Autonomie und Normativität

Zu Hegels Rechtsphilosophie

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Fichte on Recognizing Potential Persons

There are several ways to see the importance of Fichte for contemporary discourses on recognition (*Anerkennung*). The first one is trivial: Fichte wrote about recognition before Hegel, and Hegel – who is the central classical reference on recognition – was influenced by Fichte. But there are also other reasons to study Fichte's thoughts on the concept of recognition, or as I would put it, his struggle to think coherently and consistently about the constellation of phenomena to which this term in his writings refers. From both a pedagogical and philosophical point of view, focusing on Fichte makes good sense for a second reason: There is a relatively compact text by Fichte that deals with recognition in greater detail and at greater length than any single text by Hegel. I am referring to paragraphs 1 to 7 of Fichte's 1794 *Foundations of Natural Right* (henceforth *Foundations*). In this pioneering text, Fichte addresses, or is at least confronted with, many questions and problems about recognition that Hegel never explicitly reflects on in print, yet which one may assume he was familiar with through his reading of Fichte. This text anticipates difficulties and ambiguities that discourses on recognition have been burdened with ever since, some of which can also be found in Hegel's work. Thus, Fichte gives one a solid grasp of certain core ambiguities and problems that present themselves as soon as one starts thinking about the theme systematically.

A third reason to study Fichte is that, on his account, recognition is constitutive of free rational beings (*freie Vernunftwesen*) or *persons* (the term Fichte uses in §5 of the *Foundations*), both individually and collectively. In other words, recognition is for Fichte explicitly a rigorous ontological concept, and examining his reflections on it allows one to dig relatively deep into the arguable foundational significance that recognition plays in the life-form of persons. That recognition (*Anerkennung*) is not merely something good that individuals and collectives need, demand, and struggle for, but also something that makes us the kind of beings that we are in the first place – not merely natural but also 'spiritual beings,' to use Hegel's words, or not mere animals but persons, to put it in other words – is an idea usually associated with Hegel. But Fichte had similar ideas before Hegel and formulated them in a more problem-oriented and thus reader-friendly way, even though his account is undeservedly much less well known.

In what follows, I will focus mainly on certain core ambiguities and unsolved problems present in Fichte's treatment of recognition in paragraphs 1 to 7 of

Foundations. The point in focusing on these problems is not to discredit Fichte's contemporary relevance, but rather, on the one hand, to prepare ground for a more constructive reading of his text, and, on the other hand, to draw attention to issues that go mostly unnoticed in contemporary discourses on recognition, and which have thereby caused unnecessary vagueness and confusion.

I. What is Aufforderung?

As we know, recognition in Fichte is closely related to the concept of 'summons' (*Aufforderung*). I do not have space here to discuss *Aufforderung* in adequate detail, but let me just say a few words concerning the meaning of *Aufforderung* in Fichte's thought. To be sure, Fichte says many things about it, not all of which are fully consistent. I intend to rationally reconstruct this concept by saving as many of his ideas on *Aufforderung* as possible within the limits of consistency. In the end, not much of what I am going to say in this article about recognition, however, hangs on the merits of my interpretation of summoning.

On my rational reconstruction, the act of summoning the addressee to freedom is, on the most fundamental level, any kind or any quality of interaction whereby the addressee is invited or challenged to share authority on the terms or norms of the interaction with the summoner, and thus to become a co-authority of these norms with him or her.[1] By interacting with the addressee – paradig-

