

HEGEL'S CRITIQUE OF KANT

EDITED BY
STEPHEN PRIEST

CLARENDON PRESS · OXFORD

1987

CONTENTS

Contributors	ix
Abbreviations	xi
Introduction Stephen Priest	1
(i) Faith and Knowledge	2
(ii) The Lesser Logic	17
(iii) The Lectures on the History of Philosophy	28
1 Kant and Hegel on Space and Time Michael Inwood	49
2 Hegel's Account of Kant's Epistemology in the <i>Lectures on the History of Philosophy</i> Graham Bird	65
3 Categories and Things-in-Themselves Justus Hartnack	77
4 Kantian Antinomy and Hegelian Dialectic John Llewellyn	87
5 Subjectivity and Objectivity in Kant and Hegel Stephen Priest	103
6 The Idea of a Critique of Pure Reason: Kant and Hegel W. H. Walsh	119
7 On Hegel's Critique of Kant's Moral and Political Philosophy T. O'Hagan	135
8 Kant and Hegel on Aesthetics Patrick Gardiner	161
9 Teleology: Kant and Hegel David Lamb	173
10 Philosophical History in Kant and Hegel Leon Pompa	185
11 Politics and Philosophy in Kant and Hegel Howard Williams	195
12 Kant as Seen by Hegel W. H. Walsh	205
Bibliography	221
Index	225

CHAPTER 7

ON HEGEL'S CRITIQUE OF KANT'S MORAL AND POLITICAL PHILOSOPHY

TIMOTHY O'HAGAN

HEGEL'S ASSESSMENT OF THE VIRTUES AND VICES OF THE KANTIAN SYSTEM IN SUMMARY

JUST as modern epistemology is inaugurated by the Cartesian *cogito*, so modern moral and political theory is inaugurated by the Hobbesian conception of the individual human being's 'endeavour', transformed by deliberation into his will, as the source of all social practice.¹ Hegel remarks approvingly that Hobbes 'sought to derive the bond which holds the state together, that which gives the state its power, from principles which lie within us, which we recognize as our own' (LHP iii 316). For Hegel, the *Leviathan* marks a radical break from the theocentric past to the anthropocentric present (LHP iii 313).² Subsequent political theory, from this perspective, particularly in the idiom of natural law, is to be understood as a series of attempts to elucidate our conception of the will, as the practical correlate of the theoretical *cogito*.

In his essay on *Natural Law* (NL), Hegel periodizes modern natural law doctrine into the empiricist stage of Hobbes, Grotius and Locke and the formal stage of Rousseau, followed by Kant and Fichte. Hegel's dissatisfaction with both variants has already been meticulously analyzed.³ He criticizes the former in the same terms used by Rousseau in the critique of Hobbes,⁴ for their illicit eternalization and universalization of contingent features of given societies. They 'abstracted singular aspects, e.g. the drive for self-preservation . . . gave them the form of unified concepts and elevated them to the rank of fundamental principles' (NL 60–1). But Hegel takes Rousseau's critique further. For Hegel, the empiricists lack the necessary vision of reason, developing historically and finding social embodiment, and so fail to give a

¹ See Hobbes's *Leviathan* Ch. 6 and Ch. 21. For commentary on Hobbes's concepts of endeavour, will, and freedom, see J. Watkins, *Hobbes's System of Ideas*, London, 1973, Ch. 7.

² On the importance of Hobbes for Hegel, see M. Riedel, *Between Tradition and Revolution: the Hegelian Transformation of Political Philosophy*, trans. W. Wright, Cambridge, 1984, 59 ff.

³ See Riedel, Ch. 4.

⁴ Hobbes's mistake was not that he established the state of war between men who were independent and became sociable, but that he assumed this state to be natural to the species and made it the cause of vices of which it is in fact the effect' (J1. Rousseau, *First Version of the Social Contract*, *Oeuvres Complètes*, Paris, 1964, t. 3, 288).

satisfactory picture of society as a structured relational system founded upon rational principle: the confusion of essential and contingent, of a priori and a posteriori, is itself a function of the absence of the requisite concepts of reason, development, and actualization.

For Hegel in 1802-3, the great advance of the formal over the empiricist variant of natural law doctrine is that it elaborates a normative, rather than merely descriptive, conception of self-consciousness, in which 'the essence of right and duty and the essence of the thinking and willing subject are one and the same' (NL 83). This union of 'thinking and willing' is theorized by Kant in the concept of the categorical imperative, according to which a rational being endorses a universal principle of consistency to govern his practical as much as his theoretical life, an endorsement which is activated by the pure will. This, for Hegel, is both the summit and the limit of formalism: the summit, in that it develops to its fullest extent the concept of the autonomous, self-conscious will; the limit, in that it is infected by the vices of abstraction (emptiness) and dualism.

KANT'S DEONTOLOGY AND MORAL PSYCHOLOGY

In order to assess Hegel's charges, we must start with a schematic exposition of Kant's own account of practical reason and the categorical imperative. For Kant a human being is rational, but only partly rational, a bundle of reason and desires: to be free is not to be without desires, but to have reason in control of those desires. In Rousseau's formula: 'the mere impulse of appetite is slavery, while obedience to a law which one has prescribed to oneself is freedom.'⁵ According to Kant's moral psychology, practical reason, in the form of the pure autonomous will, can 'determine' actions. It is an 'inscrutable faculty', in which 'the concept of causality is already contained... in relation to the moral law which determines its reality' (CPR 49, 57-8). Practical reasoning has an autonomy which theoretical reasoning can never attain, since the latter has 'as its given basis the form of intuition (space and time) which does not lie in reason itself but which rather has to be taken over from sensibility'. Whereas in the former 'the practical concepts a priori in relation to the supreme principle of freedom immediately become cognitions, not needing to wait upon intuitions in order to acquire a meaning... they themselves produce the reality of that to which they refer' (CPR 68). This then is the positive element in formalism, the 'unity of thinking and willing' which Hegel praises, indeed the identity of the two: 'Since reason is required in order to derive actions from laws, the will is nothing but practical reason' (G 80).

Kant's deontology is radical in its purity. According to it, the moral worth of an action is derived from the fact that it is performed 'from duty' (*aus Pflicht*). Kant bids us distinguish first between the duty to perform an action and the inclination to do so and second between the duty to perform an action and the 'purpose to be attained by' it (G 66-8). Now the imprecision of

⁵ [J. Rousseau, *Social Contract*, I, 8.

Kant's language (and perhaps of his thought on this issue) has tempted commentators, including Hegel, to misinterpret one or both of these distinctions. Hegel takes the first distinction to imply that only behaviour adopted from duty and counter to inclination is moral, thus 'the harmony of the sensuous and the rational... abrogates morality; for that consists in this very opposition of reason to the sensuous.' (LHP III 463)⁶ We shall return to this point later, but for the moment it is enough to note that in this first distinction Kant is not advocating the opposition (quite the contrary), but is maintaining that if a person is to act morally he must follow duty on principle, not merely contingently, and he must do so even where the demand of duty conflicts with that of desire. The second distinction is equally open to misinterpretation, by one who would read it as ordering the moral agent to act irresponsibly, ignoring the consequences of his actions. Despite suggestions to the contrary, Kant is here opposing 'eudaemonism' or utilitarianism of a kind which would undermine the validity of any general moral principles. In Paton's words, 'If Kant had said merely that we must not allow our desires for particular consequences to determine our judgement of what our duty is, he would have avoided a great deal of misunderstanding.'⁷

In combination with his austere deontology Kant constructs a system of moral psychology. His programme is to characterize a particular kind of behaviour, namely moral behaviour, in terms of its specific form of subjective motivation as well as its objective standard of conformity to the moral law. Kant finds that the real and authentic motivation (*Triebfeder*) lies in the law itself, for which the moral agent feels respect (*Achtung*). Instead of happiness (*Glückseligkeit*), Kant bids us cultivate a more stoical psychological state, the not wholly attractive sounding 'self-contentment' (*Selbstzufriedenheit*) or 'satisfaction in one's own existence'. Reverence for the moral law is inspired not only by its majestic universality, but also by the realization that its source of legitimacy is the moral subject himself: 'although reverence is a feeling, it is not a feeling received through outside influence, but one self-produced by a

⁶ Hegel's point had been put more wittily by Schiller in a little dialogue between the ordinary man who says: 'Gladly I serve my friends, but alas I do it with pleasure. Hence I am plagued with doubt that I am not a virtuous person'; and the philosopher who replies: 'Sure, your only resource is to try to despise them entirely, and then with aversion to do what your duty enjoins you.' (Quoted by T. C. Williams, *The Concept of the Categorical Imperative*, Oxford, 1968, 60.)

