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Natural Right and Hegel: An Essay in Modern
Political Philosophy

A Dissertation

Presented to the Faculty of the Graduate School

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by

Seyla Benhabib

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ABSTRACT

Natural Right and Hegel: An Essay in Modern Political Philosophy

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Yale University, 1977

The following essay examines Hegel's relation to the modern natural rights tradition initiated by Hobbes. Whereas natural rights in the doctrine of Hobbes, Locke, and Kant define the grounds of legitimate obligation and political authority, Hegel defines them to be preconditions for the actualization of freedom. The aim of this essay is to illuminate Hegel's reformulation of modern natural right, to examine its significance, and to judge its validity.

Hobbes, Locke, and Kant make the question of legitimate obligation and political authority the central one in political philosophy. The relation of the individual to the community is no longer based upon a duty, but expresses a claim. These original claims of the individual, called "natural rights," have precedence over the demands of the community, because Hobbes, Locke, and Kant assume that the individual is prior to the community logically, temporally, and psychologically. In order to emphasize the continuity between the logical egotism initiated by Descartes, and the claims of Hobbes, Locke, and Kant, I call their thesis of the priority of the individual to the community "practical egotism."

Hegel rejects the assumption of the modern tradition that the condition of the self is one of logical and practical egotism. Three stages are distinguished in Hegel's critique of this assumption. In his 1802-03 essay

on Natural Right Hegel criticizes modern political philosophy on the grounds that the Volk--the people--is prior to the individual, who can only attain perfection and subsistence in the community. The Phenomenology of Mind (1807) accepts the claims of the modern individual, while repudiating logical and practical egotism. Hegel here argues that theoretically, the structure of self-consciousness can only be analyzed when the experience of the self in the presence of its other is taken into account, and that practically, self-consciousness is realized and satiated in the community of other selves. The structure defining the theoretical and practical experience of self-consciousness is spirit (Geist)--"the I that is we, and we that is I". The Philosophy of Right of 1821 leaves behind the genetic standpoint of the Phenomenology, and treats the individual as a member of a spiritual (geistige) totality. This totality describes those conceptual and real preconditions defining the social practice of freedom in the world. For Hegel 'right' means no more than the various expressions of freedom as a social practice .

Hegel's acceptance of the legacy of modern natural right is here completed. His definition of right is indebted to the insight of the modern tradition that the legitimacy of the political order can only be justified if the claims of the individual are upheld. By situating the individual within a spiritual community, however, Hegel shows that the individual's rights can be adequately defended, if assumptions of logical and practical egotism are abandoned. Thus, in the opening section of the Philosophy of Right he is able to offer a defense of the basic rights of the individual, which in the logic of its justification and the novelty of its content, in many respects, is unique.

The method I follow in this dissertation can be described as "philosophical reconstruction." I examine the texts and debates of a historical tradition by situating them within a unified conceptual argument. I reconstruct the history of modern natural right so as to cull from it a coherent philosophical discourse. My examination combines genetic and analytical procedures. My discussion of Hegel's philosophical development is interspersed with comparative discussions of Hobbes, Locke, and Kant. I thereby hope to illuminate the conceptual issues at hand rather than chronological sequence and historical development.

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The concerns that animate this dissertation were formed at the height of the Turkish student movement during my years at the American College for Girls in Istanbul, Turkey (1966-70). I would like to acknowledge the continuing memory of those years, and the strength of the socialist and democratic ideals they inspired in me.

For those who are interested in Marxism in the twentieth century, the path that leads from Marx to Hegel is well known. I would like to thank Selâhattin Hilâv for having shown me the way; Alasdair MacIntyre for a compelling introduction to Hegel, and G. A. Kelly for having taught me to appreciate the heritage of political philosophy and Hegel's place in it.

To Professor John E. Smith, who has extended me his interest, support and concern over the last four years, I owe the conviction that the traditions of German and American philosophy ought to be pursued. My dissertation carries the mark of our numerous philosophical conversations and exchanges.

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Abbreviations used in Text

G. W. F. Hegel,	<u>Phenomenology of Mind,</u>	<u>Ph G.</u>
_____ ,	<u>Science of Logic,</u>	<u>Logic</u>
_____ ,	<u>Philosophy of Right,</u>	<u>Ph R.</u>
_____ ,	<u>Encyclopaedia of the Philosophical Sciences,</u>	<u>Encyc.</u>
_____ ,	<u>Philosophy of Mind,</u>	<u>Encyc. III.</u>
_____ ,	<u>Philosophy of Nature,</u>	<u>Encyc. II.</u>
_____ ,	<u>Logic (Wallace),</u>	<u>Encyc. I.</u>
_____ ,	<u>Lectures on the Philosophy of History,</u>	<u>IPH</u>
_____ ,	<u>Lectures on the History of Philosophy,</u>	<u>LHP</u>
_____ ,	<u>Naturrechts Aufsatz (1802-1803)</u>	<u>NR</u>
Immanuel Kant,	<u>Critique of Pure Reason,</u>	<u>C P R</u>
_____ ,	<u>Critique of Practical Reason,</u>	<u>C Pr R</u>
_____ ,	<u>Groundwork to the Metaphysic of Morals,</u>	<u>G</u>
_____ ,	<u>Metaphysical Elements of Justice,</u>	<u>MJ</u>
J. G. Fichte,	<u>Science of Knowledge,</u>	<u>SK</u>
_____ ,	<u>Science of Rights,</u>	<u>SR</u>
Thomas Hobbes,	<u>Leviathan,</u>	<u>L</u>
John Locke,	<u>Second Treatise of Civil Government</u>	<u>T</u>

Chapter I

Natural Right and Hegel

I. Some Perennial Questions Concerning Hegel's Political Philosophy

It is now traditional to identify Hegel's political philosophy with various forms of European reaction. First, Hegel is said to have allied himself to the conservative reaction to the French Revolution.¹ In the second place, it is claimed that Hegel supported the authoritarian practices of the Prussian regime, and that in particular he capitulated to the authorities on the issue of the Karlsbad decree.² Third is the widespread prejudice in some liberal circles that Hegel's political philosophy is inherently nationalistic, totalitarian, and holistic.³ Herbert Marcuse's comprehensive study, Reason and Revolution: Hegel and the Rise of Social Theory, was the first to challenge the shallow wisdom of those who would hold Hegel responsible for the conduct of Germany during the two world wars.⁴ Since then, a variety of studies have attempted to uncover the liberal and progressive aspects of Hegel's political thought. The debates among Sidney Hook, Shlomo Avineri, E. Caird, and T. M. Knox have contributed a great deal to the clarification of issues surrounding Hegel's alleged nationalism and Prussianism.⁵

In this dissertation I will defend the thesis that the philosophical origins of Hegel's political thought can only be understood in the light of his reformulation of the modern natural rights tradition initiated by Hobbes. Hegel's political philosophy accepts the insight of the modern tradition that political obligation can only be justified

if certain basic rights of the individual are upheld. But Hegel rejects the individualism of this tradition. In fact, he argues that the most adequate philosophical defense of the "original" rights of the individual can only be given when the individual is treated as a member of a human community. I claim not only that Hegel's reformulation of modern natural rights is convincing, but that his defense of basic human rights in the structure of its argumentation and its logic of justification is unique. Pace Karl Popper!

I do not see my thesis, however, as offering a revisionist interpretation of Hegel's political thought. I am not claiming that Hegel is more liberal than the liberals. I believe the most honest stance on the perennial issues surrounding his political philosophy to be one that recognizes the Promethean ambivalence of some of his philosophical categories.⁶ The saying from the Preface to the Philosophy of Right that has become notorious by now--"what is rational is actual and what is actual is rational" (Ph R, 10)*--can be read in two distinct ways: Since by the "actual" Hegel means the unity of the concept with what exists (Ph R, 1), he is referring to the rationality of a reality that is permeated by thought already. If one assumes, however, that the reality of the socio-historical world is not rational in its present form, then one can find in Hegel's saying a justification for shaping this world in such a way as to accommodate the demands of thought and reason. If, on the other hand, Hegel is taken to mean that the ethical

* All references to the Ph R, are to T. M. Knox's English translation (3rd rpt. 1969), in consultation with K.-H. Ilting's edition of Hegel's Vorlesungen über Rechtsphilosophie, Vols. I and IV (1973).

world already contains reason within itself, then the quietistic and conciliatory aspects of his thought become clear. I believe that Hegel means that reason is immanent in the human world. As I will argue at various points below, Hegel sees modernity to be distinct from previous historical epochs in one respect: the social and historical world can now be grasped as a unity transparent to thought because this world is generated by the intelligible activities of human individuals. But the criticisms of Marx, Nietzsche, Freud, and Weber show that Hegel's understanding of modernity is inadequate: the transparency of this socio-historical epoch to reason conceals many forms of oppression, domination, and irrationality. I am inclined to agree with the young Marx that a certain conservatism and accommodation is endemic to Hegel's political thought:

In regard to Hegel it is out of mere ignorance that his disciples explain this or that determination of his system by accommodation and the like, or in a word, morally. . . . It is conceivable that a philosopher commits this or that apparent non-sequitor out of this or that accommodation. He himself may be conscious that the possibility of this apparent accommodation is rooted in the inadequacy of his principle or in its inadequate formulation. Hence, if a philosopher has accommodated himself, his disciples have to explain from his inner essential consciousness what for him had the form of an exoteric consciousness. (Emphasis in the text). 7

But it is also typical of Marx to oversimplify the relation of theory to practice, and not to allow for the contingency, imprecision, and spontaneity of judgment that accompany political events in the human world.⁸ The concrete events of political life can never be mere instantiations of philosophical principles, nor can a political philosopher--in Hegel's case one should say a "philosophical student of human affairs"--always judge the relationship of his thought to the exigencies of the

present most wisely. This is obviously true of Hegel's attitude to the incidents surrounding the Prussian restoration.

Recent scholarly evidence suggests that the authenticity of the 1820 Preface to the Philosophy of Right can be questioned.⁹ The issuing of a decree by the Prussian government known as the Karlsbad decision made its publication in the original form impossible, and Hegel revised over twenty pages. With this decree the Prussian government took repressive measures against liberal professors and student organizations in the universities following increased activity and the eruption of violence among nationalist and liberal student groups. It is far from clear that the nationalists in this case are the ones who deserve sympathy. Indeed, their activities were tainted by vitriolic chauvenism and even anti-Semitism. Hegel clearly opposed these groups and their leader, Professor Fries. His attitude toward other student groups, some of whose leaders were his former students, is less clear. Acquiescing to certain pressures, he publicly denounced the nationalists but clandestinely continued to support a former student of his then in prison. K.-H. Ilting, who has reconstructed this episode of Hegel's life, concludes that his activities during and after the events surrounding the Karlsbad decree were by no means liberal.¹⁰ Hegel did accommodate himself to the authorities. Whether he acted out of genuine opposition to the mindless nationalism of the activist groups or out of prudential fear for his own position within the university, this episode in his life must be understood first and foremost historically. I do not believe that Hegel's capitulation to the authorities in this matter needs to be explained philosophically or systematically.

Few thinkers have lived through the political events of their times with as much involvement, passion, and commitment as Hegel did, and even fewer have succeeded in grasping and illuminating them in such a thorough fashion. Starting out as a political essayist who hoped to impress some influential person by his perceptive analyses of political affairs, Hegel subsequently became the cultural critic of Christianity and individualism. He claimed that by grasping the present and all its contradictions, theory would reveal the logic or the lack thereof of present institutions, and criticized the social order of Europe for its "positivity."¹¹ This order continued to exist even though it had lost its rationale, for its sanctions upon individuals derived from the sheer presence of its authority: the living spirit behind these institutions was gone.

The Phenomenology documents Hegel's attempt to overcome the positivity of the old order by showing that the reconciliation of consciousness with the heritage of world history is possible. Whether or not one accepts Georg Lukacs' claim that the Phenomenology ends in a political vacuum, one thing is clear:¹² the reconciliation of the individual with his world is only possible when the individual can discover himself in the world. The possibility of such self-discovery rests with the transformations that take place in the modern era. Hegel accepts the heritage of modernity while denying its philosophical and historical origins. The middle-aged professor of philosophy, now a civil servant of the German government, can turn back upon his youth and the turmoils of the revolutionary period and speak of the patience and effort of the concept in bringing about in the human world a reality corresponding to its truth

(Ph R, #62 Z). The wisdom of recollection and the peace of comprehension replace the hopeful ambitions of youth. By grasping the "rose in the cross of the present" (Ph R, 12), Hegel reveals that the constraining opacity of shared life can be overcome in the insight of comprehension. His mature political philosophy does not mean to inform or guide the activities of political agents. By subjecting the social and political world to the rigor of philosophical comprehension, however, he also paves the way toward a certain political emancipation. Understanding the shared world is the first step in changing it. But having lived through the excesses of the revolution in France, he opposes those who would "make" politics conform to their "blueprints" (see below, Ch. IV). Instead, he turns to the education and cultivation of the citizens of the modern state. This final turn is quietistic, conciliatory, and too patient no doubt, but at least it is honest to his vocation as a teacher of philosophy. In this essay I will study some of the philosophical grounds that motivated Hegel's conciliatory wisdom.

II. Ancient and Modern Natural Right

In an age not particularly disposed to humility Thomas Hobbes was one of those who combined a magnified sense of self-worth with daring achievements to sustain it. He claimed to be the first to lay down the "true foundations" of civil philosophy as a science,¹³ calling Socrates, the acknowledged founder of this kind of inquiry, a "lover of the science."¹⁴ He was thereby implying that Socrates, the lover, had not become the "true practitioner."

Posterity had not upheld Hobbes' claim, but it has generally recognized him as the first political philosopher of "modernity."¹⁵ Modernity

has been defined through a number of distinct and interrelated principles, but the shift from a teleological to a nonteleological science of nature, whether it is thought to have taken place with the medieval nominalism of Duns Scotus, or Galileo's Dialogues Concerning the Two Chief World-Systems is the most commonly accepted among these.¹⁶ Expanding upon the implications of this displacement, interpreters of Hobbes have seen in his thought the presuppositions that made the emergence of social theory out of a normative practical philosophy possible (Jürgen Habermas). The decisive break between theoretical and practical philosophy as a result of the radical separation of will from nature (K.-H. Ilting), the foundation of political philosophy on will and artifice (M. Oakeshott), and the anticipation of the principle of self-consciousness through the concept of self-preservation (Dieter Henrich) have also been attributed to him. Only Leo Strauss has exclusively defined Hobbes' modernity within the context of the inner transformations of the natural right tradition itself.¹⁷

In his Lectures on the History of Philosophy Hegel argues that neither Grotius nor Pufendorf (nor Christian Wolff) had made a break with the traditional teaching of right. He calls Hobbes the "truly revolutionary theorist of natural right," who had sought to derive the nature of the unity of the state and of state power from "principles which lied in us, which we could acknowledge as our own."¹⁸ Hegel is referring to the principles of human nature and desire that Hobbes made the basis of the state.

In the ancient natural right tradition taught by Plato, Aristotle, and Aquinas, the fundamental problem of political philosophy is that of the actualization of a natural principle only possible for man within

the human community.¹⁹ The individual owes his existence as well as his perfection to the human community. His duties derive from the specification of the human perfection to be attained, whether theoretical or practical. Plato, Aristotle, and Aquinas agree that the good life, as distinguished from mere life, is the life of human excellence. "One may therefore call the rules circumscribing the general character of the good life the 'natural law'." ²⁰

The obligation that the individual owes to the political order has its foundation in this fact: only within the political community can self-realization be complete; only in a community can human excellence be attained. For this tradition, the question of political obligation and the question of whether man should abide by that which is highest in him are identical. The answer to both is the same: everything that is by nature tends to its perfection.²¹ The drive to actualization reveals itself for Plato in eros. First manifested in the reproduction of the species for the sake of maintaining an eternal image, eros is also active in the pursuit of knowledge through the love by which the soul of the knower likens itself to the object known. Aristotle also holds that a similar longing toward eternity, toward the imitation of the unmoved mover, shows itself in all of nature. Man must make this telos toward actuality his immanent goal by adopting it as a conscious aim. The reason why he should do so, which is also the reason underlying political obligation, is not a single principle. Raymond Polin has defined it as "essential obligations, pure obligations, certainly, but also effective inclinations, rational calculation and even integrated or accepted constraints." ²²

The modern tradition of natural right makes the issue of political obligation and legitimate authority the center of political thought. The order of nature is no longer viewed as an order of reason dictating to man a true course of action consistent with his natural ends.²³ The teleology of nature is silent with respect to the mutual relations of human beings to one another in the political community. Nature is no longer viewed as a system of ends but is instead considered an interdependent mechanism of efficient causes. If reason can only disclose the working of immanent necessity, rather than the ends of nature, then the foundation of the political order is not a law but a right, the right to exist in accordance with human necessity and to follow its dictates. Hobbes calls this right "the original right to self-preservation." By shifting the aim of the political order from the realization of a transcendent end to recognizing the demands of human nature, Hobbes raises the issue that will dominate the problematic of natural right in the modern tradition: how to reconcile the needs and desires of the private individual driven by human nature with the like needs and drives of similarly motivated individuals? Once the chief characteristic of human individuality is interpreted as the drive for assertion, what would be the limitations and constraints of a political order that would contain this drive against its own self-destruction? The concept of "natural rights" is the result of an attempt to answer this question by defining the limits of political obligation and legitimate authority.

The purpose of the political community is to guarantee those rights that the individual claims as his own prior to their being sanctioned by the social order. Natural rights circumscribe those aspects of human

existence that government should not and cannot violate, and define a natural limit to what the individual can voluntarily choose to subordinate himself. By their voluntary consent, men have to institute a form of political life that respects the grounds of legitimate authority as this is specified by the content of the original rights. The rights of nature derive from the demands of human nature and are sanctioned by the "laws of nature." Modern natural right theorists infer the characteristics of human nature either from principles of anthropology, tradition, lore, and history, or from principles provided by introspection and the sciences of physics and medicine. The beginning point of these theories remains empirical, and accounts for the realistic intention of these theories. By taking human nature as given, they have to confine themselves to what is possible in politics. Their concern shifts from the good life to questions concerning right and justice. Accordingly, political philosophy no longer concerns itself with the foundations of political life as these reside in the capacity for human excellence. It is now a doctrine of those forms of justice and government made inevitable by the characteristics of human nature.

In distinguishing the formal capacity for rationality and moral self-determination from the anthropological foundations of previous human nature theories, Kant suggests a reformulation of the problem of natural right. He discusses this under the heading of the "metaphysical elements of justice."²⁴ In virtue of specifying conditions of moral obligation and political authority, Kant's metaphysical exposition of justice carries on the tradition of modern natural right. Obligation can only be justified by recognizing the autonomy of the individual. Kant

specifies one innate natural right that he claims belongs to the individual in virtue of his humanity. This is the right to freedom, defined by him as "independence from the constraints of another's will insofar as it is compatible with the freedom of all under a universal law."

Hegel's political philosophy is a critique of the modern tradition and a revival of Platonic-Aristotelian conceptions of community in the name of a thoroughly modern principle of freedom. The source of right is not an order of ends drawn from a normative understanding of nature, but the free activity of men as they create a reality designated by Hegel as spirit. Right is defined as "an existent of any sort embodying the free-will" (Ph R, #29). Hegel may be said to have expanded on the implicit commitments of Kant's philosophy of freedom to reinstitute the concern with concrete conditions of human communal existence. For Hegel the task of political philosophy no longer is to determine the limits of legitimate obligation and authority, but to comprehend those forms of human existence and interaction compatible with freedom. The understanding of this Hegelian turn is the aim of this essay. Our question is: how do natural rights which limit political authority and which describe a liberal theory of politics in Hobbes, Locke, and Kant become identified with the task of realizing human freedom in Hegel's political philosophy?

III. Subjectivity and Modernity

Hegel defines modernity as that era in which the principle of 'subjectivity' emerges to preeminence in thought and actuality. The philosophy of the modern age is inaugurated by Descartes who makes the certainty of the thinking self the conceptual foundation of all valid knowledge.

Those world-historical developments leading to institutionalize subjectivity in social life are the Reformation and Luther, the rise of civil society, somewhat more ambiguously the French Revolution, and the emergence of the modern constitutional state. In short, for Hegel, modernity is the epoch of the "bourgeois-Christian" world.²⁵

In the Preface to the Phenomenology, Hegel announces his intention to "grasp the true not only as Substance but as Subject as well."²⁶ By making the immanent principle of the modern age the stated goal of his philosophical speculation he underscores the relationship between his thought and this era. This relationship, however, cannot be understood by simply being interpreted in the light of the assertion "Every philosopher is a child of his time--Hic Rhodus, hic saltus." (Ph R, 11) Such an interpretation would be helpful from the standpoint of intellectual history that must adopt Hegel's statement as its methodological principle. The real philosophical problem rests with Hegel's explicit linking of the content of philosophy to the logic of human history: what from the standpoint of other thinkers is an external, contingent, and often unconscious fact--that they rest situated within the premises of their own times, that their thought unconsciously reflects the structure of their social-historical horizon--is for Hegel an acknowledged content of his philosophy. The relationship of philosophy to its own age is one that is immanent to philosophical thought itself. The real issue is to understand why Hegel claims this. (See Chapter IV, pp. 150 ff.)

Actually, Hegel's main point concerning modernity is that the modern age, while emancipating subjectivity, is incapable of grasping its true conceptual structure. Hegel's characterization of the modern

"turn to the subject" by the phrase "Spirit present to itself" (den sich gegenwärtigen Geist) reveals the potential source of antinomies in modern thought well.²⁷ "Presentness to self" can be comprehended as if it described the thereness of a thing for a subject to perceive, to manipulate, and to grasp (begreifen). In fact, the intellectual paradigms of the moderns can only comprehend human reality, Hegel claims, by treating it as an object and by subjecting it to the kind of external analysis and dissection to which natural phenomena in general succumb. As the discussion in Section V B of the Phenomenology so eloquently shows, the transition to Hegel's own systematic exposition of Spirit is precipitated by the outrageous claim of "observing reason" that "the mind is a thing."²⁸ For Hegel the basic antimony of modernity is that the structure of human reason, as understood by modern thought, is no longer compatible with the phenomenon of human subjectivity.

His interpretation of Descartes' principle of the cogito rests on this point: Descartes maintains that the method of radical doubt is consistent with the denial of every proposition--even that of the existence of God--but one. "This proposition that I am, I exist, is necessarily true each time that I conceive it in my own mind."²⁹ Doubting is not only compatible with, but actually requires, the very truth of the assertion "I am." Doubting is a form of thinking, a form of consciousness, but all thinking implies an I that thinks. Yet the issue is: what is meant by this "implication"? Is Descartes' cogito ergo sum a form of ontological proof that in the very concept of the "I" the thought that the "I" exists must also be contained? Or that there is an

instinctive or immediate awareness that each act of thought must be an act of a being who exists? Does "I am" mean "I exist"? Hegel speaks of Descartes' proof as asserting both the existence and the being of the "I".³⁰ If the "I am" is interpreted as a thesis of existence, it would contradict the claim that the method of radical doubt is compatible with doubting the very existence of the body of the thinker.

Historically, the ambiguities of the "Cogito" principle, once understood as asserting the form of being of the "I" rather than its mere existence, have proven the more fruitful line of interpretation in the development of German idealism. Heidegger has emphasized, and Descartes himself asserts, that the "cogito ergo sum" is not an inference. In contemporary literature this same thought has sometimes been stated through the argument that the "cogito" is a performative.³¹ If "I think ergo I am" does not mean that from the assertion "I think" the assertion that "I am" can be inferred, then how must it be understood? It is here that the weaknesses of Descartes' thought to account for its own foundations become apparent: if the "I am" is the ground [the conceptual foundation] of the "I think," then is the "I" in some sense prior to its thinking itself? Is the "I" a continuing persisting substratum that gains self-awareness when it thinks? If so, the "I" is distinct from its self-awareness. But then what constitutes the distinctiveness of the "I"? Is it the continuity in time of a substance called "I" to which modes of consciousness belong as qualities inhere in a simple substance?

If, on the other hand, the "I am" that underlies all the states of consciousness only is, or in some sense can only come to be, when it

thinks itself, is it not presupposed that the "I" that thinks is also the "I" that is, that in fact the identity of the "I" is presupposed by the whole proof rather than being generated by it? How does the thinking "I" know itself to be also the "I" that is? What are the criteria of the implicit identity between the two?

Descartes broke through the dizzying vertigo of self-consciousness that so troubled thinkers from Fichte to Sartre simply by assuming what he set out to prove: that the thinking I knows clearly and distinctly that it is also the I which is: I think ergo I am. The "I" is given, it is a fact, a datum of our consciousness. The "I" that is certain of itself knows itself to be in its certainty. But to be what?--to be there, to be given as a primordial truth. All this means that methodical doubt that has the goal of grounding all thought itself rests upon a principle that has no further ground other than the immediate certainty of awareness.

Martin Heidegger, in What is a Thing?, claims that Cartesian mathematical thought can only rest upon a ground that is the substratum of all possible grounds, and that therefore the cogito proof is perfectly suited to Descartes' intentions.³² But Hegel sees in Descartes' principle of the cogito at best a vicious circle, at worst a form of intuitionism. The divergence between Heidegger and Hegel is instructive: for Heidegger the modern concept of subjectivity including that of Hegel's, can only grasp it as a subjectum--as a that which supports all its positings--the hypokeimenon--. Hegel, on the other hand, argues that the structure of subjectivity can never be merely given--certainty is not an adequate criterion for explaining subjectivity.

The true principle of subjectivity is, for Hegel, the source of the highest speculative claims. What is called reason by the philosophy of the modern era is only "reasoning" or "intellection" (raisonnieren) according to him. This mode of thinking governed by spatio-temporal causality, serial formalism, and the principle of contradiction is incapable of grasping subjectivity as anything but a thing. The development in Hegel's philosophy of a speculative principle going beyond reasoning and the specification of the true structure of subjectivity together culminate in the principle of the "identity of identity and difference."

IV. Subjectivity and Natural Right

The concept of subjectivity suggested by Descartes' analysis of the cogito initiates a form of thinking about the human self that I propose to call "egotism." A basic argument in this essay is that the modern natural right tradition from Hobbes through Locke to Kant remained caught within the framework of "practical egotism." There is a structural overlap between Descartes' understanding of the I through self-certainty and the practical understanding of the human individual in modern natural right theories. The basic human condition is the givenness of the self independently of its relation to other thinking, knowing, acting, and desiring beings.

The Platonic-Aristotelian teaching of natural right defines the actualization of human perfection only possible for man within the political community as the fundamental concern of political philosophy. Since the individual owes his existence as well as his perfection to the human community, he has duties but no "original" rights against the community.

Modern political philosophers postulate an "original" and "natural" right of the individual as their beginning point because they consider the human self prior to the community in three most significant senses: logically these theorists assume that the attributes of the individual and the identity of the human self can be defined independently of his relation to other selves and individuals. Psychologically, they claim that the individual confronts the demands and characteristics of his nature prior to his interaction with others. Temporally, since the political state of the civil union results from the willful and deliberate compact of these individuals, individually transacted associations are prior to that organization which can only be a consequence of their activities.

This vision of the self informs the methodological assumptions of natural right theories: the state of nature that appears as a semi-historical, semi-fictional, and anthropological memory owes its justification to the presupposition that a "rational abstraction" can be performed from the condition of men as they are now to what they would be like or must have been like in a hypothetical state. Concrete human bonds arising through time, through custom, and through community are of secondary importance for determining what the condition of man in the "state of nature" must be.

The individual's claim to natural rights derives from his condition in the state of nature. Neither Hobbes nor Locke clearly distinguishes that which men cannot avoid doing given the kinds of beings they are from that which they are entitled to do. But if the source of original rights is the urge to preserve oneself and to appropriate nature, these

rights are not normative relations among such individuals but simply define unavoidable conditions of existence. Let me develop this issue further. To most post-Kantian readers the very concept of "natural rights" seems completely flawed--How can moral claims of rightness and legitimacy be derived from factual characteristics of human nature? ³³ Rights define a moral claim made by one individual against another, but nature neither confers nor arbitrates human rights. If the concept of 'right' defines a moral claim, it can only be understood as a relation among individuals; the urge to exist and the drive to survive do not define such a claim but only describe a natural fact. The self-assertion of the individual, in other words, cannot be a source of right; at most it is an impulse, a coercive force, and a potential collusion. There is a tension, therefore, between the accepted assumptions of Hobbes and Locke that rights derive from the individual's self-relation and that they have the status of mutually binding moral claims.

In his Anthropology Kant distinguishes three kinds of 'egotism'--the logical, the moral, and the aesthetic. ³⁴ The question faced by logical egotism, according to him, is "whether I, as a thinking being, have any reason to assume the existence outside of myself of a totality of other beings (called the 'world') with whom I am in relation?" (27). Descartes' answer to this question is negative. In the discussion called the "Refutation of Idealism" Kant holds against Descartes that the thinking 'I' must indeed presuppose the reality of the 'world'. It is important, therefore, to distinguish my use of the concept 'egotism' from Kant's. The question is not only whether the thinking or acting 'I'

acknowledges the reality of the world, but whether his interaction with or his relation to these other beings is a constitutive factor in his own identity. For Kant, the identity of the thinking I is formed through self-reflection alone. The totality of other thinking beings is a presupposition not altering the givenness of the reflecting self though needing to be acknowledged by it.

The use of the term 'egotism' to define both the assumptions of Descartes' philosophy and those of modern natural right is not a simple matter of convenience or historical affinity. The methodology of a state of nature conceals a number of systematic issues, and it is when discussing them that the term 'egotism' is most appropriate. The state of nature describes the condition of the self in terms of a figure of thought that is logically simple, psychologically compelling, and temporally prior. Since this metaphor depicts the individual self in its 'true' light, it is the locus of the philosophical problem of subjectivity. But the state of nature also describes a condition of original interaction between a self and other. In that sense, it is more appropriately the locus of the problem of intersubjectivity, if this problem is defined to be that of the mutual constitution of a shared human world among individual selves.³⁵ It is conspicuous that Hobbes, Locke, or Kant do not discuss the relation between self and other. The point is not so much that their account of the state of nature is solipsistic, but that they proceed from the uniform assumption that the predicament of the individual self is a given shared by all. Relation to others is secondary and subsequent in view of this original condition. Their question is how to reconcile the needs, desires, and inclinations of the individual with the needs, desires, and inclinations

of others against their mutual clash and destruction. This is the problem of the 'social order'.³⁶ They address what I have called the issue of intersubjectivity--the mutual constitution of a shared world--through the framework of an artificially generated social order. Without altering their assumptions about the initial divisiveness, antagonism, and selfishness of the human condition, these theorists offer an artful construction called 'civil union or government' to check this condition against its own self-destruction. The Kantian understanding of the self as an autonomous being clearly acknowledges the plurality of human individuals. But as the famous formula of man's "asocial sociability" (ungesellig Geselligkeit) reveals, this plurality is one of ambivalent antagonism and dependence to be resolved by entering the compact of civil government.

V. Hegel and Natural Right

If the premises put forward in the preceding sections of this chapter, 1) that modern natural right theorists accept the assumption of practical egotism, 2) that practical egotism is a continuation of the premises initiated by the Cartesian cogito principle, and 3) that Hegel criticizes modern thought for not being able to comprehend the structure of subjectivity are valid, then Hegel's relationship to the modern natural right tradition can only be understood through his critique and reformulation of the problem of subjectivity.

Hegel's early critique of natural right rejects the substantive and methodological assumptions of this tradition in the name of classical political philosophy. The people is said to be prior to the individual

in two senses: first, in the Spinozist sense that the whole is prior to its parts, or that the totality is prior to its determinations; second, in the Aristotelian practical sense that the individual can only attain subsistence and perfection within the community. At this period Hegel's thought is dominated by the categories of Schelling's Naturphilosophie. He discusses the ethical community through concepts like "absolute indifference" or "absolutely ethical nature."

The argument of the Phenomenology differs from the Aristotelianism of the Naturrecht Essay in one crucial respect: the Phenomenology accepts the individualism of the modern tradition, while rejecting various forms of empirical and transcendental egotism. Here Hegel develops the principle that the conceptual structure of self-consciousness corresponds to that of a "spiritual unity." This is first suggested with the "redoubling" of self-consciousness in chapter IV A of the Phenomenology. The interaction between the two self-consciousnesses is analyzed through the category of "recognition"--Anerkennung--a notion that at once defines a moral relationship of mutuality and equality and the phenomenological experience of two selves. It is clear, however, that the dialectic of recognition describes a condition of suspended mutuality. As such, it is a necessary but by no means definitive stage in understanding subjectivity. Yet this discussion signals the radical reformulation of the modern tradition by Hegel. For the first time after this redoubling of consciousness it is suggested that the telos of self-consciousness is "the I that is we, and we that is I." My thesis is that Hegel's political philosophy rests on this speculative truth and is unintelligible except in the light of it.

In chapters II and III I argue that the concept of a 'state of nature' can be read as a philosophical metaphor implying a certain theory of the self, and that the continuity between Descartes' assumptions and those of modern natural right theorists can be seen clearly when viewed in this light. Hegel alters the arbitrariness of the modern experience of the self as it is described by Descartes and Hobbes. While Descartes cannot explain the identity of the "I" except with reference to certainty, Hobbes cannot legitimize the normative claims of the modern individual. Hegel argues that theoretically the structure of self-consciousness can only be analyzed when the experience of the self in the presence of its other is taken into account. Practically, self-consciousness is realized and satisfied in the community of other selves. By analyzing subjectivity through the interaction of two self-consciousnesses, Hegel offers a new philosophical paradigm called "spirit." Spirit for Hegel describes a social universal as well as formulating a logical structure, and this new paradigm leads him to reject the methodology of natural right theories along with the substantive content of various forms of practical egotism. Hegel's relation to the modern natural rights tradition can be conclusively analyzed only in this context: How does he accommodate the demands of modern individualism while denying that the modern understanding of the self is theoretically or practically correct?

Since Hobbes and Locke do not distinguish between psychological necessity, anthropological inclination, and political obligation, the metaphor of a state of nature becomes an expression for the original rights and claims of the individual, and under the construct of a state of nature they discuss questions of political obligation and authority as well. In chapter IV I maintain that natural rights express the moral and rational preconditions of obligation and authority. Hobbes

and Locke frequently conflate what the individual cannot avoid doing with that he is entitled to do. Kant, however, defends the thesis that political obligation can only be legitimized if material characteristics of human nature are not adopted as maxims of their actions by moral agents. Only formal and universalizable principles yield maxims that can be legitimately binding, and according to Kant, to recognize the capacity of individuals to act on such maxims is equivalent to upholding their autonomy. Respecting the autonomy of the individual is the only grounds on which obligation and authority can be justified. Kant claims that natural rights define no more than the condition of autonomy under which alone the freedom of persons can be limited.

Hegel in the Philosophy of Right accepts this Kantian argument that only the recognition of autonomy in the person justifies political obligation. But he rejects the Kantian understanding of personality on which the concept of autonomy rests. His own concept of the person presupposes his analysis of the redoubling of self-consciousness. The relation between self and other is not defined as a formal identity, but as a concrete identity, as one that involves the identity of identity with difference. Hegel's own theory of basic rights follows from this principle: just as the relation between self and other is internal to the very structure of self-consciousness, to be a person involves the treatment of the other as a person entitled to the very rights and duties which one claims for oneself. Hegel's reformulation of the understanding of the self and his theory of rights meet in his analysis of persons. (chapter V).

In my final chapter, I examine Hegel's reconciliation with the legacy of modern natural right. He accepts the heritage of modernity both in

theory and in practice, while denying the philosophical assumptions upon which the modern tradition initiated by Descartes rests. The Philosophy of Right grasps the social and historical world of modernity as the unfolding of the principle of "free will." Such an understanding of the ethical world constitutes a science in the Hegelian sense, because all aspects of ethical reality can be seen as diverse instantiations of the logical movement of one concept. Thought can thoroughly penetrate social and historical reality, because in virtue of having been brought about by the activity of human agents, this reality is susceptible to rational comprehension. Both the French Revolution, and the rise of bourgeois economic relations bring about changes in the social and historical world which subject it to certain general and intelligible norms. Hegel accepts that these changes are a historical presupposition of his concept of right, but claims that an adequate defense of the individual's basic rights involves abandoning the modern understanding of subjectivity.

I am in no position to comment here upon the development of Hegel's thought as a whole, though as must be clear from the above, I am assuming that his logic and political social thought are internally and not haphazardly related. The recent publication of the Jena writings and the gradual delineation of Hegel's early development is forcing us to re-think the relationship of the Logic to the system, and of the Phenomenology to the Logic. Hegel's early Jena writings develop both a logic and a philosophy of spirit alongside one another. He did not become a logician in his old age alone, and certainly, the preoccupation with the concrete issues of western man's history was not a mere youthful indulgence. Perhaps it is best to describe Hegel's thought as a "logical" reflection upon the history of Western mankind. ³⁷

Chapter II

I and we : Ego and Spirit

Introduction

In the preceding chapter I argued that there is a conceptual continuity between the Cartesian principle of the cogito and the modern natural right tradition. To parallel the logical egotism initiated by Descartes, I entitled the standpoint of this tradition 'practical egotism'. This perspective entails two assumptions: first, the self is logically, psychologically, and temporally prior to the human community; second, the drive to assertion of this self is identical with its claims to rights that are original and necessary. In this chapter I will deal with the first assumption by reconstructing the course of Hegel's arguments in the well-known sections of the Phenomenology on the "Truth of Self-certainty" and "Dependent and Independent Consciousness." The second issue is discussed in Part II.

The tradition of logical egotism from Descartes to Fichte raises three distinct philosophical questions. First are questions in the domain of what we today would call the "philosophy of mind." What is mind--is it an entity, a simple substance, an activity, or a relation? What is the structure of the mental? Descartes, of course, was the first to suggest that mind is a simple substance whose primary attribute is thought. His unique contribution was the discovery that the presence of an I is entailed necessarily by every act of thought. Thinking can no longer be discussed independently of a thinking subject. With this thesis Descartes initiates the modern problem of 'subjectivity'.

Second, it is assumed, beginning with Descartes, that the necessary self-awareness in every act of thought of an I that thinks these thoughts is the same as the self-consciousness of this I. Kant goes on to identify "apperception" with the self-consciousness of the thinking subject. Self-consciousness is thus reduced to a unique mental act of "reflection": the subject can always turn upon itself in thinking and cognize that it is the very I which thinks. It is always possible in thinking x, y, and z, to know that "I think x, y and z." In the third place, the theory of self-consciousness leads to a theory of self-identity. Who is the I that discovers itself through reflection? Does reflection exhaust cognition of identity? How is identity maintained over time? How is the self recognized as identical in all its acts of thought?

