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**Title:**  
FICHTE AND HEGEL ON RECOGNITION

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**Abstract:**

In this paper I provide an interpretation of Hegel's account of 'recognition' (*Anerkennung*) in the 1802-3 *System of Ethical Life* as a critique of Fichte's account of recognition in the 1796-7 *Foundations of Natural Right*. In the first three sections of the paper I argue that Fichte's account of recognition in the domain of right is not concerned with recognition as a moral attitude. I then turn, in section four, to a discussion of Hegel's critique and transformation of Fichte's conception of recognition. Hegel's transformation consists, I argue, in the claim that a comprehensive account of recognition in the domain of right must be concerned with recognition as a moral attitude.

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## FICHTE AND HEGEL ON RECOGNITION

It is now widely acknowledged that Hegel's account of mutual 'recognition' (*Anerkennung*) is influenced by Fichte's account of recognition in the 1796-7 *Foundations of Natural Right*. Yet whilst much has been written on this topic, little has been written, as far as I am aware, on Hegel's criticisms of Fichte's account of recognition.<sup>1</sup> In this paper I provide an interpretation of Hegel's account of recognition in the 1802-3 *System of Ethical Life* as a critique of Fichte's account of recognition in the 1796-7 *Foundations of Natural Right*. In order to grasp the full import of Hegel's critique a proper understanding of Fichte's account of recognition in the *Foundations* is necessary. In the first three sections of this paper I argue that Fichte's account of recognition in the domain of right is not concerned with recognition as a moral attitude. I then turn, in section four, to a discussion of Hegel's critique and transformation of Fichte's conception of recognition. Hegel's transformation consists, I argue, in the claim that a comprehensive account of recognition in the domain of right must be concerned with recognition as a moral attitude.

### 1. Fichte on the relationship between right and morality

In order to understand Fichte's account of recognition in the *Foundations of Natural Right*, it is necessary to understand his infamous claim that the sciences of right and morality are distinct, autonomous disciplines. This claim shapes Fichte's account of recognition in the *Foundations*.<sup>2</sup>

The science of right, as Fichte understands it, concerns politics and law. (Although there is no English equivalent for the German '*Recht*', the domain of the science of right corresponds, roughly, to those of political philosophy and jurisprudence.<sup>3</sup>) The science of morality, as Fichte understands it, is concerned with determining our duties and providing a standard for the moral appraisal of actions. It determines our duties with reference to unconditionally binding universal principles and attributes moral worth to actions just in case they are motivated by duty alone. Fichte thus conceives of morality in Kantian terms.

In his 1793 work, *Contributions intended to Correct Public Opinion Concerning the French Revolution*, Fichte attempts to base the science of natural right upon the science of morality by deriving inalienable natural rights from the moral law.<sup>4</sup> By the time he comes to write the *Foundations of Natural Right* in 1796, Fichte has abandoned this position in favour of a strict distinction between the sciences of right and morality. This shift in position was prompted by his growing appreciation of Kant's political philosophy as expounded in the 1784 *Idea for a Universal History with a Cosmopolitan Aim* and the 1795 *Toward Perpetual Peace*. In these texts, Kant suggests that the problems of political philosophy should be formulated and solved independently of those of moral philosophy. Kant claims that political philosophy cannot proceed on the assumption that agents have good wills, that is, are disposed to act *from duty*. It must rather proceed on the opposite assumption, namely, that agents are driven by inclination and self-interest. As Kant puts it in *Toward Perpetual Peace*, the 'problem of establishing a state' must be '*soluble even for a nation of devils*'.<sup>5</sup>

Despite the apparent intractability of the problem so conceived, Kant presents a remarkably simple solution to it. If agents are fashioned from 'crooked timber'<sup>6</sup> all that is needed is an 'enclosure' in which their crookedness will be gradually transformed into rectitude. The establishment of such an enclosure would require rules guaranteeing the protection of the freedom of all. These rules would regulate intersubjective relations in such a way that agents driven by self-seeking interest alone would each come to restrict their own freedom. The state constituted by such an enclosure would grant each citizen a private sphere of freedom protected by rights.

Now, a crucial upshot of Kant's solution is a clear distinction between right and morality. For right is not that which secures the conditions for the possibility of my acting from duty—it is that which guarantees the co-existence of free agents, irrespective of their moral dispositions.<sup>7</sup> Fichte was greatly impressed with Kant's distinction between right and morality, and so it is perhaps not incorrect to speak, with Druet, of Fichte's 'conversion' to Kant's political philosophy.<sup>8</sup> For Fichte is convinced, as is Kant, that it must be possible for

right to be realized independently of morality. It is this conviction that leads Fichte to separate the sciences of right and morality. This separation receives its clearest exposition in the *Foundations of Natural Right* of 1796-7.

In this work Fichte argues that the sciences of right and morality have discrete, separate domains. The science of morality is concerned with determining what our duties are and with whether actions are done from duty. Its domain is the 'inner' domain of conscience which Fichte regards as cognitively inaccessible to other rational agents. The science of natural right, by contrast, is concerned with determining rules which govern publicly observable interaction between rational agents.<sup>9</sup> It is not concerned with whether or not agents act from duty. According to Fichte:

In the domain of natural right, the good will has no role to play. Right must be enforceable, even if there is not a single human being with a good will; the very aim of the science of right is to sketch out such an order of things.<sup>10</sup>

Such an 'order of things' is very similar to Kant's enclosure for a people of devils. The agents within this order are assumed to be capable of being motivated by self-interest alone: 'we have assumed', Fichte writes, that 'persons are motivated only by self-love and not morality'.<sup>11</sup> At several places in the *Foundations*, Fichte clearly states that he is assuming what he calls 'egoism' (in §16 he refers to the 'assumption of universal egoism').<sup>12</sup> Fichte's 'egoism' is not quite the same as what we would today call 'psychological egoism', the empirical claim that all agents are *only* ever motivated by self-interest, that is, that our ultimate desires are all self-directed.<sup>13</sup> Fichte's 'egoism' is the claim that it is *possible* for agents to be motivated by self-interest alone, and this is quite compatible with the existence of other, non-self-regarding motives, and the possibility of agents acting upon such motives as ultimate motives. In what follows, I shall use the term 'egoism' in this sense.

Fichte is thus assuming the possibility that agents can be motivated by self-interest alone, and is designing his state on the basis of this assumption. He is designing an 'enclosure' in which Kantian 'devils', should there be any, could peacefully co-exist. This enclosure, by guaranteeing freedom for all, provides a 'space' for the realization of the human being's capacity for morality. Within the Fichtean state morality *can* flourish, although whether it actually *will* flourish is not a question for the science of right.

