

ourselves through the process of self-examination, we understand ourselves in a self-evident way in the family, society and state in which we live."³⁴

However, it is not difficult to see that the Japanese traditional culture has its own identity in one aspect of created reality, i.e., in the faith aspect. Thus Japanese culture, especially when it encounters a national crisis, should be confronted with the Christian faith. It is here that the role and *raison d'être* for the Christians philosophy in Japan lie. I believe the transcendental philosophy from Christian religion alone can explain unity and harmony to man's cultural foundations. This Christian motive shows a harmonious opening in the modal aspects of created reality. Divine creation is regained here, and various communities and social institutions can have their own social sphere sovereignties instead of being unified by natural religion. But it will be impossible for Japanese culture to be regained by the Gospel without the personal members of the Christian community continually examining themselves in the light of God's Word, and their remaining in fellowship with the living God. When, as a Japanese Christian, I first repent at my religious center (the heart) and in my thoughts, I am led by the Holy Spirit to critically subdue from within the religiosity of Japanese thinking, only then will a new horizon open up for me.

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GOVERNMENT IN THE ECONOMY

Outlines of a Reformational Rethink

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We live in a time when deep and unsettling changes are occurring in the societal order in various parts of the world, e.g. Eastern Europe and Southern Africa. Because of the decisive role played by economic considerations, actions and relations in modern times, changes in the societal order are seen as predominantly resulting from the interaction between economic and political processes.

Despite wide-spread conviction that the interaction between these two facets are decisive, debates on how change in these respects have to be structured continue to be dogged by inconclusive differences about the role of the government in economic affairs. It is also the case that on this issue comparatively little has been published in Reformational circles (cf. Storkey 1979 & 1986; Cramp 1980; Antonides 1985; Van Niekerk 1986). While this discussion eventually has to be concretised to have bearing on specific country situations, the theoretical debate in Reformational circles needs to be advanced beforehand. This contribution is an effort to stimulate such discussion, and its thrust is exploratory.

The question that will be investigated theoretically is: what is the meaning of basic Reformational perspectives (as understood within the Christian tradition) for the economic order? It does this by attempting to develop a theoretical foundation for the role of the government, market and business enterprise in the economy from a Christian philosophical point of view.²

After a discussion of the relationship between dimensions of a differentiated society (section 2), possible aspects of economic reformation are developed from a Christian perspective (sections 3 and 4). Here the role of the government in the economy, as well as the role and place of business concerns and the market, are of primary importance. As will be seen, the latter implies that the relationship between economics and politics will be continually present.

The question of government's role in the economy cannot be adequately answered without reference to the issue of economic justice. This comes about by reason of the intrinsic nature of a government's task as well as the fact that the emotions surrounding the practical disputes about this issue, flow from deep-seated notions of unjust access to and distribution of

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² A notable early contribution on the role of government in the economy, is Strauss (1965). This contribution indeed builds on the distinction between typical and a-typical statal tasks used by Strauss, and first introduced by Dooyeweerd (1952:65-79; 97-122).

³⁴ *Ibid.* p.245.

economic benefits in many societies. Economic justice demands a thorough investigation in its own right. This cannot be attempted in this contribution. Because it is central to the issue, however, it is given a suggestive treatment, in the expectation that it will draw reaction from others.

1. *Prologue: when is a theoretical approach Christian?*

The fundamental *theoretical* point of departure is that the existence of a differentiated society, with a rich variety of distinctive institutions and relationships, is based on possibilities provided for in a structural order that is not of man's making. This implies that the realisation, organization and structuring of institutions and relationships in society is not an arbitrary matter, but that humanity has the calling to pursue ways to realise and develop the possibilities inherent in the created order. In such realisation lies a life of true stewardship and honour to God.

However, an important question is how one can gain constructive or "correct" insights in this search. Although of great importance, something like the idea of stewardship is not in itself sufficient to establish an *analytical framework*. In other words, where our concern here is the development of theoretical insights about the most desirable course for *concrete* societal evolution, the question is: what makes a theoretical framework Christian?

Naturally this is no easy matter, and the accepted Christian approaches seldom make it explicit. Yet we will attempt to lay down a number of guidelines or requirements in this regard. More specifically, it is suggested that two important guidelines—but certainly not the only ones—for the development of a Christian societal vision and analytical framework can be found in the following:

- I. The principle of *non-distortion*, and
- II. The principle of *non-idolisation*.³

In the first case, what one has in mind is the non-distortion of social institutions, i.e. with reference to the God-given (i.e. creational) distinctiveness or character-specificity of different institutions and relationships; in the second, the non-idolisation or non-totalisation specifically of either (modal) aspects of our lifeworld ("reality") or of societal institutions as such.

One could perhaps argue that non-idolisation alone is sufficient, that distortion can usually be shown to flow from the idolisation or absolutisation of certain aspects or elements. However, it seems preferable to retain both principles, *inter alia* with an eye to communicating these ideas to those outside the Christian tradition or those Christians not versed in the more technical and systematic elements of, for example, Dooyeweerdian social philosophy. This is a simple and intuitively clear expression of two sentiments that feature centrally in the Reformational tradition.

Together these two principles—which appear to be rather important and very useful in developing insights with regard to economic reformation—

form the basis of the claim to the Christian nature of the approach outlined below. The use of other elements of a Christian theoretical approach—for example Dooyeweerd's distinction between different aspects of reality, or between foundational and guiding/qualifying functions of societal institutions—can be argued to be justified because, and (only) in so far as, they aid and illuminate the realisation of guidelines like these two.

This theoretical point of departure is also useful in developing a fundamental evaluation of the most important approaches in the conventional debate. Since one and all develop their practical and theoretical beliefs under the influence, to a greater or lesser extent, of the dominant philosophical trends and ideologies of the day, it is almost impossible to develop a truly radical (i.e. fundamental, root-level) alternative approach without critical insights into the standard approaches.

