

## THE RIGHT TO EDUCATION IN THE FICHTEAN THEORY OF NATURAL RIGHT

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### I. THE FORMATIVE IDEAL FOR FICHTE AT JENA

Johann Gottlieb Fichte became famous because of his *Reden an die deutsche Nation*, where he articulates a series of ideas about the formation of the German people. However, this is not the only place where Fichte has considered the problem of education for citizens. We can go back to his first years in Jena to find his early systematic pedagogical thoughts on the matter.

The education problem was considered in Fichte's *Grundlage des Naturrechts nach Prinzipien der Wissenschaftslehre*, which was published between 1796 and 1797 and not studied enough by scholars. It is paradoxical because the problem of education is a crucial and systematic moment in the theory, given that here is where the inconsistency between the recognition theory and the applied right comes to light. That is to say, while the recognition theory implies a thick conception of education, the theory of the state puts it into the hands of the family; as a result, education is not guaranteed to all the citizens.

Fichte intervened in the debate about formation on the occasion of his first public course at Jena University, which began in May 1794 and was published later as *Einige Vorlesungen über die Bestimmung des Gelehrten*.<sup>1</sup> This course gave rise to a lot of harsh criticisms from his detractors, particularly because Fichte has been preceded by his fame as a strong Jacobin.<sup>2</sup> In this text, an ideal of formation

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<sup>1</sup> Johann Gottlieb Fichte, *Einige Vorlesungen über die Bestimmung des Gelehrten* (1794). It is quoted, according to *Johann Gottlieb Fichte: Gesamtausgabe der Bayerischen Akademie der Wissenschaften*, ed. Reinhard Lauth and Hans Jacob (Stuttgart–Bad Cannstatt: Frommann Verlag, Günther Holzboog, 1966) with the abbreviation GA, volume, and page number.

<sup>2</sup> Breazale (1988): 139; Anthony La Vopa (2009): 240–41; Clarke (2013): 495; Kühn (2012): 219.

is developed based upon relationships of recognition between the citizens.<sup>3</sup> On the other hand, Fichte opposes to a mechanistic view of the state, in the sense of Herder, and he defends the ideal of the moral formation of citizens, which has absolute priority over mere technical training.<sup>4</sup>

But Fichte does not succeed at demonstrating the conditions of possibility of this mutual recognition between the subjects.<sup>5</sup> He gives an adequate response to this problem in his *Grundlage des Naturrechts nach Prinzipien der Wissenschaftslehre*, where he demonstrates that the recognition of the other is necessary for the constitution of self-consciousness.<sup>6</sup> Fichte argues that the I can know that he or she is capable of determining him or herself freely and to act only when summoned by the other to do so. This action in turn has to exclude all forms of coercion, because if the other is forced by the I to act, he or she would not recognize him or her as a free being, insofar as he or she would treat the I as an object.<sup>7</sup>

In other words, the other must leave a sphere of free actions for the I in order to enable him or her to choose the preferred alternative. With this aim in mind, both must delimit an equal sphere of action for the other. This is the content of the principle of right (*Rechtssatz*).<sup>8</sup> The I learns then that he or she is a rational being thanks to the concept of him or herself, which is conveyed by the other; that is, the I is taught by the other. This is the reason why Fichte is led to state that, “The human being (like all the finite beings in general) becomes a human being only among human beings.”<sup>9</sup>

This theory of recognition brings important consequences for the idea of formation because the educability of the human being is the latest guarantee of the recognition of the other. In the following section, I will reconstruct the Fichtean argumentation in order to show that he defends a complex and articulated ideal of formation. In the following section, I will consider if the theory of state and the

<sup>3</sup> Fichte, *Einige Vorlesungen über die Bestimmung des Gelehrten*, GA, I, 3, 33–41.

<sup>4</sup> La Vopa, *Grace, Talent and Merit. Poor Students, Clerical Careers, and Professional Ideology in Eighteenth-Century Germany* (Cambridge/New York/New Rochelle/Melbourne/Sydney: Cambridge UP, 1988) 368.

<sup>5</sup> Frederick Neuhouser, “Entre Ilustración y Romanticismo: Fichte y el legado de Rousseau,” *Revista Estud(i)os sobre Fichte* 7 (2013). Accessed 26 August 2014 <<http://ref.revues.org/448>>.

<sup>6</sup> Fichte, *Grundlage des Naturrechts nach Prinzipien der Wissenschaftslehre* (Jena and Leipzig: Christian Ernst Gabler, 1796/1797). It is quoted, according to *Johann Gottlieb Fichte: Gesamtausgabe der Bayerischen Akademie der Wissenschaften*, ed. Reinhard Lauth and Hans Jacob (Stuttgart–Bad Cannstatt: Frommann Verlag, Günther Holzboog, 1966) with the abbreviation GA, volume, and page number. Here: GA, I, 3, 342–43.

<sup>7</sup> *Ibid.*: 358.

<sup>8</sup> *Ibid.*

<sup>9</sup> Fichte, *Foundations of Natural Right*, ed. Frederick Neuhouser. Trans. Michael Baur (Cambridge: Cambridge UP, 2000) 37; Fichte, *Grundlage des Naturrechts . . .*, GA, I, 3, 347.

family succeed at fulfilling their primordial role, which consists of guaranteeing the ideal of formation that makes self-consciousness possible.