⁷ H. J. Paton, *The Categorical Imperative*, quoted by Williams, 63. While Kant's comments on happiness are somewhat equivocal, they should not, as Williams shows, be interpreted as 'misanthropy'; '... this distinction of the principle of happiness from that of morality is not for this reason an opposition between them, and pure practical reason does not require that we should renounce the claims to happiness; it requires only that we take no account of them whenever duty is in question. It can even be a duty in certain respects to provide for one's happiness in part because... it contains means to the fulfilment of one's duty and in part because the lack of it... contains temptations to transgress against duty' (CPR 90). In the pithier epigram of the *Groundwork*: 'To assure one's own happiness is a duty (at least indirectly); for discontent with one's state, in a press of cares and amid unsatisfied wants, might easily become a great temptation to the transgression of duty' (G 67).

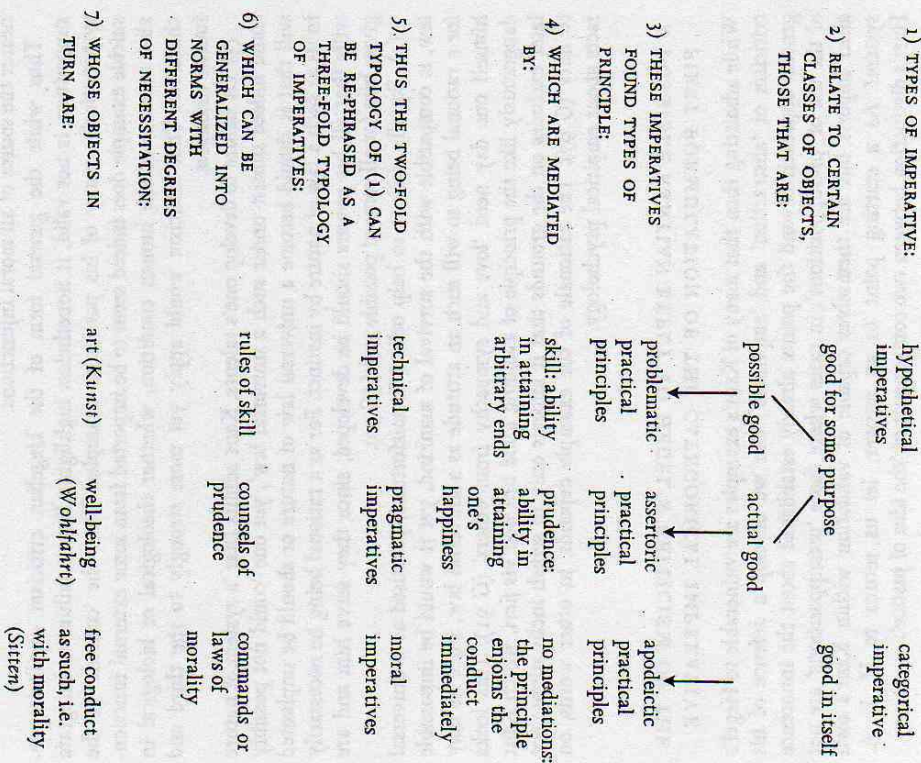
rational concept' ('durch einen Vernunftbegriff selbstgewirktes Gefühl').⁸ Thus objective and subjective factors are united in the principle of moral autonomy: 'there is nothing left able to determine the will except objectively the law and subjectively pure reverence for this practical law and therefore the maxim of obeying this law even to the detriment of all my inclinations' (G 68-9).

This law itself, the law of morality, is founded by Kant on a particular type of imperative, which 'represents an action as objectively necessary in itself apart from its relation to a further end'. All other imperatives are hypothetical, in that they 'declare an action to be practically necessary as a means to the attainment of something else that one wills: their object is "good for some purposes"' (G 82). If we display the typology of imperatives in tabular form, this primary distinction is represented by the broad vertical line. The narrow vertical line, within the domain of hypothetical imperatives between possible and actual goods, is secondary in Kant's schema. Hegel does not address either distinction directly, but his counter-model to Kantian *Moralität*, that of embodied *Sittlichkeit*, can be understood in part as an attempt to re-draw these vertical lines. He will maintain the legitimating function of the pure autonomous will, lying to the right of the broad line, but will reveal the components of the left of that line and in so doing will put in question the sharp separation between possible and actual goods and between the resulting terms separated by the narrow vertical line.

In thus re-drawing the lines, Hegel recuperates two elements of Aristotle's moral and political thought which had been eclipsed by Kant's dualisms. First, Aristotle had held that a combination of intellectual and moral virtues is necessary for the citizens of a civilized community. These include the practical intellectual virtue of prudence (*phronesis*), relating to 'ultimate particular things', a form of educated perception both of one's own interests and of those of one's fellows, and the ethical virtue of temperance (*sophrosyne*), which regulates the individual's enjoyments, promoting 'such pleasures as conduce to health and fitness... in a moderate and right degree.' Second, for Aristotle, there was no sharp division between the sciences and the virtues of the individual, on the one hand, and those of the community, on the other: 'Prudence is... the same quality of mind as political science, though differently conceived.' Hegel's project in political philosophy can be understood, in part, as an attempt to revive the Aristotelian idea of the political community as an embodiment, a form of expression and flourishing of both intellectual and moral virtues, while at the same time making space for the wholly modern division between public and private spheres and the valorization of the latter at the professional as well as the familial level.⁹

⁸ While the first source of awe may seem somewhat remote, this second one must strike a chord in readers of Sartre's descriptions of the anguish experienced by the agent at the realization of his own absolute freedom.

⁹ Quotations from Aristotle are from the *Nicomachean Ethics*, trans. H. Rackham, London, 1936, 68, 3-11, 67. These comments follow closely J. Ritter, *Hegel and the French Revolution*, trans. W. D. Winfield, Cambridge, Mass., 1962, p. 164 ff.



Of the different formulations of the categorical imperative in the Groundwork we shall consider only two.¹⁰

¹⁰ For a detailed presentation and analysis of the formulations, see Williams. Williams argues that for Kant morality presupposes the categorical imperative and the categorical imperative presupposes autonomy. This looks to be correct, but the details of his argument lie beyond our concerns here.

First formulation: 'Act only on that maxim through which you can at the same time will that it should become a universal law.' (G 88)

Second formulation: 'Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end.' (G 90)

Kant applies these two formulations to the same set of four examples: (1) suicide, (2) promise-breaking, (3) failure to develop one's own talents, (4) failure to help others in misfortune.

FIRST FORMULATION OF THE CATEGORICAL IMPERATIVE AND HEGEL'S CRITICISM OF IT

Act only on that maxim through which you can at the same time will that it should become a universal law.

Kant uses the first formulation to show that the forms of behaviour (1)-(4) are flawed by inconsistency.

(1) Since the desire to commit suicide is held to be a form of self-love, when that desire is universalized, 'It is seen at once that a system of nature by whose law the very same feeling whose function is to stimulate the furtherance of life should actually destroy life would contradict itself and consequently could not subsist as a system of nature' (G 89).

(2) Promise-breaking is proscribed on similar grounds: 'the universality of a law that everyone believing himself to be in need can make any promise he pleases with the intention of not keeping it would make promising and the very purpose of promising itself impossible' (G 90). Kant uses a similar example in the *Critique of Practical Reason*, where he proscribes the 'maxim to increase my property by every safe means'. Acting on that maxim, I 'make the law that every man is allowed to deny that a deposit has been made when no one can prove the contrary. I immediately realize that taking such a principle as a law would annihilate itself, because its result would be that no one would make a deposit' (CPR 27).

Hegel criticizes this version of the example as a case of the 'emptiness' or lack of 'content' of the categorical imperative. According to Hegel, the standard of non-contradiction can be applied only when a given institution or practice (in this case private property) is presupposed: 'there is no contradiction involved in theft; if there is no such thing as property, then it is not respected' (LHP iii 460-1).¹¹ The standard of non-contradiction is 'empty' for Hegel because it is compatible with a range of different social arrangements and does not enjoin one rather than another. The 'content' for him is imported more or less accidentally from a given social order. A Kantian reply to this charge would be that the presupposition of an institution or practice does not devalue the moral injunction thereby presupposed. Thus the injunction: 'You should not cheat at cards' applies only within a 'culture' of card-playing to

¹¹ This is an enduring theme of Hegel's critique, from NL 76-8, through PR §§ 134-5 to the LHP cited here.

those who themselves play. But that particular injunction embodies a higher injunction: 'You should not cheat', which in turn may stand as an end point of moral injunctions or may embody a higher one still. It is in those terms that the promise-breaking version of the example is defensible. The Kantian reply would be that any social order deprived of all trust and commitment would be untenable. The proscription of promise-breaking would thus figure nearer the source of all moral injunctions.