2. *Separate realms in a differentiated society?*

Most viewpoints in the debate about the economic dispensation are inclined to operate with the terms "the economy" and "politics" *as if separate and even detached realms of society exist*. For example, the liberal economic philosophy with its theory of limited government wants to remove the State (political authority) from the domain of economic activities. It wants to maintain a separation between the sphere of free economic exchange and the domain of political power: public order work by the government should only involve law and order. The relationship is therefore seen as one between more or less independent spheres.

Although a term such as "the economy" is so commonplace that it is difficult to avoid, it is necessary to be mindful of a subtle distortion of reality contained in it. A more precise definition is necessary. In this respect the vision of a differentiated society, in which one finds a multiplicity of distinctive though enaptically interwoven societal structures and relationships rather than "realms", is remarkably clarifying (cf. Dooyeweerd 1969, esp. vol. III; Storkey 1979, ch. 5–15; Taylor 1966).

This vision implies that there are no separable political or economic spheres of society (although a *distinction* is possible, see below). As far as "the" economy is concerned, one can obviously distinguish a variety of economic (or economically qualified) structures that exist in a society, e.g. business concerns. However, their economic activities (production, sales, etc.) do not stand on their own, but are closely interwoven with societal structures that are not typically economic in character, but that do participate in typically economic buying and selling activities, i.e. various forms of economic intercourse. Families, schools, churches and State all take part in economic inter-relationships (although, for these institutions economic relationships are a secondary aspect of their existence, while for businesses it is the most important and leading (qualifying) aspect⁴).

³ Alternative terms for non-idolisation are: non-totalisation or non-centralisation or non-prioritisation. Particularly when communicating with those in non-Christian (e.g. neo-Marxist) traditions a term like non-totalisation has much more intuitive attraction and is bound to receive more ready acceptance.

⁴ Of course it is not the only aspect: a firm also has social, legal, ethical, historical and other aspects. However, the qualifying economic aspect can be seen to impress its indelible stamp on the way other aspects are actualised in (function in) the existence of a firm, and ultimately is the decisive consideration.

All individuals and institutions therefore participate in, and are integrally part of, "the" economy—some, admittedly, more intensively and with more commitment than others, but all inextricable part of it. In other words: all institutions and activities have an economic aspect, inter alia; in some it is directive and qualifying, in others subordinate to another, non-economic aspect (likewise in a qualifying role). While one *can* distinguish and identify those institutions and interactions that are economically qualified, one can nonetheless not speak of "the" economy *as a separate and separable "realm" of society*.⁵

For politics, the "realm of the State", similar remarks hold true.⁶ The different political convictions or views of a citizen/voter obviously relate to the way in which the government (should) handle, promote or impair his (to his mind's) rightful interests. Such interests do not include the interests of individuals only, but also the interests of the whole variety of societal structures (alongside the State) of which individuals are inextricably part, i.e. families, churches, schools, businesses, etc. Therefore all these structures, as well as the inter-relationships that are distinguished above, are inextricably involved in politics. Once again, the latter is no separate realm but only a facet of a differentiated society.

That there is, and can be, nothing but an inextricable cohesion between "realms" such as "politics" and "the economy" is clear, no matter how much a separation is attempted in a world ruled by ideologies. Economics and politics are two (of a number of) different sides (or dimensions) of the same coin—differentiated society. Even more—they are indissoluble correlates, since the existence of political debates and activities with regard to government action presupposes nothing but the existence of a multiplicity of *non-political* (non-governmental, non-statal) interests and structures. Without that there is nothing to politicize about. (We shall return to this later, see paragraph 3.4 et seq.)⁷

From this conception of differentiated society—or what might be called *structural pluralism*—flows a variety of implications with regard to the relationship between State and economy—the role of government in "the economy"—and also insights into fundamental deficiencies in both economic liberalism and socialism.

⁵ It would appear that the separate realm model found referred to above, and often found in popular (non-Christian) discourse, in itself is already an example of a distortion, i.e. of an integrated aspect of society being made into an autonomous domain entity. In turn one could argue that this separate realm conception allows the actual functioning, in modern culture, of economic relations as an autonomised (ideological) force.

⁶ The term "politics" is used in the sense of concerning all the "activities of citizens (voters) directed at the placing and testing of persons in the office of government, political participation and having a say government policy making, etc. It is concerned, therefore, with the internal (intra-State) political debate and internal political activity of subjects (individually or via political parties) with regard to the conduct and policy of government.

⁷ The factual prominence of "economic" (or cultural or social or religious or ethical) questions in "political" activities is obviously a product of the historical societal development and situation in a country, which includes the way in which the government has handled the various claims and interests (also in the so-called realm of "the economy").

3. *State and economy in a differentiated society*

Both mainstream economic liberalism and socialism harbour seriously problematic views of the role of individual freedom and the role of institutions in society, notably the role of government. In both, the Reformational directives spelt out in the prologue are fundamentally disregarded. An attempt will now be made to offer an alternative approach in which the basic Christian guidelines are explicitly respected. (Since the requirements of being Christian also hold true for science or theorisation—science/theory should not be idolised either—this analysis is presented and should be understood not as final truth, but as exploratory and provisional.)

3.1 Freedom—individual, economic, political?

Freedom occupies a very important place in society. It is also to the credit of liberalism that it has highlighted this element. It is extremely important to sort out the place and role of freedoms in society in order to outline the appropriate role of political and other authorities with regard to freedom. The view of freedom held by individualistic liberalism unfortunately does not offer a solution, because in the final analysis it cannot guarantee individual freedom. This is so because the denial of communal structures with specific structural principles eliminates the possibility of deducing structural or material limits to the real power and authority vested in actually existing structures like the State (also see section 3.6 below).⁸ In addition individual, economic and political freedom largely remain unspecified.