## II. THE EDUCABILITY (BILDSAMKEIT) OF THE HUMAN FIGURE

In order to understand the argumentation that leads Fichte to defend a complex and articulated ideal of formation, it is necessary to resume the reasoning developed in the previous section. According to what was stated before, the I can constitute him or herself as a self-consciousness only when he or she is recognized by the other as a rational being. It is only after this act of recognition that he or she is in a position to act and develop his or her subjectivity. The problem with this Fichtean thesis is that the I is left at the mercy of the other, in order to constitute him or herself as such. This means that the other could meet the I but at the same time refuse to recognize him or her as an alter ego in this intersubjective relationship. Actually, the other does not seem to have anything to lose if it chose to do so because it would remain a rational being, given that he or she has previously constituted him or herself as such.

This eventuality would carry, in turn, the consequence that the existence of the other as a rational being would be at the mercy of another; the existence of this last would be in the same situation, and so on into the infinite. Therefore, the conditions for the constitution of self-consciousness would have a changeable and contingent character, which would make Fichte's explanation impossible. This implies that in this problem, Fichte has at stake the very grounding of his theory, so much so that it is extremely relevant.

In order to solve this problem, Fichte must find a condition that binds the other to recognize the I as a rational being, in order to maintain the coherence between his or her actions. However, it must be a condition given previously to the relationship of recognition because what is wanted is to determine the ultimate condition of the summons. As a consequence, the I must be capable of influencing the other in an original moment so that the other cannot avoid the action of recognizing him or her, or fall into contradiction with him or herself. This condition contains an additional problem, insofar as it cannot be seen how the I could exert any influence on the other before he or she knows that he or she is capable of doing so. As a consequence, I must be able to "[...] exercise my efficacy without exercising."<sup>10</sup>

This argumentation requires the conception of personhood as a mere capability that has not yet been realized. But the capability to become a person is the

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<sup>10</sup> Ibid: 70; "[...] wirken, ohne zu wirken; wirken ohne Thätigkeit" (Fichte, *Grundlage des Naturrechts* . . . , GA, I, 3, 375).

possibility of acting, which in turn is identical with the sphere of possible actions available for the person, or the body. Therefore, Fichte concluded that the body exists previously to the person insofar as the body is the possibility for the I to begin to act.

Even though it is true that the body is identical with the capability of agency for the I, it cannot operate before it becomes self-conscious since it has not yet developed a will, which could move it and express emotions or thoughts through it. Fichte actually argued that the will is some kind of influence that the body exerts through its structure so that the other can see in him or her the figure of a rational being and make the decision to summon him or her to self-determination, motivated by the law of concordance with oneself (*Einstimmigkeit mit sich selbst*).

For this to be possible, the human figure of the I must act somehow on the other's higher organ. This organ consists of that part of the articulated body that can conceive the received bodily image as the representation of a human being.<sup>11</sup> The other's higher organ is the faculty to grasp that this human body, which is at rest in space, is the means of expression of a mere possible will.

In this moment of the Fichtean argumentation arises a problem in the way in which the other's higher organ might know that it is in front of a rational being from the mere perception of his or her body at rest. The conceptualization of a phenomenon culminates when we arrive at a complete totality, which enables us to explain each of its parts and whose parts in turn can give an account of it. Fichte understood the process of conceptualizing a phenomenon as the gathering of its elements until one arrives at a point in which all the elements fit in one totality, not lacking anything. Therefore, it is not possible to conceive of a phenomenon as the body of a rational being if the elements of this phenomenon are not interconnected in order for them to integrate into a unity, presenting the features of a rational being. The Fichtean argumentation is a genetic one because it follows a path which goes from the collections of the several elements which appear in the figure of a human being in space to the comprehensive totality which enables us to build a concept of it.

The first step of the other, in order to grasp the concept of the I's body as an expression of a human figure, is obvious while viewing a human body. It appears as an organized natural whole and cannot be divided into parts, in contrast with the inorganic matter. If a stone is divided into parts, the resultant parts will keep their mineral compositions. But if a living organism were to be divided in this way, it would be destroyed.

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<sup>11</sup> Fichte compares by analogy the subtle matter, which is modified by the mere figure at rest in space, with air and light. Both cannot be altered but they make the phenomena visible, which take place in them. Their permanency makes the transparent transmission of the concepts of rational beings possible (Ibid: 377).

As a consequence, the human body cannot be thought analogous with inorganic matter but rather with a work of art. When you appreciate a work of art, each part makes reference to the others and finally to its totality so that it cannot be appreciated if its parts cannot be taken into account. While a work of art is composed of parts that are ruled by mechanic laws, the human body has parts that are produced by their own inner force (*der innere Bildungstrieb*).<sup>12</sup> Alternatively, whereas the end of a naturally organized product is the production of its parts, that is to say, its own existence, a work of art remits to an external author and aims at expressing certain aesthetical ideas.

Contrastingly, the natural product strives to survive and reproduce itself constantly. For example, when the skin is hurt, it regenerates itself. The self-organized character of the natural product has a perfect expression in plants. The ultimate aim of the plant is the reproduction of its organization, which is made possible thanks to the seed with which the life cycle of the organism begins again and so on *ad infinitum*. The plant is an organized natural product since its structure can be explained only in terms of conservation and reproduction of its own organization.

The human body also has a “free determined movement” (*eine bestimmte freie Bewegung*). Human beings and animals have in common this free determined movement. Even as human beings are free, given that they are supposed to have a certain capacity to act, they are also determined as they are driven by instinct. Meanwhile, free determined movement is not exclusively oriented toward the reproduction of the organism. That is the reason why it is necessary to add that the human figure is an articulated body.