Proceeding on the assumption of egoism, Fichte claims that every agent could be predisposed to pursue his or her own interests to the exclusion of the interests of others. If this were the case, each agent would expect every other agent to be similarly predisposed. As a consequence of this, a situation of universal mistrust would arise. This would undermine any good-faith agreement, and would lead to a condition of total 'insecurity' (*Unsicherheit*). Agents might then, Fichte claims, resort to violence to achieve their ends and if this happened, a 'war of all against all' (*Krieg aller gegen alle*) might ensue.<sup>14</sup>

Fichte's position here is at the antipodes of his position in the *Contributions*. In that work he argued that humanity had a potential for moral development and rejected the conception of a 'state of nature' as a 'war of all against all' as false.<sup>15</sup> Here, by contrast, he is assuming the possible truth of such a conception. This assumption has a profound impact upon Fichte's conception of natural right. Principles of right are now conceived of as practical norms which regulate the interaction of agents that are capable of being motivated by self-interest alone. Such agents cannot be trusted to act in accordance with principles of right and are quite capable of violating the rights of others if this will maximise their own welfare. As Alain Renaut has pointed out, this necessitates an element of 'coercion' (*Zwang*) in the Fichtean state.<sup>16</sup> Self-interested agents must be coerced to act in accordance with right, and this coercion works by making the agent's welfare conditional upon his adherence to the principles of right. The agent motivated by self-interest alone will care about the rights of others only insofar as his own rights are made to depend upon them.<sup>17</sup>

Fichte's new conception of the relationship between right and morality thus radically alters the nature of his political philosophy. Insofar as recognition is a central part of Fichte's

political philosophy we might expect that it is also affected. With this in mind, let us turn to his account of recognition in the *Foundations of Natural Right*.

## 2. Recognition in the *Foundations of Natural Right*

In §§1-4 of the *Foundations of Natural Right*, Fichte provides a ‘deduction’ of the concept of right. A ‘deduction’, as Fichte understands it, is a transcendental argument. Fichte’s deduction attempts to demonstrate that possession of the concept of right—which denotes an intersubjective relationship of mutual recognition—is a necessary condition of the possibility of ‘self-consciousness’. The self-consciousness in question is the ‘practical’ self-consciousness of a ‘finite rational being’.<sup>18</sup> Practical self-consciousness, for Fichte, is the capacity to conceive of oneself as a free self-determining agent. Fichte also refers to this capacity as ‘individuality’ (*Individualität*) or ‘personality’ (or ‘personhood’—*Persönlichkeit*).<sup>19</sup>

Fichte’s transcendental argument proceeds as follows: In order to be practically self-conscious I must, Fichte claims, be able to ascribe a capacity for ‘free efficacy’ to myself.<sup>20</sup> A capacity for free efficacy is a capacity to set ends and to will to realize them.<sup>21</sup> Now in the case of finite rational beings, this capacity is limited and constrained by a mind-independent ‘not-I’—the ‘sensible world’ or nature. If the finite rational being is to attain practical self-consciousness, it must posit this activity as limited by the ‘sensible world’. And this obviously entails that it must possess the belief in the existence of such a world.<sup>22</sup> But here we encounter a problem. For, according to Fichte, we can possess this belief only if we have already ascribed a capacity for free efficacy to ourselves. But we can ascribe a capacity for free efficacy to ourselves, Fichte thinks, only if we possess the belief in the existence of a sensible world. In other words, the self-ascription of a capacity for free efficacy and the possession of a belief in a mind-independent world mutually condition one another. We can give priority to neither in the chain of transcendental conditions and are thus caught in an impasse. Fichte claims that the only way to exit this impasse is to conceive of a situation in which both conditions are satisfied simultaneously.<sup>23</sup> In such a situation my self-ascription of free efficacy and my positing of a mind-independent world, or ‘object’ (as Fichte now puts it<sup>24</sup>), would be ‘synthetically united’ so that in comprehending the object I would ascribe a capacity for free efficacy to myself. But this does not seem terribly helpful. For, according to Fichte, the object is supposed to present the subject’s free efficacy to it and the nature of this efficacy is to be ‘*absolutely* free and self-determining’.<sup>25</sup> Yet to comprehend an object is, ordinarily, to encounter it as a constraint on one’s free activity. The object in question thus seems to possess contradictory powers. It is supposed to present the subject’s unlimited capacity for free activity to it and thus enable it to ascribe this capacity to itself. Yet it must also, as an object, constrain or determine the subject in some way. This seems a straightforward contradiction. However, Fichte thinks that we can avoid contradiction if we:

think of the subject’s being-determined as *its being-determined to be self-determining*, i.e. as a summons [*eine Aufforderung*] to the subject, calling upon it to resolve to exercise its efficacy.<sup>26</sup>

The object thus determines the subject to manifest its free efficacy—it ‘forces’ the subject to be free. Indeed, even if the subject chooses to ignore the summons, chooses *not* to respond, it has still, provided that it has understood the summons, exercised its capacity for free efficacy. The object which issues the summons is clearly, Fichte claims, another rational agent, and the relationship between subject and object is consequently an intersubjective relationship.<sup>27</sup> Fichte has thus deduced an intersubjective relationship as a condition of the possibility of practical self-consciousness.

Having deduced an intersubjective relationship, Fichte now proceeds to argue that it must be a relationship of a specific type. According to Fichte, the summoning subject issues the summons because it recognizes the subject as a potentially free rational being. In issuing

the summons, the summoning subject restricts its free activity, thereby providing a 'sphere' in which the other may manifest its free activity. This sphere allows the subject to constitute itself as an 'individual'—a free rational being with specific characteristics—by freely choosing from the possibilities available to it. Now the summoning subject's judgement that the subject is a free rational being is, in Fichte's terminology, 'problematic'. That is, the summoning subject does not know for certain whether the other subject is rational. It merely thinks that this is possible, and its recognition of the subject is based upon this possibility. The summoning subject's judgement will only become necessarily true—'categorical', in Fichte's terminology—if it is confirmed by the activity of the subject. The subject, if it has fully understood the summons, recognizes the summoning subject as a free rational being. It must exhibit this recognition in action by limiting its free activity so that the other subject may exercise its free activity. The subject *must* exhibit this recognition in action, as this is the only way that it can ratify the summoning subject's judgement. If the subject fails to act, it fails to confirm the other's judgement, and the other is entitled to withdraw its problematic recognition. The other will continue to recognize me only if I recognize it and exhibit my recognition in action. Fichte therefore argues that recognition can take place only if it is mutual or reciprocal:

Thus the relation of free beings to one another is a relation of reciprocal interaction through intelligence and freedom. One cannot recognize the other if both do not mutually recognize each other [*beide sich gegenseitig anerkennen*]; and one cannot treat the other as a free being, if both do not mutually treat each other as free.<sup>28</sup>

The intersubjective relationship that is the condition of the possibility of practical self-consciousness is thus a relationship of mutual recognition. By virtue of this relationship each subject obtains a 'sphere' for the exercise of its free efficacy. Fichte claims that in order to secure the continued existence of this sphere I must undertake a commitment to recognize any rational being that I may encounter. As Fichte puts it:

*I must in all cases recognize the free being outside of me as a free being, i.e., I must limit my freedom through the concept of the possibility of his freedom.*<sup>29</sup>

This is the 'principle of right' (*Rechtssatz*), which safeguards the 'relation of right' (*Rechtsverhältnis*):

each is to limit his freedom through the concept of the possibility of the other's freedom, under the condition that the latter likewise limit his freedom through the freedom of the former.<sup>30</sup>

This relation of right is the relation of mutual recognition. If the relation of right is disturbed or destroyed the subject's sphere of freedom may be encroached or destroyed and this will impede or annihilate the exercise of its free efficacy. The rest of the *Foundations* deduces the legal and political conditions of the possibility for the maintenance of the relation of right.<sup>31</sup> Natural rights, penal and civil legislation and the constitution are all designed to maintain the equilibrium of the relation of right.

In the Introduction, I claimed that Fichte's account of recognition in the *Foundations* is not concerned with recognition as a 'moral attitude'. The term 'moral attitude', as I propose to use it here, refers to an attitude of respect towards a person or institution. This attitude is prompted by certain characteristics that the person or institution possesses and is not motivated ultimately by self-interest. The adjective 'moral' is not intended to suggest Kantian *Moralität* as opposed to Hegelian *Sittlichkeit*, and could be replaced by 'ethical'. On one reading, to say that recognition is a 'moral attitude' would be to say that recognition is an attitude in which a subject evinces respect for another subject's unconditional worth. On such a reading, the *Aufforderung* would be seen as giving rise to an unconditional moral obligation

to respect the other. Now in his *System of Ethics* of 1798 Fichte *does* conceive of mutual recognition and the *Aufforderung* as moral in the sense specified. The other constitutes an ‘ought-not’ (*Nichtsollen*) beyond which the agent may not proceed and the agent’s limitation by the other ‘contains within itself an absolute prohibition against disturbing the freedom of the other, a command to consider the other as self-sufficient, and absolutely not to use him as a means for my own ends’.<sup>32</sup> This unconditional command to respect the other indicates that the recognition in question is a moral attitude.

Now it might be tempting to think that in the *Foundations* Fichte is concerned with recognition as a moral attitude. However, I think that we should resist this temptation. For although Fichte’s conception of free activity as a capacity to set ends and to will to realize them may suggest Kant’s notion of ‘humanity’ (*Menschheit*), Fichte explicitly states that the concept of right—which denotes the relationship of mutual recognition—has ‘nothing to do with the moral law’, being ‘deduced without it’.<sup>33</sup> He notes that the question as to whether the moral law might provide a ‘new sanction’ for the concept of right is not a question for the doctrine of right but for an ‘account of real morality’ (which is, presumably, provided in the *System of Ethics*).<sup>34</sup> Within the domain of right, Fichte claims, ‘physical force—and it alone—gives right its sanction’.<sup>35</sup> The notion that physical force gives right its sanction is further developed in Fichte’s discussion of ‘coercion’ (*Zwang*) and the ‘right of coercion’ (*Zwangsrecht*). Fichte argues that agents who do not act in accordance with the principle of right can be rightfully *coerced* to do so. That is, an agent can be coerced to recognize any agent it might encounter where to recognize an agent is to restrict one’s freedom through the concept of the possibility of its freedom. To say that recognition can be coerced is to say that the threat or implementation of force can produce a will to act that was not previously present in the agent. It produces that will by threatening to prejudice the agent’s self-interest and the resultant recognition is motivated by self-interest.<sup>36</sup> On a broadly Kantian construal of the adjective ‘moral’, an attitude that is motivated by self-interest is *ipso facto* not a moral attitude. I thus conclude that in the *Foundations* Fichte is not concerned with recognition as a moral attitude. But if this conclusion is correct we are faced with the following question: ‘What sort of recognition is Fichte concerned with?’

In order to answer this question it is useful to consider Stephen Darwall’s discussion of ‘recognition respect’ in his path-breaking paper ‘Two Kinds of Respect’. Darwall defines ‘recognition respect’, which he distinguishes from ‘appraisal respect’, as ‘a disposition to weigh appropriately some feature or fact in one’s deliberations’.<sup>37</sup> He then proceeds to distinguish between two specific types of recognition respect: ‘moral recognition respect’ in which appropriate deliberation results in the limitation of the agent’s class of morally permissible actions; and what we might call ‘prudential recognition respect’ in which appropriate deliberation results in the limitation of the class of prudential actions. Such ‘respect’ is motivated by self-interest alone.<sup>38</sup> The type of recognition Fichte has in mind is clearly of the latter type. My recognition of the ‘fact’ of the other’s capacity for free activity limits what it is prudent for me to do: it is imprudent for me to violate or impede the other’s capacity for free activity as this may lead to the violation of my capacity for free activity.

Given our discussion of Fichte’s separation between right and morality, this should come as no surprise. Nevertheless, several authors, including Darwall himself, have insisted that in the *Foundations* Fichte is concerned with recognition as a moral attitude.<sup>39</sup> Thus whilst Robert Williams acknowledges Fichte’s separation between right and morality, he presents Fichte as arguing that ‘right is grounded in and conferred by mutual recognition and respect’. As Williams’ comparison between Levinas and Fichte suggests, he conceives of the respect in question as a moral attitude.<sup>40</sup> Because Williams conceives of recognition as a moral attitude he is committed to the claim that Fichte’s discussion of coercion is inconsistent with his conception of recognition.<sup>41</sup> If, as I have suggested, one takes Fichte to be concerned with recognition as prudential recognition respect the appearance of inconsistency is removed. Furthermore, one is not led to regard a substantial section of the *Foundations* as an aberration. Frederick Neuhauser also conceives of recognition as a moral attitude when he argues, in ‘Fichte and the Relationship between Right and Morality’, that Fichtean agents ‘value’ their

‘individual freedom’ and ‘regard it as *worthy of respect* from others’.<sup>42</sup> Neuhouser bases his conception of recognition upon an interpretation of the nature of the domain of right which is quite different to the one advanced here. If Neuhouser’s interpretation is correct it might be seen to constitute a serious objection to my claim that Fichte’s account of recognition in the domain of right is not concerned with recognition as a moral attitude. A discussion of Neuhouser’s interpretation is therefore necessary.