The vision of a differentiated society suggests a distinction that is fruitful in this respect. This pertains to the distinction between various independent spheres of law and correlating freedoms or rights in society (see Hommes 1975: ch. 3; Strauss et al 1988: 6–12). At issue is the well-known distinction between public and private law, but with a refinement with regard to private law which is not common in standard (liberal) training in law. While this distinction can be depicted, terminologically, in various ways, the following categorisation has been suggested.

The first, and well-known category, is:

- (a) The *public law sphere*, i.e. intra-state law that governs the relationship between government and subject. A correlate of this is the individual citizen's public law freedoms—also called political freedoms—i.e.

⁸ Individualistic liberalism aims at guaranteeing the freedom of the individual. In order to achieve this, they cannot accept any relation of super- and sub-ordination between individuals. [Compare Locke's words: "for all beings kings as much as he, every man his equal" (*Two Treatises of Civil Government* (1690), ed. by W. S. Carpenter, London: Everyman's Library, 1966, par. 158, p.197), par. 123, p.179]. However, without accepting the legally delimited authority structure of the body politic there is no secure way by means of which the freedom of individuals could be protected. This defect comes to the fore as soon as one encounters an infringement of the legal rights of one individual by another. At this critical point it becomes clear that only a structural conception of the state and then of the task of government can provide us with a genuine guarantee for individual freedom. (Of course no guarantee can be absolute—it will always be dependent on the way in which those in office perform or execute their legal competence to establish balance and harmony between conflicting legal interests.)

freedom of assembly, organisation, speech, opinion, criticism and protest, with the franchise as the keystone of political freedoms.

In the next category a refinement can be introduced:

(b) In the *private law sphere* one can distinguish *two subspheres*:

—The *external* private law (or civil law) sphere, in which inter-individual legal relationships are effected. Here the individual's personal rights and freedoms are protected legally/juridically.⁹ In addition to e.g. freedom of religion or social freedom, these personal freedoms include the economic freedom to conclude trade transactions, to join an existing trade union or business, the right of possession and freedom of disposal with regard to possessions/property, etc. The important point is that these freedoms are protected in this sphere of law regardless of whatever societal institutions the individual may take part in.

—The *internal* private law sphere,¹⁰ in which are guaranteed/protected the internal spheres of law of non-statal institutions of which individuals in a differentiated society are part. Our concern here is not with the rights and freedoms of persons/individuals as such, but with the non-statal institution itself (with which individuals are naturally intertwined). Of relevance here, for example, is the economic freedom to establish a business concern, and especially the freedom (competence) of the concerned authority (managers) to arrange the internal affairs (internal law) of the non-statal institution concerned as they deem fit: the arrangement of the powers of the management, powers of decision, job description, conditions of membership, promotion arrangements, rules and regulations, disciplinary measures, etc. (cf. Fourie 1981: chap. 5.5). This competence and freedom is vested not in the individual members as such, but in the very nature of the enterprise as societal unit.

It should be clear that this provides a *differentiated and structured view of law and freedom* in contrast to that of liberalism which reduces everything to individual freedom (and even more so, freedom vis-à-vis the State alone). This reduction can be seen in the insistence of liberalism that the internal competence of, for example, a business concern resorts under *individual* freedom (in the market), the depiction of every freedom from "state interference" or legal restriction as *political* freedom, and the disregard of the personal freedom and rights of individuals vis-à-vis non-statal authorities (i.e. within non-statal institutions).

The non-idolised, non-distorted acknowledgement and honouring of these freedoms, their rightful place and their role, is a fundamental requirement of everyone in a differentiated society. Below it will be contended that the distinction between different legal spheres and correlating freedoms has important implications for the role of government towards inter alia,

⁹ While the term "juridical" is often used, for instance by Dooyeweerd, it may be preferable to use "legal", as long as its variety of meanings—juridical vs. "sanctioned by law"—are clear. Here the terms are used interchangeably.

¹⁰ Hommes (1975) as well as Strauss et al (1988:6–12) use the terms civil (burgerlijk) and non-civil (niet-burgerlijk) private law instead of external and internal private law. The latter pairing is preferred here because it's intuitive clarity aids communication.

economically qualified structures and interrelations (and vice versa). However, first of all the State and government must be considered more closely.

3.2 The Need for a non-economistic conception of the State

A central thesis of the idea of structural pluralism, which is also the foundation of this contribution, is that no appropriate and normative insight into the relation between State ("politics") and, inter alia, economic relations can be obtained without, inter alia, a principled conception of the nature of societal institutions, including the State. Without that the principle of non-distortion cannot be honoured, and any contemplation of the issue becomes a more or less arbitrary matter in which created reality is easily distorted.

In mainstream economics, which is squarely within the classical liberal tradition—and a derivative of Locke's state nihilism—it is endeavoured to derive something called "state" or "government" *from purely economic or market principles*. The concern here is with so-called market failures, which result in certain types of collective goods and services not being provided (or not provided efficiently) by private entrepreneurs, primarily because they cannot be traded and hence no market price and process will exist for it. Examples of such "public goods" are public health, education, street lights, defence, etc. According to the liberal view, the members of the community get together, as it were, to create a government to render these collective services to them. The State is therefore defined as a form of collective action. This includes even the primary legal functions of the state—safeguarding personal liberty, property and contracts—which are deemed necessary because (market or contractual) interaction between free and autonomous individuals cannot prevent one individual from usurping the freedom of another. Since all inter-individual interaction is reduced to economic interaction, even this amounts to a failure of the market, i.e. of economic interrelations, and to the remedial provision of a public legal order as a "collective good".

The problem is that this "definition" cannot gauge the distinctive nature "typicality" of the State, since other societal structures—churches, businesses, etc.—also join people together in collective or united action. The "public authorities" so conceptualised are, in fact, not true State organs, and cannot be distinguished from a "collective producer", a public corporation or a utility company.

