

# Freedom and Perfection: German Debates on the State in the Eighteenth Century

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Kantian juridical thought, distinguishing welfare, right and virtue, is worked out in complex dialogue with earlier theories of ethical perfectionism deriving from Leibniz, particularly as these had been elaborated by Christian Wolff. Kant's thought on the role of the state admits of varying interpretations, from strict anti-interventionism to a new kind of state activism promoting not happiness or virtue, but right, by assuring the conditions for the exercise of freedom. The objectives of this paper are to establish more precisely the intellectual context for these Kantian distinctions to address pre-Kantian perfectionist ideas of the state, connecting them to concrete practices of intervention as well as to their Leibnizian theoretical sources, and to demonstrate Fichte's application of Kantian ideas of freedom to political economy. Fichte's model of the state, especially as traced in his *Closed Commercial State* of 1800 (1971a), is notoriously interventionist and appears to reproduce features of Wolff's enlightened despotism, which had been sharply repudiated by Kant in "Theory and Practice," of 1793 (1970a). This appearance is deceptive, however. Fichte remains far closer to the spirit of Kant's practical philosophy. The interventions which Fichte justifies have as their end the promotion of freedom and the elimination of hindrances to its

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exercise, insofar as these hindrances arise from the distribution of property or the modes of pursuing welfare. Fichte accepts Kant's distinctions among happiness, right and virtue, or moral perfection, but argues that welfare-seeking activity can, unless rationally organized, distort or render impossible the practice of right by all. His post-Kantian interventionism is based not on the metaphysics of perfection, but on the structures of Kantian practical reason.

### **“Rival Enlightenments”**

While recent work has considerably advanced the study of Kant's political thought (for example, Flikschuh, 2000; Höffe, 1999, 2006; Kaufman, 1999; Timmons, 2002), other tendencies in current research have obscured debates among German Enlightenment philosophers. In *Rival Enlightenments*, Ian Hunter (2001) understands the eighteenth-century German debate on the state as one that opposes secular and progressive jurists (such as Pufendorf and Thomasius) to conservative, religiously motivated philosophers (a line Hunter draws from Leibniz through Wolff to Kant), the latter, because of their theoretical stress on the idea of perfection, are held to confuse politics with morality, or to overburden the political with inappropriate moral demands. In such readings, German Enlightenment philosophies exhibit a politically disengaged, even retrograde, character, or at best a highly attenuated modernism.<sup>1</sup> In contrast to Hunter's approach, this paper examines “rival enlightenments” among those whom he somewhat indiscriminately groups within the philosophical tradition. It investigates the dispute between Leibnizians and Kantians, highlighting Kant's departures from Leibniz and Wolff, and relating Fichte's post-Kantian interventionism to these developments. The paper makes no claim to comprehensiveness, as it leaves aside the complex interactions of Leibnizian and Kantian currents with the juridical thinkers studied by Hunter and others (Schneewind, 1998; Hochstrasser, 2000). It seeks, rather, a closer delineation of these philosophical currents themselves.

Hunter's position is vulnerable to two major criticisms: homogenizing the philosophical tradition and overlooking the concrete economic dimensions of the German philosophical debates. Hunter's study of neo-Epicurean political thought among jurists (based in self-limitation rather than self-realization) is highly illuminating, but his analytical framework conflates Wolff and the Kantian school, despite their starkly divergent political options. Hunter considers the characteristic of post-Leibnizian philosophy to be a shared metaphysics of *homo duplex*, a rift between real and ideal selves. While his jurists are described as soberly secular, attempting to insulate the state against religious enthusiasms, Hunter

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**Abstract.** This paper explores eighteenth-century German debates on the relation of freedom and perfection in the course of which Kant works out his juridical theory. It contrasts the perfectionist ideas of political activity in Christian Wolff and Karl von Dalberg (a historically important but neglected figure), with Fichte's program in *The Closed Commercial State* (1800), distinguishing logics of political intervention. Examining insufficiently recognized aspects of the intellectual context for Kant's distinction between happiness, right and virtue, the paper demonstrates Fichte's (problematic) application of Kantian ideas of freedom to political economy and contests current interpretations of the politically disengaged character or attenuated modernism of German political philosophy in the Enlightenment.

**Résumé.** Ce texte étudie le rapport entre liberté et perfection dans la pensée allemande du dix-huitième siècle. C'est dans le contexte de ces débats que Kant élabore sa propre théorie juridique. En examinant les fondements théoriques de l'intervention politique, le texte fait une distinction entre le perfectionnisme éthique de Christian Wolff et de Karl von Dalberg (personnage historiquement important mais peu étudié), et le programme d'inspiration kantienne proposé par Fichte dans son *État commercial fermé* (1800).

L'objectif du texte est de reconstruire le contexte intellectuel de la distinction kantienne entre bonheur, droit et vertu, et de démontrer l'usage problématique qu'en fait Fichte dans le domaine de l'économie politique. Le texte remet en question des interprétations récentes qui dévalorisent l'engagement politique et le modernisme des Lumières allemandes.

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depicts philosophers as seeking to bridge the gap between the empirical and the ideal by re-sacralizing politics, investing it with a religious mission to realize a community of spirits. Because of his rigid categorization, however, Hunter misses politically and philosophically significant breaks in this tradition, notably emergence of the political and juridical category of right in distinction from welfare and perfection.

