

reduces all previous history to the status of pre-history, for such history has not been consciously made. In Hegel the 'movement of self-realisation' (*Realisierungsbewegung*) of the Idea issues from an affirmative dialectic of reconciliation. In this dialectic universal history is thought of as possessing an inherent guarantee of fulfilment, and as coming to a final close in accordance with the dictates of teleology and logic. It is in short the hypostasized subjectivity which has not yet achieved its historical realization: man. Henceforth man's reason, affected by the senses, strives towards the realization of itself.

Here it is plain that Critical Theory, by its normative moral attitude, accepts uncritically the prejudice concerning the all-embracing power of a concept of consciousness; and this is a legacy of the ontology of subjectivity of the modern age. That the power of human reason is thus morally overestimated constitutes the Kantian element in the Critical Theory, despite its claim to rest on the work of Marx. Such overestimation of morality, as well as reaction against it, is strictly a *problem* for a philosophical theory of our time, which Critical Theory, following Hegel, also claims to be.\*

\* Translated from the German by Roger Hausheer.

## The dialectic of civil society

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In his *Critique of Hegel's Philosophy of Right* (1843) Karl Marx took the view that the so-called 'actual Idea' was presented in the *Elements of the Philosophy of Right* 'as though it acted according to a determined principle and towards a determined end'.<sup>1</sup> However, Marx himself is in no doubt that in reality it is only to human individuals that principles and ends can be attributed; Marx takes the 'Idea', of which Hegel speaks, to be a 'predicate' whose actual 'subject' is acting men. He finds himself obliged to attribute to Hegel a metaphysical re-interpretation of this relationship; and he terms it 'logical, pantheistic mysticism'.<sup>2</sup>

Nobody who has studied the text of the *Philosophy of Right* can deny that in countless passages Hegel seems to speak the language of such a 'logical mysticism'. He calls the family, civil society and the state moments of the 'Idea', which passes through the 'ethical substance' *en route* to its objectification (*PhR*, §157). In his account of this process, he attributes to the 'Idea' an 'interest' 'of which the members of civil society are as such unconscious' (*PhR*, §187). This 'development of the Idea' he expounds 'as proper activity of its rationality' which 'thinking, as something subjective', merely contemplates 'without for its part adding to it any ingredient of its own' (*PhR*, §31R).

Equally, an intelligent reader will have no difficulty in detecting the conception of such a self-propelled motion of the Idea. And it will not help to point out to him that Hegel has systematically developed this language of a 'pantheistic mysticism' in his *Logic*. He will insist that Marx is right to reject this metaphysical way of talking as misleading. Consequently, it seems perfectly understandable that the vast majority of commentaries on Hegel's political philosophy should simply ignore what appears to be its fantastic wrappings.<sup>3</sup>

Against this we must, of course, set the fact that Hegel himself rejects any such separation of thought and presentation, of content and form; it is precisely 'unity of form and content' that he claims for his philosophy.<sup>4</sup> As

Hegel himself sees it, the truly philosophical element in his *Philosophy of Right* is just that dialectical form of presentation which is consistently ignored in most commentaries on his political philosophy.<sup>5</sup> If we are to understand Hegel's thought expressed in his metaphysical way, as Marx did and any contemporary intelligent reader at first understands it, then it is Hegel's political philosophy itself and not just its form of presentation that is seen as fantastic. Only an exposition of the dialectical structure of his *Philosophy of Right* will make clear whether or not this is the case.

This essay, then, is concerned with examining the dialectic within Hegel's account of civil society. However, we shall not be discussing the dialectic of class antitheses which Hegel discovered in the historical development of early capitalist society (*PhR*, §246); we shall discuss the dialectic which governs the structure and progress of his presentation of civil society in the *Philosophy of Right*.<sup>6</sup> We shall soon find, of course, that the 'unity of form and content' at which Hegel aimed is not immediately apparent in his account. Our question will therefore be: what is the most appropriate and comprehensive standpoint from which Hegel's dialectic of civil society can be understood? The standpoint proposed here is the interpretation of the *Philosophy of Right* as a phenomenology of the consciousness of freedom. Just as Hegel attempts in his *Phenomenology of Spirit* to depict the path by which human consciousness can attain to awareness of the conditions of its unreflected existence, so he also explains in his *Philosophy of Right* how the free self-consciousness of man may come to understand the institutions of law, morality, family, civil society and state as conditions of his freedom.

I. To begin with, it is not clear precisely wherein this 'unity of form and content' is meant to lie in the *Philosophy of Right*. Hegel emphasizes at several points that he is basing his account on the method developed in the *Science of Logic*:<sup>7</sup> viz. that in philosophy the concept develops itself out of itself so that the concept is 'a purely immanent progress, the engendering of its determinations' (*PhR*, §31). So the *Philosophy of Right* is, like the *Logic*, intended 'to develop the Idea – the Idea being the rational factor in any object of study – out of the concept' (*PhR*, §2). The content treated by the *Philosophy of Right* is, then, no longer to be 'extraneous material culled from elsewhere' (*PhR*, §31), but content produced from within the determinations of the concept (*PhR*, §31R; 176, 1f.). According to these comments of Hegel's 'unity of form and content' therefore means that the content of the *Philosophy of Right* is to be developed by the dialectical method of the *Logic* out of the concept of right.