Furthermore, the provision of collective goods cannot indicate the typical conditions for the existence of the State.¹¹ After all, there is no reason why private business concerns or other private sector organizations cannot supply schools or roads or street lights to a community. On the other hand a community could decide to co-operate to supply "collective goods" without creating a body with coercive powers—for instance a number of farmers

¹¹ Formally, what eludes economic liberalism, is the insight that the State can only provide so-called collective goods if it already exists as State. Therefore such provision implies that this institution already meets the conditions and norms for being a State, i.e. that the underlying structural principle or norm system *of the State* has already been actualised.

who cooperate to install a television receiver. It is not only the powers of coercion that make a body a State government.

Therefore the "conditions of existence" from which the State derives its distinctive uniqueness—its so-called structural principle—cannot be inferred from economic principles or arguments and, in any case, cannot be determined arbitrarily. What one requires is a non-economistic conception that captures the non-arbitrary intrinsic distinctiveness of the State as typically non-economic institution.

3.3 The State as a public legal institution

The point of departure that was spelt out implies that what is common and identifiable in all positive forms of the State—in all the observed forms in different times and places—represents creational conditions of existence, for *being a State*. Therefore this is the key to the understanding of the typical uniqueness of the State—and thus to the avoidance of arbitrariness and distortion.

Here we reiterate the standard view in Reformational philosophy that the State, by its nature, is a public legal institution (*verband*) in which government and subject are bound together on the foundation of the monopoly of the power of the sword and led/directed by the idea of public justice (compare Dooyeweerd 1969 III: 379–508; Taylor 1966: ch.9; Storkey 1979: ch.12). The State is therefore qualified by its juridical nature, by a public legal character. From this uniqueness it follows that the *typical* (or *essential*¹²) task of the government is to establish balance and harmony between the multitude of legal interests in the State territory and to restore justice where it has been violated—that the government must integrate the various legal interests juridically in order to establish and maintain a public order of justice. Juridical integration is therefore the creation of public legal order.

In the government's guarding of legal interests, the State's power of the sword plays an important foundational role. However, this power is not an end in itself, but is in service of, and is qualified by, the juridical nature of the State—the government is called upon to employ power *in the service of justice*. (This, of course does not exclude the possibility that this power may be abused—it remains a normative task that appeals to human responsibility. We shall return to this later when the problem of the circumscription of government powers is discussed.)

Here one can see the perverse result of liberalism's conception of the State, because it regards power (instead of law or justice) as the most characteristic aspect of the State and summarily depicts it negatively as arbitrary coercive power or violence. Consequently it cannot fail to see the State as the great menace (instead of protector) of interests, freedom and rights—although it cannot escape from the necessity of the State for exactly those things. (The solution—the idea of limited government—offers no structural constraint for this "necessary evil", however).

3.4 Legal interests and the typical task of the government in the "sphere" of economics

It was noted above that the liberal economic philosophy in the last instance wants to exclude the State from the sphere of economics by restraining it to the sphere of law and order—especially criminal law, private contract law and property law.¹³

It may appear that such a viewpoint can also be derived from the view outlined above, i.e. that the State must juridically integrate *legal* interests. Does this not imply that the State should refrain from interfering with *economic* interests?

The idea that in each sphere of life only a specific *kind* of event, problem or interest is found—e.g. that economic events, interests and problems belong to the field of economics—flows from the idea of separated realms of human behaviour. From this stems the prohibition on "interference", or infringement of non-statal societal realms, by the State (as political authority).

In paragraph 2 it was argued intuitively that such a separation of realms implies a distortion of differentiated reality. More specifically this non-separation thesis implies that *purely* economic events, problems or interests do not exist. Each event or problem—for example a market transaction that is qualified as economic—simultaneously has, regardless and in the midst of its qualification, also juridical, social and ethical aspects, and so on. In the same way all interests—and therefore also economic interests—have a legal side that is juridically relevant and legally worthy of protection.

There is no such thing as *purely* economic interests. Like all other societal structures, typical economic institutions such as business undertakings have interests that can be violated and then call for legal restoration and/or legal protection. In other words, this also represents legal interests—to be called *economic legal interests* (*economische rechtsbelangen*). One of these economic legal interests is the internal private law freedom discussed in paragraph 3.1, e.g. the economic freedom to establish and maintain a business undertaking as well as the internal legal competence to manage and handle its internal affairs. Individuals have, amidst their participation in various societal institutions and interrelations, personal (civil) interests that also qualify as legal interests. This includes the personal freedom that requires protection in the external private law sphere, inter-alia personal economic freedom as well as property law and contract law.¹⁴

In short: the meaning of the integratedness and non-separability of the various aspects of created reality is that in all facets of life individuals and societal structures have interests with a legal side, i.e. legal interests. Therefore the typical or essential task of government, which is specifically concerned with the protection of these interests, in principle concerns the active establishment and maintenance of balance and harmony of *all* these juridical/legal interests, i.e. *in all "spheres" of life*. This means that the

¹² Essence = the inner distinctive nature of anything; the qualities which make any object what it is.

Essential: containing the essence; necessary to the existence of a thing. (Chamber's Twentieth Century Dictionary). Also see footnote 15 below.

¹³ The last two point to the external private law side of the State and figure as interface with economic relations.

¹⁴ The public law freedoms (political freedoms) of people is an example of a public legal interest that requires protection.

government's typical task in principle also envelops the "realm" of economics.

Given the norm of non-distortion, an attempt to restrict the political sphere, or to exclude a part of life from the task of government, or to limit the government to being a referee, is not possible. The attempt of economic liberalism to bring about a separation between economics and politics is not tenable. Justice must be served actively everywhere, also in the realm of economics, i.e. with regard to economically qualified institutions and economically qualified inter-relationships (in which institutions that are not typically economic also participate). In this sense "limited government" could very well mean limited justice.

