

The Idea of Right

This book is a study of Hegel's *Philosophy of Right*, a text published in 1821, when Hegel was fifty-one years old—some three years after he accepted the chair in philosophy at the University of Berlin and ten years before his death.¹

Hegel's major writings include the *Philosophy of Right*, the *Phenomenology of Spirit* (1807), the *Science of Logic* (1812–16), and the *Encyclopaedia of the Philosophical Sciences* (1817, 1826, 1831). We find Hegel's mature thought on moral and political philosophy in the *Philosophy of Right*, and we find a briefer version in the section of the *Encyclopaedia* dealing with objective spirit. Hegel wrote the *Philosophy of Right* as a textbook for students attending his lectures. He would comment on specific paragraphs, clarify them, and expand upon them. This material was later added to the text.²

Hegel is difficult to read. In the past it was fashionable to attack his political thought as totalitarian and simply dismiss it outright.³ More recently, scholars have done a *much* better job of understanding him and have increasingly come to recognize his importance as a philosopher, though some defend him even when they should not.

My approach is to avoid both extremes. I try to read Hegel *against the grain*, that is, to disagree with him, or to disagree with standard interpretations of him, not at all to dismiss him, but to gain a deeper grasp of his thought. I disagree so that I can better understand, so that I can try to make his thought more accessible, and so that I can draw out philosophical points of independent importance.

Before we plunge into the details of the *Philosophy of Right* and risk becoming lost, it would be helpful in this first introductory chapter to try to get an overview, so that as we proceed we might hope not to lose sight of the wood for the trees. Let us begin with an examination of the Preface and the Introduction.

Hegel tells us that his concern will be with the science of right and that the subject matter of the philosophical science of right is the Idea of right.⁴ He tells us that by “right” he means not just civil right, but morality (*Moralität*), ethics (*Sittlichkeit*), and even world history.⁵ Furthermore, he tells us that the Idea of right is freedom.⁶ This is all extremely obscure. To begin to understand how right, freedom, and the Idea are connected, as well as what they mean, we must begin with Hegel’s concept of spirit. In the Preface and the Introduction, Hegel tells us very little about spirit, except, and again very obscurely, that the basis of right is spirit and that the system of right is actualized freedom produced by spirit from within itself.⁷

Spirit

To get an introductory sense of what Hegel means by spirit (*Geist*), we might think of things like the “spirit of an age,” the “spirit of capitalism,” or the “American spirit,” that is, something like a worldview in which a people expresses its aims, aspirations, values, role, significance, and meaning to itself. Hegel calls this the Idea. This people, then, through its activity in the world will embody this Idea in its laws, practices, customs, institutions, ethical life, art, culture, philosophy, religion, and so forth. In this way the Idea becomes objectified, concretized, institutionalized. It is no longer a *mere* idea, but a reality. As this concretized Idea is recognized by its people, it will animate their will, passion, activity, and drive. They will act in history—act on their Idea.⁸

A people constructs its Idea. They set its aims, build its institutions, establish its laws, and engage in its practices. At the same time, though, the Idea also constructs this people. It forms their customs, inspires their work, molds their values, gives them meaning, and shapes their culture. In Hegel’s view it is stamped on every aspect of their life. One spirit permeates everything in an age.⁹ It is “the common denominator of its religion, its political constitution, its ethical life, its system of justice, its customs, its learning, art, and technical skill, and the whole direction of its industry.”¹⁰

Individuals take in and internalize the knowledge, practices, technical know-how, strategies, values, and so forth of their spiritual world. They then work these over, perhaps develop them, even produce something new, and deposit this back where others can take up and repeat

the process. The spiritual world thus develops, as does this people. At the same time that a spirit produces a people, a people also produce their spirit. Spirit is nothing but the outcome of individual contributions. Spirit produces a people, who then transform their spirit.¹¹ In the *Philosophy of Mind*, Hegel speaks of the

spirit that makes world-history. In this case, there no longer stands, on the one side, an activity external to the object, and on the other side, a merely passive object. . . . Thus, for example, the people and the time which were moulded by the activity of Alexander and Caesar as *their* object, on their own part, qualified themselves for the deeds to be performed by these individuals; it is no less true that the time created these men as that it was created by them; they were as much the instruments of the mind or spirit of their time and their people, as conversely, their people served these heroes as an instrument for the accomplishment of their deeds.¹²

There are two perspectives from which spirit can be viewed: first, the perspective of the whole, the perspective of absolute totality, the perspective of the Idea, where, Hegel tells us, the spirit of a people appears as “one great individual.”¹³ Nothing is higher than spirit, and spirit is not concerned with anything other than itself. Second, we can view spirit from the perspective of the people—from within their worldview, from the perspective of their particular interests, desires, and passions, which are limited, particular, and conflicting. Hegel tells us that these are two sides to the same coin—the warp and the woof of history—the perspective of the Idea and the perspective of the passions.¹⁴

From the perspective of the Idea, we might metaphorically speak of the intentions of a mind. Nothing is outside this spiritual consciousness—this absolute totality. Hegel even calls it God.¹⁵ Moreover, this Idea has a drive to unfold itself, to become aware of itself, to reflect upon itself, to know itself, to know everything in itself.¹⁶ This reflection, however, is inseparable from, is nothing but, the reflections of a people¹⁷—their concerns, aspirations, values, self-understanding, and goals. Spirit, the Idea, the absolute, requires humanity for its realization.

