

Fichte's economic philosophy and the current debate concerning distributive justice

JEAN-CHRISTOPHE MERLE¹

Abstract: It is nevertheless true that Fichte is the first to have introduced the double synthesis I have emphasized, that is to say, the synthesis of right and progress and that of the individual and the community. In this he was innovative both compared to the egalitarian currents of his period and in comparison with a long, later tradition. He defends an egalitarianism that neither rejects efficiency and progress nor, on the other hand, private property, the liberty of the individual and the differences demanded by progress.

Nevertheless his philosophy still remains a path of originality for the contemporary approach of political philosophy. He does not aim at a fixed, final result but at equality at the outset and genuine competition, and thus he stands in opposition to Rawls, taking into account the criticisms of Sen.

He thereby avoids the snags of the notion of the Welfare State and those of conservative liberalism.

Lastly and above all, his is not a moral finality of the economy, perfect in the Rawlsian sense. Despite what seem to me to be the legitimate fears that *The closed commercial state* arouses, I maintain that Fichte corrected the direction of his thinking in *The Doctrine of Right* of 1812. He clearly expressed his devotion to what constitutes a sine qua non condition of our modernity, by which I do not only mean religious liberty and freedom of thought, but also the liberty of personal aims. Fichte, without renouncing the dimension of religion and community, chose, in all clarity, a form of economic organization that was judicial and secularized.

«Ought not a book to be written which describes to its full extent the corruption of our government and customs, its aspects here ridiculous, there horrible, which exposes in a natural and unexaggerated way its necessary consequences and which outlines the principles of a better government and of better customs and also the means to achieve them?»². Indeed Fichte spent his entire life attempting to execute this ambitious programme. As can be seen in the above quotation, his intention necessarily requires development at several levels: the *historical* description of the corrupt situation of his time and the exploration of its causes, the *fundamental philosophical* principles of just politics and lastly the ways and means by which to achieve this, i.e. its *empirical application*.

I first ought to offer a brief reminder of the chronological development of Fichte's economic philosophy on the levels mentioned above.

1.— In the second edition of the *Versuch einer Kritik aller Offenbarung* (*An Essay of a Critique of all Revelation*, 1793), Fichte shifts the Kantian supreme good away from a simple question of hope and instead makes it the main task of political philosophy. In the *Beiträge zur Berichtigung der Urteile des Publikums über die französische Revolution* (*Considerations to rectify the public judgement on the French Revolution*, 1793), he deals with the Lockean problem of the acquisition

1 Philosophisches Seminar, Universität Tübingen, Bursagasse 1, D-72070 Tübingen, Alemania.

2 Fichte, *Gesamtausgabe* (GA), ed. R. Lauth, Bayerische Akademie der Wissenschaften, Stuttgart, since 1962, here GA, III, 1.

of property and solves it similarly to Locke: it is by shaping raw material that a man acquires property.

2.— From this moment on, in a gradual evolution the new concept of property emerges. Property is no longer rooted in shaping but in an earlier right to shape. And this right is provided by the legal system. In opposition to Locke's philosophy Fichte conceives of public law not only as the protection of private property but as that which confers it.

3.— In *Der Geschloßne Handelsstaat* (*The closed commercial state*, 1800) Fichte attempts to envisage a better organization of work and more efficiency by extending economic planning and by giving more directive power to the community to such a degree that he seems to endanger the claim of individual liberty, for instance when he sacrifices free choice of profession, which still existed in 1793.

4.— Finally in the *Rechtslehre* (*Doctrine of Law*, 1812), he emphasizes that the above mentioned planning has a merely instrumental function. Indeed it must make possible individual endeavours to achieve the moral aim, i.e., the mastering of contingency by reason alone. This is the reason why, for example, he promotes private investment and the economic integration of prisoners (the community itself holds the right to re-educate prisoners to make them useful to society). There is, however, neither obligation nor constraint on a person to use his liberty in this way. He remains free to spend all his time at leisure instead of endeavouring to perfect himself.

The history of the influence of Fichte's philosophy was strongly determined by three factors involved in its reception. The first of these factors was the fact that the enthusiasm and support of the readers of the *Considerations to rectify the public judgement on the French Revolution* for the French Revolution and the question of the right to revolution forced the treatment of property rights into the background. The second was that those who paid attention to the latter, like Jaurès³ and the socialist Republicans were caught in the conflicting claims of formal rights to property upheld by Fichte and the right to subsistence which he also advocated. The right to private property was often forgotten in favour of the right to subsistence and the toleration of an overdeveloped authoritative state. Philonenko's and Renaut's books point to these dangers which were to undermine the French and Italian reception of Fichte's works⁴. By contrast, the German reception rejected Fichte's economics as an artificial organization of society (Schmoller⁵, Marianne Weber⁶) or intentionally assimilated it, i.e., as in its reception by the Nazis.⁷ In any case, the right to property in the early work of Fichte was not explored as it should have been. This was largely because the idea of natural right had been discredited since the end of the eighteenth century. Thirdly the *Doctrine of Law* was published as late as 1834 by Fichte's son and its importance has been hitherto almost entirely ignored.

3 J. Jaurès, *Les Origines du socialisme allemand*, Paris 1959; J. Jaurès, *Histoire socialiste de la Révolution française*, t. 111, Paris 1901-1904. Cf. also X. Léon, *Fichte et son temps*, Paris 1923, t. 1, Introduction; J. G. Fichte, *L'Etat commercial fermé*, trad. J. Gibelin, Paris 1940, Introduction by J. Gibelin.

