

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

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## Abstract

In 'Theory and Practice' (1793), Kant had identified it as the greatest despotism for the state to prescribe the ways to pursue our happiness. One of the principal objects of Kant's criticism is the eudaimonistic theory of Christian Wolff, who derives from Leibniz the idea of a state whose role is to promote the material and spiritual perfection of its members. This paper explores the eighteenth-century German debate on the relation of freedom and perfection, in the course of which Kant works out his own juridical theory. It contrasts the perfectionist ideas of political activity in Wolff and Karl von Dalberg (a historically important but neglected figure), with those of Fichte in the 'Closed Commercial State' (1800), distinguishing in each case the aims and limits of political intervention. The objective of the paper is threefold: to establish more precisely the intellectual context for Kant's distinction between happiness, right, and virtue; to elaborate 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 (problematic) application Kantian ideas of freedom to political economy. The paper contests current interpretations of the politically disengaged character or attenuated modernism of German political thought in the Enlightenment.

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 perfectionism based not on welfare or happiness, but on assuring the conditions for the exercise of freedom. The objective of this paper is 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, 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. 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 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 moral perfection, but argues that welfare-seeking activity can, unless rationally organised, distort or render impossible the practice of right by all. His post-Kantian perfectionism is based not on the metaphysics of perfection, but on the structures of Kantian practical reason.

#### "Rival Enlightenments"

In light of recent research with which I am in disagreement, some preliminary discussion is necessary to justify the focus that I place on debates *within* the German philosophical tradition. In Ian Hunter's *Rival Enlightenments*, the German debate has been understood very differently, as opposing 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 are all held to moralise and depoliticise politics by their theoretical stress on the idea of perfection, with the result that German political philosophy in the Enlightenment exhibits a politically disengaged, even retrograde, character, or at best a highly attenuated modernism.<sup>1</sup> Hunter's position is vulnerable to two major criticisms. First, he homogenises the philosophical tradition, overplaying the continuity among the philosophers. Secondly, he overlooks the concrete economic dimensions of Enlightenment debates: even the metaphysics of perfection among Leibnizians underpins a specific political programme of wide-ranging state intervention to promote economic growth, while the character and limits of these interventions are the subject of lively dispute within the Kantian school. While he makes valuable contributions to the study of civil traditions of jurisprudence, and of the jurists' neo-Epicurean political thought (based in self-restraint, not Platonic self-realisation), he conflates the contrasting philosophical traditions into a single approach, thus failing to distinguish adequately Wolff and the Kantian school as representative of divergent political perspectives. What characterises this entire philosophical approach for Hunter is the metaphysics of *homo duplex*, the duality of our phenomenal and noumenal natures, and what he sees as an attempted re-sacralisation of politics, as the expression of a transcendental community of spirits. But because of his rigid categorisation, Hunter misses politically significant breaks in this tradition. What suffers in Hunter's account is the idea of right: Kant's idea of pure practical reason, and his critique not

only of a generalised consequentialism, but of specific doctrines of perfection, of Leibniz and Wolff, as a form of rational heteronomy. While there are indeed deep affinities between Leibniz and Kant, Hunter also fails to identify where, conceptually, these important continuities lie. They can be found not in a putative religious mission to recapture the political from secularism, but in Leibniz's idea of spontaneity, which, as Kant reworks it (and this reworking is deep and fundamental),<sup>2</sup> gives rise to subsequent theoretical development.

Secondly, if, as Hunter correctly argues, the pacification of religious controversies is a vital element in the post-Westphalian settlement, it is not the sole concern of political theorists in this period. Despite frequent references to the historian Horst Dreitzel in his book, Hunter fails to engage with important conclusions of Dreitzel's research, namely, the economic. While conceptual distinctions between the state and civil society were only emerging in this period,<sup>3</sup> the role of the state in fostering production was even then a matter of much dispute. Dreitzel distinguishes a neo-Aristotelian model based on 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.<sup>4</sup> Dreitzel describes interventionist models as *stadtbürgerlich*, typically favouring urban trade and production,<sup>5</sup> 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.<sup>6</sup> These debates about economic functions are inaudible in Hunter's account. Dreitzel also stresses that the neo-Stoic models propose solely a system of duties toward the state, but are far removed from the idea of a *Rechtsordnung* (as this will be developed by Kant).<sup>7</sup> With its exclusive orientation toward security (and not right, which is construed positivistically as concessions from the state), Hunter's neo-Epicurean order looks much like this neo-Stoic one. The juridical space described by Kant will offer an important alternative to all these views.

In a similar vein to Dreitzel, Jürgen Backhaus has recently examined the interventionist "welfare" state of the eighteenth century 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 porous.<sup>8</sup> Cameralist authors recognise the need to mobilise indigenous resources and to foster skilled populations: hence, the development of the local productive forces, and the promotion of happiness and material satisfaction, are the aims of the enlightened (absolutist) state. This dimension of the Westphalian settlement is overlooked in Hunter, because of his restrictive focus on religious pacification. In philosophers like Christian Wolff, the emphasis on happiness and perfection implies development of capacities: the natural law rights to perfect the body, the spirit, and the conditions of labour can be understood in this context, and not just as the outcroppings of religious enthusiasm. Their theoretical sources lie in Leibniz, and ultimately in an Aristotelian idea of *eudaimonia*, not only in religious doctrine. These "rival enlightenments" *within* the philosophical tradition from Leibniz to Kant will be the subject of my discussion.