3.5 Atypical (or supplementary) tasks of government and societal development

Earlier it was referred to the fact that the liberal approach, which actually aims to limit the State to the minimum of the maintenance of law and order, recognizes an additional category of action by the government—the provision of "collective goods". It has already been argued that the term "collective" cannot gauge the distinctive nature of the State. It is also clear that to depict so-called market failures as the primary reason why the State originated is to deny the unique, *non-economic* inherent nature of the State as legal institution inherent in the created order.

However, here economic liberalism highlights an element of truth that can best be indicated by the distinction between *typical* (essential) and *atypical* (non-essential or supplementary) tasks of the government.¹⁵ The former concerns the juridical integration task that is a direct outcome of the essence of the State, of the structural principle of the State as public legal institution. The latter class of tasks concerns the pursuit of objectives that do not result directly from the essence of the State, but are undertaken in a wider context and in service of the wider needs of a differentiated society. One thinks of the provision of roads, infrastructure, health services, the implementation of macro-economic stabilisation policy, etc.—all within the sphere of (public) administrative law.

According to which criterion can one determine if and when such atypical, supplementary tasks of the government are justified, and how do they relate to the typical tasks? It seems that one should start out from the idea of a differentiated society and the *dynamics* of such differentiation. This includes the unfolding and extension of the creational possibilities of differentiated societal structures, the accomplishment and maintenance of independence by such institutions, the unfolding and extension of individual, human possibilities, and so forth. What this amounts to, is the process of cultural-historical development (also called the development of civilisation, cf. Strauss 1965).

¹⁵ While the terms typical and atypical (or non-typical) are well understood in the Reformational tradition, the alternative terms essential and non-essential are suggested here on the basis of intuitive appeal, and as an aid in communicating with those outside this tradition. Of course it should not be linked to the philosophical or methodological approach called Essentialism.

In the light of the cultural task to which man has been called as steward, the above unfolding process becomes meaningful as a general regulative principle or guideline for human behaviour in all "realms" of life. All people and all societal institutions have a responsibility in this regard; churches often establish schools, for example. There is no reason to exclude the State from the responsibility to act in the interests of societal unfolding and development. Such action may manifest itself in quite diverse forms depending on historical circumstances and context. Although such action does not, as such, result from the essence of the State as juridical integrator,¹⁶ the exclusion of these atypical, supplementary tasks implies an undesirable narrowing (and distortion) of government responsibilities (Strauss 1965: 198–204).

Therefore societal development interests (in the sense above and *not* in the narrower sense of economic development, or, even narrower, economic growth) can serve as a basic criterion for when supplementary action by the government is necessary and justified. (Of course this is not the only criterion or norm.)

Given these grounds for atypical action by the government, it follows that objectives in all spheres of life can be pursued within the context of the cultural-historical development process *and* as long as it has a public character. These can take the form of the provision of goods (roads, dams, health services), the establishment of non-statal institutions (schools, universities, businesses), or regulation (e.g. subsidies, macro-economic stabilisation)—all in service of the full and rich cultural-historical unfolding of society and man in society. Which purposes are to be selected will be determined, among others, by the shape of this process, developmental needs, political opportunities, financial means available, and so on (cf. Hommes 1978: 59 and 1982: 124).

3.6 *The limits of the competence of government*

It may appear as if this approach implies that both the typical/essential and atypical/supplementary tasks of the government are unbounded and in effect provides sanction and licence for *any* government action; it may thus appear potentially totalitarian. That would indeed be in profound conflict with the idea of limits or constraints, which is an important counterpart of the principles of non-idolisation and non-distortion. It must therefore be investigated more closely.

3.6.1 Constraints with respect to typical tasks

As far as the typical or essential tasks are concerned, the statement that the State is called upon to bring about a public legal integration (balance and harmony) of all legal interests and in all "realms", does not mean that no fundamental constraint principle prevails here. It only means that the government's task of harmonising interests cannot be limited *externally* by a water-tight delimitation of permissible and impermissible spheres of society. As indicated above, the attempts of liberalism at such a limitation are futile.

¹⁶ The action in this case is not a question of juridical integration or restoration of law after violation; the nuclear meaning of the juridical—retribution—is not pertinent here.

In principle the critical limits for government action can only be found in an *internal* restriction that derives from the unique nature of the State as legal institution (within the context of the idea of a differentiated society). This constraint is in the form of *substantial principles* that flow directly from the inner nature of both the State and the non-statal structures (including the different law spheres distinguished above):

- (a) Firstly, the legal responsibilities of the government *only concerns legal interests*—only the legal side or dimension of interests in all “realms” are to be balanced against each other. That means that only breaches of justice, or injury to interests, or serious imbalances of interests—*circumstances requiring some form of legal remedy or retribution*—are concerned. Although all kinds of interests are included, it does not imply the threatening or nihilation of non-statal relations and structures, but *only the simultaneous handling of the legal interests of each*. Indeed, without the continued existence of differentiated non-statal institutions, there is, after all, no variety of legal interests to integrate. The unique inherent nature of the State therefore unequivocally requires a *manner of action* by government that recognizes and honours this variety and leaves it intact.¹⁷
- (b) Secondly, the structural principle of the State requires that government conduct occurs within the framework of general legislation, i.e. *in the manner of the law*. (This naturally assumes recognition of the public legal or political freedoms of citizens in the public law sphere). Political participation therefore serves as an important check on government action, and certainly not as threat to non-statal freedom and interests.
- (c) Thirdly, and of fundamental importance, actions by government are limited internally by the material law principle which demands recognition of, and respect for, the fundamental freedom spheres of the individual and of non-statal societal structures, i.e. the freedoms in the spheres of external and internal private law.¹⁸ These freedoms—which are the due of all juridical subjects (individuals *and* institutions) regardless of race, creed, social position, political conviction, etc.—draw the formal boundaries within which the State can act *as law state*, i.e. it constitutes *the manner of justice* according to which a State authority should act. At the same time it also serves as an indispensable constraint on democracy and on the wishes of the dominating political conviction in a country.