From the second perspective, that of the passions of a people, we see how the Idea must be acted upon if it is to become determinate, objectified, concrete. It must be recognized by a people to become actual.¹⁸

The Idea depends upon a people to become real, and the people depend upon the Idea if they are to actualize their aims, significance, and meaning—to realize themselves and become what they are.

We have said that spirit permeates everything in an age, and this, Hegel also tells us, includes the constitutions of states.¹⁹ A state is the expression of the spirit of a people, and the state's constitution depends upon the development of that spirit.²⁰ Constitutions are not *made*, for Hegel—though they are constructed. That is, Hegel does not think we should view constitutions as created by individuals who draft a document, ratify it, and so forth. I suspect Hegel would insist upon this even in cases, like that of the United States, where this sort of thing actually took place. Hegel thinks a constitution is the “labor of centuries.” It is produced bit-by-bit over a long period of time.²¹ The laws of the state carry the “authority of millennia . . . [t]he whole of mankind has labored upon them. . . .”²²

We must notice that there is a democratic element involved here. While Hegel rejects the notion that a constitution should be made (written by a group of people and ratified by a vote), that, at least in part, is because we participate at a higher and much more general level. A people's entire public world, their laws, institutions, practices, customs, traditions, religion, and so forth have been constructed by them over time. To single out and privilege a brief moment when a document was written and ratified would be to reduce, perhaps even to trivialize, a process of constitution that had been going on for a much longer period of time at many other levels.²³ Hegel also rejects the notion of a social contract.²⁴ That too would reduce the construction of the state to a brief moment and would not credit the people with anywhere near enough input into the process. At the same time, it is quite clear that Hegel has a lot of negative things to say about democracy. Hegel is not as democratic as we could wish, and I have no desire to excuse his real democratic shortcomings. But Hegel is not an authoritarian or a supporter of tyranny—and to think that he is a totalitarian, as Popper does, is a real blunder.²⁵ Through spirit, for Hegel, we construct laws and institutions to fit ourselves such that we can be free and self-determined.

Hegel is famous for saying that the state is “the march of God in the world.”²⁶ This should not appear outrageous—if what has been said so far has been understood. It is the very same spirit that creates both the state and religion. It is the very same spirit that is represented as God and as the state.²⁷ We have said that spirit is our construction. The

state is obviously our construction. It is Hegel's view that God is also our construction.²⁸ Thus, to say that the state is the march of God in the world is to say that it is the march of spirit in the world, and that is to say that it is *our* march in the world. Religion is not something external called in to support or regulate the state. Nor is it something transcendent to which the state must subordinate itself. Religion is the expression of spirit, as is the state. And spirit is our spirit. We construct it—as we do religion, the state, law, public institutions, and so forth.

Hegel's God is not an orthodox transcendent deity that directs things from above and outside. God is immanent for Hegel. God is within the world. God is a construction of spirit, that is, of our cultural consciousness. God is not a separate metaphysical onto-theological entity.

From this, however, it does not follow that God is nonexistent. To understand Hegel, we must get beyond a prejudice against construction.²⁹ It is not the case that something constructed is unreal or does not exist. Scientific theories are constructions. That does not mean that what they allow us to discover is false or nonexistent. Government is a construction. It is nothing but a complex constellation of ideas, beliefs, values, practices, institutions, laws, and policies.³⁰ Governments exist. They are real. It is even possible that a government can be a *good* government.

There is something else we must notice about constructions. We must see that it can be possible to find more wisdom in our constructions than we would ever have expected ahead of time. Our cultural constructions may have a depth, complexity, and rationality that is worth discovering and unpacking. It is not the case that there can be nothing there except what we intended to put there. Like works of art, they may contain a deeper truth than could have been imagined or intended in advance.

One might want to object that despite the fact that some constructions are real, it is possible, after all, not to believe in God, and thus take that construction not to be real. This points to something else we must notice about constructions—even ones we think are false. Some such constructions have existed for us for a long period of time. They have shaped us and formed us—and thus they have actually been cultural *realities*. Even if God does not exist, what we have historically become is inseparable from this God. There is an important sense—a cultural sense—in which we cannot deny the existence of God, even if we do not believe in the existence of God.