4 A. Philonenko, *Théorie et praxis dans la pensée morale et politique de Kant et de Fichte en 1793*, Paris 1976; A. Renaut, *Le système du droit*, Paris 1986.

5 G. Schmoller, «Johann Gottlieb Fichte. Eine Studie aus dem Gebiete der Ethik der Nationalökonomie», in: B. Hilbrand (ed.), *Jahrbücher für Nationalökonomie und Statistik*, vol. V, Jena 1865.

6 M. Weber, «Fichtes Sozialismus und sein Verhältnis zur Marx'schen Doktrin», in *Volkswirtschaftliche Abhandlungen der Badischen Hochschulen*, ed. C. J. Fuchs, G. von Schulze-Gävernitz, Max Weber, vol. IV, Tübingen and Leipzig 1900, pp. 220-342.

7 Cf. for instance E. -G. Geyl, *Die Philosophie des sozialen Lebens im deutschen Idealismus*, Berlin 1938; H. Brunner, *Die Wirtschaftsphilosophie Fichtes* Nürnberg 1935.

The contemporary debate in political philosophy no longer opposes an inflexible planning of all details of life to a society of formal freedom but rather shows the opposition between the libertarians on the one hand and the advocates of public intervention and economic incentives or of basic income, in short of social choice, on the other.

I do not intend to defend all the planning in Fichte's *Closed commercial state*, namely because some of the proposals it contains have been rightly criticized. Obviously Fichte's theory of value is to be corrected as many critics have noticed. Furthermore he makes no distinction between a pound of bread and a pound of foie gras by determining their value so that economic exchange would certainly not be practised by producers of foie gras. It would mean the ruin of his economic planning. Incidentally, Fichte accepts that a person, once having legitimately acquired commodities, may choose to waste them if he so pleases. So he ought also to accept the fact that a person might wish to buy himself a small quantity of foie gras to last him one day instead of buying bread that would feed him for a month. I could offer many similar examples.

Paradoxically, those elements of Fichte's thinking which have hitherto been ignored in the reception of his work are, in my opinion, precisely those which have a direct bearing on the current discussion. Indeed Fichte is the first author to have developed the following points: 1) a theory of exploitation which reveals itself as similar to Marx's if one approaches Fichte using the same method as certain analytical Marxists, and notably Elster⁸, apply to Marx. From the *Considerations to rectify the public judgement on the French Revolution* on, Fichte criticized the feudal «rights for all time» and perpetual rent of idle landowners praised by the physiocracy. Large parts of the *Considerations to rectify the public judgement on the French Revolution* are looking for a legitimate way to limit the duration of rents and Fichte attempted this again and again right until the end of his life, as is attested by a manuscript⁹ as yet unpublished. 2) Fichte attempted to outline a realistic economic model according to the economic knowledge of his time. He criticized very seriously the other economic models, such as mercantilism, Smithian free-trade theory and physiocracy as also the French egalitarian authors and the measures of the French Revolution. But he naturally always tries to reconcile purely descriptively determined economic equality with the normative point of view of justice. 3) He simultaneously takes into account the claims of the individual person and those of the community. He does not strive for a compromise between the two but for an authentic synthesis, i.e. of liberal private property and liberal social rights, which are also the two major requirements of the current American discussion. 4) He not only recognizes the right to subsistence as an end in itself and promotes the means to achieve it, but also leaves to each single person the responsibility for moral improvement. In this way he promotes, even if he does not formulate it in these terms, the liberty of each person to pursue his own moral ends. These are precisely the criteria of a modern pluralist and secularized society as both liberal and communitarian philosophers emphasize in different ways.

There are three points missing in the current discussion which Fichte could provide. The first is the articulation of the legitimation of any distributive justice by the theory of property. The second is the outline of a model with economically open result but at the same time with widespread equality at the outset: and a model which does not produce great inequality in its result. Thirdly,

8 Cf. J. Elster, *Making sense of Marx*, Cambridge University Press 1985.

9 The editorial team of Fichte's *Gesamtausgabe* will publish in a forthcoming volume the hitherto unpublished *Finanzsystem*, including *Finanzwerthung(en)*. This manuscript belongs to the «Nachlaß der Deutschen Staatsbibliothek» of Berlin, with the shelf mark Ms. V, 4, papers 23-25 From the same library the *Gesamtausgabe* will also publish the «Es ist die Aufgabe», MsVI, Varia 4.

Fichte offers us a model which paradoxically presupposes much less than the contemporary post-metaphysical sketches, although he is thought of as very metaphysical and speculative.

I should like here to expand on these three points.

The order in which I want to treat these themes corresponds, in my opinion, to the logical order for the construction of a system of distributive justice. In actual fact, Rawls' theory of justice started up, formed and is still at the core of the whole current debate on it. Now from the point of view of justice there are two ways of criticizing Rawls' conception. The first is an internal critique of distributive justice, the second an external critique. I call internal critique the positions which propose a model of distributive justice different from Rawls' outline. They nevertheless share the presupposition that there can and must be distributive justice in general. The external critique denies the legitimacy of any form of distributive justice. The best and most famous example of this denial is Nozick's philosophy.¹⁰ I believe that Nozick's objection is to be answered before the principles and organization of distributive justice can legitimately be discussed, for the simple reason that if property is normatively an individual matter only, it should not be shared. It seems to me that the lack of legitimation of property in Rawls' philosophy makes it weak, whereas it is, in fact, possible to justify the point of view of distributive justice. So I shall begin with the theory of property.

