin, 2011:187).

The phrase "*universally valid*" is used to capture *modal universality* – given in the fact that all possible classes of (natural and societal) entities and processes in principle function within all aspects of reality (either as subjects or as objects). Therefore, Dooyeweerd reminds us to "bear in mind that the aspects of human experience have a modal structure of a universally valid character" (Dooyeweerd, 1997-II:113).[5]

Moreover, the universal validity of an aspect is not "a specific instance of the general principle of *sphere universality*" – as Chaplin holds. Dooyeweerd employs the notion of *sphere-universality* to account for the *inter-modal coherence* between the various modal aspects which comes to expression in the retrocipatory and anticipatory analogies within an aspect (its retrocipations and anticipations). In spite of the just-mentioned confusion it should be noted that Chaplin does have a proper understanding of the principle of sphere-universality (see Chaplin, 2011:61).

Dooyeweerd holds that the modal aspects of reality have an *ontic a priori nature* in a universal functional sense, thus co-conditioning the existence of every kind of entity there may be in reality. What Dooyeweerd calls the *structural a priori* (cf. Dooyeweerd, 1997-II:548) also embraces the modal aspects. He calls them "the modal a priori conditions of all individuality of meaning": "But within the cosmic coherence the modal aspects (according to their structure) are the a priori conditions of all experience of individual reality" (Dooyeweerd, 1997-II:553).

It should be noted that insofar as principles display an unspecified universality they are not yet made valid or positivized. But it is only insofar as they are positivized that they acquire *validity*. In this validity the pre-positive universality of principles is *specified* or *adapted* to the unique context in which it is positivized. Therefore, the whole idea of *universal validity* is problematic since the unspecified universality of principles precludes that they are already valid and once they have obtained validity their initial unspecified universality is changed. To summarise: in their universality pre-positive principles are not yet valid and once they are made valid they have lost their pre-positive universality while assuming a specified universality.

The modal universality of modal aspects is *foundational* to the dimension of individuality-structures (entity structures). The implication is that no

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5   The complexities involved in a systematic account of the inter-modal connections between the jural and the other modal aspects will not be considered in this article. Looking at Dooyeweerd's analysis in his *A New Critique of Theoretical Thought* may provide the interested reader with a more detailed analysis (cf. Dooyeweerd, 1997-II:406 ff.)

individuality-structure can be seen as the *source* of modal universality. What is universal in a modal sense is presupposed in the concrete existence of natural and social entities (individuality-structures). Individuality-structures can only *specify* the universal modal meaning of the various aspects – but it can never alter their meaning. Therefore social structures are neither principles fully embedded in human nature, nor are they possibilities or potentials given with the created structure of the human person. Such a view confuses modal universality and typicality and it assigns a mediating role to human nature approximating the humanistic reification of the human freedom to positivize. A Christian idea of God's law (creational order) distinguishes between modal and typical principles on the one hand and individuals and social collectivities subject to these principles on the other. Moreover, principles are not valid *per se* since they are always dependent on the form-giving activities of human subjects. It is solely through the intervention of human subjects that they are applied or positivized. What happens in the modern idea of autonomy as well as the idea of the social construction of the world is that the human freedom to positivize in the final analysis is reified. At the same time this reification denies the existence of universal and constant principles underlying every human typical act of shaping and form-giving (positivization).

22. Re. (b): Modal laws and type laws

Modal universality expresses itself both at the law-side and the factual side of reality. Modal jural norms are examples of universal modal laws.[6] All modal laws apply to all possible classes of (natural and societal) entities. When humans participate in distinct societal entities as part of a larger whole, they experience the norming effect of type laws that hold for a limited class of entities only.

Stafleu, in following Dooyeweerd, employs the following explanation:

> Our first distinction (law and subject) is frequently identified with the distinction of universals and individuals. However, this identification is inadequate and too crude, since the distinction of typical and modal laws also implies a universal-individual duality (Stafleu, 1980:6).