Secondly, if, as Hunter correctly argues, the pacification of religious controversies is a vital element in the Westphalian settlement after the devastating Thirty Years War, it is not the sole concern of political theorists in this period. Signalling debates on the role of the state in fostering production<sup>2</sup> the historian Horst Dreitzel distinguishes a neo-Aristotelian model based on *eudaimonia* or the promotion of welfare (*bene beateque vivere*) from a neo-Stoic model (which he attributes to the sixteenth-century theorist Justus Lipsius), based on the maintenance of external and internal security, with much more limited economic aims (1992: 49 and n. 50). Dreitzel describes interventionist models as *stadt-bürgerlich*, typically favouring urban trade and production (136) rather than agrarian and feudal relations, while suggesting that the less interventionist protective models tend to promote the interests of large, self-sufficient agrarian estates (49). These debates about economic functions are inaudible in Hunter's account. Dreitzel (49–50 and n. 50) also stresses that the neo-Stoic models propose solely a system of duties toward the state, but are far removed from Kant's idea of a *Rechtsordnung* (116). The juridical space described by Kant will offer an important alternative, and its account of rights will become the standard against which the character and limits of state intervention can be measured.

Examining the economic dimension of these debates, Jürgen Backhaus (n.d.) views the interventionist eighteenth-century “welfare” state as a creative response to the Westphalian settlement. He describes the theory of these interventions, known as *cameralism*, as an alternative to the mercantilist system in conditions where colonies are lacking, and borders among the many small German states relatively porous. Cameralist authors recognize that in the absence of foreign sources of enrichment, development depends upon fostering indigenous resources and skilled local populations; they advocate an enlightened (absolutist) state to promote happiness and material satisfaction (see, for example, Tribe, 1988). In philosophers like Christian Wolff, the emphasis on happiness and perfection implies development of capacities: the natural law duties to perfect the body, the spirit and the conditions of labour can be understood in this context and not simply as the outcroppings of religious enthusiasm. Perfection is no abstractly moral ideal but finds concrete application in state intervention and direction of economic activities. The Kantian critique will encompass the theory and practice of perfectionism.

### **Metaphysical Perfectionism: Leibniz and Wolff**

The German debates to be considered here deal with the relation of freedom and perfection, and with the role of the state in promoting these ends (Moggach, 2008). The philosophical agenda is set by G.W. Leibniz (1646–1716), who develops a conceptual apparatus deployed and challenged in subsequent debates. In response to Leibniz’s innovations, there emerge two philosophical schools in the eighteenth-century German territories. One party, led by Christian Wolff,<sup>3</sup> advocates active political direction of economic activity to the ends of perfection and happiness; it supports the tutelary state of enlightened absolutism. The other party derives from Kant’s reworking of Leibnizian concepts of spontaneity—and this reworking is deep and fundamental.<sup>4</sup> It stresses spontaneity as the right to exert causality in the external world and defends republicanism, disputing the legitimacy of the absolutist state and its theoretical underpinnings.<sup>5</sup> These Kantian theories of the state differ greatly among themselves, however, because, while they define the requirements of an order of right as the grounds of any legitimate political intervention, the permissible scope of this activity, where its limits should be set, remains deeply at issue.

Leibniz (1996; 1993: 55–117) defines spontaneity as the activity and constant change of the subject (or monad), executing its own inner imperatives. Spontaneous action reflects a kind of internal necessity, wherein change is governed by a law of development particular to each self. In their spontaneous movements and structuring activities, monads external-

ize their contents, tending toward their “complete concept,” or their own particular perfection. In Leibniz’s metaphysics, however, the monadic order as a whole realizes not only the perfection of each single part but the greatest possible overall good. Of all conceivable sets, only the best possible set of monads, or only such parts whose co-existence is compatible with the principle of maximal perfection, can be real. This result, the perfection of the order as a whole, depends on the intervention of a divine reason and will, or the supposition of a pre-established harmony (Leibniz, 1996), which effects the co-ordination of mobile individual substances within a superimposed, transcendent order. The dynamic spontaneity of the parts and the perfection of the whole diverge. Since perfection derives from an external source, and not from the moral will, Kant will describe Leibniz’s system as a rational heteronomy (1956: 33–42; 1964: 10–11). It also sanctions a political heteronomy, a theory of interventionist absolutism, in the works of Christian Wolff (1679–1754).

For Wolff, a dominant voice in the German Enlightenment, the state exists to promote perfection. (1969: ¶43, ¶106–08; 1988: 16, 41). Wolff’s political thought, deriving primarily from Leibniz, with admixture of other sources, especially Aristotle,<sup>6</sup> is based on a consequentialist, perfectionist ethic, invoking the idea of an invariant human nature and the requisites of its material and intellectual thriving (Stippenberger, 1984; Schneewind, 1998: 432–44):<sup>7</sup> the ethical worth of an action depends on its contribution to the perfection of capacities. Normatively, Wolff calls upon the state, through active intervention, to secure for its subjects the conditions for such thriving and thus to promote happiness. He posits a state of nature in which relations among subjects are not necessarily conflictual, but the absence of stable organizational forms leaves persons and groups incapable of reliably orienting their actions toward their own and their mutual betterment<sup>8</sup> (Wolff, 1969: ¶186–89; 1988: 88–89); individual spontaneity cannot generate an order of maximal perfection. Natural law requires that we perfect ourselves in our physical, intellectual and spiritual being, and issues the imperative to leave the state of nature and enter civil society, which alone can assure such development. Perfection requires co-operation, which is not to be left to spontaneous initiatives (Wolff, 1969: ¶972)—ineffective or self-defeating without proper direction—but to be co-ordinated by the state as the directive force of civil society. Perfection also involves the maintenance and enhancement of labour and its prerequisites: Wolff lists proper nourishment, adequate housing, education, clean air, water and conservation of natural resources (Wolff, 1969: ¶112–16; 1988: 32, 36–39; 1971: ¶224). He espouses an interventionist tutelary regime, an enlightened absolutism whose objective is to guarantee material and moral advance. Perfection is here imbued with a definite material content.

