

Freedom as Self-Legislation in Hegel's *Philosophy of Right*

Dillon McDougald

Political philosophy has been charged with something of an unusual task: to justify an institution which, by and large, has existed for quite some time independent of philosophical inquiry. Even in so deliberately abstract a work as Plato's *Republic*, empirical paradigms pertaining to the defining features and duties of a state unavoidably influence the political theorist's own paradigms, as the *polis* of Sparta's own legal and social structure did for Plato. In any political philosopher's work, the empirical constraints of political reality must somehow be reconciled with the abstract demands of justice as a value in and of itself. In his *Philosophy of Right*, Hegel bridges the gap between the empirical constraints of the state and justice as a normative value through his theory of concepts, and in so doing he is able to bring an element of objectivity into discussions of right which were previously trapped in a purely subjective realm, given certain theoretical aspects of Immanuel Kant's philosophical system. Rather than being opposed to Kant, however, Hegel's project is a completion of the project Kant started, taking the theme of freedom as the self-legislation of the will and lending to it an element of objectivity through an analysis of the various social norms and institutions that individuals must relate to throughout their lives. What this then allows Hegel to do is account for the discrepancies between freedom as a value and the state as an inherently coercive entity, as the former, properly understood, necessitates the latter.

Chrestomathy: Annual Review of Undergraduate Research, School of Humanities and Social Sciences, School of Languages, Cultures, and World Affairs, College of Charleston
Volume 10 (2011): 232-57

© 2011 by the College of Charleston, Charleston SC 29424, USA.

All rights to be retained by the author.

It is crucial to note the historical and philosophical context of Hegel's discussion – especially given Hegel's own belief that philosophy is necessarily a “child of its time” (Pippin 21). Hegel's discussion of freedom takes place as an event amongst the historical threads of Prussia's own political development in the aftermath of the French Revolution and the rise of Napoleon, as well as the prominence of subjectivism in academic and popular theory, evidenced both in the rise of Romanticism in German culture and the development of German idealism in the wake of Kant's philosophical theories.

In the aftermath of Napoleon's victory over Prussia at the beginning of the nineteenth century, liberals in Prussia initiated a reform movement, leading away from absolute monarchy towards a constitutional form of government (Wood vii). Four years after Napoleon's defeat in 1815, however, the reform movement was defeated, largely on account of the feudal nobility's opposition. It is reasonable to count among the motivations of the nobility a certain fear not only for their wealth but also their lives: the revolution in France, founded upon a championing of *liberté, égalité, and fraternité*, soured into class warfare, the slaughter of landed nobility, and ultimately the rise of a dictator in the person of Napoleon. Any political movement which smacked of the liberty championed by the French in prior decades would be looked on with suspicion by the established authorities. As a result of this reactionary movement, a conference of German States called to Carlsbad in September of 1819 resulted in the censorship of academic publications, as well as the emergence of a process whereby professors deemed “demagogues” were removed from their posts at universities (Wood viii). In the wake of his colleagues and students being either arrested or dismissed, Hegel revised his textbook on right, shaping it to become the *Philosophy of Right*. In many ways, despite Hegel's notoriety in some circles as an apologist for the status quo (Wood viii), Hegel's work reflects what might well have been the state of Prussia given that King Friedrich Wilhelm III had kept his promise of a written constitution and that the reform movement in Prussia was victorious (Wood ix-x). Throughout his work, Hegel is clearly refining what he sees as a dangerous and coarse understanding of freedom into something more reasonable and more likely to be accepted by the monarchical German culture.

Within the culture of Germany, the Romantics became prominent in literature and music, as well as in other forms of popular thought.¹ Following Napoleon's defeat, the political landscape of Europe reverted to something resembling international tranquility (Russell 677): the French Revolution had not, as Condorcet had hoped, solved all of the social ills of the world, and Europe was beginning to exhibit symptoms of a collective *ennui* (Russell 723). Such a period of calm was unendurable to the same Romantics who cheered on the French Revolution, and as such the period of calm did nothing to either dampen or give direction to their enthusiasm. Particularly among the German peoples, whose unity had been shattered at last by the Reformation and the Thirty Years War (Russell 720), Romanticism provoked growing sentiments of nationalism, where "each nation was felt to have a corporate soul, which could not be free so long as the boundaries of States were different from those of nations" (Russell 678). Although Hegel flirted with romanticism in his youth (Durant 222), by the time *Philosophy of Right* was published, he had come to loathe these men who thought "that truth consists in what *wells up from each individual's heart, emotion, and enthusiasm*" (15). A similarity exists between Hegel's endorsement of patriotism and the nationalist fervor of the German Romantics; however, it is important to note that Hegel's endorsement is founded on grounds which are essentially incompatible with rampant sentimentalism: Hegel's project is to ground whatever political conclusions he comes to in something firmly objective, rejecting the subjectivism of the Romantics.

A subjective account of truth and morality to which Hegel is more sympathetic is found in the work of Kant.² Taking up the project of rescuing morality (and philosophy in general) from the skepticism of Hume, Kant created a system which sought to lend credibility to the notions of induction and moral truths through the justification of synthetic *a priori* truths. Although this established Immanuel Kant in the eyes of many as "the greatest of modern philosophers" (Russell 704), there was one crucial feature with which Hegel took some issue: Kant's move into truth as ordered by categories of the human mind made truth and morality subjective notions. Hegel condemns this notion in saying, "if it [a philosophical theory] builds itself a world *as it ought to be*, then it certainly has an existence, but only within his

[the philosopher's] opinions" (Hegel 22). As such, Hegel's project manifests itself as an attempt, "through his logic, to establish a new way of escape from the individual into the world" (Russell 703).

With this context in mind, we can turn to the groundwork of Hegel's theory. His theory of right rises out of two notions: first, Hegel's conception of what a concept is and how it actualizes itself in the world; and, second, his theory of will and of freedom as the essential characteristic of will. The former of these informs the nature and procedure of a Hegelian political theory in general, and the latter provides the basis in value on which to construct such a theory. Both of these draw heavily on Hegel's Kantian heritage.