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[1] Central for this rational reconstruction is the decision to interpret the relevant concept of *freedom* in the relationship between the summoner and the addressee as *collective autonomy* and, more specifically, as joint authorization and administration of norms organizing the life of the "community of free beings." This contrasts with the two main senses in which Fichte himself discusses freedom in the *Foundations*. One of these is freedom to act without limitations with regard to external objects within a limited "sphere of freedom." This concept of freedom suits Fichte's model of private property as consisting of mutually exclusive spheres, but it is far from adequate for grasping the intricate intersubjective dynamics of summoning as *Erziehung* of a subject, the process of developing into a free rational being or person. The other sense of freedom that Fichte has in mind in *Foundations* is the internal causal sense of moving oneself without being moved. As I will argue, this concept is the central source of Fichte's troubles in the text. I understand the addressee of summoning *paradigmatically* as a human infant (and later child and adolescent) and the summoner as an adult, since this is the empirical setting in which Fichte's basically *asymmetric* model of summoning applies best. This contrasts with Hegel's *symmetric* model in the self-consciousness chapters of the *Phenomenology of Spirit* and *Encyclopaedia*, in which *both* subjects start off as equally primitive and then develop hand in hand, as it were, through the process of recognition. Though both models have different paradigmatic empirical applications, both can, with some tweaking, be applied to a range of empirical phenomena. Also, though both accounts describe (highly idealized) developmental processes, they are both compatible with the thought that recognition (and summoning) plays a role also in interaction between fully educated adult persons. I discuss the details of this reconstruction and recalibration of Fichte's vocabulary in *Foundations* in a forthcoming work.

matically an infant or child – in ways that the child can grasp as invitations or demands to start taking responsibility for shared life, the summoner introduces the addressee to the idea that his or her freedom is a potentiality that ought to be actualized. One could say that the result of summoning – if it is successful – is the addressee's *identifying* him or herself *as* a free and rational being in the practical or volitional sense of *identifying with* this potentiality and thus *wanting* to actualize it and thereby realize itself as a free rational being, with regard both to the psychological capacity and the social status. It is this particular mode of *self-consciousness* or consciousness of oneself *as free*, whereby one actually *becomes free* in interaction with others and hence a member of a "community of free beings" (*Gemeinschaft freier Wesen*).

II. Recognition according to Fichte

But what exactly is recognition and how exactly does it relate to summoning in the *Foundations*? This takes us to the "core ambiguities" that I mentioned above. Paragraphs 1 to 7 reveal a fundamental indecision or oscillation between

1. conceiving of recognition as a merely *epistemic or theoretical* attitude, on the one hand, and conceiving it as a *practical* attitude on the other;

2. conceiving of recognition as an *attitude* or mental act (whether theoretical or practical), on the one hand, and conceiving it as an external act or "*treatment*" on the other; and

3. thinking of recognition in terms of a purely *intersubjective* setting between the summoner and the addressee, on the one hand, and thinking of it in terms of an *institutional* setting of rights on the other.

Let us call (1) the theoretical/practical oscillation, (2) the attitude/treatment oscillation, and (3) the interpersonal/institutional oscillation.

The third oscillation, which is perhaps better characterized as a lack of attention to important differences between intersubjective and institutional or institutionally mediated settings and *senses* of recognition (as well as of freedom and personhood), is especially relevant to Fichte's program in the *Foundations* to deduce a system of rights from the necessary conditions of self-consciousness. If this program is a failure, as many interpreters have thought, the failure can be attributed to a highly problematic transition – namely, *from* talking about recognition in the sense of purely intersubjective, non-institutionally mediated relations and attitudes between the summoner and the addressee, *to* talking about recognition in the sense of institutionally mediated relations involving rights and duties guaranteed by the state.[2] I will return to this theme briefly towards the end of the article.

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2 For an account that does not consider the *Foundations* to be a complete failure in this

In what follows, I will focus on recognition in the *Foundations* only in the intersubjective sense or senses, in the relationship of the (adult) summoner and the (infant) addressee of the act of summoning. Moreover, I will only focus on one of the two 'directions' of recognition – that is, the summoner's recognition of the addressee – leaving a discussion of the addressee's recognition of the summoner for another occasion. One of the most interesting features of this particular aspect of Fichte's thought on recognition is also its main source of trouble. This is Fichte's preoccupation with freedom in the sense of the inner causality of mental states, resulting in actions not caused by anything external to the subject; or put differently, the subject is the 'first mover' of his or her own actions. Whereas this concept of freedom causes major problems in Fichte's treatment of recognition between the summoner and the addressee, it is something that Hegel completely abstracts from or avoids in his own treatment of the theme.