Hegel's rejection of logical egotism begins with the disassociating of these three philosophical issues from one another. He distinguishes questions concerning the structure of mind from the self-consciousness of an ego. Mind is not an entity or a subject, but an activity defined through a logical structure. This logical structure can be variously formulated: "the identity of identity and difference"; "unity of pure self-relation and determinateness." By 'subjectivity' Hegel does not mean the condition of the thinking self. It is the logical structure of thinking as an activity that concerns him. His reformulation leads to a new theory of self-consciousness. Self-consciousness is attained (teleologically) in and through interaction with other selves. The self is aware of itself not as an object but as an other. Logically, self-consciousness can only be conceptualized as the unity of self and other. This unity involves a twofold relation: within the individual self and

between two distinct individuals. Hegel refers to both as a form of "spiritual unity"--geistige Einheit. (Ph G, 229; 141) *

Given this analysis, identity is no longer a question of reflection but one of education and formation (Bildung). Thinking alone does not exhaust identity, for the reality of the self involves both thought and activity. The formative practical activity of self-consciousness is interaction with other selves. The self becomes an individual in the community of others.

Hegel's conclusions carry consequences for the traditional content of state of nature theories: while rejecting the logical priority of the self, he in fact accepts that consciousness of self is first experienced as a drive to assertion and the appropriation of the world. On this issue he agrees with natural rights theorists like Hobbes and Locke. The modern tradition is quite insightful in making this urge first from the self's standpoint, but since this urge is shared by all, its expression takes the form of a struggle for recognition. Each self confronts the other as making identical claims, yet these claims are not thought to have equal worth. The insight necessary for the resolution of the struggle is acknowledging the implicit identity between two selves. The meaning of this identity between selves is found in Hegel's analysis of subjectivity through the principle of the "identity of identity and difference."

The discrepancy between the philosopher's understanding of human subjectivity and that of experiencing selves is meant to suggest the rich interplay between the standpoint of the race (phylogenesis) and that of the human individual (ontogenesis).¹ The individual must be

* All references to Hegel's Phenomenology of Mind include two page numbers in parentheses from two editions. The first refers to the Baillie translation; the second to the Hoffmeister edition, 1958.

elevated to appropriate the vision of the race and of the philosopher. The philosopher considers world history teleologically as the realization of the goals of mankind as a whole.² Viewed from this perspective, world history culminates in the modern constitutional state.³ The philosophical understanding of the state, argues Hegel, is thus indifferent to its genesis, be it phenomenological or historical, as long as the claims of modern individuality are accommodated by institutions of the state. The fiction of a state of nature is caught in the genetic fallacy of demanding that what appears to be first for the self be also first in the true understanding of things. The Phenomenology of Mind is the saga of overcoming this perspective both theoretically and practically.

II. The Controversy over the Phenomenology of Mind

The controversy surrounding the structure of Hegel's Phenomenology, its intentions and position within the system have continued for well over a century.⁴ Is the Phenomenology an "introduction" to the system or the "first part" of the system? For Hegel philosophy is unique among the sciences in grounding or justifying its ultimate presuppositions. This implies that the movement of philosophical science is circular--its beginning can only be legitimized by recapitulation within the whole. Would this suggest that the Phenomenology is recapitulated within the Logic, or may be within the Encyclopaedia of the Philosophical Sciences, depending on what the system is considered to be? Furthermore, what is the structural theme which unites the epistemological content of the first three chapters with the concrete historical and political episodes of the latter parts? Perhaps the Phenomenology is not one but two treatises: one on the "science of the experience of consciousness,"

and the other on the "phenomenology of mind."⁵ Or, as Jean Hyppolite suggests, there may be a "phenomenology" and a "noumenology," the first comprising chapters I through V, and the latter chapters VI through VIII.⁶

It is clear that the debate on the structural unity of the Phenomenology of Mind is intimately related to my claims concerning the significance of spirit in Hegel's thought. If the epistemological discussions of the first three chapters are only haphazardly linked to the rest of the work, it would be impossible to maintain that Hegel overcomes the standpoint of logical and practical egotism by developing the concept of Geist. My reading of the Phenomenology rests on the assumption, therefore, that the text is one continuous philosophical discourse. The "science of the experience of consciousness" and the "phenomenology of mind" are one.

In this section I will outline three theses on how to read the Phenomenology. Their validity can in part be vindicated by their interpretive usefulness. I hope that the analysis of self-consciousness in section IV of this chapter will further illuminate the centrality of the concept of spirit for understanding the text as a whole.

My first thesis is: the Phenomenology of Mind must be read as a critical commentary on the viability of epistemological inquiry. While accepting the need for an introduction to philosophical science, Hegel rejects modern theories of epistemology from Descartes to Kant. A letter written to Schelling by Hegel himself in the fall of 1807 makes this intention of the text most explicit:⁷

This volume presents knowledge as developing. The Phenomenology of Mind should replace psychological explanations and abstract accounts of the foundations of knowledge. It considers the preparation for science from a point of view which makes it [the

Phenomenology] a new, interesting and first science of philosophy. It embraces within itself the diverse forms of spirit as stations of a path by which it becomes pure knowledge or absolute spirit. . . . The richness of the manifestations of spirit which at first present themselves as chaotic is brought into scientific order which presents them in accordance with this necessity, and in which the incomplete dissolve themselves and are transformed into higher manifestations which are their proximate truth.

Modern theories of knowledge, whether they rest on a form of ego psychology (Descartes), the simple, plain method of the human mind (Locke), or transcendental idealism (Kant and Fichte) are vitiated by an inherent circularity. The epistemologist presupposes that knowledge has become problematical. He undertakes to examine what knowledge can and must be as a propaedeutic to the acquisition of true knowledge. Yet, in distinguishing an illicit from a legitimate knowledge claim, does the epistemologist not presuppose what he sets out to discover--namely, true knowledge itself? If one does not already know, how can one distinguish true from false claims of knowledge? All epistemology proceeds from a dogmatic presupposition, a ground which it leaves concealed. Epistemology is a form of Ursprungsphilosophie, or foundational philosophy. But philosophy can no longer return to pre-Kantian metaphysics, nor can it rest satisfied with dogmatic epistemology. Hegel develops the phenomenological method in order to radicalize the intentions of Kant's critique of knowledge.⁸ Such criticism must not remain an external reflection upon the faculty of knowledge. Its method must be immanent. The naive epistemologist of natural consciousness must arrive at philosophical knowledge through the unfolding logic of its own assumptions.

This method of internal or immanent reflection is said by Hegel to treat knowledge as it "appears" (Ph G, 135; 66). Hegel assumes that all knowledge claims are made by a subject and that they contain two

conceptually distinct aspects: the object of which knowledge is knowledge of, and the knowing itself of which the subject is also conscious. He thus claims to avoid the dogmatic circularity that vitiates modern epistemology: the examination of knowledge need not assume a criterion by which knowledge must be judged. The experience of knowledge itself provides its own immanent criterion (Ph G, 139; 69). Knowledge is always knowledge of some object and the knowing of this object. The phenomenological method consists of observing the interplay between the moments of truth and certitude, or between the object of knowledge and the act of knowing.⁹ "Is the truth of knowing commensurate with what its certainty claims it to be?" asks Hegel.

The appearance that is observed in the Phenomenology is defined by Hegel himself as the "experience of consciousness." This notion of experience includes more than a knowledge claim.¹⁰ All aspects of human existence that can be cognitively expressed fall under Hegel's category. But the word in Hegel's usage is narrower than its ordinary counterpart. Hegel stipulates two conditions for a unity to be called experience (Ph G, 142; 73); the intentional subject who makes cognitive claims and the object of these claims. Experience in the Hegelian sense is the intentional unity of the act of cognizing and the object of cognition. Hegel claims that because all experience and cognition are given with such a distinction, the examination of knowledge can simply proceed by observing the adequacy of the claims of consciousness to live up to their own stipulated object.

My second thesis is: the science of appearing knowledge is the appearance of science itself. The ascent from naive consciousness to philosophical knowledge is also the coming-to-be of philosophical knowledge.¹¹

The Phenomenology develops this thought through the methodological device of the two standpoints: the standpoint of consciousness and the standpoint of the philosophical subject called the "we." The "we" is not only the observer in the process; the structural unity of the whole is only evident to the retrospective glance of the reflective thinker.¹²

The transitions from one experience of consciousness to another occur through an internal dynamic, but the necessity of these transitions is not apparent to the subject undergoing the experience. Two discourses unfold in the text: one of an experiencing consciousness, and the other of a recollecting thinker for whom the sequence of experiences presents a necessity. On account of this necessity, Hegel calls the text the science of the experience of consciousness. The Phenomenology contains within itself a Hegelian logic. The genesis of Hegel's logic and of his phenomenology are coeval.¹³

There is also a sense in which the "we" must simply refer to the community of readers who are following the text.¹⁴ But in virtue of what can the readers of the Phenomenology constitute a collective subject, a we? I believe Hegel to be claiming that the same principle which reveals consciousness to be identical with spirit also entails that we, the readers of the Phenomenology, are one with one another in virtue of this principle and constitute a community in that sense. This principle is: the logical structure of subjectivity corresponds to that of a community of selves in reciprocal recognition of one another. When consciousness knows itself to be spirit in this sense of a pure community of recognition, it attains complete self-knowledge. The standpoint of the philosophical "we" is no other than that of spirit knowing itself.

And we, the readers of the Phenomenology, attain philosophical knowledge when we recognize our oneness with this community. This is my third thesis.¹⁵

III. From Descartes to Fichte: Transformations of the "I think"

Hegel's initial characterization of self-consciousness is "that of a certainty on a par with its truth, for certainty is to itself its own object and consciousness is to itself the truth" (Ph G, 218; 133).

Whereas former theories of truth spoke of the agreement between knowledge and its object, Descartes transformed this idea into the condition that the truth of knowledge ought to be demonstrated by the certainty of a knowing self.¹⁶ The unity of truth and certitude was immediately present to the thinking subject in self-awareness. The 'I think' is defined through this infallible correspondence between knowledge and certitude. In knowing itself, the I is always certain of itself.

Hegel's description of self-consciousness [as it is experienced by consciousness (für es)] is in perfect accord with Descartes' understanding of the I. But in these introductory passages Hegel also offers two additional criteria to describe self-consciousness: first, self-consciousness has otherness within it. It possesses a content which it knows to be different from itself. Self-consciousness is given with an internal distinction. "Otherness, no doubt, is also found there: Consciousness, that is, makes a distinction." Second, "what is distinguished is of such a kind that consciousness, at the same time, holds there is no distinction made" (Ph G, 218; 133). Self-consciousness is defined by a unity or oneness with self for which these distinctions

are not real but apparent. However, if these distinctions are not real, self-consciousness is a bare tautology: I is I, Ego is Ego. What preserves the nontautological identity of the I is this constant process of relating to itself by returning from that which is other than the self. Self-consciousness is this motion of setting up distinctions, resolving them, and asserting self-unity. As Hegel expresses it, "Ego is the content of the relation and itself the process of relating. It is Ego itself which is opposed to an other, and at the same time, reaches out beyond this other, which other is all the same taken to be only itself" (Ph G, 219; 134).

In order to understand the historical import of Hegel's argument, it is necessary to consider the contributions of Kant and Fichte to the analysis of self-consciousness. This will be a brief sketch in which I hope to show the following: 1. It was Kant's insight that self-consciousness is laden with otherness. The transcendental unity of apperception is not possible without the synthesis of a content given to the self. 2. Fichte showed that this unity of apperception could only be understood as a self-relation. The unity of mind, he claimed, was its self-relation.

Kant begins with a restatement of the Cartesian claim: "I think, I am" is read by him as "It must be possible to think that any knowledge or experience I have is mine." Our awareness of any thought or cognition involves a self of which we also become aware. Kant usually states this in two forms: "It must be possible for an I think to accompany all my representations" (CPR, B 132), or "All representations are for a thinking self" (CPR, A 116).

There is nothing novel in the claim that every act of thought implies an I who thinks. Kant's contribution is different: the necessary unity, he claims, in every act of thought of such an I is a precondition for having representations at all. In view of Hume's attacks on the possibility of a priori knowledge of the self, this claim of Kant's is not as innocent as it may sound.¹⁷ In fact, whatever theory of self-consciousness may be found in the Critique of Pure Reason is part of the transcendental deduction of the categories.¹⁸

The a priori unity of the self and the deduction of the pure concepts of the understanding are both grounded in the principle of the transcendental unity of apperception. Kant's answer to Hume is to show that the condition of all valid knowledge entails the possible a priori unity of the self.

In the deduction of the pure concepts of the understanding, the goal is to prove that they relate "of necessity and a priori to objects of experience, for the reason that only by means of them can any object whatsoever of experience be thought" (CPR, B 128/A 94). The deduction of the categories involves two steps. First Kant shows that the "unity of apperception" is the highest condition of all experience and knowledge (CPR, sec. 16). Transcendental necessity can only originate with this principle. Second, once the "transcendental unity of apperception" is established, it is proved that the required synthesis is only possible through the application of the pure concepts of the understanding to all objects of experience a priori and necessarily.¹⁹ From Kant's discussion in the two versions of the Deduction, the following features of a theory of self-consciousness can be inferred:²⁰

1. Kant identifies the awareness of perceptions--apperception--with the self-consciousness of the knowing subject.²¹ Awareness of perception and of other states of consciousness is said to stand in a necessary relation to the 'I think' in the same subject. The 'I think' that accompanies all representations, the original unity of apperception, and self-consciousness are all the same for Kant.

2. Since it is always possible for the 'I think' to accompany all representations, whatever thought the self has is of the form "I think X," "I think Y," etc. The "I think" is an empty category, through it nothing is given to the self except the continuous possibility that at every point the self can say "I think X." The self-consciousness of the knowing subject presupposes the givenness of a manifold of representations of which it can become conscious. In so doing it becomes aware of itself as thinking (CPR, B 135). In other words, if the 'I think' were not also a synthetic truth--one which presupposed the possibility of experience--then all the characteristics of self-consciousness could be deduced from the formula "I think = I think" with no reference whatever to possible states of consciousness. But the 'I think' is empty.²² The manifold of representations must be given to the self. Self-consciousness does not generate intellectual intuition for Kant.

3. It is also possible to arrive at this conclusion by developing the "numerical identity" of self-consciousness. Kant insists that if all representations did not belong to the one and the same self, no awareness of them would be possible. The problem is, of course, how to understand "numerical identity." Kant defines this as an identity persisting

over the various states of the self. But if the self remains identical through its various states, this can only be due to an identity in the formal conditions of consciousness, for it is the heterogeneity of material content that distinguishes one state of consciousness from another. The self must think a priori the act by which it proceeds from one state to another. If it is to remain the same in all its various states, it must have before its eyes the necessary rules of synthesis that generate the uniformity of the transitions from one state to another. In Kant's language, the "transcendental unity of apperception" is only possible on the grounds of the "synthetic unity of apperception."

For the mind could never think its identity in the manifold of representations and indeed think this identity a priori, if it did not have before its eyes the identity of its act, whereby it subordinates all synthesis of apprehension (which is empty) to a transcendental unity, thereby making possible this inter-connection according to a priori rules. (CPR A 108)

The transcendental unity of apperception is possible only because of the synthesis performed by the self on the content of all its representations. It follows that self-consciousness presupposes a givenness of content in relation to which the self performs a mentally identical function. Thinking for Kant is a special kind of activity. One might say it is 'rule-governed spontaneity,' the rules being the pure concepts of the understanding. The self in thinking is active. It performs a function, the function of synthesis.

What remains unexamined in Kant's account is the relation between the reflection of the self (that it is always possible to think that I think) and its identity. First, self-identity is understood as numerical

identity, and second, this numerical identity (the singularity of the self) is said to be possible as synthetic activity. But he does not make clear how the self comes to cognize itself in this activity. In reflection I can always relate myself to myself as thinker--"I think X" also has the form "I think that I think X." The self that one becomes aware of in reflection is the same self that reflects each time it does so. Kant takes this identity of the self in reflection for granted. No conceptual difficulties are involved for him.²³ Self-identity is immediately cognized in every act of reflection. The connections between the reflection of the self, its unity and its identity are not examined by Kant. The inadequacy of Kant's views can be better seen in the light of Fichte's criticisms.

Fichte criticizes Descartes and Kant for explaining self-consciousness in terms of the thinking activity of the I.²⁴ The 'I think' that accompanies all representations and states of consciousness can be initiated freely as an act of reflection in which the self turns upon itself, and it is always possible to think that "I think." But if this turn to the thinking self is also a form of self-consciousness, the self that is turned to must already be there. To turn to itself the self must already be given to itself. Reflection is circular and presupposes self-reference: How does the thinking I cognize what it turns to as itself? If the thinking I is other than the I it encounters when it turns inwards, reflection can never yield self-consciousness. In order to identify what it encounters as itself, the I must already know itself. Kant calls the original awareness of all perceptions "apperception." But why is this apperception a self-acquaintance unless one already presupposes

that the self immediately refers to itself? "X is directly acquainted with Y" describes self-awareness if "X is Y." How is this known? This means that reflection theories simply cannot account for the nature of self-consciousness. They just assume that the mind is of such a character as to allow self-consciousness, but do not explain the relation between mind and self-consciousness.

From this criticism of reflection theories Fichte draws the following conclusions: (SK, 17, 34) The mind is not a thing of which one subsequently becomes aware. There is no thereness to which the mind turns in reflection to discover that it is itself. The mind always is as being-for-itself. The being of mind is its self-reference. The Cartesian cogito ergo sum is modified by Fichte to read sum qua cogitans (SK, 100). In self-consciousness no deduction is made from thinking to being. Being (identity) is posed by thinking. "I pose myself or am in the act of thinking myself" (SK, 97-98). The unity of self-consciousness then, is not the identity of a self-same substance $I = I$. Rather it means "if I, then I." Fichte calls this necessary connection between the 'if' and the 'then' "X", and describes this original intellectual activity (Tathandlung) of which "X" is the form as "positing" (setzen). He thereby means to reformulate the notion of reflection, and to uncover the initial identity presupposed by all reflection. "The self is that whose being or essence consists simply in the fact that it posits itself as existing" (SK, 98).

Fichte thus reveals the connection between the basic structure of mind and the forms of logical judgment.²⁶ He claims the identity of the I to be the ground (the conceptual basis) of all further judgments of

identity, and consequently of logical form itself. All judgments are grounded in the spontaneous activity of the I. In Fichte's theory of mind, the phenomenon of self-consciousness is analyzed through its deepest structures and logical forms.

There is a necessary distinction in Fichte's thought between the self-consciousness of the finite human individual and the deep structure of this self-consciousness as it defines the Absolute Ego. Whereas finite self-consciousness is afflicted with otherness, Absolute Mind has to be thought of as positing otherness. "As opposed to the Absolute Self . . . the not-self is absolutely nothing; as opposed to the limitable self it is a negative quantity" (SK, 109). Otherness is not given, but generated through the very activity of the positing self. Fichte here does not mean a mythical God figure bringing about the world. Positing is not shorthand for theological creation, however, the attempt to think through the most basic structures of subjectivity leads to conceptual truths that assume ontological character.²⁷ Finite human self-consciousness can discover its identity only through the infinite yearning to overcome otherness (SK, 115). Hegel will ruthlessly mock this infinite sollen (ought to be) of Fichte's philosophy.

Hegel accepts Fichte's insight that the basic structure of mind is a form of self-relation: The mind is always for-itself. For Fichte this self-relation cannot maintain otherness. It continually seems to collapse into the tautological identity of the absolute self, I = I. As far as finite consciousness is concerned, otherness is presupposed as given. Self-relation is an ideal of human self-consciousness. It is that which is presupposed but never attained.

Hegel's account of self-consciousness uncovers a conceptual structure that unites self-relation and determinateness. It is not individual self-consciousness that can be so understood. Only the unity of recognizing selves generates the real structure which corresponds to Hegel's formula. The relation between the finite self and this spiritual totality cannot be analyzed analogously to Fichte's theory of finite and Absolute Ego. Whereas the latter remains an infinite point of striving, an eternal ought, in Hegel the spiritual totality attains self-awareness in and through the self-consciousness of human beings. The self-knowledge of the Absolute comes into being through the progressive self-knowledge of the human race.²⁸

IV. From Certainty of Self to Self-Consciousness

At the beginning of chapter IV of the Ph G, Hegel presents two distinct accounts of self-consciousness: one describes it as consciousness itself experiences it. This, as we saw, is a Cartesian mode. Consciousness is certain of itself as its own truth. It is to itself object and knowledge at the same time. This immediate identity of truth and certitude is taken to be self-consciousness, but in fact, certainty of self and self-consciousness are distinct. Hegel's criticism is that though this view takes the identity of truth and certitude for granted, the very meaning of this identity cannot be comprehended through self-certainty.

This conclusion is already known to the philosophical "we". In chapter III C, self-consciousness is characterized as "the vision of the undistinguished self-same reality, which repels itself from itself,

affirms itself as a divided and distinguished inner reality, but as one for which at the same time the two factors have immediately no distinction" (Ph G, 212; 128).

At first, life is considered as a paradigm of this form. In Hegel's early writings life occupies a most significant position. It is usually discussed as that reality which previous Idealism is unable to grasp.²⁹ Life is the self-same unity; the eternal flux of things which can only exist in the form of different and repelling individuals. Hegel identifies the highest point of all conceptual thinking--the totality--with life itself. So the discussion of life at the very beginning of the chapter on self-consciousness is not out of place at all. Both self-consciousness and life have the same structure. Life is a self-relating unity which returns back to itself only by repelling itself from itself and setting up distinctions. This process of self-repulsion and self-relation can be observed in all three spheres of life: The individual being, the species, and life as a medium co-existing in the interaction of the various species, are all characterized by the "identity of identity and difference." What is alive is not simply subject to the laws of motion and gravity. All that is alive initiates its own activity, it behaves and through this self-caused activity the living being asserts what it is.

The identity between life and self-consciousness is not simply structural. That which is self-conscious is itself necessarily alive. As Gadamer puts it, "the mode of being of what lives corresponds in this to the mode of knowledge which understands what lives."³⁰ Hegel himself states this in the following terms: "Self-consciousness is the

unity for which the absolute unity of difference exists, the latter (life) however, is only this unity itself, so that the unity is not at the same time for itself" (Ph G, 221; 138).

Gadamer astutely observes that by the implicit identity of life and self-consciousness Hegel is seeking a "reconciliation between the 'anciens' and the 'modernes.'" For Hegel there is no opposition between existing reason, existing spirit, logos, nous, pneuma, on the one hand, and the cogito, the truth of self-consciousness, on the other."³¹ While the Greek understanding of the soul, psyche, is dominated by the principle that the soul is the "essential form of all that is alive,"³² eventually at the beginning of the modern period, the soul comes to be identified with self-awareness alone, and this ancient relation between soul and life is lost sight of.³³ By re-asserting the unity of life and self-consciousness, Hegel is restoring the two meanings of the soul: the form in an actually existing being of what is alive, and the self-awareness of a living being.

There is an even deeper relation between life and self-consciousness. The logical form of a self-referential relation was traditionally thought along with metaphysical problem of life. Self-referentiality was only ascribed to that form of being which could sustain its present state in perpetuity. Life as self-sustaining motion satisfies this criteria. For Aristotle, it was the continuity of the species which offered the vision of self-same change.³⁴ The individuals perished and the species remained identical. In a way analogous to that of the stars, the movement of the species was "eternal." The identity of the species continued through self-generated motion (reproduction), and this motion was a self-relation whereby the species perpetuated itself.

It would be wrong to stress the unity of life and self-consciousness much further, because Hegel calls self-consciousness the reflected unity of life. The self-conscious being struggles against treatment as a mere living being. Desire, battle, labor, and self-discipline are forms of human activity through which self-consciousness differentiates itself from life. Phenomenologically--or from what Hegel calls the standpoint of consciousness--this identity of life and self-consciousness is implicit. It is experienced in the form of desire, but not articulated in any other way. Desire is the sentiment of selfhood (Kojève).³⁵ That desire is the reality of a living presence is an insight only available für uns. Since desire is the manner in which life expresses itself, the analysis of the concept of life is initiated by a "reflection into self" of the object of desire (Ph G, 220; 135). "Reflection into self" is a Hegelian figure of logic: what this turn inward uncovers is that a certain phenomenon, real or logical, is the manifestation of a ground.³⁶ This manifestation is no other than the manner in which this condition or ground relates back to itself. Desire is to life as the manifestation is to its ground (presupposition).

The object of desire is other than the self, yet in virtue of being an object for desiring consciousness only, its otherness seems to be transitory. In desire the self affirms its unity. But this self-unity is only possible if the self has an other from which it returns. The desiring self feels empty, and can only attain the fulness of satisfaction through an object that completes it. Not only is the reality of self-consciousness bound with a continual reaffirmation of that which is

other than the self, more significantly, the fulfillment of desire signifies its perpetuation. Desire is fulfilled in order to be re-asserted: desire achieves no rest because its telos is its own continuity.

Thus self-consciousness discovers the "independence of its object" in desire (Ph G, 221; 139), because in the mode of desire it is actually life itself. Desire is the self-presence of all that is alive, and the seeming independence of its object is no other than its own continued self-affirmation. Consciousness is not mere life, it is life for which "life exists as this unity or genus" (Ph G, 224; 138). Desire seems to make self-consciousness into a thing-like consciousness. Logically expressed, desire is a mode of being in which self-relation collapses into otherness. Self-identity becomes a reified, thing-like identity.

Kojève explains the transition from the thing-like moment of self-consciousness to the realization that its truth can only be attained in another self-consciousness in the following way: Desire is actually desire for the desire of another. Desirous consciousness wants itself to become the object of desire for another. The self wants itself to be wanted.³⁷ There is very little evidence in Hegel's text to support this ingenious interpretation. Hegel's train of thought is much less erotic. The 'redoubling' of self-consciousness is expressed in terms of a teleological necessity that self-consciousness find expression in an object that maintains its independence while affirming itself to be for self-consciousness. Previously, self-relation could only result through the annihilation of the other. Now, the continuing independence of the other makes possible a self-relation that will not collapse into the object which it annihilates. Self-relation will be reflected back into the self.

Hegel's deduction of this redoubling as it is viewed für uns, proceeds by expanding the implicit identity of self-consciousness and life. Since desire is the reflection of life into itself, by desiring self-consciousness expresses itself as alive. What is self-conscious is also alive. Self-consciousness itself is the hidden presupposition that desire manifests. Desire is the "reflexion of self-consciousness into itself" (Ph G, 226; 140).

This reflection is a twofold one: not only is desire reflected into self-consciousness, but the object of desire through "doubled reflection" becomes another self-consciousness. Desire is the reflection of self-consciousness into itself (first reflection). The object of desire is no longer just life, but a living self-consciousness (second reflection). In desire self-consciousness is its own object. The object of desire is a self-consciousness:

A self-consciousness has before it a self-consciousness. Only so and only then is it a self-consciousness: for here first of all it comes to have the unity of itself in its otherness. Ego which is the object of its motion, is in point of fact not "object". The object of desire, however, is only independent, for it is the universal, ineradicable substance, the fluent self-identical, essential reality. When a self-consciousness is the object, it is just as much ego as object. With this we already have before us the notion of Mind or Spirit. (Ph G, 227; 140)

V. The Redoubling of Self-consciousness: its significance³⁸

Since this section is one of the most controversial in the Hegelian literature, it would be appropriate to dissipate any impression of an easy solution that the previous analysis may have suggested. The question raised by Stanley Rosen captures the central difficulty in reading this passage concisely: "It is extremely unclear whether this 'intersubjective' process produces self-consciousness or whether it is a development of an

already present, albeit generic version of self-consciousness." ³⁹ Distinguishing between the two standpoints in the text suggests an answer to this query. While the genetic origin of self-consciousness is undoubtedly part of Hegel's meaning, the argument does not emphasize genesis but rather the attainment or actualization of self-consciousness. Only in the presence of another can self-consciousness find satiation. Genetically, the self finds itself faced with the other. But the significance of being in the presence of the other is only clarified when the self recognizes itself as other and the other as itself. A generic self-consciousness, as mentioned by Rosen, corresponds to the standpoint of the für uns. For the reflective thinker, the relation between self and other is intrinsic to the very structure of self-consciousness. What appears as an external moment of hostility for the individuals experiencing it is an immanent precondition of their very identity. It can be said, therefore, that consciousness originates and is fulfilled in this process, and that to the retrospective glance of the thinker, the experience of self and other is internal to the very structure of a generic self-consciousness.

Thus, the redoubling of self-consciousness results in an internal division as well: 1) Self-consciousness has the other outside itself, but it is also other than itself. By saying "I" it distinguishes itself from itself and becomes other to itself. 2) Yet it is also one with this other. The finite being that is distinguished from oneself in saying "I" and this 'I' are in fact one. 3) In every act of self-consciousness, the self is both unity and difference. The 'I' is distinct from the concrete self described by it and yet also identical to it. The self is an other to itself and one with this other.

Hegel frequently appeals to the experience of language users in expressing this point:⁴⁰ The I who is you, me and she, and all others who can ascribe this pronoun to themselves, is also just me. In the very act of self-reference I exclude you, just as you exclude me when you say "I". It is clear that this unity of universality and particularity presupposes the redoubling of self-consciousness. The point is not simply that you and I are the same as pronoun-users and different as concrete selves. But that each of us when saying I creates a distinction within ourselves and thinks "I" and "me", "me" and "myself".

Like Kant, Hegel acknowledged the emptiness of the 'I' which abstracts from all manifold content of experience and determinations. But the 'I' is not a universal only because it is an abstraction. Its universality consists in the possibility that all subjects who reflect can say "I" to themselves. To describe the 'I' as a universal presupposes intersubjective identity. The 'I' does not merely define a self-relation. It is the internalized form of the original relation between the self and the other. All subjects who say "I" in doing so affirm their identity with all others. Every self is also thereby an individual, a concrete, finite being. This concreteness, nevertheless, is not that of a given--the existence of a point in space and time limited by other bodies. What individuates the self is not the body alone but an intersubjective identity that develops into a life history.⁴¹

In logical language, the Hegelian account of self-consciousness was described as the unity of self-relation and determinateness. But such a unity describes self-consciousness only when the latter is understood as the internalization of a shared universal in which others participate.

Determination is no longer mere difference but otherness (Anderssein). That is to say, it is a difference containing implicitly within itself the identity with that from which it is differentiated. Equally, self-relation is not immediate identity, $I = I$. The 'I' can only be identical with itself in virtue of being identical with all other 'I's.' Self-relation is only possible by the mediation of its other.

Each is the mediating term of the other through which each mediates and unites itself with itself; and each is to itself and to the other an immediate self-existing reality, which at the same time only exists through this mediation. They recognize themselves as mutually recognizing one another. (Ph G, 231; 143. Emphasis in the text.)

The epistemological I of Kant and Fichte is, of course, also true of all subjects. But from the standpoint of transcendental philosophy self-identity vanishes into a logical condition. It is of no significance for understanding this logical condition that every finite self is both universal and singular; "I" and "me", a self and an other. The intersubjective relation of two selves is not constitutive for the identity of the self postulated by Kant and Fichte. For them the other I is not a partner (Gegenspieler), but an object (Gegenstand).⁴² Hegel's point is that the identity of self-consciousness cannot be analyzed through the synthetic activity of the transcendental self or the absolute reflection of an infinite ego. The I does not describe a vanishing epistemological condition but an intersubjective relation. This relation is theoretical and practical at once: self-identity is formed in a medium which is a life context and a social practice.

Habermas provides the best expression of this Hegelian insight in his essay, "Remarks on Hegel's Jena Philosophy of Mind":

Hegel's dialectic of self-consciousness passes over the relation of solitary reflection in favor of the complementary relationship between individuals who know each other. The experience of self-consciousness is no longer considered the original one. Rather, for Hegel it results from the experience of interaction in which I learn to see myself through the eyes of other subjects. The consciousness of myself is a derivation of this intersubjective perspective. Hegel cannot answer the question of the origin of the "I" as Fichte does with a foundation of self-consciousness returning to itself, but with a theory of spirit. 43

By superseding the standpoint of logical egotism and developing the notion of an interactional unity, Hegel is indeed offering a new philosophical paradigm. This unity can only be that of a totality that synthesizes a logical condition with the practice of life. To be sure, I have not yet shown that spirit must be understood in such a way as to describe a logical condition and a practice of life. But in the redoubling of self-consciousness the elements that would make such a perspective plausible are implicit.

Hegel's discussion of the self unites theoretical and practical categories. Self-relation is not only a logical expression, it also describes a paradigm of activity. The inward return of the self signifies the overcoming of otherness in a practical sense as well. The appropriation of externality is the drive of all self-consciousness. Desire is the rather crude expression of an impulse present in all thought that strives to make content its own.

The self is situated within the context of life, or as Kojève calls it, "animal existence," and first experiences itself as alive. Reflection and thinking, insofar as they imply a return inwards, entail coming to terms with the embeddedness of the self in the medium of life. Thinking is a dispositional activity, which is expressed in the intentional objects of human volition and desire. Objects of thought replace the

immediate objects of pleasure and pain. Human volition develops its own language of expression, this development is a process of humanization--the self-education of man and the creation of a world in which man is at home (bei sich).

The formative experience of self-consciousness must unite theoretical and practical categories. The reciprocal recognition and reconciliation of antagonistic selves is not attained by the magic of a logical formula. In the ensuing sections of the Phenomenology, the logical structure of self-consciousness is discussed in the context of collective historical experiences. A multiplicity of ethical communities and life-worlds dissolve as they fail to accommodate the claims of self-consciousness (chapter VI). The world-historical experience of religion depicts this same process as the effort of a collective subject to shape the world after its own image. The decisive argument of the Phenomenology, which cannot be analyzed here, is that the completed structure of reciprocal recognition requires the practical truths of a historical world order. These truths are continuous with Hegelian Idealism. Absolute knowledge becomes possible at a point in world-history when the latter coincides with the logical determinations of the concept. What are the characteristics of the social and historical world that correspond to the truths of Hegel's philosophy? In chapter VI I will analyze the foundations of the modern state in the light of Hegel's novel concept of subjectivity.

VI. A Critical Pause

It will be objected that the reason why Hegel's discussion of self-consciousness includes practical concepts and human truths is that, unlike the "transcendental unity of apperception," it no longer defines a

conceptual condition of knowledge. Self-consciousness is not an epistemological category at all. Hegel is not concerned with the conditions of valid knowledge the way Kant was, or with the logical form of identity as Fichte was. What, if anything, is the relation between desire and epistemological identity, conditions of all thought and human interaction? ⁴⁴

If Hegel replaces the transcendental principle of ego identity with a social universal, or the unity of interacting selves, does this not imply the collapse of logic into philosophical anthropology or social theory? Hegel's student Feuerbach, and interpreters of his work like Kojève, Heidegger, Habermas, and Otto Apel, have discovered in the concept of 'spirit' the sources of philosophical anthropology, existential ontology, the unity of epistemology and social theory. ⁴⁵ Can it be argued that spirit defines a logical condition and the practice of a human world without transforming Hegel's thought into anthropology, social theory, or existential ontology?

These objections can be reformulated in the following way: earlier it was argued that the Ph G is a treatise on the viability of inquiries into the valid foundations of philosophical knowledge. In the modern era, these questions take the form of a discourse on method, on the faculties of the human mind, on the limits of valid knowledge, etc. It was also said that the standpoint of absolute knowledge was attained with spirit knowing itself as spirit. What, therefore, is the import of this concept? If it can be shown that the first task of the Ph G--the repudiation of modern epistemology--as well as Hegel's concept of 'absolute knowing' can be systematically illuminated by the concept of 'spirit', then our interpretation would not collapse Hegelian logic into

philosophical anthropology or social theory.

In the beginning the Logic* contrasts ego with spirit so as to define the new subject matter of philosophical science. The immediate import of this contrast is evident in Hegel's discussion of the concept of the 'I'. The analysis makes no mention of truth or certitude, self-awareness or conviction. Any reference to an experiencing consciousness is precluded.

But the I is first this pure self-related unity, and it is not so immediately but only as making abstraction from all determinateness and content and withdrawal into the freedom of unrestrained equality with itself. As such it is universality. Secondly, the I as self-related negativity is absolutely determined, opposing itself to all that is other and excluding it--individual personality. (Logic, 583; II, 220)

The unity of universality and singularity defining the concept of the 'I' is the structure corresponding to spirit as analyzed in the Ph G. Universality is described as "unrestrained equality with self"; singularity as "determinateness and opposition." We had identified the intention of Hegel's theory of self-consciousness as the uncovering of a logical form which would unite self-relation and determinateness. This unity first became conceptually possible with the redoubling of self-consciousness. But this redoubling, this reciprocal experience of self and other, was an instance of spirit. The latter is the proper conceptual form expressing self-relation and determinateness in unity. It must be concluded that the structure of subjectivity discussed in the Logic is identical with the structure of spirit.

It may then be suggested that the Logic presupposes the Phenomenology to show how interpretations of subjectivity along the lines of empirical or transcendental egotism must evolve towards a perspective

* References to Hegel's Logic include page numbers from two editions. The first refers to the Miller translation (1969); the second to the volume and page number of the Lasson edition (1967).

of spirit. Since from Descartes to Fichte, the modern tradition described conditions of valid knowledge with respect to the thought and experiences of an ego, the argument of the Phenomenology results in a new paradigm of knowing. Hegel calls this "absolute knowing" or the "pure science of knowledge."

The concept of pure science and its deduction is therefore presupposed in the present work insofar as the Ph G is nothing other than the deduction of it. Absolute knowing is the truth of every mode of consciousness because, as the course of the Phenomenology showed, it is only in Absolute knowing that the separation of the object from the certainty of itself is completely eliminated.

Thus pure science presupposes liberation from the opposition of consciousness. (Logic, 49; I, 30)

The standpoint of consciousness is characterized by the separation of knowledge from the object, and of truth from certitude. This division between the content of cognition and its form gives rise to all the attitudes of modern epistemology. The object of knowledge is regarded as something given and ready-made. Thought is treated as empty. It must either get hold of a content or be filled with one. In the first instance, knowledge is viewed as an instrument. But the very process of shaping the content given to thought is itself a distortion of the purity of the content. Therefore, knowledge can never attain the truth of its object; it can only know the object as it is "for knowledge." When knowledge is treated as a medium the same follows: since all that is given must pass through this medium, the object of knowledge is refracted. It only appears in the light which shines upon it. "Overcoming the standpoint of consciousness" means no more than abandoning modern theories of knowledge. Again there is no inconsistency between the introduction to the Phenomenology and that to the Logic. The hard question still remains: Why is the standpoint of "spirit knowing itself as spirit" a science of the pure concept, a science of absolute knowing?

Expressed in logical terms, consciousness is always laden with otherness, or consciousness always has a determinate content. In the analysis of self-consciousness the attempt was made to integrate this otherness with the logical form of self-relation. The reconciliation of consciousness and self-consciousness in a unified structure is the goal of the Phenomenology.