### 3. Neuhouser on the domain of right

In ‘Fichte and the Relationship between Right and Morality’ Neuhouser argues that the domain of right serves to constitute, secure and promote a distinct species of value which is reducible neither to self-interest nor morality. This value is ‘individuality’ or ‘personhood’ (or ‘personality’—*Persönlichkeit*) and the imperative appropriate to the domain of right is thus, Neuhouser claims, “‘Foster the realization of free, self-conscious individuality!’”<sup>43</sup> What is recognized in the domain of right is the value of individuality and the recognition in question seems to be a species of what we have called, following Darwall, ‘moral recognition respect’. I take the other into consideration in my deliberations not because it is in my self-interest to do so, but because I acknowledge and respect the value of individuality that the other instantiates. Neuhouser’s interpretation of the nature of the domain of right thus justifies the claim that recognition in the domain of right is a moral attitude.

Whilst Neuhouser’s interpretation is of considerable interest, I think that his main argument in support of it is not conclusive. Neuhouser’s argument focuses upon Fichte’s transcendental argument in support of the claim that ‘original rights’ (*Urrechte*) are ‘conditions of personality’, that is, necessary conditions of the agent’s conception of itself as an individual. According to Neuhouser, Fichte’s transcendental argument rests upon ‘a subtle but significant shift in the concept of individuality’.<sup>44</sup> This ‘shift’ occurs when Fichte adds to the claim that the individual must conceive of itself as ‘a unit of causal efficacy’ (the phrase is Neuhouser’s) the claim that the individual must possess ‘an *exclusive sphere of freedom* that other free beings are proscribed by right from entering’.<sup>45</sup> The transcendental argument is only plausible, Neuhouser points out, if the second claim is true. For if the individual *must* possess an exclusive sphere of freedom then there must be principles which guarantee that agents cannot violate that sphere, that is, there must be ‘original rights’. If, however, only the first claim is true, then such principles will not be necessary because the violation of such a sphere ‘does not, strictly speaking, threaten one’s status as a unit of causal efficacy’.<sup>46</sup> In other words, if the individual is conceived merely as a ‘unit of causal efficacy’ then the claim that original rights are conditions of personality (or individuality) is patently false. The truth of this claim would seem to depend upon the truth of the claim that the individual must possess an exclusive sphere of freedom. This latter claim could be true, Neuhouser argues, if ‘individuality’ were to be understood in a richer sense, where individuality is a *sui generis* value that can ‘flourish’ and be ‘promoted’. Neuhouser thinks that such a conception of individuality is presupposed by Fichte’s argument:

I believe that the most compelling reading of Fichte’s position is one that attributes to him the recognition that personhood [or individuality] (and its realization in the world through the realm of right) is an end in itself that can be understood as valuable independently of its relation to the moral sphere.<sup>47</sup>

This is an abductive argument which purports to provide the best possible explanation for Fichte’s ‘subtle shift’, namely, that Fichte was motivated by a commitment to the value of individuality. However, the shift in question admits of another, equally ‘compelling’, interpretation.

As Neuhouser rightly points out, the Fichtean agent’s conception of itself as a locus of free agency must be ‘stable and enduring’.<sup>48</sup> Now it seems plausible to argue, following Philip Pettit, that in order for an agent’s self-conception to be stable and enduring the agent’s freedom must satisfy a counterfactual condition and the agent must be aware that its freedom

satisfies this condition.<sup>49</sup> That is, it is not enough that the agent is free in the actual world where the attitudes of others are congenial to the realization of its intentions. It must also be free in those relevantly similar possible worlds where others are hostile to, and wish to interfere with, the agent's realization of its intentions. If this counterfactual condition is not satisfied the agent may enjoy freedom as non-interference, but this freedom will be vulnerable to the arbitrary interference of other agents. In other words, the agent's freedom must be what Pettit has called 'resilient non-interference'—it must be 'copperfastened' against the possible interference of others.<sup>50</sup> On this understanding of freedom the antonym of freedom is not interference as such, but 'subjection' or 'vulnerability' to the arbitrary will of another.<sup>51</sup> According to Pettit, if the agent's freedom is resilient and the agent is aware of this then certain consequences follow. Of these, two are directly relevant to our discussion. The first is that the agent will be 'secure', and be aware that it is 'secure', from the arbitrary interference of others. It will not have to keep 'looking over its shoulder' for possible interferers. The second is that the agent will possess, and be aware that it possesses, a 'province' that is protected from such interference. Within this domain, the agent will be free to exercise the traditional liberties. It will be, as Pettit puts it, its 'own boss'.<sup>52</sup>

It seems to me that Fichte conceives of freedom as resilient non-interference rather than as non-interference *tout court*. That this is the case is suggested by Fichte's emphasis upon the 'security' (*Sicherheit*) of agents against interference and his claim that an agent should never be subject to the arbitrary will of others.<sup>53</sup> It is also suggested by Fichte's claim that the individual must regard its freedom as something that it will enjoy for the entirety of its future existence.<sup>54</sup> It is not enough, for Fichte, that the individual enjoys non-interference here and now. It must be the case that the agent would enjoy non-interference even if, as Pettit puts it, the 'identities and motives and opportunities' of other agents were to change.<sup>55</sup> If Fichte is committed to the notion of freedom as resilient non-interference, then it is easy to see how, on this conception of freedom, the agent's conception of itself as a free being will be 'stable and enduring'. It is also easy to see how the agent would regard itself as possessing a sphere for the exercise of its free activity from which others are, in principle, excluded. Indeed, it is interesting to note that it is in relation to the demand that the individual regard itself as free for the entirety of its future existence that Fichte emphasizes the notion of 'exclusion'.<sup>56</sup> On this alternative reading, Fichte's talk of exclusion does not presuppose a commitment to the value of individuality; it presupposes a commitment to a conception of freedom as resilient non-interference.<sup>57</sup>

It seems to me that such a reading provides a compelling alternative explanation of the shift in Fichte's argument. There is thus no need, absented further evidence, to introduce the notion that the domain of right is dedicated to the promotion of the *sui generis* value of individuality, and thus no need to invent a type of recognition corresponding to this value.