In Wolffian civil society, the basic actors are not rights-bearing individuals but households, composite societies comprising the family and the productive relations of master and servant. Masters and servants have complementary interests: each has a necessary, mutually beneficial, functionally and hierarchically differentiated role to play in the perfection of the household. (Wolff, 1971: ¶168, ¶170, ¶179, ¶182; on the limits of masters' authority: ¶173). While the historian Diethelm Klippel (1976: 37, 41, 198) treats servants (*Knechte* or *Gesinde*) in Wolff as though they were effectively enserfed, Wolff himself describes these servants as employees contracting for a wage. Relations in the household are patriarchal but not strictly feudal. However, Wolff does seem to find serfdom legitimate under certain conditions. These require further study. Wolff's detailed discussion of "*servitus*" in his Latin *Institutiones* (1969: ¶708–13) deals not with serfdom, but with liens on property. Elsewhere in Wolff's voluminous writings, it would appear that serfdom is treated as an adventitious relationship, one arising from an optional but permissible act of will, in which certain basic rights are relinquished by agreement (Stipperger, 1984: 67–73; Haakonssen, 2006: 274–76). Klippel generalizes this principle, arguing that Wolff authorizes complete self-alienation of servants to masters in the household, but a more restrictive reading offers a striking contrast with Fichte for whom labour and freedom are inseparable.

Households are directed to higher ends, closer to the *telos* of overall perfection, by the state. While Wolff's thought reflects the Leibnizian tension between spontaneity and perfection, in that perfection is induced from without, he is already less sanguine than Leibniz about the prospects for spontaneity itself. Wolffian individuals and groups cannot perfect themselves without outside guidance. Here Wolff's affinities with the theory and practice of cameralism are apparent (Moggach, 2008).<sup>9</sup> Cameralism is skeptical about the success of spontaneous efforts when undirected by superior insight (Tribe, 1988: 63–65); Wolff partly shares this view but sees the sphere of civil society as structured in a more Aristotelian manner through the lower associations of the household. These are matter to be formed by the state, but they are not absolutely amorphous, having already achieved a measure of form in the pursuit of their own appropriate, productive and reproductive ends. The state, founded in a contract, undertakes this higher formative role. Rulers exercise paternal power over subjects, analogous to masters in the household; unlike Aristotle, Wolff has no concept of properly political power, as power of equal over equal.

The need for perfection, which led subjects out of the state of nature, remains the overriding consideration for determining duties and correlative rights once civil society is constituted. The principles of natural law remain operative, orienting, and perhaps limiting, state activities;

the dispute in the literature on the question of limits is inconclusive. Commenting on this tradition, Klippel sees such limitations as illusory (1998: 81), because for him the social contract of the older German natural law theories implies (unlike Locke) not the retention of rights which can potentially be asserted against the state but complete subjection and surrender of rights to the state. Natural law is so conceived that it authorizes such submission, just as, on Klippel's reading, it legitimates complete submission to masters in the household. Civil society, moreover, offers no institutional safeguards for rights other than moral appeals to the rulers; here, too, differences from Lockean natural law are evident. Backhaus, however, describes Wolff as a forerunner of the modern constitutional principle of subsidiarity, according to which policies are to "be carried out within that context which is the smallest viable one in which the objective can successfully be attained" (1999). Here the state merely supplements the activities of households, which retain a range of basic rights. Wolff argues for this principle on consequentialist grounds, holding (in respect to the unemployed, for example) that the fiscal interests of state require that it act only as an instance of last resort, where local and familial forms of redress fail (Wolff, 1971: ¶383–85; Fichte's approach to poverty will differ sharply). These same consequentialist considerations (Guyer, forthcoming), however, preclude a robust idea of right. Though civil society may not entail the complete renunciation of rights, their exercise is always conditional on their ability to promote perfection or happiness; no overriding appeal is allowed from happiness to right. Of fundamental ethical importance for Wolff is the result of action, its contribution to welfare, broadly understood. The result is a perfectionist theory of enlightened absolutism.

### **Coercion, Welfare and Perfection: Kantian Responses**

Horst Dreitzel (1992: 102, n. 3) observes that three forms of state tended to be distinguished in Germany around 1775: the despotic, the tutelary or interventionist, and the republican or social (*gesellschaftlich*). Wolff's state is clearly of the tutelary variety. Kant's argument in his 1793 "Theory and Practice" (1970a: 74), however, is that the tutelary state is in its principles indistinguishable from the despotic, since in seeking to prescribe to individuals the ends and means of their own happiness, the state acts illegitimately, exceeding its rightful ends.<sup>10</sup> To this state Kant opposes his own republican ideal, based on the primacy of right. The concepts of spontaneity and perfection continue to structure the debate but now tend to be focused on two closely interconnected questions: To what ends may rational beings be subject to coercion? Where are the proper limits of



state intervention in promoting happiness? These questions address the purposes and extent of legitimate intervention.