To understand how God is our construction, yet is real, we must understand Hegel's idealism. He says,

Every activity of mind [*Geistes*] is nothing but a distinct mode of reducing what is external to the inwardness which mind [*Geist*] itself is, and it is only by this reduction, by this idealization or assimilation, of what is external that it becomes and is mind [*Geist*]. . . . This material, in being seized by the 'I,' is at the same time poisoned and transfigured by the latter's universality; it loses its isolated, independent existence and receives a spiritual one.³¹

Hegel also says, "the positive reality of the world must be as it were crushed and pounded, in other words, idealized."³² Thus, he thinks, "An out-and-out Other simply does not exist for [*Geist*]."³³ Hegel's idealism does not force us to deny, as did Berkeley's subjective idealism, that the object out there really exists. Hegel's view is that the essence of a thing, what it really is, is what reason *knows* about it. This does not imply a denial of actual objects or things. Take, for example, matter. Hegel is quite able to admit the existence of matter.³⁴ Hegel might consult the best physicists of his era. He could listen carefully to everything they say about matter, and accept it fully—after all, philosophy has no business telling science what it has discovered about its objects. It is just that where the physicists might end up putting all the emphasis simply on the *matter*, Hegel will insist on putting the emphasis on the *concept* of matter. After all, everything the physicists will have given him is a concept. If the physicists were to insist that, no, what they were talking about was something out there *beyond* the concept, Hegel would simply ask them to tell him about what it is precisely that they take to be out there beyond the concept. And they would, of course, end up giving Hegel more concepts. Hegel need not deny there is something *out there*. He just thinks that in coming to know the thing out there, what it is, we cannot but conceptualize—that is, idealize. Only in doing so do we know the thing. And all that we know, what the thing really is, its essence, is ideal. This is what Hegel means when he says, "God is attainable in pure speculative knowledge alone and is only in that knowledge, and is only that knowledge itself, for He is Spirit. . . ."³⁵ God is constructed by thought and God exists, is real, for that thought.

Instead of talking about God, however, philosophy wants to talk about the absolute. The same spirit, Hegel tells us, that appears to imaginative or representational thinking as God, appears to philosophical thinking as the absolute.³⁶ "The aim of spirit is . . . to make itself

conscious of the absolute. . . . To become actively aware of this means to do honour to God or to glorify the truth.”³⁷ The “aim of philosophy . . . is to grasp the Absolute as spirit.”³⁸

The absolute, as Hegel understands it, includes absolutely all of reality. There is no reality, no unknown thing-in-itself, left outside. Moreover, the absolute is not other to me—it is not heteronomous. I am fully at home with it. It is absolutely mine—my very identity.³⁹ Hegel insists that the absolute (or the Idea, or God) should not be thought of as distant and beyond. It is “wholly present, what we, as thinkers, always carry with us and employ, even though we have no express consciousness of it.”⁴⁰ Hegel’s God, or the absolute, is not an orthodox, transcendent deity that directs things, as it were, from above and outside the world. The absolute is immanent, within the world, within our cultural consciousness, an evolution of it. It is the cultural consciousness, the worldview, of peoples. It “is only in that knowledge, and is only that knowledge itself. . . .”⁴¹ The absolute is constructed by a people as its highest and truest meaning, significance, value, and goal. It is embodied in their laws, practices, institutions, philosophy, and religion.⁴² “The province of the spirit is created by man himself; and whatever ideas we may form of the kingdom of God, it must always remain a spiritual kingdom which is realized in man and which man is expected to translate into actuality.”⁴³

In the Preface, Hegel tells us that the task of the *Philosophy of Right* is to comprehend the state. It must not try to construct the state as it *ought* to be, but to comprehend what *is* and to recognize it.⁴⁴ If we are to understand spirit, we must begin to understand Hegel’s concept of recognition (*Anerkennung*). It is a most central and important concept. In the Preface to the *Phenomenology of Spirit*, Hegel wrote:

[O]urs is a birth-time and a period of transition to a new era. Spirit has broken with the world it has hitherto inhabited and imagined, and is of a mind to submerge it in the past. . . . Spirit is indeed never at rest but always engaged in moving forward. . . . Spirit in its formation matures slowly and quietly into its new shape, dissolving bit by bit the structure of its previous world. . . . But this new world is no more a complete actuality [*Wirklichkeit*] than is a new-born child; it is essential to bear this in mind. It comes on the scene for the first time in its immediacy or its Notion [*Begriff*].⁴⁵

And, in Hegel's opinion, it is philosophy's task to grasp this *Begriff*. In his concluding lecture on phenomenology of 1806, Hegel writes:

This, Gentlemen, is speculative philosophy as far as I have been able to construct it. Look upon it as the beginnings of the philosophy which you will carry forward. We find ourselves in an important epoch in world history, in a ferment, when spirit has taken a leap forward, where it has sloughed off its old form and is acquiring a new one. . . . The chief task of philosophy is to welcome it and grant it recognition. . . .⁴⁶

In the *Philosophy of Right*, it is philosophy's task to recognize the Idea of right and to actualize it.⁴⁷ Indeed, the "disposition and activity of our age and every age is to apprehend the science that exists, to make it our own, and just in that process, to develop it further and to raise it to a higher level."⁴⁸