I hope that the preceding discussion has established, or at least made plausible, the claim that in the *Foundations* Fichte is concerned with recognition as prudential self-limitation. Still, it seems odd to think that this is the only type of recognition with which a theory of natural right should be concerned. Indeed, it seems plausible to think that there is a type of recognition which is 'moral'—insofar as it evinces respect for the worth of another rational being—and 'political'—insofar as it has implications for the structure and organization of the public sphere. Such a conception of recognition is central to the work of contemporary theorists of the 'politics of recognition' such as Honneth, Taylor, Todorov, Ricoeur and Margalit. I suspect that it also underpins those interpretations of Fichte that present recognition in the domain of right as a moral attitude. Yet such a conception of recognition is not, so I have argued, present in Fichte's work. Nevertheless, Fichte occasionally seems to acknowledge the existence of a type of recognition that is both moral and political. A case in point is Fichte's discussion of 'honour' (*Ehre*) and 'dishonourable deeds'.<sup>58</sup> Fichte defines 'honour' as the belief that someone is 'faithful and trustworthy in cases where the state cannot guarantee anything'. Dishonourable deeds are acts which violate agreements, explicit or tacit, that are founded upon good faith. As an agent's inner intentions are not available for public scrutiny, honour falls outside of the domain of natural right and

the jurisdiction of the state. Nevertheless, insofar as dishonourable deeds such as failing to repay loans or breaking informal contracts threaten the security of citizens, the state has a duty to protect them from such deeds. It discharges this duty by ‘naming and shaming’ people known to be dishonourable. The punishment for dishonourable deeds shall, Fichte declares, be ‘infamy’. But he then adds the following parenthesis:

And only for such deeds; for the state cannot change people’s opinions, especially if they are grounded in human nature as those discussed here. *Voltaire* [...] suggests that duelling [*Zweikampf*] be punished with infamy. This is impossible, for human beings cannot be made to regard as dishonourable someone who risks his life [*der sich selbst in die gleiche Lebensgefahr setzt*] to the same degree that his opponent does (although one may very well think he is foolish); just as, by contrast, everyone thinks that treacherous murder is dishonourable.<sup>59</sup>

This parenthesis, I suggest, indicates the shortcomings of Fichte’s account of recognition in the *Foundations*. For the public’s alleged attitude to duelling, as well as the attitude of the combatants towards one another, would seem to point to a type of recognition that is not prudential. This type of recognition seems to be distinctly moral insofar as it consists in esteem and regard for someone’s integrity and character. The combatants are willing to risk their lives for the recognition of their integrity and it is precisely by risking their lives that they elicit this recognition from the public. Insofar as this acknowledgement is related to a public contest for honour and standing, it would seem to merit consideration within political philosophy. Fichte can devote no more than a parenthesis to it because honour falls beyond the purview of his philosophy of right. Fichte’s discussion of honour thus reveals possibilities that his account of recognition does not, and indeed cannot, exploit. In the *System of Ethical Life*, Hegel will exploit these possibilities to develop a powerful critique of Fichte’s account of recognition. It is to a discussion of this work that we now turn.

#### 4. Hegel on recognition and ethical life

The *System of Ethical Life* is composed of an ascending series of stages which Hegel, borrowing Schelling’s terminology, calls ‘powers’ or ‘levels’—*Potenzen*. Each *Potenz* is characterized in terms of the relation of subsumption between ‘concept’ (*Begriff*) and ‘intuition’ (*Anschauung*), where ‘concept’ seems to denote multiplicity or division and ‘intuition’ to denote unity. The work is divided into three main parts: ‘Ethical Life according to Relation’ or ‘natural ethical life’<sup>60</sup>, ‘The Negative, or Freedom, or Crime’ and ‘Ethical Life’.

It is my claim that the entire text can be read profitably as a critical engagement with Fichte’s theory of natural right which focuses upon his account of recognition. The first section, natural ethical life, shows that Fichte’s account of recognition cannot fulfill the function Fichte wants it to. The second section, the Negative, shows the collapse of Fichtean recognition and its transformation into a new, higher form of recognition. The third section, which presents Hegel’s positive account of ethical life, integrates both the new form of recognition and Fichtean recognition into an account of the constitution and the government. For the purposes of this paper, I do not propose to vindicate this claim in full. Nor shall I discuss Hegel’s treatment of love as a mode of intersubjectivity and his fascinating discussion of language. I shall simply focus upon Hegel’s critique of Fichte as it is developed in the first two sections—Natural ethical life and the Negative—and the conception of recognition which emerges from this critique.

Natural ethical life deals with the striving of the individual to recover the lost unity of nature and thereby return to the ‘absolute’.<sup>61</sup> The discussion of this attempt is divided into two stages: ‘Feeling as Subsumption of Concept under Intuition’ and ‘Of Infinity and Ideality in Form or in Relation’.

It is in the second level—‘Of Infinity and Ideality in Form or in Relation’—that Hegel’s first criticism of Fichte begins to take shape. In the first level, ‘individuality’ was the

ruling principle. The individual worked upon nature to satisfy his particular needs, his work becoming more universal as it developed. In the second level, by contrast, the universal is dominant, although it is merely a 'formal' universal, by which Hegel seems to mean a universal which does not penetrate and inform the particular but imposes an external form upon it. This formal universal organizes and structures the particular, regulating the various relations within it. In this process, the activity of labour is regulated and made uniform. A division of labour emerges as tasks are simplified and distributed amongst the population. Labour becomes 'wholly quantitative and without variety' and this facilitates the mechanization of the process of production.<sup>62</sup> Insofar as the individual's labour has been reduced to a general type of labour it is severed from his real needs. The same is true of the abstract product of his labour which is his possession. Having no use-value for the agent it becomes a 'surplus' for him. However, other agents may need his possession to satisfy their needs and Hegel thus claims that its 'bearing to use is [...] a universal one'.<sup>63</sup> In other words, the fact that the individual's product may be desired by others establishes a network of possible relations to other individuals. The individual can then alienate his possession in exchange for products that satisfy his needs. Upon entering into this network of possible relations, the individual is recognized as a property owner and thus enters into the sphere of right. The individual thus becomes a 'person'—a free being that possesses rights. Right serves to guarantee private property and to regulate relations of exchange between persons. It also ensures the equality of legal persons: everyone, simply by virtue of being a locus of free efficacy, is entitled to the same treatment as everyone else.