Still, the free determined movement of the articulated body is not enough to build the concept of the human figure. This free determined movement implies the circumscription of “[. . .] some determinate sphere of arbitrary movement,”<sup>13</sup> or a limitation of the possible movements of the subject. Nevertheless, as it is argued in §§ 1–4, the rational being can determine to act him or herself according to an infinite variety of possible aims. Whereas animals are finished and complete in themselves because their actions are solely determined by instinct, men are, in principle, pure capability.<sup>14</sup> Animals are determined but human beings are infinitely determinable.<sup>15</sup>

<sup>12</sup> Ibid: 378.

<sup>13</sup> Fichte, *Foundations of Natural Right*, 74; “[. . .] bestimmten Umkreis der willkürlichen Bewegung” (Fichte, *Grundlage des Naturrechts* . . . , GA, I, 3, 379).

<sup>14</sup> Wolfgang Schrader, *Empirisches und absolutes Ich. Zur Geschichte des Begriffs Leben in der Philosophie J.G. Fichtes* (Stuttgart–Bad Cannstatt: Friedrich Frommann Verlag Günther Holzboog KG, 1972) 81–82.

<sup>15</sup> Ver Franck Fischbach, *Fichte et Hegel. La reconnaissance* (Paris: Presses Universitaires de France, 1999) 59.

Again, animals are already formed whereas human beings are defined by their capability to form themselves (*Bildsamkeit*).<sup>16</sup> In other words, animals are what they are and cannot be anything else while human beings have to make the decision to behave as rational beings. The other will recognize the figure of a human body in space as a representation of a rational being insofar as he or she attributes him or herself the capability to form and constitute him or herself as such. For that, he or she will have to apply to this human figure the concept of him or herself, which he or she already has due to the mere fact that he or she is a person with the capability to act.

Actually, the person must always apply the concept of him or herself in order to know all the objects of the sensible world, insofar as this activity is constitutive of self-consciousness. Then, the law of concordance with oneself requires for the person to recognize this figure as equal to him or her and therefore must be summoned to act.<sup>17</sup> On the other hand, the I will recognize the other as a human being only if he or she already disposes of a criterion to do so.

Meanwhile, how is it possible to recognize concretely an object of the sensible world as a human being? Fichte rejects the Kantian criterion of the capability to represent laws because he believed that it left indeterminate the problem of the identification of a rational being in the sensible world.<sup>18</sup> According to Fichte, the recognition of the other happens immediately when a certain communicative capability can be confirmed in the other, which implies that he or she must have some sense of reciprocity. If there is a certain predisposition to dialogue and not an attitude of either of fight or flight, it can be concluded that he or she is in front of a human body.

Fichte developed an additional chain of reasoning in order to support his demonstration with biological and anthropological data. Firstly, Fichte observed that human beings need communication and education if they want to guarantee their own survival.<sup>19</sup> The indeterminate character of the human being pushes him or her, so to speak, to communicate with other human beings. Expressed in another

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<sup>16</sup> “Nature completed all of her works; only from the human being did she withdraw her hand, and precisely by doing so, she gave him over to himself” (Fichte, *Foundations of Natural Right*, 74). (“Die Natur hat alle ihre Werke vollendet, nur von dem Menschen zog sie die Hand ab, und übergab ihn gerade dadurch an sich selbst”; Fichte, *Grundlage des Naturrechts* . . . , GA, I, 3, 379).

<sup>17</sup> Fichte, *Grundlage des Naturrechts* . . . , GA, I, 3, 379.

<sup>18</sup> Ibid: 380.

<sup>19</sup> Taver draws a parallel in this point with Gehlen’s idea of the contingent and needy character of the human being (Katja Taver, “Fichte und Arnold Gehlen. Fichtes Philosophie des Rechts von 1796 und 1812 im Fokus von Arnold Gehlens philosophischer Anthropologie,” *Fichte-Studien* 24 (2003): 53–56). It is important to remember that in the case of Arnold Gehlen this open and incomplete character of the human being leads him or her to maintain the necessity of a strong state—the

way, a human being has to be educated by others in order to become human in a process which begins with the summons to action and the recognition implicit within.<sup>20</sup>

When an animal is born, it is already complete and determined by instinct because nature has already equipped it with all the tools it needs to survive. For example, the newborn animal can already move toward its mother and look by itself for the nourishment in its breast. The human being, on the other hand, needs his or her mother to take care of him or her and to give him or her the necessary nourishment. Then, a long education will be necessary in order for the human being to succeed in life. As Fichte remarks, the plant looks for the reproduction of its species through the seed, which it throws on the earth, but the human species can guarantee its conservation only through education. Reason itself, which features him or her as a person, can only be preserved if it is educated and retains the discoveries of the past generations, making progress thanks to them.<sup>21</sup>

Furthermore, Fichte supports his theory with a study of the conformations of the tactile and prehensile organs. The sense of touch is the function of being in touch with matter in order to manipulate and adapt it for our aims. The human being has this sense of touch distributed all over its body so that he or she can manipulate matter with whatever organ he or she wishes to use, given that he or she is always in a position to be in touch with it. Fichte saw clear examples of this in those human beings who could sew with their feet or are ventriloquists. Nevertheless, the human being has put his or her capability to manipulate matter in the fingertips.

Besides, the human being could choose, in the course of the history of the species, a different position in which he or she walks or runs. The human being walks erect, but he or she could do it on all fours, as demonstrated by the cases of humans who have been raised by animals. The human being's facial gestures are vague and undetermined at the moment of birth, but they are eventually developed as a product of education and socialization. Fichte concluded from these considerations:

All of these things [. . .] are what compels everyone with a human countenance to recognize and respect the human shape everywhere—regardless of whether that shape is merely intimated and

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National Socialist—where he or she can anchor his or her constitutive lack of instincts adequately to the environment. Besides, Gehlen grounds his theory in Fichte's texts.