3.6.2 Constraints with respect to atypical tasks

What are the constraints of atypical actions by the government? This is the area of biggest concern and controversy, and undoubtedly an area where much more research is needed. However, a few basic guidelines can be provided.

¹⁷ It is at this point that the (totalitarian) socialist view of the State shows its shortcomings. Instead of interests being harmonised by the government, all non-statal interests are made into State interests, and all actions of the government are led by State interests—the interests of just one of the numerous structures in a differentiated society. Nothing comes of the idea of public justice.)

¹⁸ These are the so-called fundamental or constitutional freedoms (cf. Hommes 1978 and 1982).

Firstly, it must be repeated, especially here, that the government cannot be limited *externally* in this case either. Ends can be pursued within the societal development context in all spheres of life.

However, in principle a clear *internal constraint* on such actions by the government can be furnished again. It is to be found in the same guidelines identified above. Atypical actions by the government must take place (a) in the manner of the law, (b) within the general principles of the public law, and (c) within the framework of general legislation. Furthermore, (d) the private law freedoms (external and internal) of individuals and non-statal societal structures should receive full recognition, which includes—importantly—respect for the internal competences of non-statal institutions. Given sufficient recognition and honouring of these internal limits there are, in principle, no problem with atypical action by the government.¹⁹

In addition, development interests, as discussed earlier, serve as further guideline for the nature of atypical government action. A central implication is that the latter must take place in such a way that it leads to richer unfolding and greater independence and not, for example, permanent dependence on the State. The latter pertains to individuals (compare the excesses of many welfare states in this respect) as well as institutions. It is relevant, for example, for the subsidisation or protection of sectors such as agriculture or industry. Similarly, where the government initiates a steel enterprise in the interests of development, for example, one should unceasingly probe whether continued State possession is justified (i.e. the idea of timely and appropriate privatisation).

Proceeding from this, the principle of non-distortion requires that atypical action by the government fully recognizes and respects the unique intrinsic nature of differentiated non-statal structures. This means, especially, that *where the State is obligated to establish institutions or enterprises, such institutions should not in any sense be constituted in the mould of, or transformed into, typically statal institutions*. A so-called public (i.e. state) corporation should not be distorted into a pseudo state organ or fourth level of government, but should be managed true to its nature as economically qualified enterprise (cf. Fourie 1981, chapters 6.1 and 10, as well as paragraph 4.1 below). A public (i.e. state) school must remain a true school, a State university a true university, etc. As long as State initiative or ownership or control does not imply abuse or perversion, such action cannot be rejected *in principle*.

This means, once again, that government cannot be excluded externally from any sphere of life, but that it may only “enter” these fields in *the way of justice* (de wijze van gerechtigheid); thus the latter features as *internal constraint*.

It is possible that such a “constraint by principle” is too vague, “idealistic” or “unpractical”, and that it cannot give the necessary guarantees in a world where State power is so often abused, and that an external constraint must be

¹⁹ The mere scope of government activity—often measured in terms of the level of government spending as percentage of the Gross Domestic Product (GDP)—can clearly be no indication of unjustified or excessive activity by the government. To elevate a percentage like 25% to a critical level has no foundation.

looked for. The fact remains that such an attempt is contrary to the creational nature of a differentiated society—something that cannot be disregarded without serious consequences. In addition, *the fact that simple rules for justice cannot be stipulated easily does not imply that justice need not be pursued*. To fall back on a simplistic laissez faire attitude is an abdication of responsibilities. Indeed, developing insights in this regard is one of the biggest challenges for scholars in the Reformational tradition.

3.7 Internal competences of business concerns

An important question, when considering the role of the government in the economy, is the internal competence of a business enterprise *vis-à-vis* the government/State. As this is a fundamental freedom in the sphere of internal private law, does the required recognition of this right by the State not indicate that any action by the government which affects this freedom, is *interference*? What is the extent (and limits) of the competence of those in charge of a business?²⁰

Here the appropriate relationship between the various law spheres (and correlating freedoms and interests) is critical. In addition to the principle of non-absolutisation, the way these law spheres are conceived implies that not one of the law and freedom spheres applies to the exclusion of another. All law spheres must be respected and recognized simultaneously, and the law spheres are essentially inextricably intertwined, with individuals as nodal points in the sense of being part of all law spheres simultaneously.

The law spheres are mutually limiting. Just as the public legal power of the State authority is constrained by the private law freedoms and interests of both individuals and non-statal institutions, so the internal private law powers of the managers of a business are constrained by the public law and private law freedoms and interests of individuals and other institutions. The internal competence (jurisdiction) of managers therefore extends only so far that it does not violate the latter freedoms and interests. These freedoms and interests enjoy and require protection regardless, and in the midst, of the participation by individuals in non-statal structures.

Concretely this means that a manager's rightful power over the internal affairs of a firm extends only in so far as it does not, for example, violate the personal freedoms and interests of employees and other members of the firm. Such violation would require action by the government to protect/ restore the violated legal interests, *action that could by no means be regarded as interference or undesirable "intervention"*.

Put differently: all people have a normative task and responsibility to promote balance and harmony between interests in service of justice. When economic office bearers use their internal powers in such a way that there are indications of a deliberately excessive promotion of some interests at the expense of others—i.e. such that it amounts to a violation of the personal legal interests of the individual members of the business or of the legal

²⁰ This power/freedom concerns a right of a non-statal structure *vis-à-vis* the State, and not of individuals. Compare the individualistic approach of liberalism which strive to classify these powers under individual freedoms and rights.

interests of another business or institution—then the State as public juridical integrator *is* called upon to establish a harmony of legal interests.