No one has done more or better work on Hegel's concept of recognition than R. R. Williams. He argues that right is constituted through recognition.⁴⁹ Many commentators who discuss Hegel's concept of recognition think that Hegel needs a specific sort of recognition: free, uncoerced, mutual recognition between equals. Why this is so first emerges in the master-slave dialectic of the *Phenomenology*. There the only recognition available to the master was from the slave. But what kind of recognition can one get from a slave? What kind of recognition can the master get from a nobody—a nothing? It was, of course, the master who made the slave a nothing. And the only recognition the master can then get from that nothing would amount to nothing. The slave, on the other hand, is at least recognized by a *master*.⁵⁰ The lesson to be drawn from this, many commentators think, is that what we need is free, uncoerced, mutual recognition between equals.⁵¹ That, however, is not Hegel's view. It is not that mutual recognition between equals has no place or is not valuable, but it is the case that it is not enough to solve our problems. Hegel's view can be summed up, I think, by saying that the more important the recognizer, the more valuable the recognition and the more real the recognized. If you wish to be recognized as a serious Hegel scholar, from whom do you want that recognition? The kids who hang out on the corner? The shopkeeper across the street? Your spouse? The Dean of your college? Or the best Hegel scholars?

Recognition of your scholarly abilities from those who know nothing about Hegel scholarship is worth little. Recognition from your equals is valuable, but not enough. Your spouse may love you deeply, and that is of real significance. But when you present your next paper at the Hegel conference, it does you little good. What you want is recognition from the best and most important Hegel scholars. That can give your scholarship solid, lasting, objective, *real* recognition.

One of the issues involved here, as Cortella aptly puts it, is that

being recognized by another means simultaneously recognizing this other. I can 'feel' myself recognized only by someone I consider 'worthy' to recognize me. This explains the *reciprocal nature of recognizing*. I cannot be recognized unless I recognize in my turn.⁵²

Besides the reciprocity necessarily involved in recognizing, the other crucial issue involved here, which has already been mentioned, is that we need a recognizer of importance—such that its recognition is of sufficient value to makes us real. We will see eventually that Hegel wants a modern constitutional monarchy. He wants Germany to move beyond feudalism and to do so without depending on an absolute monarch, as did France. Moreover, Hegel wants a constitutional monarchy, I think we can say, not because it would possess less, but because it would possess greater, authority than an absolute monarch. A constitutional monarch, in Hegel's view, would have a higher legitimacy and a higher right. Consequently, the recognition that a subject could get back from such a monarch (as property holder, marriage partner, citizen, and so forth) would be more solid and real than the recognition that could come from an absolute monarch like that of France—which, Hegel suggests in the *Phenomenology*, depended upon the base flattery of its subjects.⁵³ Such a monarch dependent upon a base form of recognition for its authority could not in turn confer real and significant recognition upon its subjects—and, indeed, was soon to collapse in the French Revolution. A modern rational state, which Hegel thinks must be a constitutional monarchy, can confer the sort of recognition that citizens need in order to be significant and real.

Perhaps this is most easily seen if we begin with the example, found in the *Phenomenology*, of Noble Consciousness. What sort of monarch

would the nobility prefer to serve? An insignificant monarch of an inconsequential backwater? Or the greatest monarch of all time—Louis XIV of France? Which would make the noble more significant? Or would being a citizen of the most rational, modern, constitutional monarchy make one more significant? Hegel quite clearly thinks the latter. It is true that such a state will involve mutual recognition between the citizens themselves, and that is quite important. But that will not, in Hegel's view, replace the recognition we need from an authority that is higher, more important, and more significant than we are. It is true that it is reason that makes that authority higher, more important, and more significant. It is also true that it is *our* own reason that does so. It is thus true that this authority depends upon *our recognition*. Still, for Hegel, we cannot dispense with a higher, more important, and more significant authority.

To see why that is so, we might approach the matter in another way. Hegel has no objection to mutual recognition between equals, he just does not think equality is usually understood correctly. Hegel thinks that the claim that all “men are by nature equal” confuses, as he puts it, the “natural” with the “concept.” He thinks that by *nature* all are *not* equal. He thinks that the fact that persons are “recognized and legally regarded as persons . . . is . . . only a result and product of the consciousness of the deepest principle of [Geistes], and of the universality and expansion of this consciousness.”⁵⁴ In other words, the fact that there are equal persons in the modern state that could mutually recognize each other is due to the fact that we have a state in which the consciousness of such equal persons has developed and in which they are recognized as such. In short, their equality is dependent upon and derivative from their development in, and the recognition conferred by, the higher and more important reality of the state.⁵⁵

Freedom

We are now in a position to introduce Hegel's concept of freedom. The essence of spirit, for Hegel, is freedom.⁵⁶ A people embodies its spirit in its laws, practices, customs, institutions—its whole world. As this realized spirit is recognized by a people, it animates their will, passion, activity, and drive. Spirit, for Hegel, is self-determining. The will, desires, and

aspirations of a people determine their action not toward something external and heteronomous, but toward their own aims, their own Idea, their own spirit. Hegel accepts the Kantian notion that freedom means obeying rational, universal, self-given laws—that is, “self-given” in the sense of “spirit-given” laws.⁵⁷ For Kant, I am only subject to laws of which I am the author and to which I subject myself.⁵⁸ But, as Pippin points out, such legislation is not limited to a single moment—it is gradual and historical.⁵⁹ For Hegel, it is part of the spirit that I construct and that constructs me.