III. The summoner's "recognition" of the addressee

What is the role of recognition – or of whatever it is that Fichte refers to with this term – in the summoner's relation to the addressee in the *Foundations*? Fichte thinks that in order to summon someone to rational freedom, the summoner has to "recognize" the addressee as a free and rational being. The apparent circularity of this idea – after all, the object is supposed to *become* a free being first through the act of summoning – is easily resolved by thinking of freedom and rationality before the summoning in the form of *potentials*, the actualization of which requires summoning.[3] Thus, what the summoner will have to do first is to discern a potentiality for rational freedom in the addressee.

A more tricky issue is that Fichte oscillates between two different pictures of the summoner's stance towards the addressee prior to the act of summoning. On the one hand, he often conceives of it as a merely epistemic matter of cognizing or identifying the addressee as a potentially rational being, and calls this epistemic act or state "recognition" (*Anerkennung*).[4] Yet, in other passages, Fichte

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sense, see Ludwig Siep's, "Einheit und Methode von Fichtes 'Grundlage des Naturrechts,'" in: Siep, Ludwig, *Praktische Philosophie im Deutschen Idealismus*, 1992, 46–61.

    [3]   The distinction between potentiality and actuality is clear in Fichte's *Foundations of Natural Right*, transl. Michael Baur, Cambridge, Cambridge University Press [FNR], 69; J.G. Fichte, Sämmtliche Werke, Berlin, Veit/Comp,. Vol. III (the version used: CD-Rom Fichte im Kontext, 2. Ed., InfoSoftWare, Berlin, 1999) [SW III], 74: "Ich werde zu einem vernünftigen Wesen, in der *Wirklichkeit*, nicht dem *Vermögen* nach, erst *gemacht* […]" In this passage Fichte in fact discusses a view he disagrees with, but this is irrelevant since what he disagrees with is *not* the actuality/potentiality distinction.

    [4]   FNR, 44; SW III, 46: "Aber das Individuum C kann nicht auf die beschriebene Weise auf mich gehandelt haben, ohne wenigstens problematisch mich anerkannt zu haben; und ich kann es nicht, als so handelnd, setzen, ohne dies (dass es mich wenigstens problematisch aner-

clearly has something in mind other than mere epistemic identification – namely a practical attitude or mental act, something that he at one point calls "respect" (*respectiren*).[5] On my reading, Fichte is led to these two different pictures by *two different problems*, and the main reason for his indecision or oscillation between them – or, in other words, for his (1) theoretical/practical oscillation – is a *third* problem, one to do with freedom.

What are these two problems that lead Fichte to these two different pictures of the summoner's stance toward the addressee, to think of it sometimes as a theoretical and at other times as a practical attitude? Firstly, there is Fichte's version of the *problem of other minds*. Fichte asks: "[H]ow do I know which particular object is a [potentially, H.I.] rational being?"[6] From the point of view of summoning, the problem is how the summoner can know whether something is a potential addressee. Fichte's answer to this question is a story about the emergence of a well-founded epistemic or theoretical state of mind, namely, the belief, knowledge or assumption that the other is indeed a potentially rational being. Fichte thus addresses the problem of other minds (the first problem) by means of an account according to which the summoner's "recognition" of the potential addressee is a successful epistemic *identification* of him or her as such, i.e. a theoretical attitude or mental act.

But Fichte also has a different kind of problem in mind: namely, that thinking of rationality as dependent on the summons of the other introduces the possibility that "my rationality depends on the free choice, on the good will, of another […] on a chance."[7] This, in Fichte's view, would compromise one's independence as a person, since it would mean that one is only "the accidental result of another person, who in turn would be the accidental result of another person, and so on *ad infinitum*."[8] Thinking of rational freedom as contingent in this way is something Fichte cannot accept. The answer to this problem – let us call it the *problem of contingency* – is an account according to which the summoner is "compelled" (*genöthigt*, *nöthigt*)[9] to the act of summoning. In other words,

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kenne) zu setzen." For a very different context in which Fichte thinks of *Anerkennung* as (in this case numeric) identification, see FNR, 257/SW III, 295: "Die Hauptmaxime jeder wohleingerichteten Polizei ist nothwendig folgende: *jeder Bürger muss allenthalben, wo es nöthig ist, sogleich anerkannt werden können, als diese oder jene bestimmte Person:* keiner muss dem Polizeibeamten unbekannt bleiben können."

   [5] FNR, 78–79; SW III, 85–86.

