

INTRODUCTION

J.G. Fichte played an essential role in the development of the philosophical movement known as German idealism, appropriating the critical philosophy of Kant in a way that came to influence later thinkers such as Schelling and Hegel. Although there has been a renewed interest in Fichte's philosophy in the English-speaking world,¹ the last book in English by a single author on Fichte's political thought dates back to the 1930s.² While I hope to remedy this situation, my discussion of Fichte's social and political philosophy will be limited in two important respects. First of all, this book deals mainly with Fichte's writings in this area belonging to the period from his professorship at the University of Jena to the time of the publication of the *Addresses to the German Nation* (*Reden an die deutsche Nation*), a period that extends roughly from 1794 to 1808. Secondly, I limit myself to dealing with two particular themes which I consider to be so integral to Fichte's social and political philosophy that they provide the key to understanding its most basic aims and character. These are the themes of property and virtue, which themselves relate to another concept that is central to Fichte's social and political philosophy and, indeed, to his philosophy as a whole, namely, freedom.³

1 Two significant examples of this renewed interest are Neuhouser, *Fichte's Theory of Subjectivity* and Zöller, *Fichte's Transcendental Philosophy*.

2 The book in question is Engelbrecht, *Johann Gottlieb Fichte*.

3 The importance of the concept of property and, moreover, its relation to the concept of freedom has been noted before. Cf. Braun, *Freiheit, Gleichheit, Eigentum*, 5 and 16ff. I offer, however, a more detailed and, I hope, more nuanced account of Fichte's theory of property. For example, Braun maintains that Fichte conceives of property as being identical with rightfully constituted freedom, by which he means the legitimate distribution of freedom of action in the external world. Property in this sense would appear to be something very different from property in things. Although, as we shall see, Fichte certainly does conceive of property in terms of an activity in the external world that can

To begin to explain why I have chosen to focus on these themes, it will help if I first say something about another theme that has recently provoked interest in Fichte's philosophy, namely, the concept of recognition, though this interest has generally been accompanied by the claim that it is Hegel, rather than Fichte himself, who develops the concept of recognition as a central category in social and political philosophy.⁴ Fichte himself introduces the notion of recognition in his attempt to deduce the concept of right (*Recht*) as a condition of self-consciousness, so as to establish this concept's status as a purely rational concept, that is to say, one that is contained within the essence of reason as such, and is not, therefore, present 'through experience, instruction, arbitrary human conventions, etc., but rather in consequence of the being's rational nature'.⁵ Rather than concentrating on Fichte's project of offering a transcendental deduction of the concept of right, I intend to show that Fichte develops a number of ideas that are interesting from a political perspective, and which lend themselves to being explained and valued in relative independence of the ambitious project of deducing the concept of right as a condition of self-consciousness. This approach will allow me also to meet some criticisms that have been made of Fichte's political philosophy. These criticisms can be explained with reference to his account of recognition.

Fichte's deduction of the concept of right as a condition of self-consciousness is found in the first main division of what is arguably his most famous and highly regarded work on political philosophy, his 1796/97 *Foundations of Natural Right* (*Grundlage des Naturrechts nach Principien der Wissenschaftslehre*), which has formed the main focus of attention when it comes to recent discussions of his political philosophy in the English-speaking world.⁶ Fichte here attempts to show that the concept of right must be presupposed in order to explain how a

rightfully be regarded as one's own, and that he even treats this form of property as primary, he also thinks that this form of property to some extent entails and allows for property in things. My account of Fichte's theory of property aims both to show why he treats property in the sense of an activity in the external world that can rightfully be regarded as one's own as primary and how this understanding of the concept of property relates to property in things.

4 For a classic example of this approach, see Siep, *Anerkennung als Prinzip der praktischen Philosophie*.

5 GAI / 3: 358; FNR: 49.

6 See, for example, the collection of articles in Breazeale and Rockmore (eds.), *Rights, Bodies and Recognition*.

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finite rational being can become conscious of itself as free, so that in trying to think such a being, we are also forced to think the concept of right. In § 2 of the *Foundations of Natural Right*, Fichte begins by seeking to explain the possibility of self-consciousness in terms of a finite rational being's relation to the material world, especially with regard to such a being's attempts to change this world in accordance with the ends it has formed. Fichte believes, however, that he is able to show that it is possible for a finite rational being to comprehend itself as free only if its object is another finite rational being with the capacity to be self-determining. This brings me to Fichte's theory of a summons (*Aufforderung*) as presented in § 3 of the *Foundations of Natural Right*.