This reconciliation takes place via the twofold movement of the text. On the side of consciousness, one observes the assimilation of determinate content into a self-referential unity. On the side of the für uns this self-referentiality attains concreteness. The same twofold movement can also be expressed by contrasting "appearing knowledge" with the "science of knowledge." Knowledge that appears in the form of consciousness contains within itself an immediate beginning: its object and its truth are given. Philosophical science refrains from making immediate knowledge claims. In the Phenomenology it is defined as a process of "watching on." Since it itself has no content, the unfolding of the "appearing science" is its content. As the perspective of consciousness develops from determinateness to self-relation, the immediacy of the beginning is lost. Philosophical knowledge also evolves towards an appropriate content.

It is Hegel's claim that this completed unity of self-relation and determinateness is attained at the end of the Phenomenology. This form of knowledge is called "absolute" because it involves abandoning the perspective of the ego. If a subject of knowledge were presupposed, there would always be an element of immediacy. This would remain an arbitrary beginning. Abandoning the standpoint of consciousness signifies that the question "with what must the science begin?" has to be asked.

To grasp "the true not only as substance, but also as subject" means: by progressive conceptual moves, the object of knowledge is completely 'spiritualized.' It is grasped in all its forms and aspects. Substance becomes subject. Subjectivity, on the other hand, assumes concreteness and substantiality. World history is the externalization of spirit in the accidental form of space and time. The subject thereby constitutes itself as a world. "Spirit knowing itself as spirit" expresses the reflection of the philosophical thinker on the meaning of world history.

With absolute knowledge, then, spirit has wound up the process of its embodiment, so far as the assumption of these various shapes or modes is affected with the insurmountable distinction which consciousness implies (i.e. the distinction of consciousness from its object and content). Spirit has attained the pure element of its existence, the concept (Begriff). (Ph G, 805; 561).

The Hegelian concept synthesizes objectivity of form with self-knowledge. The perspective of the 'concept' corresponds to that of "thought thinking itself". Thinking is conceived both as activity and the content of this activity. As activity, thinking is logically characterized by the categories of subjectivity--pure self-relation, or negativity. But thought which has returned upon itself is not a process alone: it has a content and individuality. This is the aspect of substantiality of thought; whereas the categories of activity define thinking as subject. Using an example, that the categories of "quality" and "quantity" stand to one another in the relation they do is not a psychological fact of association, or a linguistic fact of habituation. Thinking these categories through to their deepest structures reveals their "individuality"; that is to say, a determinate content which conceptually compels us to express this relation in one specific form rather

than any other. On the other hand, since these categories are not things or objects, but forms of thought, in a sense they dissolve into the very activity of thought that generates them. It is through thinking that they assume presence and content. This pure science, says Hegel, "contains thought insofar as it is just as much the object (die Sache) in its own self, or the object in its own self insofar as it is equally pure thought" (Logic, 49; I, 30)

Since it is not the purpose of this dissertation to explore the relation of the Phenomenology of Mind to the Logic, it is only important that a plausible interpretation be given here such as to illuminate the theoretical import of the concept of Geist. Both the unity of the concept and that of the 'I' are 'spiritual unities'. They have the logical structure of Geist. So far we have not at all discussed what such a unity would or could entail. And indeed, one cannot do so without an analysis of the Logic for, "it is the task of the Science of Logic to make the relation of differenceless universality and determination in opposition the expression of one and the same self-relation." 47

An alternative way of expressing the task of the Logic would be the conceptualizing of 'identity' as the 'identity of identity with difference'. This implies a shift in the concept of identity from simple equality with self or immediate self-relation ($A = A$) to a mediated return to self. Otherness or determinateness becomes a presupposition of this very self-relation. The process of self-relating describes also that of creating distinctions. This conceptual structure which we have used to define 'life', 'self-consciousness' and 'spirit' is discussed by Hegel in great detail in the section of the Logic entitled the "Doctrine of Essence." 48

Again it is not central to the thesis of this essay that the structure defined as spirit indeed correspond to the method and goals of the Logic. It is only important to establish a plausible argument that the concept of spirit has implications for Hegel's speculative philosophy some of which make good systematic sense. The Phenomenology can be read as a continuing philosophical argument in which the notion of spirit is pivotal. Such a reading is at the least not inconsistent with Hegel's intentions stated in the Logic.

Chapter III

The Moral Phenomenology of Self-Consciousness

I. "Struggle for Recognition" as Metaphor

It has been said that Hegel's discussion of "Lordship and Bondage" no more describes a historical state of affairs than do the state of nature theories of early political thinkers.¹ This ahistorical condition of strife also has frequently been compared to Hobbes' discussion of the "war of all against all." The conceptual justification for this comparison has remained at the level of evocative symbolism or political imagery. Undoubtedly the Hobbesian version of the natural condition of man as "nasty, brutish and short" is a powerful political symbol, but it is also much more than that.

The concept of a state of nature is a philosophical metaphor. It is an expression of the human predicament in terms of a figure of thought which is at once analytic, fictional, and descriptive. It combines the logically simple with that which is temporally prior and psychologically compelling. Since collective life is assumed to result from the union of individuals, they are considered to be logically prior to what can only be a consequence of their activities. Civil government which originates with the agreement of these individuals to abide by publicly stipulated norms, is based on the fact of consensus, because public agreement has to respect the demands, inclinations, and propensities of human nature. Psychologically, the individual confronts the dictates of his nature prior to his interaction with others. Political life finds him a ready-made person. Temporally, individuals enter into private relations with one another before combining for civil government, husband

and wife, master and servant, father and child relations precede the union of civil government.²

Yet it is clear that Hegel's discussion cannot be simply understood as another description of man within the state of nature. By adding the philosophical analysis of self-consciousness to the political anthropology of thinkers like Hobbes and Locke, Hegel is actually reformulating their intentions.

The theory of the self presupposed by the metaphor of the state of nature has been described above as "logical and practical egotism." But neither Hobbes nor Locke formulates his own achievements in terms of such a theory. In fact, it would be appropriate to speak of the state of nature metaphor as leading to the "discovery of the self." The political individualism of these thinkers, along with their empirical and realistic orientation toward human nature, contributes as much as Descartes' cogito to the discovery of modern self-consciousness.³ The self is from the beginning a highly idiosyncratic concept: intensely private, yet revealed in public; very much an individual but necessarily a universal. Self-consciousness is first realized in the presence of another. The relation to his other is combative from the start, and Rousseau, a critic of the natural right tradition, is the first to clearly perceive this. In the Discourse on the Origin of Inequality Among Men he explicitly relates the genesis of self-consciousness to the origin of political societies.⁴ For Hegel too, self-consciousness presupposes the fact of social life. The "struggle for recognition" describes at once the genesis of the social universal, the beginning of political societies and the development of human self-consciousness.

The embryonic relation between the fact of society and self-consciousness does not define an empirical event in time. It is located at the beginnings of human history. Self-consciousness is both atemporal and historical. As an aspect of human subjectivity it is timeless, but its modes of expression change for the individual and for the collective experience of mankind. The solipsism of desire, political mastery and bondage, and the 'unhappy consciousness' are not exhaustive forms of expressing self-consciousness. They are historically superseded by the utilitarian hedonism of civilized Europe, the absolute terror of the French Revolution, and the various figures of unreconciled individuality: "the law of the heart and the frenzy of self-conceit," "virtue and the course of the world" (Ph G, ch. V C, ff.).

In his numerous references to this episode in works other than the Phenomenology, Hegel speaks of its eventual supersession by history. What is superseded is not the phenomenon of self-consciousness or the fact of social life, but the particular manifestation of both as a "struggle unto death" resulting in the institution of political slavery: ⁵

In the battle for recognition and the subjugation under a master, we see, on their phenomenal side the emergence of man's social life and the commencement of political union. Force which is the basis of this phenomena, is not, on that account, a basis of right, but only the necessary and legitimate factor in the passage from the state of self-consciousness sunk in appetite and selfish isolation into the state of universal self-consciousness. Force, then, is the external or phenomenal commencement of states, not their underlying and essential principle. (# 433, E III)

This reference to slavery brings to light the dimension of historical and political genealogy implicit in Hegel's discussion. For Hobbes and Locke too, the condition of man in the state of nature extends to the beginnings of human history, and this is usually expressed as an

anthropological fiction: the Indians of North America and "some primitive peoples in far away islands" are said to still live in a state of nature. Often references to Biblical history and to the condition of Hebrew tribes are also added to the sources of historical illustration.⁶

These confused allusions to anthropological memory and Biblical exegesis, can be seen as gropings towards a theory of world history conceived as a genealogy of political form of government.⁷ At the beginning is a condition of subjection defined by slave societies and patriarchal political structures. This condition remains a permanent possibility for mankind even now: when the bonds of constitutional government dissolve, men are prone to regress to a state of nature. Then they are overcome by primitive fears and passions. History is a static genealogy of successive states, whether in the person of the individual or in the memory of the race. This succession entails no Bildung, no formative and cumulative synthesis that recapitulates earlier stages at a higher level.

Hegel's reference to slavery, on the other hand, as a "necessary and legitimate passage"⁸ in the transition to universal self-consciousness presupposes that world history is the education of man toward an adequate self-understanding. Slavery corresponds to the stage in human development where "mind" is understood as a "thing." In the language of the Phenomenology, the identity between life and self-consciousness has resulted in the treatment of self-conscious being as a mere existent, as a Dasein. But the mere existence of self-consciousness and its concept (Begriff) are incompatible.

Hegel discusses this incompatibility in its three forms. Politically, the condition of lordship and bondage is contrasted to the

constitutional state.⁹ Phenomenologically, the self-awareness of a desiring being is contrasted to the self-knowledge of one who recognizes himself as the other and the other as himself. Socially, the hostile indifference of two selves is juxtaposed to their interaction within the differentiated structure of social life.

The threefold condition again corresponds to the multiple intention of state of nature theories. The state of nature also defines a condition that is politically antecedent to the state. In virtue of being "an inference made by the passions" (Hobbes, I, 186), it describes that which the self experiences as psychologically compelling. It also defines a condition of original social association characterized by needy dependence, or the pursuit of glory, or the mutual enjoyment of property.

For Hegel the very concept of a state of nature rests upon a confusion of the existent with the necessary; and of the factual with the essential:¹⁰

The expression of nature has this duality of meaning, that the nature of man is his spirituality, his rationality: his natural state, however, is that other state in which man acts according to his inclinations, instincts, etc. The rational is the becoming master of the immediately natural.

This duality in the concept of nature leads Hegel to distinguish between the concept of the state and its origins. Political life may have its origins in violence, conquest, accident, and convenience, but whether a union among men arising under such conditions can also be called a state depends upon their acceptance of relations of "right" as normative. This acceptance implies that man is no longer treated as an existent, but is recognized as a person, as a self-conscious being. The dichotomies, 'origin' versus 'concept' of the state, 'existence' versus

'concept' of mind are equivalent. By upholding the right of person-
ality the modern state institutionalizes the concept of mind.

In the previous chapter I dealt with the epistemological and
ontological features of Hegel's theory of self-consciousness. This theory
contains a "moral phenomenology" as well. More aptly expressed, the
figures of lordship and bondage define a Bildungsroman.¹¹ The ascent of
the self from its condition of mere existence to the truth of its con-
cept is an educational saga. The self will be freed from the egotism of
appetite and desire and develop into a being capable of life within the
human community. Lordship and bondage are not simply political metaphors.
They express tensions and divisions within the self: reason versus
desire; me against you; myself as opposed to us. The eventual quiescence
of desire and of passion for recognition is achieved through the integra-
tion of human personality into various aspects of communal life. The
self thereby learns to identify with a good that is shared, and sub-
ordinates the urgency of self-satisfaction to the accomplishments of a
public nature. Hegel's vision of the modern state aims at the synthesis
of egotistical privatism and the attainment of public virtue.

II. Recognition in the Jena Writings

There is now general consensus among scholars of Hegel's early
development that between the years 1802 and 1805 his thought underwent
an "epistemological break,"¹² much analogous to the "break" in Marx's
thought between the 1844 Manuscripts and the Grundrisse. Hegel's philo-
sophical passage too, is from nature to freedom, from substance to subject.
The well-known statement from the Preface of the Phenomenology that the
task is to express "the true not only as substance but as subject

as well" (Ph G, 80; 19) summarizes in a nutshell Hegel's philosophical itinerary.

Hegel's social and political thought in this period is dominated by the search for the "true ethical life"--that beautiful unity of private and public, morality and legality, individual and community.¹³ What we might call Hegel's "aesthetic republicanism" leads him to criticize the institutions of modern Europe and in particular, those of Christianity.¹⁴ Christianity is criticized for being a private religion, or rather, the religion of a people whose form of existence is no longer public, but inwardness of individuality. Through concepts like 'positivity', Hegel attacks the loss of communal meaning in the public institutions of Christian Europe. He turns to the life of Jesus and of his disciples and the community of early church fathers, who exemplify true spiritual bonds, not the dead wood of history of which the Church is made. "Love" is the spiritual union that overcomes indifferent coexistence. Through love individuals are united in a relation: love overcomes individual finitude by enhancing one's sense of being. Love is the self-related unity, the original "identity of identity within difference."¹⁵

The speculative categories dominating Hegel's thought of this period are inspired by Schelling and Spinoza. In particular, the concepts of 'indifference', 'identity', 'intuition', 'absolute nature' are employed to systematize social and political reality. Hegel criticizes Kantian thought for leading reason to the threshold of the most important truths and for subsequently proclaiming the inability of philosophical thought to go any further. The 'totality' and the 'unconditioned' are regulative principles of thought only. In his Naturrecht essay, Hegel agrees with Schelling that the inability to grasp the totality as anything

but a regulative ideal results from the abstract formalism of reflective thought.¹⁶ The unity of the whole is not like that of arithmetical sequence, but more like that of a living being. The whole is one in the articulation of its various determinations. It is not dispersed in them, through them it returns to itself. To grasp it one needs a "pure intuition," a "reine Anschauung."¹⁷

Hegel also discusses the totality through categories borrowed from Spinoza: it is called Deus sive Natura, the infinite substance into which all determinations and otherness must flow. Since all that is determined is finite, it must return to the ground from which it arose. This one Substance alone has the power to be and to remain in existence: all else must perish. The "absolute indifference" of Schelling is expressed through Spinoza's insight that "we see all things in God, through the mode of eternity."¹⁸

The living unity of a people, of the Volk, is often identified by Hegel with the philosophical categories of the 'totality', 'absolute indifference', and 'ethical substance'. The abstractness and divisiveness of reflective thinking cannot grasp the unity exhibited by the spirit of a people. Ethical individualism is rejected on the grounds that the "Volk is by nature prior to the individual."¹⁹ Hegel means this in two senses: (1) the metaphysical-Spinozist sense that all individuality is finitude and must therefore be overcome by the whole, and (2) the Aristotelian-practical sense that the individual can attain his subsistence and his perfection only within the community.²⁰

The problematic of Hegel's early political thought is the concretization through forms of activity and institutional life of this 'absolute

ethical unity'. That which can be grasped by pure intuition must also articulate itself. Hegel here juxtaposes different categories of social activity: on the one hand, is a life of public commitment to politics and to war; on the other, a life of privacy concerned with individual subsistence and need satisfaction.²¹ These define the two estates, the major units of social and political differentiation for Hegel in this period: the Politiker and the Burgher.

The concept of 'recognition' is first discussed by Hegel with reference to the transition (anthropological-historical) from the loving unity of the family to that of a people.²² This transition is described as a struggle for the preservation of the life of the whole through war. The individual forsakes himself, or speculatively expressed, "sublates his individuality into that of the totality." He thereby attains a mediated relation to his own existence, and this in a twofold sense. By forsaking his life, he has exercised an act of courage and has elevated himself above mere existence. His life has become an object of his will. In doing so, he has simultaneously reunited himself with the life of the whole in which he has his existence. His existence is thereby mediated by the independence of the people to whom he belongs.

The Realphilosophie of 1803-1804 traces this development from the family to the struggle for recognition and to its overcoming in the life of the Volk. The struggle for recognition signifies the combative assertion of individual courage. But the courage to face death expresses the freedom of the individual only in the sense of returning him to a people whose existence is free. The individual attains self-expression through subordination to the goal of the whole.

The ideal of republican unity and warrior's virtue breaks down in Hegel's thought under the impact of economic studies. Christianity is the religion of privacy not only because public life has disappeared in Europe, but because economic activity and the spread of trade and commerce makes the satisfaction of the individual the accepted norm of public existence.²³ The reality of modern life, as articulated by the science of political economy, can no longer be grasped through the concepts of 'absolute unity' and 'ethical nature'. Economic activity means individuation. It emphasizes differentiation rather than unity. Whatever relation the individual may have to the communal whole is no longer immediately expressed. Through trade and commerce social relations are mediated: in the act of exchange concrete differences are equated to a third. Money now becomes the universal for which all else exchanges and which subordinates all to itself.²⁴

The transformed position of the category of recognition reveals the import of Hegel's discovery of political economy. In the System der Sittlichkeit (1804 ?) Hegel begins with an analysis of labor, language, and family property as relations of ethical life. Recognition is first discussed with reference to exchange:²⁵

Property steps into the reality through the plurality of persons comprehended under exchange as mutually recognizing one another; value becomes the reality of the thing . . . the concept emerges as that which moves itself, as that which defines itself in its opposite, subsuming this other opposed to it.

It is important to note the systematic change in the position occupied by recognition. Recognition is now discussed as the mutual relation of exchange between property owners. These respect one another's rights of ownership. Secondly, it is said that in this act of exchange the 'concept' is brought into reality as well.

This complex thought attains some clarity in the Realphilosophie of 1805. Recognizing individuals are in opposition to one another: they are specific, concrete, given beings. Through recognition they overcome their otherness and assert identity with one another. In affirming identity with the other they also refer back to themselves, because this relation to the other is internal to the very structure of being self-conscious (pp. 201 ff.). Reciprocal recognition generates a spiritual reality characterized by the unity of universality and particularity. Recognizing individuals in virtue of their identity with one another assume universality, in virtue of being concrete selves, however, they remain particular individuals. Recognition, says Hegel, is becoming universal (Allgemeinwerdung).²⁶ This is the conceptual role of the category of recognition in Hegel's thought in general. It has a mediating function: it mediates concrete individuality with the universality of shared life. As a relation among individuals, recognition no longer entails an act of war which would sublate the individual within the ethical whole. Through exchange, through relations of right and property, individuals continue to subsist independently of one another. The universality of communal life now finds locus in relations of right.

Why Hegel would consider the modern social practices of exchange among juridically independent owners of property a norm of reciprocal recognition is not easily discerned. In the previous chapter I discussed the conceptual structure of the 'I' in relation to that of reciprocal recognition. The reference in these two passages to the 'concept' as the appropriate articulation of the reality generated by mutually

recognizing individuals signals the turn to the Subject in Hegel's thought. In the final analysis, the Hegelian concept and the 'I' have the same logical structure. The highest paradigm of speculative thought is no longer indifference or absolute nature; it is the concept. This shift describes the supremacy of thought over nature and of negating activity over unity. Hegel's reformulation of the modern natural right tradition can only be clarified in the light of this conceptual shift.

III. Hobbes and Hegel

The struggle for recognition is ambivalently situated between two well-known themes of political anthropology: the aristocratic preoccupation with courage and honor, and the bourgeois insistence on justice and equality. Recognition, interpreted as the search for prestige and the acknowledgement of precedence, corresponds to the aristocratic propensity.²⁷ Understood as respect for personality extended equally to all human beings, it describes conditions of bourgeois justice. The ambivalence in Hegel's analysis is deeper than this duality of meaning. The search for respect and justice involves the very aristocratic passions of honor and courage. Hegel describes the aristocracy of self-consciousness. From Descartes' teaching of generosité to Kant's doctrine of autonomy, a train of thought is initiated in which the self-reliant individual assumes the paradigm of nobility. The nobility of the autonomous individual replaces the honorableness of virtues of battle.²⁸ Hegel's relationship to Hobbes must be analyzed in this context.

The pioneering attempt to study the relation between Hobbes and Hegel was that of Leo Strauss,²⁹ who argued that Hobbes made the distinctiveness of human desire the cornerstone of his political philosophy:

Human desire is fundamentally desire for prestige and honor. The strongest human passion is vanity. The just political order can only result from a denial of this passion. Justice can be attained when men relinquish vanity. It is not reason that will lead men away from vain-glory: only a passion in the human soul which is even stronger than vanity can do this. This passion is the fear of violent death at the hands of another; it is the beginning of human justice and rationality. This fear teaches men that peaceful co-existence through the mutual acknowledgment of equality is more rational than the restless pursuit of distinction.

Strauss argued that there is a corresponding shift of emphasis in Hobbes' thought from aristocratic to bourgeois virtue.³⁰ Honor and courage, Hobbes claimed, are not virtues at all, but passions. Justice, equality and humility are the true virtues. All originated in the fear of violent death. By making fear rather than courage the source of virtue, Hobbes was legitimizing the interests of the bourgeoisie. Just as Hegel expressed it in his early writings: the security of property and of the individual is the highest goal of the existence of the bourgeois. Fretful fear over the future characterizes the habits of mind of the middle classes. Similarly, in the "struggle for recognition" Hegel outlined the defeat of the master by the anxious labor of the slave.

This tempting analogy between Hobbes and Hegel also dominates Kojève's interpretation of the struggle for recognition.³¹ Courage and mastery are considered historically ineffective. The rationality of fear and labor will dominate the future. Ironically, the slave in Kojève's account is not the bourgeois at all, but the proletariat: the class of expropriated laborers. More significantly for us, the concept of

recognition is left totally ambiguous by Kojève: it either designates the search for prestige or the acknowledgment that the self is the highest value. If the former interpretation is chosen, then human desire is indeed essentially vanity. But the latter concept, the "worth" of the self is rather alien to Hobbes. For him "worth" is a subjective measure, often estimated by how much others value a man. The "value or worth of a man is, as of all other things, price" (L, 151).

If 'recognition' signifies the principle that the self is the highest value, then the transition from desire to the struggle for recognition must be read as an affirmation not of vanity, but of autonomy. The self can be the highest value only if the source of value is a principle of activity. Kant calls this source of activity the 'free-will'. The insistence on autonomy signifies the metaphysical priority for Hegel of self-consciousness to nature and of subject to substance. But Kojève does not differentiate the search for prestige from the assertion of autonomy. The import of this category in Hegel as the "becoming universal of men" is all but lost in his account.³²

Enticing as this analogy between Hobbes and Hegel may be, it only serves to obscure the different paradigms of self-consciousness that Hobbes and Hegel have. For Hobbes there is a thin line between "self-consciousness" and "self-centeredness," whereas for Hegel the former is only actual within the framework of intersubjective relations. If recognition is interpreted as a search for precedence, Hegel's argument that individuals attain the status of personality through recognition is unintelligible. Recognition implies universal equality, not aristocratic distinction. Hegel is able to integrate the freedom of the individual with the structure of community relations, precisely because the phenomenon of self-

consciousness is other-oriented from the start. He differs sharply from the modern tradition in this respect. It is rather important, therefore, that the relation between Hobbes and Hegel be fully analyzed.

In the Ph G the transition from consciousness to desire takes place through the assertion of self-certainty. Consciousness expresses certitude by the appropriation of the world in desire. But as a desiring being the self is also opposed to itself; it is split into certainty and the urge for life. Desire is the self-presence of a living being, who shares the urge of all life to perpetuate its existence by assimilating its other. Thus self-consciousness is experienced as opposition and resistance as well as certitude, but the urge to life is not the only source of opposition felt by the self. Self-consciousness has become an other to itself by being in the presence of a second self-consciousness. It has "come outside itself" and "finding itself as another it has 'lost' itself" (Ph 3, 229; 141). The assertive mood of desire gives way to a sense of loss. But the drive is toward a re-affirmation and a reconfirmation of certitude. Self-consciousness seeks to deny the independence of the other.

For Hobbes too, the basic condition of selfhood is a drive to assertion, called the "urge to self-preservation." All that is alive seeks to remain in existence, and the human self also desires to perpetuate its being. It is not the desire for life alone that motivates men: passions like competition for the sake of gain, glory for the sake of honor, and concern with the security of one's future lead men to seek dominion over one another. Therefore, human desire is infinite. There is no natural telos or state of repose toward which it tends. As revealed in the different passionate make-up of men, the objects of

of desire are multiple and indeterminate. The "desires of a man come to an end," says Hobbes, "only when death reaches him" (L, 130).

Hegel's account of desire differs from Hobbes' in this crucial respect: there is a telos of desire in Hegel. The turn to another self-consciousness reveals a teleological judgment. "Self-consciousness," says Hegel, "attains satisfaction in another self-consciousness" (Ph G, 226; 139). Human desire is not infinite, since the self achieves satiation by the recognition of another self. Desire is thereby humanized.

The priority of self-assertion over otherness expresses in existential terms the precedence of freedom over nature, and unites Hegel to the modern natural right tradition. By claiming that true self-expression can only be attained in the spiritual union of the human community, Hegel also justifies the beginnings of traditional natural right. But the relation of the individual to the community now rests upon Hegel's speculative argument that the structure of self-consciousness is not to be defined by appealing to a reflecting I, but by the original relation between self and other. The teleological satiation of the self in the community presupposes this deeper principle. The self is realized, conceptually and practically, by interactions within a community.

The paradigm of subjectivity in Hegel is that of a "unity in plurality" called Geist, whereas in Hobbes, subjectivity is described as the drive of a self. The phenomenon of self-preservation involves the following conceptual structure: self-preservation is not a goal but the condition for a goal. It describes a process of activity, a process of assertion. In the continual movement of desire from one object to another, what is revealed is the power of the self to be.³³ Infinite striving affirms a

heightened sense of self-existence. In the Stoic tradition from which Hobbes is borrowing this concept of self-preservation, this heightened state of being involves a form of self-knowledge. What is attained is not just a sense of power, but a deeper self-knowledge. Hobbes eliminates this state from his discussion of self-preservation. Possibly the fear of death may generate such an awareness. Even then, the fear of death is a passion; it is the root of rational self-knowledge, not this knowledge itself.

One finds, therefore, that the being to be preserved, the self, remains opaque. It is affirmed through a process, but it is not the product of this process. The structure of self-preservation remains conceptually unexplored in Hobbes. Just as the identity of the ego is a given in Descartes, so too in Hobbes the self remains a beginning point which cannot be legitimized. Even further, the power to preserve oneself has its source in an instinct shared by all nature. The striving of desire heightens this sense of power, but it certainly does not generate it. The self remains a creature of the natural world.

What is paradoxical in Hobbes' thought is the groping for an explanation of subjectivity via categories of a naturalistic metaphysics. Of course, the polemical displacement of the traditional view that there is for man a natural state of perfection is attained thereby. All discussions of subjectivity as a process, as an activity, presuppose this displacement. But for Hobbes the process remains rather mysterious: it is treated as an urge and as a drive. The liberty of the self is the possibility of expressing this urge without external hinderance. Liberty is the absence of opposition. (L, 261)

When one turns to Hegel, it is seen that in his account the assertion of self-consciousness is at the origin of an internal process of transformation, that will change desire into freedom. First, self-consciousness is submerged in the element of otherness in virtue of being a body, and confronts the other self-consciousness as a body. Denying the independence of the other signifies overcoming being treated as a body alone. By struggle unto death physical existence is spiritualized.

And it is solely by risking life that freedom is obtained; only then is it tried and proved that the essential nature of self-consciousness is not the merely immediate form in which it at first makes its appearance, is not its mere absorption in the expanse of life. (Ph G, 233; 146)

There is no incompatibility between honor and courage, freedom and justice in Hegel's thought. Courage for Hegel is the beginning of freedom. By forsaking life for recognition, the master makes an implicit distinction between the concept and the existence of the self. Freedom presupposes this reflexive relation of the self. Freedom is not mere absence of opposition to one's activities, but acting in accordance with a conception of the self. Until Kant's concept of autonomy is analyzed the constituents of Hegel's notion of freedom cannot be clarified. The point to be stressed is that for Hegel courage involves a positive moment because here the distinction between the existence and the concept of the self is experienced.

For Hobbes courage implies vanity: the defiance of death is based upon a false assumption of one's limits. Since human mortality is the source of all reason, the thought that man can transcend this condition by choosing to die would be an act of arrogance. The insight gained in the fact of death is the realization of the fundamental equality of all

men. Death curbs the struggle for power and domination by juxtaposing a sphere of natural equality to the transitory distinctions of power, wealth, and honor. But this postulate of equality is fundamentally ambiguous. At times it is interpreted prudentially as the possibility that there is "none so strong that the weakest may not succeed in killing him" (L, 183). At other times it is a Christian principle, teaching that man is not the ground of his being.³⁴ The acknowledgment of human equality must be a corrective to the political world of honor and vanity. More consistently, the insight gained in the face of death is related to an act of rationality, which is understood technically as the manipulation of future contingencies. The anxiety concerning the future leads men to take an interest in the course of the world around them and to inquire into the causes of things. Fear of future unknowns is at the root of human reflection. Hobbes advises men to refrain from pursuing what seems to be good at the present for the sake of attaining a rational future good. "They, therefore, who would not agree concerning the present, do agree concerning a future good, which is indeed a work of reason. Reason declares peace to be good, and all the necessary means to peace . . . modesty, equity, trust are . . . virtues" (L, 216). Hobbes' moral teaching of natural right and his technical teaching of civil philosophy appear to meet at this very point.

To transcend the present appearance of the good, men must subdue their passions, which lead them to ambition, vanity, glory and dominion. They must seek to overcome the teleology of appetite and desire that ties them to the order of nature: justice and the acknowledgment of equality originate in such an act of prudential foresight. The concern with death and the future leads to the mastery and dominion of nature

for the sake of future goals. Hobbes' moral vision has shifted from condemning pride to accepting the reasonableness of an instrumentally interpreted conception of human life.

The phenomenological significance of death in Hegel is actually quite different from its significance in Hobbes. The disclosure of human temporality in the orientation toward the future is not the most important aspect of this experience. In fact, awareness of temporality is more a consequence of the activity of labor than of facing death. Death primarily reveals the dimension of negativity in human existence. This negativity is not so much the thought of human transitoriness--the fact of human finitude and mortality which unites man as self-conscious being to the cycle of life. But curiously, the genuine fear of death leads to the sense of abstracting from all attachments to otherness. It is an experience of total negation, the complete denial of all that is merely there.

This complete abstraction of its entire substance, this absolute dissolution of all its stability into fluent continuity, is however, the simple ultimate nature of self-consciousness, absolute negativity, pure self-referrent existence, which consequently is involved in this type of consciousness. (Ph G, 237-238; 149).

The fear of death reveals self-consciousness to be negativity: consciousness can abstract from all givens and return back upon itself. This turning back upon itself entails a negative attitude toward otherness and its own existence. The choice of death over life in an act of courage expresses the power of self-consciousness to negate. Negating means making into an other that which is immediately given and present. The negativity of self-consciousness is the mediating activity of self-consciousness. Self-consciousness can only be expressed by altering that

with which it is in immediate unity. Human equality is not based on the naturalness of men, but quite to the contrary, on the ability of men to overcome nature.

The source of Hobbes' claim that the fear of death is at the root of reason and equity is twofold: the Stoic ethic of self-preservation and the mechanistic physics of seventeenth-century science. This science describes all phenomena, including men, as a system of matter in motion. No rational distinctions can be made among human beings insofar as they are natural bodies. Hobbes can easily reconcile the traditional teaching of equality with the science of his day. The consequences of this reconciliation become explicit in his minimalist teaching of politics (Cf. chapter IV, section iii).

For Hegel, however, justice and equality have their origin in an idealism of freedom. Expressed in the logical categories of the Ph G, the structure of self-consciousness is that of "genus which is for itself." With self-consciousness, life becomes its own object. Since life itself is movement and activity, for life to be an object, signifies the emergence of a new principle of activity. Self-consciousness must express itself in its own active mode. Desire, struggle unto death, courage and labor, are each forms of humanizing activity. Objectivity is appropriated by self-consciousness till it becomes an actualization of Subjectivity. Spirit for Hegel expresses both this process of world-formative activity, and its philosophical comprehension. Such a process does not simply entail the manipulation of nature within and without men, but involves humanizing and transforming education. It is not an act of making but a process of coming-to-be. (Cf. below chapter IV, section v)

The predominance of the technical paradigm in Hobbes' thought leads him to conceptualize human phenomena in naturalistic terms.³⁵ The postulate of human equality was either naturalistic (men are bodies) or instrumental (the weakest can kill the strongest), similarly Hobbes discusses the condition of the self either as a natural drive to preservation or as an instrumental urge to assertion. Since Hobbes defines power as "present means to attain some future apparent good" (L, 150), it would seem that no distinction is being made between the manipulation of one individual by another and the mastery of nature for future purposes. In Hegelian terms, for Hobbes the other (Gegenspieler) remains an object (Gegenstand).

It is easy to see that such a technical understanding of human subjectivity can only reduce it to the status of a given. Hobbes does not have a theory of subjectivity, but the concept of self-preservation systematizes the anthropology of the state of nature. Since the state of nature is an "inference made from the passions," Hobbes' conception of subjectivity is implicit in his discussion of the passions. The passions are analyzed into a system of appetites and aversions. Starting from the simplest motion of the animal soul to seek pleasure and to shun pain, Hobbes proceeds to reconstruct analytically grief and joy, shame and envy, courage and diffidence.

There has been considerable scholarly debate surrounding this theory: some claiming that Hobbes deduces his psychology from a mechanistic physics;³⁶ others that the content of his theory of the passions is borrowed from the tradition, while the methodology is borrowed from modern science (Dilthey). It is also said the the source of Hobbes'

discussion is humanistic scholarship: Aristotle's Rhetoric, the classical historians (Thucydides, Plutarch), as well as a venerable tradition of introspection (Strauss). The debate as to whether Hobbes arrives at his discussion of the passions through scientific methods, self-examination or humanistic study is actually misleading: if the concept of a state of nature is taken seriously as a figure of thought involving logical, psychological, and temporal dimensions, it will be seen that Hobbes may have consistently arrived at his theory through any of the above means. For Hobbes, that which is analytically simple is also temporally prior and psychologically compelling. The state of nature, as an inference made from the passions, describes a) the predicament of the individual self and b) the inevitable transactions of men outside the bonds of civil government at all times ("the manners of mankind"). Collectively, in the history of the race, these transactions correspond to the state of "despotic dominion" --those political orders based on force and slavery; individually, in the history of the person, they describe the possible interactions among men even now when civil government dissolves by war and strife.

Hobbes can collapse these dimensions because he does not distinguish between logical succession and historical development. The fact that the state of nature remains a permanent possibility for men even now implies that history is but the succession of logically distinct states. At any point in time, these states can be conceptually distinguished and their idealized sequence revealed. The passions of men define the beginnings of human associations as well as the "original condition of mankind," for past, present, and future are not synthetically but only

analytically united in Hobbes' thought. Hobbes sees no causal dynamic, and cumulative synthesis among the various stages of individual and collective identity formation.³⁷ He understands human nature to be a logical construct composed of certain static and simple elements. Both in the history of mankind and in that of the individual, these elements are juxtaposed to one another. Since no internal dynamic is possible among them, Hobbes does not think of human nature in terms of growth and development, but in terms of external manipulation and technical control.

The suggestion that Hobbes' concept of human subjectivity is technical must be judged against the background of his understanding of the state of nature. A technical conception of subjectivity implies a theory of logical egotism: By this I mean the following: it is assumed that the self is a given. First the self is given to itself. The passions define human nature, and human nature is a content which imprisons every self. It is of no import that it is not uniform, that in some individuals the search for glory, in others, the search for peace dominates. What is significant is that the urgency of the passions be experienced with equal force by each and with the same helplessness. Passions can be confronted only by other passions, just as motion can only be checked by other motion. Reason is impotent in relation to the passions unless it puts itself in the service of the strongest among them--the fear of violent death and the desire for self-preservation. Second, the passions are attributes and properties of the self, not relations among individuals. To be sure, the passions are often other-directed. But there is no hint in Hobbes that they originate in mutual activity, institutional arrangement, and patterns of life. The concept of an ethos or of culture as a source of character formation is missing in Hobbes, despite his deep social

insights as a historian. The analytical framework of his thought makes no room for many of his brilliant insights as a student of human affairs.³⁸ The "manners of mankind" and the "passions of the soul" can only be identified if one assumes that collective life generates no independent cultural reality. Finally, the givenness of the self to itself and to others determines the problematic of Hobbes' logical egotism: How to reconcile the needs and desires of the private individual driven by human nature with the needs and drives of similarly motivated individuals. Once the chief characteristic of individuality is interpreted as the drive to assertion, what have to be the limitations and constraints of the social order such as to contain this drive against its self-destruction? Hobbes' natural right teaching attempts to answer this question with a civil philosophy that will teach men the conditions of legitimate obligation and authority.

IV. Hegel and Locke

Locke, who shares the principle of the priority of freedom to nature, does not interpret the condition of the self as a drive for assertion. The urge for appropriation is more fundamental than the pursuit of glory and security. He describes the relation of the self to the community in terms of the capacity of this self to form and to appropriate the external world through labor. Locke is able to effect this shift in understanding the nature of the individual on the basis of his familiarity with the "new science" of his time. Political economy establishes that man's self-assertion is the appropriation of what is external to him for human ends. "The external world," says Hegel, "as the world of human disposition (Gemüt), inclination and the nature of men, had value only insofar as it could be overcome."³⁹ The process

of appropriation is a creative act, not only destroying but preserving and transforming the world for human ends.

In the Phenomenology Hegel discusses laboring activity as an essential moment in the formation (Bildung) of self-consciousness. Labor fulfills the sense of human freedom first experienced as the negating power of the self in choosing the act of death. The satiation of human desire can only result from the activity of changing nature for human purposes.

For Locke too, labor signifies the education of one's immediate desire to consume. The horizon of human temporality is defined by the future orientation of individual accumulators who seek to enlarge their appropriations. The "rational" and the "industrious" extend the limits of their present appropriations by devising possible future uses to which they apply what they now have. The accumulation of property enlarges the horizon of men's cunning. These rational accumulators enter the contract of civil government to protect their "property," meaning their possessions and their liberty, from the encroachment of the "lazy" and the "aggressive," the "greedy" and the "unjust." ⁴⁰

For Hegel, the educative aspect of labor does not derive from the rational sacrifice of prudent accumulators. In the activity of labor man uses his knowledge of nature and of himself as a natural being to "outwit" nature itself. The tool is the objectification, in the form of a material thing, of the cumulative intelligence of men who employ their cognition of nature's workings against nature. The formative moment in the activity of labor is contained in the permanence of the objects and tools of labor. Human temporality is shaped by the postponement of immediate desire, and

the discipline involved in the mastery of the tool. Such a temporality is directed toward the future in virtue of being oriented toward the past. The synthesis of labor entails memory as well as future expectancy, since men appropriate in the present by immersing themselves in the accumulated intelligence of past generations.