<sup>20</sup> Düsing sees in this Fichtean idea resemblances to Herbart's thoughts. See Edith Düsing, *Intersubjektivität und Selbstbewusstsein. Behavioristische, phänomenologische und idealistische Begründungstheorien bei Mead, Schütz, Fichte und Hegel* (Köln: Verlag für Philosophie Jürgen Dinter, 1986) 287–88.

<sup>21</sup> Fichte, *Grundlage des Naturrechts . . .*, GA, I, 3, 381.

must still be transferred (albeit with necessity) to the body that intimates it or whether that shape already exists at a certain level of completion. The human shape is necessarily sacred to the human being.<sup>22</sup>

As it has already been demonstrated, the figure of the body of a person binds the other to recognize him or her as a person and to treat him or her as such, in virtue of the law of concordance with oneself. If the person wants to constitute him or herself as a rational being, he or she is bound by logical coherence to keep treating another being that has already been recognized as such as an equal. But he or she will never be able to recognize the other if he or she does not respect his or her freedom and does not respect the principle of right.

The idea of a legal community, which is constituted in virtue of the principle of right, actually is an abstract concept, insofar as its conditions of possibility in the sensible world are not established. Fichte states that the body is the mediation through which the freedom is given and as the set for the person's possible actions. This right is meant to restrict each person's spheres of action, which implies in turn that the body is the object of its regulation. If each person could not attribute a body to him or herself, then neither could any legal community nor the right reign over mankind.

As a result of the previous argumentation, we can conclude that the I identifies him or herself with the capability of self-formation. Hence, the importance of establishing the ideal of formation is in accordance to the I realizing him or herself. In order to determine this ideal, it is necessary to go back to *Einige Vorlesungen über die Bestimmung des Gelehrten*. Firstly, Fichte stated here that the I is gifted with reason, and consequently, his or her ultimate end is his or her own existence. In other words, the I is absolute. Therefore, he or she is called to realize the rationality in him or herself.<sup>23</sup> That implies that the I must advance toward a higher consistency between his or her beliefs and actions, that is to say, a concordance with him or herself.<sup>24</sup> Then Fichte affirms that when the I contradicts him or herself, the reason for that is that the I is not determined by his or her pure form but by the things which are external to the I, that is to say, by the Non-I.<sup>25</sup>

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<sup>22</sup> Fichte, *Foundations of Natural Right*, 78–79; “Dieses alles, [. . .] ist es, was jeden, der menschliches Angesicht trägt, nöthigt, die menschliche Gestalt überall, sie sey nun bloss angedeutet, und werde erst durch ihn, abermals mit Nothwendigkeit, darauf übergetragen, oder sie stehe schon auf einer gewissen Stufe der Vollendung, anzuerkennen und zu respectiren. Menschengestalt ist dem Menschen nothwendig heilig” (Fichte, *Grundlage des Naturrechts . . .*, GA, I, 3, 383).

<sup>23</sup> Fichte, *Einige Vorlesungen über die Bestimmung des Gelehrten*, GA, I/3, 29.

<sup>24</sup> Ibid: 30.

<sup>25</sup> Ibid: 29–30.



Meanwhile, this ideal of absolute concordance with oneself is a permanent task, which must be performed at different levels. On the one hand, the I must modify the external things so that they can be shaped according to the ideal of rationality. That is so because the cognitive representations and inclinations depend on external things as they provoke them. As a consequence, if the I's environment lacks any rationality, so will it be for the inner states.<sup>26</sup>

On the other hand, the I must transform his or her vicious inclinations in order to be capable of obeying reason.<sup>27</sup> Only once the I frees him or herself from the tyranny of inclinations will he or she be capable of accomplishing his or her fate fully. This double task of modifying the external things as well as freeing our inclinations and faculties is the role of culture (*Cultur*). Given that this struggle against the Non-I is inherent to the I, culture holds an infinite task: struggling toward an ideal that we must always approach but can never fully achieve.<sup>28</sup>

The ideal of formation, understood as complete concordance with oneself in virtue of culture's task, is therefore the I's horizon and destiny. As a consequence, it is a complex ideal, which requires the formation of all the forces and capabilities of the I, as well as the transformation of the environment, so that it can serve the ideals of reason. In the following section, I will show that the Fichtean natural right cannot guarantee this ideal because the state is only in charge of the formation of labor.

### III. THE INTEGRAL FORMATION OF FUTURE CITIZENS

Once the ideal of formation that the I must pursue has been determined, it is important to establish who the educative agent responsible for this process is. One might think of the state, given that it is a major entity that must guarantee external conditions for the realization of self-consciousness, that is to say, the spheres of action of each subject. Nevertheless, Fichte affirms that the family must be in charge of the higher education of the children, whereas the state must limit itself to supervise, ensuring that the minimal conditions for realization are fulfilled. In order to correctly understand the Fichtean argumentation, it is first necessary to reconstruct his ideal of family.

Fichte's starting point is the assumption that marriage is not a juridical community; therefore, it does not constitute itself as a consequence of a consensus of its members about the laws that rule its life.<sup>29</sup> On the contrary, it is a natural

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<sup>26</sup> Ibid: 30–31.

<sup>27</sup> Ibid: 31.

<sup>28</sup> Ibid: 32.