Thus while the general form of the Hegelian criticism of illicit presupposition is not valid, it nonetheless highlights Kant's failure to integrate systematically many of his particular examples. Thus the 'content' of the suicide example does indeed seem to be imported from some external functional account of the human condition, whether theological or biological in character. That criticism would apply yet more strongly to the third and fourth examples.

(3) Of failure to develop one's talents, Kant admits that 'a system of nature could indeed subsist under such a universal law', yet one 'could not possibly will that it should become a universal law of nature or should be implanted in us as such a law of nature by instinct. For as a rational being he necessarily wills that all his powers should be developed, since they serve him and are given him for all sorts of possible ends' (G 90).

(4) Equally, failure to help others in misfortune, practised as a universal law, is compatible with the survival of mankind, yet it would be impossible for a rational being to will such an attitude as a universal law, since he may himself one day need 'love and sympathy from others' (G 91). This looks dangerously like the principle of avoiding *quod tibi non vis fieri*, which Kant later excludes on the grounds that it appeals only to selfish inclinations, not to duty (G 97). The rationale of the example depends, in other words, on facts about empirical psychology.

A POSSIBLE KANTIAN REPLY TO HEGEL'S CRITICISM OF THE FIRST FORMULATION OF THE CATEGORICAL IMPERATIVE

While admitting then that many of Kant's examples are vulnerable to Hegel's criticism of 'abstraction' and 'emptiness', can we develop a defence of his general approach beyond the points already established about the innocence of the use of 'presuppositions', in cases where those 'presuppositions' are not alien imports but are themselves capable of validation within Kant's own system? As a starting point to an answer, let us return to H. L. A. Hart's distinction between two components of 'the idea of justice':

There is a certain complexity in the structure of the idea of justice... It consists of two parts: a uniform or constant feature, summarized in the precept 'Treat like cases alike' and a shifting or varying criterion used in determining when, for any given purpose, cases are alike or different... [I]t is plain that the law itself cannot now determine what resemblances and differences among individuals the law must recognize if its rules are to treat like cases alike and so be just. Here accordingly

there is much room for doubt and dispute. Fundamental differences, in general moral and political outlook, may lead to irreconcilable differences and disagreement as to what characteristics of human beings are to be taken as relevant for the criticism of law as unjust.¹²

For Hart, the law has no resources within itself to decide which resemblances and differences are relevant to substantive questions of justice. For Hegel, Kant's first formulation of the categorical imperative is equally lacking in resources and enjoins only the first formal procedural requirement of consistency.

One might reply to this charge that even the bare requirement of consistency enjoined by the first formulation (minus any functionalist accretions) implies two strong exclusion clauses: a refusal to privilege yourself or exempt yourself from commands you apply to others and a refusal to apply arbitrary standards of inclusion or exclusion. In applying the formulation thus understood the Kantian would argue that he is entitled to exclude certain classes of social, political, and economic arrangement in the same way that the Hegelian is. Once again the Hegelian might seize, *ad hominem*, on the blatant set of exclusion clauses, reactionary even in their own day, operated by Kant in the *Rechtslehre*, to deprive women of most legal rights,¹³ as well as of participation in politics, and wage-earners of the suffrage.¹⁴ Now the Kantian might counter that it is a strength rather than a weakness of the first formulation that it acknowledges that choice between different social arrangements is undetermined by reason. It simply demands a rigorous consistency in the operation of any particular arrangement within the irreducible diversity of types of possible arrangement.

But that is at best a cautious, defensive position. If the Kantian must restrict himself to the first formulation, then it is the only position he can adopt and it is still open to the Hegelian charge of 'emptiness' and 'abstraction'. On its own, the first formulation does not entail the reactionary exclusion clauses of the *Rechtslehre*, but it leaves space for them.

THE SECOND FORMULATION OF THE CATEGORICAL IMPERATIVE

The radical Kantian can escape the Hegelian charge only if he moves on to the second formulation of the categorical imperative:

¹² H. L. A. Hart, *The Concept of Law*, London, 1961, 156-7.

¹³ Kant, *Rechtslehre*, § 25. For a summary account of this part of the *Rechtslehre*, see T. O'Hagan, *The End of Law?*, Oxford, 1984, Ch. 2. For more detail, see G. P. Gooch, *Germany and the French Revolution*, London, 1965 (first published 1920); G. Vlachos, *La Pensée Politique de Kant*, Paris, 1962; B. Edelmann, 'Transitions in the Metaphysical Elements of Justice' in *Ownership of the Image: Elements for a Marxist Theory of Law*, trans. E. Kingdon, London, 1979. Remaining *ad hominem*, it should be noted that Hegel is hardly in a strong position for criticizing Kant's position on women: see O'Hagan, 'Hegel and the subjection of women', forthcoming in the *Hegel-Jahrbuch*.

¹⁴ Kant, *Rechtslehre*, § 30. Kant is here following a tradition of franchise restriction familiar in the English literature from Harrington and Locke. See C. B. Macpherson, *The Political Theory of Possessive Individualism: Hobbes to Locke*, Oxford, 1969.

'Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end.'

He must be allowed to develop the idea of acting and treating persons as ends rather than means into a standard of legitimate social organization.¹⁵ He would thus attribute legitimacy only to those social organizations whose members operate as autonomous agents in determining the course of their lives within structures of rules which they themselves have formulated and endorsed. In the words of the *Essay On Perpetual Peace*, written in 1795, only two years before the *Rechtslehre*:

A republican constitution is founded upon three principles: firstly, the principle of *freedom* for all members of a society (as men); secondly, the principle of the *dependence* of everyone upon a single common legislation (as subjects); and thirdly, the principle of *legal equality* for everyone (as citizens). . . . [M]y external and rightful *freedom* should be defined as a warrant to obey no external laws except those to which I have been able to give my own consent. Similarly, external and rightful *equality* within a state is that relationship among the citizens whereby no-one can put anyone else under a legal obligation without submitting simultaneously to a law which requires that he can himself be put under the same kind of obligation by the other person. (KPW 99-100)

From this perspective different societies can correspond more or less closely to the standard of legitimacy. Applying to political theory the *Groundwork* formula that 'Who wills the end, wills (so far as reason has decisive influence on his actions) also the means which are indispensably necessary and in his power' (G 84-5), we can say that he who wills the form of legitimate social organization specified in the second formulation wills the institutional and material conditions necessary for its realization. The nature of the necessity is left open. But the Kantian conception of approximation to an ideal type, expressed as an *als ob*, derided in the Hegelian and Marxist traditions as an illicit abstraction, is indispensable to this approach.¹⁶ It would be beyond the scope of this paper to itemize in detail the kinds of condition that might be necessary. I have suggested elsewhere, in a less Kantian idiom, that they would include the principle of constitutionality, a fuller development of Kant's own principle of 'republican government', allowing for fair adjudica-

¹⁵ Modern approaches to legitimacy inspired by Kant include J. Rawls, *A Theory of Justice*, London, 1971; 'Kantian constructivism in moral theory' in *Journal of Philosophy*, vol. 77, 1980; J. Habermas, 'Towards a theory of communicative competence' and 'On systematically distorted communication' in *Inquiry*, vol. 13, 1970; O. O'Neill, 'The public use of reason' (MS). For a comprehensive critique of both Rawls and Habermas, see S. Benhabib, 'The methodological illusions of modern political theory: the case of Rawls and Habermas' in *Neue Hefte für Philosophie*, B. 21.