### Wolff and Perfectionism

The German debate as I read it here deals with the relation of freedom and perfection, and with the role of the state in promoting these ends.<sup>9</sup> G.W. Leibniz (1646-1716) provides a decisive impetus not only to metaphysical but to political reflection: he develops the ideas of spontaneity and perfection, but places these in a problematic relationship in his system. It is

in working out the implications of this relationship, and redefining the terms themselves, that there emerge two schools of thought on the role of the state, forming the German debate. One of these, through Christian Wolff, stresses state direction of economic activity in the interests of perfection or happiness. The other, stemming from Kant but developed in very different directions by Hufeland, Humboldt, and Fichte, stresses spontaneity as the right to exert causality in the external world, and links permissible political interventions to the maintenance or establishment of an order of right. These different logics of intervention underlie the tutelary state of enlightened absolutism on the one hand, and various Kantian republicanism, on the other.<sup>10</sup> Post-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 remains at issue. In Kantian terms, they agree on the quality of legitimate intervention, but differ on its quantity, or where its limits should be set.

Leibniz defines spontaneity as the activity and constant change of the subject (or monad), responding to and executing its own inner imperatives.<sup>11</sup> Spontaneous action is a kind of inner necessity, wherein change is governed by an internal law of development, particular to each self. Leibniz's metaphysics, however, situates these mobile individual substances in a superimposed, transcendent order. Leibniz is unable to reconcile the dynamic freedom of subjects with the static (perfect) framework in which they move.<sup>12</sup> While the movement of each monad determines itself spontaneously, the co-existence of these monads without contradiction arises from the supposition of a pre-established harmony.<sup>13</sup> Kant will describe Leibniz's system as a rational heteronomy, in that it posits an order of perfection independent of, and prior to, the moral will.<sup>14</sup> This problem has direct political implications.

The tension between spontaneity and perfection, and the deployment and redefinition of these terms, underlie the subsequent theoretical development. In Leibniz's school, represented by Christian Wolff (1679-1754), the aim of the state is to promote perfection.<sup>15</sup> Wolff's political thought,<sup>16</sup> deriving primarily from Leibniz, though with admixture of other sources, especially Aristotle, is based on a consequentialist, perfectionist ethic, invoking the idea of an invariant human nature and the requisites of its material and intellectual thriving. Normatively, it calls upon the state, through active intervention, to secure these conditions for its subjects, and thus to promote happiness. In Wolffian perfectionism, the imperative to leave the state of nature and enter civil society is founded in the natural-law requirement that we perfect ourselves in our physical, intellectual, and spiritual capacities. Relations with others in the state of nature are not necessarily conflictual, but in the absence of stable organisational forms, we are incapable of reliably orienting our actions toward our own and our mutual betterment.<sup>17</sup> Once we have entered civil society, the need for perfection remains the overriding consideration for determining rights and duties, which encompass labour and its prerequisites (decent food, housing, clean air, water, preservation of natural resources, etc.)<sup>18</sup> Perfection involves co-operation, which is not to be left to spontaneous initiatives<sup>19</sup> (ineffective or self-defeating without proper direction), but to be co-ordinated by the state. Wolff thus espouses a baroque welfare state whose objective is to guarantee decent living conditions, education, housing, and preservation of the environment (water, forests, etc.).<sup>20</sup> These are to be secured under the aegis of an interventionist tutelary regime, an enlightened absolutism.

Within civil society, the basic actors are not rights-bearing individuals, but households: quasi-Aristotelian composite societies aiming at physical, cultural and economic

reproduction, and headed by a master. Adapting Aristotelian teleology, wherein form and matter imply an organisational hierarchy (lower syntheses of form and matter appearing as matter to be integrated within a higher form), Wolff describes households as containing the family (aiming at physical and cultural reproduction); and the master-servant relation (aiming at economic reproduction, the production of goods or the furnishing of services). These composite households stand in need of shaping under a still higher end, which better approximates the *telos* of perfection than do its component parts. This is what the state will provide.