Hegel's emphasis on the continuing, independent presence of the tool and of the form transmitted to the object of labor, beyond the activity of laboring, implies a theory of labor rather different than Locke's. Once the initial affinity between their discussion is established, it must be seen that for Locke labor is significant as the origin of property, whereas for Hegel labor alone confers no title to property. It is paradigmatic as a form of human synthetic activity. Human activity is realized by objective embodiment in the world. Labor is the primary form of objectification, albeit not the only one (cf. below, Sec. V).

The confusion surrounding Locke's labor theory of property is considerable. Not only the apparent equivocations of Locke's own text, but the relationship of his views to those of later utilitarian economists and to those of Marx remain in relative obscurity.⁴¹ In analyzing the affinities between Hegel and Locke, therefore, I will limit my discussion to the following question: Does Locke's discussion of labor and property warrant the criticism that his standpoint is one of practical egotism.

Man, like all natural beings, has to preserve himself by a process of metabolic exchange with the natural world, argues Locke. He destroys life around him in order to incorporate it into his own life. The primary form of appropriation through which an external thing is made a man's property is metabolic: it becomes an organic part of the human

being and his in that sense. Appropriation is the natural ability of men to remove from the indifference of nature what is essential to their survival. Locke calls a man's "property" that which by his natural ability to work and to labor he can remove from the common state of nature and make his own. (T, sec. 26)

Locke infers that appropriation creates a title to private property from the following assumptions: Man appropriates the world by "the labour of his body and the work of his hands. " The activity is "his" because "every man has property in his own person," that is to say in his body (T, sec. 26). And these means of appropriation--body, hand and mouth--are naturally private because they are given to man individually. The premise that "every man has property in his own person" needs careful analysis. Suspending further discussion of it for the moment, it is important to note that Locke's inference is from the privacy of the means of appropriation to the privacy of the objects appropriated. As Hannah Arendt points out: "What he actually was concerned with was appropriation and what he had to find was a world-appropriating activity whose privacy at the same time must be beyond doubt and dispute." ⁴²

Against traditional theorists of property, which attribute its origins to first occupancy, to lot, to war, and to conquest, Locke is claiming that labor confers a more just title to property. This is so because labor is the appropriative act by which the world is transformed, made into an object of use for man, and given value. Locke is concerned with the wealth-generating potential of labor, and therefore with the creativity of appropriative activity. Labor is the origin of property, because all human wealth originates with the appropriation of the world for human ends. But the claim of labor to be the sole title of property dissolves in the very historical process which this activity

initiates. Locke's criteria of appropriation shift most radically in his discussion outlined in the Second Treatise. This is well worth being considered at some length.

The primary precondition of preservation being the continuity of an entity through time, the right of preservation assures the right to those conditions which are necessary for remaining in existence. These are offered to man 'by nature' for his subsistence. Property is what every man by his natural ability to work and to labor can remove from the state of nature and make his 'own'. Nature, which is given by God to men in common, becomes a private object through the labor mixed with it, exerted on it, etc. From the assumption that nature has been given to men in common, Locke draws the conclusion that man has a right to appropriate "at least where there is enough, and as good left in common to others." (T, 306) This would also be entailed by the simple right of self-preservation; where there is not enough, or under conditions of scarcity, men would be led to violate the right of property of others for the sake of their own preservation. So the first limitation placed on the right of appropriation is a condition of necessity and not primarily a moral stipulation.

What would be the limitations of this right under conditions of abundance? Again, Locke's answer is ambivalent between moral and natural conditions. Man has a right to appropriate not only as much as he can "ingross" by his own will, but as much as he can "enjoy" or make "use" to any advantage of life before it spoils. (T, 308). This analysis conflates enjoyment and use, but the two are clearly not the same. There may be many uses to which one's property can be put other than the mere enjoyment of it. Individual resourcefulness in envisaging use that

transcends enjoyment would have to be allowed for. Indeed, Locke does allow that with things which are not perishable men may accumulate as much as they desire, since they can always use them in the future for exchange. Hence, enjoyment may have 'natural' limitations but the capacity to use property does not, and this indeterminate factor necessarily introduces differentials into the state of nature. "The rational and the industrious" who labor more can extend their appropriation through the use to which they put the natural resources.

Locke's criterion of appropriation shifts from "survival" to "enjoyment" to "use" and finally becomes "benefit and the greatest conveniences of life." In this process preservation, the original goal of appropriation, has become interpreted as "convenient existence." The invention of money creates a source of value that goes beyond mere use by making it possible for men to accumulate as much as they please. Since gold and silver do not perish and can always be exchanged for other more useful and enjoyable items, there are no natural limits on how much men can appropriate and make their own. With the introduction of money, labor ceases to be the only title of property.⁴³ Men are said to have agreed "by a tacit and voluntary consent" to inequality of private possessions and to have also legitimized the development of conditions of scarcity for some and abundance for others. If the right of accumulation, both in land and in gold and silver, for which land can be bought and sold, is unlimited, then some will appropriate more than they need and others will have less than necessary for survival. Locke nostalgically speaks of a Golden Age "before vain ambition and amor scleratus habendi, evil concupiscence had corrupted men's minds into a mistake of true honor and power" (T, 360). Viewed in light of this discussion,

Locke's labor theory of property is best understood in relation to the wealth-generating attributes of appropriation. With the introduction of money the utilitarian premises of Locke's theory become clearer;⁴⁴ the privacy of property is justified on the grounds that it leads to increased wealth for all. Labor, which is the origin of property, ceases to be the sole title to it. The intention of Locke's theory of property is the discovery of some appropriative activity not only whose privacy but whose wealth-generating potential is beyond dispute.

Yet the critical issue for my purpose is not the relation between labor and wealth. Assumptions of practical egotism guide Locke's discussion at a deeper level. Locke's vacillation in the discussion of the Second Treatise between naturalistic and normative constraints on appropriation indicates his commitment that the isolated appropriator can be taken as given. In order to conclude that the privacy of the means of appropriation entails the privacy of the object appropriated, Locke has to assume a) that every man has property in his own body and labor, b) that the instruments of labor are privately owned, and c) that land and other objects of labor are also private property. The premise that the privately appropriating self can be conceived as a logical simple is projected to the beginnings of human history.⁴⁵ In a curious way it serves to legitimize a process of private accumulation that destroys the very conditions that are at the origin of this process.

The metaphor of the state of nature expresses a condition of multiple dimensions. It combines that which is logically simple with the temporally prior and the methodologically compelling. All these elements are present in Locke's discussion. The privately appropriating self

who has an immediate title to his own labor and instruments describes, according to Locke, the reasonable condition at the beginnings of human history. This logical simple is the premise from which Locke's fictive genealogy proceeds. The treatment of the appropriating self as if it were a natural given serves to legitimize the claims of the modern individual. The thesis that every man has property in his person and labor aids in destroying bonds of authority, precedence and domination under which the individual is not the proprietor of his own person and labor--for example in slavery, serfdom, and other forms of indentured servitude. This condition of radical independence frees appropriative activity from the traditional constraints placed upon it, and such freedom of private appropriation is Locke's desideratum.

Hegel's relation to Locke is subtle. Locke makes the utilitarian assumption that the private accumulation of wealth will eventually contribute to the common good, and that private property will increase shared wealth. The irony of the accumulation process in Locke has its counterpart in Hegel's concept of human cunning. The cumulative synthesis of labor through which the transformation of nature is effected, exemplifies the cunning of man who can use nature's forces in labor against nature herself. While Hegel does not accept the optimism of the "invisible hand," the conception of dynamic processes that yield consequences other than those immediately intended by individual agents is essential for understanding modern life. Much of Hegel's characterization of life in the modern state presupposes this insight.⁴⁶

Both Hegel and Locke leave behind the analytic contemporaneity of Hobbes' thought. History is a process of development, not a logic of

succession. Though it is brought about by human agency, its unfolding escapes the immediate will and foresight of human actors. Hobbes' description of the self as a being striving for preservation emphasizes the modern view of the self as the subject of a process. But the self to be preserved and the power of preserving it are conditions that remain given. Both Locke and Hegel, through their analysis of labor and wealth, suggest that the self can be considered as situated in a dynamic process whose conditions are subsequently altered by human activity. For Hegel this process is world historical and logical at once. By discovering itself within the process that it considered the cumulative result of its own activity, the subject of history escapes the arbitrariness of being a given. It gains an insight into the standpoint of its own legitimacy.

Locke's analysis cannot alter the given status of the subject. For Hegel the legitimacy of the claims of the modern self can only be upheld if the self is viewed as a member of a human (spiritual) whole. The assumption that every individual is a person who has property over his body and labor cannot be defended, claims Hegel, unless personality is viewed not only as a self-relation but as a relation between self and other. Hegel's concept of personality presupposes the doubled structure of self-consciousness. Locke's vision of private accumulators projected to the beginnings of human history is inconsistent with Hegel's view. Hegel's views on property derive from his conception of personality, whereas for Locke the concept of property even defines the right of personality. I will return to this question in chapter VI.

V. Labor, Recognition, and Bildung

It is tempting, of course, after Marx's work to reduce Hegel's notion of formative activity to labor alone. There is some justification for attributing to labor a special place among the various forms of human activity. Since self-consciousness is always embedded in existence (Dasein), the exteriorization of human presence through labor has some priority. Labor reveals that the self-discovery of man can occur only through exteriorization in the world.⁴⁷ But it would be wrong to elevate labor to be the sole agent of this self-discovery. Marx speaks of man as humanizing the world through labor, as "creating a world in which he can contemplate himself."⁴⁸ Hegel's concept of spirit entails this world-creative activity, yet it is more correct to say that the driving force of world-constitutive activity is the dialectic of labor and recognition. What Hegel means by spirit is closer to the traditional statement that "custom and habit are second nature to man."⁴⁹

The transformation of desire into human satisfaction is attained through the formative activity of labor and the relation of service. The object of labor only becomes a human object and expresses a human self-consciousness when it is recognized as the exteriorization of a spiritual being who has claims upon the world. In the absence of this moment of recognition, laboring activity is the assuming by the self of a thing-like reality. Labor eliminates the simple dependence of desire upon an external world, but when performed as a service for another, the object of labor is stamped with human intent. Then the object is one that is mutually acknowledged by both as appropriate to human satisfaction. It is indeed correct to say now that the object of human desire attains intersubjective reality. (Ph.G., 235; 146-147)

Postponing the immediacy of desire results in a richer relation to the world. The urgency of satisfaction is transformed into the prudence of foresight and the discipline of work. Discipline creates a bridge between different aspects of temporality. It involves the appropriation of the past in the present for the sake of the future.

When the object of desire becomes a human object, desire itself is humanized. It no longer expresses the sheer caprice and immediate inclination of the one desiring. That the bondsmen can create an object to satisfy another, implies that . . . standard and criterion of satisfaction can be shared. The particularity of desire, the "state of sunkness into selfish appetite" (#433, E III) develops into the sharing of general standards. A process of universalization sets in, defined by the relation between two selves. The isolated moment of laboring upon the thing would not educate individuals towards shared satisfaction unless the relation to the other were made an explicit moment of the activity.

The real significance of the concept of recognition as the becoming universal of man involves an education of the self. The self begins to free itself from context-bound and heterogeneous wishes and impulses. The ability to abstract and to abstain initiates the beginnings of human autonomy. Hegel speaks of the transition to the attitude of thought. (Ph G, 242; 153) The transformation of otherness within and without into an object of generality marks the beginnings of abstraction . . . and reflection. Hegel sees the passage from whim and caprice to will, to the ability to act in accordance with thought and the comprehension of universal principles.⁵⁰ The educative moment begun by labor is completed by recognition. The realization of the completed

structure of recognition, implies the autonomy of the self and the creation of a general will among selves. The resolved dialectic of recognition culminates in relations of rights among men.

The formation in the human being of a 'second nature' is described by Hegel as Bildung.⁵¹ What the activities of Bildung and labor have in common is the transformative shaping of what is given. Both involve the making of one's own of that which is initially experienced as a limit, as an other. In the case of Bildung, what is given is human nature, and its cultivation can only take place through the cooperation of the subject himself or herself. Education, persuasion and habit constitute the ways in which the individual appropriates the universal which is his communal life. This appropriation is only possible through the change that the individual undergoes, for cultural appropriation is identity-formation.

The concept of Bildung defines the general relationship of the individual to the social universal of which he is a part. But it is also most appropriate to characterize the collective life of those communities in which education in the manners and habits of a people was the shaping of the individual's character. For Aristotle, ethics and politics were branches of one science. They jointly aimed at the cultivation of the virtue of the citizen. The end of politics was the "good life,"⁵² because the virtue of the individual could only be realized through a life of public praxis. Hegel's early critique of natural right presupposes this sense of Bildung as a life of public virtue.

In modern societies the sphere of Bildung is displaced. The formation of character and public activity are not in direct correlation. The individual appropriates the universal life of his community in less direct ways. The generalized activity of labor contains a moment of

education within it: needs and desires can be satisfied by general objects. In laboring to satisfy one another individuals develop shared standards, which lead to the cultivation of universal habits of mind. But it is not labor per se, only labor within "civil society" or a "system of needs" that can contribute to universalization. This means, however, that in the modern world Bildung is not a matter of politics but a consequence of economic activity. Hegel accepts this conclusion only partially: politics still retains some priority over economics in the hierarchy of human activities.⁵³

A third sphere of social practice frequently identified with Bildung is culture. For the moderns, culture is not the all-encompassing system of beliefs of a folk religion or of an ethos. It assumes a more privatized and craftful character. Culture, which is the education of the faculties of taste and judgement, is acquired by participation in the refined communities of learning, art and science. A person of culture is a person of taste, a sense for the beautiful, and a discerning judgment.

Politics, labor, and culture define three spheres of activity within which the individual's cultivation in the ways of the social universal takes place. It would be simplifying things, therefore, to think that the existential relation of the self to spirit can be realized in a clearly delineated sphere of social life referred to as Bildung. Precisely because labor cannot be reduced to recognition, politics cannot be collapsed into the market place and culture disappear into both.

I referred to Hegel's concept of spirit as a universal which described both a logical condition and a practice of social life. Spirit in the Hegelian sense does not merely signify the "spirit of a people," its habits, ways and mores. Hegel goes much beyond Montesquieu in his

theory.⁵⁴ First, spirit is the in-between through which individuals interact. Spirit is a medium of interaction in and through which individuals become communal beings, speak, labor, and participate in various normative practices. Since all human self-consciousness is situated in material life, interaction among selves cannot but occur across a medium of externality. This is a reformulation in the language of social theory of the insight: "self-consciousness is life reflected into itself" (Ph G, 224; 138); in the metaphysical idiom of the Philosophy of Mind: "From our point of view, Mind has for its resupposition Nature, of which it is the truth" (# 381). Second, this in-between is a repository of human activity. Human interaction involves the transformative appropriation of this medium. By acting in the world, individuals transform the world for their own ends and leave their mark upon the world. Human activity is synthetic because externality is shaped into a permanent and enduring form reflecting human presence. Through the continual assimilation of previous forms of human presence, the world becomes a place for men. The Hegelian definition of freedom, "the being by self of spirit in the world," presupposes this synthetic and transformative activity of the collective subject in world history.

Labor, recognition, and culture describe the varieties of synthetic activity. In his early writings Hegel refers to the tool, the word, and the act as the independent but equally significant modes of objectification through which the social world is constituted. The dynamic interrelationship between these modes and the rules governing the objectification patterns of language, labor and culture are unresolved and continuing discussions in Hegel's philosophy of objective spirit.⁵⁵ What I would like to claim in this essay can be stated in terms not influenced by this

controversy. Hegel's methodological rejection of practical egotism rests upon the following thesis: while the social world is constituted by a process of human activity, such activity can itself only be analyzed as already situated in the social world. The methodology of the Philosophy of Right will show how a process can be both objective and objectified; constituted and constituting; ground and result. Various stages can be distinguished in the development of this methodological insight.

VI: Hegel's Rejection of State of Nature Methodologies

Hegel's early criticism (1802-1803) of modern natural right is in the name of principles borrowed from classical political philosophy: Modern natural right proceeds from the individual to generate unity of civil government. Since the individual is taken to be prior to the civil bond, not duties but rights, not obedience but the grounds of obligation are emphasized. The individualism of this tradition is also a political realism. The modern tradition frees men from utopian demands upon human nature. Distinctions between the few capable of achieving human excellence and the many who are ruled by passions and visions of a life of pleasure cease to have significance for determining political rights and privileges. Rights are said to originate in the necessities of human nature to shun death, to seek self-preservation and to enjoy natural liberty.

The modern tradition considers human nature as given. As long as individuals are seen as complete and mature outside the bonds of ethical life, as long as their nature is juxtaposed to their life in society, the relations between the individual and the ethical totality remain

accidental. Ethical life, the life of the whole, is viewed as an external bond arising to satisfy the needs of human nature.

The reality of human interaction and togetherness is reduced instead to a necessity inherent in human psychology. For example, in order to acknowledge the institution of marriage, natural right theorists have to postulate the raising of children and the community of goods as the purpose for the sake of which the institution must come into existence. All that belongs "to customs, history, cultural formation [Bildung] and the state are regarded as accidental, inessential to human nature" (NR, 445).^{*} What was a realistic turn toward man himself freezes the human condition into unalterable necessity and enslaves men to the dictates of his nature. The individual and the universal stand opposed, whereas it is only through the universal that the individual attains spiritual significance. Hegel quotes Aristotle: "The positive is according to nature prior to the negative, or as Aristotle said, the people [das Volk] is according to nature prior to the individual" (NR, 505).

This essay also criticizes the methodology of state of nature theories for philosophical dogmatism. The predicament entitled state of nature is deduced, Hegel claims, either by a process of phantasy or by a process of abstraction. (NR, 444) The element of phantasy makes its way into state of nature theories, through their acknowledgment that men never have and probably never will be in a condition such as depicted in their descriptions. Nevertheless, a "time immemorial" and the condition of certain primitive people are appealed to as sufficient

* All references, abbreviated as NR, are to Hegel's Über die Wissenschaftlichen Behandlungsarten des Naturrechts, seine Stelle in der Praktischen Philosophie und sein Verhältnis zu den positiven Rechtswissenschaften in Jenaer Schriften, 1801-1807 (Suhrkamp, 1970).

evidence that such a condition may at one time have existed and is on that account a human possibility. (NR, 444)

Most natural right theorists claim that the state of nature is more than a fiction and figment of the imagination because it is a reality corresponding to human nature. These theorists abstract from the life of men in the human communities those elements which seem to them to constitute the nature of men and those which they consider to be accidental since originating with convention, tradition, custom and covenant. This process of abstraction takes the form of an enumeration "of the capabilities found in men through empirical psychology." 56

Hegel sees it as being perfectly compatible with the common understanding, "der gemeinen Verstand," that it would seek to comprehend what is necessary by separating out the accidental and the contingent" from the confused image of a state of right." The assumption in accordance with which this abstracting or separating is carried out is left implicit. In fact, it bears more the character of a prejudice and a dogmatic assumption about what is and what is not part of human nature than a philosophical principle. If not empirical psychology, then the condition that there should be just as much in the state of nature as one needs for the identification of what is found in reality, leads the way. Thus, Hegel says, the "correct principle for each a priori becomes a posteriori." (NR, 445)

The Aristotelianism of the Naturrecht essay was corroded, as we saw, under the impact of Hegel's economic studies and his developed understanding of modern society. But the philosophical validity of some of these early criticisms are preserved in aspects of Hegel's later thought. Whether it be the categories of recognition, the doubling of

self-consciousness, spirit, or Bildung, Hegel continues to reject certain key assumptions of the modern tradition. The relations postulated by the empiricist tradition between the individual and the community, nature and the individuals, are all external. They rest upon the manipulation and appropriation of that which offers resistance to men. The independence of the external is not thereby lost; it is simply repressed or restrained until its resurgence within the bounds of the community. The static psychology of natural right theorists divides the passions from reason and reason from the will (this applies to Kant, no less than to Hobbes and Locke). Human nature imprisons men within the limits of his own constitution.

The externality of human transactions with nature, understood as facticity, is paralleled by the radical separation from this transaction of nature viewed as concept or essence. Human activity in the empirical natural right tradition cannot bridge the gap between facticity and essence except by creating a sphere of art and convention which interposes itself between the two. Human nature as the conceptual truth about men remains indifferent to human nature as the givenness of man. But it is only through mediating activity that human existence is transformed so as to express a reality adequate to its concept. 57

The Ph G argues that the transformative activity of consciousness is a world-historical process and a material precondition for the comprehension of this process by the philosopher. The dialectic of the "in-itself" and the "for-itself" through which the saga of consciousness proceeds reveals this clearly: in expressing what it takes to be the truth, consciousness acts in and upon the world. In this very process of expression its truth is transformed such that certainty and truth no

longer correspond. Consciousness took truth to be one thing and it was certain of that. While expressing this, however, its own activity brought a new truth into existence. In simpler terms: the activity of an agent generates a new reality in the very process of being expressed and carried out. This process is a cumulative one in which initial conditions are preserved and repositied as aspects of subsequent reality. Objectivity is appropriated such as to express the activity of the subject, and substance thereby is spiritualized. Similarly, a content is grasped when thought can penetrate all its aspects and order them as moments of internal conceptual sequence. The effort of the concept in grasping is paralleled by the effort of the collective subject in world history.

Three stages can be distinguished in Hegel's methodological critique of modern natural right. The 1802 Essay identifies the living unity of a people with the categories of nature and substance. In the Phenomenology it is claimed that such unity can only result from mediating activity by which individuals appropriate ethical substance. The 1821 Philosophy of Right leaves behind the genetic viewpoint of the Phenomenology and therewith of the acting and thinking individual. Ethical life is now discussed as a spiritual whole from which individuals cannot be abstracted, while at the same time that their activities sustain and generate the objectivity of the ethical world. Hegel once more returns to the standpoint of the whole, but now in a manner totally antithetical to Aristotle: the whole is not the given ethos of a people, but the transparent unity of modern social life.

Chapter IV

Natural Rights and Political Obligation

I. State of Nature as the "Original Position"

The analysis of the previous section has dealt with the theory of self implied by the concept of a state of nature. I have reconstructed this theory as a moral phenomenology in order to emphasize the affinities between Hobbes, Locke, and Hegel. My claim is that the vision of the self advocated by Hobbes and Locke is a form of practical egotism. This statement means first, that the identity of the self is taken to be a given in thought and in action, and second, that subjectivity is equated with the condition of this given self, as it strives for self-assertion or the appropriation of nature.

The assumption that the self is a given underlies the threefold priority of the individual to the community. This manifold priority has been analyzed into its logical, temporal, and psychological components. Human nature defines the complex unity of these dimensions. The "rights of nature" originate with the claims of human nature. They are original, basic, and necessary. Since every individual experiences the promptings and demands of human nature within himself, the foundation of the political order is not a law but a right. The relation of the individual to the community does not express a duty, but is based upon a claim.

Natural rights in the doctrines of Hobbes and Locke define the grounds of political obligation and legitimate authority.¹ The question of their political philosophies can be formulated succinctly: How do rights belonging to individuals in virtue of a certain capacity determine

origins, extent, and limits of political obligation and legitimate government? The right of self-preservation in Hobbes, and the rights to life, liberty, and property in Locke, define the dividing line between what is the concern of public authority and what is inalienable from the standpoint of the individual.

These rights originate with the condition of men in the state of nature. This state of affairs antedates political society and circumscribes the realm of possibility within the confines of which politics occurs. The state of nature describes Hobbes' and Locke's vision of human nature, of its potentials and goals, and of its aims and ends. Both present their moral theory as an empirical anthropology of individual passions and collective manners. Since the premises of their theories of political obligation are inferred from this empirical anthropology, it can be said that the state of nature provides the "moral" foundations of the political. Natural rights are the moral conditions of political obligation, and any form of government claiming legitimacy for itself must respect them.

Methodologically, these theories of obligation and authority proceed as follows: First, an abstraction is performed from the conditions of men as they are now to what they would be like or might have been like in a state of nature. Second, it is said that they will want to leave this condition behind. They may be motivated by self-interest, fear, prudence, or sociability, but leave this condition they must. The state of war that follows the state of nature proves the necessity of abandoning this political situation. In the third place, the specifics of a social compact are outlined. This compact upholds original rights and

men's motivations to leave their natural condition. Any compact that individuals would consent to and acknowledge as binding must respect their rights and claims. But since the unlimited exercise of these rights leads to war, death, and the loss of property, a compromise becomes necessary. Some original rights must be relinquished. Here, in the fourth place, Hobbes and Locke appeal to the "laws of nature," which stipulate what moral and reasonable rights, duties, and obligations would have to be. The social compact contains these original rights along with the necessary limitations to be placed upon them. Together these constitute a set of rules and procedures leading to the creation of a public authority. Following Max Weber, I will call this the "legal-rational" institution of authority.²

Earlier (chapter III, p. 63) reference was made to Hegel's criticism of the state of nature theories because of their ambivalence. Human nature, and accordingly the state of nature, could either refer to the facticity and givenness of men, or to a normative conception of human essence. The state of nature could either describe human passions, appetites, and desires or human rationality. Important as it may be to recognize the inherent equivocation in the concept of nature, this juxtaposition of facticity and essence is not Hegel's last word on the matter. Hegel neither describes a pure essence untouched by conditions of factual existence nor simply accepts an unmediated given. The relation of essence and facticity is mediated by activity and negation.³ Both the concrete activity of world history and the thought activity of the concept reposit the original conditions from which they proceed as aspects of an immanent sequence. Factual conditions are transformed and reassimilated by activity.

Rather than juxtaposing essence to facticity, or natural conditions to rationality, Hegel describes a process of knowing and of being in which nature is assimilated into history, and facticity made a manifestation of essence.

With this caveat in mind, it is nevertheless important to emphasize the distinction between factual and normative conditions. An early passage from Hegel's Jenaer Realphilosophie reads:

This relation is what is usually called the "state of nature"; the free, indifferent being of individuals opposed to one another. Natural right [Naturrecht] ought to correspond to the rights and duties these individuals, in accordance with this relationship, have with respect to one another. This [condition] is the necessity of their relation, of them according to their concept of independent self-consciousnesses. The unique relation of these individuals, however, is to overcome their relation: exeundum e statu naturae. In this relation they have no rights and duties against one another, they first receive them by forsaking this very condition. (205)

Hegel's formulation is indebted to the practical philosophies of Kant and Fichte: it is said that the state of nature ought to correspond to these relations that free and self-conscious individuals would have to one another. The term the 'state of nature' actually becomes a misnomer, for what is meant by it is a hypothetical normative ideal specifying relations of right among free and rational individuals.

Kant himself, while not completely dispensing with the metaphor of a state of nature, is unequivocal about the hypothetical significance of the contract. He calls it a "juridical fiction" of conditional validity alone. The legitimacy of civil government can only be established if the principles on which it rests are such that free and rational agents in a hypothetical state would adopt them. The state of nature can then simply be viewed as a counterfactual, stipulating those relations of right and justice that would have to hold among Kantian

moral persons. This is what John Rawls, in presenting a Kantian theory of justice, refers to as the "original position": that hypothetical state of affairs in which rational agents would choose the contractarian principles of justice.⁵

Yet the ambivalence between conditions of facticity and those of rationality has systematic significance in the thought of Hobbes and Locke. Since human rights define the limits of what men cannot reasonably be asked to do (forfeit their rights; give up their natural liberties), a distinction is introduced between publicly acceptable norms and private nonenforceable ones. The characteristics of human nature being unalterable, the extent of political obligation stops where men cannot act otherwise. Given that no one can be asked to alter these conditions of their nature, they must be treated as normative claims of individuals against one another and against the public authority. That which men cannot be obliged to do, or that which they cannot refrain from doing, are theirs by right.

The normative basis of natural rights in Kant's theory is rather different. Whereas Hobbes and Locke conflate the natural capacity in virtue of which individuals can enjoy rights with their entitlement to do so, Kant argues that the justification for the original rights of the individual derives from the logic of obligation relations. If obligation is to be a normatively binding relation upon agents, their rights must be respected. Individuals are entitled to rights not because they cannot avoid acting in certain ways, but because respecting their rights legitimizes obligation itself. Kant maintained that only the right of every individual to be treated as an autonomous being would satisfy this

condition. The systematic import of Kant's contribution to the modern natural right tradition is examined in section V below.

II. The Right of Self-Preservation

When in the Leviathan Hobbes criticized those who spoke on this subject for confusing lex and jus, law and right, he was objecting to the deduction of right from law. (189) The traditional teaching of natural right viewed the order of nature as an order of reason. This order dictated a true course of action to man consistent with the ends of his humanity. It was assumed that like all other natural creatures, man had an end, a telos, the reaching of which constituted a state of perfection, and the striving for which was a duty. The rights of the individual emanated from the system of ends contained in the fundamentals of the social order. Within this teleology of ends the natural relation of individuals to one another was defined by the laws of nature. The right of nature was stipulated by the law of nature.

Hobbes claimed that reason could only discover the immanent necessity of nature's working, not its ends. The foundation of the political order was not a law but a right: the right to exist in accordance with the necessities of human nature and to follow its dictates. Hobbes called this the "right of self-preservation."

The right of nature is defined as an "original" and "universal" right that men receive from the "uncontrollable dictates of necessity," leading them to avoid what is evil, "chiefly, the chiefest of natural evils, which is death. . . ." (De Cive, 26). There is no summum bonum, only a summum malum: death. There is no intrinsic hierarchy of ends by nature, only an ultimate necessity that marks the dissolution of

nature itself. "It is therefore neither absurd, nor reprehensible, nor against the dictates of true reason, for a man to use all his endeavours to preserve and defend his body and his members from death and sorrows. But that which is not contrary to right reason, that all men account to be done justly" (Elements of Law, 54). The Leviathan describes the right of nature as "a liberty each man hath, to use his own power as he will himself for the preservation of his own Nature: that is to say, of his own life" (189).⁶

These claims of Hobbes appear to modern readers just as confused as the claims of his predecessors, who derived right from law, appeared to him. It seems that Hobbes discarded one system of false teleology only to replace it by another. From the fact that "A is a human being," says a modern student, "nothing follows,"⁷ neither a state of perfection nor a drive to self-preservation. A less radical position is likely to claim that Hobbes' concept of right is "heteronomous"; it confuses facts of nature with moral relations among free agents. What else is meant by right but such relations? 'Right' is a moral term, and from natural characteristics no moral predicates can be deduced.⁸

Spinoza seems much more consistent to modern readers when in the Theological and Political Tractatus he dissolves the distinction between right and might.⁹ His grounds for doing so are that the drive for self-preservation belongs to natural creatures in general, not simply to man. If self-preservation is a universal drive, then each being has as much right as it has power to preserve itself. Spinoza's conclusion is inspired by a theological cosmology, which is based on a nonpolitical realism. All that is is a manifestation of the drive to be.¹⁰ Of the differences

between Hobbes and himself, Spinoza remarks that he never gives up the legitimate exercise of the right of nature, not even in the state of civil society. What then are the elements of Hobbes' position, if any, which make it possible for him to avoid Spinoza's conclusion? Is not the right of nature simply the might of nature in Hobbes, too?

It has been emphasized that the moral dimension of Hobbes' teaching rests in the therapeutic and redemptive power of the fear of violent death. Hobbes' natural right teaching, it is claimed, is moral, not in virtue of its acceptance of the drive to self-preservation as fundamental, but because it discovers in this fact a source of "human equality and humility."¹¹ As a moral thinker, Hobbes rejoins the tradition of Stoic and Christian natural law teachers. The laws of nature direct men to seek peace and to lay aside "injustice, ingratitude, arrogance, pride, iniquity, acception of persons and the rest" (L, 215).¹² They contain the essence of the traditional formula "Do not that to others, you would not have done to yourself."

This interpretation, however, seems to derive the right of nature from the law of nature: since peace is the highest good, and all men are equal in the face of death, all have a legitimate right to self-preservation. Hobbes is emphatic that the right of nature and the law of nature are in fact opposed: "Law and Right, differ as much as Obligation and Liberty; which in one and the same matter are inconsistent" (L, 189). Also, we discussed above that this postulate of human equality was not primarily moral: it had a naturalistic ("men are all bodies in space") as well as prudential ("the weaker can kill the strongest") component. Such a reading of Hobbes, therefore, cannot sufficiently illuminate the normative significance of the right to self-preservation. A more promising line of

inquiry would pursue the implications of the universal right to self-preservation for the Hobbesian theory of obligation. The normative dimension of Hobbes' concept of natural rights is to be found in his theory of obligation.

Following Howard Warrender, I will distinguish between 'validating' and 'sufficient' conditions of obligation in Hobbes.¹³ Validating conditions are necessary prerequisites that have to obtain if there is to be a relation of obligation at all. For example, the sanity of the parties concerned and their knowledge of conditions they are obliged by would be among such validating conditions. Hobbes seeks to derive these prerequisites from the right to self-preservation. Any threat to this right, he seems to say, destroys the motivational basis of the agent. No one can have an obligation under conditions that contradict the goal of all action, namely, the avoiding of death. The recognition of self-preservation as a right is a necessary condition of relations of obligation. The sufficient conditions of obligation are provided in two ways: one is Hobbes' highly original theory of authorization; the other, the laws of nature that reveal the omnipotence of God.¹⁴

Why is the goal of self-preservation the motivational basis of all action? Is this a normative, descriptive, or an explanatory claim? Is Hobbes saying that all human actions must be explained with reference to the goal of the agent to remain in existence? That unless this teleological assumption is made, no human activity can be explained in such a fashion as to make sense?¹⁵ Or is it that all human agents ought to seek their self-preservation, but that only the prudent and the rational do so? Or again, is Hobbes claiming that men naturally seek self-preservation whether or not

they recognize this to be a normative good as well? Furthermore, what are the limits and content of the right to self-preservation? What or who is the self to be preserved? Is each individual himself the judge of what is best for his preservation?¹⁶ If preservation signifies the continuity of an entity through time, what kinds of activities fall under its scope?

One cannot hope for a clear answer to some of these questions. Indeed, a good many of these ambiguities are systemic and conceptually significant. To determine the exact content and limits of self-preservation, Hobbes will argue, one must agree upon formal procedures to establish an institutional authority. Precisely because of its ambivalence, this right can define a minimal necessary condition of coexistence that all can be assumed to desire. This condition is satisfied with the establishment of a public authority defining the limits of peaceful coexistence and having jurisdiction over the correct interpretation of the broader content of this right. In other words, the ambiguities of the natural right to self-preservation enable Hobbes to formulate an institutional solution to the question of political authority and obligation. He develops the framework of a procedural public structure that would determine the extent and limits of obligation among men.

The ambiguity surrounding the principle of self-preservation--explanatory, descriptive, or normative--must be seen as systematic on the following grounds. Simply expressed, Hobbes is arguing that unless certain claims of human nature are respected, no obligation can obtain between parties. The validating conditions of obligation have the logical form: "X has a right to Y" means "X has no obligation not to Y." Rights define

that which men cannot be obliged to refrain from doing. Men cannot be asked to do what would prove constitutionally impossible for them, i.e. stop preserving themselves. Natural rights are an expression of psychological necessity and anthropological propensity. One has "no obligation not to" simply means "one cannot refrain one's self from" or "one has an insuperable inclination to do so." Reasonable assumptions about human nature provide a series of psychological and anthropological generalizations. Obligation is thereby formulated motivationally, in relation to what would or would not induce individuals to undertake certain responsibilities and liabilities.

Hobbes allows no distinction between "being obliged" and "having an obligation." ¹⁷ Whereas "being obliged" implies a statement concerning the beliefs and motives with which an action is performed, such facts about a person's actions and beliefs are irrelevant for his "having an obligation." Actions which fall under the latter category are defined with reference to a set of normative rules which constitute reasons or justifications for them. For Hobbes, fear, duress, physical coercion, and superior strength all provide legitimate motivational grounds for individuals seeking self-preservation to undertake binding relations of obligation. An individual is obliged if he has a compelling motive, like saving his life for example, for agreeing upon a course of action. An action is freely undertaken if it is not hindered by opposition. Freely given consent is, in this respect, no different than a promise delivered under a threat. An action motivated by fear is just as binding as one motivated by hope (L, 252).

A similar conflation is found in Hobbes' discussion of the laws of nature. The laws of nature are called "rational theorems" and "precepts

of reason." But properly speaking, claims Hobbes, they only ought to be called "laws" when they are considered "the word of God that by right commandeth all things" (L, 217). The right of God, however, certainly does not originate in the lawful relation between him and his creatures; or even in the reasonableness of his demands. God's omnipotence, the unchallenged extent of his power, gives him a right over all creation. Consequently, the law of nature obliges equivocally: on the one hand, it is a precept of reason; on the other hand, it is the will of God felt in all creation as the drive to shun death and seek life.¹⁸ While in the first instance the law would properly oblige if it were also known and understood, in the second case, it need only determine one's actions without being known. This dual significance of natural law accommodates well the intentions of Hobbes' political realism: Making the basis of one's teaching of obligation a principle that men already experience as an urge facilitates their acceptance of it. Since politics is the science of the possible, that the premises of one's doctrine should correspond to the propensities of men enhances its persuasiveness. Hobbes' motivational account of obligation accepts human nature as given.

There is a difficulty, however, with demanding that the claims of human nature be respected. Hobbes has provided no positive ground for respecting the demands of human nature. The naturalistic psychology of self-preservation describes men as one more body among others. Are there any reasons as to why this condition should be respected in men any more than in the rest of nature? Can human nature be a repository of normative claims if the human individual has no intrinsic worth or value?¹⁹

Here we reach a crucial weakness of the modern natural right tradition: Hobbes as well as Locke insists that the drive to expression of the isolated individual, whether it be a form of self-assertion or appropriation, is a source of rights. But then rights mean no more than an arbitrary claim to self-assertion. To recognize the demands of the individual as justified and legitimate, one must attribute a value to individuality beyond the mere fact that such recognition guarantees consent. The political philosophy of the modern period, like the theoretical philosophy of Descartes, appears to rest on a foundation that cannot be legitimized. The structure of the self remains opaque, as does the principle for insisting that this self has rights. It is easy, therefore, to criticize modernity for resting upon a paradigm of technical reason in search of domination. The mathematical physics of the period legitimizes the domination of nature by reducing truth to that which can be manipulated by the self. Modern political philosophy seems to rest on the equally arbitrary drive of the individual to assert itself, to be satisfied, and to appropriate.

The reformulation of the modern natural right tradition from Kant to Hegel aims at eliminating the arbitrariness in the concept of natural rights. Kant argues that only the recognition of autonomy and of the moral worth of the rational agent can justify obligation. It will be Hegel's task to integrate the autonomy of the self with relations in a concrete human community.