Hegel expresses himself very much more cautiously in the Preface. Here he concedes that he has 'only added an explanatory note here and there about procedure and method' (58, 27f.; Knox, p. 2) and has made no attempt 'to bring out and demonstrate the chain of logical argument in each and every

detail' (59, 1f.; Knox, p. 2). This methodological incompleteness is apparently due to the 'concrete and intrinsically so varied character of the subject' of the *Philosophy of Right*, i.e. to its material (58, 30; Knox, p. 2). If this is what he means, then Hegel is implying that the content of his work has certainly not been developed from the concept of right but is encountered as something already given. And indeed he does confine himself in this context to the thesis that in speculative philosophy 'content is essentially bound up with form' (59, 9f.; Knox, p. 2). He constantly asserts that 'the whole, like the formation of its parts', is based 'on the logical spirit' (59, 5f.; Knox, p. 2). It follows from these comments that the 'unity of form and content' (73, 4; Knox, p. 12) aimed at is realized in the *Philosophy of Right* only in this limited sense.

2. How well justified these reservations are, by comparison with the much more positive remarks in the Introduction, is apparent in the transition from the family to civil society (*PhR*, §181). Here Hegel distinguishes between two modes of transition. 'In the natural way' the family makes the transition to civil society when it separates into a plurality of families; whereas in a speculative interpretation this transition is necessary, because 'the moments found together in the unity of the family... must be released from the concept to self-subsistent objective reality'.

We may take Hegel's all too sketchy remarks to mean that, in historical development, the enlarged family gives rise to kinship within which relations become increasingly external as time goes on. In this natural process of development,<sup>8</sup> the legal 'principle of personality' will bring about the transition to an essentially different formation of society where many blood relations are connected with one another 'as independent concrete persons'.<sup>9</sup>

The transition from family to civil society is entirely different when seen from the speculative viewpoint. Here the point is that in a family the 'moments' of the 'ethical Idea' are not yet released into independence; rights and duties are only indeterminate and vaguely delimited, and the members of a family still constitute a community in which individuals are not fully independent in their dealings with one another. If they do nevertheless become so, then the family has in fact already been dissolved (cf. *PhR*, §159). By contrast, the dialectic of civil society begins at the point where many members of different families enter into relations with one another as independent persons and where these relations produce a 'system of complete interdependence' (*PhR*, §183). The individuality which, in the family, is still tied to the community and to common interests and aims is thereby 'released into self-subsistent objective reality' (*PhR*, §181). As independent persons the individuals are now 'particulars' who are related to a 'universal', i.e. the system of mutual dependence, in so far as they wish to realize their aims. It is this 'differentiation' between 'particularity' and 'universality' which,

according to Hegel's speculative interpretation, determines the nature of civil society.

This explanation of the transition from the family to civil society has, Hegel claims, the character of necessity; he understands the family as the ethical Idea 'which is still in its concept'; but the moments bound up within its unity 'must' be released from the concept into self-subsistent reality (628, 13). If we ask wherein this necessity lies, we immediately recall the criticisms Karl Marx levelled at Hegel's 'logical mysticism'. Hegel's account of the development of the 'ethical Idea' in the *Philosophy of Right* obviously corresponds to his account of the Idea as such in the *Logic*. Just as there the Idea at the stage of the concept is described as the Idea of life, so here it appears as the institution of the family.<sup>10</sup> There the Idea at the stage of differentiation appears as the process of cognition, and here as the process of the formation of civil society; and the fully developed Absolute Idea of the *Logic* appears in the *Philosophy of Right* in the shape of the state. Marx is, therefore, apparently proved right: Hegel has not developed the 'necessity' of the transition from family to civil society from the concept of the family; he has imported it from his speculative logic into the *Philosophy of Right*.<sup>11</sup>

Faced with this admittedly obvious accusation, we should note that, according to Hegel's formulation, the individuals 'bound up' within the community of the family are 'released into self-subsistent objective reality' in civil society. Now the theme of the *Philosophy of Right* is the development of the Idea of freedom.<sup>12</sup> So we should not forget that it is precisely in connection with the development of this Idea that Hegel asserts the necessity of the transition from family to civil society. Whatever the ways in which early capitalist civil society may have developed historically from a patriarchal social constitution, and whatever the explanatory models which Hegel took over from the *Logic* to describe the family, civil society and the state, his decisive argument for the transition from family to civil society is that this transition is to be explained as a liberation of the individual into 'self-subsistent objective reality'. In the context of the development of the Idea of freedom, civil society appears to him to be a stage of development which leads beyond the actualization of freedom already attained within the family. The parallels between the development of the Idea as such in the third part of the *Logic* and the development of the Idea of freedom in the third part of the *Philosophy of Right* can be explained thus: both in the *Philosophy of Right* and at the corresponding point in the *Logic*, on Hegel's view, there takes place a liberation of the moments which were not yet released into independence in the preceding stage of development.<sup>13</sup>