   [6] FNR, 75; SW III, 80: "Denn wie weiss ich denn, welches bestimmte Object ein vernünftiges Wesen sey; ob etwa nur dem weissen Europäer, oder auch dem schwarzen Neger, ob nur dem erwachsenen Menschen, oder auch dem Kinde der Schutz jener Gesetzgebung zukomme, und ob er nicht etwa auch dem treuen Hausthiere zukommen möchte?"

   [7] FNR, 69; SW III, 74.

   [8] *Idem.*

   [9] FNR, 69, 79: "Dieser Widerspruch lässt sich nicht anders heben, als durch die Voraussetzung, dass der andere schon in jener ursprünglichen Einwirkung *genöthiget*, als vernünftiges Wesen genöthiget, d.i. durch Consequenz *verbunden* sey, mich als ein vernünftiges We-

Fichte addresses the problem of contingency (the second problem) with an account where the summoner's "recognition" of a potential addressee is a practical or motivating mental act or attitude.

Quite confusingly for the reader, Fichte tries to address both problems – the problem of other minds and the problem of contingency – on the same pages, in § 6 of *Foundations*,[10] but cannot come up with a consistent account since they push him in opposite directions, neither of which he finds satisfactory in the end. On the one hand, it is precisely the way in which the summoner's stance towards the addressee is framed in the problem of other minds – in epistemic terms, of knowing, believing or assuming that the latter is potentially rational or identifying him or her as such – that introduces the problem of contingency: Assuming that A comes (in whatever way) to 'recognize' in the epistemic sense of believing or assuming that B is a potentially rational being and thus an appropriate addressee, it is still a completely different question whether A will actually end up summoning B and thus facilitating the actualization of his or her potential for rational freedom or personhood. Perhaps A has some motive for doing so, perhaps not.

On the other hand, the idea of the summoner being somehow 'compelled' to summon looks like a candidate for solving the problem of contingency. The rationality of the addressee of the act of summoning would not be contingent on the summoner, since the summoner would be moved to summon by the addressee or something in the summoner. This could also be a way for Fichte to reframe the problem of other minds, by saying that *in fact* the primary relation of the summoner to the addressee is not one of knowing, believing, assuming or identifying, but rather one of being moved or affected by the addressee.[11] In other words, this would allow Fichte to say that what is decisive in the summoner's stance towards the addressee is not some motivationally neutral epistemic or theoretical attitude, but a motivationally effective practical attitude of 'recognition,' which 'compels' the summoner to summon.

Yet this too is a solution that Fichte cannot in the end accept, since it would compromise the summoner's freedom. This is the *third* problem that I mentioned above. Fichte's worry about compromising the summoner's freedom is, it seems to me, the main reason for what I called his (1) theoretical/practical oscillation. What is at stake here is not freedom in the sense of being able to act with regard to external objects without obstruction by others (which is what Fichte's talk of "exclusive spheres of freedom" in the *Foundations* mainly refers to). Nor is it freedom in the sense of autonomy or, in other words, acting and being acted

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sen zu behandeln […]" SW III, 74, 85: "Das freie Wesen nöthigt durch seine blosse Gegenwart in der Sinnenwelt, ohne weiteres, jedes andere freie Wesen es für eine Person anzuerkennen."

   [10] See FNR, 60–68; SW III, 64–73.

   [11] Such a move is usually associated with the late Wittgenstein, and those following in his footsteps, like Stanley Cavell.

upon in terms authorized by oneself (which on my reconstruction is the main sense of freedom at issue in summoning *to freedom* or "free activity" [*freie Tätigkeit*]). Rather, what is at stake is freedom in the sense of inner causality, the idea that the subject's intentions to act are not caused by anything other than the subject alone. Just as Fichte does not accept that summoning could *cause* the addressee of summoning to act in any particular way, he also does not accept that the potential addressee, or something in him or her, would *cause* a motivational state in the summoner that would cause the summoning.