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6   I agree with Chaplin where he expresses his preference for designating the core meaning (meaning-nucleus) of the jural aspect as *tribution*. Dooyeweerd speaks about *retribution* (see Chaplin, 2011:178). Chaplin is also justified in rejection what I call the "basket" conception of ethics: "A common error is to conceive of juridical norms as ethical, where "ethics" is viewed as an inclusive science of normativity" (Chaplin, 2011:188).

Consider the structural principle of the state, i.e. the type law for being a state. It exhibits something universal in that it provides the starting-point for the existence of *all* states. However, this universality in not unspecified such as what we find in modal universality. Although this structural principle of the state is universal, it does not apply to everything: it only appeals to *states*.

23. Re. (c): Positivizing principles

We noted earlier that according to Chaplin his acceptance of the "irreducibility" of structural norms does not entail accepting "invariance" or "ubiquity" – as if the "structural norms for modern institutions like schools and businesses hold changelessly" (Chaplin, 2011:273).

However, this claim demonstrates a lack of clarity regarding the relationship between *invariance* (constancy) and *change* when norming principles are at stake. The general philosophical insight regarding constancy and change is already found in the thought of Plato. He was confronted with the claim of Heraclitus that everything changes. However, if this is true, no knowledge of anything would be possible, since the moment such knowledge is obtained the on-going change already would have exceeded all knowledge. Yet the lasting element in his argumentation is given in die foundational role of constancy: change can only be detected on the *basis* of constancy. This applies both to modal principles and typical principles (societal type laws).

This flows directly from the uniqueness and coherence between the kinematic aspect and the physical aspect of reality. The core meaning of the kinematic mode is *uniform flow*, which is equivalent to the intuition of persistence, endurance or constancy. Physics and the science of kinematics know that one cannot contemplate a cause of motion, but only a cause of the change of *motion* such as acceleration or deceleration. A change of motion always requires a *physical* cause. The acknowledgement of constancy and change as original and mutually cohering modes of explanation makes it clear why an account of the nature of principles cannot avoid exploring them as well.

An analysis of principles is a complex endeavour because it is a compound basic concept constituted by employing multiple points of entry. A principle is first of all *unique* in the sense of being *irreducible*. This characterization is articulated on the basis of the *numerical* awareness of the *one* (uniqueness/irreducibility) and the *many* (being distinct). A principle in addition has a scope which encompasses all possible places, i.e. it is *universal*. In terms of the numerical and spatial aspects it can be said that a principle is a universal,

unique starting-point for human action. When the kinematic and physical aspects are involved as well, an important qualification is needed, namely the fact that a principle (a universal starting-point for human action) is not valid *per se*. It requires *human intervention* to give a positive shape to principles in particular circumstances. Enforcing principles or giving a positive shape to them, i.e. positivizing them or making them valid, entails a rich dynamics and variability made possible by their *constancy*.

By exploring the kinematic and physical points of entry a more specified account can be given of the nature of a principle: it is a unique, universal and constant starting-point that can only be made valid through human intervention. Of course much more needs to be said. For example, the term "human" should be qualified, by saying that a principle can only be made valid by a competent organ – where the term "competence" is derived from cultural-historical power and the term "organ" from the biotic aspect.

From this brief and provisional analysis it is clear that *irreducibility* (entailing uniqueness) does not exclude *universality* and invariance (constancy). Historical variability does not eliminate constancy but presupposes it.

24. Re. (d): Does the structural principle of the state only appear in differentiated societies?

It is a general misconception that the structural principle of the state only took effect during the past few centuries after a slow process of societal differentiation and disclosure. The crucial question therefore concerns the nature of undifferentiated societies.

We have to go back to the oldest human ways of co-habitation found in the *extended family*. Although it appears at first sight that segmented (or acephalous) societies existed without rulers, all known undifferentiated societies do display an organized internal social structure.