Kant's distinctions between right, welfare and morality (1970b: 116–30; 1991) were worked out over many years (Pippin, 1997: 59 n. 6). In the 1780s and early 1790s, his followers, awaiting his own definitive statements, explored various combinations of spontaneity and perfection. Basing himself on Kant's newly published *Groundwork of the Metaphysics of Morals* (1964), Gottlieb Hufeland (1760–1817) sees that one of the central problems for any Kantian theory of right is how to justify the coercion of rational beings (see Kersting, 1984), whom Kantian morality teaches always to treat as ends in themselves. Hufeland (1785; 1790) derives the right of coercion from the moral law of perfectibility: the only legitimate grounds for subjecting rational beings to constraint are that such constraint eliminates external obstacles to perfection, thus contributing to a higher moral good. Hufeland may derive this solution partly from J.G. Feder, his professor at Göttingen, who advances a consequentialist defence of coercion through its contribution to perfection (1773; Cesa 2000: 24–25), but without Kantian scruples about its permissibility. Contemporary reviewers contested Hufeland's conclusion, arguing that perfectionist arguments were incompatible with Kantian ideas of right (Rohls, 2004: 41, n. 121; 49). An important early disseminator of Kant's philosophy, K. L. Reinhold contributes to this debate by clearly distinguishing material and formal principles of right and showing that Kantian juridical order cannot repose upon consequentialist and perfectionist foundations (1790–1792). Reinhold links natural law to the capacity of individuals to exercise freedom and spontaneity. Coercion could only be justified if it removed obstacles to the *spontaneity* of others, not because it contributed to their moral betterment.

In his long-anticipated work of 1797, *The Metaphysics of Morals*, Kant, unlike Hufeland, demarcates coercion from moral perfection. Perfection is related to virtue and morality, where external constraint is impermissible. The juridical realm is the system of compatible free actions in the external world, constituted through mutual limitation of subjects. These actions are considered independently of intentions and moral outcomes. Juridical coercion means legitimate mutual exclusion from individual spheres of external causality and is a necessary condition for the exercise of such causality. This coercion, the establishment of individual proprietary boundaries of action, is guaranteed by the state representing the idea of a general will (Kant, 1991: 57–58; 1970a: 73). Mutual limitation effects the partition of the external world in accordance with the idea of right, as the condition for spontaneous action within this world. Freedom, and not perfection, is the operative principle. Nor is harmony pre-established but is the result of rationally motivated restraint.



Kant's juridical thought and his opposition to perfectionist theories are based on his distinction between empirical practical reason—whose domain is the good in the sense of individual welfare, happiness or need satisfaction—and pure practical reason. The latter contains two capacities, not as merely natural attributes but as ways of exerting rational freedom: the will's capacity to be self-determining (spontaneity) and its capacity to be self-determining through the moral law (autonomy). In *The Metaphysics of Morals*, pure practical reason underlies two distinct spheres of activity: the juridical sphere, or *right* (conformity to the conditions of free agency for all subjects), and the sphere of morality, where full autonomy in Kant's sense of moral self-legislation can be practised. In contrast to Hunter's perfectionist reading of Kant, and unlike other, virtue-based republicanisms (Nelson, 2004; Pocock, 1975), Kant depoliticizes the virtues, situating them in the sphere of morality, as aids or motivational supports for the moral will and duty; Fichte will follow him in this regard. Perfection of capacities is recast as an individual duty to oneself, in the sphere of moral-intellectual virtues, and it is sharply distinguished from happiness as material satisfaction, which is in the purview of empirical practical reason. This distinction between material satisfaction and moral perfection, and the assignment of each to appropriate spheres of action, allows the idea of right to emerge with clarity. The sphere of right is the arena in which the principles limiting individuals in seeking their own particular happiness are worked out, insofar as their choices are mutually compatible. Right is no longer contingent upon its contribution to perfection, as in Wolff, but acquires its own categorical status as grounded in pure practical reason. Political prescription and coercion here are always subject to the principles of spontaneity and right; the state may not legitimately determine for us the manner of achieving happiness, though it must prevent us from encroaching on the capacity of others to exert free agency themselves (and, as we will see, it may facilitate without determining our quest for material satisfaction). Right is not based on utility but is a facet of freedom, grounded in pure practical reason, yet it remains distinct from virtue or the good, as it concerns only the external aspects of action, not its maxim or motive. Though the idea of right is itself a categorical requirement of pure practical reason, Kant does not insist that the concrete exercise of right be motivated by ethical considerations. Prudential calculation or merely external compliance suffices for rightful action.

Kant's juridical republicanism thus makes no direct appeal to virtue, though virtue is required in a full account of pure practical reason and the inner legislation of moral autonomy.<sup>11</sup> Juridical relations, concerning external acts, demand not inner compliance but only intelligent mutual partition of the external world. Yet, like morality, the juridical sphere is grounded in freedom and not in utility, in pure and not empirical practi-

cal reason. This is a vital insight that Fichte will develop. Further, if concrete actions governed by right may be prudential or self-regarding, the passage from the state of nature to the civil condition itself is a moral command. It is a rational requirement whose categorical force does not repose on calculations of advantage but expresses a practical necessity (one conjoined with coercive force), so that rights can be practised at all. To leave the state of nature is a command of morality voiced expressly to potential bearers of rights: not to achieve perfection, but to practise freedom.