All this sounds very Fichtean. However, it is here that Hegel exposes what he thinks to be a weakness in Fichte's account of recognition. Fichte's account of recognition seeks to establish equal treatment for all rational agents, irrespective of class or race. According to Fichte, a rational agent is entitled to equal treatment simply by virtue of his capacity for free activity. Now Hegel's claim, I suggest, is that the sort of equality that Fichte establishes is merely a 'formal' or 'ideal' equality, which is compatible with real relations of domination and subordination. Fichte conceives of individuals as the bearers of an abstract capacity—the capacity for free activity. He seeks to establish equality between these individuals by constructing a system of right which partially restricts every individual's exercise of free activity to the same extent, thereby securing the equal freedom of all. But what Fichte fails to realize is that *within* such a system of coercion and constraint, individuals can exercise their remaining freedom to a greater or lesser extent, and that this may give rise to relations of domination and subordination. At this level, Hegel claims:

a living individual confronts a living individual, but their power (*Potenz*) of life is unequal. Thus one is might or power over the other.<sup>64</sup>

This inequality of 'power of life' inevitably leads to a relationship of '*lordship and bondage*' in which the weaker is subordinate to the stronger. This relation will arise, Hegel suggests, irrespective of the merely juridical equality advocated by Fichte:

At this point there is no question of any right or any necessary equality. Equality is nothing but an abstraction—it is the formal thought of life [...] and this thought is purely ideal and without reality. In reality, on the other hand, it is the inequality of life that is established, and therefore the relation [of lordship] and bondage. For in reality what we have is shape and individuality and appearance, and consequently difference of power (*Potenz*) and might, or the relative identity where one individual is posited as indifferent and the other as different.<sup>65</sup>

We thus have a relationship of lordship and bondage between an indifferent or 'independent' (to use the language of the 1807 *Phenomenology of Spirit*) consciousness and a different or 'dependent' consciousness. We might think that the power in question here is physical strength and that the relation has arisen through combat. We might think that Hegel is simply claiming that, as a matter of fact, some individuals are more physically powerful than others.

However, this is *not* what Hegel is claiming as can be seen from his claim that ‘the greater strength or weakness is nothing but the fact that one of them is caught up in difference, fixed and determined in some way that the other is not’.<sup>66</sup> The ‘difference’ in which the weaker party is caught is, as H. S. Harris points out, the difference between need and the satisfaction of need.<sup>67</sup> The weaker party is dependent upon the stronger for the satisfaction of need, and must provide service in return for a part of the stronger party’s surplus. As Hegel puts it:

The master is in possession of a surplus, of what is physically necessary; the servant lacks it, and indeed in such a way that the surplus and the lack are not single [accidental] aspects but the indifference of necessary needs.<sup>68</sup>

Thus, the relationship of lordship and bondage is an *economic* relationship of domination and subordination, and is *not*—at this stage—the conclusion of a life and death struggle. Indeed, it is important to Hegel’s criticism of Fichte that it is an *economic* relationship, for Hegel wants to show that Fichtean recognition is compatible with gross inequality. Fichte’s ‘system of property and right’ may ensure that its members are equally recognized as producers and property owners, but it does not prevent the emergence of economic servitude. Of course, one might object that Hegel’s criticism turns upon the thought that there is something degrading about economic servitude, and that Fichte would regard this as a matter for morality. But Hegel’s criticism does not turn upon this thought alone. It also turns upon the thought that economic servitude is a relationship in which one subject is at the mercy of another subject (or subjects). It is a relationship in which a subject is dependent upon, and vulnerable to, the arbitrary will of another subject (or subjects). And Fichte *would* regard this as a problem, insofar as his ‘system of property and right’ is designed to safeguard all agents against such vulnerability and dependence.<sup>69</sup> Hegel has thus shown that Fichte’s conception of recognition cannot achieve what it is designed to achieve: it establishes an abstract equality which is compatible with, and which to a certain extent facilitates, gross economic inequality. It establishes, in short, freedom in economic chains.

The inequality of economic mastery and servitude is overcome in the patriarchal family which is, Hegel asserts, ‘the highest unity of which nature is capable’. The family has the appearance of inequality, insofar as the father is master of the house. However, its inner essence is unity, the family living a shared life in which property is held in common.

Hegel’s discussion of the family concludes the section on natural ethical life, and he now turns to the section entitled ‘The Negative, or Freedom, or Crime’. This section negates the ‘particularity’ of the relations established in the previous section, thereby raising them to the universality of ethical life proper. It is in this section that Hegel discusses the relationship between ‘crime’ (*Verbrechen*) and recognition. Whereas ‘havoc’ is wholesale destruction of natural ethical life, crime is an attack on another rational being. The abstract universal relation of right is of no concern to the criminal; he violates the freedom of a particular person in order to satisfy a particular need. However, the relation of right still exists, irrespective of the criminal’s concerns or intentions. Hegel thus claims that in violating the freedom of another, the criminal is simultaneously ‘nullifying’ recognition, attacking the individual as an abstract subject of right. The criminal thus nullifies, whether he is aware of it or not, the relationship of legal recognition discussed by Hegel in the previous section. In other words, the criminal nullifies Fichtean recognition. The criminal’s nullification of recognition raises the issue of punishment, and it is here, I suggest, that Hegel’s second criticism of Fichte begins.

In the *Foundations of Natural Right*, Fichte discusses punishment in considerable detail. In the ‘Third main division’, he argues that prior to the contractual establishment of the state, each subject has a ‘right of coercion’ which he may exercise if another subject violates his rights, and thus fails to recognize him. However, in the absence of a third party, the exercise of this right of coercion may lead to conflict. The individual may punish the offending party excessively, or the offending party may think that he has been punished excessively. This may lead to retaliation and ultimately a state of war. The possibility of conflict necessitates the alienation of this right to a third party, which is ultimately the state

authority. Now it is interesting to note Fichte's explanation as to why, in the absence of such an authority, the victim of crime may be led to punish the other excessively. According to Fichte, the victim of crime punishes the other excessively because he has no guarantee that the other will restrict his free activity and bring his behaviour into conformity with the law of right.<sup>70</sup> He cannot trust the other to do this as, *ex hypothesi*, the other cannot be trusted. He thus continues to punish the other in order to guarantee his security. The excessive punishment is thus motivated by a desire to secure his welfare.

What Fichte's account overlooks is that there may be another explanation for excessive punishment, and it is this alternative explanation that is at the heart of Hegel's criticism. According to Hegel, the crime, however trivial, is experienced by the victim as an injury to his entire personality, as an attack upon his status as a free rational being. Or, as Hegel puts it, he experiences the injury as an attack upon his 'honour' (*Ehre*). 'Through honour', Hegel writes:

the singular detail becomes something personal and a whole, and what is seemingly only the denial of a detail is an injury of the whole.<sup>71</sup>

The crime is thus experienced by the victim as an attack upon his honour and he seeks to restore this honour by subjugating and dominating the criminal. Taking the example of theft, Hegel claims that the victim seeks to restore his honour by making the thief his 'bond slave' (*Knecht*). And he is prepared to go to any length to achieve this, having made 'this personal injury a matter of his entire personality'.<sup>72</sup> He does not need to go very far, however, as the thief willingly capitulates. This is because the thief is only concerned with satisfying his particular needs and thus, Hegel writes, 'posits himself as particularity only'. Because of this capitulation, a genuine relation of lordship and bondage does not emerge; the thief, Hegel claims, 'is too bad to be a slave, for he has not justified any trust in his entire personality'.<sup>73</sup> He has not justified such trust, Hegel suggests, because he has not demonstrated his independence of material needs and finite concerns. He can only demonstrate this if he is prepared to risk his life, and thus his personality, in resisting the victim's attack.<sup>74</sup> If the criminal is willing to take this risk 'there arises', Hegel claims, 'a battle [*Kampf*] of one whole person against another whole person', a struggle for recognition.<sup>75</sup> In such a struggle both combatants risk their lives, and this risk demonstrates an independence of finite material concerns and interests. In risking their lives the combatants prove that they value their freedom more than finite existence and worldly concerns.