1. Theory of property: Fichte versus Nozick

What Nozick most strongly objects to in Rawls' conception is that it requires some kind of manna to fall from heaven. Unfortunately no such thing exists. In chapter two of the *Considerations to rectify the public judgement of the French Revolution* every possession can be regarded as a thing that has been shaped, even if it has required very little shaping or work and can therefore constitute a property right in the Lockean view. Indeed even when I simply pick an apple from an apple-tree I am performing work known as picking.

Leaving the issue of starvation out of the question, let me now suppose a situation of scarcity of commodities and of the means to produce them. Not everybody's desire to pick all the apples he would like can be satisfied. But what happens in moral terms if I pick apples before my neighbour even tries to and he then finds no apples left? Nozick would say that my neighbour cannot take any of my apples without violating my right to the property I had «shaped». At best it may be a Kantian duty of virtue for me to help my poorer neighbour, but he cannot demand this help. In Nozick's¹¹ conception there can only be commutative justice, the justice of exchange, and no distributive justice. The distribution of social goods by public authority is always in some way a violation of property rights, because the state shares out what it neither produces nor owns.

A possible reply to Nozick's argument would consist in disqualifying the individual rights to property too. A chess player would call this response a stalemate. Fichte states that the state is no more than the sum total of all the persons of which it is comprised. So the state has no more right than the sum of all the individual rights of its members. If your only ingredients are portions of rum you cannot possibly make punch. If, therefore, nobody has a special right to cultivate a particular

¹⁰ Cf. R. Nozick, *Anarchy, State and Utopia*, Oxford 1974.

¹¹ I leave out here Nozick's principle of compensation for natural resources. Indeed it would probably contradict his main intention. It is not, however, to the point here for me to focus on the coherence of Nozick's theory.

piece of land before he in fact starts cultivating it, then the state has no right to cultivate it nor give it to anyone. This is also the issue discussed in Lomasky's book¹².

This way seems to me, however, disastrous for distributive justice, because it does not legitimate it at all. It is also no solution to argue like the supporters of a universal basic income by saying that increasing automation will now make it possible for machines to carry out production without human labour. According to these authors¹³ we could afford to pay everyone a basic income with this production. Everyone would be free to work nevertheless. No-one would need to accept bad jobs but could choose a gratifying or «communicative» job from the quaternary economic sector. I cannot agree with such a view because although automatization is increasing there are still people needed to organize production and commerce. Firstly, machines do not fall from heaven but are the product of investment and work, so their owners could legitimately argue that the machines are their property and consequently their products too. So the problem is no better solved than before. In any case we must proceed from the position at the outset to legitimate social distribution although we are living in a developed world.

As I see it, as regards legitimation, there are two ways of arguing against the libertarian theory. The first goes back to the source so I will call it the primary argument. It most closely concerns the concept of the right to property. The second can be built up only on the basis of this first. It is partly dependent on history but also satisfies the demands of the ideal destination of the community.

2. The primary argument for distribution

The Lockean thesis that property is acquired by virtue of work applied to raw materials is far more convincing in terms of moral common sense than acquisition by occupation (in the sense of taking over) since it gives greater weight to merit. As taken up by Nozick this thesis is stronger as regards legitimation. Nevertheless, without challenging the thesis, one can relativize it, namely by tracing work back to its source.

First of all I should like to point out that even if legitimate acquisition can only take place by virtue of work, acquisition in real life implies occupation, or taking possession, since one has to take possession of a thing in order to shape it. Now Nozick's libertarian thesis proposes at this point to fall back on Nature since the state is no more entitled to work or fashion any particular piece of matter than any individual. So first, property is given moral justification on the basis of «occupation» and shaping in default of any other grounds. Legitimation only makes its appearance at a second stage, namely over the question of the protection of property and for the rules of exchange. The original situation of competition for the seizure of objects is thus deliberately «put in brackets». The same happens in Fichte's *Considerations to rectify the public judgement on the French Revolution* where each man is allowed to establish himself in some untouched spot to stake his claim. Fichte speaks of the case of one, who, not having staked his claim «on the first day» would find himself without property on the second, when all the land available had been occupied. This man's rights are given no recognition since he did not work «on the first day». It is significant that in

¹² Cf. L. E. Lomasky, *Rights and the moral community*, Oxford University Press 1987, chap. «The Rawlsian difference principle», pp. 135-141.

¹³ See Ph. van Parijs (ed.) *Arguing for basic income*, London 1992; also Ph. van Parijs, «Why surfers should be fed: the liberal case for an unconditional basic income», in: *Philosophy and public affairs*, vol. 20, Nr2, 1991, pp. 101-131.

doing this Fichte avoids preoccupying himself with the initial situation of competition. Fichte, as Philonenko asserts¹⁴ does not envisage this possibility, because he applies the Leibnizian law of Indiscernables. I do not believe this is the case, because later on he gives as the reason for the change-over from universal inheritance (all men inherit from all men) to the family pattern of inheritance (children inherit from their parents) the desire to avoid conflicts over acquisition: in dying and leaving his possessions to humanity, the deceased returns things, as it were, to a state similar to the original: his property is virgin territory once again.