It seems, then, that the transition from the family to civil society confirms what Hegel told us in his prefacing remarks on method: the concept of freedom here develops 'from within itself' in such a way that its development

'is a purely immanent progress, the engendering of its determinations' (*PhR*, §31). At all events it is clear, even by now, that this cannot mean some mystical self-propulsion of the concept. For this movement is not that of a free-floating concept whose development Hegel and his readers have 'only to watch' (cf. *PhR*, §31R; 176, 8f.); we are, rather, dealing with a philosophical reconstruction of the Idea of freedom, which Hegel, as author, undertakes to carry out in his *Philosophy of Right*.<sup>14</sup> This reconstruction is based on the concept of freedom; and in the dialectical development of this concept, which Hegel describes in the transition from the family to civil society, the progress consists of an 'immanent development of the thing itself' (*PhR*, §2).

It would not, of course, be true to say that Hegel had likewise developed the institution of the family or early capitalist society from the concept of freedom. One of the 'determinations' of the concept of freedom, which emerges from Hegel's dialectical reconstruction of the development of this concept, is indeed the independence of individuals in a 'system of complete interdependence'. But Hegel did not develop this system itself from the concept of freedom (as one might suppose) but from the anthropological and historical conditions for the satisfaction of human needs (cf. *PhR* §§190 ff. and §185R). In his reconstruction of the development of the concept of freedom, the historical existence of early capitalist society is presupposed as a given content.

This appears even more clearly at the beginning of his account of civil society (*PhR*, §§182 ff). Hegel identifies 'the concrete person who is himself the object of his particular aims' as a 'principle of civil society' and he immediately adds:

but the particular person is essentially so related to other particular persons that each establishes himself and finds satisfaction by means of the others and at the same time purely and simply by means of the form of universality, the second principle here (*PhR*, §182).

Hegel thereby accepts as given the existence of a society in which there is a highly developed division of labour, and thence everything required for its continued existence: civil and criminal law, peaceful conditions secured by police, a system of justice which works adequately, and institutions for the protection of individuals and for the development of their capacities. But Hegel's account does not mention these necessary conditions for the existence of early capitalist civil society until very much later; and not until he moves on to his account of the state (*PhR*, §256) does he make clear that such a society can unfold only within a modern state.

3. Only with strong reservations, then, can we endorse Hegel's claim that he did not import the subject-matter of his account in the *Philosophy of Right*

from outside, but developed it from the concept of the thing in question. If the concept with which this work is concerned is the Idea of freedom, then we cannot expect Hegel to succeed at all in developing the contents of his account of family, civil society and state from the concept of freedom. His dialectical method of an immanent conceptual development simply can not, contrary to his assurances in the Introduction to the *Philosophy of Right*, be transferred directly from his metaphysical *Logic*, which is concerned with pure concepts, into political philosophy which is a part of 'empirical philosophy' (*Realphilosophie*).

However, at the end of the Preface to the *Philosophy of Right*, we find a different and more 'concrete' indication of how the desired 'unity of form and content' is to be understood in a philosophical account:

Form in its most concrete signification is reason as speculative knowing, and content is reason as the substantial essence of actuality, whether ethical or natural. The known identity of these two is the philosophical Idea (73, 15-19; Knox, p. 12).

Here he no longer speaks of reconstructing the content from the concept of the thing itself by means of a dialectical development of the concept; here content is 'intrinsically' rational reality, and form is the knowing which grasps the rationality of the actual. Thus, in fact, two distinct philosophical tasks emerge: the reconstruction of actuality as rational, and the exposition of the route by which speculative knowing arrives at this insight. In both cases, according to Hegel's methodological idea, dialectical development would proceed immanently and would produce the conceptual determinations immanently; but only at the end would the result be the same. In that way the 'philosophical Idea' would then have been realized.<sup>15</sup>

The fact that we do indeed have two different tasks here can easily be demonstrated in the case of rational natural law. The philosophical reconstruction of a universally binding law is a normative discipline; it must, as e.g. Hobbes, Kant or Rawls have argued, begin with the concept of a rational natural law itself, and from that concept develop the conditions for a legally ordered communal life.<sup>16</sup> Conversely, an exposition of the path by which speculative knowing arrives at its insight into the universal validity of the norms of right would have to begin with the everyday consciousness of right; it could even be described as a 'phenomenology of the consciousness of right'.

It is equally clear, however, that in his *Philosophy of Right*, Hegel does not attempt to find separate solutions to these two philosophical problems. His dialectical development of the concept of freedom is intended both to show that the conditions of common life in a modern state meet the requirements of reason, and also to indicate the path by which speculative knowing can attain to this insight into the rationality of the modern state.