¹⁶ Cf. Kant, *Metaphysics of Morals*, § 62, quoted in KPW, 174: 'Thus it is no longer a question of whether perpetual peace is really possible or not or whether we are not perhaps mistaken in our theoretical judgment if we assume that it is. On the contrary, we must simply act as if it could really come about (which is perhaps impossible) and turn our efforts towards realizing it and establishing that constitution which seems most suitable for this purpose . . .'

tion between citizen and citizen and between citizen and government,¹⁷ and the principle of equality, which includes not only political and legal equality (universal franchise and equality before the law) but also that level of economic and institutional equality which allows each to have a genuine, rather than a sham, engagement in the processes which determine his or her life.¹⁸ Kant endorses, at least formally, both those principles. But perhaps his most original contribution is the principle of peace. Without it all the components of the civilized *Rechtsstaat* are at risk, both from without, in the sense that all institutions are threatened by armed invasion and *a fortiori* by annihilation, and from within, in the sense that, under threat of war, all claims to the rights guaranteed by a *Rechtsstaat* (individual freedoms, pluralism, privacy, freedom of information, etc.) can be overridden on grounds of *raison d'état*. We shall return to Kant's important insight into the need for perpetual peace and Hegel's hostility to it later. But for the moment it is enough to register it as one of the conditions of true 'republican government'.¹⁹

While the second formulation is thus more concrete than the first, the Hegelian critic might still object that it is still merely negative, in that it excludes certain social arrangements without positively enjoining a specific institutional embodiment of itself. So, Hegel might argue, even this formulation is neutral with respect to forms of property. To this, the radical Kantian response should be that the approach may be called negative, but not neutral. On the contrary, it can be used as a powerful critical tool for excluding forms of property which would reduce persons to the status of means to others' ends. On that ground it would exclude forms which Hegel too excludes for their 'irrationality',²⁰ in particular slavery and feudalism, in which the worker's status as a means receives legal expression. But it could be given a more radical reading, so as to exclude also forms of property in which a worker, though legally free, was yet reduced to being a mere living appendage²¹ of the machine to which he is economically enslaved. If Marx's account of the role of the proletariat under capitalism has any force, then Kant's second formulation excludes capitalist property relations and, by elimination,

¹⁷ See O'Hagan, *op. cit.*, 136-7, where this is labelled 'Locke's condition'. Hegel's hostility to this principle, based on the fear that it would dilute the unity of the State, is present from the essay on 'The German Constitution' (1799-1802) (HPW, 133), through the *System of Ethical Life* (1802-3, SEL 165), to the *Philosophy of Right* (PR §373). It is connected to his hostility to contractarian theories of political legitimacy, to which we shall return later.

¹⁸ See O'Hagan, 136, labelled 'Rousseau's Condition'. Kant takes over this idea of Rousseau's in the definition of 'republican government' quoted above, though he restricts it more closely to relations of legal reciprocity than Rousseau does. Rousseau extends it to include economic equality.

¹⁹ I am grateful to Paul Hirst for pointing out to me the importance of what we can call 'Kant's Condition', that of peace. Carl Friedrich has emphasized the continuing relevance of Kant's insight in a number of works. See, for example, 'L'Essai sur la paix: sa position centrale dans la philosophie morale de Kant' in *Annales de la Philosophie Politique*, t. 4, 1961.

²⁰ See PR § 62-7 and O'Hagan, 36-7.

²¹ K. Marx, *Capital*, vol. 1, trans. S. Moore and E. Aveling, London, 1970, 422.

points the way to, even if it does not positively enjoin, an alternative distribution of power relations in society, whereby all of its members could operate as autonomous ends in themselves.²²

The words 'never simply . . . but always at the same time' in the second formulation leave a convenient loophole through which the 'right Kantian' can escape. He can argue that capitalist property relations are compatible with that formulation in that they presuppose the institutions of legal-political equality and freedom of citizens as ends in themselves, while 'at the same time' allowing those same citizens to be used as economic means in the production process. The 'left Kantian' reply is that the second formulation sets a standard for comparing different social orders as more or less successful approximations to the goal of maximizing human autonomy: while no order can wholly eliminate means/ends relationships between individuals and groups, some can come closer than others in all spheres, legal, political, economic, familial, to embodying the kingdom of ends.

APPLICATION OF THE SECOND FORMULATION TO PROMISE-BREAKING

While some new features of all four of Kant's examples emerge when they are subjected to the second formulation, it is the second, that of promise-breaking, that most clearly demonstrates the increased critical power of that formulation. Viewed in its light, the person who makes a false promise 'is intending to make use of another man *merely as a means* to an end which he does not share', since the latter 'cannot possibly agree with my way of behaving to him and so cannot himself share the end of the action' (G 97). Kant is suggesting that a legitimate social order is one which embodies ends which can rationally be shared by its members and this is an important component of much of our subsequent thinking on the necessary conditions of a rational consensus. Hegel's charge that Kant imports the content of his examples from institutions legitimated elsewhere may be sustained in other cases, but not here, where form and content are united in the principle of treating all persons as ends in themselves. Promise-keeping is a necessary instantiation of that principle.

DUALISM

Let us start, as we did before, with Hegel's distribution of praise and criticism in the *Natural Law Essay* of 1802-3. First the praise, for 'the great element in the philosophy of Kant and Fichte', namely the 'aspect under which the essence of right and duty, and the essence of the thinking and willing subject, are one and the same.' Then the criticism: 'But that philosophy has not

²² Once again it must be stressed that we are addressing the principles of the *Groundwork*, ignoring the gross reduction of women's and workers' (in particular 'servants') autonomy in the *Rechtslehre*.

remained true to this oneness; by recognizing this oneness as the essence and the absolute, it posits the separation into the one and the many just as absolutely, and places one beside the other as equals' (NL 83).

Dualism and the division of intellectual labour

Hegel scours Kantian dualism at all levels, of which we shall investigate only a few. Here, in the *Natural Law* Essay, he criticizes the unbridgeable dualism of modes of being, the being of the moral subject on the one hand, and the being of the legal subject on the other, not only separate, but 'down-right opposed to one another in the relation of being mutually conditioned', with the result that each can then 'ground a special science—one dealing with the unity of the pure concept and the subjects, or the morality of actions, the other with their non-unity, or legality...' (NL 84). This idea, of the division of the 'sciences' of moral philosophy and jurisprudence and of the corresponding division of intellectual labour, is expressed most clearly in Kant's late work *The Conflict of the Faculties* (CF), a political pamphlet remarkable for its mixture of caution and boldness. Kant follows the traditional division of the University Faculties into three higher Faculties and one lower Faculty, while noting that 'this nomenclature [was] adopted with reference to the government rather than to the learned professions'. Thus the three higher Faculties of theology, law, and medicine train 'the businessmen (*Geschäftsleute*) or technicians of learning... tools of government', whereas 'the faculty whose function is only to look after the interests of science is called lower because it may use its own judgment about what it teaches' (CF 25). Kant's manifesto for the right to intellectual freedom on the part of this Faculty needs to be repeated by each generation of intellectuals:

It is absolutely essential that the learned community at the university also contain a faculty that is independent of the government's command with regard to its teachings; one that having no commands to give, is free to evaluate everything, and concerns itself with the interests of the sciences, that is, with truth: one in which reason is authorized to speak out publicly. For without a faculty of this kind, the truth would not come to light (and this would be to the government's own detriment), but reason is by its nature free and admits of no command to hold something as true (no imperative 'Believe!' not only a free 'I believe'). (CF 27-9)

The philosopher, guardian of the lower Faculty, is entitled to seek answers in the legal and political domain to questions *quid iuris?* The jurist, in the higher Faculty of law, must restrict himself to questions *quid ius?*

... [A]s an authority on the text, [he] does not look to his reason for the laws that secure the *Mine* and *Thine*, but to the code of laws that has been publicly promulgated and sanctioned by the highest authority (if, as he should, he acts as a civil servant). To require him to prove the truth of these laws and their conformity with right, or to defend them against reason's objections, would be unfair. (CF 37-8)

For Hegel, any such division of labour must be suspect. In his texts, and particularly in the *Philosophy of Right*, as reason's systematic embodiment in

institutions is unfolded for the reader, the opposition between the critical (*quid iuris?*) and descriptive (*quid ius?*) moments is allegedly transcended. But as we shall see later, within Hegel's own work that transcendence tends increasingly to blur the legitimate distinction between the two moments, making space for the notorious right-Hegelian normative endorsement of the status quo.

Dualism: perfected morality as a 'Beyond'

We noted at the outset Hegel's knockdown argument that the project of Kantian morality presupposes its own impossibility, that 'the harmony of the sensuous and the rational... abrogates morality' (LHP iii 463). Numerous commentators have pointed out that Hegel's argument, as it stands, is poor.²³ It is true that for Kant 'perfected morality must remain a Beyond' (LHP iii 461, Gmn. 369: 'Die vollendete Moralität muss ein Jenseits bleiben'), because human beings are finite and imperfect. But it does not follow that Kant is hostile to the attempt to bring about the realm of perfection in which that opposition would be overcome. Hegel is wrong in attributing that inference to Kant, just as he was wrong in attributing to him the view that 'the principle of morality' and 'the principle of happiness' are not only distinct but also opposed.