If the civil condition is to be not instituted but maintained, it may also be concluded that its preservation entails regular adaptation and extension; recent research has placed emphasis on the importance in Kant's thought of ongoing legal reforms as gradual approximations to the ideal of reason. These are taken in the literature to represent a kind of juridical *ought* on some readings restoring a measure of perfectionism within his own theory.<sup>12</sup> This position should be understood, however, neither as the (re-)moralization of politics, nor as a reversion to consequentialism, but as progress in freedom. So Fichte will understand Kant, as enjoining processes of social creation (Maesschalck, 1996) whereby the domain of right is secured and extended. The qualitative ends of intervention are freedom.

Kant himself offers two sets of reasons for legitimate intervention by the state in the activities of civil society as governed by right: from empirical and from pure practical reason. He does not exclude in principle all measures to promote happiness, and he also offers compelling grounds for state action in the interests of freedom itself. When in "Theory and Practice" Kant discusses legitimate forms of state intervention, he does so in the first sense, as prudential calculations by rulers, designed to maintain the state in its empirical existence, primarily in the context of international rivalries. Cameralism, too, had defended intervention not only on the basis of failures of spontaneity but in light of international competition, in conditions where the utilization and maximization of indigenous resources must form the foundation of economic and military strength. Kant here accepts this reasoning.

Thus Kant maintains, for example, that measures promoting happiness (to increase the national wealth, population, and so forth) are not precluded by his theory, but that happiness

cannot be regarded as the end for which a civil constitution was established, but only as a means of *securing the rightful state* especially against external enemies of the people.... The public welfare which demands *first* consideration lies precisely in that legal constitution which guarantees everyone his freedom within the law, so that each remains free to seek his happiness in whatever way he thinks best, so long as he does not violate the lawful freedom and rights of his fellow subjects. (Kant 1970a: 80)

The scope of welfare measures is here depicted as a question of prudential judgment allowed to the head of state, acting in a republican manner as an agent of a postulated general will. “The aim is not, as it were, to make the people happy against its will, but only to ensure its continued existence as a commonwealth” (Kant 1970a: 80). Significantly, Kant adds that

Measures of this kind might include certain restrictions on imports, so that the means of livelihood may be developed for the benefit of the subjects themselves and not as an advantage to foreigners or an encouragement for their industry. For without the prosperity of the people, the state would not have enough strength to resist external enemies or to preserve itself as a commonwealth. (Kant 1970a: 80, n.)

These empirically justifiable measures will soon be systematized by Fichte as a necessary guarantee of the practice of right itself. Fichte views such policies as mandated not only by hypothetical considerations of welfare but by categorical injunctions of right, as the defence of a right to labour whereby individuals exert causality, spontaneity and freedom in the external world. In making this transposition from empirical to pure practical reason, Fichte’s *Closed Commercial State* follows other indications which Kant provides in the *Metaphysics of Morals*.

While Kant’s provision for intervention in “Theory and Practice” is based on prudential considerations, his arguments in the *Metaphysics of Morals* are compatible with Fichte’s rendering.<sup>13</sup> Here Kant argues that “If a certain use of freedom is itself a hindrance to freedom...then coercion that is opposed to this (as a hindrance to a hindrance to freedom) is consistent with freedom according to universal laws” (1991: 57).<sup>14</sup> Though this passage refers to coercion in general as mutual exclusion among rights-bearing individuals, Kant in his text allows for a broader, political extension. Besides interventions to maintain the empirical existence of the state, he envisages a range of non-prudential interventions to secure the conditions for practice of freedom, or right. These include poor relief, education, health, social mobility and the possibility of access by passive citizens (dependents or employees) to the status of active citizenship (requiring economic independence) (Kaufman, 1999: 31–32). On Kantian principles, the state may not rightfully determine our ends in our quest for happiness as long as the pursuit of these ends does not impede the freedom of others; yet the state, as an order of right, has a duty to make the possibility of that quest available to all. Interventions in this spirit are designed to promote the operation of right, to hold open the space of spontaneous action. This is precisely how Fichte conceives the role of the state in 1800.

### The Limits of State Action

During the 1790s, the debate between Wolffians and Kantians continued unabated over the proper role and limits of the state, cast in terms of the relation between spontaneity and perfection. Kantians like Wilhelm von Humboldt advocated the freeing up of spontaneous energies from political interference; perfection could not be induced from without. For Wolffians like Karl von Dalberg, the defence of perfectionist interventions required a more explicit thematization of the failures of spontaneity. Fichte alludes to these contrasting conceptions in the preface to his *Closed Commercial State* (1971a), taking up and extending Kantian reflections. His disagreement with Dalberg concerns the qualitative ends of intervention; here he concurs with Humboldt but disputes the latter's overly restrictive account of the state as guarantor of right.