Fichte spends several pages trying to solve this third problem by developing a theory to explain how one person can be affected by the other, yet in such a way that one's response is not cast as being caused by the effect. The core of this theory, which is fairly problematic in its details, is the idea that what leads me to act is not actually the other's effect on me. Rather, the other's role is to incite me to internally "imitate" such an effect.[12] Hence, what causes or moves the summoner to treat the addressee in summoning ways is not an effect that the potentially rational being has on the summoner. Rather, the summoner internally "imitates" an effect of the other and thereby is alone responsible for causing within him or herself the stimulus to become a summoner.[13] This internal act of imitation is absolutely free in the required sense in that it is not caused by anything external to the subject.[14]

While Fichte is certainly tackling here a genuinely difficult problem – concerning how a subject may be affected by others without thereby compromising his or her causal freedom – the solution he is entertaining precludes him from finding a solution to the problem of contingency. After all, if we follow this line of thought, it is not the case that the object somehow compels the summoner to summon, but rather that the summoner somehow does this on his or her own. If this internal act of imitation really is free, as Fichte insists, insofar as it is not caused by anything other than the subject itself, then we are back at the problem of contingency, only now on a deeper level: Perhaps the subject has some motive for internally imitating the influence of the other on him or her, or perhaps not.

There is another, closely related way in which Fichte's hesitation or oscillation between these two pictures of the summoner's 'recognition' of the potential addressee – between the epistemic-theoretical and the practical – is at play in the text. This reveals itself in his formulations of 'compulsion,' specifically whether

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[12] FNR 58–68; SW III, 61–73. Some of the dubious details of Fichte's theory include a distinction between "lower" and "higher" organs consisting of "coarser" and "subtler" matter (FNR, 68/SW III, 73). What Fichte tries to do is to introduce some sort of physiological instantiation of the capacity to self-initiate actions free of previous causes – a "higher" instance made of "subtler" matter insulated of causal inputs.

[13] FNR, 62; SW III, 66.

[14] See FNR, 61; SW III, 64–65. To be exact, the other affects the subject's "higher organ," and the subject imitates an effect of the other (that does not take place) on his or her "lower organs" and this causes the subject's action. See FNR, 67; SW III, 71.

it is of practical or of theoretical kind. That it is of a *theoretical* kind means that the subject epistemically identifies the other as a potentially rational being, and that the one is thereby *logically* compelled to summon the other to actualize his or her freedom.[15] Whether the subject actually summons the other is completely up to the subject, but if the subject refuses, the subject may be criticized for being illogical or theoretically inconsistent.[16] It is not obvious what logical mistake exactly one is committing by not summoning an infant one believes is a potentially rational being. Fichte's discussion of this theme[17] does not offer a coherent answer since it does not clearly distinguish between two issues: on the one hand, a mental act or *attitude* of recognizing the other as a (potentially) rational being, and on the other hand, some kind of external way of *treating* the other as such a being, which in this case means summoning the other to actualize his or her freedom.

Here we are closing in on what I called Fichte's (2) attitude/treatment oscillation. Fichte's argument boils down to the thought that it is impossible to comprehend the body of a human being consistently as anything other than that of a (at least potentially) rational being,[18] and he concludes by claiming that therefore "every human being is inwardly compelled to regard [*halten*] every other human being as his equal [*seines Gleichen*]."[19] Thus, even if the infant is not yet an actually rational being, it is impossible for others to consistently conceive of the infant's bodily being as anything other than that of a potentially rational being. This is an interesting argument, yet there is a devil hiding in an apparently innocent detail: the notion of 'regarding/taking' (*halten*) something as something, which is ambivalent because it could mean either a mental act or *attitude* or an external act or *treatment*. Fichte sets himself the task of showing that the summoner is compelled by the demand for consistency to regard or take (*halten*) the infant as free and rational by interacting with the infant in summoning ways, but *in fact* he only argues that the summoner is compelled by the demand for consistency to regard or take (*halten*) the infant as a potentially free and rational being in the sense of a mental act or attitude. Whether or not Fichte is right in suggesting that there is some sort of theoretical or logical compulsion to epistemically conceive of the body of a human being as that of a ra-

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15 See FNR, 69; SW III, 74: "als vernünftiges Wesen genöthiget, d.i. durch Consequenz *verbunden* sey […]"

16 See FNR, 46; SW III, 49–50, where Fichte presents the general form of such criticism: "Seine Handlung X widerspreche seiner eigenen Voraussetzung, dass ich ein vernünftiges Wesen sey: er sey inconsequent verfahren."