Fichte identifies this summons with an act of self-limitation on the part of one human being in relation to another human being, whereby the human being to whom the summons is addressed is left free to act in the sphere that is made available to him by the other human being's act of limiting his own activity. This act of self-limitation presupposes the rationality and freedom of both parties. On the one hand, the summons presupposes that the human being to whom the summons is addressed is capable of comprehending the intention behind it and of acting freely, or of choosing not to act, as the case may be. On the other hand, the idea of acting in accordance with ends that one has oneself freely adopted is itself already contained in the concept of a summons, in the shape of the end to limit one's activity in favour of the freedom of another human being, an end that the human being who summons another human being must be thought to adopt.

This raises the problem, however, as to how the human being who summons another human being came to comprehend himself as a free and rational being, capable of forming its own ends and acting in accordance with them. In short, the question arises as to how this human being first became conscious of himself as free. Fichte's answer to this question is to introduce the notion of mutual recognition, whereby each human being limits his activity in relation to other human beings whom he recognizes as free and rational. Fichte accordingly describes the relation of free beings to one another as 'a relation of reciprocal interaction through intelligence and freedom', in which one 'cannot recognize the other if both do not mutually recognize each other; and one cannot treat the other as a free being, if both do not mutually treat each other as free'.⁷ He terms this relation between free beings 'the relation of

⁷ GAI / 3: 351; FNR: 42.

right' (*das Rechtsverhältniß*), while he calls the formula that describes this relation 'the principle of right' (*der Rechtssatz*).⁸ Fichte holds the relation of right also to be a condition of individuality, in the sense that it allows human beings to determine themselves as individuals distinguishable from other individuals in virtue of the different choices that they freely make, as opposed to the differences between one human being and another human being simply resting on their having certain different physical features or psychological characteristics, which are given by nature. Fichte uses the term 'person' to designate the human being who 'exclusively' ascribes to himself a sphere for his freedom, and who 'exclusively' makes choices within this sphere.⁹

Fichte's attempt to show that an individual's relation to others is a constitutive element of this same individual's own understanding of himself as free and rational is richly suggestive, though it is Hegel who is often credited with having developed the fuller implications of this position. Yet Fichte's project of demonstrating the necessity of the concept of right as a condition of self-consciousness, along with the existence of rights, laws and the state as further conditions of this concept, can be viewed in a more negative light. For example, there is the claim that Fichte 'deduces and postulates *a priori* state and legal systems out of his own head as "absolute Ego"', together with the unfavourable comparison that this approach is said to invite between him and Hegel, who is credited with confronting empirical reality in the form of modern civil society, whose emergence is historically linked to the French Revolution.¹⁰

In what follows, I argue against this characterization of Fichte's political philosophy, by focusing in the first instance on Fichte's theory of property. This theory shows a clear awareness on Fichte's part of the possibility that human beings may fail to recognize the freedom of others. It also involves the construction of a normative account of property which identifies the conditions that need to be met if finite rational beings are to live in harmony with each other, that is to say, in accordance with the idea of a relation of right, whereby human beings limit their own activity in relation to each other. Fichte's acknowledgement of the possibility of conflict between human beings, together with his consideration of how a relation of right can be guaranteed, lead him away from

8 GA I / 3: 358; FNR: 49.

9 GA I / 3: 361; FNR: 53.

10 Ritter, *Hegel and the French Revolution*, 72.

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the realm of pure reason towards that of experience; so that, far from simply deducing and postulating *a priori* both the state and laws out of his own head, Fichte can be seen to take into account the empirical relations existing between human beings, which contain the potential for conflict. This in turn prompts him to show how such relations can be rightfully constituted both at the *a priori* normative and at a more empirical level.