<sup>29</sup> Fichte, *Grundlage des Naturrechts . . .*, GA, I, 4, 95.

community because it is based upon the biological drives of its members and a moral community that constitutes itself thanks to the development of certain virtues in each of the spouses. Let us consider both moments more in detail.

Marriage cannot be explained if the sexual drives of each gender are not taken into account.<sup>30</sup> The satisfaction of each gender's drive enables the conservation and reproduction of the human species.<sup>31</sup> The masculine sexual drive has an active role in procreation, whereas the feminine one plays a more passive and receptive role.<sup>32</sup> That means that while the masculine drive is the motor of procreation, the feminine one has the function of receiving and feeding the embryo during the whole process of gestation.<sup>33</sup> This difference in the nature of each drive determines the way in which each of them can manifest. The masculine drive is active and hence is compatible with the nature of reason. In contrast, the feminine drive is contradictory to reason, given its passive nature. As a result, the man can manifest his drive in a direct manner while the woman can do so only indirectly and in a sublimed way, under the form of love for the man.<sup>34</sup>

This implies that love, understood as the drive to satisfy the other's needs, is originally a given in the woman and not in the man as a consequence of the alleged biological reasons. Only upon marriage can the man develop his love for his wife and children in a derivative way, which means from the love originally expressed by her.<sup>35</sup> If the proper virtue of the woman is love, the man has his own virtue in magnanimity, or the bravery and strength of his character, which make him worthy of his wife's love.<sup>36</sup> Marital tenderness has its origin in this integration between the

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<sup>30</sup> On this point, Fichte forms a distance from Christianity, in particular with the idea that the end result of sexual intercourse is procreation and not the satisfaction of the spouses' sexual drives (David Archard 2001, 188–99).

<sup>31</sup> Fichte, *Grundlage des Naturrechts . . .*, GA, I, 4, 96.

<sup>32</sup> Archard maintains that Fichte still assumes the patriarchal metaphor that while the woman gives the receptacle, that is to say the womb, the man gives the active principle. This metaphor has been traditionally related to the man as the seed and the woman as the field. See Archard, "Family Law (First Annex)," *Johann Gottlieb Fichte. Grundlage des Naturrechts*, ed. Jean-Christoph Merle (Berlin: Akademie Verlag, 2001) 190.

<sup>33</sup> Fichte, *Grundlage des Naturrechts . . .*, GA, I, 4, 97.

<sup>34</sup> Ibid: 100.

<sup>35</sup> As a result, it is the woman who builds matrimony, and the man appears rather as an appendix of this process. See Daniel Morrison, "Women, Family and State in Fichte's Philosophy of Freedom," *New Perspectives on Fichte*, ed. Daniel Breazale and Tom Rockmore (New Jersey: Humanities Press International, 1996) 184. This asymmetry is obvious in the correspondence between Fichte and Johanna Rahn, according to Karen Kenkel, "The Personal and the Philosophical in Fichte's Theory of Sexual Difference," *Impure Reason. Dialectic of Enlightenment in Germany*, ed. Daniel Wilson and Robert Holub (Detroit: Wayne UP, 1993) 285.

<sup>36</sup> Fichte, *Grundlage des Naturrechts . . .*, GA, I, 4, 102–03.

virtues of each sex, constituting the moral and natural community of marriage.<sup>37</sup> This union is an end in itself because it is the only place where human beings can fully develop their personalities.<sup>38</sup>

Having that said, in the act of union through marriage, the woman decides to surrender her personality to the man out of love and hence to renounce her civil rights and property.<sup>39</sup> As a result of the act of marriage, the man becomes the lawful spokesman of his wife in matters related to private rights as well as in participation in the political issues of the community. Given that marriage is a community bounded by a shared will, Fichte supposed that there would not be any arguments between the spouses in regard to juridical and political decisions. Thus, the woman remains confined to the private sphere while the man has his own place in public and social life.<sup>40</sup> Therefore, the man has to play a role in the social division of labor since he is the one who has to support the family.<sup>41</sup>

This chain of reasoning led Fichte to refuse to give the woman the same rights as those of the man. Nevertheless, Fichte rejected the justification of this asymmetry through the statement that women have less physical strength and intellectual faculties yet there are single women or widows who can work as well and

<sup>37</sup> Ibid: 103. "Against Honneth's thesis, that the foundation of marriage in emotional bonds belongs to the Hegelian tradition, I think that it can be traced back to Fichte." See Axel Honneth, "Between Justice and Affection. The family as a Field of Moral Disputes," *Privacies: Philosophical Evaluations*, ed. Beate Rössler (Stanford: Stanford UP, 2004) 153–59.

<sup>38</sup> Ibid: 104–05. "The bond between Fichte and Johanna Rahn was structured in accord to the ideal of the *Empfindsamkeit*, that is to say the mutual friendship between the spouses, understood as a form of moral communion." See La Vopa, *Fichte. The Self and the Calling of Philosophy, 1762–1799* (Cambridge: Cambridge UP, 2009) 159, 165, 171.

<sup>39</sup> Ibid: 114. See Bärbel Frischmann, "Fichte's Theory of Gender Relations in his *Foundations of Natural Right*," *Right, Bodies and Recognition. New Essays on Fichte's Foundations of Natural Right*, ed. Tom Rockmore and Daniel Breazale (Hampshire–Burlington: Ashgate Publishing Company, 2006) 156; Barbara Duden, "Das schöne Eigentum," *Kursbuch 47*, ed. Karl Marcus Michel and Harald Wieser (Berlin: Kursbuch Verlag, 1977) 137–38. Rahn embodied this ideal of the self-sacrificed woman, for example, when she used to cook for Fichte's dinners with his friends, in order to satisfy a request by Fichte and against her own desires; see Kenkel, "The Personal and the Philosophical in Fichte's Theory of Sexual Difference," 293; Ilse Kammerlander, *Johanna Fichte. Ein Frauenschicksal der deutschen Klassik* (Stuttgart, Berlin, Köln, Mainz: Verlag W. Kohlhammer, 1969) 50.