III. The Right to Natural Freedom in Locke

Locke's initial description of the law of nature reads: "the state of nature has a law of nature to govern it, which obliges everyone; and Reason, which is that law teaches all mankind who will but consult it, that being all equal and independent no one ought to harm another in his life, liberty and possession" (T, 289). Contrary to Hobbes, who had argued that the right of nature preceded the law of nature, Locke seems to have collapsed jus and lex in traditional fashion: the law of nature is a source of rights as well as of obligations. On this account, Locke's theory of natural law is usually identified with the Aristotelian-Thomist tradition.²⁰

According to the tradition of natural law, the legitimacy of the political sphere does not derive from the free undertakings of men. Legitimacy rests in an order of nature and tradition preceding the will of men and their consent. Both Aristotle and Aquinas justify relations of authority and the rightful use of force by appealing to nature.²¹ To say that a relationship is "natural" is to say that it is most appropriate and that which is most in accordance with nature is the best.²² Aristotle distinguishes between relations in the family and relations in the political sphere that hold between equals. The precondition for participating in the political domain, however, remains based on the natural authority and dominion that the father possesses in the household. In Aquinas, the ordo civitatis "serves as the foundation of a moral law concretized in the ethic of hierarchic social rank, a code differentiated in terms of status and office. . . ." ²³ This is a world in which one's public and private roles are integrated because the distinctions of the

political sphere are mirrored by, and in turn mirror, differentiations in other domains. Man and woman, husband and wife, master and servant, parent and child, craftsman and apprentice, define the content of their obligation in reference to an order of ends that is given.²⁴

If the law of nature were understood by Locke in the traditional sense, then it would not only be a teaching of rights, but a teaching of duties as well. These duties would dictate a certain hierarchical ordering of human relations. Locke, like Hobbes, opposes to the hierarchical view of the social order a concept of preservation abstracted from all social obligations and interpreted as the assertion of the right to natural freedom. His arguments against paternalism apply the relentless logic of self-preservation to undermine the uniqueness of the paternal prerogative. The assertion of the right of preservation is the goal to which both the parent-offspring and the man-woman relationship is subordinated. The household becomes the private domain par excellence, because it is conscience and the subjectively interpreted duties of gratitude, love, and obedience that determine its content. Relations in the household are private moral relations between individuals. Therefore, the duty conjoined by the law of nature has a peculiar character. It teaches individuals not to harm one another with respect to life, liberty, and property. This duty concerns what individuals "ought not to do" or "should refrain from doing." There is no claim that the law of nature commands a charitable, sociable, magnanimous and noble course of action consistent with human happiness and perfection. The law of nature is neither a doctrine of virtue nor a doctrine of duties in the traditional sense. It is a juridical condition. It specifies those conditions under which man cannot transgress the life, liberty, and property of another.

Natural law signifies two disparate conditions: ²⁵ the necessity under which all that is natural behaves and functions, or the rational rule according to which a being endowed with intelligence acts. Understood in the latter sense, the law of nature is a norm that ought to have a binding character on human action. But Locke cultivates this ambiguity. The law of nature is said to "will the preservation of mankind" (T, 290). Given that the urge to preservation is a necessity and a drive as well, the law of nature can also be said to describe simply a condition under which all natural beings, and men among them, behave. Yet this same law teaches that the preservation of mankind is a goal to be rationally strived for. Locke, like Hobbes, will not eliminate this ambiguity: preservation is an inclination as well as a rational aim. Its rationality is not in the least unrelated to its being a universal urge.²⁶

Nowhere is this ambivalence more glaring than in Locke's formula of natural rights: "the equal right which everyman has, is to his natural freedom without being subject to the will or authority of any other man" (T, 370). Locke distinguishes between the moral-practical and the natural senses of equality. By equality he does not mean the commensurability of age, ability, and talent, but the 'equality of jurisdiction' to exercise one's natural freedom. Yet the ambivalence between moral and natural categories persists. The principle that justifies this equality of entitlement is itself equal and is traced to an equality of power among individuals. The commensurability of power is an anthropological fact: Men are all "creatures of the same species . . . born to all the same advantages of nature and the use of the same faculties" (T, 287). Natural freedom describes a condition that inevitably holds among creatures who are members of the same species. The right to natural

freedom is a right to individual self-assertion limited by the equal right of others to the same. This limit vacillates between conditions of superior strength, physical hindrance, and bodily coercion on the one hand, and political relations of authority, duty, and obligation on the other.

The confusion between naturalistic and moral norms is built into the very concept of power. Just as power does not only mean a potential for activity, but also potestas--the entitlement to exercise this potential--natural freedom cannot only refer to the power, that is to the ability to carry out activities. Both the justification for, and the entitlement to exercise the power of natural freedom must be discussed in a normative account.

For Locke, to have a right means that others "will have to refrain from X" or "cannot engage in X." These formulations can be read either to mean that "others ought to refrain from X" or that "they could not X even if they were to try." Rights are claims against others, but Locke has provided no unequivocal grounds for justifying the individual's entitlement to such claims.

Locke's modeling of the concept of natural right upon that of property follows the same equivocation. Human beings have the right to natural freedom because it is an intrinsic attribute or property, in the sense of characteristic (Eigenschaft) of theirs, that they strive to remain in existence and assert their person. Natural freedom simply is the property of oneself. (See below Ch. VI, section II.) Freedom means disposing of oneself within the limits set by the equal ability of others to do the same. The natural individual is not only the source of rights

but also carries within himself an immediate title to them. Locke vacillates between claiming that only those conditions compatible with the equal entitlement of all constitute natural rights, and that equality limits enjoyment merely, not entitlement.

Hobbes and Locke consistently collapse the grounds of entitlement to rights (the principle of justification) with the ability of individuals to exercise and enjoy them ("natural freedom," "striving for preservation"). That which is proper to men is also theirs by right, since it is dictated by the necessities of their nature. This ambivalence and equivocation is not of the order of a simple logical mistake. Hobbes and Locke are acute moral philosophers and do not simply collapse the "is" and the "ought." Their concern is of a rather different nature. They appeal to the many dimensions of the figure of a state of nature to assert the private autonomy of the self. The issue really rests with the following: the appeal to nature as a source of rights privatizes the social and political sphere. This privatization leads to individualism and to the emancipation of the claims of the subject.

IV. The Liberal Theory of Obligation and Authority

By appealing to a condition of nature the content of which is determined by the right to self-preservation or the expression of natural freedom, Hobbes and Locke extract the individual from bonds and relations that have their origin in tradition, custom, religion, and patriarchy. The insistence on the natural equality of all men and on the uniform faculties of the species must be read as a polemic against the ethics of hierarchy and social rank. The rhetorical power of the Hobbesian state of nature resides more in the condition of radical autonomy and isolation in which it depicts

human beings than in the bleak portrait it draws of human nature. The Hobbesian right of self-preservation and Locke's insistence on natural freedom substitute in place of former social bonds the struggle for self-assertion. This right emancipates the individual from all relations incompatible with its being granted to all.

The commitment to natural rights assumes the basic condition of the individual to be one of private autonomy. The transition from this state to that of civil and political union is construed as a voluntarily incurred obligation. The distinctive contribution of the modern natural right tradition does not rest with the interpretation of contract as a source of duties and obligations. What is novel in this teaching is the extension of this model of obligation into domains of relationships which had hitherto derived their binding force from tradition, religion, and charisma. With modern natural right, both private relations and the relation of individuals to the public authority are considered voluntarily incurred obligations and are thereby subject to wilfully stipulated and artificially generated rules. As Otto Gierke points out, "The hypothetical act of the political union is brought under the category of a contract or partnership or 'social contract'. Proclamation was made of the original sovereignty of the individual as the source of all political obligation."²⁷

This state of affairs historically corresponds to the rise of absolutist monarchies and the centralization of political authority. The description of political unity in terms of a legal framework presupposes the transformation of bonds antedating the compact of civil union into forms of privatized, individual existence. If it is individuals who make the compact with one another, rather than the pre-political communities to which they belong, relations among these individuals must have assumed a

privatized significance. The breakdown of the various corporate communal structures of medieval society and their subordination to a single public authority both privatize and emancipate the individual.

The privatization of collective life historically facilitated, and was in turn sustained by, the spread of market relations.²⁸ The market mechanism subjects all human interactions to the contractually arranged pursuit of private interests. In a sense, the individual is eradicated from tradition and community, and thrown into the sphere of need satisfaction and the pursuit of private interest. This eradication of the individual goes hand in hand with the recognition of his private autonomy. The development of market relations and the recognition of individual rights are coeval.

It is well known that the methodological fiction of a state of nature was borrowed by political philosophers from the sciences of the time.²⁹ The resolution of a complex given into idealized elements was a widespread methodological fiction. Galileo and the Padua School theorized extensively about these thought-experiments. The method based upon them was called the "resolutive-compositive,"³⁰ and it offered a model of explanation: the decomposition of appearances into their simplest elements and their subsequent reconstruction explained the appearances by tracing their hypothetical generation.

A similar thought experiment inspired contractarian methodology. Present bonds of political life were resolved into their analytical constituents and recomposed in a state of hypothetical union. Proceeding thus, the phenomena were not so much explained as "rationalized." Rather than explaining already existing political phenomena, the political philosopher, by means of his thought experiment, created a model for

civil government. The rational reconstruction of the appearances produced a normative model with reference to which these could be judged. The purpose of this methodology was not to explain but to exhort, not to predict but to help come about.

After transporting the subject into a condition of radical isolation, Hobbes and Locke show how, in fact, nature's teaching cannot be a norm of human existence. The state of nature becomes a state of war because the goal of the preservation of mankind cannot be achieved by natural means. Man may be the unique being in nature who has to overcome it by reason, cunning, and artifice. The aim of self-preservation and man's natural means to attain it are contradictory.

With Hobbes the right of nature is transformed into a "war of all against all." There is no natural form of existence appropriate to man as a species. There is no "common good by nature," Hobbes asserts (Leviathan, 225-26). Within a world view devoid of final ends, he attempts to reconstruct the concept of preservation in a minimalist sense as the preservation of life and limb. Locke also traces the inevitable process by which the state of nature is changed into a condition of war. The appropriative faculties of men unleash such a dynamic that "conditions of necessary survival" are transformed into the "luxuries and conveniences of life." Thereafter, the limits of natural freedom cannot be determined naturally. The content of human existence is not natural but artificial.

The privatization of all human relations preceding the social compact and the uselessness of natural conditions to serve as norms create a vacuum of authority and obligation among men. Into this vacuum steps the framework of a decision procedure, which determines the content of the right

to self-preservation and the limits of natural freedom. The vacuum of authority cannot be filled by norms of nature, tradition, or habit. Only consciously stipulated conditions of will, convention, and artifice can do that. Public authority assumes the form of a legal system.

This is what Max Weber had called the "legal-rational" paradigm of legitimacy. For Weber "legitimacy" refers to the "grounds and principles justifying obligation and obedience among men."³¹ The characteristically modern form of authority rests upon the following principles: 1) Normative rules of obedience and obligation must be created in a formally correct manner and must be enacted legally. The collection of these intentionally promulgated rules constitutes a legal system. 2) These laws, rules, and formulas apply to legally defined groups of individuals all considered formally equal. 3) Authority and obedience is requested by those in positions of power--judges, commanders, tax collectors--not on account of their personal and status characteristics but because they are "empowered" by the formally correct procedures cited above. Furthermore, the limits of their authority, the extent of their sanctions, and the conditions of requested compliance are all formally stipulated, and made publicly available to the parties involved.

The paradigm of legal-rational authority is contained in the theories of Hobbes and Locke in the form of a liberal teaching of politics. Liberalism, as a political doctrine, is taken to be characterized by the following:³² 1) The purpose and goal of government is the preservation of rights that belong to the individual prior to his participation in the political community. 2) The end of government is understood minimally as peace, or maximally as the promotion of general welfare and commodious

existence. 3) The civil laws regulate property relations: these relations, whether they are antecedent or subsequent to civil society, define civil justice. 4) Relations among citizens take place through formal and general norms. The domain of public authority is primarily a legal one. 5) The promotion of moral and ethical virtues does not belong to the purpose of government but remains an individual prerogative. On account of the relationship between the private and the public in their philosophies, Hobbes must be called a "procedural liberal," while the title of "telocratic liberalism" can be reserved for Locke.

Hobbes' procedural liberalism is circumscribed by the content of the right of preservation. The sovereign cannot ask a man to kill, wound, or maim himself, or to abstain from the use of food, air, or any other thing vital for his survival; neither can he demand self-incrimination; even the duty to fight in war can be discharged by substituting a hired soldier to replace the person in question. When the institution of the sovereign can no longer assure the protection of life and limb for those within the boundaries of its jurisdiction, the subject's duty to obey is dissolved because the terms of the initial covenant are no longer valid (Leviathan, 269).

The extent of civil laws is defined through the right of nature: the covenant that leads to the establishment of sovereignty by institution takes place through a laying aside of the right to interfere, or the right to prevent another from his desired enjoyment. Rights are not transferred as goods or titles may be. By "transfer" Hobbes understands "to divest himself of the liberty of hindering another of the benefit of his own right to the same" (L, 190). Since every man by nature has a right to everything,

no one can give another a right he did not possess before. All the transfer of rights means is the establishment of publicly recognizable boundaries of action and social intercourse. These boundaries prevent individuals from clashing and require each to withdraw to let the other have his way. A system of rights defines a system of liberties for liberty only signifies freedom from opposition.

For Locke too, the initial consent of government signifies the creation of a public authority to whom the right of "doing whatsoever one thought fit for the preservation of himself" and the executive power of the law of nature are transferred. No one retains these rights more than others; the conditions under which the executive power of the law of nature returns to the individual remain the same for everyone and protected by law. The law must be general; it must be known; it must not be altered by arbitrary decree (Treatise, 371) ³³

By interpreting law as the publicly promulgated will of a sovereign authority, Hobbes attempts to make public existence in a commonwealth most compatible with the right of individual autonomy. When the law is looked upon as an act of will, rather than one of reason, the moral cultivation of the purpose of the law in the private space of the citizens becomes unnecessary. The law does not seek to convince, explain, and make better, but only to order and define. It is indifferent to that which cannot be brought under its jurisdiction because it is promulgated so as to be universal. It does not grow and develop through the exercise of judgment in particular cases, as Sir Edward Coke would like to believe. It is the 'authority' which stands behind it and not its content which makes law. ³⁴ The mathematical exactitude of the law and its emancipation from the practical interpretation of custom and tradition generate a "silence" concerning the citizen's duties which Hobbes calls "liberty" (L, 264).

The elimination of the practical domain of interpretation and disagreement concerning the intention and content of the law is at the root of Hobbesian absolutism. The sovereign should make laws that are "needful" and "perspicuous" because "the use of laws is not to bind the people from all voluntary actions, but to direct and keep them in such motion, as not to hurt themselves by their own impetuous desires, rashness or indiscretion" (L, 388). But only the sovereign himself can exercise judgment in this regard. The citizen's own critical appraisals must be suspended.

In Locke's doctrine it is a duty of legislation that the law uphold and promote the "public good." The citizens never give up their original judgment concerning their understanding of this good since the public good only consists in the promotion of private welfare. Telocratic liberalism requires that laws should not exceed individual rights. It is only through their protection and promotion that the public good can be attained. The end of government and the rights and welfare of the individuals are not opposed. Locke interprets the law of nature which guarantees these rights in a utilitarian manner as promoting general welfare through the pursuit of private satisfaction (Treatise, 217, 391). Indeed the right of indefinite accumulation is justified on the grounds that it leads to the increase of wealth for all. The principles of political economy assure that there be no conflict between the promotion of the "good life" and the enjoyment of private rights.

The relationship between laws and liberty in Hobbes' philosophy also legitimizes a privatistic conception of political life: a system of external rules and regulations for the preservation of peace is compatible with

the pursuit of the infinite telos of appetites and desires. So long as the pursuit of satisfaction does not lead men to hinder one another, the expression and fulfillment of human needs is a legitimate aspect of human government. Hobbes understands by "contented life" those goods which "every man by lawful industry, without danger or hurt to the commonweal shall acquire to himself" (L, 388). The good life ceases to have a public character; it is no longer an interpersonal and communal enterprise. The good of the citizen is now understood as the peaceful desire of commodious living.

Locke, through his utilitarian conception of the public good, and Hobbes, through his proceduralism, both justify bourgeois acquisitiveness and defend a philosophy of satisfaction. A philosophy of satisfaction cannot look upon public life as a sphere of self-expression; satisfaction takes place in private. The conquest of nature for the sake of human benefit and appropriation is legitimized. Labor in Locke, science and philosophy interpreted instrumentally in Hobbes, reduce nature to an object of human will and convenience. The order of nature and that of society are opposed, because the latter emerges by overcoming the former. Natural hierarchy and distinctions are eliminated, and a doctrine of human emancipation is put forth that frees individual self-assertion.

Hobbes and Locke emphatically interpret the right of nature as the assertion of the self. Self-preservation only means private autonomy in the pursuit and satisfaction of those needs, desires, and activities that do not hinder the like pursuit of others. This is a condition of equality since it abstracts from the object and content of the pursuit. Equality of assertion signifies that the question concerning the end of human activities has ceased to be relevant for political philosophy. Liberty is equally every man's right because its content and goal have

dropped out of consideration. Obligation cannot arise through the actualization of a goal of human perfection, but only through consent. Legitimate government accepts the fact of consent and the privatization of politics as the foundation of public existence.

V. Obligation and Autonomy in Kant

According to Kant, theories of obligation that do not distinguish between conditions of "heteronomy" and those of "autonomy" do not provide legitimate grounds to bind moral agents. Heteronomous conditions derive from substantive material characteristics of human nature, and they refer to what men desire, fear, are inclined to accept, and regard as good. By contrast, conditions of autonomy are formal and refer not to the material content of human inclinations and desires but to whether certain principles can be adopted as a maxim of their actions by all rational agents. It is clear that the theories of obligation advocated by Hobbes and Locke, since they rest on assumptions as to what men cannot be restrained from doing or are naturally inclined to do, must be called heteronomous from a Kantian perspective. What is the meaning, ground, and significance of the Kantian claim that only the recognition of autonomy can provide the normative basis of obligation?

Aspects of the relation between autonomy and obligation most pertinent for my purposes can be formulated in three questions: A) Why can heteronomous teachings of morality not provide binding conditions of obligation? B) Why is the categorical imperative, or the moral law, binding on the will of all rational agents? C) Why is the categorical imperative a principle of autonomy? ³⁵

A. In the Groundwork to the Metaphysics of Morals under heteronomy Kant includes systems of morality that maintain either some form of happiness or some idea of perfection, in its ontological and theological varieties, to be good (G, 80; 109). Principles of heteronomy fail to meet two conditions: they are not necessary and they are not universalizable. They yield only contingent, hypothetical, and prudential sources of obligation. Happiness, argues Kant, is an object of the imagination (G, 86; C Pr A, 20), which varies from person to person. It may even vary for one person over time. The relation between happiness and the objects and activities that lead to its attainment is contingent and empirical. Since men are finite bodies with defined needs and desires, the objects of their happiness cannot be deduced a priori. They can only be discovered in time with skill, foresight, and life-experience.

Such maxims are not universal, since they do not apply to all moral agents. First, the individuals for whom these principles were binding would be defined by a specific attribute, namely, whether or not they desired the good in question. These maxims would have the form: "all those who desire X are obliged by Y conditions." Second, such principles would not carry the necessity that they ought to be adopted by all rational agents: the grounds for determining each to action would vary (some prefer riches, while others prefer culture, and still others knowledge).

It is not clear which of the following two premises is emphasized in the above argument: 1) that contingent, imprecise, and material conditions of obligation cannot be binding on all rational agents? or 2) that nonuniversalizable and nonnecessary maxims violate the norm of rationality, and on that account cannot be binding on all rational agents. These

premises are by no means exclusive. Indeed, for Kant the latter includes the former. Depending on which is emphasized, however, significantly different interpretations of Kant's moral philosophy follow. The procedural-formalist interpretation of Kant emphasizes the maxim of universalizability at the expense of the more substantive premise of rationality expressed it.³⁶ I will argue that unless the condition of universalizability in Kant's practical philosophy is justified on the basis of the premise of rationality, it remains an arbitrary demand much like the Hobbesian insistence that the acceptability to all of the moral principles involved is as good as their normative justification.

John Rawls' discussion in his Theory of Justice provides a good beginning for analyzing the differing interpretations of Kant. Rawls does not read Kant as a procedural formalist and he clearly acknowledges the substantive conception of autonomy and rational agency in Kant's thought. It is not clear to me, however, that his own theory of justice is not more in line with procedural-formalist interpretations of Kant than the alternative position.³⁷

Rawls distinguishes between teleological and deontological moral theories. Moral theories of the first kind postulate some substantive conception of the good like happiness, pleasure, or perfection. Our judgment concerning what is good is distinguished from our judgment concerning what is right, and the goodness of things can be judged without referring to what is right. What is right is understood as what leads to the good. In such a theory, Rawls claims, the priority of justice cannot be defended: the rights and liberties of individuals would be subject to "political bargaining or the claims of social interest" (p. 28) in accordance with this substantive conception. Such bargaining would violate two

conditions of justice: the basis of justice is that which men would consent to, and persons who choose a principle of "equal liberty" would not accept the curtailment of their freedoms for some good. By contrast, Rawls defends a deontological theory that assumes the priority of right over the good. Reasonable conceptions of one's good are restrained by considerations of what is right. Such a theory, Rawls claims, is more compatible with the principles of justice that all free and rational agents would agree to.³⁸

If we think through Rawls' extended argument on behalf of Kant together with the problem of heteronomy and obligation, the following consequences can be drawn: Heteronomous theories of obligation are teleological theories of morals, and since they attribute priority to the good over the right, the former can provide sufficient grounds for curtailing the latter. Obligation among individuals, however, cannot be generated on such grounds. It cannot be assumed that individuals would consent to the violation and restriction of their equal liberties for the sake of such principles.

A procedural-formalist interpretation would claim that conditions of right and justice must be formulated so as to be acceptable to all rational agents, minimally defined. Unless a set of conditions can be formulated such that their acceptance by all can be assumed, what is just for some would be coercion upon others. From considerations of what would seem acceptable to all, formal principles are deduced for asserting the grounds of a theory of rights.³⁹

Of course, Hobbes can be interpreted in precisely this fashion as well: he sought to discover minimal conditions of agreement among moral agents which they could not dispute. Accepting what would reasonably

be assumed about human nature as a given, he proceeded to construct a set of formally coherent principles of right and justice. This analysis brings to light some of the continuities between Hobbes and Kant. What is lost sight of, however, is that for Kant any theory like Hobbes' which derives conditions of right from the psychological and anthropological premises of human nature, would be heteronomous. Hobbes' insistence on consent and acceptability to all clearly may be read as an early version of the Kantian insistence on universalizability.⁴⁰ More significantly, the continuity between Hobbes and Kant would be placed on Hobbes' claim that obligation must be defined with reference to right.⁴¹ The serious difference between their theories arises from the normative grounds each can supply for defending this definition of obligation with respect to right. For Kant, this ground is autonomy--the worth of persons as they act as free and rational agents--whereas for Hobbes, it is the "unavoidable dictates of human nature."

Rawls quite correctly emphasizes that the Kantian theory of justice and obligation presupposes a conception of free and rational human agency. His emphasis on universalizability is not so much a condition guaranteeing acceptance as it is derived from the principle that acting in accordance with the conception of oneself as free and rational yields maxims from the standpoint of everyone's mutual humanity. "By acting from these principles persons express their nature as free and equal rational beings subject to the general conditions of human life" (p. 253). I conclude that Kant's objections to heteronomous theories cannot be explicated by pointing to the formal attributes of these maxims alone--contingent, non-universalizable, hypothetical. We must turn to Kant's argument on obligation, autonomy, and the categorical imperative.

B. Why is the categorical imperative binding on the will of all rational agents?

The temptation of all procedural-formalist interpretations of Kant is to deduce moral obligation or moral duty from the principle of autonomy. The formal act of self-legislation is considered sufficient to generate moral obligation. But it is misleading to read Kant as claiming that autonomy alone generates obligation, and to take him to task for not showing why "self-legislation constitutes a ground of obligation to the law one has legislated."⁴² For it does not and Kant does not intend it to do so. From the simple fact of self-legislation no obligation follows, and indeed, it could not, because self-legislation alone does not impose any material constraints on the principles adopted. The relation between autonomy and obligation in Kant's thought must be sought in the substantive formula of the categorical imperative.

The relation between autonomy and obligation raises a systematic issue in Kant's moral philosophy. Not all moral agents capable of freedom stand under conditions of obligation. Obligation is a form of constraint. It is a "necessitation," Kant says (G, 107). Only those agents whose principles of choice cannot always be determined by the moral law, that is, those agents whose choice is frequently determined by inclination, desire, and self-interest can be "obliged." The moral law for them is a binding constraint. It must be shown that the moral law binds the will of such agents necessarily and universally. In other words, from the concept of a rational agent also affected by nonrational principles of action, it must be possible to deduce that such a will is obliged by the moral law. On the other hand, that this will is capable of being so obliged is not an analytical proposition. It is assumed that a will that

can be so obliged is capable of legislating the universal law to itself, and this is a synthetic proposition. In the language of the Second Critique, such self-legislation presupposes that freedom is possible or that "pure reason" can be practical (C Pr R, 57). Since it is an open question as to whether the human will is capable of self-determination under a universal law, freedom is a transcendental problem in Kant's philosophy.

The full deduction--if it can be called such--that the categorical imperative is binding on the will of all rational agents is only demonstrated in the Second Critique. Kant cannot be taken to task, therefore, for not showing that self-legislation constitutes an unconditional ground of obligation. When Kant says "the dependence of a will not absolutely good on the principle of autonomy (that is, moral necessitation) is obligation" (G, 107), what he means is: all rational agents have the duty to act in accordance with the principle of autonomy. This principle reads: "Never to choose except in such a way that in the same volition the maxims of your choice are also present as universal laws" (G, 108). This duty is not consequent upon this principle being one of self-legislation. The principle obliges because it is equivalent to the categorical imperative, which is the source of unconditional duty. If the further question is raised, "why is the categorical imperative a source of duty," Kant's answer simply is: this principle is equivalent to the very concept of duty. Asking whether the principle of duty obliges is asking "why should I be moral?" or "why should I as a rational agent take an interest in morality at all?" Kant's attempted response points to the Faktum der Vernunft.⁴³ It is a fact of reason that rational beings can be moved to act by the conception of freedom under a universal law. Reason

has an "interest" in the moral law, which is the deepest ground on which the bindingness of the categorical imperative rests.

The confusion regarding the status of self-legislation in Kant's moral philosophy rests upon the conflation of the moral with the legal-political senses of obligation.⁴⁴ There is a distinction between obligation deriving from moral duty, and obligation that rests upon freely undertaken, consensually incurred commitments to other free persons. The former is a moral obligation, while the latter, since it presupposes the institutions of consent, promising, giving one's word, must be called legal obligation. There is no legal obligation (at least within the framework of liberal theory) to become a good person in the moral sense, but there is a moral duty to uphold one's legal obligations. Justice, in other words, is a moral duty as well as a legal obligation. The meeting ground between these two different senses of obligation has been described by H. L. A. Hart as the "morality of law."⁴⁵ Kant first makes explicit that what previous theorists have called "natural rights" refer to the moral grounds of legal and political obligation.

What concerns me in this chapter is the relation between the principle of autonomy and the grounds of legal and political obligation. The moral duty to uphold the categorical imperative implies a set of principles regarding relations of justice and obligation among persons. If the categorical imperative is a principle of autonomy--a law that only rational moral agents can legislate to themselves--and the principle of autonomy is equivalent to treating humanity as an end, then the moral law has consequences for the relation of humans treating one another as persons. Kant's theory of justice and obligation follows from this argument.

C. Why is the categorical imperative a principle of autonomy?

Let us consider two formulas of the moral law presented in chapter II of the Groundwork.

1. Act on a maxim that at the same time contains in itself its own universal validity for every rational being (96).
2. 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 (105).

The equivalence between these two propositions is established by means of a third:

3. Acting under the universal law is acting under a law legislated to oneself in accordance with the conception of one's humanity.

In other words, the formula of autonomy (3) leads from the principle of universal validity (1), to treating humanity as an end in itself (2).

The argument proceeds from 1 to 3 to 2.

The initial formula of the categorical imperative as stated in 1 above stipulates that the individual should judge his/her actions in terms of the validity of their maxims for all rational beings. Such a condition emphasizes the identity of all human individuals in virtue of their capacity for rational moral agency. By acting in accordance with the moral law, the individual treats himself as a member of the universal community, and by making this law the limiting ground of the maxims of his actions, he upholds rational agency as an end of all actions. This end is the ultimate ground with reference to which all moral actions must be judged.

Since the very maxim of universal law contains the concept of a rational being as an end that all principles of action ought to uphold, this law can only be one that is self-legislated. A law which stipulates

that rational nature should be treated as an end is a law of autonomy, because moral agents make this law binding upon themselves in accordance with their conception of themselves as rational agents. Whereas the law of nature discussed in the preceding section may or may not have been known by agents to determine their actions, the Kantian law can only determine human activities insofar as it is known. Its very formulation presupposes the self-conception of a rational agent who consciously adopts this law as a maxim.⁴⁶

If acting under a universal law means respecting humanity as an end both in the person of the agent, and in that of others, this universal law is binding upon the individual because it is binding upon every other person in virtue of his humanity. Kant defines natural right as follows: "Freedom (independence from the constraints of another's will insofar as it is compatible with the freedom of all in accordance with a universal law) is the one sole and original right that belongs to every human being in virtue of his humanity" (MJ, 44). Since the limitation of one's freedom by a universal law is simply a restatement of the formula of autonomy, the original right of nature states: only under conditions of autonomy can one's independence be legitimately curtailed. But the limiting of one's independence under conditions of autonomy is Kant's definition of obligation (G, 107). The formula of natural right is also a formula of obligation: Persons are obliged to limit their independence under conditions compatible with the freedom of all under a universal law. Only the recognition of autonomy can generate a legitimate claim of obligation.

Rights are "moral capacities [moralische Vermögen] to bind others and provide the lawful ground for binding others" (MJ, 43). To have a

right means no more than having a moral claim to limit the freedom of another. Rights are justifiable limitations of one person's freedom by another, because there is always a moral claim to limit the freedom of another under a universal law compatible with the freedom of each.⁴⁷

Heteronomous theories of obligation attribute final binding power to principles that enforce obligation. Though natural rights in Hobbes define the necessary conditions of obligation, the sufficient conditions are provided by the law of nature. For Locke the law of nature obliges, compels, instructs, and inclines all at once. The distinctive justification of obligation on the grounds of autonomy rests with the following principle: if obligation is to be differentiated from force, compulsion, or constraint, it must be justified with reference to such conditions as would describe relations of right among individuals. The ground of entitlement to rights is the legitimizing of obligation itself. For Kant, the recognition of the right to natural freedom is both necessary and sufficient grounds for political-legal obligation.

I have defined practical egotism as making the assertive claim of the individual a source of rights. No clear distinction could be drawn under such conditions between right and might. The arbitrariness in the demands of the individual that others should respect and recognize his desires and inclinations could not be eliminated. As long as the concrete individual self was taken to be the origin of natural rights, no defensible grounds could be offered to justify that others ought to respect these claims. Kant's principles of universalizability and formal identity among selves qua persons, clearly imply that the claim to rights is incompatible with the standpoint of practical egotism. Since rights establish relations among individuals, these must be justified on the basis of principles

upholding their equality of entitlement. Kant demands each self to judge in his own person the claims of humanity.⁴⁸

VI. The Concept of a Rechtsstaat

Kant accepted certain premises of the tradition of practical egotism which he so clearly identified. He continued to assume that the basic human propensity was one of self-love and natural selfishness, if not one of self-conceit. The purpose of a legislative body was to control the natural egotism of individuals, and so channel their unsociable inclinations that the possibility of mutual coexistence would not be thereby impaired.⁴⁹

Kant's famous formula of man's "unsocial sociability" (ungesellig Geselligkeit) expresses the issue of natural rights in terms shared by Hobbes: "How to reconcile the needs, desires, and inclinations of the private individual with the like needs and drives of others similarly motivated." This remarkable passage is worth quoting in full:

The problem of organizing a state, however hard it may seem, can be solved even for a race of devils, if only they are intelligent. The problem is: "Given a multitude of rational beings requiring universal laws for their preservation, but each of whom is secretly inclined to exempt himself from them, to establish a constitution in such a way that, although their private intentions conflict, they check each other, with the result that their public conduct is the same as if they had no such intentions." ("Perpetual Peace," 112)

The institutional format in which the liberal tradition resolves the problem of natural rights culminates in the idea of the republican constitution. "The act by means of which the people constitute themselves as a state," says Kant, "is the original contract. More properly it is the idea

of that contract that alone enables us to conceive of the legitimacy of the state" (MJ, 80). This pure concept of the state is entitled the "civil" or "republican constitution" (MJ, 112). The republican constitution is both an analytical definition, and a normative ideal with reference to which all political forms claiming the title of a state must be analyzed. Contained in the idea of a republication constitution are the following:

- 1) In accordance with the contractarian principle, it is required that no individual be obliged to obey a law unless he has given his consent to it. Consequently, a civil or republican constitution can only contain those conditions that would be compatible with the consent of the individual. Kant's moral theory has shown that the recognition of the autonomy of the person is the only rational assumption on which his consent can be expected. First and foremost then, the constitution institutionalizes the principles of autonomy of personality. This is achieved by the following procedure: 2) Civil equality. "No one can lawfully bind another without at the same time subjecting himself to the law by which he can also be bound" (MJ, 79, 93). The moral grounds for limiting the freedom of individuals demand the equal subjection of each to the same law. 3) Civil equality presupposes civil independence: no individual owes his existence or support ⁵⁰ to the arbitrary will of another, but only to his rights and powers as an autonomous member of the state. All citizens are dependent upon a common legislature. Kant's concept of the civil constitution gives final form to the idea of the liberal state: this is a legal association based on principles compatible with the original rights of the individual. The autonomy of persons is politically institutionalized when their universal dependence upon a single legislative system,

and their equality in the eyes of the law is guaranteed. Such a legislative system must also respect distinctions between legality and morality, the private and the public. The domain of public authority is restricted to the jurisdiction of legality as it applies to the actions of men and their impact on one another. The intentions, motives, beliefs, wishes, and inclinations of individuals are irrelevant from the standpoint of the rule of law and come under no legislative jurisdiction. Respecting the autonomy of the individual, in fact, means the separation of morality from legality, and of the public from the private.

Hegel accepts this legacy of the liberal tradition while denying its premises. His concept of the Rechtsstaat includes the major characteristics of the liberal state because in form and in content it rests upon the principles of rational choice. While not proceeding from the question of legitimate obligation and authority, he can still accommodate the insight of the modern tradition: political obligation can only be legitimized with reference to the rights of the individual.

VII. The Legacy of Modern Natural Right

Hegel's praise of Rousseau indicates that he recognized the insight of the modern natural right tradition.

The merit of Rousseau's contribution to the search for this concept (that of the state) is that by adducing the will as the principle of the state, he is adducing a principle which has thought both for its form and its content, a principle indeed which is thinking itself, not a principle like gregarious instinct, for instance, or divine authority, which has thought as its form only. (Ph R, # 258 Z)

Those very elements for which Hegel praises Rousseau are involved in defining the modern state as a Rechtsstaat. With the formation of a

legal system, relations of right assume their most adequate form and content (Ph R, # 221).⁵¹ What is right must exist for a consciousness; it must be known. Second, it must have validity and be binding. Third, it must be known as binding on all; it must be universally binding. The positing and promulgation of right in a legal system fulfills these characteristics. Laws have objective existence; they are intelligible to thinking persons and are binding on all in virtue of their capacity to act as persons (in the Kantian sense defined above).

Formally, law (Gesetz) is posited (gesetzt): it is consciously set down and put forth as a condition. By being promulgated, it acquires objective existence. Law is known and knowable. What is right must also exist as an object of consciousness and will. Contentwise, both right and law are principles of thought that are given a specific determinate form, and both express the promulgation of an intelligible principle to be binding on the actions of intelligent beings. "In becoming law, what is right acquires for the first time not only the form proper to its universality, but also its true determinacy" (Ph R, #221 Z).

This highly abstract discussion can be clarified by considering what Hegel would contrast to right which exists as law. Clearly, rights can also exist in the form of religious precepts, prophetic utterances, customary rules, and traditional sanctions, while individual needs, desires, and inclinations can also be made the rule of what is right. By juxtaposing right as law to the first set of practices, Hegel is repudiating pre-modern forms of authority and obligation.⁵² By arguing against the latter, he is distinguishing subjective, temporary, and nonuniversal conditions from those that can generate binding conditions of validity upon intelligent agents.

A comparative discussion of law and custom would illuminate Hegel's point. Law is objective for the intelligence of the subject. It is there to be grasped by thinking individuals, whereas custom may determine the activities of a subject without being an object of conscious apprehension. Law is general. In virtue of being a rule it is applied to types and kinds of cases. It does not say "Individual X must do Y," but "all individuals falling under the category X must do Y-type actions under Z-type conditions." Custom informs the particular details of an act. The force and vitality of a custom is, in fact, revealed in the strength and purity with which certain details are observed.

In the modern state, the individual cannot be obliged unless the law is a publicly known condition. His intelligent grasp of the content of the law is a precondition for obligation. In Kantian language, the recognition of the capacity for rational agency is a condition for demanding obligation, and the promulgation of law through the public structure of a legal system justifies this recognition. The generality of law respects the individual's privacy in matters not regarding others, and in specific questions of taste, detail, and arbitrariness. Implicit in the requirement of generality are allowances both for the privacy of intentions (moral freedom) and the privacy of tastes (economic liberties).

These grounds of intelligent obligation uphold the rights of "subjectivity."⁵³

It is only because of this implicit identity between its implicit and its posited character that positive law has obligatory form in virtue of its rightness. In being posited as law, the right acquires determinate existence (Ph R, # 212).

Now for Hegel, the authority behind the law does not terminate in act of will, whether this be an initial contract, a promise, or some form of

of authorization. If law can be grasped philosophically, it cannot be an act of will. The same characteristics that make rational obligation possible for the agent entail that law be comprehended by the philosopher.⁵⁴

Let me develop this further: Hegel distinguishes "positing" law from the "positivity" of law.⁵⁵ All laws in a particular state are positive in the sense of being there and given. They are not wholly transparent to rational analysis in virtue of their content and detail. Social and historical factors shaping the particular character of a people, the application of general precepts to external and particular cases, and the final ramification of the law in the form of a verdict, introduce elements of positivity into the content of law. These details and opaque givens cannot be subject to full rational scrutiny. They remain arbitrary (Ph R, # 214).