Hegel begins his project by announcing, "The subject-matter of *the philosophical science of right* is the *Idea of right* – the concept of right and its actualization" (Hegel 25). Having his own peculiar vocabulary, Hegel means something in using the word "concept" not usually associated with that word. For Hegel, a "concept" is different than a "mere concept" in that inherent to the notion of concept is an element of *actuality*, by which Hegel means "the *shape* which the concept assumes" (25) – in other words, the modal consequences of the concept in the external world (20). This "Idea of right" – this concept and its actualization – is later identified with "freedom," and Hegel announces the necessity of recognizing freedom both in its concept and in its existence through actualization (26). This move from the purely abstract to the concreteness of actualization is Hegel's main strategy in overcoming subjectivism. In order for a concept to have substantial significance, it must have substance in the form of actualization; said another way, if a concept does not in some way play out in external existence, it is mere opinion, and non-indicative of what Hegel considers to be philosophical truth.³ On the other hand, normative rules cannot be extrapolated solely from individual experiences: a component of the Hegelian concept still exists outside of empirical reality, regardless of the degree to which the concept may "interpenetrate" external existence (Hegel 26).

Understanding the precise way in which a concept manifests itself presents some difficulties. One common reading of Hegel is that concepts, as aspects of some Absolute including external existence as well, manifest themselves in historical events and in material reality.⁴

This kind of posited cosmological narrative, though not contrary to Hegel's framework in the abstract, is not entirely fair to Hegel. Again, Hegel's project is to lend objectivity to a philosophical landscape marked with subjective utopias; Hegel's cause would not be helped with such a fantastic notion.⁵ Hegel clearly does believe that there is a rational process in history, and that this historical process is one in which the concept of freedom is being refined (Hegel 374); however, this turns out to be a more feasible assertion given a proper understanding of concept and actuality. Two things to bear in mind are that, on Hegel's strict definition, a concept is "merely an abstract determination of the understanding," and that concepts, in some way, cause themselves to be actualized, giving themselves their own content. These features have led Robert Pippin to suggest thinking of concepts as norms or, more precisely, as the normative rules necessary for human action (97). This reading of the Hegelian concept makes the reliance on concepts less of a sweeping assumption about the rationality of the universe and more of an argument insisting that concepts have a normative, rationally necessary effect on moral agents and, through those agents' actions, on existence as a whole. This claim about concepts also undermines the criticism that Hegel is merely a status quo apologist: since concepts can be conceived as norms, which seek to direct but do not always determine external existence, Hegel is perfectly justified in using his evaluations of concepts to judge prior periods in history as lacking in freedom, as he does in his general condemnation of Roman civil law (Hegel 31-4).

The specific concept with which Hegel concerns himself in *Philosophy of Right* – freedom – is said to be the essential feature of the human will (Hegel 35). In this way, his theory of politics is essentially a theory of will writ large. Hegel's definition of will, though difficult to identify exactly, is perhaps best summarized in his saying that "the will is a particular way of thinking – thinking translating itself into existence, thinking as the drive to give itself existence" (35). The implications of this are: first, that thought⁶ and will are tied together as a concept and its actualization, as opposed to a theory like that of Schopenhauer's which illustrates the two in opposition or at least separation (Hegel 35); and, second, that freedom, in being the substantial stuff of the will, has as a necessary feature actuality. Hegel begins making these abstract

formulations more specific by describing the pattern through which the will comes to have actuality. First, as an agent's mere thought of a choice, which suggests an openness to a variety of outcomes, the will contains an element of "pure indeterminacy," which Hegel describes as "the limitless infinity of *absolute abstraction* or *universality*, the pure thinking of oneself" (37). Second, as the content of a particular choice and as a specific reason for an action, the will contains an element of "determinacy" through "*differentiation, determination, and the positing of a determinacy as a content and object*" in individual cases (39). Finally, as both of these aspects taken together, as a particular action ascribed to the choice of a responsible agent, the will becomes the union of the indeterminate and determinate elements, "*particularity reflected into itself and thereby restored to universality*" (41).⁷ This final stage of unity is identified as the freedom of the will (Hegel 41): in the context of this discussion, then, this union of determinacy and indeterminacy manifests itself as the imposition of norms of action, including moral laws, onto the self.

Kant's project was similar in terms of its definition of freedom as autonomy, as giving laws to oneself. But Kant sought to identify a purely rational law, a norm of action that would have no empirical content, and thus that could be understood as coming entirely from our minds. As emphasized again and again in *Philosophy of Right*, Hegel seeks to move moral (and therefore political) truth out of the realm of Kantian subjectivity and into objectivity. In Hegel, this manifests itself in the following ways: first, through the denunciation (made equally by Kant) of the definition of freedom as mere arbitrariness⁸, and in this way condemning agency driven by mere natural whim; second, through the insistence on a historical progression of the will coming to impose moral laws unto itself, as opposed to the total divorce of the moral and the actual as found in Kantian philosophy; and finally, in Hegel's championing of ethical unity (present in a rough, but, for Hegel, unrealized form in Kantian ethics), giving to unity content in the form of ethical life.

Hegel specifically attacks the definition of freedom as arbitrariness, saying that "such an idea can only be taken to indicate a complete lack of intellectual culture" (48). For Hegel, arbitrariness is the mere *contingency* of the will: an incomplete picture of the will as only

incorporating the formal universality of the will in its definition, failing to acknowledge that freedom is the unity of the universal as well as the particular determinations of the will (48). Hegel goes on to point out that defining freedom as arbitrariness is ultimately the same as defining freedom as what might seem to be its opposite: as merely being driven by natural drives. In willing whatever it wants, arbitrariness, the purely formal element will, is in fact dependent upon the contingent – that is, on circumstances and impulse (Hegel 49). The dilemma as presented by Hegel, then, comes to take this shape: either an agent is a slave to nature, or an agent wills what is rational, acting “not as a particular individual, but in accordance with the concepts of ethics in general” (49).