<sup>40</sup> Fichte considered that it had yet not been published a complete research about the rights of women, as he comments his editor Cotta in a letter written 24 April 1795 (Marion Heinz, Friederika Kuster, " 'Vollkommene Vereinigung'. Fichtes Eherecht in der Perspektive feministischer Philosophie," *Deutsche Zeitschrift für Philosophie*, 46. Jahrgang, Heft 5 (1998): 828; Kenkel, "The Personal and the Philosophical in Fichte's Theory of Sexual Difference," 280).

<sup>41</sup> Fichte came to the point of interrupting the correspondence with Rahn because he considered that he was not in economic conditions to support the family. Even though Rahn enjoyed a strong financial situation, Fichte was finding it difficult to decide to get married until he had stable and decent employment (La Vopa, *Fichte. The Self and the Calling of Philosophy, 1762–1799*, 166–67).

intensively as men.<sup>42</sup> On the contrary, the Fichtean argumentation has its starting point in the psychological and moral structures of the woman in order to conclude that she does not want to exercise her rights because she has already chosen to do so through her husband, moved by the love which she naturally feels for him.<sup>43</sup> It is exactly this virtue of love that is at the core of the feminine identity and drives the woman to remain in the domestic and private sphere, taking care of the needs of her husband and children.

Having said that, this leaves open the problem of women's access to education, given that the domestic sphere can also require a certain formation. This debate was not new at the time of Fichte. Jean-Jacques Rousseau developed in 1762 in his *Émile ou de l'Éducation* an educative approach for each gender, taking into account the role each had to play in social life.<sup>44</sup> The criterion applied by Rousseau is moral and psychological, which leads to the exclusion of the woman from the public sphere as a result of the consideration of her capabilities. These are what make her prone to pay attention to the particular rather than to the universal, to the practical than the theoretical, and to the emotional rather than to the rational. The opposite is the case for the man, making him apt to political life and the world of labor and making the woman destined by her constitution to the private and domestic sphere.

Against Rousseau's position, Mary Wollstonecraft stated that the woman has to recover her dignity and overcome her dependency on the approbation of the man. This recovery would not be possible, according to Wollstonecraft, if the woman did not get access to higher education.<sup>45</sup> Theodor Gottlieb Von Hippel, in line with Mary Wollstonecraft, argued that both genders are equals at birth and hence have the same capabilities and deserve equal rights. According to Von Hippel, the very concept of the right is neutral from the gender perspective.<sup>46</sup>

During his stay in Zürich, Fichte wrote *Tagebuch über die merklichsten Erziehungsfehler*, which he gave as a present to the parents of his student. In it, Fichte developed a series of arguments to ground the necessity for a more sophisticated education for women. For example, Fichte affirmed that education as the capability of thinking by oneself is a universal right and therefore is not restricted only to men. But this required a reasonable scientific argument, given the com-

<sup>42</sup> Fichte, *Grundlage des Naturrechts . . .*, GA, I, 4, 132–33. Curiously this is the same argument that Von Hippel uses to defend the equality of rights von men and women; see Theodor Gottlieb Von Hippel, *Über die bürgerliche Verbesserung der Weiber* (Frankfurt: Syndikat, 1977) 30–31.

<sup>43</sup> Ibid: 129.

<sup>44</sup> Jean-Jacques Rousseau, "Cinquième Livre," *Émile ou de l'Éducation* (Paris: Garnier-Flammarion, 1966).

<sup>45</sup> Mary Wollstonecraft, *A Vindication of the Rights of the Woman* (London: Penguin Books, 1975).

<sup>46</sup> Von Hippel, *Über die bürgerliche Verbesserung der Weiber*. See Isabel Hull's commentary in: *Sexuality, State and Civil Society in Germany 1700–1815* (Ithaca and London: Cornell UP, 1996).

plexity of the task of getting rid of prejudices, superstitions, or unjustified fears. He got to a point of defending the necessity of the woman acquiring a certain amount of knowledge in the sphere of politics.<sup>47</sup>

Notwithstanding, in *Grundlage des Naturrechts*, the woman has no right to education because the formation of each citizen is determined exclusively by the citizens' roles in the social division of labor. Hannelore Schröder remarked that, in this sense, the woman is simply an instrument for the formation of new citizens in the Fichtean state, being at the same time precluded from participation in its life.<sup>48</sup>

In spite of these asymmetries, the family is the space where the integral formation process of future citizens must take place. The Fichtean argumentation is based upon that which has been written before. This is evident if we reconstruct the argument in some detail.

The starting point of the reasoning is the fact that the biological process of embryo gestation, as well as the production of its nourishment by the mother, generates an organic relationship between both. The mother makes the decision to take care of her baby as a result of the conscious perception of the biological drive originating in that particular bond.<sup>49</sup> That is to say, between the natural drive and the response to it, there appears a third moment, which consists of the consciousness and the intelligence, or the freedom to respond or not to respond to this requirement.