Positive law, therefore, constitutes the subject matter of the historical sciences that study its development, growth, appropriateness, and transformation. The philosophical study of law concerns itself with the concept of right and is distinct from any such inquiry. Historical explanation and justification are not the same as philosophical deduction and derivation. Only the latter concerns the concept of law (Ph R, 17). "But natural law, or law from the philosophical point of view, is distinct from positive law; but to pervert their difference into an opposition and contradiction would be a gross misunderstanding. The relation between them is much more like that between the Institutes and the Pandects" (Ph R, 16). The Institutes were codifications and promulgations of the Pandects into a consistent body of rules. Hegel sees the

relation of philosophical science to positive law to be analogous to that between the Institutes and the Pandects. Positing (setzen) means the codification of the laws of a state as an intelligible system of rules whereby their conceptual necessity in relation to one another, as well as their inconsistencies and absurdities, can be revealed. Positing is not an arbitrary act of will but the objectification of concrete content in rational form. Even if the contingency of content cannot be eliminated, its rationality can be tested and examined.

There are two philosophical assumptions behind Hegel's concept of positing. Positing is a logical act. Hegel's philosophical methodology is such as to exhibit the rationality of every posit by integrating it into the whole.⁵⁶ Every posit is repositied. Also, Hegel assumes that the accidental appearances in space and time known as world history can be grasped philosophically. Just as the constitution, by positing the customs, traditions, and ways of a people, does not violate but rather articulates and perfects the "spirit of a people," philosophy reveals the intelligible essence behind the myriad of historical appearances (Ph R, # 32). Philosophy and history are continuous in the sense that the truths of history are articulated by philosophy. The science of right is to the positive sciences of law as the Institutes were to the Pandects.⁵⁷

Hegel is led to viewing the state and the constitution as results of a process of coming to be:

The constitution must in and by itself be the fixed and recognized ground on which the legislature stands and for this reason it must first not be constructed. Thus the constitution is, but just as essentially it becomes, i.e. it advances and matures (Ph R, # 298, Z).

The constitution of a state must not be viewed as if it were an artifact, made and constructed out of preexisting material. Rather, it must be viewed as becoming in time (#273). It is the intelligible articulation of the spiritual life of a people. One cannot say it is given, created, or made. It gradually emerges out of the life of a nation and can be put forward no more easier than any premise in Hegel's philosophy can be accepted as an arbitrary beginning point.

While accepting that the modern state in form and content rests upon the principles of rational choice and agency, Hegel denies that it can be viewed as the product of such acts of choice:

Once this principle is adapted, of course the rational can only come on the scene as a restriction in the type of freedom which this principle involves and so also not as something immanently rational but only as an external, abstract universal. . . . And the phenomena which it has produced both in men's heads and in the world are of a frightfulness parallel to the superficiality of the thoughts on which they are based (Ph R, #29 Z).

The conceptual principle upon which the modern state rests is not the cause that brings it into existence. The state must not be grasped through its beginnings but only through its becoming. This becoming may escape the logic and foresight of political actors, but it is a necessary process to the thinker who comprehends its meaning. To the retrospective glance of the philosopher, the individual and collective actions that bring about these imperceptible changes appear as the "instruments" of world history. Revolutionaries as well as great men are absorbed in this glance.⁵⁸ In political terms, the modern state is not a creation of the will.

The claim that the political state is not a creation of the will has far-reaching consequences in Hegel's political thought. He attributes

the excesses of the French Revolution to such erroneous conceptions of the state. His ambivalent relation to the Revolution derives from his accepting the fruits of the revolution philosophically while denying them politically. If the identity of the state were defined with respect to the conscious and spontaneous act of will of a community of individuals, Hegel claims, then the state would be regarded as something that individuals could make or undo.⁵⁹ A philosophy that makes the self-legislating will its highest maxim opens the way to such excesses. If the will is not only considered as positing law but also as providing the very grounds of obedience to the law it posits, then all restraints in the political sphere are removed. Assuming that political reality is brought about by the voluntary act of men is equivalent to allowing that it may be undone by them.

Any active interference in this process would force reality into a fixed mold and would therefore perpetrate violence upon it. The revolutionary seeks to realize in history the "blueprint" of his political ideas. By resorting to revolution he forces social and political reality in a certain direction. The revolutionary acts to produce or to make social reality. Either he postulates a moral cry, an "ought" which must be realized at all costs, and becomes a visionary, or in the attempt to actualize his ideal he transforms reality into a preconceived pattern.⁶⁰ Hegel interprets the terror of the French Revolution to have been the inevitable consequence of political action guided by such "blueprints." Once all bonds of authority and obedience to law are dissolved, where does one draw the line between the friends and the enemies of the Revolution? (Ph G, 603 ff.).

But Hegel is no traditionalist. He takes absolutely seriously the claims of the revolution to construct a world "according to reason."⁶¹ Precisely because the truth of world history culminates in philosophy, historical precedence and tradition have no significance for their own sake. "Whether what is called ancient right and constitution is actually right or not cannot depend upon its antiquity. For the abolition of human sacrifice, of slavery, of feudal despotisms and innumerable other infamies was also the abolition of what had been ancient right" (Political Writings, 283). The modern world is intelligible philosophically because it rests upon a break with tradition. The transition from the positivity of the old order to the positing of the new is the precondition of its philosophical comprehension.

The creative ambivalence of "blueprint" revolutionary theories shows itself: by constructing reality after an ideal, these theories make possible its comprehension. The accumulated irrationality of past and defunct practices is subjected to the test of rational criteria.⁶² Modern natural right views its opposition to tradition as an opposition to history itself. Nature becomes the rational criterion by which to scourge the structures of the old order. The norm of nature privatizes tradition and undermines collective authority. Precedence becomes error; concrete detail is treated as an aberration. Social and political life is subjected to consciously stipulated, generally shared, and universally valid norms.

Hegel's Philosophy of Right presupposes the achievements of natural right both in practice and in thought. The same conceptual itinerary that led from substance to subject also leads from natural right to the concept (Begriff) of right. With this shift, however, the opposition

between natural right and history is reformulated once more. Grasping substance as subject involves an analysis of the process in which subject is objectified and assumes substantiality. The concept of right must similarly deal with the actualization or becoming of right in a world order.

Hegel thereby can legitimize the French Revolution and the order it brought into existence without legitimizing the revolutionaries themselves. The Revolution actualizes the principles of modern natural right in the political arena. Hegel refers to the "strenuous effort of the concept" in bringing about within the course of human affairs a social order that upholds the rights of free personality (Ph R, 62 Z). Once the modern state has been organized around the principle of freedom and personality, Hegel can offer a deduction of this organization beginning with the conception of "free will." "Philosophy respects the fruits of Revolution while condemning the revolutionaries themselves." 63

For the Hegel of the Philosophy of Right, at least, the perspective of speculative science is "grasping the truth of the present, not the erection of a mere beyond" (Ph R, 10). Reason is amidst appearances as the "immanent and the eternal which is present" (ibid.). All historical becoming, and all human agency, whether singular or collective, is caught in the throes of the "bad infinity"--that present which never seems to return back upon itself. Philosophy extracts the eternal from the show of time. Its standpoint is that of the "eternal present"--the "ewige nun."

A Remark on Philosophy and History

The speculative basis of the relation between philosophy and history in Hegel's thought must first be sought in his analysis of the structure of temporality.⁶⁴ When viewed as a sequence of interminable successions, time is the paradigm of the "bad infinity"--that endless repetition of the same with no enrichment or unfolding of content. The finite that is always limited by another outside itself is in a perpetual state of becoming. Time is the abstract movement of the finite as it becomes. "The real certainly is distinct from time but is also essentially identical with it" (Encyc. II, #258 Z). The real is not in time, rather time is the abstract movement of all finitude. In this sense the in-finitude of time signifies no more than the perpetual duration of this movement in which the finite is becoming other than itself. Duration (Dauer) is the succession of all that does not endure relative to that which does (ibid.).

Hegel distinguishes between duration and eternity (Ewigkeit), just as he distinguishes the "bad infinite" from the "true infinite."⁶⁵ The conceptual structure of temporality is not characterized by the figure of an interminable straight line. As is well known to most students of Hegel, the true structure of temporality is that of a circle or the "snake which swallows its own tail." The dimensions of time--the past, the present, and the future--each reveal a certain unity of being and negation. Since time is the abstract form of all becoming, the now, the past, and the future, each exhibit this unity under a different aspect. Every now is the restless union of being and negation, of passing over into what will be, and the becoming of what has not been. Dominant in the dimension of the past is the moment of sublated being, of "the what it was to have been." The future

reveals "that which is yet to be"--the moment of negation is foremost in the structure of the future. Hegel's analysis of the structure of temporality derives from an in-depth examination of these fairly simple determinations of the threefold dimension of temporality.

Already in the Jena writings Hegel discusses how we can only think of the present as it is prolonged into the future, while the future returns to the past. Since the now is what it is not, it is always passing over into the future. The present is internally given with such negation--"the now has its non-being in itself and becomes another immediately for itself" (Koyré, 169). The now that turns into the future is preserved in the future as that out of which the future has become. But the future as it becomes the present is also sublated, so that what is and what will be are perpetually turning into a "what it was" or "what had been." While the present becomes the future by turning into a "what once was," the future becomes the present by overcoming what was. But the past is no more independent of these two moments, than they are of it. The past is, in fact, the present that has become the future. Hegel concludes that "Real time opposed as past to the present and to the future is itself no more than a moment of the entire reflection" (Koyré, 171).

The movement of time is cumulative and circular. Each succeeding now is not annihilated but preserved in the future as what is past. The true structure of temporality is an eternal present immanent in the flow of time. The present is, because the past is no longer, and the future yet to come. This structure is eternal since the flow of time will continue to repeat it. "The concrete present is the result of the past

and is pregnant with the future. The true present, therefore, is eternity" (Encyc. II, #259 Z).

Hegel's analysis of temporality exhibits a structure that totalizes itself in the very process of its unfolding. Amidst the endless flow of time an intelligible sequence is revealed, the relation of whose moments is internal. Past, present, and future are not juxtaposed to one another, but coest with one another in unity. Hegel's understanding of history follows the identical pattern: Chronological succession reveals an internally significant meaning structure, and the simple succession of events is transformed into the significant story of human designs. Chronology becomes logic, or logic is at the heart of chronology.⁶⁶ Historical becoming is distinguished from simple temporality in that history is the story of a happening (Geschichte). Since what has happened involves a concrete content, the moments of a happening are not identical to their simple chronology. The various aspects of an occurrence stand in a different relation to the whole than that defined by their position in the chronological sequence. For Hegel the philosophy of history is the best form of historiography, since history can only be understood as the unfolding of an immanent principle amidst the myriad of events. When this principle reaches transparency the entire sequence leading up to it can be repositated as a moment of its content. The externality of spatio-temporal relations are transformed into the entailment of meanings and designs, and in the final analysis, all chronological succession is crystallized as a logical structure. Historical unity, for Hegel, is always equivalent to the presence of an intelligible principle in terms of which such unity can be thought. All unity is

reflective, and the more complete the reflective structure, the richer its unity.

We can restate Hegel's view of the historical origins of the modern state in the light of the relation between logic and chronology, history and philosophy. Hegel can repudiate the Revolution while legitimizing its consequences, since the chronological and causal sequences leading to the creation of the modern state, once comprehended philosophically, become moments of the concept of the state. If temporality totalizes itself in logic, and history totalizes itself in philosophy, the origin of the state becomes an aspect of the concept of the state.

Chapter V

The Significance of Abstract Right

I. Abstract Right and its Import

The opening discussions of Hegel's Philosophy of Right, which address the traditional content of natural right theories, merit close attention for a variety of reasons.¹ The apparent continuity between the fiction of a state of nature and Hegel's discussion of right-bearing persons, abstracted from all bonds, sharply focuses on the issue of his divergence from the liberal tradition of natural right. Hegel justifies right on the grounds that freedom is thereby actualized. He defines right as an "existent of any sort embodying the free will" (Ph R, #29). The logic of his justification procedure is clearest in this section. Furthermore, it has always been said that Hegel's philosophy has stood in a unique relation to its times. The philosophical principles of his system, it is claimed, are the conceptual articulation of truths attained in world history.² What is the special meeting point between philosophy and history, logic and time? Being a discussion of the foundations of the modern state, abstract right is at the very center of this issue: the principles of the new world order, articulated in the modern state, are continuous with the deepest structures of Hegel's speculative philosophy.

Critical readings of this section have situated Hegel's discussion in the context of certain episodes in world history.³ Those historical occasions frequently appealed to are the decline of the Roman Republic

and the spread of the legal status of personality; the rise of civil society and the spread of commodity relations; the French Revolution and the declaration of the rights of man. What is rarely distinguished, however, is the genesis of those conditions discussed under abstract right and the grounds of their validity. The historical establishment of formal juridical relations among persons, and the validity of such relations, are frequently conflated. Hegel claims that such relations have validity (Geltung) because they are preconditions of freedom. In the critical literature, it is assumed that to substantiate this claim one must reconstruct the historical process of emancipation that culminated with the acceptance of the universal rights of man.

Habermas discusses the ambivalent treatment of the formal right of persons in Hegel's thought.⁴ This right emerges with the demise of the ancient world and the loss of common purpose in the life of a people. The legal status of persons is recognized when ethical bonds holding a community together are weakened or dissolved. In the Phenomenology this condition is likened to the indifferent course and occasional clash of free-floating atoms. To be a person means no more than to have a warrant of indifference toward the loss of mutual life and toward the collapse of public purpose. Hegel speaks of an abstract and all-powerful God, emerging at this period, to subjugate this atomized mass by the sheer exercise of his power (Ph G, 500 ff.; 343).

Yet in the Jena Realphilosophie, a different assessment of formal right is to be encountered. Relations of right are now said to institutionalize reciprocity and equality among individuals. Interactions based on reciprocity assume the form of legal transactions, premised on the

mutual recognition of persons. In the Jena Realphilosophie, Hegel attributes to relations of reciprocal recognition the function of mediating between "subjective" and "actual" (wirklicher Geist) (213, ff.) spirit. What is the significance of this divergence? Is abstract right the product of a decayed morality, or the first actualization of spirit? Is the formal right of persons a sign of loss in the ethical world, or is it the resolution of the struggle for recognition?

Habermas explains this ambivalence by referring to Hegel's economic studies. As a result of his study of political economy, Hegel uncovered the relation between the formal legal structures of personal right and the processes of social labor in bourgeois society. "Hegel can replace the negative definition of abstract right by a positive one because meanwhile he has come to know the economic interrelations of private law and has seen that these legal categories also incorporate the result of liberation through social labor."⁵ Social labor emancipates the human species from the domination of nature, immediacy, and externality. The humanization of the world through labor is also a process of self-constitution for the species, for the appropriation of externality entails a certain educative formation of the human species. Habermas agrees with Marx in claiming that the truly great achievement of Hegel's Phenomenology is the discovery that "social labor is that process in which consciousness makes itself into a thing, in order thereby to form itself into its own proper form. . ." ⁶ This judgment is shared by Joachim Ritter, who also attributes the significance of abstract right to the emancipation from nature implied therein: "The general basis of universal freedom of bourgeois right can only be actualized on the basis

of modern bourgeois society, because with its rational domination over nature, the history of the emancipation of men from the might of nature via the latter's transformation into an object of will comes to an end."⁷

Undoubtedly, the shift in Hegel's thought from substance to subject, from nature to freedom, from republic to civil society, partly explains the shift in his assessment of abstract right. But such an explanation fails to accommodate the treatment of abstract right in the Phenomenology. Since this text provides the lengthiest justification for the standpoint of subjectivity, its treatment of formal right cannot be considered a throwback to republican romanticism. The roots of Hegel's ambivalence must be sought elsewhere.

A paragraph in the Philosophy of Right offers the clue: the Roman concept of personality does not define a human right, but a status privilege (Ph R, #40 Z). Under Roman law this status is not extended universally: some are denied the rights of humanity altogether--slaves for example; children and servants are treated as property of the lords of the household. The Roman status of personality reflects the destruction of common ethical bonds and the setting up of legalistic barriers to justify the ethics of an authoritarian and arbitrary hierarchy. This condition, when compared to the political life of equal citizenship under republican regimes, indeed appears as a decline in morality. On the other hand, in the modern world, the right of persons signifies the legitimate claim of every individual to be treated as a being entitled to rights (rechtsfähig). Since this right universally belongs to all, it re-establishes conditions of mutuality and equality. For Hegel the meaning of this equality is speculative as well as practical. Speculatively, the equality of the self with the other corresponds to the unity of the

universal and the particular in the structure of the concept of the I. Practically, the reconciliation of moral selves requires the educational saga of world history. Legal relations among free persons are premised upon assumptions of a universalistic morality. If Hegel's only justification for the validity of abstract right, therefore, were that it culminated in the process of emancipation from nature, he would be offering a technical solution to a problem of practice. What has to be shown is how the emancipation from nature documents an interpersonal and inter-actional liberation as well. The rational mastery of nature may be a necessary condition for, but is not identical to, the social practice of freedom. Hegel justifies relations of abstract right for being pre-conditions of freedom as a social practice.⁸

This claim does not disassociate freedom from the concrete processes leading to its actualization. The continuity of philosophy and history in Hegel's thought requires that genetic conditions be recapitulated as conceptual moments of the real structure which they cause to come about. The task of the section on abstract right is to show that relations historically established through the spread of bourgeois economic and legal practices can be validated when demonstrated to be presuppositions of free interaction among individuals. Is this an example of Hegel's "mindless positivity," as Marx once called it?⁹ of his rationalization of bourgeois legitimacy as if it represented the claims of the concept (Begriff)? I do not believe so.

In his discussion of the rights of persons and property, Hegel offers a reformulation of the tradition of modern natural right which, in the logic of its argumentation and the novelty of its conclusions, is in many respects unique. For Hegel natural rights derive from the fundamental

norm: ¹⁰ what kinds of relations among individuals are necessary if it is assumed that every human being is first and foremost a subject of rights--a person? Right signifies the totality of those conditions and presuppositions that make the realization of freedom among persons possible. The distinctiveness of the Hegelian understanding of freedom is also best seen in this context. Whereas for Kant relations of right and justice among persons are external limits imposed by autonomous selves on their freedom, Hegel sees these relations not as limiting but as actualizing freedom. Given that the standpoint of the self-determining individual is primary in Kant's moral thought, his categories do not allow for interpersonal or intersubjective relations to be seen as more than external limits. The deepest conceptual structures of Hegelian thought are the logical articulation of an interactional unity. Hegel continuously repeats the teleological judgment, "freedom must be actual; the free will must find embodiment" (Ph R, #28). Is this a Hobbesian assertion in the face of nature? Must freedom be actual because it forces itself upon the world? In the conclusion of this essay I will claim that Hegel's discussion, despite its many limitations, still provides us with a most viable beginning point in thinking about natural rights.

II. Of Persons and Property

In the Naturecht essay (1802-03) Hegel acknowledged that the methodology of natural right theories was based on a thought experiment (NR, 444). A condition of men outside the bonds of civil society, time, and tradition was thought of. Through such an abstraction, these theorists attempted to isolate those conditions of human coexistence most in accordance with

human nature (Hobbes and Locke), or human rationality (Kant). A similar methodological fiction guides Hegel's discussion. He seeks to determine relations among individuals compatible with their being treated as persons. These individuals are abstracted from concrete bonds of social life. Only one attribute about them is important--that they are persons, namely, beings entitled to rights. We read: "Personality essentially involves the capacity for rights and constitutes the concept and the basis (itself abstract) of the system of abstract, and therefore formal right. Hence the imperative of right is: "Be a person and respect others as persons" (Ph R, #36). Hegel's thought experiment is to answer the following question: what are the content and limits of relations among persons treating one another according to the single norm that each is a person?

Hegel's structure of argumentation corresponds to the traditional content of natural right theories: the actions of individuals are limited by the formal condition to treat one another as persons. "Do not infringe on personality and what personality entails" (Ph R, #38). Since personality is the abstract, nonspecified condition of agency, to have a right means no more than to have a "warrant" or a "permission" to act, only limited by the duty to respect the equal right of others to do the same. The full specification of such rights involves the institution of a legal system. With the positing of right as law, formal, abstract, and general norms of action assume the form of public institutions. As far as relations of right are concerned, the intention and purpose of individuals are irrelevant. Such indifference to the content and goal of activities signifies the liberty--in the Hobbesian sense of absence of opposition--to indulge any whims, preferences, or appetites. Hegel calls this the "right of particularity" (Ph R, #124). But neither this right, nor the

negative condition of freedom from interference, can clarify the full implications of the right of persons in Hegel's thought.

Hegel discusses the twofold aspect of personality: the person is a concrete, finite being defined by specific characteristics within and without. The content of a person's actions are specific, originating in character and circumstance. He also says that the person is a "universal, which is the contentless, simple relation to self" (Ph R, #25). Since personality presupposes the ability to determine oneself to act in accordance with thoughts and concepts, it describes a form of self-relation, or self-determination. Nothing more is implied thereby as to the content of such concepts and principles. Personality signifies the ability to be a thinking actor, capable of reasoned deliberation.

So far, Hegel's usage of this term is clearly continuous with Kant's. But it is difficult to see why such a concept of personality would involve not merely the capacity to enjoy rights but also a normative entitlement to them, and why Hegel would call personality "the basis" of the system of formal right. Clearly, the normative dimension of the concept of personality must derive from what Hegel, in his usual convoluted way, describes as "simple relation to self" (Ph R, #35), for the aspect of being a concrete individual is no more than a fact of human existence. Why is the aspect of simple self-relation also the source of an entitlement to be treated as a person?

A duality of meaning is built into the very concept of persons.¹¹ On the one hand, 'a person' seems to mean no more than an individual self; on the other hand, in consequence of his/her capacity as a person, every individual is entitled to special treatment. It may be said that 'personality' has a neutral and normative significance, the neutral one

being simply equivalent to the individual self, and the normative signification describing a juridical and legal capacity involving entitlement to rights and duties. I will suggest that the merit of Hegel's discussion derives from his plausible synthesis of the two senses of the term such that every individual self is also a being entitled to rights. Hobbes' discussion in the Leviathan entitled "Of Persons, Authors, and things Impersonated" provides a good beginning point for clarifying some of the issues involved in understanding this concept. Hobbes defines a person as:

. . . he, whose words and actions are considered either as his own or as representing the words and actions of any other thing to whom they are attributed either truly or by fiction (Leviathan, 217).

There are many instances in which it can plausibly be said of an individual who initiates words and deeds that they are not his or her "own." In such cases, it may be stressed that the content of such words and deeds is not original with this individual, or that he/she simply does not have full control over them.¹² We say, "He speaks them, but the words are not his own"; "Her life is not her own since she took the job." Hobbes distinguishes the possession of words and deeds--the fact that one naturally initiates them--from their ownership. Ownership involves at least two aspects not to be found in the concept of an initiating agent: the entitlement, or the right to such words and acts, and the liability to be imputed blame or responsibility for their consequences. "And as the right of possession is called dominion; so the right of doing any action is called authority" (Leviathan, 218). As actor, the individual initiates activity; as author, he/she underwrites

these activities, i.e. has the right to initiate them and can be ascribed responsibility for them. Is every natural individual a person or entitled to be one? For Hobbes, no individual is immediately a person, since the category of authorship presupposes the institution of a system of civil justice. The capacity to be the author (the underwriter) of words and deeds involves their rightful imputation to the individual in question. Possession based on such rightful imputation is called "ownership," and no ownership is possible in the state of nature.

If the transition from the state of nature to that of civil justice entails the instituting of rightful ownership over words and deeds, then the relation between natural individuals and persons must be discussed in this context.¹³ Obviously, this question concerns the limits of the social compact. What conditions can the individual make the object of the social compact? In order to conclude the compact of civil government, the natural individual must divest him or herself of the capacity to initiate words and deeds and authorize the sovereign to represent him/her. Since the rights of the natural individual define the validating conditions of obligation, they cannot be contradicted by any legitimate act of authorization. Hobbes defines such validating conditions as principles of action and existence the relinquishment of which would be incompatible with the preservation of the self. Servitude following defeat in battle, however, is perfectly compatible with self-preservation (Leviathan, 255). Since there is no distinction between dominion attained by conquest and that attained by covenant, the natural individual can alienate his capacity to be a person--the author and actor of his words and deeds--to another in order to save his/her life. Personality is a status that can be alienated at will.

Following the Roman tradition, Hobbes treats personality as the ownership of a status and of a complex of rights that can be divested or made the object of a contract at will.¹⁴ The relation between the natural individual and this complex of rights is unspecified. But obviously the task of natural rights, or of the validating conditions of obligation, is to provide precisely such a bridge between concrete individuals in the state of nature and their authorship of words and deeds. Since, however, these validating conditions are defined with reference to the motivation for self-preservation alone, the primary condition of human agency is the upholding of this motive. But this motive is perfectly compatible with the alienability of personality. Hobbes has defined rational human agency in such a way that slavery or indentured servitude is more rational than death itself.

But if natural individuality were not only defined with respect to the motive of self-preservation, and if the validating conditions of obligation, instead of being deduced from preservation, would be seen to reside in human agency, the relation between personality and individuality would be transformed. The validating conditions of obligation are minimally necessary for the very exercise of personality--sanity, adulthood, unimpaired physical functions of a certain type, etc. Without them, authorship--the underwriting of words and deeds--would not be possible. Locke follows this line of reasoning. The same capacity, he argues, that preserves the identity of the self over time, is also that on whose account we impute blame and merit, responsibility and punishment to individuals.¹⁵ Locke, therefore, equates personality with the self-consciousness of the reflecting individual. If an individual is to be

responsible for his/her actions, he or she must continue to exist and must be capable of acknowledging his/her identity as the performer of certain acts and sayings. Minimum conditions of rationality, like 1) knowing what one is doing, and 2) providing reasons or being accountable for one's actions, are implied by the very concept of personality. Since these very conditions are also involved in what is meant by a "self," Locke concludes that personality and selfhood are the same. In his analysis of the minimal conditions of rational agency that are also aspects of self-identity, Locke clearly reveals the link between the two aspects of personality--the individual and the juridical-legal. But his account obscures the fact that this capacity also entitles the individual to certain kinds of activities which, if indeed he or she were not a reflecting self, he or she would not be able to undertake. Yet, the right or the title to initiate words and deeds is not the same as the ability to do so.

Kant argued that any agent capable of rational agency--in the minimal sense of accountability for actions initiated by one's comprehension of concepts--is also capable of acting in accordance with the concept of such agency. Persons were such beings who could act on their self-understanding to be rational agents. This capacity was a sufficient ground to entitle those exercising it to a moral claim (MJ, 44), since the imputation of such a capacity to oneself meant that one necessarily adopted the standpoint of all other agents as well. The universality of the moral law and its bindingness on all were guaranteed by the pre-established harmony of moral wills. Just as the formal condition of the unity of apperception was one in virtue of which all concrete selves

were identical, the bindingness of the moral law on all was guaranteed by the tautological identity of moral wills. The distinctiveness of Hegel's concept of personality and his reconciliation of its neutral and normative aspects rest precisely on those points that distinguish his understanding of self-consciousness from Kant's.

The concept of personality analyzed in the first section of the Philosophy of Right presupposes a form of identity within and among selves that corresponds to the completed structure of the concept of the I. This structure was defined as the "unity of universality and individuality" (Logic, 583; II,220). Such universality does not merely signify the ability of the thinking I to abstract from all content. Intersubjective identity is entailed by the very grammar of the I-pronoun: each self who says "I" thereby affirms identity with, and also difference from, every other I-saying self. What Hegel calls "pure self-relation, of abstracting from all content" involves a reflection inwards from what is other than the self. This otherness has interpersonal significance. Self-identity presupposes reflection into one's self, not from a given object, but from an other who is also a self. The completed structure of reciprocal recognition defines the mutual acknowledgment of selves, who are distinct and concrete individuals, and who, in virtue of being self-conscious, recognize themselves in the other, and the other as an independent self. Thus, Hegel can say of the right of personality:

Spirit fully explicit differs from phenomenal spirit in this, that at the level at which the latter is only self-consciousness . . . the former has itself as the abstract and free ego, for its object and aim, and so is personality (Ph R, #35 Z).

When Hegel defends the abstract capacity of rational agency as a precondition for the actualization of freedom, the above analysis of spirit is assumed. "Freedom is the being by itself of spirit." The right of persons must be understood in the light of this premise: first, the subject of freedom is not the individual self, but this individual as he/she stands in a certain relation to others. This much is implied by the very structure of spirit. "By itselfness," therefore, cannot be analyzed through the construct of a will determining itself under a universal law. Hegel rejects this Kantian position for the same reason that he rejects the principle of simple identity. Since reciprocity and equality among selves is attained through a moral struggle for recognition, Hegel cannot assume, as Kant does, that the condition of autonomy implies the tautological compatibility of human wills. If the "being by itself of spirit" means 'acting in accordance with the categorical imperative,' the following would be implied: The content of the moral law would be guaranteed intersubjective recognition simply because all moral persons would be identical with one another. The 'I' would be tautologically equivalent to a 'we'. If it were accepted, however, that distinctions exist among selves who are concrete individuals, but that they are nonetheless identical as persons, difference would have to be made an explicit aspect of such identity. Kant describes a condition of plurality with no communication, of mutuality with no interaction. Identity in the Hegelian sense, however, entails a return to self from the other. The abstract identity of persons is replaced by the concrete identity of mutually recognizing selves:

The concrete return of me into me in the externality is that I, the infinite self-relation, am as a person the repulsion of me from myself and have the existence

of my personality in the being of other persons, in my relation to them and my recognition of them which is thus mutual (Encyc. III, #490).

While the reciprocal recognition of persons involves a world-historical struggle, the individual attains the standpoint of personality through the formative experience of moral education. The individual becomes an I and a being entitled to rights by mediating the givenness of circumstance and character with reflection and action. This is why Hegel can say, "Be a person." He means 'appropriate your given natural condition in such a way as to be able to act in accordance with your own conception of yourself as recognizing others as persons.' The individual becomes a person through education and reflection.¹⁶ Personality involves a "coming into one's own," so to speak. Hegel concludes:

the right to what is in essence inalienable is in-
scriptible, since the act whereby I take possession of my
personality, of my substantive essence, and make myself a
responsible being, capable of possessing rights and with
a moral and religious life, takes away from these charac-
teristics of mine just that externality which alone made
them capable of passing into the possession of someone else.
. . . This return into myself makes clear the contradiction
in supposing that I have given into another's possession my
capacity for rights, my ethical life and my religious feel-
ing; for either I have given up what I myself did not
possess, or I am giving up what, so soon as I possess it,
exists in essence as mine alone and not as something
external. (Ph R, #66 Z).

In Hobbesian language, the transition from the state of nature to the ownership of words and deed is not generated by a formal act of authorization but by Bildung. Human nature can be reshaped by action and reflection. Hegel's analysis not only attributes a material content to the right of personality by specifying the inalienable capacity of every individual to be a person, but it also describes the right-bearing capacity of individuals as an intrinsic relation to others. For Locke

the relation to the other receives no explicit mention; it is either obliquely assumed that all individuals are persons or, as in Kant's case, this interpersonal identity remains a formal tautology. A person exists, for Hegel, in and through being recognized. The ability to act as a free agent is an other-directed activity. To treat oneself as a free being involves recognizing that all others are also free in virtue of the capacity you attribute to yourself. Persons recognize, in the sense that they take cognizance of this natural individual as representing a capacity that in principle they share as well:

A person by distinguishing himself from himself relates himself to another person, and it is only as owners that these two persons really exist for each other (Ph R, #40).

Since persons are potential agents, by acting in the world they give themselves actuality. In Hegelian language, they are "self-distinguished." But action occurs in the world, in a space of existence that is shared by other persons; thus acting is also a relating of oneself to others.¹⁷ Hegel sees the right of property as the paradigm of this principle of activity. "The thing is the mean by which the extremes meet in one. These extremes are the persons . . ." (Encyc. III, #491). Property relations are the medium across which the mutual recognition of persons is manifested.

Hegel defines property as follows: "A person has as his substantive end the right of putting his will into any and every thing and thereby making it his, because it has no such end in itself and derives its destiny and soul from his will. This is the absolute right of appropriation which man has over things" (Ph R, #44). Man's universal right of appropriation is a condition for realizing the substantive end of

personality, which is to give freedom an external existence (Ph R, #41). Just as the abstract right of initiating activity had its justification in being a precondition of freedom, the universal right of appropriation derives from the premise that in realizing freedom, the external world will be pre-empted for human purposes. Freedom can only be manifested as human activity transforming and shaping the medium in which it is embedded. All human actions originate in such a natural basis. But the embeddedness of human activity in a material medium is not thereby a loss of the person. The individual does not become a thing. Since the thing is merely a vessel or vehicle for the actions of the individual, its significance is defined in relation to other persons. The recognition of the thing as the vehicle of the person's will relates the individual to other persons. The right to free agency is given a public sign in the thing, and only in this sense is the right of property the "being by itself of spirit." Individuals act by altering, shaping, and transforming the world of externality facing themselves. The right of property derives its justification from Hegel's understanding of human agency: in acting in the world, persons act upon the world and pre-empt it for their purposes.¹⁸

Such a justification of property is not to be conflated with assumptions derived from preservation, survival, need, or instinct. Property, for Hegel, does not signify a means of subsistence. It is an expression of the will, of the human capacity to act out of reasoned deliberation, and altering the world in doing so. Hegel claims that this is the only right of property commensurate with the recognition of personality. Every person, as a natural being with given physical

needs, desires, attributes, and inclinations, may appropriate the external world to satisfy himself. The motivation of survival, need satisfaction, or consumption may be relevant for this aspect of the matter. Hegel calls this aspect of property, as it involves a specific relation between a given individual and a defined object, "possession" (Ph R, #45). If the right of property were justified on these grounds, however, the individual would not be treated as a person--as an agent capable of rational agency--but would be looked upon as a concrete body. The capacity for personality involves differentiating oneself from one's concrete existence as a body. From this point of view, the needs and desires of the individual, as well as the particular characteristics of the object of property, are irrelevant. Property is that piece of the world that the person leaves an impact on (Ph R, #39).

At first sight, there may be something counter-intuitive about Hegel's discussion of property. It seems peculiar that he detaches this right so thoroughly from the aspect of subsistence. The concept of property, much like that of personality, seems to have a dual significance:¹⁹ on the one hand, property defines some aspect of the external world over which a certain legal person (natural or artificial) has rights and privileges; on the other hand, such an entity has certain qualities as means of livelihood and satisfaction. The aspect of property as a legal entity and its aspect as means of livelihood are inextricably bound together. But their relation is not merely a normative or moral matter. The emphasis on the means-of-livelihood aspect of property obscures the fact that here one is properly speaking of an economic system.²⁰ Not all known societies in history organize the material

reproduction of their existence in the same way. The institutions of universal exchange where money is the standard medium; the development of the market as a form of social organization; the recognition of the rights of the individual to privately own and alienate certain entities as his property--these are questions that properly belong to political economy. The modern natural right tradition, for reasons that are extremely significant, tends to deduce the political economy of social life from the concept of human nature.²¹ The norms of the isolated self appropriating nature for his needs, and of the lonely accumulator of wealth assume the status of logical beginning points. They are made the yardstick by which certain social patterns and institutions can be analyzed. Again it is no coincidence that the tradition of modern natural right makes this its beginning point. (See below, pp. 236 ff.)

Hegel's discussion of property betrays a sophisticated awareness of the system of political economy.²² Precisely because civil society creates a system of social interactions in which every individual satisfies his needs and gains a livelihood by performing a generalized activity that in principle links him/her to all other individuals, Hegel does not assume that the norm of the isolated appropriator or accumulator can be taken as a beginning point. In other words, the right of property, as discussed by Hegel, does correspond to a certain social organization of economic activity; but he does not justify property relations because they reflect the practices of modern bourgeois society; rather he defends property on account of a principle that only the social practice of civil society can fully bring to light. The right of property is based on the principle of externalization--that all human activity and interaction occur across the external medium variously transformed and shaped to

express human designs. Externalization is not to be conflated with the technical mastery of nature. Externalization is the practice of individuals in a social context.

Specifying property as an object of will makes it into a social object. The external thing can become the embodiment of the will of a person only for another, since only another person can conduct him or herself according to conditions implied by something being an object of will--an object over which an intelligent being has certain rights and privileges. The object of property is a social sign mediating the activities of persons in relation to one another (Ph R, #42A, Ilting ed.).

The emphasis on the historical achievements of socialized labor minimizes the interpersonal dimension of property. Joachim Ritter interprets Hegel to have justified property rights on account of man's rational ability to master and to subjugate nature: "Each act in which man declares something to be his property presupposes the historical process by which nature was brought under the disposition of man."²³ Property thus is taken to be the historical right of the species to the fruits of their domination. But Hegel's theory of property sharply differs from that of Locke and other labor theorists in this crucial respect: not labor alone but recognition confers a title to property. Already in the Jena Realphilosophie (1805) Hegel distinguished between "possession" (Besitz) and "property" (Eigentum)(205-206). Possession refers to the physical or anthropological fact of man's capacity to appropriate nature for his purposes. Property, on the other hand, confers legitimacy on the act of appropriation, because of the right of a thinking being to pre-empt the world for his purposes.

The philosophical import of these two ways of looking at the issue is simple but momentous. If property were justified with reference to the anthropological condition of appropriation, then a historical and physical fact would be made the basis of a claim to rights. In this essay I have agreed with criticisms of modernity and of natural right voiced by Leo Strauss and Heidegger on one point:²⁴ the assertion of the self cannot be considered a source of rights. However, I have tried to disassociate the legitimate grounds on which the rights of individuality can be defended from the naturalistic assumptions of modern theorists. The original rights of the individual cannot be justified by appealing to various logical or genetic constructions of a fictional kind. Only the premise that the treatment of the individual as a being who has rights distinguishes relations of force, coercion, and oppression from those of justice and freedom can provide such an adequate foundation. Hegel's theory of formal rights is unique in arguing that the claims of the modern self cease to be arbitrary and assertive when they are legitimized as preconditions for the life of a community of free beings. Property is not an anthropological claim of the species over nature; most significantly, it is the demand of two persons that each recognize the other's reciprocal rights by acknowledging that the external world can legitimately be pre-empted for human purposes.

III. Abstract Right and Natural Right

The liberal theory of natural rights defines them as the moral and rational grounds of legitimate obligation and authority. A right involves the ascription to an individual of an entitlement to engage in certain activities. Analytically, these two aspects must be distinguished. The

individual is ascribed certain rights in virtue of a certain capacity, but he/she is entitled to this ascription on the grounds of a principle that I will call the "principle of justification." The grounds of ascription I will describe as the "right-bearing capacity of individuals" (Rechtsfähigkeit).