This presentation of freedom as being a dilemma of natural drive or rational agency is similar to Kant’s presentation of freedom, with some differences. There is of course the obvious difference: for Kant, analysis of morality must proceed in the course of deduction of the concept of a “rational agent” (Pippin 90), whereas Hegel proceeds developmentally. From this difference comes different conceptions of how self-legislation of the will occurs. For Kant, there was always some question about the point at which an individual moves from a pre-existing state to a state of being “self-legislated.” More specifically, in such a subjective approach, paradoxes result concerning the point at which reason becomes normatively binding. Even if one were able to properly and flawlessly deduce the nature of political institutions which a fully rational individual would legislate, one could still distance oneself from such a deduction, arguing that its conclusions would follow only “[w]ere I such an individual” (Pippin 66). For Hegel, insisting on considering the rational structure of *actual* and *realized* political institutions clears up these lapses in understanding. “The legislation of such a law does not consist in some paradoxical single moment of election”; instead, “the formation of and self-subjection to such normative constraints is gradual and actually historical” (Pippin 117). Hegel’s argument is ultimately that the political structures of modernity are already rational, and rather than positing utopias which are inevitably the mere fantasies of individuals, it is the charge of philosophy to investigate the rationality inherent to contemporary political institutions.

A final element which Hegel adopts from Kant is the notion that freedom implies a kind of unity with other moral agents. In his insistence that to conform to the categorical imperative is to legislate in a universal context, Kant emphasizes that a distinguishing feature of the moral agent is a refusal to recognize distinctions between agents which might somehow exempt the agent from the general moral laws which the agent would legislate. Hegel broadens the scope of this theme, incorporating it into the notion that freedom as self-legislation manifests itself as standing in a certain relation with social institutions: namely, that of unity. For Hegel, it is only by understanding themselves as rationally endorsing, and thus identifying with, the norms of their societies that individuals are able to understand their freedom as having significant content (Pippin 117).

With this groundwork set forward, Hegel develops his notion of free society, which he calls “ethical life.” Hegel defines ethical life as “the *Idea of freedom* as the living good which has its knowledge and volition in self-consciousness, and its actuality through self-conscious action” (189). In ethical life, freedom has gained content through the process of actualization. Furthermore, ethical life is itself the highest culmination of freedom as a value, in which the will finds its ultimate expression of freedom in its unity with social institutions. Ethical life, then, is the fulfillment of the basic themes which Hegel associates with freedom: first, that freedom as a concept must actualize itself; second, that liberation from natural whim must take the form of the self-imposition of moral laws unto the self; and, third, that the result of this self-imposition of moral laws is unity between the subject and the objective social institutions which embody the norms of freedom. As regards the actualization of the will, Hegel says that ethical life is “the *concept of freedom which has become the existing world and the nature of self-consciousness*” (189). The norms of ethical life are experienced by individuals as duties, but, as Hegel stresses, “A binding duty can appear as a *limitation* only in relation to indeterminate subjectivity or abstract freedom, and to the drives of the natural will or of the moral will which arbitrarily determines its own indeterminate good” (192). As the arbitrary will is merely the will driven by the contingent circumstances and desires of nature, that which seems initially to impede freedom can be seen to only impede this “unfreedom” of irrationality. What the

moral duties of ethical life do, then, is attain content for the will, and in so doing duty “is the attainment of essential being, the acquisition of affirmative freedom” (193). This newfound liberty manifests itself in the unity of citizenship: “The *right of individuals* to their *subjective determination to freedom* is fulfilled in so far as they belong to ethical actuality; for their *certainty* of their own freedom has its *truth* in such objectivity” (196).

These three themes play out in each of the stages of ethical life: family, civil society, and the state. In discussing the first of these, Hegel defines the family as “immediate or *natural* ethical spirit” (198) founded on mutual love of family members (199). Civil society is “an association of members as self-sufficient individuals,” united in a formal sense in pursuing collective interests (198). A particular person, “a totality of needs,” stands in relation “to other similar particulars,” and from this unity of needs and interests results the market and the regulatory bodies as well as conglomerates inherent to the market (220).⁹ Finally, the state is the result of civil society refined into the “end and actuality of the substantial universal,” resulting in a public life which is dedicated to this end (198). “The state is the actuality of the ethical Idea – the ethical spirit as substantial will, *manifest* and clear to itself, which thinks and knows itself and implements what it knows in so far as it knows” (275). Within the context of the state, self-sufficient individuals become united through acknowledgment of objective freedom. In citizenship, the individual “has objectivity, truth, and ethical life” (276). As such, the state is the final stage of ethical life, and in this way the most actualized form of freedom.

Multiple interpretations, some historical and others philosophical, seek to explain why Hegel chose to arrange the three modes of ethical life in this particular way. The initial temptation is to read into the progression an element of temporality. Hegel rejects this interpretation: temporality is irrelevant to the refinement of the Idea (276). Whether the course of history reflects the rational development of freedom is not Hegel’s concern. Hegel is merely giving *rational*, not historical, structure to the institutions which arose historically. From the outset, he informs the reader that the nature of his project is such that later stages of freedom are more actualized, with the culmination of the state as the most actualized. With the prior discussion of what

actualization entails having already taken place, all that then needs to be said as regards this point is that Hegel considers the state to be a mode of life in which the greatest amount of significant and objective content has been given to freedom. It must be advised, however, that this does not place the state in an instrumental role, merely protecting the freedom that individuals already have prior to political or civil society. Hegel considers such an instrumental view of the state “the greatest enemy of personal and subjective freedom” (Wood xvi). It is not technically correct to say that the individual is subordinate to the state, either, for the relationship is not one of subordination but of unity (Hegel 276). It is on the basis of this unity that political participation is neither instrumental for the individual nor slavery of the individual. The individual finds freedom in *membership*.