17 See FNR, 69–74; SW III, 74–80.

18 FNR, 72; SW III, 77: "Ich kann die Erscheinung eines menschlichen Leibes nicht begreifen, ausser durch die Annahme, dass er der Leib eines vernünftigen Wesens sey […]"

19 FNR, 74; SW III, 80: "Durch die Unmöglichkeit, einer Menschengestalt irgend einen anderen Begriff unterzulegen, als den seiner selbst, wird jeder Mensch innerlich genöthigt, jeden anderen für seines Gleichen zu halten. "

tional and free being – since it cannot be consistently conceived of in any other way[20] – this still leaves completely untouched the question whether one ought to actually *treat* the other as such a being by summoning this being to freedom. In short, even if it is conceptually inconsistent to 'regard' in the sense of *identify* a free and rational being one consciously encounters as something other than such a being, it is a separate question whether it is inconsistent to not 'regard' in the sense of *treating* him or her as such a being – which in this context means to summon him or her.

But Fichte also has a *practical* version of what it means that the summoner is 'compelled' to summon – a version that looks as if it could actually address the problem of contingency. After a further discussion of the experience of another being with distinctively human characteristics – such as eyes expressing intelligence, upright position, mouth and "the whole expressive face" – Fichte concludes by saying that these "compel everyone with a human countenance to *recognize and respect* the human shape everywhere" and that "[t]he human shape is necessarily sacred to the human being [emphasis mine, H.I.]."[21]

Fichte seems to be suggesting that there is something like a normal response to a human body, which is *not* merely an epistemic or theoretical matter of forming beliefs or epistemically identifying it as a body of a (potentially or actually) free and rational being. In other words, at issue is not a theoretical mental act or attitude but instead some kind of motivationally effective response. To see another human body as 'sacred,' to 'recognize and respect' it as belonging to a person, clearly involves some sort of motivational change, some degree of being 'moved,' or obtaining a disposition to perform appropriate acts, to *treat* the other being in an appropriate way. A few pages earlier Fichte had given a hint of what this might involve. In response to the question of other minds – "how do I know which particular object is a rational being[?]"[22] – he offers the following striking answer:

"Nature decided this long ago. Surely there is no human being who, upon first seeing another human being, would immediately take flight (as one would in the presence of a rapacious animal) or prepare to kill and eat him (as one might do to a beast), rather than imme-

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[20] One obvious objection is the following: Not all human infants are even potentially rational, and thus it cannot be the case that one can only consistently conceive of any *human* body as that of a rational being or *person*.

[21] FNR, 78–79; SW III, 85–86: "Dieses alles, nicht einzeln, wie es durch den Philosophen zersplittert wird, sondern in seiner überraschenden und in einem Momente aufgefassten Verbindung, in der es sich dem Sinne giebt, 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. "

[22] FNR, 75; SW III, 80.

diately expecting communication. This is the case, not through habituation and learning, but through nature and reason […]."[23]

In addition to saying that the normal response to another human being is immediate, rather than something one needs to learn and habitualize, Fichte says here that it involves an *expectation of communication*. One could read this as referring to a purely epistemic or theoretical mental act of *predicting or assuming* that communication is likely forthcoming, but there are considerations in favor of another interpretation: What is at stake is some kind of practical attitude involving a *willingness or motivation* to engage in communication. After all, it takes the efforts of two to communicate, and hence without any motivation to communicate with the other, one has no basis for expecting or assuming that communication will be forthcoming. One can conjecture that in the present context this means a motivation to *summon* the infant to communicate, which is itself already a communicative act. The picture these formulations intimate of the summoner's relation to the addressee before summoning seems to be something like this: The summoner is 'compelled' to summon by experiencing the addressee's mere presence in a shared space; more exactly, this compulsion is (or is part of) a practical attitude of 'recognition or respect' towards the infant as a potentially rational and free being and thus a possible communication partner.