In the intention Fichte attributes to the choice of family inheritance he adopts a classic approach used notably by an author who serves as a point of reference for the whole Anglo-Saxon tradition: Hume¹⁵. There is, of course, a vast range of differences between the convention of Humian type and the contractualist models but they all share the notion of ruling in advance that every person will be able to work. If this regulation is not established the execution of my work and consequently my property are constantly threatened. Fichte writes: «this possibly fruitless race for a possession (in the case of universal heritage), these resulting rivalries and feuds, we dislike all of this, said men, on becoming citizens, and they were right to say so»¹⁶. The state recognizes my right to inherit from my parents if I recognize the right of another to inherit from his. The state certainly has the means of coercion, since if I help myself to another's inheritance, it will not recognize my inheritance, which will then be open to acquisition by others like a piece of virgin land. Consequently it is the state that assigns to new members of society the right to shape a thing in order to acquire it. In short, the state not only protects its citizens but also allocates the possibility of acquiring property rights, while preserving the notion of acquisition by virtue of work invested: it assigns the right to work on or shape particular objects. Thus although it treats the situation at the outset in an apparently libertarian way, the *Considerations to rectify the public judgement on the French Revolution* does contain the thesis of the legitimacy of the state's distributive dimension.

The distributive role of the state is not necessarily limited to the ruling of family inheritance and this is clear in Fichte's thinking as early as the *Considerations to rectify the public judgement on the French Revolution*. Man is free and it is his duty to increase this liberty: «In contrast to beavers which still build today in exactly the same manner as their forefathers of a thousand years ago and bees which construct their cells as bees have always done, men have a duty to change their way of thinking, their theoretical, political and moral maxims»¹⁷. Now family inheritance does present two major disadvantages: it does not constitute a ruling deduced from a purely legal concept, but a reformist measure implicitly accepting of the state of property of the day, characterized by major inequalities, and which only intervenes to allot property to the generations to come. To this extent the property which each person receives from his parents depends on what his parents owned. Moreover the state does not control the birth rate, by which I mean the number of children per family, and thereby the number of children sharing an inheritance. The son of a poor farmer with a number of brothers will experience an even greater inequality at his expense by comparison with the only son of a big landowner. There is nothing in the *Considerations to rectify the public judgement on the French Revolution* to prevent one thinking that family inheritance is regarded as the definitive and only form of distributive function to be taken on by the state. Fichte does, moreover, write: «if conditions are too harsh, he (the individual) has a perfect right to renounce entering

14 Cf. *Théorie et Pratique*, p. 182.

15 See D. Hume, *A Treatise of human nature*, book III, part 2.

16 GA, I, 1, 274.

17 GA, I, 1, 254.

society. He and society are two traders who themselves value their goods at the height of the price for which they hope to be able to sell them¹⁸. Moreover the reason why Fichte does not mention this problem of demographic origin can probably be found in his empirical presupposition on the subject of the yield of land: for Fichte in a regime of large land properties and of serfs working for a feudal lord, the motivation and therefore the productivity is far lower than if the peasants receive a reasonable salary or are owners of the land they work. Fichte formulates this principle in the hypothesis according to which the yield of a piece of land is inversely proportional to its area. The increase of yield is only linked to fair redistribution of property and the promotion of small-holdings in this empirical hypothesis relating to motivation. It is far better known that from the writing of the *Grundlage des Naturrechts (The Foundation of Natural Right, 1796)* Fichte builds his economic system on a property contract limiting and determining each person's working space, that is to say each person's property and assuring each person the proceeds from the labour carried out in his «space». It was important for me here to show that the *Considerations* subordinate acquisition by work to a property contract.

3. The secondary argument of increasing division of labour

The argument which I refer to as the primary argument is dependent on the legitimization of the right to property. The secondary argument corresponds to an imperative of progress, demanded by an ethical end: human destiny, which is to master Nature, in the sense of external objects, but also in the sense of contingency which determines our social and individual existence. Fichte formulates the programme demanded by such an aim in the *Vorlesungen über die Bestimmung des Gelehrten (Lectures on the scholar's destination)* thus: «society will amass the advantages of particular members of society as a common good for all to use freely and will multiply them to the benefit of all individuals: it will take into communal charge what each individual lacks and thus divide it into a number of infinitely small fragments, or, as I express it in a form more convenient for application to various different objects:- the purpose of all culture is to submit Nature to Reason»¹⁹.

This progress is characterized by ever increasing and increasingly complex cooperation, with the effect that it is increasingly difficult to establish what the product of each person in his area of activity is. As a result it is difficult to determine his property, this time more in the sense of his area of work (his «land») than in the sense of the earnings drawn from it.

Thus the state's distributive dimension does not only consist in determining property acquired via work at source, by the attribution of the right to work, but also in the later result, by the increasingly socialized determination of the redistribution of the yields. In the case of Fichte's writings after *The Foundation of Natural Right* the criterion for the social redistribution of income is that, given equal time worked, the peasant should receive the same reward as the artisan or the trader.

The Lockean criterion for the assignment of property is of an individualistic nature. However, it supposes on the one hand an initial distribution by the community of the matter to be shaped, and is followed, on the other hand, by a social organization of work with the aim of progress. The property contract and progress complicates the relation between work and income and socializes it.

18 GA, I, 1, 239

19 GA, I, 3, 45.

The second aspect constitutes, in Fichte's view, a duty which is formulated for the first time in the *Vorlesung über die Bestimmung des Gelehrten* (*Lectures on the destination of the scholar*).