4. We can see very clearly from the end of Hegel's account of civil society

that this inevitably leads to highly undesirable difficulties. Here the reader is suddenly informed that the state is the 'true ground of the family and of civil society' (*PhR*, §256R; 691, vide 11.16). Although in the *Philosophy of Right* the state makes its appearance only after family and civil society, it is, in Hegel's words, 'in reality' prior, since the family can develop itself into civil society only within a state.

Nor should this be taken as merely an assertion about the course of history. For in civil society as Hegel describes it the assumption is always made that there is a state which establishes the law, gives the law validity, maintains peace and order, pursues a social policy and guarantees the effectiveness of social institutions. Only when all this is taken as assured can members of early capitalist society pursue their private ends, without taking cognizance of the liberal legal state in which they live. It is, then, not only in historical reality, but also in Hegel's theory, that the state is seen to be prior to the family and civil society and to be their 'true ground'.

In a philosophical reconstruction of common life in a modern state, what is 'in reality' prior<sup>17</sup> would be the foundation and as such would be dealt with at the very beginning. Since this is so, we must ask ourselves why, in Hegel's *Philosophy of Right*, the state does not appear until the end. It is the knowing described by Hegel which through its progressive insight into the rationality of the ethical world at last comes to grasp the reality of the state. This also shows which of the two problems distinguished above takes precedence in Hegel's work; in its structure, the *Philosophy of Right* is not a deductive theory of the institutions of a modern state, comparable to the theories, say, of Hobbes or Kant, but a phenomenology of the consciousness of freedom, i.e. a philosophical reconstruction of the way by which an individual might become conscious of his freedom as it is realized in a modern state.<sup>18</sup>

However, since Hegel tries to develop, within the framework of a phenomenology of the consciousness of freedom, a theory of the modern state as well, it is quite inevitable that endless difficulties should arise from the linking of these two distinct problems. What is fundamental in the theory does not emerge in the exposition until the end because an individual who becomes conscious of his freedom arrives at the consciousness of the institutional foundations of his freedom only at the end; and what is fundamental in a theory of the modern state can only inadequately be treated within a phenomenology of the consciousness of freedom. In his exposition, Hegel is therefore constantly forced to start from premises the justification for which he is unable to explain; and even when he does reach these premises in his exposition, he frames his questions in such a way that he can not give satisfactory reasons for these premises.

Hegel usually makes the tacit assumption that early capitalist society can

only develop when the state has set up an effective legal system for the protection of private property.<sup>19</sup> But even where he turns his attention to the exposition of this legal system (*PhR*, §208), he can only assert that 'the right of property . . . is already in existence 'in its recognized actuality'. He simply declares that 'the principle of this system of needs' possesses 'the universality of freedom'; this universality is, he says, admittedly present only 'abstractly', as 'right of property'; but this right is, in civil society, 'no longer merely implicit but has attained its recognized actuality'. Likewise in the next paragraph, he can only reinforce this observation, not justify it. 'It is this very sphere . . . which gives abstract right . . . determinate existence' (*PhR*, §209). Whereas all the discussions from Hobbes down to Kant and Fichte made quite clear that the right of property, which had only 'provisional' validity in the state of nature (i.e. Hegel's 'implicitly valid right'), becomes a 'peremptory' right only in the state,<sup>20</sup> we certainly can not say the same for Hegel at this point.<sup>21</sup> Rather, he obscures the matter by attributing to civil society the power to give right 'determinate existence'. What he means is this: only as civil society 'develops' (*bildet*) do the historical conditions arise in which the Idea of unrestricted equality of rights can be actualized. But a modern state is the first prerequisite for this – a point which Hegel cannot discuss or justify here; nor does his way of putting his question within the framework of his theory of the state permit him to supply the missing justification.

Hegel's account of civil society leaves the origins of public authority (*Polizei*) and corporations just as vague as the origins of positive right. Hegel treats them as something already given, and turns immediately to the functions which they are meant to perform in civil society (cf. *PhR*, §§229–31). Here, too, the reasons for this striking omission lie in the fact that in his exposition the phenomenology of the consciousness of freedom takes precedence over the actual theory of the modern state: Hegel wishes above all to expound the doctrine that members of early capitalist society should acknowledge the realization of their freedom within positive civil and criminal law, in the public authority and in the corporations. This interest is so prominent in the structure of his exposition that one is tempted to think that he occasionally loses sight of the other problem, the development of a theory of the modern state. He wishes, however, to do justice equally to both problems, as is evident from his remark that his account of the family and of civil society contained the 'philosophic proof of the concept of the state' (*PhR*, §256R; 691, 12f.).

5. It is fairly clear that Hegel's account of civil society primarily outlines the path which individuals who have already attained self-subsistent reality must travel to become citizens 'capable and worthy' of being 'the actuality of the Idea' (*PhR*, §187R; 639, 2f.). Of course, Hegel does also describe this

development as a process which must be undergone not by individuals but by the 'principle of particularity'.

But in developing itself independently to totality, the principle of particularity passes over into universality, and only there does it attain its truth and the right to which its positive actuality is entitled. This unity is not the identity which the ethical order requires, because at this level, that of division (§184), both principles are self-subsistent. It follows that this unity is present here not as freedom but as necessity, since it is by compulsion that the particular rises to the form of universality and seeks and gains its stability in that form (*PhR*, §186).