However, as is already clear, because of Fichte's other commitments, this picture too cannot be filled in completely, since it too would compromise the summoner's causal freedom. On Fichte's premises, even if something like 'respect' would move the summoner to summon, the summoner's causal freedom depends on it not being an effect caused by the object (addressee) or the encounter with the addressee, but rather a product of the summoner's spontaneous inner 'imitation' of such an effect. And as we saw, this merely reintroduces the problem of contingency: If the imitation is not caused by the object or something in the object, it seems to be wholly up to the free choice of the summoner.

Thus, given his premises, Fichte's account of the summoner's 'recognition' of the potential addressee prior to being summoned remains uneasily oscillating between different alternatives, none of which he can fully endorse. Nonetheless, his struggle with these alternatives is highly instructive. It is evident that, if one is to conceptualize this phenomenon in a theoretically consistent way, something in Fichte's premises has to go, or at least be modified.

Importantly, Hegel's way of navigating this difficult philosophical terrain differs from Fichte's in two decisive ways. Firstly, in his more systematic ma-

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[23] FNR, 75; SW III, 81: "Die Natur hat diese Frage längst entschieden. Es ist wohl kein Mensch, der bei der ersten Erblickung eines Menschen, ohne weiteres, die Flucht nehme wie vor einem reissenden Thiere, oder Anstalt mache ihn zu tödten und zu verspeisen, wie ein Wild; der nicht vielmehr sogleich auf wechselseitige Mittheilung rechnete. Dies ist so, nicht durch Gewohnheit und Unterricht, sondern durch Natur und Vernunft […]".

ture work, in the 1807 *Phenomenology of Spirit* and in the different versions of
the *Encyclopaedia*, Hegel discusses recognition in a chapter on *practical* inten-
tionality and already this architectonic fact suggests that for Hegel recognition
is a matter of a practical, not a theoretical attitude. Secondly, Hegel shows little
or no interest in the question of inner causal freedom that Fichte inherits from
Kant. By not taking this premise on board at all, Hegel frees himself from the
source of two of Fichte's oscillations – (1) the 'theoretical/practical oscillation'
and (2) the 'attitude/treatment oscillation.' For Hegel, the idea of remaining un-
affected or non-determined by other persons that one is close to makes little
sense; thus what it means to be free in relations that are constitutive of one's be-
ing has to be thought anew. Hegel's solution to this problem is the idea of 'con-
crete freedom,' or the idea of reconciliation with ("finding oneself in") what de-
termines oneself.[24]

IV. 'Recognition' in the institutional context

But what about the problematic relation in Fichte's text between (3) thinking of
recognition in the purely *intersubjective* setting between the summoner and the
addressee, on the one hand, and thinking of it in terms of an *institutional* set-
ting involving rights, on the other? Whether Fichte's deduction of a system of
rights in the *Foundations of Natural Right* is indeed a failure as many believe,
the failure can be formulated in terms of the concept of recognition as follows:
Whereas Fichte has illuminating (though problematic) things to say about the
role and perhaps necessity of summoning, and thus of recognition in the way
one intersubjectively becomes conscious of oneself as a free rational being or
person, he by no means shows that recognition in the *institutional* sense cons-
titutive of the sphere of rights is necessary for this development, or even that it
plays a central role in it.

The distinction between intersubjective and institutional senses of recogni-
tion comes close to Ludwig Siep's distinction between 'horizontal' recognition
between individuals and 'vertical' recognition between individuals and social
institutions,[25] yet the distinction is not exactly the same. Importantly, indi-
viduals can be 'horizontally' recognized *both* in the intersubjective or non-in-
stitutional sense on the one hand, and in the institutional sense on the other.

'Recognition' means in Fichte's description of the sphere of rights (which is
an institutional setting) principally 'vertical' *attribution* of a *status* – consisting

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[24] I reconstruct this idea in relation to Hegel's concept of recognition in my paper, "Ho-
lism and Normative Essentialism in Hegel's Social Ontology," in: Heikki Ikäheimo/Arto
Laitinen, *Recognition and Social Ontology*, Leiden, Brill, 2011.