In turn, the drive appears to be the mother's conscience as a necessity to receive the body of another person as if it were her own. Therefore, the mother is moved to take care of the other's needs as if they were her own, which guarantees the conservation of the child to existence. To put it another way, the relationship between a mother and her child is marked by the feeling of compassion.<sup>50</sup> In the first moment, the caring of a child appears to the mother as a moral duty and not as an obligation based on some right of the child because for this to happen, the state must intervene.

However, Fichte asserts that the father, too, has the drive to take care of living beings that are weak and helpless, even though he does not have the drive to take care of his child in particular. The reason for this is that there is no bond between them, which could be analogous to the one that unites the mother with her child,

<sup>47</sup> Kammerlander, *Johanna Fichte. Ein Frauenschicksal der deutschen Klassik*, 22–23.

<sup>48</sup> Hannelore Schröder, *Die Rechtlosigkeit der Frau im Rechtsstaat. Dargestellt am Allgemeinen Preussischen Landrecht, am Bürgerlichen Gesetzbuch und an J. G. Fichtes Grundlage des Naturrechts* (Frankfurt-New York: Campus Verlag, 1979) 96–97.

<sup>49</sup> Fichte, *Grundlage des Naturrechts* . . . , GA, I, 4, 137–38.

<sup>50</sup> *Ibid.*: 138.

given that the act of procreation is not enough to bring to the father's consciousness the necessity to ensure the existence of his child.

Indeed, the father's drive to take care of his offspring's needs comes from the tenderness he feels for his or her mother, which drives him to make her ends his own, in particular the conservation of the child.<sup>51</sup> As a result, the mutual tenderness that makes it possible for matrimony includes common ends and aims.

Once the family has been constituted in this way, it becomes natural for the parents to be in charge of the education of their children, from Fichte's viewpoint. According to the previous argumentation, every rational being inevitably tends to treat each alter ego which he or she meets as a rational being, even if it is a mere body at rest. Henceforth, the parents will tend to treat their children as such and summon them to act, leaving them an open sphere of actions. However, the child's freedom must be restricted since its use could become dangerous for his or her conservation in certain circumstances. On the other hand, the self-preservation urge for existence is a fundamental moment of self-consciousness in accordance with the argument reconstructed above. That is the reason why freedom must be subordinated to this ultimate end. With only this restriction in mind, Fichte thought of a domestic space where freedom could be used for all possible ends, which he called a "higher education" (*höheren Erziehung*).<sup>52</sup>

Even though the parents are the agents of education for the child and hence the process of teaching is in their hands, the state has the right to control how this process succeeds. This right can be traced back to the social contract, which is at the very basis of the state. Fichte maintains that the state is possible solely if the citizens engage, not only in respecting the property of others but in putting their capabilities and resources together on behalf of the common good, in particular to guarantee the right of all to existence.<sup>53</sup> As a consequence, the parents have consented to this contract as citizens from the very moment they start to live in the political community. This implies that they will ensure that the state is provided with a reasonable amount of new citizens, whose capabilities must be educated in order to achieve the ends pursued by the state.<sup>54</sup>

Consequently, the state is legitimated to control how families educate the new citizens in such a way that they could use their strengths for the widest possible variety of ends. That implies in turn that the state must punish any form of infanticide, not because the child enjoys some kind of citizenship but because of

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<sup>51</sup> Ibid: 139–40.

<sup>52</sup> Ibid: 140–41.

<sup>53</sup> Ibid: 5–20.

<sup>54</sup> Ibid: 142.

the need of the state to self-preserve.<sup>55</sup> Furthermore, the state must oversee that the children have their basic needs met, such as nourishment, shelter, and community life, given that these are the basic conditions of every general education.<sup>56</sup>

However, that does not mean that the state can interfere in the education given by the parents to their children. The reason is that education has a moral character and, as a result, will have a different nature according to the various moral principles that each couple might consider to be the right ones. Since Fichte conceived the science of right as completely separate from ethics, he did not accept the state intervening in issues of individual morality. It would imply that the state would also take away the autonomy of the parents in any relationship to the education they want to give to their children, which would cause the entire previous argumentation to collapse.<sup>57</sup>

Being the ones who plan and establish different aims to achieve the completion of the educative process of their children, the parents are, in general, able to decide whether this process has come to an end. Once the citizen has been formed, he or she can become independent from his or her parents and integrate into the world of labor. However, there can be cases in which the state considers someone's education as being accomplished, such as when public employment is offered to a particular citizen or when the state certifies his or her competence for the exercise of a profession or craft by an authorized institution. That means that the state can give a judgment of usefulness about the developed capabilities of the youth in question. Besides, it could happen that the youth decides to get married at an indicated age; in order to do so, he or she must be left free to constitute his or her own family.<sup>58</sup>

In summary, Fichte maintains that the state must delegate the integral formation of future citizens in the hands of the family due to the type of community it forms. What makes the family particularly suitable for the conduction of the educative process is its framework of relationships for reciprocal recognition, which makes possible the construction of identity for each of its members.

Nevertheless, I consider this argumentative movement of Fichte to be problematic because the state ends up withdrawing from education planning and conducting for its future citizens despite it being a fundamental mission in guaranteeing the right, which means the external conditions of self-consciousness, among them the integral formation of the I. In the following section, I will take this point into consideration.

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<sup>55</sup> Ibid: 143–44.

<sup>56</sup> Ibid: 144. Furthermore, the state has to ensure that the children are not sold as slaves (Ibid: 145).

<sup>57</sup> Ibid: 144–45.

<sup>58</sup> Ibid: 146–47.