But if the 'principle of particularity' transforms itself into 'universality' in the way which Hegel describes, then this means, in his own words, that at the same time 'the particular' (individuals) raises itself to the 'form of universality.'

It is the dynamic of civil society itself as a system of mutual interdependence that necessitates the creation of institutions which limit the private autonomy of individuals bent on their 'selfish ends' (*PhR*, §183). The 'principle' of these institutions and of their activities (administration of justice, police, communal and social policy, corporate bodies) can no longer be the private interests of individuals; indeed these institutions must at the same time act in the public ('universal') interest. But if, in this way, the 'principle' of particularity thus turns more and more into 'universality', then this means, for individuals who are active in these institutions or who depend on their activities, that they too, as 'particulars', are also increasingly raised 'to the form of universality' the more they are forced to consider public interests while pursuing their private ends.<sup>22</sup>

The necessity of the development which determines the dialectical structure of this account of civil society is based, according to Hegel, precisely on the point that the principle of particularity 'develops itself independently to totality'; inasmuch as the principle of private autonomy asserts itself in modern society with increasing force, this society is increasingly obliged to relinquish its exclusive devotion to private interests. In Hegel's view, it is in the last resort this dialectic of particular and universal which has necessitated and determined the development of institutions for the administration of justice, for the protection or creation of peace and order, and for the realization of a communal and social policy in the historical development of the modern state.

But when Hegel, in the dialectical structure of his account of civil society, describes how the 'particular' raises itself stage by stage to 'the form of universality', the necessity for this historical development remains just as obscure as does the fact that these institutions and activities can only develop their effectiveness within the modern state. Hegel presupposes both the

dialectics of this historical development and the existence of the modern state in order to describe through the structure of his account, how the relationship of particularity and universality develops dialectically, stage by stage.

Whereas in early capitalist society, as a system of mutual interdependence, private interests and general economic necessities still stand in unmediated opposition to one another (*PhR*, §18); but the administration of justice already represents a first step towards overcoming this 'level of division' (*PhR*, §186). It already leads back towards 'the unity of the implicit universal with the subjective particular' (*PhR*, §229). But this unity is developed only imperfectly in the administration of justice; for 'the universal' here signifies civil and criminal law, and it actualizes this unity only 'in the single case', namely, in annulling 'offences against property or personality' (*PhR*, §230). The activity of the public authority extends this unity 'to the whole ambit of particularity' (*PhR*, §229) by effectively protecting the right to 'undisturbed safety of person and property' (*PhR*, §230). Nonetheless, this 'unification' of particular and universal remains 'relative' (*PhR*, §229) inasmuch as the separate interests of individuals are placed under state protection. Only in the activity of corporations does this unification extend to the entire existence of individuals, namely, to the 'securing of every single person's livelihood and welfare' (*PhR*, §230). This does, indeed, actualize the 'concrete totality' of the unification of particular and universal; but even here, as in civil society at large, this totality is limited to the private existence of individuals (*PhR*, §229). According to Hegel, the full unity of particular and universal is therefore achieved only in the state as 'the absolutely universal end and its absolute actuality' (*PhR*, §256). The 'level of division' of particular and universal, characteristic of civil society, is thereby overcome.

This dialectical development of the relationship of particularity and universality which determines the course of the exposition does, however, presuppose a subject which undergoes this development and changes its 'standpoint' stage by stage. This subject is, strictly speaking, civil society itself as an ordering of common human life, which is divided into several 'spheres' or 'systems', namely, the system of mutual economic dependence ('system of needs'), the system of civil and criminal law, and the system of social welfare. Accordingly it is in this sense that Hegel calls the subject which, in its development, passes through these spheres 'Spirit' (*Geist*). It is Spirit which

attains its actuality only by creating a dualism within itself, by submitting itself to physical needs and the chain of these external necessities, and so imposing on itself this barrier and this finitude, and finally by maturing [*bildet*] itself inwardly even when under this barrier until it overcomes it and attains its objective reality in the finite (*PhR*, §187R; 637, 23-7).

But, translated into an interpretation of concrete relations, this only means that in the economic system of early capitalist society individuals facing the general conditions of their common life find themselves at a standpoint of division and consequently at the standpoint of limitation and finitude; but this very finitude of their standpoint obliges them to overcome the limitations of their initial condition and to develop their subjective interests further towards 'objectivity'. This is why Hegel also describes this process as the course of development through which 'the subjective will itself attains an objectivity in which alone it is for its part capable and worthy of being the actuality of the Idea' (*PhR*, §187R; 639, 1-3). What Hegel describes as the dialectic of civil society is, according to this, a process of 'education' (*ibid.*, 638, 18), in which the subjective will raises itself from the standpoint of the particular to the 'form of the universal' (*ibid.*, 21).