[25] See *Siep, Ludwig, Anerkennung als Prinzip der praktischen Philosophie*, Freiburg, Karl
Alber Verlag, 1979.

of particular rights and duties – by the state to individuals as citizens. To be a property owner and thus *free* in the sense relevant here is simply to be a bearer of the right to an exclusive and inviolable sphere of material things, and the duty not to interfere in the respective spheres of others. This is also what being a *person* means in this context – it is an institutional status.[26]

There are two further senses in which something like recognition is a necessary feature of the Fichtean community of free beings as a community of individuals enjoying the institutional status of persons. On the one hand, the state must be 'vertically recognized' by its citizens as having the legitimacy to maintain the system of institutional personhood or, in other words, the system of rights and duties. (As far as I know, Fichte himself actually does not use the term 'Anerkennung' to designate this phenomenon, even though it would be quite natural for him to do so.) On the other hand, individuals must 'horizontally recognize' each other as bearers of the institutional status of a person created by the vertical recognition by the state.[27] In other words, they have to refrain from violating each other's rights. This is indeed *horizontal* recognition between individuals, yet it is quite different from recognition in the purely intersubjective senses at stake in the relation between the summoner and the addressee spoken of earlier in the book.[28] All three senses of 'Anerkennung' constitutive of the Fichtean sphere of rights and thus of the "community of free beings" – that is, first, the state's recognition of its citizens as persons, second, the citizens' recognition of the state's legitimacy, and third, the citizens' recognition of each other as rights holders – are thoroughly institutional matters involving a complex system of norms that is largely independent of any particular individual or pair of individuals.

As to Hegel, he too speaks of 'horizontal recognition' between individuals indistinctly in the purely intersubjective and institutional senses. Since Fichte's program of deduction of a system of rights is not quite Hegel's, this alone does not threaten the consistency of his system. It is, however, an unarticulated dis-

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[26] Fichte identifies being a person more or less with being free. See FNR, 87; SW III, 94: "[…] what is entailed by the idea that someone is free in general, or is a person?" Yet, as he operates with several concepts of freedom without clearly distinguishing between them, his concept of personhood remains similarly ambivalent. A detail that I cannot discuss here is Fichte's distinction between "original rights" and "institutionalized rights." As I will argue in my forthcoming work, the idea of "original right" introduces problems of its own, however, and does not really help in overcoming the problems discussed in this paper.

[27] SW III, 83: "alles Rechtsverhältniss zwischen bestimmten Personen ist bedingt durch ihre wechselseitige Anerkennung durch einander." SW III, 96: "Das Eigenthum eines Jeden wird durch jeden Anderen nor so lange anerkannt, als der erstere das Eigenthum des letzteren selbst schont."

[28] See FNR 118; SW III, 130–131, where the state's recognition of its citizens' rights and the citizens' mutual recognition is presented as more or less the same thing. It is constitutive of Fichte's state that its citizens have the status of rights bearers, and having this status requires in turn that they recognize each other as rights bearers.

tinction also in Hegel's text that easily leads the reader astray when he or she tries to understand or reconstruct how exactly recognition distinguishes human persons as 'spiritual' beings from mere desiring animals. As important as it is to be a person in the *institutional* sense of a rights bearer, there is a deeper story to tell about the coming about of *psychological* personhood through intersubjective relations and attitudes of recognition.

V. Conclusion

No particular justification is needed for re-reading a classic by an author of Fichte's caliber, as one can be fairly confident that something new and of interest is revealed with each new perspective, and each new set of questions raised in light of it. My intention has been to draw attention to genuine problems which Fichte tackles, in response to which he is unable to come up with a consistent position. One of the reasons his struggle is worth studying today is the fact that each of the three ambivalences – the epistemic/practical, the attitude/treatment, and the intersubjective/institutional – is commonplace in contemporary accounts of recognition. Precious little has been written on the exact nature of the attitudes of recognition, and already the fact that one of the synonyms of the English word 'recognition' is 'identification,' which stands for an epistemic act, is a constant source of ambivalence and confusion in the discussions; the exact nature of the connection between attitudes of recognition and action and thus to 'treatment of others' is rarely explicitly reflected on; and the intersubjective forms or modes of recognition are often confused with institutional ones (which is not surprising, considering that the central classical authority – namely, Hegel – was not at all explicit in making the distinction). For some purposes, such details do not matter; for others, they make a great difference. If one considers recognition as one of the central concepts in a systematic philosophical account of the basic structures of the life-form of human persons, these details are too important to be ignored.