Sir Malcolm Knox argued that Kant's model of the Kingdom of Ends, ruled by the holy will, 'whose maxims necessarily accord with the laws of autonomy' (G 107), is closer to Hegel's model of embodied *Sittlichkeit* than Hegel himself recognizes, both being ideal types drawn from religion.²⁴ While heeding Knox's reminder not to lose sight of the deep continuity between the two positions, we can yet see Hegel's critique of the Beyond as marking a decisive shift in the *Gesalt* of practical philosophy, a re-arrangement of the foreground and background of that discipline. This re-arrangement has a double effect on the Kantian problematic. First, it displaces *Moralität*, the individual's action performed from duty, from being the centre into being a moment of the whole, alongside abstract right. *Moralität* 'throughout portrays the real aspect of the concept of freedom' (PR §106), but cannot embody that concept completely. Limited to *Moralität*, Kant's principles of action... make the standpoint of ethical life (*Sittlichkeit*) completely impossible, in fact they explicitly nullify it and spurn it' (PR §33). Second, it brings into relief elements of the Kantian system which previously lay in the background: the 'postulates' of the immortality of the soul, of the existence of God, and, most fundamentally, of 'freedom affirmatively regarded (as the causality of a being so far as he belongs to the intelligible world)' (CPR 137). A 'postulate' of pure practical reason is defined as 'a theoretical proposition which is not as such demonstrable, but which is an inseparable corollary of an a priori unconditionally valid practical law' (CPR 127).

²³ See for example W. H. Walsh, *Hegelian Ethics*, London, 1966, 34.

²⁴ T. M. Knox, 'Hegel's attitude to Kant's ethics' in *Kant-Studien*, B. 49, 1957.

Kant applies that cumbersome definition to each of the three 'postulates' in turn and each receives explicit criticism from Hegel in the *Lectures on the History of Philosophy* and elsewhere.

In support of the first 'postulate', Kant argues that we are bound to strive for the goal of holiness, 'complete fitness of the will to the moral law', which 'our knowledge of ourselves' shows to be unattainable by mortal men: 'only endless progress from lower to higher stages of moral perfection is possible to a rational but finite being' (CPrR 127). Since the attainment of the goal is 'necessary' for our existence as moral beings, then, if the goal is impossible, it follows that our existence as moral beings is impossible. But our existence as moral beings is possible. Therefore the attainment of the goal too is possible. But it is not possible in this finite existence. Therefore it is possible beyond it. Thus the goal is attainable only in the immortality of the soul. Hegel endorses the Kantian argument up to and including the penultimate step. While he does not deny the immortality of the soul, he finds the domain of the true infinite, true perfection, here on earth, in *Sittlichkeit*: 'It is the will whose potentialities have become fully explicit which is truly infinite, because its object is itself and so is not in its eyes an "other" or barrier...' (PR §22). God's existence is postulated in an equally *ad hoc* fashion:

... [T]here is not the slightest ground in the moral law for a necessary connection between the morality and proportionate happiness of a being which belongs to the world as one of its parts and as thus dependent on it... Nevertheless, in the practical task of pure reason, i.e., in the necessary endeavor after the highest good, such a connection is postulated as necessary: we should seek to further the highest good (which therefore must be at least possible). Therefore also the existence is postulated of a cause of the whole of nature, itself distinct from nature, which contains the ground of the exact coincidence of happiness with morality. (CPrR 129)

Kant concludes that it is 'morally necessary to assume the existence of God', but that 'this moral necessity is subjective, i.e., a need, and not objective, i.e., duty itself' (CPrR 130). Now there is an interesting move in the argument from the premiss that if we are obliged to attempt to further the highest good, then that highest good must be possible, to the conclusion that the existence of a being must be postulated which makes that highest good not only possible but actual: 'the exact coincidence of happiness with morality'. Hegel comments unkindly that, 'The actuality of the God who produces harmony is of such a character that it does not enter into consciousness at all; it is accepted by consciousness for the sake of harmony', just as children make some kind of scarecrow, and then agree with each other to pretend to be afraid of it' (LHP iii 463).

In re-arranging the *Gestalt*, Hegel thus highlights the problematic status of the religious doctrines postulated by Kant *ad hoc*. Like Love, they emerge as 'an indispensable complement (*Ergänzungstück*)²⁵ to the imperfection of

²⁵ Kant, 'The End of All Things' (1794), KOH 82 (Gmn. *Kants Werke* viii, 338), quoted by Knox, 77.

human nature', rather than as an integral part of the whole.²⁶

The dualism of phenomena and noumena

Underlying these dualisms in Kant are two yet deeper ones: an ontological dualism of phenomenal and noumenal and a methodological dualism of descriptive and normative.

The significance of the phenomenal/noumenal dualism, established in the *First Critique*, emerges fully only in the *Second*. In the latter, the noumenal comes into the inheritance bequeathed it in the *Antinomies*. In particular, it realizes the legacy of the Third Antinomy, the claim that, alongside the causal laws of nature, 'there is also another causality, that of freedom' (CPR A447, B473). As we have already seen, Hegel applauds the primacy accorded to practical reason by Kant, for whom the moral law 'determines its reality' and contains its own 'concept of causality'. For Kant, the causality of freedom is an 'inscrutable' (*unerforschlich*) faculty (CPrR 49, Gmn. 56); it marks the limit of the intelligible. Every specification of it is negative. It is 'not self-contradictory to regard all [the agent's] actions as physically conditioned so far as they are appearances, and yet at the same time to regard their causality as physically unconditioned so far as the acting being is regarded as being of the understanding' (CPrR 50). It is not self-contradictory, but it remains as 'inscrutable' as it was in 1643, when Descartes wrote to Princess Elizabeth that 'the human mind is incapable of conceiving distinctly at one and the same time both the distinction between the body and the soul and their union', even though 'everyone constantly experiences the union of body and soul within him without philosophizing, i.e. he knows that he is a single person who has a body and thought together...'²⁷

Hegel attempts to revive Descartes' 'pre-philosophical' intuition and to build

²⁶ Hegel also finds incoherence in the relation between moral autonomy and religion in Kant: '... The ground on which God is accepted—that by the conception of a holy law-giver the moral law may acquire additional reverence—contradicts the fact that morality really consists in reverence for the law simply for its own sake' (LHP iii 463). But Kant is careful to mark off autonomy from any heteronomous principles, even 'rational' (as opposed to 'empirical') ones, in particular from 'the theological concept which derives morality from a divine and supremely perfect will' (G 110). No such derivation is allowed. The existence of God is postulated both in order to found the conception of harmonization of ends discussed above and in order to introduce an imperative *additional* to the moral imperative: 'Religion is the recognition of all duties as divine commands, not as sanctions, that is arbitrary and contingent ordinances of a foreign will, but as essential laws of any free will as such. Even as such, they must be regarded as commands of the Supreme Being because we can hope for the highest good (to strive for which is our duty under the moral law) only from a morally perfect (holy and beneficent) and omnipotent will; and, therefore, we can hope to attain it only through harmony with this will.' (CPrR 134). There is thus no contradiction in Kant's position, though arguably there is a radical failure to integrate the moral and religious imperatives. For a detailed treatment of Kant's 'moral theology', see W. H. Walsh, *Kant's Criticism of Metaphysics*, Edinburgh, 1975, especially §39, 'The moral proof of God's existence' and §40, 'Meaning and truth in moral belief'. For an interesting Hegelian-Marxist reading of the same texts see L. Goldmann, *Introduction à la Philosophie de Kant*, Paris, 1967 (1948) Ch. 4 ('Qu'est-ce le droit d'espérer?')

²⁷ R. Descartes, *Oeuvres Philosophiques*, ed. F. Alquié, Paris, 1973, t. 3, 46-7.

that intuition into a philosophy of mind which blocks the way to the path leading to Cartesian and ultimately Kantian dualism. It lies beyond the scope of this paper to assess the success of that attempt fully. In brief, Hegel proceeds with his characteristic combination of negative, critical moves, identifying incoherences and strains within different variants of dualism, on the one hand, and positive, phenomenological-descriptive moves, making concrete Kant's idea of the 'causality... of freedom', on the other. In the latter, Hegel depicts an individual who finds himself in practices of different kinds: creative work, in which he expresses, embodies the spiritual in material artefacts; physical danger, in which he realizes himself as a unity of the mortal/physical and the conscious; a biological individual who can nonetheless step back from, reflect on and even sacrifice his own finite life; the family, where he lives as a part of a biological system of related human beings, always already given and indispensable, but which he, as a particular member, can within limits transform; and at the other diverse and not fully integrated levels of modern life at which an individual finds himself as an 'embodied consciousness'.²⁸ It is not Hegel's style to offer many technical philosophical arguments for this rival conception. In the *Phenomenology* in particular he offers instead a phenomenological description of the process of formation (*Bildung*) of the 'single person' within a public, material/spiritual world which that person makes increasingly his own. Central to that formation is the development of self-consciousness: hence the importance of the dialectic of lordship and bondage of *Phenomenology* Ch. 4, which exemplifies novel Hegelian features of form and content. Formally, it is a striking instance of phenomenological descrip-