It is, however, possible to speak of such an educational process in two quite different senses: as a historical progression in which private persons in early capitalist society increasingly develop a political consciousness, and as a hermeneutic process which Hegel traces in the dialectical construction of his account of civil society. Whereas Hegel goes into this historical educational process only in his account of the economic system (*cf. PhR*, §197), his account as a whole should be understood as a description of the route by which 'speculative knowing' must travel in order to get from the standpoint of the particular (or the *bourgeois*) to the 'standpoint of the ethical life' of the state (or the *citoyen*) (*cf. PhR*, §33R; 182, 16). When the reader realizes how the principle of particularity, 'in developing itself independently to totality', transforms itself 'into universality', then it becomes clear to him that the principle of particularity can have 'its truth and the right to which its positive actuality is entitled' (*PhR*, §186) only in this universality. He recognizes herewith that the limitation of self-awareness within which private persons are confined in the economic system is increasingly removed in the system of justice and in the system of social welfare, and is finally removed altogether when the standpoint of ethical life is reached. Hegel indicates in advance that the reader, from the standpoint of the *citoyen*, will then be able to see that the standpoint of the private person is justifiable within certain limits.

6. In a phenomenology of the consciousness of freedom as it has just been described, we must always distinguish the standpoint adopted by the observer from the standpoint of its object, i.e. of consciousness on its route to self-consciousness. In his *Philosophy of Right*, Hegel has unfortunately omitted to specify in each instance the standpoint from which his formulations are to be understood. It is therefore often possible for misunderstandings to arise as to whether he is speaking from the standpoint of phenomenal consciousness which is the object of his observation, or whether he is speaking from the

standpoint which he himself adopts for his observation and description. In his account of civil society, this difficulty is less formidable than in other parts of his work. But even here the reader must be clear in his own mind that many of Hegel's statements formulated in the language of a 'logical mysticism' become comprehensible once we distinguish these two standpoints.

When, for instance, Hegel distinguishes between the interests pursued by the members of civil society and the 'interest of the Idea, an interest of which these members of civil society are as such unconscious' (*PhR*, § 187), we are in no doubt that the expression 'Idea' simply denotes the standpoint adopted by Hegel in his account. As long as the members of civil society are pursuing their private ends, economic and social relations appear to them to be no more than the conditions to which they must submit in order to attain the fulfilment of their needs. But when they 'determine their knowing, willing and acting in a universal way and make themselves links in this chain of social connections', then they see (and so do we who are observing this process with regard to the formation of a consciousness of citizenship) that they thereby raise themselves 'to formal freedom and formal universality of knowing and willing'<sup>23</sup> (*ibid.*). This is the viewpoint from which the 'formal education' (*Bildung*), accomplished in civil society, is of 'interest'.

A similar interpretation can be given to passages in which Hegel speaks as though the 'Idea' works in civil society by 'imparting a characteristic embodiment' (*PhR*, § 184) to the 'moments' of particularity and universality. From the standpoint of the state, which we adopt for our observation of civil society, it is clear to us that the members of early capitalist society can only pursue their private interests because the modern state gives them the opportunity to do so. We also see that individuals pursue their aims under the conditions of prevailing social relations which, for their part, presuppose a modern state as their basis. This is the modern liberal state which guarantees its citizens the right to a private existence and which allows social relations to develop freely so that they can prove themselves to be the 'ground', 'necessary form', and 'power' over all private ends of individuals. It is in this sense that Hegel can say that the state or the (ethical) Idea imparts 'a characteristic embodiment' to individuals and to social relations.

Up to this point, this interpretation of the relationship of 'particularity' and 'universality' in early capitalist society is clear enough; but Hegel goes beyond it when he characterizes this social structure as an 'ethical order, split into its extremes and lost' (*PhR*, § 184). For this amounts to a declaration that civil society is a stage of development through which the ethical Idea passes on the way to its actualization. Just as he explains the family as the ethical Idea 'still in its concept' (*PhR*, § 181; 628, 12f.), so he now establishes

civil society as 'the Idea's abstract moment, its moment of reality'<sup>24</sup> (*PhR*, § 184).

This interpretation becomes comprehensible if, from a historical point of view, we apply it to the development of the Idea of the modern state. The 'immediate substantiality of mind' in the family (*PhR*, § 158) then corresponds to the kingdoms of the ancient Orient, built on the 'patriarchal and religious principle', and also to the 'substance of ethical life' of the Greek polis (cf. *PhR*, § 185R; 645, 3. 17); the historical origin of civil society as a 'system of the ethical order, split into its extremes and lost' is, then, to be sought in the era of the Roman emperors.<sup>25</sup>

However, this transference of diachronic stages of development to the synchronic structure of the modern state does cause a difficulty. The ancient Oriental kingdoms, the Greek polis and the Roman empire are actual political communities, whereas the family and civil society, as Hegel describes them, presuppose a state as their basis, and specifically the modern state. This difference is obscured when Hegel characterizes civil society as a 'system of the ethical order, split into its extremes and lost'.<sup>26</sup> The impression can arise that he means to interpret civil society as an independent stage of development of a mystical subject, of 'Spirit' or 'Mind', occurring between family and state.