In this way, an agent is free insofar as an agent stands in relation to actual social institutions. In examining institutions which he considers to be a part of ethical life, Hegel first considers the family, which exists as the immediate social institution in which an agent has membership. It is important to note that the relation on which family is based, “love,” is not to be understood merely in the sentimental sense, but it is equally important to note that love as sentiment is an integral part of love as a relation. In broad terms, Hegel gives rational form to the sentiment of love: love, as a sentiment, gains objectivity and recognition as the legal union of marriage, and in being an actual union the family moves beyond mere sentiment and into actuality. The immediate actuality of family is *marriage*, whereby love finds actuality in the form of a union recognized by both man and woman¹⁰ as well as the community (204). The family becomes more actualized in the necessary ownership of “family resources,” which are held in common by the family union (208-9). Ultimate actuality is attained in the form of a child: where property only presents actuality in the form of external matter, a child presents spiritual actuality as well (211). The children, in growing up to be self-sufficient individuals, move on to establish new marriages and new children, and as such the family perpetuates itself in a chain of continued actuality (219).

In all of these things are examples of the will overcoming natural desire. In the case of marriage, what separates the institution of marriage from the practice of concubinage is the latter’s essential

nature as a purely sexual relationship: in marriage, the sexual desire is subordinate to the bond of marriage itself (203). Having an objective spiritual existence, marriage asserts its own existence, standing “above the contingency of the passions and of particular transient caprice” (202). As such, “marriage should not be disrupted by passion” (203). By disallowing adultery, a marriage does not impede the freedom of those who are married (205), but rather marriage grants to those so united “their substantial self-consciousness within it,” and so marriage is in fact liberation from base natural desires (201). Similarly in the case of raising children, success in childrearing is measured insofar as the child has its self-will forged in such a way as “to eradicate the merely sensuous and natural” (211). Children are not innocent and education does not corrupt them, as Rousseau supposed; rather, children are made to be rational and free from natural impulse in their education (224).

The basis and result of this liberation is the unity of family life: a sense of meaning in family life comes from being a member of the family, and love itself is the consciousness of this unity (199). Marriage, in being a union, is not simply a contract between two parties, as posited by Kant: to contract would imply two separate parties both before and after agreement, whereas marriage, though beginning in a state similar to contract, proceeds “*to supersede it*” in forming a union with objective spiritual existence (203).

The family dissolves upon children becoming self-sufficient and entering into civil society (219). In civil society, freedom is actualized in three ways: first, with the system of needs, whereby individual desires and needs relate to every other individual desire and need in such a way that the resulting nexus of needs satisfies universally the needs of all (226-7); second, with the courts which protect property, property being the actualization of individual freedoms; and third, with the regulatory bodies which constitute the police power of civil society, and also in the conglomerates of individuals united in common interest known as corporations (226).¹¹ In each of these cases the collection of individual needs necessitates the formation of some entity which relates to the members of civil society and provides for their welfare. In pursuing individual interests, members of civil society are rationally moved to provide for the common good (224): the system of needs provides

members with “actuality and security” of their subsistence, welfare, and rights (221). This general market forms different “estates” which provide for different facets of the overall economy in the necessary and rational mode of actualization (234). Individuals move into a *specific* estate in order to gain professional honor and identity, and this new professional role is a further actualization of the individual’s will, giving content to the will in the form of his or her contribution to society (238-9). Necessary to these movements of property are codes and norms positing the conditions of fair trade and interaction; thus arises the administration of justice, which actualizes the norms into objective laws (240-1). Individual rights gain significant content once objective standards and the means to enforce them come into being (249). In enforcement, actualization provides the standard of punishments for transgressions of legal code: legislators and judges need not worry whether “an injustice is done if there is even one lash too many,” but rather ensure that “some kind of determination and decision should be reached” (245-6). These new punishments are now moved from the realm of mere revenge to that of rightful penalty on the basis of law (252). However, mere marketplaces and laws which enforce property rights fail to take into account some needed services: in cases where needed services are not profitable, such as is the case with providing for the welfare of those less fortunate (259), or in cases where “the business *of one* is at the same time carried out on behalf of *all*” (261). Such is the case with the provision of necessities (262), which requires a police power. As the police power seeks to provide for the welfare of civil society in general, corporations give actuality to the needs and interests of individuals through union and cooperation (272-3), and the corporation gains objective existence in being legally constituted and recognized (272).

Civil society is recognized as a further step away from natural barbarism. Civil society as a whole elevates an individual’s ability to satisfy desires above those of animals, who by their nature cannot exceed the bonds of instinct (228-9). As such, the social contract theorists (and Rousseau in particular) were mistaken as to whether the “freedom” of the state of nature satisfied “natural needs”: work need not be lamented as an unnecessary corruption brought on by society, but as liberation from bestial tendency (230-1). Indeed, such natural

tendencies are the basis of crime, not freedom (251). With work comes luxury (231) as well as education, which liberates individuals from a state of former simplicity of mind by instilling in them an appreciation of the universal (224-5). Individuals need not hesitate to commit to a single estate or profession: rather than limiting an individual's freedom, such a commitment enables a person to gain an identity recognizable by others – as Hegel rather playfully puts it, “a human being must be *somebody*” (239). Similarly, laws do not constrain an individual's freedom: with “*the duty to submit to the court's authority*” comes “*the right to stand in a court of law*” (Hegel 253) and all that standing in a court of law entails: objective authority enforcing objective standards with objective penalties for objective wrongdoing.

From such objectivity and the individuals' relation to it comes the unity which is the hallmark of freedom. The entirety of civil society is a process whereby particularity and universality condition each other: in the most actualized forms, the conglomerates of individual interests act in unison as corporations. In cases where such corporations are either unwilling or unable to provide a necessary good to the public, such as public roads and needed regulations, the collective police power acts to provide such goods. Within the system of needs itself, private persons acting in a self-interested manner do so in a universal context, “making themselves *links* in the chain of this *continuum*” (224), and in this way self-interest works towards everyone's benefit (233). In the law, human beings become conscious of each other as human beings interconnected through the chains of need and merit: concerns of race or creed no longer are relevant (240). As a result, each human being acquires “a new significance when its existence is recognized as part of the existent universal will” (249). Crime is no longer an individual offense, but an offense to the whole community (250). Ultimately, as a member of civil society, an individual “has rights and claims in relation to it” (263).