In the wake of the Hufeland controversy, Wilhelm von Humboldt offers a stringent critique of perfectionist theories of the state (1903). Humboldt's text on the limits of state intervention was published, in part, in 1792, the rest appearing only in the mid-nineteenth century. Humboldt's publication upholds the rights of spontaneous choice in pursuit of welfare while also arguing that individual spontaneity, where unconstrained by outside pressures, is most conducive to perfection, the optimal development of one's powers and capacities; here he anticipates John Stuart Mill. Perfection is a moral goal, but it must be self-directed; in contrast to Wolff and cameralism, Humboldt contends that perfection is the outcropping of freedom. In making this argument, however, he reads the Kantian critique of Wolffian perfectionism as implying a categorical ban on state intervention beyond the absolute minimum required to protect individual rights and property. He develops Kant in a classically liberal direction. For Humboldt, the idea of right implies that the sphere of welfare is to be entirely left to individual initiatives and that economic inequalities are not germane to right. There are undoubtedly Kantian grounds for this position. Kant asserts in "Theory and Practice" that political equality does not imply economic equality (1970a: 74–77), but Humboldt's right-Kantianism does not exhaust the theoretical possibilities, and Kant himself in 1793 admits interventions beyond the limits posed by Humboldt.

Humboldt's incomplete text immediately elicited responses from various quarters. An initial, Wolffian critique of Humboldt is formulated by Karl von Dalberg (1744–1817), the last arch-chancellor of the Holy Roman Empire before its dissolution and then prince-primate of the Napoleonic Confederation of the Rhine (Leroux, 1932; von Beaulieu-Marconnay, 1879, vol. 1: 168–200; Boyle, 2000, vol. 2: 32–33; Völker, 2006: 57–208). Despite their opposing theoretical orientations, Dalberg, with Fichte and Humboldt, formed a circle of discussion and publica-

tion centring on Friedrich Schiller during the latter's professorship at Jena. (Beaulieu-Marconnay, 1879: 168–80). It was Schiller who published Humboldt's text, written with Dalberg's encouragement. Dalberg then published a refutation of these principles in an anonymous text of 1793, *On the True Limits of the Effectiveness of the State in Respect to its Members*. Dalberg attempts, in response to the new juridical thinking inspired by Kant, to undergird Wolff's theory with arguments about the anthropological factors that limit spontaneity and that require perfection to be fostered in the first instance by political authorities. In his naturalistic account of happiness and its constraints, Dalberg stresses the inefficacy of spontaneous acts to achieve the objective of perfection (46). This failure is rooted in fixed attributes of human nature, its tendency toward inertia and its preference for effortless gratification. For Dalberg the immobilizing weight of immediate private interest is an anthropological constant, perhaps representing a version of original sin in the eyes of this Catholic prelate. The task of the enlightened state is to awaken the dormant energies of its people, and to direct these efforts toward the common end of happiness, including spiritual development. Partial associations are to be restricted (47), as they foster private interests potentially at odds with the common good, but the state should rely as much as possible on education rather than constraint to attain the ends of general felicity. Despite Dalberg's mildness, it is theories of this Wolffian type that Kant, in "Theory and Practice," describes as despotic in their attempt to prescribe to individuals the ways to attain their own happiness, disregarding spontaneity and rights. Dalberg may also be the object of Fichte's polemic against theories promoting beatitude as well as mundane happiness.

### **Fichte's *Closed Commercial State* and Freedom**

Fichte's position is that the state has as its primary duty the assurance to all its members of the right to labour, the right, that is, to exert causality in the material world. Fichte understands labour as an expression of spontaneity, or pure practical reason, thus linking it with freedom, as well as need satisfaction. This principle is fundamental both to his text of 1796–97, *The Foundations of Natural Right* (2000) and to his *Closed Commercial State* of 1800 (1971a), which he describes as an appendix to the earlier work. The latter text is consistent with Kant's thinking in the *Metaphysics of Morals* (1964) on the need to sustain the conditions of free agency, though it deduces from this premise a highly regulated social order.<sup>15</sup>

In his introductory remarks, Fichte frames his *Closed Commercial State* as a response to two inadequate attempts at defining the limits of

political action, which we can now link to his immediate intellectual context. Fichte contends that perfectionist theories (including the aim of beatitude, a clear reference to Dalberg) are unacceptable because they misconceive the ends of political intervention, but Humboldt in turn errs in drawing the boundaries of legitimate state activity far too narrowly. A critique of the principle of welfare-based interventions is thoroughly justified, though such interventions may sometimes have prudential warrant in the empirically existing state; Fichte defines politics as the practices of relating the idea of right to contingent circumstances. The ways in which the pursuit of welfare is organized can, however, impinge on rights by limiting their exercise, and interventions to correct such limitations are not subject to Humboldt's strictures. Theories like Humboldt's, moreover, defend the existing contingent disposition of property without enquiring into the legitimacy of this distribution.

Thus, beyond measures to preserve the state in its empirical existence, political intervention is legitimate in order to bring about conditions in which right may be practised by all members of the political community. Consistent with Fichte's position in 1792 (1973: 53–80),<sup>16</sup> his *Closed Commercial State* differs fundamentally from Wolff's and Dalberg's interventionism because it is intended to secure not the happiness of subjects but their freedom, that is, to maintain the conditions for the exercise of the free causality of each individual in the world and to assure a just system of distribution, in which none can rightfully enjoy luxuries until all are able to provide themselves with necessities (Fichte, 1971a: 409).

Fichte's interventionism takes cognizance of Kant's criticisms of the despotic state, and retains the stress on self-determination and spontaneity. It examines conditions for the exercise of freedom, reconceiving the boundaries between welfare and right. The sphere of right can be illegitimately constricted by economic institutions whose ends are individual welfare. This constriction occurs when, as a result of inequality in civil society, some individuals are deprived of access to the means of activity in the objective world and thus are denied freedom.<sup>17</sup> Despite its problematic controls and regulations, Fichte conceives an interventionist state to preserve the possibility of free causality and spontaneity for all subjects, consistent with the basic principles of Kantian juridical thought. In contrast to Humboldt, its attention to the material conditions of freedom marks it as a left-Kantianism.