This brings me to Fichte's claim that the concept of right, although it is a concept of pure reason, needs to be applied to the conditions of the sensible world, that is to say, to the relations that obtain between finite rational beings existing in certain spatial and temporal relations to each other and to material objects in the world. In the Introduction to the *Foundations of Natural Right*, Fichte refers to the doctrine of natural right as 'a real philosophical science' (*eine reelle philosophische Wissenschaft*).¹¹ He opposes such a science to 'an empty, formulaic philosophy [*eine leere Formalar-Philosophie*]' that believes it has done enough if it has proved that one can think of something at all, without being concerned about the object (about the conditions of the necessity of this thinking); whereas a 'real' philosophy 'presents concepts and the object at the same time, and never treats one without the other'.¹² Fichte's reflections on the method of his foundational science, the *Wissenschaftslehre*, provide the background to these claims. This foundational science is 'real' in the sense that it has a 'real' object in the form of the necessary acts through which the mind 'constitutes' or 'constructs' itself and its world as observed by the philosopher, who reflects on these acts. Yet this notion of a 'real philosophical science' introduces a 'serious ambiguity' in the case of the *Foundations of Natural Right*, because in the later parts of this work Fichte appears to justify the claim that it represents a 'real' science in terms of the very different idea that the doctrine of right can be applied to the conditions of the sensible world.¹³

¹¹ GA I / 3: 319; FNR: 8.

¹² GA I / 3: 317; FNR: 7.

¹³ Daniel Breazeale, 'The "Mixed Method" of Fichte's *Grundlage des Naturrechts* and the Limits of Transcendental *Reellephilosophie*', in Breazeale and Rockmore (eds.), *Rights, Bodies and Recognition*. As Breazeale points out, one serious problem with Fichte's view of the possibility of applying the principles of right to the empirical world as corroboratory evidence for his claim that his theory of right constitutes a 'real philosophical science', is that this raises questions concerning the claims to necessity made in the *Foundations of Natural Right*. This in turn relates to the problem of the relation of the transcendental, *a priori* aspects of this work to the empirical claims that are also made in it. It is not my intention to argue that Fichte presents us with a consistent account of how these transcendental and empirical elements relate to each other. Rather, I show that notwithstanding such internal problems, Fichte's social and political philosophy is of

Rather than trying to explain away such an ambiguity in Fichte's notion of a 'real philosophical science', so as to make Fichte's theory of right appear more consistent, either internally or in its relation to his *Wissenschaftslehre*, I intend to show that the idea of an application of the concept of right in the second sense, that is, in the sense of showing how this concept can be applied to the conditions of the sensible world, should be welcomed. This is because it amounts to an attempt on Fichte's part to explain the possibility of bridging the gap between the normative, purely theoretical level and the empirical level. Fichte's theory of property will be shown to provide the clearest example of how he attempts to bridge this gap, so as not himself to fall foul of the criticism that 'most theorists of right are content to philosophize formally about the concept of right [*Rechtsbegriff*], and – as long as their concept is merely thinkable – care very little about how the concept can be applied'.¹⁴ Moreover, the idea that the principles of right need to be applied suggests that, if we are fully to understand a political concept such as that of property, which, after all, concerns human beings as they interact with each other in the empirical world, we must have some conception of how it can be applied, given the fact that relations of mutual recognition may fail to obtain between human beings. Fichte's engagement with such issues enables him to develop an original and highly interesting theory of property, which has some important implications when it comes to assessing the viability of a recent tendency in the interpretation of his political philosophy. This is the tendency to interpret the latter in terms of some of the central tenets of modern day liberalism.

An example of this tendency to stress the liberal character of Fichte's political philosophy is provided by Frederick Neuhouser's claim that Fichte views the political realm as having its own distinctive end in the fostering of each citizen's individuality, and that 'it is not difficult to see how a liberal political order – one committed to safeguarding a private sphere demarcated by a set of individual rights – might be understood as fostering the value of individuality'.¹⁵ This interpretation appears to be based on solid grounds insofar as Fichte holds right to be a

interest precisely because it attempts to overcome a purely formalistic standpoint by 'applying' the concept of right to the conditions of the sensible world, and, in so doing, gives rise to a distinctive theory of property, whose implications are rigorously pursued by Fichte himself.

¹⁴ GAI / 3: 395; FNR: 92.