Though this picture covers many of the institutions with which the individuals of modernity must interact, it leaves out certain institutions inherently presupposed by the existence of the family, the market, and the law. Without taking these presupposed institutions into consideration, only an incomplete picture of actualized freedom is presented. First, to consider only the market and the family is to

only consider each individual within civil society as still acting in a self-interested manner, and as such these features of family and civil society do not, by themselves, account for agents willing in a truly universal context necessitated by fully actualized freedom. Second, those institutions in civil society which in some way represent a collective willing, such as corporations, the police, and the bodies responsible for the administration of justice, have as a necessary prerequisite another authority which recognizes them as objectively valid. As the one authority which alone can recognize the many authorities of conglomerated interests manifests itself, civil society transitions to the state, and freedom reaches its ultimate form of actualization.

The immediate actuality of the state takes the form of the constitution or constitutional law (281). In the realm of particularity, the social institutions of civil society form the constitution, actualizing freedom in giving to individuals realized and rational freedom (287). In the political realm, the constitution has an internal component, actualizing the forms of political authority through codes of law detailing the organization of the state, and an external component, a military which sets forward relations with other states (304). A feature of this actualized organization is a division of powers: the legislative, which determines and establishes the universal; the executive, which is a body of civil servants employed by the sovereign to execute the sovereign will; and the sovereign, the ultimate will and deciding power within the context of the state (308). These powers are not in conflict, nor should it be said that they balance each other through competitive exercise of power (339); rather, the division of powers are simply different organs of the same organism, all working toward the common purpose of actualizing freedom (314). As regards sovereignty, Hegel asserts that the sovereign must exist as an individual: "The personality of the state has actuality only as a *person*, as the *monarch*" (317). The will of the monarch is actualized through a body of civil servants which compose the executive (328). It is the duty of the civil servants to subordinate civil society to the state, ensuring that the collective interest prevails over the conglomerate particular interests (329). As for the laws themselves, they are within the jurisdiction of the legislative, which legislates insofar as new laws are needed or further determinations of existing laws must be made (336). These

laws regulate the benefits offered to citizens by the state and, second, the duties which citizens owe to the state for said services (337). These services invariably actualize as money: in simply requiring of citizens the taxes which they are able to pay, the state upholds the justice of equality (339).¹² The law-making authority is composed of three parts: the sovereign, who has the final say in matters of law; the executive civil servants, who act as advisors in legislating; and the estates, who represent the accumulation of subjective interest and the people¹³ as such (339). In this role, the estates mediate between the government and those they represent. The inclusion of the estates ensures that taxes, when collected, “are approved for the benefit of those who approve them” (342). This representation also leads to a generally informed population, fulfilling the requirement of the will *knowing* its content (351).

As the people come to know objective freedom, violence ceases to be the primary means of persuasion, and instead rational and reasonable discourse becomes the means by which freedom achieves recognition (253). In coming to form these laws as well as in obeying them, the people find meaningful and substantial freedom. The highest duty is to be a member of the state (275), which alone guarantees rights in an objective context (283). In this sense, “what the state requires as a duty should also in an immediate sense be the right of individuals, for it is nothing more than the organization of the concept of freedom” (285): duty and right both are simply dual aspects of the personal freedom of individuals (Hegel 284).

Hegel chooses to label the unity which results from freedom as patriotism. Patriotism properly understood is not a baseless fanaticism, but rather “that disposition which, in the normal conditions and circumstances of life, habitually knows that the community is the substantial basis and end” (289). The patriot has an identity composed in the acknowledgment of other compatriots as fellow free and rational beings (288). This acknowledgment is the fulfillment of the individual destiny “to lead a universal life,” wherein objective freedom and subjective freedom are unified in such a way that the latter wills the former (276). Choosing to break from the dry academic style with which most of the *Philosophy of Right* is composed, Hegel succinctly summarizes the definition of freedom in stirring words: “As

a result, this other immediately ceases to be an other for me, and in my consciousness of this, I am free” (288). To be free is to will in such a way that the individual will is one with the will of all others.

Thus Hegel’s project is completed: through the process of actualization giving significant content to concepts, the will comes to legislate for itself in order to liberate itself from natural caprice, and the resulting unity of oneself with another in subjectively willing the objective demands of right is the state of freedom. Hegel, in his eyes, has managed to complete Kant’s project of building a philosophical system based on the self-legislation of the will as the basis for right by lending to that which was once purely subjective – and therefore purely opinion – an element of objectivity. There are, however, competing schools of political thought, and they must briefly be dealt with before Hegel’s method of reconciling the empirical constant of political authority as coercion with freedom as a value can be fully worked out.

There are those who find Hegel’s general exaltation of the state disturbing: in lending rational form to the state, Hegel seems to have lent rational form to the sovereign in the same sense that Hobbes sought to. Indeed, Hegel surpasses Hobbes’ ambitions by proclaiming the state to be an artificial deity rather than an artificial man (Hegel 307). Liberals in the classical sense would no doubt take offense at his conception of freedom.¹⁴ In his interpretation of Hegel, for example, Russell concludes that

“Freedom,” for him, means little more than the right to obey the law . . . This is a very superfine brand of freedom. It does not mean that you will be able to keep out of a concentration camp. It does not imply democracy, or free press, or any of the usual Liberal watchwords, which Hegel rejects with contempt. (737)

The gist of the allegation seems to be that Hegel’s definition of freedom runs contrary to the tenets of liberalism as a political theory as well as the basic freedoms which liberal theorists have sought to secure. Russell seems to be suggesting that, in order for a political theory to be considered “liberal,” it must have a definition of freedom which offers citizens moral recourse against the atrocities mentioned in his list. Hegel’s point has been that, in order for a political theory to be philosophically true, it must in some sense be grounded in

objectivity and reality. Underlying this conflict are two different conceptions of “freedom” as a value which serves as the ultimate aim of political society. In order for a definition of freedom to serve as the basis for justifying the state’s legitimacy, it must be a definition which is consistent with certain essential and historical characteristics of the state. Hegel perceives earlier theorists’ reliance on viewing the state as legitimate only insofar as it serves some function or measures up to some standard as an exercise in ignoring such essential and historical characteristics, thereby inviting fruitless speculation which is entirely grounded in the realm of the subjective. A result of this, in Hegel’s mind, is that freedom, as defined by earlier liberal theorists, is without substantial content.