It is in this sense that we can understand the proposition, 'Mind attains its actuality only by creating a dualism within itself' (*PhR*, § 187R; 637, 22f.). But the context tells us that Hegel, from a historical point of view, opposes the Rousseauistic 'idea that the state of nature is one of innocence and that there is a simplicity of manners in uncivilized [*ungebildeter*] peoples' (*ibid.*, 13f.) to the formation of a society based on the division of labour in which men overcome their original 'crudity' (638, 1) and raise themselves to 'the form of universality' (*ibid.*, 5). What Hegel thus describes, in a semi-mystical way of speaking, as the history of the development of 'Mind', thereby shows itself to be the result of a paradigmatic reconstruction of the development of social systems from the standpoint of the Idea of freedom as actualized in the modern state.

When Hegel elsewhere speaks of a 'development of ethical life from its immediate phase through civil society, the phase of division, to the state' (*PhR*, § 256R; 691, 9–11), he yet again seems to envisage the idea of an identical subject which undergoes this process. But when he asserts that this development is 'the philosophic proof of the concept of the state' (*ibid.*, 12f.) it is immediately clear that he is speaking not about a real process but about his own dialectical reconstruction of the concept of the state. In this reconstruction, family and civil society emerge as derivative formations ('ideal moments', *ibid.*, 5) which are always dependent on the state for their

existence. But, above all, it is apparent in Hegel's account of civil society that the union of the particular with the universal, which is achieved in the corporation, is still incomplete because the aim of the corporation 'is restricted and finite' (*PhR*, §256). The notion that this unification is not fully completed until the members of civil society have raised their 'particular self-consciousness' (*PhR*, §258) to the universality of an 'absolutely universal end' (*PhR*, §256) is therefore crucial for the transition from civil society to the state. Since Hegel regards the state as the 'absolute actuality' of this end, the only 'philosophic proof of the concept of the state' which is worthy of the name lies in the demonstration of the necessity of this transition.

7. When Kant attributes 'truth' to the 'concept of morality', he means that this concept has 'application to any possible object' inasmuch as the highest principle of morality is binding for this entity.<sup>27</sup> Thus Kant also speaks of a 'deduction' of the categorical imperative, what is meant is the 'justification of its objective and universal validity'.<sup>28</sup> Hegel, too, with similar implications, speaks of the 'truth' of the 'proof' or of the 'deduction' of the concept of right (*PhR*, §2).

The 'philosophic proof of the concept of the state' is thus intended to demonstrate that reason is the 'substantial essence' (*PhR*, Preface, 73. 17; Knox, p. 12) of the modern state. But the modern state proves itself as rational when it can be presented as an institution in which the Idea of freedom is actualized. Accordingly, when Hegel claims that he has proved the 'concept of the state' in his account of civil society, he must mean that he has shown that the Idea of freedom is actualized only in the modern state.

Now Hegel made no attempt whatsoever to conduct his proof by expounding the actualization of the Idea of freedom in right and morality as well as in the family, civil society and the state itself. On the contrary, he traced the various degrees to which individuals had attained to consciousness of freedom at the 'standpoint of right' (*PhR*, §§45R; 216, 8; and 57R; 242, 3. 26) and morality (*PhR*, §105), and also as members of the family, civil society and the state. In so doing he constantly tried, though often only by giving obscure hints, to show that the 'individual self-consciousness' had not yet risen to its full 'universality' (cf. *PhR*, §258), and had therefore still some way to go beyond its present stage of development. At the end of his account, then, Hegel has not actually proved the 'concept of the state'. What he *has* done is to show that, for members of civil society in their corporations, freedom is indeed actualized as the right to an assured private existence (cf. *PhR*, §255), and yet that this exclusive devotion to their private interests must be relinquished if the actualization of freedom is to reach perfection in activity for the 'absolutely universal end' of the state. The argument that members of civil society must, in the interests of the Idea of freedom, progress from

the standpoint of the *bourgeois* to that of the *citoyen* is, however, no 'proof of the concept of the state'.

Only when we give a historical interpretation of the 'development of ethical life from its immediate phase through civil society, the phase of division, to the state' (*PhR*, §256R; 691, 9–11) does this account take on the character of a justification of the Idea of the modern state. It then appears as the historical development of that concept of the state which has its origin in the Greek polis, and which, owing to the Christian religion and the de-politicized society of the Roman imperial era, has absorbed the principle of particularity. In this way the combination of the Greek principle of a free political community (*PhR*, §124R; 446, 20) with the 'right to subjective freedom' in the institutions of the modern state may be understood as the product of previous history. In so far as Hegel's account, thus understood, shows reason to be the 'substantial essence' of the 'ethical world', it may be allowed to count as a 'philosophic proof of the concept of the state'.

8. Two reservations must nevertheless be made, and both concern Hegel's form of presentation, namely, his conceptual language and his dialectic.