According to Fichte, shared Germanic customs and the Christian *oikumene* underlay the older cosmopolitanism of mediaeval Europe, while the gradual application of Roman law to territorial princes allowed them to claim the status of emperors in their own domains, thus contributing to a system of mutually exclusive political units, while international relations were subject to anarchy and increased competition.

In this context, *The Closed Commercial State* can be read as Fichte's essay on perpetual peace (see, for example, Fichte, 2000: 320–34). Fichte's objective is to remove the causes of destructive international rivalries, insofar as these are conditioned by what David Hume called the "jealousy of trade" (Hont, 2005), where trade becomes an instrument in the struggle for military and political hegemony rather than augmenting the welfare of the people. Fichte's text also belongs in this broader European context (Nakhimovsky, 2007; Sonenscher, 2008: 129). His contribution is to base the discussion on the concept of spontaneity and its requisites; the most effective measures to maintain the state in its empirical existence are not merely contingent, prudential interventions but the securing of the juridical order itself through the recognition of the fundamental right to labour.

Fichte's primary consideration in advocating closure is not welfare but right. As its subtitle indicates, the text is an appendix to the theory of right, a further specification and application of the conditions for the maintenance of a rightful order. While *Foundations of Natural Right* (2000: 204) intimates the appropriateness and desirability of a strategy of commercial closure and autarky, it does not advocate this solution as definitive. By 1800, Fichte is more categorical that a rightful order requires a purely domestic economy. In the examination of labour and its conditions, the continuity with his earlier text is clear.

As Fichte had also contended in his *System of Ethics* of 1798 (1971b: 9), freedom is to be understood as the causality of the concept, that is, the power of subjective thought and will to refashion objectivity in light of ends. Both *Natural Right* and the *Closed Commercial State* focus on freedom and action in their juridical aspects as the right of spontaneity, the right to initiate changes in the world of the senses in accord with our concepts and purposes and to bring these processes to fruition. Labour is the manifestation of spontaneity and freedom, as well as a means to material need satisfaction. The right to labour is the fundamental juridical principle: to be a cause of change in the material world, and to be recognized as this cause. The conditions of effective action, to be stipulated in theory and provided in practice, are threefold: first, material, the attribution by persons to themselves of an objective sphere for their activity, and access to the requisite tools and materials through which their activity can be transmitted to objects—though this does not necessarily imply personal ownership of tools but their availability as instruments, as required (Fichte, 2000: 203); second, intersubjective, the partition of the available resources in order to guarantee to each the ability to live from his labour (namely, subjects reciprocally consent to restrict their own efficacy so as to allot a sphere to each); and third, epistemic, the maximum possible consistency and predictability of objective processes in which individuals plan their labour, hence the reduc-



tion of contingent disturbances, and the absence of interference in the activities of each by all other individuals.

The role of the state is to bring about and maintain these conditions; it is not, as Humboldt believes, simply to maintain the contingent existing distribution of property but in the first place to secure a rightful distribution, in which, for Fichte, equality prevails in the satisfaction of (historically variable) basic needs. To this end, the state is to guarantee the inviolability of individual spheres of activity, once this condition of equality obtains. It is to balance available resources and needs through rational planning and allocation; it is to promote growth of the productive forces through encouraging the development and application of science by the intellectual estate; it is to create a system of public credit to finance production and exchange (see, for example, Sonenscher, 2008); and it is to organize and facilitate internal trade within the national boundaries. Fichte distinguishes fundamentally between internal and external trade. The former is legitimate and necessary as a means of distributing the national product, a knowable quantum, among agricultural and artisanal producers. It is, for Fichte, strictly and rationally calculable. Foreign trade, in contrast, is subject to contingencies and unpredictability. Fichte's thought on the importance of calculability connects with other eighteenth-century proposals for reducing poverty (Stedman Jones, 2004).

As a precondition for these measures, the state must gradually suppress and finally prohibit foreign commerce (though Fichte, 1971a: 173, is prepared to admit an exception in the case of wine); promote import substitution policies (without debilitating reliance on foreign investment to put the new industries in place); and introduce an inconvertible national currency (perhaps on the model of the Revolutionary French *assignats*; the closure of the economy would prevent this currency from suffering devaluation). As another preliminary to closure, the state must occupy its natural geographical frontiers, but Fichte thinks that this can be accomplished as a peaceful process, since, once hegemonic ambitions are abandoned, no other state need feel threatened by consolidation, and local populations will perceive distinct advantages (1971a: 149–52). Among the obstacles to the accomplishment of his program, Fichte names a tendency toward inertia, or succumbing to natural causality (here he agrees with Dalberg), and the ironic detachment and lack of moral seriousness typical of the Romantics of his day (who are often seen to derive from him). Both these perspectives deny that freedom consists in exertion. Fichte sees his proposals as a defence of the structures and values necessary for the practice of freedom.