²⁸ Hegel develops what we would call his philosophy of mind in the 'Anthropology' section of Part 3 of the *Encyclopaedia*. Against Cartesian dualism he argues that 'the standpoint which separates them is not to be regarded as final, as absolutely true. On the contrary, the separation of the material and the immaterial can be explained only on the basis of the original unity of both' (Enc. §389, Zusatz). To undo the damage wrought by modern dualism, Hegel returns to Aristotle: '... The books of Aristotle on the Soul, along with his discussions on its special aspects and states, are for this reason still by far the most admirable, perhaps even the sole, work of philosophical value on this topic. The main aim of a philosophy of mind can only be to reintroduce unity of idea and principle into the theory of mind, and so reinterpret the lesson of those Aristotelian books' (Enc. §378). But Aristotle's idea of the 'ensouled body' (*empsychon soma*) (see D. Ross, *Aristotle*, London, 1971, 131-5) is only a rough anticipation of Hegel's version of monism, which is essentially *expressivist*: 'The Soul, when its corporeity has been moulded and made thoroughly its own, finds itself there a single subject; and the corporeity is an externality which stands as a predicate, in being related to which, it is related to itself. This externality, in other words, represents not itself, but the soul, of which it is the sign. In this identity of interior and exterior, the latter subject to the former, the soul is *actual*: in its corporeity it has its free shape, in which it *feels* itself, and makes itself *felt*... Under the head of human expression are included, for example, the upright figure in general, and the formation of the limbs, especially the hand, as the absolute instrument, of the mouth—laughter, weeping, etc., and the note of mentality diffused over the whole, which at once announces the body as the externality of a higher nature...' (Enc. §411). An interesting discussion of this approach is A. MacIntyre, 'Hegel on faces and skulls' in A. MacIntyre (ed.), *Hegel: A Collection of Critical Essays*, Notre Dame, 1976. Hegel's promissory notes are honoured by modern phenomenologists, in particular Sartre and Merleau-Ponty. As they develop Hegel's

tion taking the place of traditional normative epistemology. Its content is the play of recognition and power between individuals, a play always mediated through the finite physical bodies of those participants. Only creatures who are already embodied consciousnesses can engage in such play and go on to construct the social forms which allow that potential to be actualized.²⁹ Ontological dualism is not directly refuted by Hegel. The opposition's piece is not taken. Instead, the space it would occupy on the board, on which dualism can be constructed, is blocked by Hegel's moves. Hegel now crowds that space with his pieces and makes it his own, perhaps definitively. But his command of other sections of the board is less assured.

Methodological dualism of descriptive and normative

It is time now to bring into focus a theme already touched on, what might be called Hegel's 'methodological monism': his opposition to the search for foundations of either knowledge or institutions in norms which are 'external' to their formation.³⁰ The standard (*Massstab*) for evaluating any cultural form (*Gestalt*), whether it is epistemological, aesthetic, social, etc., must emerge from within the formation of that form itself. The classic exposition of the Hegelian method is the Introduction to the *Phenomenology*:

... [W]e do not need to import criteria or to make use of our own bright ideas and thoughts during the course of our inquiry; it is precisely when we leave that aside that we succeed in contemplating the matter in hand as it is in and for itself... since what consciousness examines is its own self, all that is left for us to do is simply to look on (*das reine Zusehen*)... (*Phen.* 54, Gmn. 71-2)

Insights, it emerges that the new phenomenology of the body is hardly less problematic than the traditional philosophies of dualism, materialism, etc. Sartre contorts grammar to assert that consciousness 'exists its body...'. Thus my body is a conscious structure of my consciousness. (J.-P. Sartre, *L'Être et le Néant*, Paris, 1943, 394.) Whereas for Merleau-Ponty, 'The experience of our own body... reveals to us an ambiguous mode of existence... the body is not an object... my awareness of it is not a thought, that is to say, I cannot take it to pieces and reform it to make a clear idea. Its unity is always implicit and vague... Whether it is a question of another's body or my own, I have no means of knowing the human body other than that of living it, which means taking up on my own account the drama which is being played out in it, and losing myself in it. I am my body, at least wholly to the extent that I possess experience, and yet at the same time my body is as it were a 'natural' subject, a provisional sketch of my total being...' (M. Merleau-Ponty, *Phenomenology of Perception*, trans. C. Smith, London, 1969, 198). For an excellent recent commentary, see J.-P. Boulé, 'Le corps dans l'Être et le Néant' (forthcoming).

²⁹ For a fascinating account of this 'formation', see J. M. Bernstein, 'From self-consciousness to community: act and recognition in the master-slave relationship', in Z. A. Pelczynski (ed.), *The State and Civil Society: Studies in Hegel's Political Philosophy*, Cambridge, 1964.

³⁰ There is an immense literature on this theme. Of particular interest are the following: M. Heidegger, *Hegel's Concept of Experience*, trans. J. Glenn Gray, F. D. Wiek, New York, 1970; K. R. Dove, 'Hegel's phenomenological method' in W. E. Steinbock (ed.), *New Studies in Hegel's Philosophy*, New York, 1971; J. E. Smith, 'Hegel's critique of Kant' in J. J. O'Malley, K. W. Algren, F. G. Weiss (eds.), *Hegel and the History of Philosophy*, The Hague, 1974; J. Habermas, 'Hegel's critique of Kant: radicalisation or abolition of the theory of knowledge' in Habermas (1978).

Within *das reine Zusehen* lies space for left and right Hegelianism alike. In bidding the philosopher 'look at' the thing itself, Hegel allows him a complex interventionist role in bringing out the truth: '... philosophy is not meant to be a narration of happenings but a cognition of what is true in them, and further, on the basis of this cognition, to comprehend that which, in the narrative, appears as mere happening' (SL 588). But he also allows him the notoriously passive role which accrues to him at critical moments of political theory:

... [T]his dialectic is not an activity of subjective thinking applied to some matter externally, but is rather the matter's very soul putting forth its branches and fruit organically. This development of the Idea is the proper activity of its rationality, and thinking, as something subjective, merely looks on at it without for its part adding to it any ingredient of its own. To consider a thing rationally means not to bring reason to bear on the object from the outside and so to tamper with it, but to find that the object is rational on its own account... (PR §31. Italics added.)

Left and right Hegelians can be seen as struggling to occupy the space marked by *Zusehen*. The right Hegelian presents a mere 'narration of happenings' with the normative gloss of 'a cognition of what is true in them'. He blocks off spaces opened up by eighteenth-century natural law theorists by proscribing the oppositions which were the vehicle of their radical criticism: 'At one time the opposition between morals and politics and the demand that the latter should conform to the former were much canvassed... ' (PR § 337) The shift to full-scale right Hegelianism in the *Philosophy of Right* is marked by the definitive replacement of dualistic oppositions by 'dialectical' triplets. But the direction is already set in the earliest texts, where Hegel identifies social contract theory and 'abstract' constitutionalism as the characteristic errors of formalist natural law theory. In that tradition a model was explicitly taken over from the civil law to test the legitimacy of political institutions: a model of rights and duties stemming from a hypothetical contract. For Hegel, this application of the categories of abstract right to the highest level of *Sittlichkeit* involves categorical confusion between private and public norms.³¹ It 'reduces the union of individuals in the state to a contract and therefore to something based on their arbitrary wills, their opinion and their capriciously given express consent...' (PR §258). To us this looks like a bizarre misreading of Rousseau since the wills of the signatories of his social contract are anything but arbitrary or capricious. Those wills are normatively characterized by reference to the specific terms of the contract itemized in *Social Contract* I. 6. While particular goals may be willed by particular persons under particular circumstances (arbitrarily, capriciously), only a society ordered according to the social contract is worth willing by any rational person at any place or time.