¹⁵ Neuhouser, 'Fichte and the Relationship between Right and Morality', 163.

condition of individuality, in the sense that it both consists in and guarantees a type of relation in which each person limits his own activity and thereby leaves open to other persons a sphere in which they may come to determine themselves as individuals by exercising their capacity for free choice. Having made this link between Fichte's theory of right and the idea of a liberal political order, Neuhausser goes on to claim that for Fichte 'the rational basis of the liberal political order would reside, most fundamentally, in its ability to form the self-conceptions of its members as free individuals'.¹⁶ According to Neuhausser's careful analysis of Fichte's position, this means that a liberal political order must foster in its members a conception of themselves as having the capacity to engage in conscious, goal-directed activity, and make them conscious of themselves as such and as free, which itself requires being capable of translating one's intended purposes into real actions in the external world, so as to become conscious of oneself as an agent.¹⁷ A liberal political order is thus held to perform a positive as well as a negative function. The latter is that of protecting the rights of its members, while the former is that of helping to form and reinforce their conceptions of themselves as free and rational beings.

It is not my intention to question Neuhausser's account of Fichte's views on what is required of a political order that accords with the demands of right, since I think it is essentially correct and that it throws considerable light on the basic intentions of Fichte's theory of right. I do, however, intend to question the idea that Fichte can be regarded as providing support for the view that a liberal political order is the one best equipped to perform both the negative and positive functions mentioned above. In fact, if we trace the course of Fichte's arguments in sufficient detail, which demands taking seriously the idea that the concept of right needs to be applied, it becomes evident that the kind of political order he thinks is necessary to develop the self-conscious, rational and free agency described by Neuhausser is very different in kind to a liberal one in any meaningful sense of the term. The attempt to situate Fichte's political philosophy firmly in the liberal tradition, and to view him, moreover, as developing a justification of a liberal political order, therefore appears misguided. By a liberal political order I have in mind one that guarantees the right to property, understood as the right to exclude others from the

16 Neuhausser, 'Fichte and the Relationship between Right and Morality', 168f.

17 Neuhausser, 'Fichte and the Relationship between Right and Morality', 163ff.

use or benefit of something, and to dispose of it as one pleases; that regards restrictions on human freedom as something that should be kept to an absolute minimum, which requires establishing firm and effective guarantees against any attempt on the part of the state to interfere unduly in the lives of individuals; and that does not rest on any particular conception of the good life, but instead aims to make it possible for individuals to pursue their own personal conceptions of the good life, as long as they do not thereby prevent others from doing the same.

With respect to the concept of property, it is significant that Neuhouser claims that by the time Fichte wrote the *Foundations of Natural Right* he 'had come to view individually owned property as essential to the realization of human subjectivity and as a central concern of a theory of right'.¹⁸ In the absence of any indications to the contrary, I think we can safely assume that the term 'property' is here being understood in its modern sense of something from whose use or benefit one has the right to exclude others, and which one may dispose of as one pleases. We shall see that Fichte does not himself use the term 'property' exclusively in the modern sense of the term. Moreover, although he thinks that a political order in which the right to property is realized must perform the negative function of guaranteeing this right, so as to perform the more positive function of helping form and reinforce individual human beings' conceptions of themselves as free and rational, the concept of property that Fichte employs requires a set of institutional arrangements and redistributive measures that liberals would surely find unacceptable. In fact, by suggesting that only a different kind of political order to a liberal one can adequately perform both the negative function of guaranteeing the right to property and the more positive one of enabling human beings to develop a conception of themselves as free and rational, Fichte succeeds in casting doubt on the ability of liberalism to realize some of its own essential aspirations.

This is a point I develop in Chapter 1, in which I look at Fichte's theory of property and its implications, and in which I begin to show that Fichte's further determination of the sphere of activity that is to be guaranteed in accordance with the normative idea of a relation of right undermines the kind of liberal interpretation of his theory of right offered by Neuhouser. Such an interpretation neglects the way in which the need to apply the concept of right leads to a fuller understanding of what the

18 Neuhouser, 'Fichte and the Relationship between Right and Morality', 173.

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actualization of this concept really requires. The liberal reading of Fichte's theory of right offered by Neuhausser will be shown, in fact, to depend on taking the first part of the *Foundations of Natural Right* in abstraction from its application to the conditions of the sensible world. This type of reading thus distorts Fichte's position, by ignoring the way in which the application of the concept of right can lead us to modify our understanding of such a central political concept as that of the right to property. Fichte also ultimately appears to advocate a certain conception of the good life based on a view of society that, especially when it is viewed from an historical perspective, sits uncomfortably with the idea of a liberal political order. I show, in short, that it makes little sense to identify Fichte's social and political philosophy with a liberal social and political order, either in conceptual or in historical terms.