This uprooting of both combatants from the realm of the finite establishes a relationship of equality between them, an equality quite unlike the spurious equality of Fichtean right. As 'whole persons' the combatants are equal, and the cause of the conflict becomes trivial. It simply does not matter who committed the crime or even whether what triggered the conflict would ordinarily be recognized as a crime.<sup>76</sup> It is interesting to note that for Fichtean right it *does* matter who committed the crime, and that the relation between criminal and victim is unequal, the criminal being subject to coercion. In the previous section, natural ethical life, Fichtean equality was shown to be compatible with real inequality. Here, by contrast, Fichtean inequality is shown to be compatible with real equality—the equality between opponents who are willing to risk their lives for honour.

The life and death struggle may result in a relationship of lordship and bondage. This is quite different from the *economic* lordship and bondage of the previous section insofar as it results from the superior 'might' (*Gewalt*) of one of the combatants. As Hegel puts it: 'might individualized as strength [...] decides who dominates'.<sup>77</sup> Unfortunately, Hegel says little more about the relationship of lordship and bondage and provides no account, as he does in the *Phenomenology*, of the paradoxical nature of the relationship.

The recognition that is at issue in Hegel's account of crime is clearly quite different from the recognition that is at issue in Fichte's account of natural right. As I have argued, Fichte conceives of recognition in the domain of right as a self-interested restriction of free activity. Hegel, by contrast, thinks that there is a type of recognition in the domain of right

that is distinctly *moral* in character. This type of recognition consists in esteem for the integrity and character of another free rational being.<sup>78</sup> The criminal's act was taken to express a lack of such esteem and it was this that triggered the struggle for recognition.

Hegel has thus shown that Fichte's conception of recognition must, in the experience of crime, give way to a higher, distinctively moral, form of recognition. Hegel thinks that the experience of crime is the catalyst for this transformation. The victim experiences the crime not as an impediment to his self-interested activity, but as a moral injury, an attack upon his honour. This experience of crime as a moral injury is something that Fichte cannot, given his separation between right and morality, accommodate within his philosophy of right. Yet insofar as this experience of crime is a source of social conflict and dispute, it seems to be something that Fichte's political philosophy *should* accommodate. As we saw earlier, the phenomenon of duelling raised problems for Fichte's separation of right and morality insofar as both the observers and the combatants evinced distinctively moral attitudes: esteem for the opponents on the part of the observers; a demand for esteem and the restoration of honour on the part of the combatants. Now if Hegel's account of the experience of crime is correct, a concern with honour is not restricted to the anachronistic practice of duelling it is, like crime itself, an ineluctable part of social life. But if this is the case, Fichte's strict separation between right and morality appears to be unsustainable. Crime ruptures the boundary between right and morality insofar as the experience of crime can motivate a demand for esteem, a demand that Fichte wishes to consign to the domain of morality. And with the rupture of this boundary there arises a new conception of recognition in which the freedom of the 'whole person' is at stake. On Hegel's account it is not, *pace* Fichte, just the participants in a duel who are willing to risk their lives for honour. Any subject who truly values his freedom is prepared to take this risk.

Hegel is, of course, aware that not everyone will be prepared to risk their lives for the sake of honour. Many subjects will, despite experiencing crime as a moral affront, be more concerned with re-establishing their security and receiving compensation for their material losses. As such, they remain Fichtean persons, concerned with the finite and particular. The recognition appropriate to them is recognition as prudential non-interference with the freedom of others. Some subjects, however, will be prepared to risk their lives for honour, and the recognition appropriate to them is recognition as esteem for their integrity. Although Hegel initially presents these subjects as motivated by a desire for personal honour, his account does not stop there. For these subjects are part of the family, an organic unity which prefigures the unity of ethical life proper. And it is in the family feud that they learn to risk their lives for the *honour of the whole*. The recognition they demand is recognition as members of a community.

Hegel has thus provided two criticisms of Fichte's account of recognition in the domain of right. In the first criticism, he argued that Fichtean recognition only amounts to legal equality and that this equality is compatible with gross economic inequality. In the second criticism he argues that in the experience of crime a different type of recognition emerges, moral recognition of the whole person. This new type of recognition shatters Fichte's distinction between right and morality.

### Conclusion

I hope that the preceding discussion has gone some way toward vindicating my claim that the *System of Ethical Life* can be read as a critique of Fichte's account of recognition in the *Foundations of Natural Right*. I also hope that it has brought to light a key difference between the Hegelian and Fichtean accounts of recognition. Fichte's account of recognition in the domain of right is not concerned with recognition as a moral attitude. It is concerned with recognition as a prudential self-restriction of free activity on the part of self-interested agents. Hegel's great contribution to the 'politics of recognition' is to have demonstrated that such an account is unsatisfactory. For Hegel, as for modern theorists of recognition, a plausible account of recognition in the political realm must be concerned with recognition as a moral attitude.<sup>79</sup>

## NOTES

### *Abbreviations*

- FNR Fichte, J. G. (2000) *Foundations of Natural Right, according to the Principles of the Wissenschaftslehre*, ed. F. Neuhouser, trans. M. Baur. Cambridge: Cambridge University Press.
- SE Fichte, J. G. (2005) *The System of Ethics, according to the Principles of the Wissenschaftslehre*, trans. & eds. D. Breazeale & G. Zöller. Cambridge: Cambridge University Press.
- SW Fichte, J. G. (1971) *Johann Gottlieb Fichtes sämtliche Werke*, ed. I. H. Fichte. Berlin: de Gruyter.
- SEL Hegel, G. W. F. (1979) 'System of Ethical Life' (1802/03) and 'First Philosophy of Spirit' (Part III of the System of Speculative Philosophy 1803/04), ed. H. S. Harris, trans. H. S. Harris & T. M. Knox. Albany, NY: SUNY Press.
- SdS Hegel, G. W. F. (2002) *System der Sittlichkeit [Critik des Fichteschen Naturrechts]*, ed. H. D. Brandt, intro. K. R. Meist. Hamburg: Felix Meiner.