Hegel is in fact using the charge of arbitrariness and capriciousness to ³¹ On this question, see the excellent paper of S. Benhabib, 'Obligation, contract and exchange: on the significance of Hegel's abstract right' in Z. A. Palczynski (ed.), *op.cit.*

attack the nerve of constitutionalism as a political programme based on social contract theory, which 'consists in rights against the state' (HPW 153). Kant's model of a 'republican constitution', 'allowing the greatest possible human freedom in accordance with laws which ensure that the freedom of each can coexist with the freedom of all the others' (CPR A316/B373), would provide a typical basis for making claims of 'rights against the state'. In 'The German Constitution' (1799-1802), Hegel maintains that such claims are merely abstract in the context of a fragmented Germany, in which it is questionable whether 'a power still accrues to the state in virtue of which it really is a state'. But is it still abstract in 1831? By then Hegel's stance appears purely reactionary when he marginalizes the problem of constructing a rational constitution with little more than a Kantian *dis ob*:

... [I]t is absolutely essential that the constitution should not be regarded as something made, even though it has come into being in time. It must be treated rather as something simply existent in and by itself, as divine therefore, and constant, and so as exalted above the sphere of things that are made. (PR § 273)

SITTlichkeit AND THE PEOPLE

The foreground of Hegel's social and political philosophy is occupied by *Sittlichkeit*. It is at the level of *Sittlichkeit* that he poses the double question: What set of relationships should be willed in order to construct a rational legitimate social order? What set of relationships can allow such rational willing? In his early work Hegel envisages 'the people' (*das Volk*) as the key to the answer. The idea is already present in the *Essay on Natural Law* of 1802-3: 'the absolute ethical totality... is nothing other than a people... the absolute ethical element... [is] membership in a people' (NL 92-3).

The idea is more fully developed in the *System of Ethical Life* of 1802-3 and the *First Philosophy of Spirit* of 1803-4. In the first of these texts, *Sittlichkeit*, the level at which an individual lives an objective ethical life, consisting of laws and customs, is embodied in a people: 'the intuition of ethical life, the form in which it appears in its particular aspect, is the people' (SEL 146). Hegel's vision of the people is not straightforwardly empirical ('A people is not a disconnected mass, a mere plurality'), but normative, since a people, properly speaking, exists only when there is a lived organic connection between public standards and particular aspirations and also, paradoxically, when there is 'absolute indifference', 'a living indifference', in the sense that 'all natural difference is nullified, the individual intuitively himself as himself in every other individual; he reaches supreme subject-objectivity'.³² Thus 'the people as an organic totality is the absolute identity of all the specific characteristics of practical and ethical life'.

In the lectures of the following year *First Philosophy of Spirit* (FPS), Hegel mitigates the holistic, organic terminology of the *System* of

³² This is strikingly reminiscent of Rousseau, *Social Contract* II, 3, III, 15, IV, 1.

Ethical Life in highlighting work and language as the forms in which a people passes from 'a disconnected mass, a mere plurality' to a genuine unity.³⁵ Some of Hegel's most subtle and original thought is contained in these sketches. In them, by example rather than by direct criticism, he demonstrates the concreteness of his analysis, compared with the abstraction of his predecessors, as he addresses the phenomenological descriptive question: 'What is it to create a community with shared values?' Through work, a people finds its identity in the objects which it produces, both for the present and as its patrimony for future generations. Thus it is work that produces a people's past, its traditions, as its members '... come to be themselves outside of themselves in it, but this outward being is their deed, it is only what they have made it, it is themselves as active but superseded; and in this outwardness of themselves... they intuit themselves as one people' (FPS 243).

Like work, language plays both a synchronic and a diachronic role. Synchronically, it is the essentially public form in which the individual encounters a given meaning set objectively, as a 'dead other', and at the same time masters it, makes it his own and transforms it. Diachronically, it is through language, the system of shared meanings, that the cultural patrimony is transmitted from generation to generation.

Let us pause for a moment to reflect on Hegel's conception of language (*Sprache*) here. On a literal reading, he might be asserting that a people must be united by a natural language (German, English, etc.). Indeed that may well be the correct reading of the *First Philosophy of Spirit*. It is however possible to put together the central insight of that text with the earlier more pluralist comments in the 'German Constitution' (1799-1802), where Hegel explicitly dissociates himself from any commitment to a shared natural language, arguing that

In our day the tie between members of a state in respect of manners, education, language may be rather loose or even non-existent. Identity in these matters, once the foundation of a people's union, is now to be reckoned amongst the accidents whose character does not hinder a mass from constituting a public authority... Difference in language and dialect (the latter exacerbates separation even more than complete unintelligibility does), and difference in manners and education in the separate estates, which makes men known to one another in hardly anything but outward appearance—such heterogeneous and at the same time most powerful factors the preponderating weight of the Roman Empire's power (once it had become great) was able to overcome and hold together, just as in modern states the same result is produced by the spirit and art of political institutions. (HPW 158)

³⁵ Riedel shows how rapidly Hegel's thought was changing during this period. He traces a radical break from Fichte, an emphasis on the objective character of *Sittlichkeit* coupled to a return to Aristotelian models of teleology and 'the people' in 1803-4, followed by a revival of Fichtean conceptions of intelligence, will, and self-recognition in 1805-6 (Riedel, 81-8). While 'the people' does not again play the central role that it did in the early texts, it remains an irreducible component of Hegel's political philosophy through to the *Philosophy of Right*.

From that he concludes: 'Thus dissimilarity in culture and manners is a necessary product as well as a necessary condition of the stability of modern states'. What needs to be shared, in this picture, is a set of meanings which exist and are transmitted publicly, which may or may not be identical with a natural language. Paradigmatic would be the shared religious language of medieval Europe or the envisaged shared language of the constitutional *Rechtsstaat*.³⁶

THE 'PEOPLE' AND PEACE

From the 'German Constitution' to the *Philosophy of Right*,³⁷ Hegel returns repeatedly to lampoon Kant's idea of perpetual peace and his project for 'a great federation' from which 'every state, even the smallest, could expect to derive its security and rights' ('Idea for a Universal History', KPW 47). There is a certain ambivalence in Hegel's hostility to Kant's idea. For Kant, the increasing complexity of international relations, the fact that 'the mutual relations between states are already so sophisticated', establishes the prudential basis upon which perpetual peace might be established (KPW 50). Hegel is equally aware of this complexity, but derives from it the opposite lesson from Kant, namely that such a tangled web is irreducible to reason:

It is as particular entities that states enter into relations with one another. Hence their relations are on the largest scale a maelstrom of external contingency and the inner particularity of passions, private interests and selfish ends, abilities and virtues, vices, force, and wrong. All these whirl together, and in their vortex the ethical whole itself, the autonomy of the state is exposed to contingency. The principles of the national minds are wholly restricted on account of their particularity, for it is in this particularity that, as existent individuals, they have their objective actuality and their self-consciousness. (PR § 340)

But why should that be? What stands in the way of realizing Kant's ideal of 'the highest purpose of nature, a universal cosmopolitan existence'? (KPW 51). For Hegel, the obstacle is not purely technical. Rather he envisages, from the earliest manuscripts onwards, that war has a positive function in the

³⁶ The imposition of a dominant natural language was, of course, characteristic of the formation of many nation states. But commitment to the norms of a constitutional *Rechtsstaat* is compatible with the maintenance of a multi-lingual culture, as in Switzerland and elsewhere. It is interesting that Ronald Dworkin's most recent work in jurisprudence, in particular 'The forum of principle' (*New York University Law Review*, vol. 56, 1981; 'Natural' law revisited (*University of Florida Law Review*, vol. 34, 1982); 'Law as interpretation' (*Texas Law Review*, vol. 60, 1982, and *Critical Inquiry*, 1982) is increasingly indebted to work in hermeneutics which in turn has Hegelian origins. The affinity between the concerns of Dworkin and those of the young Hegel of 1802-4, in particular the idea of the people as the bearer of a shared meaning set, is striking, and not, I think, previously noticed. I had assumed from the title of his paper 'The Laws of Change: the cunning of reason in moral and legal history' in *Journal of Legal Studies*, 1980) that Charles Fried had also identified the 'Hegelian connexion', but he is more interested in tying Dworkin to Kant than to Hegel.