If what Fichte describes here is the ethical destination of humanity it seems to me that we are already on this path. It is no longer only work but above all rationally and socially organized work, that is to say culture, which is the source of people's income, since a «single individual may no doubt combat nature successfully at the points where he meets it, yet, on the other hand he will be irresistibly dominated by it at all other points»²⁰. Now this factor of the creation of income has been just as neglected as the factor of the distribution of places to work, if not more so, if one considers that it constitutes the *sine qua non* condition of material progress. Just as the *Considerations to rectify the public judgement on the French Revolution* set out to correct injustice in the payment of work, the *Lectures on the destination of the scholar* aim to improve the remuneration of culture. It is in this strict sense that the «debt to society» must be understood as it is outlined in the *Considerations to rectify the public judgement on the French Revolution*²¹ and established in the *Lectures on the destination of the Scholar*. The way in which each individual can discharge this debt is to contribute in his turn to this social and rational organization of work: «he must occupy his place of work; he must at least try to work in some manner for the greater perfection of humanity which has done so much for him.»²²

Now the payment of this debt to society, of which the nature is to grow as it is repaid - since its repayment by one generation will oblige the next generation to repay a sum now increased by the contribution of the first - has an effect even more egalitarian than the proposal to correct the distribution of land advocated by the *Considerations to rectify the public judgement on the French Revolution*: «if men's natural dispositions are all alike, as they are if they are founded on pure reason, if they are all to be cultivated in the same manner, which is the content of this requirement, then the result of a like development of like dispositions must also itself be alike everywhere; and we return by another route to the goal of any society: the complete equality of all its members.»²³

This equality does not entail a uniformity of activity, since there is a diversity of professions, still less does it imply an egalitarian distribution of property in the usual sense, rather, a final equality which is only realized through the work of its members and will make of society «a single man» facing Nature.²⁴

Since Fichte's time production has become less and less individual. The complexity of the organization of production is growing constantly. One can scarcely find any workers now who handle in an autonomous, or rather autarch, manner the whole sequence of their production from the exploitation of the raw materials to the completion of their products. The mechanization of agriculture, on which Heidegger based one of the arguments of «Die Frage nach der Technik» («The Question of Technics») makes the farmer dependent for his work on a greatly increased production complex. Such a process has the following effects.

1.- The breaking of the common-sense link between the wealth that a man produces and what he receives, or, more precisely the impossibility of determining this link. As Nagel stresses²⁵: is there

20 *Ibid.*

21 *Considerations to rectify the public judgement on the French Revolution*, chap. 3; GA I, 3, 474.

22 GA, I, 3, 47.

23 GA, I, 3, 44.

24 G. A. I, 3, 45.

25 Cf. Th. Nagel, *Equality and partiality*, Oxford UP, 1991.

any way of saying what exactly the designer, the worker, and I may add, the cleaning staff, produce, in a firm which manufactures telephones? The income that each receives does not only depend on the total production of the firm, but also on the job market in his occupational field, as on numerous other factors. Neither does the general level of income of any particular profession depend on what they produce but on the number of applicants for a job in the field and on their qualifications. Fichte, in insisting on the independence of the worker in all his writings, wanted to avoid the state of affairs we see today. In Fichte's works the worker seems to be able to make his own use of what he can consider as the product of his work. Nevertheless the price at which he sells is planned and decreed by the state. Moreover, it is hard to see how the artisan can be said to have his product at his disposal if he is not allowed to become a wood-cutter, farmer or tradesman, which forces him to accept this fixed exchange.

2.- The second effect is the impossibility of re-linking the two terms: production and income. One could, to be sure, try to make out the relation between work and income in maintaining that there is an interrelation between the work the employee provides for his firm and the income the firm pays him, even if this exchange is off balance in terms of quantity. This objection, however, must consider the work of employees in firms as an exchange of services which, logically, bearing in mind that the employees' tasks are only ever partially predictable, would have to be negotiable for each service done. Now all the work of recent economists shows that the efficiency of a firm depends above all on the greatest possible reduction of the costs of transaction, information, negotiation and organization, compared to the free play of those offering services on a free-lance basis. Volkswagen would no longer exist if it had to negotiate with its employees over the execution of every single operation necessary for the development, production and marketing of its cars.

3.- The third effect is the growing importance of measures concerning inheritance and education, and in general the whole social framework determined by the collective. This aspect plays an essential role in how a person obtains a post in his profession, just as in whether he can fulfil his function, how efficiently he does so, and in correlation, what income he derives from it. The demand which is frequently made for «social transparency» is utopian if it is to mean that one has to calculate each person's income on the basis of what he individually produces. Logically it could only mean a well-considered treatment of the question of distribution.

4. Distributive justice: Rawls' correction of Fichte

The obligation which arises from what has been said is to work out a stand point on distribution based upon justice and therefore to consider two requirements, that is to say, to assure, on the one hand, the efficiency of production as a whole, and, on the other hand, the fair remuneration of all those who cooperate in it. At this point one has to work out an appropriately balanced solution to this problem not so much on the level of the individual - as for example in seeking to allot the fruit of work to the person who carried it out, but rather on the level of the community, while nevertheless respecting the ownership rights of each person over his work. This is the task which Fichte set himself from the *Foundation of natural right* to the *Doctrine of law* in 1812: the moral destination of the community on its path through economic progress must respect the formal liberty of the individual including the right to property.

This undertaking cannot fail to call forth a comparison with Rawls' ideas. Rawls' principle of

difference²⁶ does, according to him, already constitute a synthesis of the principle of equality with the principle of efficiency, while giving a lexical priority to the first. It is, however, a case of a false synthesis.