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- <sup>1</sup> A notable exception is Williams 2002.
- <sup>2</sup> My account of Fichte's distinction between right and morality is indebted to Ferry 1981 and Renaut 1986: 222-251.
- <sup>3</sup> See Neuhouser in FNR: vii.
- <sup>4</sup> SW, VI: 60. An excellent account of this derivation is provided in Neuhouser 1994.
- <sup>5</sup> Kant 1996: 335. First emphasis mine.
- <sup>6</sup> Kant 1991: 46. Translation modified.
- <sup>7</sup> In his *Metaphysical First Principles of the Doctrine of Right* of 1797 (Part I of the *Metaphysics of Morals*) Kant makes the distinction between right and morality explicit, drawing a distinction between an 'internal' ethical legislation and an 'external' juridical legislation. Renaut 1986: 229. Kant 1996: 383-385.
- <sup>8</sup> Druet 1975.
- <sup>9</sup> FNR: 51. SW, III: 55.
- <sup>10</sup> FNR: 50. SW, III: 54.
- <sup>11</sup> FNR: 133.
- <sup>12</sup> FNR: 134. SW, III: 151-2. See also FNR: 133, 137. SW, III: 150-1, 155-6.
- <sup>13</sup> This account of psychological egoism is indebted to Sober 2000.
- <sup>14</sup> FNR: 136. SW, III: 153-4. See also FNR: 124, 125. SW, III: 138-9, 139-40.
- <sup>15</sup> SW, VI: 130, 129.
- <sup>16</sup> Renaut 1986: 241.
- <sup>17</sup> FNR: 128-30.
- <sup>18</sup> FNR: 21.
- <sup>19</sup> FNR: 43, 101. SW, III: 46, 94.
- <sup>20</sup> FNR: 18.
- <sup>21</sup> FNR: 20.
- <sup>22</sup> FNR: 24.
- <sup>23</sup> FNR: 30-1. SW, III: 31-32.
- <sup>24</sup> FNR: 27-29.
- <sup>25</sup> FNR: 31. My emphasis.
- <sup>26</sup> FNR: 31. SW, III: 33.
- <sup>27</sup> FNR: 35.
- <sup>28</sup> FNR: 42. SW, Vol. III: 44. Second emphasis mine.
- <sup>29</sup> FNR: 49.
- <sup>30</sup> FNR: 49. SW, III: 52.
- <sup>31</sup> FNR: 79, 86.
- <sup>32</sup> SE: 214, 210. SW, IV: 226, 221.
- <sup>33</sup> FNR: 50.
- <sup>34</sup> FNR: 50.
- <sup>35</sup> FNR: 50. SW, III: 54.
- <sup>36</sup> FNR: 129.
- <sup>37</sup> Darwall 1977: 40.
- <sup>38</sup> Darwall 1977: 40.
- <sup>39</sup> Darwall argues that Fichte 'overrates' the distinction between right and morality and that the 'terms' of Fichte's argument commit him to regarding recognition as moral 'recognition respect'. Yet Darwall completely ignores Fichte's references to 'egoism' and thus overlooks the fact that in the *Foundations of Natural Right* Fichte conceives of recognition as motivated by self-interest. See Darwall 2005.
- <sup>40</sup> Williams 1992: 64, 67 n. 43.
- <sup>41</sup> Williams 2002: 56-7.
- <sup>42</sup> Neuhouser 1994: 171.

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- <sup>43</sup> Neuhouser 1994: 173.
- <sup>44</sup> Neuhouser 1994: 170.
- <sup>45</sup> Neuhouser 1994: 171, 170.
- <sup>46</sup> Neuhouser 1994: 171.
- <sup>47</sup> Neuhouser, 1994: 176.
- <sup>48</sup> Neuhouser 1994: 164.
- <sup>49</sup> Pettit 1993.
- <sup>50</sup> Pettit 1993: 27.
- <sup>51</sup> Pettit 1993: 33.
- <sup>52</sup> Pettit 1993: 20-21.
- <sup>53</sup> FNR: 89-90, 92-3, 95-6, 99-100, 125, 133-4, 139-40.
- <sup>54</sup> FNR: 47-9. See also FNR: 91, 93, 95, 96.
- <sup>55</sup> Pettit 1993: 19.
- <sup>56</sup> FNR: 43-9. SW, III: 46-52.
- <sup>57</sup> If this is correct, it raises the question as to whether Fichte's political philosophy, as presented in the *Foundations*, should be described as 'republican' (in the sense of the term associated with the revisionary historiography of Skinner, Pettit, Spitz and Viroli) rather than 'liberal'. I suspect that the answer to this question is 'yes', insofar as Fichte regards law as an enabling condition of freedom, rather than as an impediment to it. Fichte thus passes Pettit's 'law-and-liberty' test. See Pettit 1993: 29.
- <sup>58</sup> FNR: 213-4. SW, III: 244-5.
- <sup>59</sup> FNR: 214. SW, III: 245.
- <sup>60</sup> SEL: 102. SdS: 4.
- <sup>61</sup> SEL: 101.
- <sup>62</sup> SEL: 117.
- <sup>63</sup> SEL: 117.
- <sup>64</sup> SEL: 125.
- <sup>65</sup> SEL: 125.
- <sup>66</sup> SEL: 125. SdS: 28.
- <sup>67</sup> See Harris in SEL: 40-41.
- <sup>68</sup> SEL: 126.
- <sup>69</sup> One might attempt to defend Fichte against this criticism by appealing to his discussion of the 'property contract' (*Eigentumsvertrag*). There Fichte argues that if an agent is unable to 'live off his labor', then 'the contract is completely cancelled with respect to him' and he is no longer obliged to recognize the property rights of others. In order to prevent such a 'destabilization' of property rights, Fichte proposes a system of taxation and redistribution. FNR: 185-6. Fischbach 2000: 52-7. Whilst I think that this line of defence is promising, I cannot explore it here.
- <sup>70</sup> FNR: 90. SW, III: 98.
- <sup>71</sup> SEL: 137.
- <sup>72</sup> SEL: 136. SdS: 40.
- <sup>73</sup> SEL: 137.
- <sup>74</sup> SEL: 137.
- <sup>75</sup> SEL: 137-8. SdS: 42.
- <sup>76</sup> SEL: 138.
- <sup>77</sup> SEL: 138. SdS: 42.
- <sup>78</sup> This type of recognition seems similar to Darwall's conception of 'appraisal respect', where we acknowledge someone's excellence of character or their possession of a particular excellence. Darwall 1977: 39.
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