Kammler distinguishes between undifferentiated societies and differentiated or complex societies. The latter reflect a social stratification with unilateral relations of super- and subordination. But relations of super- and subordination are certainly not absent from undifferentiated societies. Kammler points out that even in the lowest forms of technological and economic development elements of social ordering are found (Kammler, 1966:30). Acknowledging authority in the earliest undifferentiated societies explains how such societies managed to protect themselves against external threats and why there is a continuous line of development maintaining relations of super- and

subordination in subsequent societies. Although it may be difficult to locate a central power, Kammler holds that the presence of a defence organization attests to the fact that the "political element" is everywhere present in undifferentiated societies (Kammler, 1966:31).

The same perspective is found in Dooyeweerd's analysis of undifferentiated societies – to which Chaplin did have access.

Dooyeweerd first of all points out that the difference between undifferentiated and differentiated communities does not solely derive from the dimension of modal aspects.

What it means, for example, is that the sib as an undifferentiated society "does not function merely in a modal-economic way, but that it may have such structural economic functions as, on a differentiated cultural level, are exclusively found in an economically qualified agricultural or cattle rearing undertaking" (Dooyeweerd, 1997-III:348). Likewise such a society does not merely function within the social aspect "but acts as a kind of club, which on a differentiated cultural level is typically qualified by its aspect of intercourse" and "it has not only a modal juridical function, but performs typical juridical functions which in a differentiated society exclusively belong to a political community" (Dooyeweerd, 1997-III:348).

The difference between undifferentiated and differentiated societies is therefore not to be found in the absence or presence of the structural principle of the state, but in the *form of organization* respectively found within them. An extended family, a sib, a clan or a tribe may all unite the most heterogeneous structures, but "[T]hese various structural principles are realized in *one and the same form of organization*" (Dooyeweerd, 1997-III:349).

Undifferentiated societies instantiate therefore

> a close interweaving of heterogeneous structural principles, whose·
> interlacement is *essential* to them, but displays an intra-communal and not
> an *inter*-communal character. They are historically founded in a particular
> *formation of power*, but the latter appears to have an undifferentiated character
> (Dooyeweerd, 1997-III:349).

25. Concluding remark

Reflections on "human nature" are found throughout the Western intellectual legacy. From Greek antiquity onwards human nature was related to an understanding of human society. The effect was that human nature acquired a mediating or co-conditioning role in respect of the way in which society

is shaped or structured. The implication is that the type laws for human society became dependent upon human nature instead of norming it. From a systematic perspective this amounts to a misunderstanding of the relationship between modal universality and the typicality of type laws. Concrete societal entities function in a *typonomic* way within the various modal aspects, thus reflecting their "typonomicity". However, the scope of the modal aspects of reality displays an unspecified universality.

Consider the normative awareness of the distinction between *economic* and *un-economic*. This contrary presupposes a norming standard, to which human subjects can either conform or not conform. The same applies to societal collectivities. States and businesses can act un-economically by wasting their money. This remark acknowledges the modal universality of the economic aspect and can only be formulated by disregarding the typical (typonomic) differences between a business enterprise and a state. Since modal laws hold universally without any *specification* we can establish that social entities such as universities, business firms, sport clubs, states, families and churches all have to observe the general meaning of economic norms.

We have noted earlier that the type law for a specific kind or kind of entities does have its own universality, but this universality is *specified*. The law for being a state is universal in the sense that it holds for all states. But because not everything is a state, this type law is specified and it applies to states only. Likewise, businesses and states belong to different kinds of societal entities, and this typical difference comes to expression in the typically different typonomic functions of a state and of a business within the economic aspect of reality. Business economy differs from state economy – when a state *taxes* its citizens it does not want to make *profit*. In general we pointed out that modal laws encompass all possible entities, whereas typical laws (type laws) hold for a limited class of entities only. Type laws specify universal modal laws but they do not *individualize* them, just as little as they incorporate human nature as a conditioning factor.

Therefore neither modal laws (norms) nor type laws (norms) derive their norming meaning from human nature. Rather, they should be observed by human subjects. The variable functional capacities of social structures are therefore not rooted in human nature – they are rooted in the applicable modal laws and societal type laws.

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