In presenting his social contract model of legitimizing political authority, Hobbes offers a definition of what constitutes a free individual: a free individual “*is he, that in those things, which by his strength and wit he is able to do, is not hindred to doe [sic] what he has a will to*” (262).¹⁵ This definition is rather straightforward in its presentation: an individual is “free” insofar as an individual is physically able to do the things which the individual wills. An implication of this definition is that an individual who is in some way physically restrained, as an individual would be in a prison cell, is not free. An immediate issue arises in considering this definition of freedom as one which a political society can consistently value. Even ignoring the constraints placed on human beings by the physical laws of the universe, physically restraining or coercing individuals can be a necessary and justified function of the state, as the practices of criminal justice, taxation, and regulation of industry through law inherently presuppose. This is, therefore, essentially the sort of definition of freedom as arbitrariness that Hegel argues against: it is a definition devoid of content in terms of the essential functions of the state. As such, an immediate reality of the state to which a definition of freedom usable in political theory must conform is the reality of laws fairly constraining absolute arbitrariness under certain conditions (such as criminal guilt on the part of an individual) and the reality of utilizing coercion in the enforcement of these laws.

Hobbes’ own answer to justifying criminal punishment is unflattering to the moral authority of government: in committing a

crime, an individual has been divorced from the protections offered by political society, and as such has returned to a state of nature. In this state of nature, the individual is effectively at war with all others, and in this way the public is justified in the use of violence against criminals (Hobbes 353-4). A consequence of this is the reducing of criminal justice to a matter of violence by one group against an individual or another group, in turn removing any moral component from the punishment of criminals. Hobbes himself assumed that criminal punishment was merely a matter of deterrence (353), an instrumental view of punishment which both Kant and Hegel reject as both demeaning to the dignity of a human being and neglecting of the moral component necessary to the practice of upholding justice.

Locke introduces a moral component to the theory of punishment by defending the right to punish as an extension of a right which exists in the state of nature: an individual “hath a right to punish the offender, and be executioner of the law of nature” (103). Although his social contract model introduces the moral component necessary for upholding justice as a value, Locke is still employing a definition of freedom very much influenced by Hobbes’ definition of freedom as lack of physical restraint, saying that a free individual is free insofar as an individual is “absolute lord of his own person and possessions” (154). This definition amounts to freedom as mere arbitrariness in the same way that Hobbes’ definition does. According to Locke’s social contract model, in forming the state, individuals part with some “freedoms” in exchange for certainty in the protection of other freedoms (154). Hegel’s way of resolving this seeming compromise is that an individual is only free in the context of the “certainty” that laws and political society provide; individuals do not forfeit freedom in forming the state, but actualize it.

This then demonstrates the second way in which a liberal theory must account for freedom as a value: a state which acts to secure freedom must not in some sense act as an obstacle to freedom, but rather act to bring about substantial freedom. By defining freedom in a purely abstract sense, classical liberal theorists seem to have depicted the state as a clumsy fact which must be surmounted and other human beings as the cause of a compromise which necessarily deprives the individual of freedom. The individual who is most free by this account

is the individual who lives in total isolation, unable to be constrained or wronged by the behavior of other individuals – in other words, an individual in Rousseau’s state of nature. In valuing freedom as the end of political society, liberalism seems to be making a claim about a “good life”: to maintain the definition of freedom in the abstract sense would then be equivalent to making the claim that a hermit leads a more meaningful life than a citizen with a family and a career. If this claim is to be rejected, then the classical liberal conception of freedom must escape from the totally abstract.

The final way in which a liberal theory must account for freedom as a value is to give normative authority to the state in its own right. Hegel’s insistence on moving away from subjective accounts of legitimizing political authority grants to the state the normative authority required for its functions in a way which prior accounts of the legitimacy of political authority, such as on the basis of individual consent, cannot. It is on this point that Hegel breaks away from both Locke and Kant’s conception of the normative authority of the state. Hegel believes that Locke, in claiming that the moral authority of the state rests upon the consent of the governed, reduces the objective authority of the state to a matter of subjective approval. Hegel advises, “In opposition to the principle of the individual will, we should remember the fundamental concept according to which the objective will is rational in itself, i.e. in its *concept*, whether or not it is recognized by individuals” (277). Kant’s model, in gauging the moral authority of the state in terms of its correspondence to a state as it “ought” to be, features a similar kind of subjectivism insofar as Kant sought to divorce the realm of “ought” from empirical considerations. On this basis, Kant’s method of gauging political authority thereby amounts to what Hegel considers to be mere opinion (Hegel 22). The theoretical consequences of maintaining a subjective account of legitimizing political authority show themselves most readily in situations where individuals disagree with particular laws: if a law only has normative authority insofar as an individual subjectively approves of it, then the very purpose of law as objective rules of behavior is undermined.

Returning now to Russell’s criticism of Hegel’s definition of freedom, the claim that Hegel’s definition of freedom is “superfine” is founded on an understanding of freedom which fails to take into

account the realities of the state. In order for a theory to be capable of consistently valuing freedom as the good towards which political society aims, it must define freedom in a way consistent with the necessity of laws which restrict certain actions, the necessity of the state's existence as an integral part of actualizing freedom, and the normative authority required by the state in order to fulfill its necessary functions.