Exactly what these public and private law freedoms, rights and interests constitute in a practical situation is, unfortunately, a complex question which requires intensive research. For example, the physical integrity (safety of life and health) of individuals in a firm appears to be a public legal interest (cf. Strauss et al 1988:5–12). Also, it appears that the interest that individuals—employers and employees—have in receiving a fair and decent income or wage, is a (private law) personal economic legal interest that deserves protection and harmonisation with other interests. Obviously, operationalising the latter is critical and an example of the important task facing Reformational scholars in this area of knowledge.

4. On an appropriate economic order

The topic of government in the economy invariably leads to a wider discussion concerning the economic system or order. Therefore it is important to develop a Reformational perspective on questions such as the appropriate role of private business enterprises and the market.

4.1 Business enterprises and ownership

A critical requirement is that the development of the creational possibilities for economic life must take place with explicit recognition of the non-statal uniqueness of both economically qualified institutions and economic intercourse.

This means, first of all, that business enterprises must be managed with explicit respect for the structural principle of the firm (i.e. the normative condition for that form of economic life we know and identify as the firm). In an analysis of the normative structural principle of the firm Fourie (1981) contends, for example, that the typical nature of the business enterprise does not lie in the acceptance of the profit motive. The normal distinction between business enterprises and “non-profit seeking institutions” is not fundamentally correct. A business can strive for a variety of aims and still retain its unique nature.²¹

Another aspect is that of the ownership of the firm, which is one of the main issues in the debate on the economic order, often with the implication that private ownership is the key to economic justice. This is a critical issue, for without doubt the manner in which ownership has been actualised in the modern corporate firm has important implications for the distribution of power and material benefits, and thus for the extent to which economic interests within and around the firm are actualised in a just way.

What one can say from a Reformational perspective, is the following. Although it may be preferable for the firm, as typical non-statal institution, to be in private hands, the so-called “ownership” of a firm need not necessarily determine the realisation or not of its uniqueness. The uniqueness of business

²¹ For another discussion of the normative nature of the firm, see Storkey (1986, ch.7).

enterprises does not require the State to be excluded from being a dominant or even sole shareholder of a business (cf. Fourie, 1981). The critical question is whether the control powers that such shareholding normally bestows on the so-called "owners", are used to realize a non-distorted or a distorted form of the firm (in relation to the normative structural principle).

It has already been contended that when developmental needs require it, the government can initiate the establishment of essential businesses (i.e. atypical work by the State). As long as the business is operated *as a business* and is not made a part of the State, there is no objection in principle. (Naturally this statement in no way excludes the real, practical danger of interference and distortion by the government or of bureaucratic inefficiency in a concrete situation). But it is important that the (internal private law) freedom of people to establish a similar business enterprise—the right of private entrepreneurship—is respected and protected at all times, as are the rightful legal interests of such a business upon entering the market, as well as those of firms already existing in that market (see 3.7 above). The State's shareholding may therefore not be used to actuate prejudicing that amounts to the violation of the economic legal interests of other businesses.

It should also be mentioned that, specifically as far as the typical (law maintaining) tasks of the government are concerned, the critical question is not whether the government or the market is best at doing economic "things" (as when Stigler writes of "the comparative advantages of public and private control" (1975: 54)). In its typical tasks the government is only concerned with the *juridical/legal* aspects of economic activities, and it serves as *juridical* corrective when necessary. The consideration and objective here is not the substitution of private economic activity (which freedoms are indeed guaranteed by the private law sphere). The government must always respect and recognize the uniqueness and independence of non-statal structures.

4.2 The market and competition

As far as the market—another critical element in the debate on the economic "system"—is concerned, the typical manner in which interests are handled in typical economic barter activity—often indicated as competition—must also be respected. This implies that a so-called market economy is indeed the preferable economic organisation type. Regardless of who the shareholders of business enterprises are—i.e. regardless of whether some or all businesses are "privately owned" or "publicly owned"—interaction between businesses in market relations remains a typical form of economic intercourse. Competition and rivalry—although subject to norms themselves—are part of the uniqueness of economic interaction, and should be respected as such (in a non-distorted form).

However, the principle of non-absolutisation implies that the virtues of competition should not be proclaimed absolutely. The liberal view is that free interaction between demanders and suppliers in market relations—if only entirely free of government interference—will eventually lead to an optimum mediation of conflict between economic interests. Apart from

reminding the reader that the satisfaction of the (formal theoretical) conditions for optimal competition are often nullified by economic power concentration, it must be pointed out that the mere fact that the free operation of a market may bring about a certain allocation of "interests" does not mean that a conflict of interests is necessarily solved harmoniously and equitably. The reaching of a so-called market equilibrium between supply and demand is no guarantee that everyone's rightful economic legal interests have been handled in a balanced and just way.²² Notwithstanding the positive connotations of the term "equilibrium", market equilibrium does not necessarily imply a *just* outcome.

What is necessary, is that business enterprises actively and purposefully should strive for economic justice (alongside other economic norms) in both their internal activities and their interaction and competition with other market participants. This also applies to other non-statal participants in economic relations, including the consumer. This means, inter alia, that the responsibility which consumers, labourers, managers and shareholders have towards each others' interests, must enjoy continuous recognition. The pursuit and establishment of wealth and prosperity in a market economy should therefore not exclude the central claim of justice. Moreover, the "market system" or "market principles" should not be elevated to ends in themselves. That invariably leads to their idolisation and/or distortion.

Such a role for economic justice means, in particular, that the normative element of supply and demand, efficiency and "the bottom line" must be unfolded, developed and enriched by fairness and justice as regulative ideas. The norm of economic efficiency should not be elevated to the position of single decisive one at the expense of other norms such as economic justice (and vice versa). Norms also are subject to the principles of non-idolisation and non-distortion. Within the unique context of interaction in a market economy, a richer or more developed understanding of the *simultaneous realisation of economic norms* are necessary. Again, this is an area where an enormous amount of work needs to be done.