Spirit is freedom in that spirit dissolves heteronomy. I confront nothing other or alien. All is my own. I am at home.⁶⁰ Nothing outside determines spirit. Spirit does not find anything outside itself. Any other is within spirit. It is not independent, an obstacle, a restriction. In the *Philosophy of History*, Hegel writes:

[I]n Thought, Self moves within the limits of its own sphere; that with which it is occupied—its objects are as absolutely present to it. . . . This is utter and absolute Freedom, for the pure Ego . . . is with itself alone [is not involved with any alien principle]; thus that which is diverse from itself, sensuous or spiritual, no longer presents an object of dread, for in contemplating such diversity it is inwardly free and can freely confront it. . . . Man is not free, when he is not thinking; for except when thus engaged he sustains a relation to the world around him as to another, an alien form of being. This comprehension—the penetration of the Ego into and beyond other forms of being with the most profound self-certainty [the identity of subjective and objective Reason being recognized], directly involves the harmonization of Being: for it must be observed that the unity of Thought with its Object is already *implicitly* present . . . for Reason is the substantial basis of Consciousness as well as of the External and Natural. Thus that which presents itself as the Object of Thought is no longer an absolutely distinct form of existence. . . .⁶¹

What should be clear from this passage is that the principle of spirit’s freedom is the same as the principle of idealism. As we have seen:

Every activity of [*Geistes*] is nothing but a distinct mode of reducing what is external to the inwardness which [*Geist*] itself is, and it is only by this reduction, by this idealization or assimilation, of what is external that it becomes and is [*Geist*]. . . .⁶²

Hegel also writes:

I comport myself idealistically; I look at something and it is independent over and against me, but this whole representation [of independence] is mine; I am the bearer of it, and the object's independence is ideal. . . .

The fundamental determination of spirit is freedom; in freedom everything is posited as ideal.⁶³

As we have also seen, “An out-and-out Other simply does not exist for [*Geist*].”⁶⁴ Moreover, “everything which I am to recognize . . . has the task of becoming mine. . . . Such is the infinite greed of subjectivity, which collects and consumes everything within this simple source of the pure ‘I.’”⁶⁵

Freedom means self-determination, for Kant as well as for Hegel, but for Hegel this must be understood as the self-determination of spirit. Nothing outside of spirit determines it. *Geist* pulls everything it confronts into itself—it idealizes it. It eliminates its alienness. We can understand this best, perhaps, if we look at culture. In culture we construct things as our own. We transfigure what might otherwise be alien or heteronomous into our own self-expression—and thus into a form of self-determination. There is a fundamental sense in which we are at home in our culture, and a fundamental sense in which culture makes freedom possible.

Consider a practice that might look like the opposite, say, the practice of bowing. Some might find such a practice subservient. They might think it a result of domination, and thus anything but an expression of freedom. But if bowing is part of our culture, if it is part of our identity, it may not imply subservience at all. We may even take pride in the way we bow. It can be a form of self-expression—indicating respect for the individual to whom we bow and commanding respect for the grace, dignity, and elegance with which we bow. Moreover, even if the outer form indicates deference to a superior, a bow that is not sufficiently deep will transform that deference into subtle contempt. On the other hand,

a bow that is too deep may ironically subvert the other's superiority. To think that the bow of a *samurai*, the moment before he pulls his sword on you, implies any subservience, is simply to miss the reality of culture.⁶⁶

If we are at home in our culture, if it is one with us in essence, then it is not really other—not heteronomous. It has been constructed by us, and we by it. In so far, then, as it affects us, influences us, molds us, this is not a coercion from outside. It takes place within our spirit. It is a self-coercion—a self-determination. There is a fundamental sense in which we are free, only free, within our own culture, where practices are our own.

Identification with the central institutions of one's culture is a necessary dimension of freedom, but it alone is definitely not enough to make us free. After all, dominated individuals and subordinates of many sorts can be found in all cultures—and may even identify with their allotted role as much as anyone else in that culture. Such oppression must be overcome. But if it is, then culture can contribute significantly to making real freedom possible. It can allow us to be at home—it can eliminate otherness and heteronomy.

We might sum this up by using Wood's formulation, "Freedom is always *Beisichselbstsein in einem Andern*, 'being with oneself in an other.'"⁶⁷ In the *Philosophy of Right*, freedom as being with oneself will be taken up at increasingly complex levels. Each step will involve an idealization such that I am with myself in all that is other—and thus am free. The social, cultural, political, and religious world, indeed, all of reality, must appear as *mine*.