Within these households, Wolff describes a complementarity of interests between masters and servants, in that each has a necessary, mutually beneficial, functionally and hierarchically differentiated role to play in the perfection of the household and its members.<sup>21</sup> (It should be noted that while the historian Diethelm Klippel treats the *Knechte* or *Gesinde* in Wolff as though they were effectively enserfed,<sup>22</sup> Wolff himself describes these servants as employees contracting for a wage, but he does seem to find a place even for serfdom under certain conditions. These require further study; Wolff's detailed discussion of "*servitus*" in his *Institutiones* deals not with serfdom, but with liens on property.<sup>23</sup> 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: i.e. certain basic rights are not inalienable, but may be relinquished by agreement).<sup>24</sup>

Wolff's tutelary state stands in close relations to the political doctrines and practices of cameralism, though the relation is more at the level of interventionist programme than of theoretical analysis, Wolff having a more Aristotelian view of the continuities between the lower and higher associations than appears in most cameralist writings.<sup>25</sup> The latter tend to juxtapose the state to an amorphous mass of subjects, whose spontaneous efforts, undirected by superior insight, lead only to confusion; Wolff's familial realm, in contrast to these cameralists, is more structured and goal-oriented, but in need of co-ordination. The state, founded in a contract, undertakes this perfecting and formative role with respect to the households, which constitute its matter. Rulers exercise paternal power over subjects, analogous to the head of the household. (A non-Aristotelian element is the disappearance of properly political power, as power of equal over equal, but this is a common feature of mediaeval and early modern Aristotelianisms). Perfection is here understood as Aristotelian *eudaimonia* and not simply as a religious doctrine (*pace* Hunter). It is imbued with a definite material content, and shaped by Westphalian political realities.

Also of importance here is the continuing role of natural law in orienting, and perhaps limiting, state activities. Commenting on this tradition, Klippel sees such limitations as illusory, because for him the social contract of the older German natural law theories (unlike Locke) implies complete subjection and surrender of rights to the state—natural law indeed authorises such submission, just as, for Klippel, it also authorises complete self-alienation to a master in the household; and secondly, because there are no institutional safeguards for rights within civil society, other than moral appeals to the rulers.<sup>26</sup> Jürgen Backhaus, however, describes Wolff as a forerunner of the modern constitutional principle of subsidiarity, a principle of organisation 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."<sup>27</sup> State activity supplements and does not supplant the initiatives of households, and natural law duties remain in place. Wolff offers consequentialist reasons for this policy: the fiscal interests of state and of its population (e.g. in respect to beggars) are better served if

the state acts only in the absence of other local and familial forms of redress.<sup>28</sup> While Wolff recognises certain residual rights in civil society, their exercise is conditional on their ability to promote perfection or happiness, and no appeal is allowed from happiness to rights. What is of fundamental importance for Wolff is the result of action, its contribution to welfare in a broad sense. As Wolff argues from consequences,<sup>29</sup> the idea of right is not paramount. The result is a theory of enlightened absolutism based on the idea of perfection.

### Kant's Juridical Thought

Horst Dreitzel notes that three forms of state tended to be distinguished in Germany around 1775: the despotic, the tutelary or interventionist, and the republican or *gesellschaftlich*.<sup>30</sup> Wolff's state is clearly of the tutelary variety. Kant's argument in his 1793 "Theory and Practice,"<sup>31</sup> 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>32</sup> To this state Kant opposes his own republican ideal.

Thus Kant distinguishes freedom and happiness, but the role of perfection was not yet clarified.<sup>33</sup> Although, in *Perpetual Peace* (1795), Kant insists on the difference between morality and law,<sup>34</sup> discussions among his followers had not developed the distinction consistently. From the perspective of Kant's newly-published *Groundwork of the Metaphysics of Morals*, Gottlieb Hufeland (1760-1817), for example, in *Versuch über den Grundsatz des Naturrechts* (1785), and then in *Lehrsätze des Naturrechts* (1790, 1795),<sup>35</sup> views the fundamental difficulty for a theory of law to be the justification of coercion: under what conditions is the coercion of a rational being legitimate? Hufeland's response is to derive the right of juridical coercion from the moral law of perfectibility. Constraint is only permissible if it contributes to a higher moral good, by eliminating external obstacles to perfection. Hufeland's solution was immediately criticised by contemporary reviewers for combining teleological, consequentialist arguments with the formal principles of Kantian right (thus, it should be noted, *pace* Hunter, that contemporaries themselves acknowledged a fundamental difference between Wolff and Kant, even if the difference eluded easy formulation).<sup>36</sup>

In his work of 1797, *The Metaphysics of Morals*, Kant, unlike Hufeland, does not justify coercion by its effects in promoting moral perfection. Perfection is an attribute of morality, in which external constraint is impermissible. In the juridical realm, subjects constitute, through mutual limitation, a system of compatible free actions in the external world, independent of intentions and moral outcomes. Coercion is not violence, but describes the legitimate exclusion of others from our own sphere of external causality, and of us from theirs, guaranteed by the state representing the idea of a general will.<sup>37</sup> A partition of the external world in accordance with the idea of right (by mutual limitation) is the condition for spontaneous action within this world. Freedom and not perfection is the operative principle. Nor is harmony pre-established, but it is the result of freedom and 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 *das Wohl*, the good in the sense of individual welfare, happiness, or need-satisfaction), and pure practical reason: 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 is