For Hobbes and Locke the principle justifying entitlement to rights is human nature, or the law of nature sanctioning it. The rights of the individual derive from certain anthropological, psychological, or theological premises. The right-bearing capacity of individuals is either defined as the right to self-preservation (Hobbes), or as the ability of every individual self to enjoy natural freedom (Locke). In fact, individuals can enjoy and exercise their rights in virtue of these capacities. The justification principle is ambivalent between natural and moral conditions. Neither Hobbes nor Locke draws a sharp distinction between what men cannot avoid doing given the kinds of beings they are, and what they are entitled to do. Consequently, the capacity to enjoy natural rights is conflated with their entitlement to these rights. The principle of justification describes a natural capacity of men. Hobbes' argument is: that which men cannot avoid doing they are thereby entitled to. Locke's reasoning is more ambiguous: what men cannot avoid doing is sanctioned by the law of nature that "wills the preservation of mankind" (Treatise, 289). Men are entitled to conditions compatible with this law. In virtue of partaking in human nature and in the law of nature, all individuals share the ability to enjoy them. Does the equal right of others merely limit one's initial capacity to enjoy these rights? For Hobbes, the equality of persons is not a condition to be reckoned

with in their entitlement to rights. All individuals in the state of nature are able to assert themselves in the pursuit of self-preservation, thereby making certain types of activity for others impossible. Locke vacillates between claiming that only those conditions compatible with the equal entitlement of all define original rights, and asserting that equality limits enjoyment merely, not entitlement. This vacillation is implicit in the ambiguities of the Lockean formula of natural freedom. Does this signify the ability of individuals to exercise their liberty, or their entitlement to do so?

If equality is read to mean equal entitlement to rights, rights have to be determined by whether or not they would be compatible with the equal entitlement of all. The transition from autonomy to heteronomy rests on this point: heteronomous theories of obligation attribute final binding power to factors and principles that enforce obligations. Natural rights define the motivational bases of obligation. They specify what may be reasonably assumed that individuals will be inclined or disinclined to do. But motivation does not provide sufficient grounds for obligation. The law of nature that at once compels, instructs, and inclines, supplies these additional conditions. Fear, authority backed by force, and theological sanction must replace natural rights if obligation is to be binding.

A theory of autonomy is distinctive because it makes the justification of obligation itself the principle of entitlement to rights. If obligation is to be differentiated from force, compulsion, or constraint, it must be validated on the basis of conditions describing relations of right among individuals. Obligation, unless it is a rightfully incurred binding of the person, cannot be valid. Rights are justified because

they are the legitimate grounds of obligation. They supply both necessary and sufficient conditions. Individuals, once recognized as beings entitled to rights, are in need of no further principle to force them to obey.

Natural rights, therefore, have a certain content. They are principles of coexistence compatible with the equal entitlement of all to be right-bearing individuals. Kant claimed that this content was supplied by acting under the law of autonomy. When the ability of individuals to determine themselves in accordance with the moral law is upheld, Kant argued, it was acknowledged that only a universal law could be binding. Rights, therefore, limited the freedom of each in such a way as to be compatible with the freedom of all under a universal law.

In the transition from heteronomous to autonomous theories of obligation, the redefinition of the principle of entitlement also leads to the redefinition of the capacity underlying the ascription of rights. While in Hobbes this capacity is exhausted by the moral anthropology of self-preservation, Locke identifies it with the initial conditions of rational agency and self-consciousness. As with Locke's principle of justification, however, the capacity of individual selfhood is not given an explicit interpersonal content. In Kant, the capacity of moral persons to act in such a way as to uphold the universal law itself is equivalent to the principle of justification; or the principle of justification simply expresses conditions of rational agency that all human individuals also partake of.

The various formulas of natural rights read as follows:

- Hobbes -- "X has a right to A"
 "X has no obligation or duty not to enjoy A"
- Locke -- "X has a right to A"
 "Y must not (should or cannot) prevent X from A"
- Kant -- "X has a right to A"
 "X has a moral claim to limit Y's freedom such that
 X can enjoy A"

In his discussion of abstract right, Hegel provides a justification of natural right which, while not proceeding from the question of political obligation and legitimate authority, can nonetheless accommodate a normative defense of political obligation. According to Hegel, the capacity of personality is itself the basis, or the grounds for justification, of formal right. Since for Hegel the structure of self-consciousness involves an internal relation between self and other, personality is not only an attribute of the self but a relation between two selves. If acting as a person means acting in a certain way in relation to another person, then a natural individual is entitled to special treatment qua person, if he or she recognizes the other's entitlement to the same. Legitimate relations of obligation and authority are defined by reciprocal recognition among persons of each other's rightful claims. Abstract right involves a theory of obligation based on autonomy.

Yet the norm of personality that describes the basis of formal right is itself justified with reference to the more encompassing norm that freedom is thereby actualized. If 'right' in the Hegelian sense means the totality of those conditions and relations that actualize freedom as a social practice, then formal right defines the formal

preconditions of the actualization of freedom. The right of persons, property, and contract belong under this heading. Let us look at Hegel's logic of justification more closely: ²⁵

First, the capacity of ascription--personality--is the potentiality corresponding to the grounds of entitlement--freedom. Since personality defines the abstract capacity of agency in general, for the individual to enjoy freedom this capacity must be recognized. The same can be said for property: the individual can only act in the world by pre-empting external conditions in some form or another to fulfill his or her purposes. Contract defines consensually incurred relations of obligation among persons acting in the world that they enjoy in common. These formal rights, which in the final analysis amount to preconditions of human agency in a shared world, have to be upheld if freedom is to find expression. In theories of autonomy rights are defined as principles of coexistence among individuals. Hegel justifies formal right because it leads to the actualization of free relations among persons. Second, Hegel's logic is teleological. He does not claim that individuals possess these rights, but that they must come to be recognized by others, and recognize others in turn, as beings entitled to rights. This must is not merely an ought. Of course, it expresses a normative injunction that the right of persons ought to be respected. The must expresses a precondition which, were it to be upheld, would transform the potential into the actual. In a sense, individuals have a single right and duty: to actualize themselves as persons.

Through the media of language, labor, and action, individuals manifest themselves to one another in the world. Their presence is

stamped upon externality; the world is made to bear the mark of human agency. But this world is also the in-between that individuals share in. The existent that embodies the free will is not a thing alone. Freedom is expressed in the totality of human practices and institutions that define the ethical world. These two principles, first clarified in the section on abstract right, hold for Hegel's conception of objective spirit in general: 1) all human actions and interactions occur across a medium of externality that 2) thereby become a sign or a mark that is a socially significant carrier of meaning for these interacting individuals. The distinctiveness of Hegel's concept of freedom as the practice of social interaction rests with these two principles-- externalization and its social significance.

IV. Freedom: Autonomy or Interaction?

It is well known that Rousseau was one of the two thinkers to whom Kant gave the honor of having "awakened him from his dogmatic slumbers."²⁶ The relation between Kant's moral philosophy and Rousseau's teaching of the "general will" is all too easy to detect. The individual is free, according to Rousseau, only under laws that the body politic, as a moral entity, legislates upon all its members. Freedom is acting under laws that the individual as a free citizen gives to himself. Though Kant's moral philosophy rests on internalizing the metaphor of the self-legislating body politic, the status of the community of justice is less than clear in his thought. I will examine the difference between the Kantian and the Hegelian notions of freedom in the light of this premise.

The very formula of the categorical imperative--to act in such a way that the maxim of one's actions can become universally adopted--

makes universalizability the criterion of validity of a moral principle. This criterion is a principle of justice: by determining the grounds of one's actions in accordance with a universal law, one judges in oneself the claims of humanity at large. De-ontological interpretations of Kant's moral philosophy stress the primacy of the right over the good in his thought. But for Kant the standpoint of morality must be compatible with the standpoint of all rational beings. Universalizability is an aspect of rationality; and profound though its implications may be for a human theory of justice, it would be wrong to overlook the fact that Kantian morality is not restricted to the perspective of the human species alone.

Procedural formalist readings of Kant, and most recently that of John R. Silber,²⁷ avail themselves of the standpoint of his anthropology to explain the significance of the categorical imperative. His anthropology, Kant admits, is written from the perspective of the "world citizen," or the cosmopolitan student of human affairs.²⁸ Read from the standpoint of the world citizen, the principle of universalizability in Kant's moral philosophy becomes primarily a maxim of justice and of moral education: the moral individual is one who judges the claims of humanity in his person by educating himself to consider the standpoint of every other. It is thus possible to speak of a process of moral Bildung toward the point of view of the cosmopolitan student who recognizes the claims of humanity at large. Kant's writings on history, and his non-systematic essays on politics, make such a view perfectly plausible.²⁹ The stress on universalizability then, would be a political metaphor in a number of senses: it would include conditions of justice--to treat all other persons as free and equal beings, entail an anthropological

perspective--to adopt the point of view of humanity, and also stress that such a perspective develops through the moral formation of the race and of the individual.

It is interesting to entertain this reading of Kant, if for no other reason than that it makes the standpoint of Hegel's Phenomenology continuous with Kant's intentions. But Kant's systematic writings and the dualism of the noumenal and phenomenal realms reiterated in them make such an interpretation highly implausible. Furthermore, the issue of concretizing Kantian morality in the realm of appearances ceases to be a problem. Undoubtedly, the principles of Kantian morality have as their validating condition the standpoint of all moral agents. The plurality of moral selves is a premise of Kant's practical philosophy, but this plurality only describes a condition of formal identity among rational agents. The barriers in Kant's systematic thought against translating plurality into community are significant. Equally, the "kingdom of ends," or the community of beings who are ends in themselves, remain significant Ideals of reason, but their concretization is problematical. Their status remains regulative; they cannot constitute a world. It is, therefore, one thing to say that the republican constitution is the political order most compatible with the moral law, and quite another to argue that it actualizes the moral law.³⁰ For Kant, only the "pure good will" actualizes the moral law.

To effect the transition from the condition of moral persons to that of earthly justice, Kant introduces the following premises: First, the ground of all principles of right and justice is the autonomy of moral persons. The natural right to freedom formulates those conditions of external coexistence among persons who are autonomous agents. Right

derives its binding force from the moral law. Second, moral persons exist as bodies in space.³¹ They can have physical impact on one another and can use force, coercion, and violence. From the perspective of justice, this vulnerable bodily state of a human person is a given. Since for Kant existence is never a predicate but always a datum given to consciousness, the existence of other persons is of a similar status to that of other bodies in general. Third, Kant's entire discussion of justice is hypothetical: it concerns the possible union of wills among persons under a civil constitution. The social contract is the "as if" paradigm of legitimacy. It is the idea with reference to which the entitlement of the political order to oblige can be judged. The hypothetical aspect of Kant's discussion is not merely a matter of his having dispensed with anthropological illusions. The transformation of the Ideals of practical reason into conditions obtaining in space and time is rather difficult to achieve, and the hypothetical nature of the discussion therefore rests on a systematic problem. Since the sphere of justice involves the mutually oriented action of moral persons, it is the locus of the problem of intersubjectivity:³² how does one know the other as a person, and as a noumenal self? What is the appropriate interaction in the realm of phenomena among persons acknowledging one another to be autonomous? Can autonomous agents interact causally? In fact, it is not Kant but Fichte who elucidates the problem in these terms. Though Kantian epistemology is predicated on the reality of the world in which the knowing subject is situated, the presence in this world of other knowing and acting subjects can only become an issue in the theory of justice.

Fichte writes: "Kant has never explained this question: how can I admit reasonable beings outside of myself? Therefore, his critical system has not been completed" (in Philolenko, 23). Kant treats the existence of other reasonable beings on a par with the existence of bodies. The sphere of existence is the spatio-temporal world of causality. Our knowledge of this sphere is governed by the rules and categories of the First Critique. The "existence of the other" cannot be a distinctive issue in Kantian philosophy,³³ for such a question would be heteronomous. It would involve the confusion of categories that legitimately belong to different realms. Theoretically, the "other" can only be known under the same conditions as all objects of knowledge. In the practical sphere, one does not have "knowledge" that can be objectively validated. One acts on the regulative maxim to treat all others as reasonable beings and as ends in themselves. Insofar as we act as moral agents, we do not know; insofar as we know, we are not moral agents but theoretical subjects. The objectivity of the regulative principles of practical reason remains a matter of the conviction and intensity with which they bind the will of moral individuals. They cannot constitute the structure of a world to be shared by moral agents. Fichte legitimately concludes that if the existence in the sensible world of others who are free and reasonable beings cannot be well founded, then the Kantian categorical imperative loses significance.³⁴

Kant's discussion of justice is the meeting ground between the noumenal and the phenomenal realms. Knowledge of the other as a person and the interaction between persons are presuppositions of his theory of justice that cannot be systematically justified. The fiction of the social contract leading men into civil society (bürgerliche Gesellschaft)

is premised on the following hypothetical premise:

If it must be de jure possible to have an external object of one's own, then the subject must be allowed to compel everyone else with whom he comes in conflict over the question of whether such an object is his to enter, together with him, a society under a civil constitution (MJ, 65).

It is easy to erroneously read this statement as an expression of a Lockean concern that men ought to enter civil society for the protection of their property. Kant's question, however, is a transcendental one: under what conditions is it possible for moral subjects to constitute a civil society? De jure possession is cited as a necessary precondition only because its possibility is equivalent to a further question: How are synthetic a priori propositions about rights possible? A synthetic proposition refers to conditions of experience; if it is a priori it formulates such conditions of experience as are universal and necessary. Property relations have precisely such a status of universality and necessity with respect to the experience of justice. Justice concerns the condition of moral persons who are bodies in space. The appropriation by such persons of their external conditions of existence is the primary medium of interaction among them. De jure possession involves an individual's entitlement to have an external object as his and to compel others to respect his claims over it. The object must be treated as belonging to a moral person. Since the individual's moral personality is embodied in his claims over the object, others must regulate their behavior accordingly. But others can act so if they know the object to be "an object of will." Only if moral personality can be recognized as existing in the material medium of the thing, does it make sense to demand of persons that they respect one another's property rights. Such respect would then involve a knowledge of the other as a noumenal agent

who is also an existent. The dichotomy between freedom and causality is also challenged under these conditions: moral persons have causal efficacy in relation to the thing. What other sense can we give to the condition that all but the rightful owner refrain from appropriating the object in question? But when moral agency is restricted on the grounds that the object is the embodiment of another's will, the freedom of one is made a limit upon the causality of the other.³⁵

If property relations mediate the existence of moral persons, then it must be possible for these persons to recognize one another and to interact in the sensible world. Either the categories of Kant's two Critiques are too narrow to accommodate what he plausibly discusses in his nonsystematic writings, or the discussion of justice, like other essays of his written on public and political occasions, has no philosophical status. It is an expression of doxa with no validity as episteme. One is reminded of Hegel's complaint in the Philosophy of Right, that it has been assumed that the philosopher's stone lies concealed somewhere within nature, while the ethical world is left to the mercy of chance and caprice (Ph R, Preface, 4).

In his Third Critique Kant attempted to provide a systematic mediation of freedom and necessity.³⁶ Whereas the moral subject was situated in the kingdom of ends comprising all reasonable beings, the aesthetic subject was situated in the human community. Beauty only had significance for a being such as man. In the Anthropology Kant discusses the decisive conflict between aesthetic cultivation and the predicament of the egotist. The judging subject has to put himself in the position of another in order to communicate about the object of beauty. Aesthetic judgments rest on an appreciation of mutually shared tastes.³⁷ But is not

judging an intrinsic aspect of justice as well? What does respecting the claims of humanity in one's person mean other than judging oneself from the standpoint of the other? Is not the community of right a more obvious mediator between freedom and nature than the work of art? Why did Kant not recognize it to be so?

I suggest the following hypothesis: since the work of art is created by man himself, it is an act of spontaneity subject to the rules of the imagination.³⁸ The genesis of the work of art is a human activity. Laws of nature enter into its execution as maxims of technique consciously applied by a craftsman to attain given ends. The art work is a human work. Yet the sphere of justice is not a work of art. It comes into existence through an act of will and self-legislation. Kant, unlike Hobbes, cannot treat the constitution of the body politic as the quintessential work of art. The sphere of justice remains an earthly reflection of the noumenal realm. The politics of radical autonomy is incompatible with the dualism of man's condition. The constitution of the political order is governed by laws of practical reason that are valid for all rational agents. The imagination is a human faculty alone, whereas freedom is not a uniquely human act since the very possibility of human freedom is an aporetic issue in Kant. The imagination is its own source of motion; freedom, however, is a transcendental problem.

The question "How is the categorical imperative possible?" can be read in two ways: 1) On what grounds are moral agents to act on the basis of a universal law? 2) How is it to be explained that a being can be obliged by the moral law and act in such a way as to realize it?

The authority of the moral law to oblige is equivalent to the concept of moral duty. Therefore, Kant argues, one is in fact asking how moral duty itself is possible. The only answer consists in pointing to the "interest of reason" in the moral law. Human beings are so constituted as to take an "interest" in the categorical imperative.

By choosing this particular reading of the above question, Kant reintroduces moral anthropology into the discussion. He provides a proof that the moral obligation really exists, or that the existence of moral obligation is a fact. Kant can be taken to task, as K. H. Ilting does, for transforming a question of justification into one concerning the existence of a state of affairs.³⁹ Such a criticism addresses the issue at the meta-level of Kant's theory of justification. With reference to the substantive aspects of human freedom, Kant's justification procedure simply implies that the question for him remains: what kind of a nature does man have if freedom is possible? How is it possible that a being such as man can be free? The reason why freedom is a transcendental issue, I will suggest, is that Kant never ceased to formulate its possibility in terms of human nature. Human nature consists of that motivational make-up driving man to seek happiness and to watch out for his self-interest. If Kant is concerned with how, given his psychological predilections, such a being can be free, he is, in fact, asking a motivational question. How can human beings, given their natural impulses to the contrary, be motivated to obey the moral law?

Kant never ceased to locate freedom in the inwardliness of intentions. Does the individual act to give the moral law existence, or are there other grounds that determine him to act? How pure is the good-willing will? The possibility of freedom is thrown back into the sphere

of necessity: is the conception of the moral law the only incentive moving men to act it is asked? Freedom is, first and foremost, an issue of moral psychology. Kant identifies the "free will" with the "good will," because the categorical imperative on which the free will acts involves the demands of universalizability and disinterestedness, and these contradict man's egotistical propensities. It certainly is logically possible to think that human beings can act so, but whether this logical condition is also a real possibility is a moot point. The imputation, even to oneself, of possible sensuous motives determining one's actions--presumably initiated out of regard for the moral law alone, can never be foreclosed. As long as man is caught between the causal web of which his own inclinations are a part, and the noumenal realms of intelligent activity, freedom might indeed appear as a "break" in the causal chain. In the cosmological sense, freedom is unconditioned spontaneity and designates the ability to start a state of affairs.⁴⁰ In the practical sense, this spontaneous activity corresponds to the ability to act from motives that are not sensuously determined. The causality of reason through the moral law is the analogue in the practical sphere of cosmological spontaneity. But the same action can always be explained under the rubric of phenomenal causality and the framework of noumenal activity. The standpoint of the two worlds as well as the schism between them prevail to the end.

The divergence between Kant and Hegel can be captured by a simple contrast: not the category of possibility, but that of actuality dominates Hegel's discussion.⁴¹ Whereas Kant explains freedom in relation to its preconditions in man's dual nature, Hegel presents freedom

teleologically in relation to what can and must be realized. Freedom must embody itself in the world; the free will must give itself expression. The meaning of this teleological injunction cannot be grasped in terms of a spontaneous act of self-legislation. Freedom, for Hegel, is the unfolding of a principle in a context that is the very expression of this principle. This context defines a process of becoming and one of self-discovery. Its dynamics can only be grasped teleologically. Freedom defined as "being by oneself" and "being at home in the world" offers an ideal of activity that is at once individual and collective.

Since all that is self-conscious is alive, all activity manifesting intelligence and rationality first occurs within the medium of life. As a living being who thinks, the subject expresses himself by appropriating this medium.⁴² The unity of life and intelligence is the anthropological basis of the principle that thinking always, and necessarily, expresses itself in a medium. Thought and rationality are not dormant attributes but potentialities seeking to actualize themselves. Reflective consciousness leaves nothing unaltered. Hegel defines it as a "return to self." Reflexivity is first manifested by altering the externality in which the subject is embodied. Its manifestation is its presence. Thought is activity, just as all human activity expresses a thinking principle. But why must thought translating itself into activity be grasped teleologically?

By giving himself an end that he seeks to realize in the world, the individual distinguishes himself from the world. The world becomes the presupposition (Voraussetzung) of his activity, while the goal is what he sets out before himself. He posits (setzen) his goal. Hegel defines the aim of the teleological movement as the sublation of the immediate

presupposition and the positing of an end defined by the concept (Logic, 742; II, 393). Teleology describes a process where initial preconditions become repositied as aspects of an end for whose realization they were necessary.

The juxtaposition of self to world is altered when externality is pre-empted as a means to the realization of a subjective end. The intelligent subject pre-empts the world as his means. In this process, initial presuppositions are treated as means. External conditions are no longer simply juxtaposed to the unrealized, subjective ends of the agent but are conditions through which the end itself attains reality. Teleology presupposes causality, but causality becomes an aspect of teleological activity. The subject can interpose the world as means between his activity and his goal, because a causal relation obtains between them. The nexus of spatio-temporal causal connections unite his activity to his goal to be realized. The goal has certain material and causal preconditions. But these preconditions are only significant insofar as they are a link in the chain of activity. The mean is not simply everything that may stand in a causal relation to one's end: it is that which is used to bring about a specific end. "Means" are always "means to." While every means-end relation presupposes causality, it is not the presence of a causal chain but of an intentional human project of which this chain becomes an aspect that transforms "a cause of" into "a means thereunto."

The complete transformation of the presuppositions of human activity into posits for its realization is attained when the externality of the means-ends relation is eliminated. With the completion of one's goal, the

means that were necessary to bring it about continue their presence only as various aspects of the end attained. The end contains the means in the specific characteristics which it displays. Looked at from the perspective of the realized end, the independent existence of the means is an "illusory show" (Schein). The means are those conditions which intelligent activity must pre-empt in order to give itself externality in the world. "The externality of the object, self-subsistent as against the concept, which the end presupposes for itself is posited in this presupposition as an essential illusory show and is also already sublated in and for itself" (Logic, 751; II, 403).

To those familiar with Hegel's Logic it is obvious that he is describing the structure of the first and second negations. The pre-empting of the world as means corresponds to the first negation. The attainment of the end is the negating of this first negation and therefore, a double negation. Thereby, the immediacy of the means still presupposed in the first activity is subordinated to the purpose of the whole. Initially, the means are the causal preconditions of the realized end, but once this goal is attained they are only moments of its realization and of its having-come-to-be. The double negation transforms the coming-to-be into a such-it-has-become.⁴³

The Hegelian concept of freedom--the being by itself of Spirit--is premised upon the teleological process. As activity freedom can only be expressed by becoming other, but this process is not a loss. The subject is by-itself in its otherness. This is only possible, however, if the initial conditions that free activity confronts as other are assimilated to become aspects of such activity. Freedom is not the

juxtaposing of oneself to a world that one seeks to dominate. Freedom is overcoming the strangeness of the world and making it a "home" for oneself. Freedom is the appropriation of externality in such a way as to make it a vehicle of self-expression. External preconditions are thereby posited as moments of a process initiated by human beings. Both exteriorization and return to self are attained therein.

Such is the precise significance of the rights of property and personality in Hegel's thought. Persons are intelligent beings who can initiate activity and who pre-empt the world for their own ends. This capacity is a precondition of freedom, since freedom can only be expressed as activity in the world. The Hegelian understanding of property is commensurate with the dynamics of human agency. In virtue of its causal attributes the external object is "means" to an end, but when considered from the standpoint of the realized goal, it is an aspect of the completed aim. External conditions are thereby spiritualized: they become intelligible only within the context of a humanly initiated set of activities. The Hegelian concept of property justifies the right of intelligent beings to spiritualize the world by making it a vehicle for the fulfillment of their ends. This spiritualization is a social process as well. An object can become the embodiment of will only for other intelligent beings. By expressing himself in the world, the individual relates himself to others. He/she becomes manifest in the world. When others recognize personal rights over external conditions, the identity of all persons as spiritual beings sharing the capacity to be free is acknowledged. Through the recognition of the rights of personality and property, the individual is integrated into a spiritual whole. His

identity with, and difference from, other such beings in a community is recognized. The "being by itself of spirit" describes such a community of interacting persons.

The realms of art and beauty occupy a mediating position in Kant's systematic philosophy.⁴⁴ The creation of the work of art unites the freedom of the imagination with the necessity of nature. The teleological judgment is the appropriate mode for aesthetic cognition, since a universal principle and a given particular are thereby brought to bear on one another. While the principle of aesthetic judgment displays a certain necessity, the appreciation of the particular facets through which a given particular displays beauty also involves freedom and spontaneity. For Hegel art is not the only meeting ground of freedom and necessity. The world, humanized by intelligent activity, reveals this meeting in a variety of forms. The teleological process both at the individual and at the collective levels displays a certain creativity: the causal preconditions confronting intelligent beings are altered for their very purpose. Both the ends which human beings posit for themselves and the means they employ thereunto reveal creative aspects. They cannot be explained within the nexus of their antecedents--they have to be explained with reference to what they intend to bring about.

To the Kantian disjunction of the phenomenal and the noumenal realms, Hegel juxtaposes his concept of spirit. Spirit describes a world-humanizing activity whereby the causality of nature is transformed into a sequence of humanized structures and meanings. Spirit becomes "second nature." The human world exists within the limits of the possibility circumscribed by the causality of nature, but the world has significance for human beings and it becomes a mark of their intelligent

activity. To subsume this world under the so-called phenomenal realm is not adequate. Its constituents--language, art, culture, and human institutions--cannot be explained and understood through the framework of natural causality. ⁴⁵

As mind is free, its manifestations is to set forth nature as its world; but because it is reflection, it, in this setting forth the world, at the same time pre-supposes the world as a nature independently existing. (Encyc. III, #384. Emphasis in the text).

Through his analysis of the dynamics of teleology, Hegel is able to eliminate the transcendental aspect of freedom. Kant juxtaposes the realm of causality to that of intelligent activity. Causality encompasses both inner and external nature. Hegel discusses human activity as initiating a process that transforms causal preconditions. Man is not caught in the limbo between the causal web and the realm of intelligence. In fact, human intelligence can only be manifested when rational beings interpose themselves between the phenomenal and the noumenal realms. The constraining limits of causality are used by intelligent beings to their own ends. Causal conditions are repositied and thereby altered. Nature is assimilated into history in the life of the species and of the individual.

The individual achieves a home in this human realm by overcoming the alien and compelling character of shared life. Through education, habit, cultivation, and reflection, the shared world becomes a sphere in which self-expression is possible. The immediacy of internal and external conditions facing the self is transformed and assimilated into moments of a harmonious existence. As an internal process of Bildung, Hegel envisages the integration of one's immediate desires, needs,

inclinations, and propensities into the ideal of a full life.⁴⁶ One does not repress immediacy; one cultivates it and makes it one's own. The emotive and affective make-up of the individual are not at the mercy of the natural realm. Human immediacy can be spiritualized, just as the world is spiritualized. Reflective memory is therapeutic. By remembering who he has been, the individual gains an insight into who he can become. Conditions of past existence lose their constraining opacity. Transparency to self is a redemptive reconciliation. The causality of fate is thereby transformed into the inward peace of comprehension. Hegel considered such a redemptive reconciliation possible for the individual and for the species.

V. Idealism and Abstract Right

It is ^{no} coincidence that teleological activity should correspond to the structure of a double negation. The activity of the concept in comprehending is teleological. The standpoint of the double negation corresponds to the paradigm of philosophical explanation. Causal explanations relate the occurrence of events in space and time in accordance with laws. The kind of necessity displayed by causal occurrences is external and contingent. The laws governing the phenomena and the phenomena are "indifferent" to one another. The universal laws of causality are not immanent aspects of the events that are subsumed under them.

With the positing of initial presuppositions as internal moments of a process, a more adequate form of knowing is reached. Antecedent conditions are no longer understood through a contingent connection. Such conditions are comprehended to be immanent in the very consequent

that they bring about. Their necessity is repositied in the light of the goal of the process. Initial conditions are seen to be presuppositions repositied by a generative principle. Such presuppositions, while an aspect in the coming to be of this principle, once its unfolding is reached, are viewed as conceptual moments integrated into the unity of an intelligible process.

The teleological process defines a becoming and the mode of knowing of this becoming. Philosophical understanding presupposes the kind of intelligibility first manifested in human purposiveness. The same principle by which thought is transformed into actuality guarantees the transparency of actuality to thought. The labor of world history in transforming externality into a human world is repeated by the labor of the concept in logically recapitulating this process. The relation of philosophy to history and of logic to time presuppose the assimilation of causality into the structure of teleology. Viewed philosophically, the contingency of historical and temporal becoming reveals an inner meaning and necessity.⁴⁷ What is first in time is not necessarily first in the order of knowledge. Knowledge appropriates the temporal sequence and posits it in accordance with logical necessity.

The standpoint of knowing according to the concept (Absolute knowledge) becomes possible at a point in world history when the shapes of the historical world can be reconstructed as logical determinations of the concept. The truths of Hegelian idealism and the political achievements of the modern state are continuous. The modern state actualizes as a world practice the conceptual principles of Hegelian science.⁴⁸ I will discuss the rights of personality, property, and contract in the light of Hegel's speculative commitments.

Personality

Indeed, the right of personality institutionalizes a logical aspect of the Hegelian concept. "The person is the concept, the concept that is as existing for-itself" (Die Person ist der Begriff, der für sichselbstseiende Begriff," PH R, #43, Ilting). There is a missing premise in this assertion, namely--"The I is the existing concept" (Logic, 588; II 220). Personality is defined as the "concept that is for itself," since it corresponds to the "for-itselfness" of the I. To be a person designates the general capacity of engaging in activities. This condition defines the I who knows him/herself to be an agent of thought and action. However, personality does not reflect the "in-itselfness" of the I, because the content of actions, purposes, and intentions is irrelevant from the standpoint of the person. The moment of inwardliness, the specification of the content of activities by inner reflection, is ignored. Conscience, intention, happiness, and motivation have no significance from the standpoint of personality.

The assertion that the "I is the existing concept" contains in a nutshell the achievements of Hegelian idealism. It means much more than "the concept can only be the thought of an I." Hegel's claim is that the logical structure of the concept (die Begriff) is identical to that of the I. In the Logic, it is explained that Kant was the first to discover the link between the concept and the I. The identity of the thinking self was generated through the act of bringing the manifold of representations under the unity of single consciousness. Since the material content of consciousness varied, this unity could only be made possible by the identity of the formal act that synthesized the manifold. Such identity of the act

of synthesis was provided for by the identity over time of the formal rules governing the act of synthesis. The I remained identical with itself on account of the sameness of the rules governing the transition among the various states of consciousness. Kant called these rules of synthesis "the pure concept of the understanding" (C P R, 111). Thus, the concept was a rule formalizing the identity of self-consciousness.

According to Hegel, the deficiency of the Kantian account stems from the fact that by confining the concept to a formal principle of unity, Kant leaves the content corresponding to such unity undetermined. Speaking more precisely, the relation of form to content in Kant, Hegel claims, is accidental. Since the concept is said to be a rule of synthesis along, the matter to be synthesized is given prior to the activity of the synthesis. This givenness of content derives from the fact that Kant assumes the standpoint of consciousness as his beginning point. The given is simply the manifold of sensibility affecting the individual self in space and time. If the conscious self were not assumed as the reference point of all knowledge claims, there would be no predetermined content for the concept to act upon (Logic, 588; II, 225). "Overcoming the standpoint of consciousness" (Ph G, 789) signifies the eliminating of all content logically prior to form.

The unity of "universality" and "individuality" in the logical structure of Hegel's concept of the I contains no reference to the condition of a knowing or experiencing consciousness. Hegel claims to think the Sache selbst, the matter as it would think itself. The Hegelian concept

is precisely such a unity. It does not so much subsume the individuals under itself, as the thinking through of individuality itself yields the concept as an immanent result; the grasping of the determinations of substance in all their aspects should reveal those determinations to be aspects of this principle of grasping--namely, the subject. Form is immanent in content. This form, this "universal" is also individuated: thinking the universal as such reveals its determinate relation to all other universals. Thought itself has an objectivity in the sense of a constraining specificity: subject is also substance. The Hegelian concept describes the unity of the process in which the manifold of determinations reveal the universal to be their implicit premise, while the universal specifies itself to be the universal of these and of no other determinations.

Property

The intimate link between the structures of Hegel's speculative philosophy and the principles upheld by the modern state is even more obvious in his discussion of property. The right of appropriation is called the "idealism of the free-will" (Ph R, #114 A). Hegel distinguishes the two meanings of the concept of a 'thing'. A 'thing' signifies substantiveness or externality. Idealism does not deny the externality of the thing; it simply does not grant it substantiality.⁴⁹ The right of humans to appropriate the world immediately confronting them stems from the fact that externality is a vehicle for the expression of persons and of their activities. The externality of the world is not thereby eliminated; quite to the contrary, this externality is made the carrier of a social sign and of a spiritual meaning. The thing of property is significant insofar as it embodies the free will.

This paradigm of property is identical in Hegel to the paradigm of the activity of the concept.⁵⁰ In the act of knowing, the independence of the object is overcome by the progressive appropriation of its determinations. The goal of this act is to reveal all aspects of the object to be conceptual moments of a principle unfolding itself. Knowing is literally a conceptual reappropriation. The givenness of content is made an internal moment of knowing itself. In this process, content is revealed to be no other than the externalization of the principle of knowing. The object of knowledge is not given but is posited by the process of knowing itself.

This movement of the concept is paralleled by that of persons appropriating the world. Since freedom can only be expressed by acting upon the world, such action involves giving oneself a content, becoming other to oneself, and letting oneself go into the world. Through action the self loses itself in the world, but this loss is also a finding of oneself. When its presence is embodied in the world, the self acquires public testimony of its deeds and words. The pre-empting of the world and the appropriation of the thing is a passage from identity to difference. But since the thing is only significant as a token of the freedom of the person, the moment of difference is actually a return to identity. When the independence of the thing is reduced to a moment of difference in the unified structure of "identity within difference," an external presupposition is transformed to an internal posit.

Undoubtedly, this abstract presentation of the right of appropriation can also be viewed as it develops in world history. Hegelian science is the appropriation of the external content of world history by the concept. In the Phenomenology, the ascent of individual consciousness

to the standpoint of science is described as a relation of individual to universal spirit. Science appears as the unfolding of that process in which the individual repossesses what is already the property of universal spirit.

The individual must run through the stages of universal mind also with respect to content, but as shapes which have already been assumed by mind, as stages of a road which has been worked over and levelled. . . . This bygone existence is already an acquired property (Eigentum) of the universal mind . . . culture, viewed in this hindsight and in relation to the individual, consists in the acquiring of what lies at hand. . . . the taking possession (Besitz) for itself (Ph G, 89; 27).

The labor of universal mind in transforming nature into world history is recapitulated by the thinking individual while appropriating this content as his own. Such a repossession is only possible, however, since this content is itself the exteriorization of a principle (universal mind) that the individual also partakes of. In the act of re-membering externality, spatial contiguity and temporal succession are grasped as conceptual links of the same logical process.

When the labor of the collective subject in world history is transformed into a title of property for the individual, one of two assumptions is made: either a) property is taken to be the natural relation of a concrete, needy body to the external world, or b) property is construed as the relation of an autonomous individual to the external conditions of his existence. In the former instance, the right of personality is equated with that of the natural individual, while in the latter case, the right of personality is understood as the self-relation of an autonomous person. In the nomenclature of Hegel's Naturrecht essay, these presuppositions can be respectively identified as those of "empirical" and "pure-formal" natural right theories. Neither perspective can

analyze the uniqueness of relations among persons. Hegel rejects the practical egotism of both viewpoints on the same principle: it fails to grasp the unique structure of subjectivity as spirit, as a unity in interaction. In the transition from the right of property to that of contract, the premise implicit in property relations--that the right of the person over the world stems from his being a member of the spiritual human community--becomes explicit.

Contract

Contract is the social manifestation of the logical structure of spirit.⁵¹ In the sphere of abstract right the identity of persons with one another was expressed by the limiting condition of not infringing upon personality and what personality entailed. What appears, however, as an external limit is an internal aspect of the very concept of personality. Only when the reciprocal identity of selves is assumed, can their respect for one another's rights be demanded. Consistent with the patterns of Hegel's Logic, the transformation of "abstract identity" into "concrete identity" presupposes mediation by difference. Such is the systematic position of "property relations" (Ph R, #40), which mediate the existence of persons for one another. Existence is being for another (Ph R, #71). Expressed in anthropological language, human beings only interact across a material medium upon which their actions leave their stamp.

The act of contract makes explicit the mediated unity of identity and difference:

The sphere of contract is made up of this mediation whereby I hold property not by means of a thing and of my subjective will, but by means of another person's will as well, and so hold it in virtue of my participation in a common will (Ph R, #71. Emphasis added).

Contract involves the transfer of property from one individual to another by means of an equal exchange. It is thereby explicitly assumed that these individuals and their objects of property are different from one another. But even more significantly, that A is exchanged for B presupposes a rule of identity in relation to A and B. This rule of identity is that each is the rightfully owned entity of a property holder. Thereby the equality of the owners of A and B as property holders is also established. Contract is the quintessential mediator--the identity of differences by means of their equality to a third is concretized in this act.

Contract institutionalizes the "I that is we, and we that is I." Persons engaging in contract are discrete individuals, but as property holders they participate in a universally shared status. This participation is evidenced by their treatment of externality as a medium for the expression of persons. Recognizing the claims of the individual over the external sphere evidences the treatment of the individual as a spiritual being distinct from the world that is appropriated. In the language of the Phenomenology, substance has become "spiritualized," and spirit gives itself embodiment in the world as its property.

The correspondence between the conceptual premises of Hegelian idealism and the social practices of the modern world prompts the question: is the claim that the truths of Hegel's system can be reduced to aspects of a historically determined social reality? Are the ontological truths of Hegel's system the speculative dressing of his social allegiances? ⁵² Social reality bears the same relation to Hegel's

speculative philosophy as world history does to his logic. Both exemplify the embodiment in space and time of concrete structures that are the manifestation of conceptual truths. Certain principles of Hegel's system first come to be in historical time, but this becoming is not their justification. The truths of world history are only validated when rethought or remembered as aspects of an immanent conceptual process.