The right to labour is categorical and may not be overridden by appeals to welfare or any greater productivity that might be attributed to alternative arrangements permitting unemployment. Fichte denies that his “state in accordance with reason” would suffer from economic retar-

dation or opt out of the modern world (Hont, 2005: 7–8). He views scientific–technical advance and small-scale production as mutually compatible (Pult, 1980: 43–56). If his focus on the development of the local productive forces and the home market recalls cameralism, he is motivated by an idea of the primacy of right entirely at odds with cameralist paternalism. Uncoupling intervention from happiness and perfection, he links it to the creation and maintenance of a just juridical order. His modernism lies in his advanced understanding of self-determination, but the structures through which freedom is to be articulated are the vestiges of an earlier age.<sup>18</sup> The functions of oversight and regulation traditionally exercised by artisanal guilds are to be transposed to the state, which is also to distribute labour (through inducements) according to its calculation of social need; the state also assumes unprecedented planning and financial roles. This requires a highly restrictive system of surveillance and centralization in tension with Fichte’s basic emancipatory claims.

Despite its problematic features, Fichte’s theory is historically significant, figuring in republican and socialist programs in the revolutions of 1848 (Langewiesche, 1980). Its central idea, that legitimate interventions secure the freedom, not the happiness of each, has strong contemporary resonance. Fichte himself distinguishes the principle from its application; though he believes that his institutional prescriptions are logically entailments, he also recognizes adaptation to changed empirical circumstance.

## **Conclusion**

Among eighteenth-century German philosophers, debates on the state are structured by the opposition between perfection and spontaneity. Kantian juridical thought emerges through a long process of engagement with the heritage of Leibniz, represented in Wolff and his school. Its essence is the defence of spontaneity and the derivation of spheres of rightful action which respect this principle, divesting politics of perfectionist ends. Fichte’s system initially appears to be an anomalous reversion to older interventionist models, but he rejects perfectionism and reaffirms Kantian spontaneity, examining the conditions for its exercise. The state, as representative of the general will, must secure to each the preconditions of free activity; otherwise no rightful order prevails. Of abiding interest is Fichte’s recognition of the centrality of labour and its inextricable connection to spontaneity and freedom. In stressing the exertion of freedom through labour, Fichte develops Kant in significant new directions, while remaining faithful to his basic insights.

## Notes

- 1 Oz-Salzberger (1995) likewise contrasts apolitical perfection with ideas of political participation, maintaining that the latter failed to find a responsive German audience.
- 2 Conceptual distinctions between the state and civil society were just emerging in this period (Riedel, 1984: 129–56).
- 3 Wolff's significance as a major figure of the German Enlightenment has been little recognized in English-language sources (see Guyer, forthcoming; Stipberger, 1984; Justi 1923). An anonymous reader for *CJPS* supplied this reference to Karl Justi. Paul Guyer kindly provided me with a copy of his paper.
- 4 The differences in meaning and theoretical status run so deep that Beiser finds it unhelpful to set up the debate in this way (2008: 66–67). The claim is not, however, that the *same* sense of spontaneity is in play, but rather that Kant develops his own concept in critical engagement with Leibniz. Kant links spontaneity to freedom in the sense that the will is not determined by any external cause (1956: §8). This differs from the Leibnizian meaning of a necessitating inner causality. The full import of this distinction cannot be examined here.
- 5 In contrast to Hunter's classification, Rohls links Pufendorf, Thomasius and Wolff together as adherents of the older natural law associated with enlightened absolutism, and distinguishes them from Kant, whom he takes to represent the new political liberalism (2004: 41).
- 6 Wolff's relation to neo-Aristotelianism and his modifications of Leibniz must be examined elsewhere.
- 7 Wolff's perfectionism thus differs from post-Hegelian forms, which view human nature as a variable historical construct (see Moggach, 2003).
- 8 John Locke's theory offers some similarities in its stress on the improvement that ensues from the social contract, but in describing the inconveniences of the state of nature, Locke is more concerned with problems of legislation and adjudication than with the imperative of perfection itself (see, for example, Fischer, 1975).
- 9 In contrast, on Kant's opposition to cameralist theories, see Kaufman (1999: 50–60).
- 10 In 1795, Kant defines despotism differently, in contrast to republicanism, as the combination of executive and legislative powers in the same body (1970b, 101).
- 11 Thus Kant's familiar assertion that the political problem can be solved even for a population of intelligent devils (1970b, 112–13). For a reading stressing the importance of self-limitation, and thus of morality, even within juridical relations, see Flikschuh (2000).
- 12 On the imperative to extend the sphere of right, with quasi-perfectionist implications, see Guyer (2004); Fonnesu (2004).
- 13 Kaufman, on the maintenance of a rightful condition, and the empirical existence of state (1999, 28–30). While introducing the distinction, Kaufman retains a broad sense of welfare which covers both cases.
- 14 This passage occurs in Kant's general definition of coercion. Kaufman also cites this passage as a warrant for interventions to preserve and extend the capacity for free action, though he does not discuss Fichte (1999, 34). Riedel, however, maintains that Kant excludes the economy from practical philosophy as a merely technical domain (1984, 108–09).
- 15 See the complementary discussion of Fichte's text in Nakhimovsky (2007). While not focusing on Kant, he examines Fichte's relations to Smith and Rousseau, the early reception of the book and the question of international rivalries.
- 16 Klippel also distinguishes interventions to promote happiness and right, but sees the latter as an interventionist liberalism (1998: 95). Moggach distinguishes liberal and republican currents (2008).
- 17 The status of women remains problematic in all these accounts.

- 18 Also recognizing poverty as a decisive contradiction to the modern claims of universal freedom, Hegel's analysis of civil society is far richer than Fichte's (Hegel 1991, §182–256; Bourgeois, 1992: 181–205).

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