Lexical priority does indeed give first place to equality which has, moreover, a bearing on the distribution of the product (of social goods in the wider sense defined by J. Rawls), and not on the distribution of tasks in the field of work. In short Rawls aims at equality in the result and not at the starting point. Now, as Posner has clearly shown²⁷, if the starting point is open (as it is in the case of work) one cannot obtain a fixed result, except at the price of constant readjustments, that is to say with the help of constant interventions which actually rob the individuals of the fruits of their labour. To my mind, one must draw the same conclusion over Fichte in his *Considerations to rectify the public judgement on the French Revolution*, since even if the serfs are made owners in being granted the right to inherit, the differences grow greater and greater in the course of time, as I have observed, under the joint effect of the differences in the number of children born to each family, but also in the individual capacity for work, in natural talents, etc. Inequality will reappear via these multiple differences, and nothing will prevent it from eventually creating dire distress and even leading to deaths, if no measures of re-adjustment are taken. Faced with this situation one can try to find a way out, either by suppressing the principle of difference, or in limiting the application of equality to a decent minimum. There is, however a further dilemma, as is illustrated perfectly in the stalemate reached by two critics of Rawls', both of whom remain immanent to his perspective - as opposed to taking up a libertarian or communitarian position.

The first type of critique, exemplary of its kind, is seen in *Equality and partiality* by Th. Nagel²⁸. Nagel attempts to proceed, not, as Rawls, adopting two principles governed by lexical order, but from one sole principle, that of equality. He proposes to extend, in comparison with Rawls' work, the application of this principle. He is ineluctably drawn to pose the problem of how to maintain the workers' motivation if they know that whatever they do they will receive the same reward in the end. The solution he proposes is to motivate with the giving of honours. If such a solution were adopted honours would have to regain the central social role they played up till the eighteenth century²⁹: their effect was extremely hierarchical and inegalitarian.

The second type of critique is that based on the «theories of communication», by which I mean both the work of J.-M. Ferry³⁰ as that of Ph. van Parijs and the contributions in his symposium quoted above³¹. Without founding these claims in a theory of property, these writers propose a social and egalitarian, or more precisely, partly egalitarian distribution of wealth. I say «partly» egalitarian because, and here they differ from Fichte, they wish to limit this equality to a universal minimum income, while individuals would be allowed the freedom to work, without this work being controlled by social rules, social levies or minimum salaries. Individuals would be at perfect liberty to exchange their minimum income for goods or services. This minimum revenue would leave each person free to make his own life a matter of his own decision, that is to say, for example, to choose between leisure or work activities, whether lucrative or «communicative». If this solution

26 Cf. J. Rawls, *A theory of justice* Cambridge Mass. 1971, part. I, chap. 2.

27 Cf. R. A. Posner, *Justice and efficiency*, Harvard University Press 1981, part. I: «Justice and efficiency».

28 For a more detailed analysis of Nagel's book, cf. my book review to be published shortly in the *Deutsche Zeitschrift für Philosophie*, 1994/3.

29 Cf. Ch. Taylor, *Sources of the Self*, Oxford 1982.

30 *Op. cit.*

31 See also H. Kliemt, «On justifying a minimum welfare state», *Constitutional political economy*, vol. 4, Nr 2/1992, pp. 159-172.

has the merit of leaving the result open, it puts on one side, on the one hand, the problem of the production of wealth, although it is clear that people will always be needed to work in the first three sectors, and that investments will always require remuneration, and on the other hand, it in fact ignores the initial inequalities other than those related to money, which can lead to an extreme form of final inequality.

Initial inequality can be the result of education, morals and family customs, of physical and intellectual gifts etc. The inequalities that ensue cannot be credited to individual merit, but are clearly based on the unequal conditions of the outset.

If the minimum basic income solves the problem of out-and-out distress, although without really tackling the question of financing (notably the menace of inflation), on the other hand it carries out a distribution which is not morally justifiable. In saying this, I emphasize that I challenge universally granted minimum assistance and leave on one side the question of a minimum income tied to the absence of all other forms of income and to the willingness to work, as found in the German *Sozialhilfe*, the French RMI (*Revenu Minimal d'Insertion*) or the Belgian system described by Ph. van Parijs.

The little that Habermas says on economy in *Faktizität und Geltung*³² only constitutes a listing of the short-comings of the distribution of wealth. Even though Habermas calls for the participation of all individuals in the definition and organization of work, and it therefore seems that it is a question for him of taking the conditions at the outset into more serious consideration - he depicts the problem only and purely in a framework of dialogue. In doing so he omits the element of ability, so unequal from one person to another, to express themselves in dialogue, not to mention the ability to express themselves at all, and to know what interests or standpoints need to be defended.

5. In contrast, Fichte is preoccupied with establishing equality at the outset

Already in *The closed commercial state* Fichte watches over the handicapped and concerns himself with the child as also with the aristocrat accustomed to a life of leisure in *Considerations to rectify the public judgement on the French Revolution*. In *Doctrine of law* even the prisoner convicted of crime has the right to be placed in a starting position of equal chances. The difference between Fichte's position and that of Habermas is akin to that between Sen³³ and Rawls. In pleading for the equalization of *basic capabilities*, Sen takes the example of the handicapped, disadvantaged in utilitarian societies, given compensatory advantages in the Welfare State, and treated in Rawls' concept on the same footing as all others. The problem posed by the handicapped lies in the fact that their productive contribution is extremely variable. They are not in a position to produce by themselves in the primary sector, but can contribute work most productive for the community, as designers, for example, if the community assigns them an appropriate function. According to whether or not this is the case, the handicapped will experience total destitution or will contribute and enjoy acceptable wealth. The distribution of social goods will affect this in no way. Sen's intention contrasts with Rawls' to the extent that he does not aim for a redistribution of objective

32 J. Habermas, *Faktizität und Geltung*, Frankfurt a. M. 1992.

33 Cf. A. Sen, «Equality of what?», in M. Sterling McMurrin, *Liberty, equality and law. Selected Tanner lectures on moral philosophy*, Utah and Cambridge University Press 1987, pp. 137-162, especially the chapter «Basic capability equality», pp. 159-161.

social goods, but reintroduces the subjective contribution to goods, thus partially agreeing with utilitarianism. I say «partially», because even though Sen measures usefulness according to the individual in question, he would not accept the idea of rating every form of usefulness as giving equal satisfaction.