described as underlying two distinct spheres of activity: the juridical sphere, or *right* (*das Recht*, or conformity to the conditions of free agency for all subjects); and the sphere of morality or *das Gute*, where full autonomy in Kant's sense of moral self-legislation can be practised. Against Aristotle and Aristotelian republicanism<sup>38</sup> (here I refer to distinct developments from Aristotle, as opposed to the quasi-Aristotelian absolutism of Wolff), Kant depoliticises the virtues, situating them in the sphere of morality, as aids or motivational supports for the moral will and duty. Perfection is not repudiated, but recast as an individual duty to oneself; and it is sharply distinguished from happiness as material satisfaction, which is in the purview of empirical practical reason. Kant thus separates the Wolffian quest for perfection into two components, with material happiness falling into the category of empirical practical reason, and moral-intellectual perfection figuring in the sphere of virtue; but both are effectively depoliticised, so that the idea of right may emerge more distinctly. The sphere of right is the arena in which the principles limiting individuals in the choice of their particular goods (their own *Wohl*) are worked out, insofar as these are mutually compatible. Political prescription of these specific choices is precluded, as an infringement 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 principle. Kant's demarcation of pure practical reason offers a defence of rights, the compossibility of freedoms in their external usage, which explicitly leaves the motivations of legal subjects out of account. Prudential calculation may provide sufficient grounds 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>39</sup> Juridical relations, concerning external acts only, demand no change of self, but only an intelligent mutual partition of the external world. Yet right and morality are not absolutely distinct in Kant's thought. Like morality, the juridical sphere is grounded in freedom and not in utility, in pure and not empirical practical reason. Right enjoins at least outward respect for the independence and spontaneity of others, though it cannot compel motives for this respect, which may be entirely self-regarding. There is one fundamental transition within the sphere of right, however, where mere external show is insufficient: the passage from the state of nature to the civil condition 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. "E statu naturae exeundum" is a command of morality voiced expressly to potential bearers of rights. If the civil condition is to be instituted and 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 reforms, as gradual approximations to the ideal of reason. These are taken in the literature to represent a kind of juridical *ought*, perhaps restoring a measure of perfectionism within his own theory.<sup>40</sup>

Kant himself offers two kinds of reasons for legitimate intervention, from empirical and from pure practical reason. He does not exclude in principle measures to promote happiness (as Humboldt interprets him); 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, in the context of prudential calculations, designed not to uphold the order of right, but 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 utilisation and maximisation of indigenous resources must form the foundation of economic and military strength. Kant seems to accede to this reasoning.

Thus in “Theory and Practice,” Kant maintains, for example, that measures to promote happiness (to increase the national wealth, population, etc.) 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.”<sup>41</sup>

The scope of welfare measures is here depicted as a question of prudential judgement 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.”<sup>42</sup> Significantly, Kant adds in a footnote here 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.”<sup>43</sup>

These empirically justifiable measures will soon be systematised by Fichte as a necessary guarantee of the practice of right itself.

While Kant’s argument for intervention in “Theory and Practice” is based on prudential considerations, his arguments in the *Metaphysics of Morals* can be read in ways compatible with Fichte’s rendering.<sup>44</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”<sup>45</sup>

Thus in his late writings, Kant is prepared to countenance a range of non-prudential interventions to secure the conditions for practice of freedom, including 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).<sup>46</sup> While the state may not rightfully determine our quest for happiness, it has a duty to make the possibility of that quest available to all. Interventions in this spirit are designed to secure 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 Immediate Context of Fichte’s *Closed Commercial State*: The Limits of State Action



Responding to the lively discussions provoked by Hufeland, and awaiting Kant's own definitive pronouncement of his theory of the state and its limits, Wilhelm von Humboldt outlines a critique of perfectionist theories based on a categorical injunction against political intervention promoting happiness. Preceding Kant's own "Theory and Practice" by a year, Humboldt's text on the limits of state intervention was published, in part, by Schiller in his journal *Thalia* in 1792, though the full text only appeared in the mid nineteenth century.<sup>47</sup> Humboldt's arguments, incomplete as they were, immediately elicited responses from various quarters. Humboldt 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 directly anticipates the position of John Stuart Mill. Perfection is not repudiated as a 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 minimum required to protect individual rights and property. He develops Kant in a classically liberal direction.<sup>48</sup> 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: *Wohl* and *Recht* are strictly demarcated. There are undoubtedly Kantian grounds for this position: Kant asserts in "Theory and Practice" that political equality does not imply economic equality;<sup>49</sup> but Humboldt's right-Kantianism does not exhaust the theoretical possibilities, and Kant himself admits interventions of various kinds beyond the limits posed by Humboldt.

An initial, non-Kantian response to Humboldt's critique is developed, from a Wolffian perspective, by Karl von Dalberg (1744-1817),<sup>50</sup> the last Arch-Chancellor of the Holy Roman Empire before its dissolution, and then Prince-Primate of the Napoleonic Confederation of the Rhine. As documented in one of the few studies devoted to Dalberg's thought and activities, he, together with Fichte and Humboldt, formed part of a circle of discussion and publication centring on Schiller during the latter's professorship at Jena.<sup>51</sup> It was Dalberg who had initially encouraged Humboldt to write his reflections on the limits of state action. He 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*.<sup>52</sup> 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. This failure is rooted in fixed attributes of human nature, its tendency toward inertia and its preference for immediate and effortless gratification.<sup>53</sup> For Dalberg the immobilising weight of private interest is an anthropological constant, perhaps representing a version of original sin in the eyes of this Catholic prelate. It is the task of the enlightened state to awaken the dormant energies of its people, and to direct these efforts toward the common good of happiness, including spiritual development. Partial associations are to be restricted, as they foster private interests potentially at odds with the common good;<sup>54</sup> but in general 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 type that Kant, in "Theory and Practice," describes as despotic in their attempt to prescribe to individuals the ways to attain their own happiness, and so disregard spontaneity

and rights. Dalberg may also furnish Fichte's polemical reference to theories promoting beatitude as well as mundane happiness.