In the *Philosophy of Right*, *Beisichselbstsein*, freedom as being with oneself, I will argue, is taken up at four increasingly complex levels.⁶⁸ And each level involves a higher expression of freedom.

At the first level, freedom involves the ability of consciousness to abstract from everything external, withdraw from the world, and turn into itself.⁶⁹ Thus, in the simplest way, thought faces no obstacles or obstructions—nothing other. It is alone with itself. It is this form of *Beisichselbstsein* that characterizes "Part One" of the *Philosophy of Right*, which deals with Abstract Right, and which we will discuss in chapter 2.

Second, freedom as *Beisichselbstsein* requires that our actions be rationally self-directed. We must be directed by our *own* reason, and not toward an external end, but toward the rational itself. Such rational self-direction takes the form of law. If you are not free, you cannot give yourself laws. If you can give yourself laws, you are free. Only a

will that obeys universal rational law is free, because it obeys itself.⁷⁰ Hegel explores this Kantian dimension of freedom as *Beisichselbstsein*, and especially its limitations, in “Part Two” of the *Philosophy of Right*, which deals with *Moralität* (Morality), and which we will discuss in chapter 3.

Third, we must come to see that such Kantian freedom is not enough. For Kant, individuals are free when practical reason determines their action. The individual, however, is not necessarily free to realize this action. The objective world may well present obstacles to the carrying out of the action, without, for Kant, affecting the moral freedom of the individual in the least. For Kant, such empirical factors, whether they be obstacles or aids, are irrelevant to moral freedom. Nor do feelings or inclinations have a role here. They need not support the action for it to be moral or free; nor is our freedom affected if our feelings are opposed to the moral action.⁷¹

For Hegel, on the other hand, freedom is realized only when the objective external world and our feelings fit, agree with, and support the rational freedom of the individual. Laws and institutions, feelings and customs, as well as the rationality of the individual must be seen as a single spiritual unity. Reason must be concretized in our laws, institutions, customs, traditions, and practices so that our feelings, attitudes, and interests, as well as our habits, character, and disposition, and thus our actions, will actually be formed in accordance with reason. Social reality must be constructed in accordance with reason and reinforce the rational behavior of individual subjects.

Thus consciousness would be free, would achieve *Beisichselbstsein*, not just when withdrawn into abstraction. It could also achieve *Beisichselbstsein* in the world, which would no longer be heteronomous or other, but our own—a world essentially at one with reason. Reason could find itself in this world. It could find its world no longer an obstacle to reason but rather an arena laid out for its operation. The world must have been shaped by rational law, such that the rational action of individual subjects does not meet obstacles or impediments. Reason must be at home in a world that is its own. In obeying civil laws, we must be obeying the laws of our own reason. Freedom means facing the world and not finding it other. Subjective reason grasps objective reason and is at one with itself.

We find this much more complex form of freedom as *Beisichselbstsein* laid out in the long “Part Three” of the *Philosophy of Right*, which deals

with *Sittlichkeit* (Ethical Life). We must be rooted in a web of cultural institutions, practices, customs, and traditions that involve concrete feelings, inclinations, family ties, socioeconomic relations, political associations, and so forth. None of this will be other or heteronomous—it is our own. Indeed, that is the very meaning of *Sittlichkeit*, as we shall see. We will discuss these matters in chapters 4 and 5.

It should be noticed that we are saying the same thing here that we said about spirit, just with more specificity and detail. Spirit is nothing but our doing and we are nothing but its doing. We form it and it forms us. Spirit is quintessentially freedom as *Beisichselbstsein*. Our spirit allows us to be with ourselves in all other.

At the fourth level, however, even this is not sufficient. It is not sufficient that we just act in accordance with the laws, customs, and traditions of our nation. It is an accident that we were born in a particular nation. It is not enough even that our laws agree with reason. We need a deeper ground than this. We need to know that our laws are absolutely right. I do not want to live in a state where all I can say is that this is the way our laws happen to have developed, and have to admit that they might not have. I need to know that I live in a state that developed in accord with the absolute. The absolute is necessary to give us this highest sense of right. This will have to be explained as we proceed.

The absolute also gives us the highest freedom as *Beisichselbstsein*—we confront no other that is not our own. This will become clearer as we approach the very end of the *Philosophy of Right*, which we will discuss in chapter 6. There we get beyond all the earlier sections that were abstracted out from actual concrete reality. There we rise to the actual historical world and absolute right emerges conceptually for us. There we will get a reciprocal determining, interconnection, and recognition between (a) the subjectivity of the citizens, (b) rational, objective, institutionalized laws, and (c) the absolute or God. The citizens' behavior is not just subjective and whimsical—it is not even just subjectively rational. It is molded by and accords with *objectively* rational public institutions. And the laws and institutions of society are not just the way our society happens to do things. They are absolutely rational—the actualization of the absolute.⁷²

This fit between us and the world and the absolute is crucial. Hegel will not accept the Kantian notion that we are free just because

we act rationally, have rational intentions, and where consequences, results in the world, do not matter. Freedom requires a fit between a rational subject and a rational world—a two-way fit—where the world is rational such that our rational action will fit with it, have effect in it, and not meet obstacles, frustration, failure. We and our world have to be molded to fit each other so that we can succeed in acting in it, achieve results and purposes, and act rationally in doing so. And there must be a fit in the sense that the world will reinforce us. We do not just act on personal rational views. We act in accordance with rational laws and institutions. They reinforce us, recognize us, mold us, and make our personal action objective. And this is not just the way people in our society happen to act. This is all the realization of the Idea, the absolute, God. It is absolutely objective. This is Freedom. Anything less than this will obstruct rational action and frustrate freedom. This will have to be shown as we proceed.