The means Sen recommends are in essence education, negative taxation (a starting capital is given to the new members of society. This capital is provided by what the dead have left. These new members will pay it back to the following generation), and support for investment. Education fulfils the same function in Fichte's work and must be financed by the state. Similarly, in *Doctrine of Law* 1812, investment in the form of loans is financed and organized by the state, as is the training and work of the handicapped and of prisoners. Each person is used according to his abilities and not according to the property owned by his parents (this latter point is only valid from the *Closed commercial state* on and not from the *Foundation of Natural Right*.) As I showed earlier on, the goal which Fichte seeks is not only maintenance of the members of society but involves making them «useful members of society». In placing them in a genuine position of equality at the beginning of their lives, Fichte reduces and makes morally acceptable the inequalities that eventually follow. Motivation is maintained in the fact that each person reaps the fruits of his work, which is his property, as also in the recognition and social prestige associated with the different professions within society (farmer, artisan, trader, teacher, scholar). Work is rewarded by leisure for all, and by the returns that the entrepreneur receives for his invention, at least in the *Doctrine of Law* of 1812. However Fichte limits the dividends from such sources to a certain period, in order not to produce cases of accumulation of capital, rendering interest, to the detriment of the remuneration of work.

Thus if we arrive at the synthesis of equality and efficiency we hoped for. The community sees to equal chances at the outset for all; this equality is, in its turn, the condition for the efficiency of each person and therefore of the community. Moreover, the individuals' material rights are here serve to realize their formal right as persons, who acquire their goods by virtue of their work. Such a conception corresponds to the individualisation of the Absolute in the final versions of the *Doctrine of Science*, but is not dependent upon the validity of its premises of theoretical philosophy.

As for these encouragements lavished on the positive development of liberty and private property of the individual, the Fichtean solution does not appear to me to be as utopian as one might think, since the sum of the work of individuals allows a reduction in their working hours and so grants the leisure needed for their training. In the same way, the investments financed by public loans foster a greater effectivity of work and therefore repay themselves. They diminish the quantity of work required for the production of the goods in question. Clearly investment absorbs a large part of the state's income, but the moderation of consumption which this implies leads neither to penury nor constrained frugality. The system covers the needs of a modest life style, the satisfaction of which implicitly takes on a lexical priority over investments. It is only the privileges accorded to luxury in contravention to the rules of justice, and for which Nagel pleads in contrast to Rawls, which find no place in this scheme of things.

6. The foundation of the well-ordered society

We are not, in the preceding considerations, dealing with metaphysical speculations remote from the preoccupations of today's political philosophy. And yet it seems to me that Fichte's

economy might well stumble over two obstacles. There are indeed at least two voices raised in objection from among the current exponents of the social dimension of political justice.

1.— The rejection of ultimate, metaphysical principles, for example, on the part of Rawls or of Habermas. Rawls conceives his task as that of filtering the moral intuitions of our modern and complex societies.

2.— The rejection of «monologism» notably in Habermas' work. He regards it as impossible to adopt an impartial statute, consider or reach an integration of differing points of view outside the arena of discussion.

One must assume a community of speech, in the case of Habermas and a specific, already existing society in the case of Rawls. Now these presuppositions are debatable and have been debated. Nagel or Sen, for example, show that only the *middle class* can approve of the principle of difference, whereas the poorest of the excluded would demand that the principle of equality should be the only one applied, to the exclusion of any other principle. From this one can see that Rawls' «veil of ignorance» is not so thick, at the most opaque.

One can easily understand the motivation behind declarations of modesty made by a number of exponents of the current debate in political philosophy, which is the intention to escape the criticisms to which the classical school of Natural Law exposed itself in constructing a Natural State and an anthropology common to the whole of humanity and all epochs. On the other hand one cannot help wondering if this asserted modesty does not seriously diminish the validity of the principles of justice thus brought up to date. The *ideal* conditions constituted by the veil of ignorance, the ideal community of speech and the allegedly ever-possible consensus have in fact not been realised, which would not prevent them from being valid for the moral intuitions of our time. But how is it that the moral intuitions of our time are scandalised by them and contradict them? Here we have more than one paradox: a massive contradiction between these results of current political philosophy and its declared claim to content itself with the filtering of the intuitions of our time. Nagel is eloquent on the subject of the difficulties these principles of restoration of equality have encountered notably concerning motivation. Van Parijs stresses that he is attacking a taboo in calling for an unconditional minimum income, by which he means one accorded with no reference to any declared willingness to accept an eventual offer of work and even if the interested party completely refuses to carry out the most minimal of jobs³⁴. Finally, Habermas pleads for the constitutional adoption of the means of this form of free communication while accusing the political as also the media system of being responsible for its absence. One cannot help noticing that taking the moral intuitions of our time as a point of departure seems to create as many problems as starting from the Natural State or from an ultimate principle. The post-metaphysical tenets of political philosophy do not impress our times with the character of obviousness that they might wish to have. True, Fichte, too, was far from meeting with the approval of the moral intuition of his time and yet what distinguishes Fichte from these contemporary philosophers is no doubt the fact that he proposes clearer and more concrete political action than Rawls or Habermas and, above all, the fact that they, in contrast to Fichte, do not distinguish clearly between the attachment to the intuitions of the period and the work which is necessary to foster their evolution towards ideal conditions of discourse and of society in general.