## IV. FINAL REMARKS

In order to develop my argumentation, I think it is necessary in the first place to determine briefly the role the state plays in the Fichtean theory. The state is introduced in the natural right as a third instance that directs the conditions of guaranteeing the principle of right. As it was said before, the state has the end of ensuring the external conditions of self-consciousness. Given that self-consciousness is possible thanks to the relationship of summons by the other to the I, subjects must mutually determine their spheres of action in order to make this relationship possible.

On the one hand, each subject has a provisional guarantee that the other subjects will respect his or her right, given that once the subjects have access to the legal community, they will necessarily behave according to the law of concordance with oneself. In other words, they will avoid the intrusion in the sphere of actions of the other so that they will not contradict themselves. Notwithstanding, this is an assumption because the opposite can actually happen. Effectively, the relationship of recognition in itself implies that the other is left free to respond to the summons or not to do so, which in turn leads an indeterminate route to their behavior in the future.

Given the indeterminate nature in which the legal community ends up, Fichte needs to operate with the assumption of universal egoism. In other words, he needs to imagine the worst possible scenario.<sup>59</sup> For this reason, Fichte is obliged to introduce a third instance to the legal community on behalf of the guarantee of right. In order for it to be effective, it must consist of a person who is not involved in any of the interests of the parties to make possible the empire of the law. But by virtue of the assumption of universal egoism, Fichte only has to concentrate the three powers to one for the purpose of controlling outbursts and the disintegration that could result thereof.<sup>60</sup>

This implies that citizens must retreat to the domestic and labor spaces, leaving the administration of justice in the hands of the state. Nevertheless, people retain the right to control the government's actions by means of an institution that has no coercive power. This is the ephorate, integrated by highly respected citizens, with the mandate to denounce the government if it acts against the constitutional principles.<sup>61</sup> Thereupon, the ephorate has to call the popular assembly in order for people to decide whether the government is guilty of the alleged charges or not.<sup>62</sup>

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<sup>59</sup> Ibid: 69.

<sup>60</sup> Fichte, *Grundlage des Naturrechts . . .*, GA, I, 3, 434–35.

<sup>61</sup> Ibid: 448–49.

<sup>62</sup> Ibid: 447–55.



The state cannot solely guarantee the empire of the law in abstract; in particular, it has to ensure the right of the citizens to existence. The I's capability of agency is possible thanks to the body. This statement is grounded on several reasons. Firstly, the I has guaranteed the recognition of the other in virtue of the fact that the mere position of his or her body at rest expresses the human figure, which is then defined by the capability to be educated (*Bildsamkeit*), as was argued above. In the second place, the articulated body is the fundamental mediator for the action of the I insofar as the will is expressed through it. Finally, when the person aims to act, the concept of the action must contain the condition that the agent continues to exist in the future, after having concluded to perform the action.<sup>63</sup> Therefore, the self-conservation of the body is the ultimate condition of self-consciousness. This implies in turn that the fundamental and constitutive right of citizenship is the right to existence.<sup>64</sup>

Therefore, the state must, above all, guarantee the possibility of each citizen to gain labor that enables him or her to make a living.<sup>65</sup> Thus, Fichte designed a centrally planned economy whose structure consists of a division of labor, which makes its ultimate end possible. This system is structured around a base of producers (*Produzenten*) who must take the raw materials from the earth that are then manufactured by the artists (*Künstler*).<sup>66</sup> Furthermore, it is the job of the merchants (*Kaufmänner*) to facilitate the exchange of raw materials from the producers and the manufactured goods of the artists and *vice versa*.<sup>67</sup>

The Fichtean state must then guarantee the empire of the law and the right to existence, insofar as they are the external conditions of self-consciousness. As it was argued before, the state has a particular interest in ensuring the constant formation of citizens, the reason being that this is essential to the self-preservation of the community. Therefore, the state will control only how the parents give their children an education in the most basic capabilities for the purpose of enabling the children to later choose the social class they want to belong to. Once each citizen has chosen a social class and has been admitted to it, the state must make the necessary efforts to bring to the citizens a specialized formation in order for them to perform successfully in the desired labors.

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<sup>63</sup> Fichte, *Grundlage des Naturrechts* . . . , GA, I, 4, 21.

<sup>64</sup> Allen Wood remarks on the influence of Fichte's own experiences in childhood, such as when he had experienced the lack of basic elements for a decent life (Wood, "Kant and Fichte on Right, Welfare and Economic Redistribution," *Internationales Jahrbuch des Deutschen Idealismus—International Yearbook of German Idealism* 2 (2004): 95).

<sup>65</sup> Fichte, *Grundlage des Naturrechts* . . . , GA, I, 4, 22.

<sup>66</sup> *Ibid*: 28, 38.

<sup>67</sup> *Ibid*: 38–39.

Hence, the Fichtean state is not a condition of guaranteeing the challenging ideal of formation, which is at the basis of conceiving self-consciousness. Neither can the parents ensure it, because the complexity of the necessary knowledge and skills requires the intervention of highly specialized and professional teachers. According to what was argued before, the ideal of formation aims to transform the faculties of the subjects so that they are shaped according to reason, along with modifying the environment in order to adjust it to the requirements of a rational life. However, this ideal seems to be unreachable if the state delegates it to the amateurish and aimless parents of the future citizens.

In conclusion, the system designed by Fichte to ensure the conditions of self-consciousness is not able to achieve its purpose because there is an extremely long distance between the ideal of formation, which is at the basis of the conformation of subjectivity, and the type of formation for the citizens, which the state is meant to guarantee. Maybe Fichte himself became aware later of this deficit when he developed a more enhanced and articulated educational policy.

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