Our interpretation has shown that, contrary to all appearances, Hegel is not presenting us with a metaphysic which one could characterize as a 'logical, pantheistic mysticism'. Where he does use metaphysical conceptual language, we can translate his formulations into ordinary conceptual terms so that his way of speaking acquires a readily accessible meaning. Indeed, there can be no doubt that this is the intended meaning of these often profoundly obscure formulations. Furthermore, we can recognize that Hegel's difficult conceptual language has an immeasurably great advantage: it enables him to express incredibly complex conceptual relationships in a few words. In this respect, Hegel's texts resemble in many ways the fragments of the pre-Socratic philosophers; and indeed a work such as the *Philosophy of Right* must be interpreted in much the same way as the aphorisms of a Heraclitus.

However, these gains in complexity and richness of reference are purchased at a price, namely, the need for interpretation. This comes not only from the fact that it is necessary to translate Hegel's conceptual language into a rendering which displays its manifold meanings. In the interpretation it also becomes clear that this conceptual language itself has multiple meanings. This holds not only for Hegel's terminology – if one wishes to allow this expression for those conceptual terms in his philosophical language which have characteristic meanings divergent from ordinary speech. The significance which interpretation can attribute to his arguments is often also multiple. It is certain that Marx is wrong in attempting to tie Hegel's metaphysical mode of expression to its apparent mysticism; but it is equally certain that Hegel undeniably gives some grounds for such misreadings.



This is the reason why we cannot accept Hegel's claim to have given a 'philosophic proof of the concept of the state' in his account of the family and civil society, although we can make that claim comprehensible. Hegel is unable to produce a philosophical proof in the strict sense of the word because his conceptual language is not suited for the purpose. In fact, he has shown only that the modern state – i.e. the state of his time with regard to its remote future possibilities – is essentially rational because it can be, and should be, conceived as an institutional actualization of the Idea of freedom. This is an explanation with a practical purpose, not a philosophical proof.

There is an additional reason why Hegel can not produce a kind of 'proof' of the Idea of the modern state, i.e. a theoretical demonstration and justification of the principles on which it rests. His dialectical method as practised in the *Philosophy of Right* is unsuitable for the purpose. Proceeding by way of a phenomenology of the consciousness of freedom brings Hegel only to a 'reconciliation with the actuality' (*PhR*, Preface, 73, 7; Knox, p. 12) of the modern state, not to a rational theory which would have made the state in its historical forms an object suitable for a critique. If, in his political philosophy, Hegel has in many ways 'accommodated' himself to existing political conditions,\* this can doubtless be explained not merely by the pressure of these conditions but also by the weaknesses of his dialectical theory of the state as a phenomenology of the consciousness of freedom. For it has already reached its goal when 'reason as speculative knowing' and 'reason as the substantial essence of actuality whether ethical or natural' are brought into a 'known identity' (*ibid.*, 73, 16–18; Knox, p. 12). Having reached this point, the question should rather be: how may Hegel's insight that reason is 'the substantial essence of actuality,' be formulated and established in a rational theory of the modern state? Only in such a theory, it seems to me, would the problem posed by Hegel be truly solved.\*\*

\* *Editor's note.* This 'accommodation' and its consequences for Hegel's *Philosophy of Right* are the subject of K.-H. Ilting's first essay in this volume.

\*\* Translated from the German by H. Tudor and J. M. Tudor.

## Hegel on identity and legitimation

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Several important recent works in political theory have focussed attention once again on the relationship between the state and the economy. *The Legitimation Crisis* by Jürgen Habermas,<sup>1</sup> *The Fiscal Crisis of the State* by James O'Connor,<sup>2</sup> W. D. Narr and Claus Offe's *Wohlfahrtsstaat und Massenloyalität*,<sup>3</sup> C. Offe's *Strukturprobleme des kapitalistischen Staates*,<sup>4</sup> and *The Politicised Economy*<sup>5</sup> by M. Best and W. E. Connolly have all raised fundamental problems about the nature of the state in capitalist society from a broadly marxist perspective, but which incorporate within the critical account of the modern state a richness of empirical detail, for example about the development of welfare institutions and the management of the economy in the post-Keynesian era which are, of course, absent from the classical marxist texts. Nevertheless, these studies are all well within the marxist tradition of theorising about the state and it is perhaps not surprising that Habermas at least has seen the basis of one central aspect of the modern relationship of the state of the economy – what he calls the legitimation crisis – in the work of Hegel. This essay will attempt to throw some light upon neglected facets of Hegel's view of the relationship between the state and the economy partly for their intrinsic interest, partly because these views of Hegel do point towards Habermas's conception of the legitimation crisis and partly because Hegel's own partial failure to perceive the consequences of his own theorising poses significant questions not only about his own account of the relationship between the state and the economy, but also problems which are central to the political agenda in our own day.

Perhaps a word could be said first of all about the nature of legitimacy in question here and why in Habermas's view there is a crisis of legitimacy in modern capitalism. The crisis arises basically because of what Habermas sees as the dysfunctional effects of the economic market which seem to require some kind of state intervention to correct. The extent of this state intervention however, goes far beyond the role allocated to the state in what Habermas sees as the political theory of liberal capitalism within which the