I should like to conclude by expressing a reservation which addresses itself to Fichte, but which also touches on a question often neglected by a major part of the actors in the current debate and

34 Cf. Ph. van Parijs, «Why surfers should be fed: the liberal case for an unconditional basic income», in *Philosophy and public affairs*, vol. 20, Nr. 2/1991, pp. 101-131.

which refers to the scale on which political economic justice must be realised. Political justice certainly assumes a uniform judicial «space», which, and Fichte has shown this, is not possible with mercantilism or a free-trade-system between differing states. But the Fichtean solution of closing off the commercial state, independently of the possibility of realising it, contradicts the principle of progress by collaboration. This can be seen when Fichte makes an exception for the exchange of products, which on account of the climate, for example, would demand far more work to be produced where they were to be consumed. If one makes an exception here, why not accept, for reasons of efficiency, a division of labour- distributive and governed by law, naturally- on a world-wide basis, and so create a uniform space? The historical evolution of nations previously separated from one another, which Fichte invokes, is not only largely erroneous, from the historical point of view, but above all, is based on history, that is to say on chance and violence³⁵ and not on right. Now, Fichte always rejected such a justification by fact. If this is the case, why, for example, should the Europeans only inherit from their ancestors and the Africans from theirs, when such a form of family inheritance no longer exists within the interior of these (future) states? One can raise two objections to economic internationalism. The first is presented in the name of justice. As a matter of fact the Humboldtian³⁶ objection stresses the fact that the existence of different states enables people to find asylum abroad and to hope for the fall of illegitimate regimes with the help of resistance organized from outside the borders. It constitutes a argument, which on the empirical level, is very debatable. How much time would it have taken for the «collapse of communism» to take place solely by means of western support and influence? Did the West really harbour great interest in the evolution of the situation in these countries (I am not referring to the situation in the zones of influence) and is it not rather the interior economic and political dissolution which occasioned the fall of communism?

Without claiming to answer these questions here I should like to point out, on the philosophical plane, that Nagel, in an example of the second type of objection, presents, by contrast, arguments against internationalism which are empirical. His objections, however, refer to whether it is realizable: the cultural distance between the peoples of the world would be too great. Yet Nagel does not show that these difficulties are, in fact, either impossibilities, or indicate ethical obstacles. With the way he falls back, at the end of his book, on the Freudian thesis of man's need to have enemies, the whole of his thesis leaves us doubting, because by accepting it, we would be obliged either to renounce the possibility of political justice, as contradicting the whole of anthropology, or redefine the statute of this practical perspective which he otherwise invokes. Contrary to Nagel, B. Barry and J.-M. Ferry³⁷ have drawn a clear picture of the kind of internationalism required in strictly logical terms by the position of political justice in matters of economy.

35 Think of the kantian example of the eskimos. They were driven into unclement stretches of country and could legitimately claim a redistribution of the commonwealth of the world.

36 Cf. W. von Humboldt, *Versuch zu einem Versuch, die Grenzen der Wirksamkeit des Staates zu bestimmen*, in *Gesammelte Schriften*, Königliche Preußische Akademie der Wissenschaften, Berlin 1903-1936, repr. 1967-1968; cf. also O. Höffe, «Eine Weltrepublik als Minimalstaat. Moralische Grundsätze für eine internationale Rechtsgemeinschaft», in *Zeitschrift für Kulturaustausch*, 1/1993, pp. 39-44, especially p. 42.

37 Cf. B. Barry, *Theories of Justice*, London 1989, part. II, chap. 5: «Rawls on justice (I): international and intergenerational justice», pp. 143-178.

38 J. M. Ferry, *Habermas, l'éthique de la communication*, Paris 1987, pp. 521-553.

7. Fichte's contribution

It is nevertheless true that Fichte is the first to have introduced the double synthesis I have emphasized, that is to say, the synthesis of right and progress and that of the individual and the community. In this he was innovative both compared to the egalitarian currents of his period and in comparison with a long, later tradition. He defends an egalitarianism that neither rejects efficiency and progress nor, on the other hand, private property, the liberty of the individual and the differences demanded by progress.

Nevertheless his philosophy still remains a path of originality for the contemporary approach of political philosophy. He does not aim at a fixed, final result but at equality at the outset and genuine competition, and thus he stands in opposition to Rawls, taking into account the criticisms of Sen. He thereby avoids the snags of the notion of the Welfare State and those of conservative liberalism.

Lastly and above all, his is not a moral finality of the economy, *perfect* in the Rawlsian sense. Despite what seem to me to be the legitimate fears that *The closed commercial state* arouses, I maintain that Fichte corrected the direction of his thinking in *The Doctrine of Right* of 1812. He clearly expressed his devotion to what constitutes a *sine qua non* condition of our modernity, by which I do not only mean religious liberty and freedom of thought, but also the liberty of personal aims. Fichte, without renouncing the dimension of religion and community, chose, in all clarity, a form of economic organization that was judicial and secularized.

(Septembre, 1994)