³⁷ See 'The German Constitution', HPW 208 ff.; SEL 147; NL 92-3; PR §§ 324-37.

formation of the two ultimate poles of the social whole, the single person on the one hand, and the people on the other. The characteristically Hegelian insight is that as an individual, whether a particular human being, a philosophical school or a people, defines itself in relation to another individual, it asserts its difference from that other by 'negating' it. But the form that that negation takes is open, not predetermined. Within society, the physical struggle to the death of *Phenomenology* Ch. 4 is rapidly superseded by socially legitimated forms in which individualism can be asserted. Hegel is at pains to point that out in the *Encyclopaedia*:

To prevent any possible misunderstandings with regard to the standpoint just outlined, we must here remark that the fight for recognition pushed to the extreme here indicated can only occur in the natural state, where men exist only as single, separate individuals; but it is absent in civil society and the State because here the recognition for which the combatants fought already exists. For although the State may originate in violence, it does not rest on its violence, in producing the State, has brought into existence only what is justified in and for itself, namely, laws and a constitution. What dominates in the State is the spirit of the people, custom, and law. There man is recognized and treated as a rational being, as free, as a person; and the individual, on his side, makes himself worthy of this recognition by overcoming the natural state of his self-consciousness and obeying a universal, the will that is in essence and actuality will, the law; he behaves, therefore, towards others in a manner that is universally valid, recognizing them—as he wishes others to recognize him—as free, as persons. In the State, the citizen derives his honour from the post he fills, from the trade he follows, and from any other kind of working activity. His honour thereby has a content that is substantial, universal, objective, and no longer dependent on an empty subjectivity; honour of this kind is still lacking in the natural state where individuals, whatever they may be and whatever they may do, want to compel others to recognize them. (*Enc. Zusatz* to § 432)

Yet Hegel proceeds to justify war in terms of a very specific and literal version of negation.³⁶ At the one pole, 'the individual proves his unity with the people unmistakably through the danger of death alone' (NL 93). At the other pole, that of the people as a whole, he begins by using the term 'negation' in its open, general sense: 'the state is an individual and individuality essentially implies negation.' But the conclusion which he derives from that premise makes use of a specific sense of 'negation', denoting hostility and conflict: 'Hence even if a number of states make themselves into a family, this group as an individual must engender an opposite and create an enemy' (*PR Zusatz* to § 324). Some hazy anthropology underlies the *Natural Law* version of that argument:

... [W]ar preserves the ethical health of peoples in their indifference to specific institutions, preserves it from habituation to such institutions and their hardening.

³⁶ Charles Taylor has identified other points where Hegel slides between two conceptions of negation, particularly in the dialectic of *Dasein* in the *Science of Logic*; see C. Taylor, *Hegel*, Cambridge, 1975, 236.

Just as the blowing of the winds preserves the sea from the foulness which would result from a continual calm, so also corruption would result for peoples under continual or indeed 'perpetual' peace. (NL 93)

One might want to dismiss those speculations while maintaining the more interesting thought that it is only in response to an outside threat that individuals find themselves as mutually recognizing members of a whole to which they belong.³⁷ Documents like the French Declaration of the Rights of Man and Citizen, the US Declaration of Independence, the European Convention for the Protection of Human Rights and Fundamental Freedoms, documents which embody the great ideological languages of modern times, were all forged during or in the aftermath of struggle against an oppressive political order or alien occupation. It is self-evident that such struggle is a powerful source of social bonding. But is it the only possible source?³⁸ Hegel shows that within society it is possible to transform the struggle to the death between brute human beings into a socially mediated form of reciprocal recognition between citizens. He gives no reason why the logic of that account should not be extended to international relations. Kant anticipates that extension in his idea of 'representing an otherwise planless aggregate (*Aggregat*) of human actions as conforming, at least when considered as a whole, to a system (*System*)' (*KPW* 52 *Kleinere Schriften* 18). In Hegel's own terms, a system would consist of a set of individuals, each the bearer of its own legal persona (abstract right) and moral autonomy (*Moralität*), connected within a sustaining set of relationships (*Sittlichkeit*), which alone would give expression to the aspirations of the first two moments and provide the conditions under which genuine, non-coercive interaction would be possible. The passage from vendetta to rule of law marks the advent of a certain level of reason within society. Is the passage to the rule of law between states not equally possible? Only the crucial ambivalence in Hegel's phenomenological descriptive procedure leaves space for an irreducible particularity and contingency at the point where reason is most urgently required.

³⁷ The 'socialization' of the struggle to the death is given a macabre illustration in *PR* § 328: 'The principle of the modern world—thought and the universal—has given courage a higher form, because its display now seems to be mechanical, the act not of this particular person, but of a member of a whole. Moreover, it seems to be turned not against single persons, but against a hostile group, and hence personal bravery appears impersonal. It is for this reason that thought has invented the gun, and the invention of this weapon, which has changed the purely personal form of bravery into a more abstract one, is no accident.'

³⁸ This question exercised Sartre in the *Critique of Dialectical Reason*, where he saw a threat as involved in the formation and maintenance of all groups, either an external threat in the case of the 'group in fusion' or as internal threat in the case of the 'sworn group'. (See P. Caws, *Sartre*, London, 1979, Ch. 10.) In the interviews given to Benny Levy in his old age he propounded the more optimistic view that human beings were linked by a primary relationship of 'fraternity', which could provide the basis of unity without the bond of a shared enemy. But it was too late for him to develop this idea. (*Nouvel Observateur*, 17 March 1980.)

A PROVISIONAL BALANCE SHEET

The immediacy of Kant and Hegel stems from their reflective, self-conscious awareness of modernity, inaugurated in political theory by Hobbes's break with theologically-based natural law and by Rousseau's elaboration of the concept of endorsement by the autonomous human will as the ultimate ground of legitimacy. Kant attempts, albeit hesitantly and obliquely, to articulate that endorsement to components of a social order, within which alone it would be meaningful: these components would include peace and the republican constitution. For Hegel, that point of articulation (*Sittlichkeit*) becomes the central concern of political theory. But, as it comes into the foreground, so too does the problematic nature of the modern social order. Hegel's work marks the first clear recognition and thematization of the problems which would occupy nineteenth- and twentieth-century social theory up to Durkheim and Tönnies: secularization, atomization, alienation, and loss of traditional *Gemeinschaften*. It is no anachronism to see Hegel's work as posing a central problem of modernity: is it possible to integrate society and produce a 'people' with shared values, when the dominant values are themselves individualistic, pluralistic, and centrifugal? Because that alarming and possibly insoluble problem is so clearly identified by Hegel, it is not surprising that his philosophy marks a degree of 'retreat' or 'reaction' relative to Kant's. As his thought develops, Hegel comes increasingly to hold that the survival of a community fragmented, as all modern communities must be, into the domains of public and private, depends on the neutralization of the critical edge of formalist natural law theory, on the containment of its dualisms within a dialectical whole of which traditional oppositions would become integrated members.

Against this right-Hegelian reaction it is possible to defend and extend the values of the constitutional *Rechtsstaat* in left-Hegelian terms, asserting the irreducible critical function of the Kantian dualisms, which are to be embodied institutionally in a genuine division of powers. The left-Hegelian can also develop the insight into the historical specificity both of the *Rechtsstaat* as the typically modern form of legitimate order and of the autonomous will as the key to legitimacy.³⁹ The most complex problem is to develop a left-Hegelian model of a pluralist community, a comprehensive but loose set of shared values and commitments within which particular more closely integrated 'experiments of living' may flourish. If the young Hegelian idea of a shared language can serve the values of a pluralist *Rechtsstaat* and, *a fortiori*, those of the Kantian 'cosmopolitan existence', then individuals, communities, and peoples must learn to be bilingual or even multilingual between different

³⁹ In the words of Hegel's ironic alter ego Nietzsche, 'To breed an animal with the right to make promises ('ein Tier heranzüchten, das versprechen darf...'), that is the paradoxical task that nature has set itself in the case of man.' (F. Nietzsche, *On the Genealogy of Morals* ii. 1, trans. W. Kaufmann, R. J. Hollingdale, New York, 1967, 57; (German) Friedrich Nietzsche, *Werke* iii, K. Schlechta (ed.), Frankfurt/M, 1976, 245.)

cultural languages. More specifically, it must be possible to speak both a language of a particular *Gemeinschaft*, one of solidarity, loyalty, and comradeship, as well as a language of a more or less universal *Gesellschaft*, one of rights, duties, and constitutionality. Hegel discounts such a possibility, at least at the level of international relations, on the grounds both that it is a utopian dream and that it would prevent a 'people' from achieving identity through self-recognition in conflict. The multilingual 'peoples' of the left-Hegelian model may lack the strong sense of identity generated by a shared foe. But a more complex, less fully integrated identity is not therefore unimaginable.

If it is true that 'in moral affairs the limits of the possible are less narrow than we think',⁴⁰ then reflection on the immediacy of Hegel's debate with Kant may serve to expand the limits of our imagination.⁴¹

⁴⁰ Rousseau, *Social Contract*, iii. 12. The most important text for my understanding of Kant's relation to Rousseau and of the intellectual climate of their work is still E. Cassirer, *Rousseau, Kant and Goethe*, trans. J. Gutmann, P. O. Kristeller, J. H. Randall, Jr., New York, 1963.

⁴¹ Thanks to the generosity of the Alexander von Humboldt-Stiftung, I was invited to attend a Conference on Critical Theory at Ludwigshurg in December 1984. It was in the light of discussions held at that conference that I was able to focus the arguments of the present paper. My thanks are also due to J. M. Bernstein for pointing out a number of errors which I have been able to correct. In this paper as in all my writing on topics in the history of philosophy I am indebted to Quentin Skinner's *Meaning and Understanding in the History of Ideas*, in *History and Theory*, vol. 8, 1969.