### Fichte's 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*, and to his *Closed Commercial State*<sup>55</sup> of 1800, which he describes as an appendix to the earlier work. The latter text is consistent with Kant's thinking in the *Metaphysics of Morals*, on the need to sustain the conditions of free agency, though it deduces from this premise a highly regulated social order.

In his introductory remarks, Fichte frames his *Closed Commercial State* as a response to two inadequate attempts at defining the limits of political action. He does not name his opponents here, but describes their theories broadly, and in ways we can now link to his immediate intellectual context. Fichte agrees with Humboldt (here unnamed) that older interventionist-perfectionist theories (including the aim of beatitude, a clear reference to Dalberg) are unacceptable, but Humboldt in turn draws the boundaries of legitimate state intervention far too narrowly. Critique of welfare-based interventions can in principle be sustained (or they may in some cases 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 organised can, however, impinge on rights to limits their exercise, and interventions to correct such limitations are not subject to Humboldt's strictures. Humboldt moreover offers a defence of the existing contingent arrangement and disposition of property, without enquiring into the legitimacy of this distribution.

Thus, state intervention is legitimate in order to bring about conditions in which right may be practised by all members of the political community. Fichte's *Closed Commercial State* differs fundamentally from Wolffian 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. (This is consistent with Fichte's 1792 rejection of interventions in the name of happiness.)<sup>56</sup>

Fichte's post-Kantian perfectionism takes cognisance of Kant's criticisms of earlier forms, and retains the stress on self-determination and spontaneity. It aims to promote freedom, rather than happiness; and it rethinks the boundaries between welfare and right. The sphere of right can be illegitimately constricted by the economic institutions whose ends are individual welfare. This constriction occurs when, as a result of inequality in civil society, individuals are deprived of access to the means of activity in the objective world, and thus are denied freedom. Though insisting that any rightful system must uphold the possibility of social mobility,<sup>57</sup> Kant had restricted full and active membership in civil society to those who were economically independent, leaving servants or employees equal with their employers before the law, but, as passive citizens, less than fully enfranchised; but this restriction came to be seen as incompatible with the universalistic claims of right. Fichte bases his 1800 *Closed Commercial State* on this realisation. For all its problematic controls

and regulations, Fichte's interventionist state is conceived by him to preserve the possibility of free causality and labour for all subjects. This is not to endorse Fichte's political-economic programme, but to observe that its basic principles are significant and defensible on Kantian grounds.

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.<sup>58</sup> Among its objectives is to remove the causes of destructive international rivalries, insofar as these are conditioned by what David Hume called the "jealousy of trade,"<sup>59</sup> the deflection of external commerce and internal production for purposes of military and political supremacy, or the melding of the logic of accumulation with that of reasons of state. Trade becomes an instrument of foreign policy and of the struggle for hegemony, rather than augmenting the welfare of the people. Fichte's primary consideration in advocating closure is, however, not welfare, but right. As its subtitle makes clear, the text is conceived as 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* intimates the appropriateness and desirability of a strategy of commercial closure and autarky, it does not advocate this solution as definitive.<sup>60</sup> By 1800, Fichte is more categorical that the maintenance of a rightful order requires a purely domestic economy. It is primarily in the examination of labour and its conditions that continuity with his earlier text can be seen.

As Fichte had also contended in his *System of Ethics* of 1798, 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.<sup>61</sup> 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; and the right to labour is the fundamental juridical principle. It is the right to be a cause of change in the material world, and to be recognised as this cause. In light of this fundamental principle, the conditions of effective action must be stipulated in theory, and provided in practice. These conditions are three-fold: 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.<sup>62</sup> Secondly, intersubjective: the partition of the available resources in order to guarantee to each the ability to live from his labour (i.e. other subjects reciprocally consent to restrict their own efficacy so as to allot a sphere to each); and thirdly epistemic, the maximum possible consistency and predictability of objective processes in which individuals plan their labour, hence the reduction of contingent disturbances, as well as the absence of interference in the activities of each by all other individuals.

The role of the state is to bring about these conditions, and to secure them; 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, Fichte believes, equality prevails:

none may rightfully enjoy luxuries until all have access to necessities.<sup>63</sup> 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; and it is to promote growth of the productive forces through encouraging the development and application of science by the intellectual estate. As a precondition for these measures, the state must gradually suppress and finally prohibit foreign commerce (though Fichte is prepared to admit an exception in the case of wine)<sup>64</sup>; to promote import substitution policies (without debilitating reliance on foreign investment to put the new industries in place); and to 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 also 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 this consolidation, and local populations will perceive the advantages).<sup>65</sup> Among the obstacles to the accomplishment of his programme, 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 necessary for the practice of freedom.