For Hegel, *Moralität* and *Sittlichkeit* are to be distinguished.⁷³ *Moralität* is morality that is rational and reflective. Reason decides what is moral, and one acts *because* reason tells them it is the right thing to do. For Hegel, *Moralität* starts with Socrates,⁷⁴ and achieves its high point in Kant. *Sittlichkeit*, on the other hand, is found especially in the Greek *polis* before the development of Socratic *Moralität*.⁷⁵ It is ethical behavior based on custom and tradition. It is developed through imitation and habit in agreement with the practices and laws of the community. *Sittlichkeit* is ethical life built into one's character, disposition, and feelings.⁷⁶

Hegel thinks the *Sittlichkeit* of the ancient *polis* inadequate to the modern world. It broke down in the face of rising individuality. While it is the case that individuality and *Moralität* are desirable for Hegel, and should have a place, nevertheless they go too far in the French Revolution, *laissez-faire* economics, and Kantian ethics. We need a higher *Sittlichkeit* that transcends the destructiveness of modern *Moralität* by joining the undeveloped *Sittlichkeit* of the ancient world with the rational reflection and individuality of *Moralität*.

What Hegel wants for the modern world, we will see as we proceed, is neither traditional *Sittlichkeit* nor modern *Moralität*. He wants a fusion of *Sittlichkeit* and *Moralität*. This higher *Sittlichkeit* is rational reflective morality that actually exists as concretely rooted in the customs, traditions, laws, character, practices, and feelings of a people.

Right

In introducing Hegel's concept of freedom, we have already slipped into talking about right. We must now focus explicitly on right and begin to explain its relation to freedom. Hegel tells us simply that right is freedom,⁷⁷ that freedom "constitutes the substance and determination of right."⁷⁸ After all, if we are to be free in any full or significant sense, we must act *rightly*. We cannot be free if we act falsely or wrongly. Our actions must be right and we must see them as right. Nor is it sufficient that we act unfreely or unconsciously in performing an action that merely accords with right—that is not *acting rightly*.

Perhaps the connection between freedom and right can be seen more convincingly if we remember that *Recht* can mean either right or law. And the ground of law is certainly freedom. Hegel says that law without freedom is meaningless.⁷⁹ If you are unfree, you cannot give yourself laws. To give yourself laws, you must be free.

Some might object that freedom should be understood to mean doing whatever one wants, whether it is right or wrong. Hegel stands in a tradition going back at least to Augustine that holds that there are two important dimensions to freedom. The first is that, indeed, we *are* free to choose between this or that, and thus that we *are* free to choose either what is right or wrong. But this alone is a rather trivial form of freedom, because if we consistently choose what is wrong we can end up losing our freedom. For the Christian tradition, we are free at any moment to choose to sin, but if we consistently choose to sin, we end up in hell, where we would hardly be free. To take a secular example: at each moment one is free to choose whether or not to drink the glass of whiskey. If one chooses to drink the whiskey too often, one will no longer be free to choose whether or not to drink the whiskey. To be free in this more significant sense you must freely choose what is right.

For Hegel, as we have seen, a people constructs its spirit, that is, its highest values, truths, aspirations, and meaning. Through its historical activity this people embeds its spirit in its laws, institutions, practices, ethics, philosophy, religion, and so forth. Right simply is the embodiment of this spirit in concrete institutions, practices, and laws. Right is the expression of our spirit, which is to say that it is the expression of our freedom.⁸⁰

Moreover, this development of right in and through spirit will give us what *actually* is right. To explain how we can be sure that freedom will give us right will require the whole of this book. It is a claim that will become plausible only at the end of the *Philosophy of Right*, where we have relations between states, conflict, war, and tragedy. It is Hegel's view that out of this emerges a higher right. It is not possible to make a convincing case for that at this point. What we can do is begin to introduce the matter and bring it into focus.

It is clear that for Hegel the state is our construction, as are our laws and institutions. It is also clear that spirit is our construction, as is our Idea. Even God is our construction. What about right? Subjectively we may think our laws, our state, and our God are right. But they cannot be right just because we say so, or because our culture thinks so, or because our God has proclaimed them such. That may make them right *for us*. But we need a great deal more than that. We need an objective right—indeed, we need an *absolute* right. But if it is constructed, how can it be absolutely right?