Russell's position more fully shows itself in his condemnation of Hegel's notion of freedom of the press.¹⁶ Russell attributes to Hegel the claims (1) that freedom of the press "does not consist in being allowed to write what one wants"; and (2) that "the Press should not be allowed to render the Government or the Police contemptible" (737). Hegel does indeed deny that freedom of the press is simply the arbitrary freedom to write as one pleases, for reasons discussed extensively above. In order to offer a meaningful definition of freedom of the press, there must be content attributed to the concept beyond empty subjectivity. As for Russell's allegation that Hegel bans criticism of government in the press, Hegel does indeed discuss to what extent arbitrarily publishing opinions can be considered a crime. He opens by remarking how incredibly unfeasible it is to attribute to a publisher guilt for what has been published, outside of "direct incitement to theft, murder, rebellion, etc." (356). In all of these cases, liberal theory has also come to accept direct incitement to violence in published word as a crime; the difference, though, is that Hegel has the theoretical groundwork laid out to explain how such cases can be considered crimes as well as why punishing these acts in no way impedes freedom. As for the second half of Russell's accusation, Hegel does indeed say that publishers ought to abstain from writing certain things about political authorities. These, however, fall into the categories of "injuries to the honour of individuals, slander," and "abuse" of political authorities, as well as "incitement of rebellion" (Hegel 357). Again, modern liberal theorists tend to label libel and slander crimes; and again, Hegel's groundwork enables him to make sense of how the punishment of these crimes is not an offense to freedom as a value, whereas more abstract models of freedom fail to do so.

In this way, Hegel's political theory is able to account for the

normative authority of institutions which actually exist in the world. This achievement of Hegel's, however, emphasizes the second part of Russell's criticism. As evidenced by listing among Hegel's other alleged transgressions of right that his brand of freedom "does not mean that you will be able to keep out of a concentration camp," Russell implicitly accuses Hegel's brand of nationalism for the rise of Nazi Germany.¹⁷ Hegel does indeed praise nationalism to an extent which some liberal theorists, such as Russell, find disturbing. As a consequence of his endorsement of nationalism, Hegel also chooses to advocate a view of war which is similarly disturbing to liberals. It is possible, however, to defend the core of Hegel's emphasis on patriotism, and as such his emphasis on the state of war, through an understanding of Hegel's definition of freedom as fulfilled in the context of the state.

Hegel's nationalism is a logical consequence of his view of freedom: the goal of his project is to demonstrate how the will, in having freedom as the ability to self-legislate, attains ultimate and objective self-legislation by standing in relation to various institutions, culminating with the state. This establishes citizenship as the most actualized form of freedom. In this context, Hegel would see warfare (specifically, foreign invasion) as the greatest threat to freedom. In light of this threat, then, it makes sense for Hegel to argue that the state has absolute authority over citizens and their property in times of war (Hegel 261): it is reasonable, given that the state is indeed the highest form of freedom, to sacrifice lower forms of freedom, such as free enterprise, in order to preserve fully actualized freedom (Hegel 360).

In turn, this view of nationalism leads to Hegel's rejection of the legitimacy of international governments. Hegel insists on the independence and sovereignty of individual nations, refusing to elevate the historical process of freedom being actualized above the level of the nation. Arguing clumsily, Hegel asserts that "leagues" of nations are ill-advised, as they will logically produce enemies to negate the union (362). His policy for international relations can be reduced to the claim that "treaties ought to be observed" (368). It is possible to be charitable in interpreting Hegel's suspicion of international authority: Hegel shows appreciation for Rousseau's concept of the general will (277), and as such Hegel might share with Rousseau a

concern that a sovereign national government forfeiting its sovereignty to alien authorities effectively undermines the general will's ability to govern itself.

The contemporary political climate is at odds with these conclusions, however, and perhaps Hegel is too much a child of his time. Instead of the constitutional monarchy which Hegel endorses, representative democracy is now the norm in modern liberal states, and international law has become an entrenched, if frequently ill-observed, institution. Two world wars fought over national honor have wearied the contemporary political landscape of nationalism. It must be acknowledged that Hegel's philosophy has been used by both extreme right-wing and extreme left-wing totalitarian regimes in order to justify their authority and agendas (Magee 205).¹⁸ To try and fault Hegel with the abuse of his ideas by others, however, is entirely unfair, and validates accusing any number of peaceful thinkers with conspiracy to commit the very actions which they have explicitly denounced. The extent to which philosophers can be held reasonably accountable for the popular understanding of their arguments is a tangled and confounding matter, of which it is good to say little.

Regardless of some of the more awkward conclusions of Hegel's political philosophy, the strengths of his theory are undeniable assets to liberal political philosophy. Hegel's conception of freedom allows for legitimate constraints to be placed on arbitrary behavior, and in denying the absolute authority of individual consent Hegel is able to justify coercion in the political authority's enforcement of the law. In insisting on the normative authority of actual laws and actual institutions in which individuals are born and live, Hegel is able to avoid being forced to deduce a perfect code of law by examining the concept of a perfect state, and as such Hegel is able to escape the confines of mere opinion. The dichotomy of freedom and coercion in the works of Hobbes and Locke is a false dichotomy: the former necessitates the latter in order that the former might itself exist in a meaningful and substantial manner. The individual does not in fact have the freedom – in a properly understood sense – to violate the norms of society.

It is for these reasons that Hegel's political philosophy, by bridging this gap between political authority and freedom, is invaluable to

modern liberal theory. Politics does not need to be portrayed as some compromise between law and freedom: as Hegel's project sought to establish, freedom is the active participation in government and the political process, and as such the state alone can give meaning and content to an individual's freedom. Perhaps Hegel committed some of his stranger ideas to paper knowing full well that history would outgrow them as freedom continued to actualize itself in the historic process. Nevertheless, Hegel clearly believed that some aspects of his theory – namely, the notion of absolute and objective concepts actualizing themselves into external existence, as well as the notion of freedom as the substance of the will having an effect on external reality as one such concept – were permanent, occurring outside of contingency. Whether this process occurred in the logical necessity of agency, some Platonic realm, or some monistic Absolute is similarly beside the point. If modern liberals find fault with the finer points of Hegel's political philosophy, let them at least salvage the bones of it.

Notes

1. In discussing Romanticism, I use the term loosely to refer to a general exaltation of sentiment; more precisely, the doctrine that, in some way, personal emotions ought to be a leading criterion for decision making. In other words, Romanticism is used to convey the ideology which established an alternative definition of truth vehemently attacked by Hegel.