Thus, if the German debate on the state is structured by the opposition between perfection and spontaneity, a further debate occurs on the conditions of spontaneous action itself. Humboldt's Right-Kantianism denies that welfare impinges on right in any politically significant way, whereas Fichte argues that the state, as representative of the general will, must secure to each the preconditions of free activity; otherwise no rightful order prevails. 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. But Fichte denies that his 'state in accordance with reason' would suffer from economic retardation, or opt out of the modern world.<sup>66</sup> He thinks that scientific-technical advance and small-scale production are mutually compatible.<sup>67</sup> But, although wage workers exist at least in the world of the *Foundations*, his model of labour is basically artisanal, and certainly pre-industrial. The structures of oversight and regulation traditionally exercised by the guilds are to be transposed to the state, which is also to distribute labour (through inducements) according to its calculation of social need. This requires a highly restrictive system of surveillance and centralisation in tension with Fichte's basic emancipatory claims. His modernism lies in his highly advanced understanding of self-determination, but the structures through which freedom is to be articulated are the vestiges of an earlier age. Hegel's analysis of civil society and its inner contradictions is far richer than Fichte's,<sup>68</sup> while sharing many of the same theoretical conceptions, and pointing too to the problem of poverty as a decisive contradiction to the modern claims of universal freedom. What remains of abiding interest is less Fichte's solution than his recognition of the centrality of labour, and its inextricable connection to spontaneity and freedom. Here he develops Kant in significant new directions. The exertion of freedom and the concept is the essence of Fichte's post-Kantian idealism.

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<sup>1</sup> Ian Hunter, *Rival Enlightenments. Civil and Metaphysical Philosophy in Early Modern Germany* (Cambridge: Cambridge University Press, 2001). Fania Oz-Salzberger, *Translating the Enlightenment: Scottish Civic Discourse in Eighteenth-Century Germany* (Oxford, 1995), likewise contrasts apolitical perfection with ideas of political participation which failed to find a responsive German audience.

<sup>2</sup> The differences run so deep that Frederick Beiser, "Schiller as Philosopher: A Reply to My Critics," *Inquiry* 51/1 (2008), 66-67, finds it unhelpful to set up the debate in this way. The approaches of Kant and Leibniz can be usefully compared, however, if the different meanings of spontaneity are clearly borne in mind. Kant links it to freedom in the sense that the will is not determined by any external cause.

<sup>3</sup> Manfred Riedel, *Between Tradition and Revolution. The Hegelian Transformation of Political Philosophy*, trans. W. Wright (Cambridge: CUP, 1984), 129-56.

<sup>4</sup> Horst Dreitzel, *Absolutismus und ständische Verfassung in Deutschland. Ein Beitrag zu Kontinuität und Diskontinuität der politischen Theorie in der frühen Neuzeit* (Mainz: von Zabern, 1992), p. 49 and note 50.

<sup>5</sup> *Ibid.*, 136.

<sup>6</sup> *Ibid.*, 49.

<sup>7</sup> *Ibid.*, 49-50 and note 50. On Kant, see 116.

<sup>8</sup> Jürgen Backhaus, "Subsidiarity as a Constitutional Principle in Environmental Policy," at <http://arno.unimaas.nl/show.cgi?fid=599>.

<sup>9</sup> See my article "Schiller, Scots, and Germans: Freedom and Diversity in *The Aesthetic Education of Man*," *Inquiry*, 51, no. 1, 2008, 16-36. I here expand the argument of that text regarding Wolff.

<sup>10</sup> In contrast to Hunter's classification, Michael Rohls, *Kantisches Naturrecht und historisches Zivilrecht. Wissenschaft und bürgerliche Freiheit bei Gottlieb Hufeland (1760-1817)* (Baden-Baden: Nomos, 2004), 41, 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.

<sup>11</sup> Richard Bodéus, ed., *Leibniz-Thomasius. Correspondance (1663-1672)* (Paris: Vrin, 1993), pp. 55-117.

<sup>12</sup> This criticism is made in G.W.F. Hegel, *Vorlesungen über die Geschichte der Philosophie, Werke*, Bd. 20, hrsg. E. Moldenhauer und K.M. Michel (Frankfurt a. M.: Suhrkamp, 1971).

<sup>13</sup> G.W. Leibniz, *Monadologie*, ed. J.C. Horn (Würzburg: Königshausen und Neumann, 1996).

<sup>14</sup> Immanuel Kant, *Critique of Practical Reason*, trans. L.W. Beck (New York, 1956), 33-42; *Groundwork of the Metaphysics of Morals*, trans. H.J. Paton (New York, 1964), 10-11.

<sup>15</sup> On perfection, Christian Wolff., *Institutiones juris naturae et gentium. Gesammelte Werke* [1754], Bd. 26, ed. M. Thomann (Hildesheim: Olms, 1969), ¶ 43, ¶ 106-108; Christian Wolff, *Principes du droit de la nature et des gens, extrait du grand ouvrage latin*, par M.