4.3 The role of government

The other central element in any discussion of the economic "system" is the role of government. A vital element for achieving a just economic dispensation is a State authority that extends its typical juridical integration work and its atypical work to economic institutions, relations and activities. As contended earlier, the uniqueness of the State implies, in principle, a very definite—although juridically circumscribed—role for government in a market economy (the positive form of which would naturally depend on concrete circumstances). A responsible government has no choice but to act decisively to (try to) restore justice everywhere. In this sense the best safeguard against "political interference" in the economy is for non-statal economic participants to meet their full responsibilities as best they can.

²² The liberal economist George Stigler has written (admitted?) that one "has no right to assume that the market place will automatically protect the individual" (1976: 13).

4.4 Economic justice

It was suggested in the introduction that an important part of the answer to the question of the role of government in the economy concerns the issue of economic justice. Also, this topic featured centrally in the foregoing discussion. Indeed, for a Reformational perspective on the economy to have real meaning, it has to provide a perspective on the way to link the central idea of justice with the positive existence of firms, markets and the State in the context of an economic "system" or order.

However, the discussion also begged the question, i.e. *what is economic justice?*

It is not easy to define, and especially to operationalise, justice, and notably economic justice. This is one of the most puzzling questions, especially the debate on the role of economic justice vis-à-vis economic efficiency. Thus one must attempt to give a more precise definition of the idea and role of economic justice.

Against the background of the discussion in section 3 above one can provisionally *define economic justice as a balance and harmony of all economic legal interests, i.e. (a) the legal interests of individuals and societal institutions in their economically qualified intercourse and interaction, as well as (b) the legal interests of economically qualified institutions as such.*

The economic freedom of an individual²³ is one of these legal interests. Therefore these freedoms are constitutive for economic justice. However, personal economic freedom should not be seen as absolute, with economic justice as secondary or at most a welcome side effect (compare Friedman's view of freedom and justice, 1962: 5). Personal economic freedom must be harmonised with other legal interests. It is therefore necessary but not sufficient for economic justice. Similarly the freedom to establish and manage a business (an internal private-law freedom) is also an economic legal interest. These freedoms are therefore constitutive for economic justice, but should likewise not be absolutised.

Reference must be made here to the false equating—especially from the liberal side—of (economic) justice with equality.²⁴ For example, Friedman does not speak of freedom and fairness, or equity, or justice, but of freedom and *equality*. Liberal authors are also inclined to describe the result of government action (aimed at justice) with terms such as "uniformity" and "drabness", in contrast to the diversity that a free market would bring.²⁵ Socialist schools of thought also often use the term equality. However, balance and harmony between legal interests in the "realm" of economics does not necessarily imply equal economic *positions* in some sense or other. The only equality that is relevant, is equality of (the right to) the administration of justice (gelijke behandeling), as well as an equal claim to fairness and justice. A debate in terms of equality as such is off the mark.

²³ Formally, his external (non-civil) private law personal economic freedom (see 3.1 above).

²⁴ Compare the title of the well-known book of Arthur Okun: *Equality and Efficiency* (1975).

²⁵ Friedman even gives the absurd—but frequently quoted—example of a government-determined "uniformity" where everyone would have to wear the same colour ties.

5. Conclusion

It appears that neither economic liberalism and limited government, nor State socialism and State domination offer alternatives that can truly alleviate or eliminate conflict and injustice in political-economic relationships. Neither gives a clarifying view of the achievement of justice and a harmony of interests in economic relations, and the role of the State is either fundamentally denied or over-emphasized. Neither can offer any structural constraint for government action and no legal guarantee for economic (and other) freedoms is provided. Both viewpoints distort the role of markets and economically qualified institutions.

The Reformational alternative suggested here starts out from the typical, creational nature of the State, and develops the distinction between typical and atypical tasks of the State with particular reference to the economy. Of particular importance may be the definition of economic legal interests (requiring juridical protection), the impossibility of external constraints on the State, and the suggestion of substantial principles as internal constraints on the competence of the State in the economic sphere. While some remarks on the nature and role of firms and markets in an appropriate economic order are offered, a central theme is the importance of economic justice. A definition of the latter is suggested.

It may strike the reader that there is no attempt to specify or choose a specific political-economic order, e.g. some form or mixture of capitalism or socialism. This is intentional and, we believe, an essential element of a Reformational approach to these issues. The point is indeed that a proponent of the idea of a differentiated society must reject the notion of a more or less rigid *system* in economic relations. It is also not possible to decide once and for all what is the best way to arrange things. We should not be married to some or other "system", no system should be idolised, and there should be no search for a final blueprint or prototype. The solution does not lie in a system.

People have freedom of choice, and decisions have to be made continually in concrete situations about ways in which norms have to be positivised and how the broad demand for justice can best be served—given guidelines on government and economy such as those suggested in this contribution. The "solution" lies in responsible choices in which the requirements of justice and other norms *and* the creational nature and ample possibilities of a differentiated society are respected. In the final instance this is the essential meaning of the Reformational idea for the economy.

The normative context of such responsible choices needs to be uncovered and developed by theoretical work such as that in the Reformational tradition. For example, the problems surrounding the concept of economic justice, how this norm is to be simultaneously realised with other norms like economic efficiency, and the operationalising of economic justice in concrete situations, stands out as one of the main issues where contributions from Reformational scholars are urgently required. This is true in all contexts, notably that of the economic policies of the government, the various forms

economic intercourse (markets and competition) *and* the internal sphere of the firm.

Another underdeveloped area is that of the atypical tasks of government, in particular the extension but also the operationalising of the kind of principles suggested here. Of particular importance may be the form and content of internal constraints, and the mutual relation and balancing of competences and constraints of statal and non-statal authorities.

In general, given the undeniable importance of the interaction between economic and political processes in modern industrial society—in part due to the dominance of materialism—the area of the economy and the economic deserves much more intensive and incisive study from those working in the Reformational tradition. It was the intention of this contribution to stimulate such research.

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