Ultimately, the answer will be that philosophy is able to see that reason is embedded in the state as well as in our laws, values, institutions, and practices. And reason is an authority—our ultimate authority. It is not something rational beings can disagree with. Reason, after all, is not something other. It is our own. To disagree with it would be to contradict ourselves. Reason in the state is our own reason. Thus, as our reason finds reason embedded in its world, it faces an absolute authority—or, rather, it is that authority.

This is not to say that the state is always right and cannot be opposed. That is not Hegel's view. His understanding of the Stoics and of Socrates is that they did precisely that—they withdrew from the spirit of their time and opposed it.⁸¹ Hegel wants us to see, though, that world spirit is capable of moving beyond us and establishing, say, that slavery is absolutely wrong. It may also, to take a current example, establish that same-sex marriage is absolutely right. If so, then no matter how deep your personal belief that slavery is justified or same-sex marriage unjustified, you will just be pushed aside by world spirit. In Hegel's view, if we are to be free, we need to be able to know and feel that we are right in this absolute sense. We need to know that right has been actualized—that it has seized the world and established itself.

On the other hand, it is certainly possible that you may have an insight into right that the world historical nation of your era lacks, and

that it will not admit that it lacks, say, to take another current example, that capital punishment is not right. And so, if you have grasped what actually is right, this Idea would have to be actualized within our spirit, if we are to be free.

Hegel's views here might helpfully be compared to those of the natural law tradition. For Aquinas, the natural world is rational. This is so because God created nature and embedded rationality in it. This rationality takes the form of natural law as well as of human law, which should accord with each other.⁸² This might be contrasted to the views of someone like Epicurus, for whom human law and justice amount to no more than what human beings agree upon.⁸³ Law and justice have no deeper ontological foundation.

Hegel and Epicurus agree that we construct our own laws, justice, and right. But Hegel does not agree that they have no deeper ontological ground—that they are merely contingent agreements. Hegel's views in this respect are closer to those of Aquinas, except that Hegel will not accept the metaphysics of Aquinas. He does not accept a transcendent God who imposes rational law from above and outside. Hegel thinks that human reason constructs its own right (as for Epicurus), but that this construction is not carried out by individuals *as* individuals. It is carried out by spirit—by the absolute. It thus, for Hegel, has an ontological depth, as for Aquinas, but it brings in no transcendent other. Absolute spirit is us, our reason, operating in world history through our state, our religion, and our institutions, which we have constructed, but which also construct us. Right is as much our own as for Epicurus, but is also absolute as for Aquinas.

For this to appear plausible, however, a *great* deal more will have to be said. The claim that right is established by our spirit is not going to be sufficient to convince us that what we take to be right is objectively right—let alone *absolutely* right. To show that, in Hegel's view, we must show that historical conflict over time will eliminate whatever is less than universal and rational—less than absolutely right. We find this view encapsulated in Hegel's famous notion of the cunning of reason:

Particular interests contend with one another, and some are destroyed in the process. But it is from this very conflict and destruction of particular things that the universal emerges, and it remains unscathed itself. For it is not the universal Idea which enters into opposition, conflict, and danger; it

keeps itself in the background, untouched and unharmed, and sends forth the particular interests of passion to fight and wear themselves out in its stead. It is what we may call the cunning of reason that it sets the passions to work in its service. . . .⁸⁴

Hegel's model for the cunning of reason is taken from Kant's philosophy of history,⁸⁵ where Kant explains how a common good (for Kant, peace, a league of nations, and international law) can result from conflicting particular interests that do not consciously seek that good, but simply their own particular ends. Nevertheless, the pursuit of particular interests (together with the resulting conflict between them) leads to a common good—what right would have demanded from the start. Between nations, this conflict takes the form of war. But given the commercial concerns of nations, such conflict will force intervention, compromise, eventually a league of nations, international law, and peace—exactly what right would have demanded in the first place.

Peace, a league of nations, and international law are *not* the goal for Hegel. Periods of happiness (periods of peace without conflict), he says, are blank pages in history.⁸⁶ Nothing happens—there is no development. Hegel also says that history is the altar on which the happiness of nations is slaughtered.⁸⁷ But short of this, the conflict of particular interests does, for Hegel, drive us toward the universal and rational—toward right. There is a cunning of reason at work in history.

How do the laws of states historically become more universal and rational? They do so in two ways: first, the scope of the law becomes more extensive and universal, and, second, the laws come to be more deeply rooted in reason—they come to be more rational.

The scope of laws becomes more universal in the sense that the range over which a law extends becomes greater and greater. To take one of Hegel's examples, in early history we find the principle of revenge.⁸⁸ If someone kills a member of your clan, you have an obligation to retaliate, such that the scope of the principle, "thou shalt not kill," is no larger than the clan. You do not kill anyone in your clan, but you can be obliged to kill outsiders who harm the clan. You do not treat outsiders in the same way as clan members.

Later, the scope of the law may be as large as a city or a religious faith. In the modern world, after the French Revolution, Hegel holds, the scope of any law is nationwide such that all citizens are to be treated