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Formey, tome premier [1758] (Caen: Centre de philosophie politique et juridique, 1988), p. 16, 41.

<sup>16</sup> On Wolff's political thought, see Emanuel Stipperger, *Freiheit und Institution bei Christian Wolff (1679-1754)* (Frankfurt a.M.: Lang, 1984); on his ethics, J.B. Schneewind, *The Invention of Autonomy* (Cambridge: Cambridge University Press, 1998), 432-44.

<sup>17</sup> Wolff, *Institutiones*, ¶ 186-189; *Principes*, 88-89.

<sup>18</sup> Wolff, *Institutiones*, ¶ 112-116; *Principes*, 32, 36-39. See also Christian Wolff, *Vernünfftige Gedanken von dem gesellschaftlichen Leben der Menschen und insonderheit dem gemeinen Wesen [1721]* (Frankfurt, 1971), ¶ 224.

<sup>19</sup> Wolff, *Institutiones*, ¶ 972.

<sup>20</sup> On cameralism, see Keith Tribe, *Governing Economy. The Reformation of German Economic Discourse, 1750-1840* (Cambridge: Cambridge University Press, 1988). Kant's opposition to cameralist theories is also discussed in Alexander Kaufman, *Welfare in the Kantian State* (Oxford: OUP, 1999), 50-60.

<sup>21</sup> Wolff, *Vernünfftige Gedanken*, ¶ 168, ¶ 170, ¶ 179, ¶ 182; on the limits of masters' authority, ¶ 173.

<sup>22</sup> Diethelm Klippel, *Politische Freiheit und Freiheitsrechte im deutschen Naturrecht des 18. Jahrhunderts* (Paderborn: Ferdinand Schöningh, 1976), 37, 41, 198.

<sup>23</sup> Wolff, *Institutiones*, ¶ 708- ¶ 713.

<sup>24</sup> See, for example, Stipperger, *Freiheit und Institution*, 67-73; Knud Haakonssen, "German Natural Law," in Mark Goldie and Robert Wokler, *The Cambridge History of Eighteenth-Century Political Thought* (Cambridge: Cambridge University Press, 2006), 274-76.

<sup>25</sup> Tribe, *Governing Economy*, 28-29, 63-65, 161-75.

<sup>26</sup> Diethelm Klippel, "Der liberale Interventionsstaat. Staatszweck und Staatstätigkeit in der deutschen politischen Theorie des 18. und der ersten Hälfte des 19. Jahrhunderts," in Heiner Lück, ed., *Recht und Rechtswissenschaft im mitteldeutschen Raum* (Köln: Böhlau, 1998), 81.

<sup>27</sup> Jürgen Backhaus, "Constitutional Causes for Technological Leadership: Why Europe?" (1999) at [http://www.independent.org/pdf/working\\_papers/39\\_constitutional.pdf](http://www.independent.org/pdf/working_papers/39_constitutional.pdf)

<sup>28</sup> Wolff, *Vernünfftige Gedanken*, ¶ 383- ¶ 385.

<sup>29</sup> On Wolff's consequentialism, see Paul Guyer, "Perfection, Autonomy, and Heautonomy: The Path of Reason from Wolff to Kant," in Jürgen Stolzenberg, ed., *Wolff und die europäische Aufklärung: Akten des 1. Internationalen Wolff-Kongresses* (Hildesheim: Olms, forthcoming). Paul Guyer kindly provided me with a copy of this paper.

<sup>30</sup> Dreitzel, *Absolutismus*, p. 102, note 3.

<sup>31</sup> Immanuel Kant, "On the Common Saying: 'This may be true in theory, but it does not apply in practice'" in *Kant's Political Writings*, ed. Hans Reiss (Cambridge: CUP, 1970), 74.

<sup>32</sup> In "Perpetual Peace" of 1795, Kant defines despotism differently, in contrast to republicanism, as the combination of executive and legislative powers in the same body. *Kant's Political Writings*, ed. Reiss, 101.

<sup>33</sup> Robert Pippin, "On the Moral Foundations of Kant's *Rechtslehre*," *Idealism as Modernism: Hegelian Variations* (Cambridge: CUP, 1997), p. 59 note 6.

<sup>34</sup> Kant, "Perpetual Peace," 116-30.

<sup>35</sup> Gottlieb Hufeland, *Versuch über den Grundsatz des Naturrechts* (Leipzig, 1785); *Lehrsätze des Naturrechts* (Jena, 1790; second edition Frankfurt and Leipzig, 1795).

<sup>36</sup> Rohls, *Kantisches Naturrecht*, p. 41, n. 121; p. 49.

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<sup>37</sup> Immanuel Kant, *The Metaphysics of Morals*, trans. Mary Gregor (Cambridge: Cambridge University Press, 1991), 57-58; Kant, "Theory and Practice," 73.

<sup>38</sup> Eric Nelson, *The Greek Tradition in Republican Thought* (Cambridge: CUP, 2004); J.G.A. Pocock, *The Machiavellian Moment, Florentine Political Thought and the Atlantic Republican Tradition* (Princeton: PUP, 1975).