2. Here it is important to distinguish a subjectivist account from a relativistic account of truth and morality: Kant did not endorse the notion that moral standards differ from situation to situation in a relative sense (and is notable in philosophy for his system of absolute morality), but the framework for his system of morality rested on the notion that the normative authority of moral laws rested in an individual's ability to reflectively and rationally endorse certain rules (Pippin 69-70).

3. "Truth in philosophy means that the concept corresponds to reality" (Hegel 53).

4. In his typical disdain for Hegel, Bertrand Russell is led into one of his more amusing expressions of criticism, as expressed in his

A History of Western Philosophy: “It is odd that a process which is represented as cosmic should all have taken place on our planet, and most of it near the Mediterranean. Nor is there any reason, if reality is timeless, why the latter parts of the process should embody higher categories than the earlier parts – unless one were to adopt the blasphemous supposition that the Universe was gradually learning Hegel’s philosophy” (735).

5. In his book *Hegel’s Practical Philosophy*, Robert Pippin continually notes how such readings of Hegel as endorsing of some version of mysticism in readings of history ignore the careful attention that Hegel pays to definitions of terms commonly used against him.

6. In general, Hegel uses the word “spirit” to designate “thought”: “Spirit is thought in general” (35).

7. This pattern of movement – from indeterminacy to determinacy to the union of the two – is mirrored in Hegel’s account of ethical life, further supporting the notion that Hegel’s political theory is a reflection of his theory of the will.

8. “Freedom as arbitrariness” is the definition which Hegel attributes to Kant (Hegel 49).

9. With such statements as “The selfish end in its actualization, conditioned in this way by universality, establishes a system of all-round interdependence, so that the subsistence and welfare of the individual and his rightful existence are interwoven with, and grounded on, the subsistence, welfare, and rights of all” (221), Hegel is showing himself to clearly be influenced by Adam Smith and his theory of the Invisible Hand of the market (Wood xviii).

10. There is, of course, a bias towards a marriage which is both monogamous and heterosexual in Hegel’s arguments. Hegel specifically argues for the former, saying that the union of marriage must be focused on a “mutual and undivided surrender of the personality” (207). The latter is an unspoken assumption which, in large part, relies on what Hegel perceives to be the weaknesses of the female gender, which must be compensated for in the form of union with a member of the male gender (206-7).

11. Hegel uses the terms “police” and “corporation” in a sense which is not familiar to the layman and which requires some explanation. Roughly speaking, Hegel defines police as “the state, in

so far as it relates to civil society” or “all the functions of the state which support and regulate the activities of civil society with a view to the welfare of individuals” (450). Public works, infrastructure, welfare agencies, and regulatory bodies all constitute the police power (450). A corporation is “any society which is officially recognized by the state but is not itself a part of the political state” (454). As such, Hegel’s use of “corporation” not only includes the contemporary conception of the term, but also such entities as churches and municipal governments (454).

12. To be blunt, this point is not very well thought out. The rationale for relying on money rather than individual labor for the state is that “if the criterion were concrete ability, the talented individual would be taxed much more heavily than the untalented.” However, if individuals are required to pay in proportion to their ability, then this is precisely what is happening regardless. This may be fair and just for other reasons, but it cannot be just for the reasons given.

13. Hegel specifically uses the term “the many,” and also cites the Greek conception of *hoi polloi*: indeed, he thinks this term more exactly communicates his intention, as terms such as “all” or “the people” tend to imply a literal sense of everybody which includes individuals not involved in the estates – for example, infants (339-40).

14. In general, I am lifting criticisms of Hegel from Bertrand Russell’s *A History of Western Philosophy*. This is a somewhat arbitrary choice, but, as an established and thoughtful philosopher with a particular dislike for Hegel’s political philosophy, Russell effectively affords a conflicting view point.

15. Hobbes places little value in freedom as a value which the state ought to further in some way, and as such is not a “liberal” theorist. His definition of freedom, however, affords a basic place to begin evaluating freedom in the liberal tradition, as later prominent liberal theorists have chosen to build upon his social contract model of legitimizing political authority.

16. I have chosen to use the issue of a liberal understanding of freedom of the press versus a Hegelian understanding of the term in order to present a microcosm for the traditional misinterpretations of Hegel. This choice, too, is arbitrary, but the issue presents an excellent model on how to interpret other such misinterpretations.

17. This is almost certainly deliberate, as *A History of Western Philosophy* was written during the course of the Second World War. This also means that Russell's method of assigning intellectual infamy through association with the Nazis had not yet become the tired formulaic argument that it is today.

18. Bryan Magee acknowledges this conclusion, responding to the following comment made by Peter Singer: "The Right Hegelians were the people who thought that Hegel's philosophy implied that something like the Prussian state was the organic state to which Hegel's ideas were pointing. . . . so they thought that there was no real need for further change. . . . The Left Hegelians insisted that the basic thrust of Hegel's philosophy was much more radical. Hegel talked . . . about overcoming the division between reason and desire, or between morality and self-interest. That's a very fundamental change to bring about" (204).

Works Cited

- Durant, Will. *The Story of Philosophy*. New York, NY: Simon & Schuster, 2009. 221-6. Print.
- Hegel, G.W.F. *Elements of the Philosophy of Right*. Ed. Allen W. Wood. Cambridge, UK: Cambridge University Press, 2010. Print.
- Hobbes, Thomas. *Leviathan*. Ed. C.B. Macpherson. New York, NY: Penguin Books, 1985. Print.
- Locke, John. *Two Treatises of Government and A Letter Concerning Toleration*. Ed. Ian Shapiro. New Haven, CT: Yale University Press, 2003. Print.
- Pippin, Robert B. *Hegel's Practical Philosophy*. New York, NY: Cambridge University Press, 2010. Print.
- Russell, Bertrand. *A History of Western Philosophy*. New York, NY: Touchstone, 2007. 701-46. Print.
- Singer, Peter. "Hegel and Marx." *The Great Philosophers*. Interview with Bryan Magee. New York, NY: Oxford University Press, 1990. 189-208. Print.
- Wood, Allen W. *Elements of the Philosophy of Right*. Ed. Allen W. Wood. Cambridge, UK: Cambridge University Press, 1991. vii - lii. Print.