In Chapter 2, this rejection of a liberal interpretation of Fichte's political philosophy will be buttressed by an account of the compatibility of his theory of property with the radical phase of the French Revolution, and, in particular, with some of the main doctrines associated with the revolutionary figure of Gracchus Babeuf, who attempted unsuccessfully to initiate a second radical phase of the Revolution at roughly the same time as the first part of Fichte's *Foundations of Natural Right* was published. Consequently, although Fichte's relation to the French Revolution may not, like Hegel's, focus on the idea of civil society, he will be shown to develop a theory of right that in a number of significant respects finds its corresponding expression in some of the main ideas associated with this historical event, especially its most radical phase. In this respect, far from being an abstraction from the historical process that during his own lifetime was helping to determine the shape of the modern world, Fichte's theory of right can be seen to reflect certain ideas that people living in revolutionary France had attempted, or were attempting, to put into practice. Hopefully, this should go some way towards counteracting the image of Fichte as an entirely abstract thinker, whose thought bore little, if any, relation to historical reality, suggested by the claim that he simply deduced and postulated his theory of right *a priori* out of his own head.

Since I pay close attention in Chapters 1 and 2 to Fichte's attempt to 'apply' the concept of right to the conditions of the sensible world, I am led to discuss in some detail a text which represents the final application of this concept, insofar as its application still occurs at the level of theory and has yet to enter the world of actual politics. The text in

question is *The Closed Commercial State* (*Der geschloßne Handelsstaat*), which was published in 1800, not long after Fichte's dismissal from the University of Jena in the wake of accusations of atheism that had been levelled against him there.¹⁹ This work has been described, not without good reason, as representing 'perhaps the most extreme utopia of a closed state and society for the task of realizing state-directed socialism and of securing work for every citizen'.²⁰

Although such a description by itself suggests that this work must constitute an embarrassment to anyone wishing to offer an interpretation of Fichte's social and political philosophy that caters to an age and society in which liberalism has become the dominant political and economic ideology, I show that it forms an integral part of Fichte's theory of right, and that it must, therefore, be taken into account when considering the compatibility of his theory of right with the central tenets of liberalism. Indeed, some of the main proposals found in *The Closed Commercial State* are already outlined in the second part of the *Foundations of Natural Right*. To ignore this text altogether thus threatens to result in a highly truncated account of Fichte's theory of right, which fails to go beyond a merely formal theory of right; whereas Fichte's own claim that the concept of right needs to be applied clearly signals that he himself wishes to avoid such formalism. For this reason alone, I would dispute the claim that Fichte himself stressed that the transcendental foundations of the concepts of right and the state that he developed in the *Foundations of Natural Right* were to be strictly distinguished from the 'fictional empirical' model of the state found in *The Closed Commercial State*. This claim is not surprisingly made in connection with an attempt to interpret Fichte's theory of right in liberal terms, by arguing that in this theory Fichte develops the most nuanced and interesting concept of the welfare state of his own time on the basis of the liberal tradition.²¹

We may, of course, question whether Fichte's concept of property as developed in the *Foundations of Natural Right* actually requires the specific measures that he outlines in the second part of this work and in *The Closed Commercial State*. Yet, as against the claim that the transcendental ground of the concepts of right and the state can be regarded in complete abstraction from the question of their

19 For a brief account of the so-called Atheism Controversy (*Atheismusstreit*), see Breazeale, 'Editor's Introduction: Fichte in Jena', 40ff.

20 Kohn, 'The Paradox of Fichte's Nationalism', 331.

21 Frischmann, 'Die Herausbildung des Sozialstaatsdenkens im neuzeitlichen Kontraktualismus von Hobbes bis Fichte', 580f.