<sup>39</sup> Thus his familiar assertion that the political problem can be solved even for a population of intelligent devils: Kant, "Perpetual Peace," 112-13.

<sup>40</sup> On the imperative to extend the sphere of right, with quasi-perfectionist implications, see, in Herta Nagl-Docekal and Rudolf Langthaler, eds., *Recht-Geschichte-Religion. Die Bedeutung Kants für die Gegenwart*: Paul Guyer, "Civic Responsibility and the Kantian Social Contract," 27-47; and Luca Fonnesu, "Kants praktische Philosophie und die Verwirklichung der Moral," 49-61.

<sup>41</sup> Kant, "Theory and Practice," 80.

<sup>42</sup> *Ibid.*, 80.

<sup>43</sup> *Ibid.*, 80 note.

<sup>44</sup> Kaufman, *Welfare*, 28-30, on the maintenance of a rightful condition, and the empirical existence of state.

<sup>45</sup> Kant, *Metaphysics of Morals*, 57. This passage occurs in Kant's general definition of coercion. Kaufman, *Welfare*, 34, also cites this passage as a warrant for interventions to preserve and extend the capacity for free action, though he does not discuss Fichte. Riedel, *Between Tradition and Revolution*, 108-09, however, maintains that Kant excludes the economy from practical philosophy as a merely technical domain.

<sup>46</sup> Kaufman, *Welfare*, 31-32.

<sup>47</sup> Wilhelm von Humboldt, *Ideen zu einem Versuch die Grenzen der Wirksamkeit des Staates zu bestimmen. Gesammelte Schriften* (Berlin: Reimer, 1903), Bd. 1.

<sup>48</sup> *Ibid.*, 1-2.

<sup>49</sup> Kant, "Theory and Practice," 74-77.

<sup>50</sup> On Dalberg, see Robert Leroux, *La théorie du despotisme éclairé chez Karl Theodor Dalberg* (Paris: Belles Lettres, 1932); Karl von Beaulieu-Marconnay, *Karl von Dalberg und seine Zeit. Zur Biographie und Charakteristik des Fürsten Primas* (Weimar: Böhlau, 1879), 2 vol., esp. vol. 1, 168-200; Nicholas Boyle, *Goethe. The Poet and the Age* (Oxford: Clarendon Press, 2000), vol. 2, 32-33.

<sup>51</sup> This is discussed in Marconnay, 168-80, who also mentions a disparaging remark of Schiller's about one of Dalberg's essays.

<sup>52</sup> Karl von Dalberg, „Von den wahren Grenzen der Wirksamkeit des Staats in Beziehung auf seine Mitglieder,“ reproduced in Leroux, *Dalberg*, 45-54

<sup>53</sup> *Ibid.*, 46.

<sup>54</sup> *Ibid.*, 47.

<sup>55</sup> J.G. Fichte, *Der geschloßne Handelsstaat, Werke*, Bd. III (Berlin: de Gruyter, 1971), 388-513.

<sup>56</sup> J.G. Fichte, „Zurückforderung der Denkfreiheit von den Fürsten Europens, die sie bisher unterdrückten,“ in J. G. Fichte, *Schriften zur Revolution*, ed. Bernard Willms (Frankfurt a. M.: Ullstein, 1973), 53-80. See Klippel, „Interventionsstaat,“ 95. Klippel also distinguishes interventions to promote happiness and right, but sees the latter as an interventionist

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liberalism. Here I intimate, without developing, a further distinction between liberal and republican currents.

<sup>57</sup> Kant, "Theory and Practice," 74-79. The status of women remains problematic in all these accounts.

<sup>58</sup> See also J.G. Fichte, *Foundations of Natural Right*, ed. F. Neuhouser, trans. M. Baur (Cambridge: CUP, 2000), "Second Appendix," 320-34.

<sup>59</sup> Istvan Hont, *The Jealousy of Trade. International Competition and the Nation-State in Historical Perspective* (Cambridge, MA: Harvard UP), 2005.

<sup>60</sup> Fichte, *Foundations of Natural Right*, 204.

<sup>61</sup> J.G. Fichte, *System der Sittenlehre, Werke* Bd. IV (Berlin: de Gruyter, 1971), 9.

<sup>62</sup> Fichte, *Foundations of Natural Right*, 203.

<sup>63</sup> Fichte, *Handelsstaat*, 409.

<sup>64</sup> *Ibid.*, 173.

<sup>65</sup> *Ibid.*, 149-52.

<sup>66</sup> Hont, *Jealousy of Trade*, 7-8.

<sup>67</sup> Guido Pult, "Le modèle de planification de Fichte," in J.G. Fichte, *L'Etat commercial fermé*, trad. D. Schulthess (Lausanne : L'Age d'Homme), 43-56.

<sup>68</sup> G.W.F. Hegel, *Elements of the Philosophy of Right*, ed. Allen Wood, trans. H.B. Nisbet (Cambridge: CUP, 1991), §182-§256. On this subject see, for example, Bernard Bourgeois, *Etudes hégéliennes. Raison et décision* (Paris: PUF, 1992), 181-205.