The passage from the System der Sittlichkeit discussing the concept in the context of contractual relations can now be deciphered. Since the Hegelian concept has the logical structure of a "spiritual unity," and since contractual relations institutionalize this structure, contract is the social instantiation of the concept:

Property steps into reality through the plurality of persons comprehended under exchange as mutually recognizing one another: value becomes the reality of the thing . . . the concept emerges as that which moves itself in its opposite, sublating this other opposed to it. (SdS, 29)

VI. Abstract Right and Bourgeois Right

In this section I will argue that the type of legal and social practices entailed by the Hegelian categories of personality and property are most characteristic of modern bourgeois society. According to Marx, bourgeois society is distinguished from all previous historical formations in one respect--the buying and selling of labor power as a commodity in the market place. I accept that Marx's definition constitutes the differentia specifica of bourgeois society. This definition may not be exhaustive, and it is also possible that its power to account for present social conditions had diminished.⁵³ Yet Marx's analysis provides a most

significant philosophical account of the structure of bourgeois relations. The conceptual structure of a commodity offers an explanatory paradigm whose usefulness ranges from philosophy to social theory and to psychoanalysis.⁵⁴

By arguing that the categories of abstract right are most compatible with social relations in bourgeois society, I am not seeking to reduce Hegel's analysis to a description of social processes in this society. Hegel's claim that personality and property are presuppositions of freedom is defensible on grounds of independent validity. The structural commensurability between these concepts and the practices of bourgeois society is neither necessary nor sufficient to question their normative validity. To be able to question this, one must criticize the Hegelian concept of freedom. Its bourgeois pedigree, however, is no immediate refutation of a philosophical position.

In the Grundrisse Marx writes:

A presupposition of wage labor and one of the historic preconditions for capital, is free labor and the exchange of this free labor for money, in order to reproduce and to realize money, to consume the use value of labor not for individual consumption, but as use value for money (471).

The capitalist system of production comes into existence when the "owner of the means of subsistence and production meets in the market place with the free laborer selling his labor power" (Capital, 170). Historically, this practice presupposes the emancipation of labor from its objective conditions like land, instruments of labor, and other means of subsistence. The objective conditions of labor are the conditions of its realization. Like any human activity, labor is realized by being manifested. To become manifest is to act upon these preconditions. From

the standpoint of the individual, these define the material preconditions of his production and reproduction. In the transition from pre-bourgeois modes of production to capitalism, the separation of labor from the objective conditions of its realization takes place. First are dissolved those bonds in which men treat the earth as their organic being, as was the case with certain mythical and religious practices.⁵⁵ Second, the ownership of the instruments of production used to be assured by special skills--the craftsmen and artisans owned their "tools of trade"--, and the individual was equipped with some means of consumption prior to production. This is no longer true under capitalism. Third, those forms of bondage like slavery and serfdom in which the laborers themselves appear to be one with their objective conditions of production are also destroyed. The slave was not distinguished from an instrument--Aristotle called him a "living instrument"--, while the serf could be bought and sold along with the land he tilled and cultivated. But under conditions of wage labor, the individual is free in a dual sense: on the one hand, he is deprived of his objective conditions of labor. He has no property to sell besides his ability to labor. Indeed, in order to subsist and remain in existence, he must do so. On the other hand, the individual is also free in the sense of being legally entitled to dispose of his labor through an act of contract. The dissolution of his traditional relations to the objective conditions of his labor frees the individual from other dependencies that accompanied such relations. Wage labor is free labor.

The conceptual presuppositions of free labor are the following:⁵⁶ in the market place the owner of labor power and the owner of the means of production exchange their goods through an act of contract. The purchase and sale of labor power occurs in an act of exchange. Looked at in its

simplest form, exchange presupposes at least two individuals and their mutual objects of property. The exchange relationship is a formal act that involves an equalization process. An object or entity is transformed to another in virtue of a rule of equivalence. First, the formal equality of the exchangers as owners of their property, second, the equivalence of the products exchanged are presupposed.

The act of exchange rests on the additional premise: that individuals do not appropriate one another's products by force but freely through mutual consent. It is assumed that persons enter contractual relations out of their mutual accord. They are recognized as free in doing so, and treated as rational beings who choose to enter certain transactions, and who can thereby be held liable and responsible for the obligations and consequences incurred by their activities. Contract is premised upon the recognition of personality.

In addition to formal equality and freedom, exchange relations also presuppose a distinction between possession and property. The specific object B is desired by C certainly on account of various natural characteristics. But when A transfers B to C in an act of exchange for D, the specific characteristics of these products become irrelevant. These objects are treated not as things, but as Sachen--objects of will. The Sache is a legal and social entity over which the individual has certain rights, which are transferred to another through contract. The distinction between possession and property parallels that of thing (Ding) and entity (Sache). In virtue of its specific characteristics, every object of property is a thing and thus stands in a specific relation to the needs and desires of the individual. As the repository of rights and claims, however, it is simply an object of will, an abstract entity.

Marx defines a commodity as follows: "A commodity is a product transferred to another, whom it will serve as a use-value by means of an exchange" (Capital, 41). Since an object can serve as use-value only in virtue of its specific characteristics, commodities are things, but in virtue of being objects of exchange, they are also Sachen. The substance of the act of exchange is a specific and concrete thing, while its form is a rule of abstract equivalence. Analogously, individuals who engage in commodity transactions desire, need, or want these things. Yet, they can only exchange with one another in virtue of being mutually recognized as persons. When they undertake an activity of contract out of their own accord they accrue responsibilities and liabilities. Their concrete needs and wishes are irrelevant in the face of their equal formal capacity for responsible agency. It must be concluded that the commodity structure described by Marx presupposes the Hegelian categories of property and personality.

I began this discussion with an analysis of free labor. The purchase and sale of labor power through an act of formal exchange signifies the treatment of labor as a commodity. But what is the distinction between labor and labor power? ⁵⁷ Labor is the intelligent, intentional human activity of performing certain tasks. If the individual were to alienate his labor, he would be alienating his capacity to engage in deliberation and to follow intelligent directions, for this cannot be distinct from the person. If the freedom of the person is indeed a presupposition of the very contract of labor, then what is alienated is not labor itself, but the use-value of one's labor. The aggregate of those physical and mental capacities called "labor power" are placed in the

service of another for a limited period of time. Labor power is to labor as potentiality is to actuality and manifestation is to force.

Hegel says:

Single products of my particular physical and mental skills and of my power to act I can alienate to someone else and I can give him the use of my abilities for a restricted period, because, on the strength of this restriction, my abilities acquire an external relation to the totality and universality of my being. By alienating the whole of my time, as crystallized in my work and everything I produced, I would be making into another's property the substance of my being, my universal activity and actuality, my personality. (Ph R, #67).

Hegel's concept of personality is the only one in the tradition of modern political philosophy on the basis of which this distinction between labor and labor power can be drawn. If personality is understood as a status capacity of the Hobbesian sort that the natural individual assumes through a series of artificial transactions, then labor as a whole can be alienated because personality is itself alienable. If, on the other hand, personality is not distinguished as a capacity or normative status from the concrete individual self (Locke), then it is hard to see how labor power can become an object of will at all. According to Locke, labor power would be inalienable, because every natural individual is immediately a person, and personality is undistinguished from being a concrete self. The distinction between labor and labor power presupposes the person's dual aspect as a concrete self and also as a being capable of rational agency. Since every natural individual is potentially capable of such agency, he or she is a person. Since, however, this potentiality must be actualized, developed, and expressed, no one is a person immediately. Only when certain types of activities are performed and potentialities developed can personality come to be. The

concrete activity of laboring actualizes one's abstract ability to labor. But since the self is also a reflective and rational being, he/she can abstract from this actuality. Labor power remains a potentiality of the person beyond its actual deployment in any specific form.

Marx claimed that once labor power could be sold and bought in the marketplace as a commodity, the universal measure of exchange would become the socially necessary labor time embedded in commodities.⁵⁸ If all human activity could be exchanged for a universal equivalent, then the most abstract denominator common to them all, namely their duration in time, would become the measure. In principle all human activity can be so treated, and therefore, all human activities can become commodities. Hegel speaks of the purchase and sale of sermons, books, lectures, and invention patents (Ph R, #68, 69). But if the domain of commodity exchange is limitless, i.e. if there are no natural restrictions as to the kinds of activities and products that can become commodities--then the contract relation can become the norm of all human and spiritual bonds, while the commodity becomes their conceptual form. Hegel attempts to contain abstract right in the sphere of private law. He distinguishes questions concerning the family, social justice, the public good, political power and authority from the domain of private law. The dynamics of bourgeois relations, of which he was not unaware, show that the structure of his political philosophy could be threatened from within. The presuppositions of freedom could become its mystified and mystifying fetters.⁵⁹

Chapter VI

Community and Totality

I. Community and Totality

In his influential study of Kant's philosophy, L'Univers et la Communauté Humaine chez Kant, Lucien Goldmann claimed that "man's" relation to the community is the essential problem of what Kant calls metaphysics."¹ According to Goldmann, Kant's preoccupation with the community of spiritual beings revived the significance in his thought of the "totality" as a philosophical category.²

Leibniz had already concerned himself with the problematic status of such a community. What kind of interaction is possible between two spiritual beings or intelligent substances, asked Leibniz?³ He called into question the adequacy of causal explanations to account for such relations and reconstructed causal relations on the model of the entailment between a premise and its consequences. Leibniz held that external-causal relations between spiritual substances are virtual, and that only the internal representational bonds between the successive stages of a monad are real. Since he viewed causality as a weak form of representational links, he attributed the interaction between such substances to a "pre-established harmony" among them. The sequence of representations of two substances concur, not in virtue of their impact on one another, or in virtue of the causal impact of a third upon both, but in virtue of their individual relation to God, who in turn guarantees a "pre-established harmony" among them.⁴

Accepting Hume's attacks on those who would present causality as a species of internal and necessary connections, Kant reasserted against Leibniz the reality of causal relations and, against Hume, he defended their objectivity. In the Inaugural Dissertation Kant argued that unless there is real interaction between substances, they could not form a whole.⁵ Certainly they could be united in a single representation, but such a unity of representation would have no basis in objectivity. If a collection of substances could not be conceived in such a way as to determine one another in certain ways, one could not speak of a whole. Relations among substances and the integrity of a whole are intimately linked: the reality of the whole has to be reconciled with the independence of its parts. If the parts are not independent, then there would be no grounds to speak of a whole rather than of a oneness. If such independence, however, could not be grounded in the relation these parts have to one another, again they would not constitute a whole but an aggregate only. As Kant explained, causal relations presuppose the independence of cause and effect from one another, at the same time that the necessity and objectivity of their interdependence can also be assumed.

The problem of a community of spiritual beings may have prompted Kant's thoughts on the totality, but as Goldmann observed,⁶ the totality is expressed by Kant in several forms: time, space, the world, and God. The general structure of a totality articulates the relation of autonomous parts to one another in a unity whose reality can also be maintained. The parts of space and time are not like attributes inhering in a container, and space and time cannot be resolved into a mere sum of succession of parts.⁷ Similarly, the universe is not the collection of all

beings but their mutually determined interaction with one another. God is not the unconditioned alone but the ground of all conditions--namely, the basis of all necessary relations in the world.

Kant offered an analysis of the distinctive unities of space and time, but he declared the Ideas of world and God to be antinomical structures leading the human cognitive faculty to errors.⁸ The concept of a human totality was no less a problem in Kant's thought than those of world and God. Kant could not bridge the gap between the worlds of intelligent and phenomenal beings. In my previous discussion (ch.V, iv) I claimed that since Kant could not account for the interaction of rational beings who were also bodies in space and time, the schism between the phenomenal and noumenal realms could not be eliminated. In analyzing the community of intelligent beings, Kant reverted to Leibniz's formulation. The relationship of moral selves to one another in a "kingdom of ends" ceased to be an issue for Kant because the content of the moral law was automatically guaranteed the universal consensus and binding force of all rational agents. As the eloquent description of Robert Paul Wolff stated:

We may compare these moral agents to mathematicians, seated together in a great hall, independently of one another solving the same problem. They arrive at identical answers, of course and assuming perfect rationality, no one will have any need to consult others. Each can perfectly well think of himself as proceeding as though he were laying down a solution binding upon the entire congress of mathematicians, for if his solution were not perfectly acceptable to every perfectly rational mathematician, whatever his interests, prejudices, or character, it would not be acceptable to himself (Autonomy of Reason, 183).

The totality, in its human and cosmological senses, is a problematical category in Kant's thought. On the one hand, causal relations alone

cannot account for the distinctiveness of the human community and, on the other hand, moral persons behave as autonomous and independent monads among whom the harmony of a formal unity reigns. Kant can conceptualize the reality of the moral body only in the form of such formal unity. Cosmologically, comprehending the unity of the whole remains an eternal aspiration of human reason. The Idea of the whole has a necessary regulatory function in spurring human thought onwards, but no cognitively valid claims can be made regarding this principle. Neither in the cosmological nor in the human senses of the totality can Kant develop a philosophical account that would reconcile the autonomy of parts with the reality of the whole.

In his 1802-3 essay on Naturrecht Hegel develops the relation between the categories of totality and community with explicit reference to Kant's philosophy (NR, 439 ff.). Empirical theories of natural right advocated by Hobbes and Locke, Hegel claims, fail to articulate the unity and form of an ethical totality. Kant and Fichte, on the other hand, deal with a unity in ethical life that is purely formal. This unity excludes the particular content of ethical life because the self-consistency of the will of a rational agent is juxtaposed to the heteronomous aspects of life in the community. In each case the result is the same--failure to conceptualize the ethical unity and to develop its true science (ibid.).

The speculative concern of the Naturrecht essay originates in the Kantian problem of the "unconditioned." The drive of reason to complete the conditioned series of spatio-temporal causality by uncovering its ultimate ground gives rise to the antinomies of pure reason.⁹ The "unconditioned" is called a principle of "identity" by Hegel since,

by bringing the totality of the phenomena within the domain of reason, this principle reveals the sameness of reason throughout the content that is grasped. The domain of reason is one in which the heterogeneity of content is subsumed under rules of formal identity. Hegel criticizes Kant's position on two grounds: 1) Kant assumes that reason is doomed to incompleteness. The totality is a regulative ideal only but never ceases to generate cognitive illusions. 2) Hegel claims that the incompleteness of reason is consequent upon its formal and external character. Since the identity sought concerns the formal act of thinking and not the unity of the object of thought, it has to be "negative." Kantian categories remain indifferent to content because they cannot grasp content in such a way as to reveal themselves to be its immanent form. Such speculative activity, Hegel claims, can only attain partial identity because it can only be asserted in the presence of a concrete manifold that remains given to it (NR, 442-443 ff).

In formal theories of natural right, the ethical bonds of the human community are reduced to juridical and legal relations among autonomous persons. The unity of ethical life is formulated in terms of legal relations, which alone satisfy the demands of consistency and universalizability. Those bonds arising through time, custom, culture, and tradition are treated as heterogeneous facts in the face of which the autonomous self reserves the power of rational judgment. The antagonism between form and content, or rather the necessary exclusion from form of material content, leads Kant to treat the community as if it were a legal aggregate-- a Rechtszustand.

Empirical theories of natural right discuss community either in terms of an instinct of sociability, or in terms of the instrumental

interests of self-preservation. The community is said to originate in the desire to procreate, in the natural inclination of humans to seek one another's company, care for their young, and seek mutual protection of their goods (NR, 439). The community is thereby treated genetically with reference to those tendencies of human nature that bring it into existence. The rational necessity of life in the community and the philosophical articulation of such a necessity are ignored. Nonetheless, Hegel is more sympathetic toward empirical natural right theorists than toward Kant and Fichte.

Hegel's sympathy derives from the closeness he sees in empirical theories to the concreteness of ethical life. These theories are more compatible with the actual content of life in the human community. In this context, Hegel juxtaposes the power of intuition (Anschauung) to the radical insufficiency of reason:

The unity of intuition, on the other hand, is the indifference of the determinations, which constitute the whole, not a fixating of these as the separate and the opposing, but grasping together and objectifying of the same. . . . And in this power of intuition and presence lies the power of the ethical in general (NR, 467).

Hegel stresses the significance of the "this"--the "living relation and absolute presence of the community," as it is called.¹⁰ Intuition captures as a genuine unity, as a self-related identity, what reason with its formal categories can only tear assunder.

'Intuition', however, is basically an aesthetic category, both in the greek sense of relating to what derives from the senses--to aistheton--and in the sense of expressing an identity of form and content that is alien to the ethical world. What the concept of intuition lacks that is crucial for understanding ethical life is mediation. The

members of an ethical totality in virtue of being individuals maintain their independence, while at the same time they are united in such a way as to constitute a community. The unity of a mediated entity cannot be grasped intuitively but only discursively. Hegel insists that to grasp the "absolutely ethical nature" one needs a "pure intuition"-- eine reine Anschauung (NR, 467).

The role played by art and aesthetics in German philosophy was examined by Georg Lukacs with special reference to the problem of the totality. The realm of art seemed to eliminate the duality of pure and practical reason. The philosophical task of aesthetics was "the creation of a concrete totality that springs from a conception of form and oriented towards the concrete content of its material substratum." ¹¹ Since in an art object, the content is created with a guiding principle of form, art can overcome the exclusion of difference from identity. Also, given that the conception of the work as a whole has to be thought to exist in advance in the mind of its creator, the unity of parts and whole in the aesthetic object can be grasped differently than in others. The whole determines its parts in accordance with a unified conception, while the interdependence of the parts is what gives life to the whole.

The paradigm of the art work, however, falls short of resolving the problems of the totality and community posed by Hegel in this early period. Though the significance of art may explain the peculiarly aesthetic quality of Hegel's republicanism, no solutions are offered on the speculative level. Since the inadequacy of formal theories of natural right to conceptualize the life of the ethical community is attributed to the inadequacies of the Kantian concept of reason, the transformation of

this very concept is at issue. The principle of speculative philosophy must accommodate the identity of identity with difference, Hegel claims. Such a principle should articulate the concrete unity of form and content, and should reconcile the reality of the whole with the autonomy of its members.

In the NR essay the totality in its speculative and practical senses is discussed through the category of nature. Hegel seeks a synthesis of Aristotle and Spinoza. In the Aristotelian tradition, since the individual cannot attain his excellence outside the community, the whole is said to be prior to the individual by nature.¹² Thus nature is the goal and the essence. Hegel revives this Aristotelian conception of nature by identifying it with the Spinozist teaching of substance. The polis is equated with the Volk, of which Hegel states, "the absolute ethical totality is no other than a people" (NR, 481). His synthesis of Aristotle and Spinoza merits attention.

Spinoza explains that "substance is by nature prior to its modifications," because only substance is defined as that which is "in itself" and can be "conceived through itself."¹³ Substance is first, both in the order of nature and in the order of thinking, since ultimately the two are identical. According to Spinoza, that which cannot be thought of independently of some other thing, or that of which no predicate can be asserted that does not necessarily relate it to other predicates, is also that thing the existence of which necessarily involves the existence and causal efficacy of another. The order of necessary connections in thought corresponds to an order of necessary causal connections in being. This leads Spinoza to identify the traditional scholastic teaching concerning the idea of God--that it is infinite, that its essence necessarily

involves existence, that it cannot be the subject of a negative proposition, etc.--with the totality of the causal cum rational order of nature in the famous proposition Deus sive Natura.¹¹ Only the totality is infinite, i.e. is not limited by anything of its kind. Anything that exists, on the other hand, must have been brought into existence through something else. It is fundamental to Spinoza's teaching that there be only one substance: it can only be said of the totality that is identified with God or nature that it is causa sui, that it brings and sustains itself in existence.

If only the whole is infinite, then individuality necessarily means finitude in Spinoza's system. Spinoza defines the finite as "something which can be limited by another of its kind." Of everything that is limited, it can be said that it is something; the finite can become the subject of a proposition. To assert a predicate of the subject of a proposition, however, is to imply that another is false. Since only God can comprehend all predicates, the finite, which is limited, has to involve a partial negation, an assertion of what it is not, as well as of what it is. The individual is limited by others of its kind; therefore it is determinate and hence negative. Every determination is a negation.

In the Naturrecht essay Hegel employs this speculative conclusion concerning individuality in relation to human and ethical individuality in particular. It is important to emphasize that Spinoza's teaching concerning the finite and the individual deals with the class of all individuals and not merely with the human individual. In Spinoza's doctrine, since no definition involves or expresses anything beyond the

nature of the thing defined, no definition implies or expresses a certain number of individuals (Ethics, prop. viii, note 11). Individuality must be explained through the cause that accounts for the existence of each individual. Since only the totality is causa sui, it follows that the cause of the existence of anything, the cause of its being an individual, is external to it. "Everything which may consist of several individuals must have an external cause" (ibid.). Individuality is an accidental mode.

Hegel's appropriation of the Spinozistic conception of the totality, which is by nature prior to its modifications, begins to show its limitations exactly at this point. It is clear that the ethical totality is not a totality in Spinoza's sense, because ethical totalities are composed of individuals. They cannot be self-caused but must be caused by others like themselves. Second, in the domain of practical philosophy, the identification of human individuality with the Spinozistic conception of the finite would imply the following: ethical nature is prior to the individual both conceptually, in the order of thought, and existentially, in the order of being. The conceptual priority of ethical nature to the individual can be explained in relation to an understanding of human essence that considers man incomplete and not self-sufficient outside the ethical community or the life of a people. It is this aspect of Spinoza that Hegel can unite with Aristotle.¹⁵ The life of the totality is seen to be the goal, the telos of the life of the individual. This means that there is a domain of human activity that is informed by the life of the whole as its guiding spirit. Hegel wistfully refers to the Aristotelian citizens, the Politiker, and the Platonic warrior classes (NR, 489).

The shift in Hegel's thought from antiquity to modernity, from substance to subject, and from republic to civil society has been frequently alluded to in this essay. It is no surprise that such a conceptual shift would also lead Hegel to reformulate the structure and paradigm of the totality. In the NR essay Hegel draws an analogy between the unity of the ethical whole and that of an organism:

Like everything living, ethical life is a sheer identity of universal and particular and for that reason is an individuality and a shape. It carries in itself particularity, necessity, relation . . . , but these are identified with and assimilated to it, so that it is free in this identity . . . * (NR, English trans. p. 126).

Life appears again at the beginning of Hegel's discussion of self-consciousness as the paradigmatic unity of identity and difference. Since, however, self-consciousness is called the reflected unity of life (Ph G, 221; 135) it is clear that the concept of life is no longer adequate to describe the structure of subjectivity. Reflection involves mediating activity and the return to self after externalization in a medium. But Hegel also makes clear that the reflected structure of self-consciousness is "doubled"--it involves reflection into self from an other who is also a self. The conceptual structure uniting mediating activity with the redoubling of self-consciousness is spirit--the new paradigm. of the totality in Hegel's thought. The concept of spirit offers a more genuine solution to the problem of reconciling the unity of a whole with the independence of its members. The unity of the whole is now attributed to the activity of its members in such a way that spirit defines a dynamic unity. Reconciling the process of externalization through which the experience of consciousness unfolds with the recollection and

* I chose to quote this passage from the English translation of T. M. Knox.

interiorization of the philosophical "we" is one of the goals of the Phenomenology (Ph G, 793; 552]. In other words, Hegel seeks to reconcile unfolding activity with the unity of the process that is generated by this activity. Though he leaves behind the perspective of the Phenomenology, the methodology of Hegel's later work preserves the unity of process and activity in defining the totality. I will examine the method of the Philosophy of Right with this premise in mind.

II. The Methodology of the Philosophy of Right

The Philosophy of Right is the science of right that analyzes the Idea of right, i.e. the concept of right and its actualization (# 1, 2). Examining the Idea of right is equivalent to tracing the transformation of freedom into an existent, and the embodiment of free will in the world through concrete activity. The content of the science of right consists in the actuality of freedom in the world: "This, that an existent in general, is the existence of free will is Right--it is also freedom as Idea (Ph R, #29). The science of right has as its object the totality of those logical and real presuppositions constituting the "rational system of freedom" (Ph R, Ilting ed., 148). The actualization of a Hegelian concept is equivalent to its objective instantiation, or to its assuming substantive presence in the world. Since, however, all these various forms of objectivity are only so many manifestations of the same principle, their succession and development presents a system that is referred to as the "Idea" of right. Hegel's definition of right as the unity of the concept with its actualization further illuminates the significance of abstract right: Since abstract right describes the

"immediacy" of free will whose urge is to realize itself in the world, the discussion, in fact, contains the germ of the whole. The actualization of freedom in the world is the moving principle of the entire science of right. The section on abstract right formulates the urge of free will to give itself embodiment in the world and, therefore, implicitly contains the "Idea" of right.

The Philosophy of Right discusses the determinations assumed by the concept of 'free will'. Legality, morality, and ethical substance are the concretizations of freedom. In legality, freedom is given abstract existence through the rights of property and personality. Abstract right is the immediacy of the concept. In morality, the existence of the individual as a moral self seeking to realize the good is considered the paradigm of freedom. Morality describes the concept of free will in mediated form. In ethical life, the unity of abstract existence and a mediated relation to self--that is, the objectivity of social institutions and the reflective and judging activities of the self--are combined. The individual can now discover freedom in the shared human world.

The methodology of Hegelian science articulates a system of knowledge, which is the only formal manner in which the development of concept into Idea can be expounded.¹⁶ I will follow Louis Althusser in describing the unity of such a systematic science as a "spiritual totality."¹⁷ Truth can be grasped not only as substance but as subject when knowledge is expressed as a systematic totality. Substantiality is no more than the content that the concept assumes at various stages of its logical development. However, the task of knowledge is to reveal

this concretization to be a manner of self-expression also. The manifold of the content is grasped when all its determinations can be re-assimilated into the one principle of which they are the unfolding. Knowledge is reflection into self, or a return to self from what is other. Substance is thereby posited as a presupposition of subject.

The logical movement of the concept describes a twofold direction: concretization and interiorization.¹⁸ As the concept assumes externality and content, it is specified further. The object of knowledge becomes concrete; it is enriched by the details and determinations that now are known to be its various aspects. This concretization is also an interiorization, a motion inwards. Since a concrete content is only truly grasped when it can be deduced as a moment of the logical progression of the concept, knowledge is also a re-collection, a gathering together of dispersed aspects into the bosom of a self-unfolding principle. As the object of knowledge unfolds, the process of knowing acquires a richer interiority.

The methodology of Hegelian science describes the development of the concept as a systematic totality. Following Louis Althusser, I have called the Hegelian totality a "spiritual whole." The unity of this totality consists in the principle that emanates through it. The parts of the whole are only so many aspects of this one principle. Legality, morality, and ethical life are the various forms of succession assumed by the concept of 'free will'. The succession of parts corresponds to the logical unfolding of the concept. This totality is transparent because unity consists of conceptually grasping a reality that thereby becomes 'spiritualized'. The one identical principle shines through each aspect of the whole that in turn, constitutes a moment of difference within the principle. The integrity of the whole is preserved by the return to

self of the concept from its diverse moments. It is clear, of course, that such a return to self logically presupposes the "identity of identity with difference."

In his Naturrecht essay Hegel had maintained that to grasp the totality one needed a "pure intuition." The unity of form and content would be immediately grasped by the thinker in a glance. The unity of the totality in Hegel's mature thought is discursive rather than intuitive and articulates the principle of the "identity of identity within difference." But the unity of the concept also gathers all difference and determination back into itself. What is dispersed is also interiorized and held together. Hegel describes the standpoint of the concept as that of the "ewige Nun"--the eternal now, in whose homogeneous light all difference is dissolved and in whose eternal light knowledge basks.

The relation of temporality to logic has been addressed in this essay several times. The Philosophy of Right presents no exception to the general principle that the sequence of temporal succession is assimilated and repositied as conceptual deduction. Earlier it was said that Hobbes described historical development as if it were logical succession, Hegel, on the other hand, makes logical development the paradigm of all becoming. The movement from various aspects of temporality to history, and from history to the concept, is continuous. Historical moments can be repositied as aspects of the concept because history reveals the shining through of a single conceptual principle in the myriad play of appearances. Philosophy is the "rose in the cross of the present," since the concept reduces the confusing plurality of historical appearances to an intelligible unfolding and recollects them in the insight of an eternal present.

Hegelian science, therefore, presupposes the homogeneity and contemporaneity of all historical time. Historical succession is the reflection in existence of the dialectical development of the Idea. Time can be treated as a continuum in which the development of the Idea is manifest (Althusser, Reading Capital, p. 93). The homogeneity of time presupposes its contemporaneity. The moments of historical development all can coexist in one and the same time, and more specifically in one and the same present. The structure of the Hegelian concept defines the spiritual totality: the total copresence of all determinations of the concept in a single instant.¹⁹ The continuity of time reflects the continuity of the concept. The Philosophy of Right describes the ethical world at that point in history when its divisions correspond to the moments of the Idea of freedom.

I specified above that in his criticisms of Kant, Hegel had indicated the conceptual task of the category 'totality' to be twofold: articulating the concrete unity of form and content, and reconciling the reality of the whole with the autonomy of its members. The structure of the Hegelian totality eliminates the schism between form and content. Since content is generated by the unfolding of a principle, which in turn is instantiated in this process, form and activity, and process and principle are inextricably related. But can the Hegelian totality also reconcile the reality of the whole with the autonomy of its members? In other words, how does Hegel analyze the structure of relations in community in view of his methodology? What are the characteristics of the ethical world that can be grasped via the

unfolding of an immanent principle of form? I hope that the following examination of what Hegel means by "ethical substance" will provide an answer.

III. Ethical Substance

The concept of the "ethical" initially connoted, for Hegel, nostalgia for a way of life that no longer was. Hegel, who had been studying Aristotle's practical philosophy since his days at Tübingen (1795-97), contrasted the Christian and individualist inspiration of modern social life with the publicly oriented communitarian life of the Greek city-states. His early works contain many attempts to integrate Kantian morality with categories of action like war and politics borrowed from the Greek experience. Whether one treats these early writings as searches for a Rousseauian "civil religion," integrating the virtue of the individual into the good of the whole, or whether one sees in them systematic gropings away from the tradition of practical philosophy toward a philosophy of spirit, there is little doubt about the following: ²⁰ the category of "ethical substance" in Hegel's later thought, and particularly in the Philosophy of Right, is a reformulation of Aristotelian practical philosophy. Whereas for Aristotle ethos signifies the collective life manners of a human community, by "ethical substance" Hegel understands the sphere of social interaction which, in some sense, generates and constitutes the objectivity of shared life. ²¹

According to Hegel's early depictions, the polis was the living unity of individual and collective, of private and public, in which

the activities of the individual and the life of the whole were not divergent. In terms borrowed from Rousseau's Social Contract, Hegel spoke of the union between the will of the individual and that of the universal.²² In such communities, shared norms determined the manner, the content, and the end of individuals' activities, while custom and tradition defined their reciprocal expectations and duties.

Aristotle's practical philosophy addressed the shared sense of the 'good' that those who lived and participated in the ethical community had. The content of ethics and politics concerned the "right way"--the appropriate manner of conduct and speech of free citizens. The true ethical virtues could only be cultivated by those who participated in deliberation. Since by 'virtue' Aristotle did not understand inward reflection upon one's activities and inclinations, but ethical activity revealed in the disposition to act and speak in certain ways, the opportunity to be able to exercise one's dispositions became all-important. Politics was praxis--shared activity in public life.

Undoubtedly, such a description of life in the Greek city-states must be considered an idealization. Hegel imposes aspects of Homeric society upon life in the democratic city-states. Tyrants, sophists, developed maritime and commercial activity, Athenian corruption, and cunning do not enter Hegel's picture.²³ Hegel's image of the polis is much like the frozen moment captured by Keats in his "Ode on a Grecian Urn."²⁴ The flow of time is only stopped by the contours of the vase as one's eye follows the flight of the maidens from the advances of the centaur around the urn. The polis is a memory, and its beautiful unity the object of many longings.

This is the beautiful, happy freedom of the Greeks which has been and still is the subject of such envy. The nation is divided into citizens and is at the same time one individual, the government. . . . The same will informs the individual and the universal. But a higher abstraction is necessary, a greater opposition and culture, a deeper spirit. . . . There are no protests here; each man knows himself to be immediately universal. . . . The higher division (of the modern world) is that each person retires completely into himself, knows himself as such to be the essence, he comes to the willful idea that although separated from the universal, he is yet absolute and in his knowledge he possesses his absoluteness immediately. 25

Hegel's interpretation of the tragedy of Antigone marks his critical distancing from the polis. Life in the polis remained "immediate," he claims, because certain facts of shared conduct remained opaque to intelligible analysis and impervious to the understanding of the individual. Hegel attributes the inability of the institutions of the polis to accommodate the demands of the individual to their ultimate arbitrariness. Just as certain distinctions between masters and slaves, and between men and women, were accepted as given, oracles and sacred signs were appealed to in justifying certain practices. The Greek city-state dissolved as a result of the confrontation between the claims of the individual and those of the community. Since, however, ethical life was not transparent to the person but dominated by irrational and opaque justifications, the individual could only uphold "the law of a nether world" against the "law of the hearth." The clash between them was tragic precisely because both claims had equal value. In the language of the Phenomenology, consciousness can grasp ethical substance as its "own," and discover itself to be a part of it when and if ethical life can also be grasped conceptually.

Its essential spiritual being (Wesen) has been above designated as the ethical substance; spirit, however, is concrete ethical actuality. . . . Being substance and

universal self-identical permanent essence, spirit is the irremovable basis and starting point for the action of all and every one: it is their purpose and their goal, because the ideally implicit nature of all self-consciousness. This substance is likewise the universal product, wrought and created by the action of each and all (Ph G, 458; 314).

The analysis of the Phenomenology, tracing the progression from the ruins of the Greek city to the corrupt hedonism of civilized Europe, to Absolute Terror, and to the "beautiful soul" of the German romantics, is well known and requires no further discussion here. Of interest are only the implications of this discussion for understanding Hegel's divergence from the Aristotelian conceptions of ethos. As the above passage indicates, Hegel contrasts ethical substance with ethical actuality. "Actuality" signifies the dynamic unity of existence and thought. Existence is shaped in such a way as to reflect the presence of intelligent activity, and, therefore, can only be understood in relation to such activity. Ethical life attains actuality when it is the product and consequence of the activity of individuals. "The universal is the product wrought and created by the action of all" or, "consciousness discovers the unity of its self and its substance in the form of its 'work'" (Ph G, 462; 317).

Consistent with the twofold movement of the Phenomenology, the appropriation by consciousness of the wealth of ethical substance is subsequent to the externalization of the collective subject in history. In reappropriating the world of ethical institutions and culture, consciousness discovers them to be the 'work' and 'product' of this collective subject. The "spiritualization" of ethical substance signifies remembering that process in which subject was externalized as substance.

This externalization appears in the social activity of the human world. As Lukacs observes, "Thereby a self created objectivity comes into being drawing its vital energy from the social activities of the subject . . . so that it eventually displaces what had been lifeless substance" (The Young Hegel, p. 491).

In his early works Hegel discusses the ethical community as a whole comparable to the Spinozist concept of Substance. The category of ethical substance in the Philosophy of Right preserves aspects of this earlier identification. The individuals are called "attributes" of the ethical substance that is their ground and their goal (#142). The conduct of individuals and the content of their activities derive from shared practices of life. The community can be referred to as the "essence" of the individuals composing it, because the identity of these individuals and of their activities can only be explained in relation to their collective existence. Ethical life is the ground, in the sense that it constitutes the form--that is to say the what--and in the sense that it is the essence--the explanatory principle--of social activities. If human conduct and activities must be explained with reference to collective practices, these are also the goal of such activities; activities are performed because they constitute the way of life of a community. Life in the community provides human activities with their immanent purpose. Ethical substance is the what, the why, and the for the sake of, of human actions.

This repository of goals, manners, and patterns known as ethical life has substantiality for the individual. It is continuous, while the individual is mortal and finite. Ethical institutions have objectivity in the sense that they are embodied in the world, and more

significantly, because they face such individuals as compelling.²⁶ In virtue of being shared by the general community, these practices acquire normative sanction, and confront individuals as what they can or cannot, should or should not engage in. This aspect of ethical life is perfectly compatible with Aristotelian categories of practical philosophy, but thinking of the social world as the 'work' and 'product' of the activities of these individuals is not. Consequently, it is not adequate to analyze Hegel's claims that "ethical life is the general mode of conduct (Sitten) of individuals" (Ph R, #151),²⁷ through Aristotelian categories of ethos. For Hegel the activity of individuals constitutes the objectivity of the ethical world. Social actions initiate a process whose dynamics are not natural but historical. Objective spirit is also objectified spirit and objectifying spirit: objectified because the reality of social life is generated and sustained by human activity; objectifying because the ethical community itself provides the impetus, goal, and shape for individuals' actions.²⁸ To grasp ethical life in its becoming and objectivity necessarily transcends the standpoint of the individual. Only from the perspective of the process as a whole can the substantiality of ethical life be viewed as constituted. For the finite individual this social world is given and can only be appropriated in thought. But the modern self can discover fulfillment in these institutions because, being transparent to thought, they are also susceptible to the claims of conscience and individuality. The intelligibility of modern collective life is due to its being the consequence of intelligent human activities.

Such a perspective that would treat human practices as generated in a process is closed to the contractarian tradition. Neither Hobbes

nor Kant can entertain a view of collective life as constituted in process. Both treat civil society as an artifact, brought into existence by human intelligence and to be preserved in existence by exercise of the same. The social order is the creation of a consciously undertaken act of will. To guard against the destructive tendencies of self-interested individualism, Hobbes recommends the vigilance of a sovereign, and Kant hopes that the wisdom of a republican constitution will guarantee the stability of social order. Locke, on the other hand, emphasizes the beginnings of human community in language, sociability and utility. The dynamics of labor and accumulation transform these beginnings. Locke does not consider civil society to originate in a logical fiction but thinks it comes into being at the end of a historicized sequence.

The affinity between Locke and Hegel is no coincidence. The science of political economy provides both with an explanatory paradigm:²⁹ human activities bear consequences whose dynamics may unfold into a process wholly unintended by these agents themselves. The objectivity of the social world is sustained and gradually altered by the very activity of those individuals whose goal it is to live up to its sanctions. Locke assumes that there is a natural identity of interests among individuals such that the pursuit by each of egotistically motivated desires and goals will result in a common good.³⁰ Social order is guaranteed by the commonality of interests as the invisible hand of the market process works its way through. There is little doubt that in the model of the "invisible hand" Hegel saw a paradigm for the unity and harmony of individuals within a spiritual whole.

Qua substance, spirit is unbending righteous self-sameness, self-identity, but qua for itself, self-existent and self-determined. . . . it is the benevolent essential nature in which each fulfills his own special work, rends the continuum of the universal substance and takes his own share of it. This resolution of the essence into individual forces is just the aspect of separate action and the separate self of all the several individuals; it is the moving soul of the ethical substance, the resultant universal, spiritual being (Ph G, 459; 315).

The activities of individuals externalize themselves in a collection of mediating structures. Ethical life is no longer alien to these individuals since its objectivity is generated by their activities.

There is a methodological convergence between Hegel and the liberal-utilitarian tradition. Since Hegel never attributed the origin of the market, however, to the dispositions of human nature and never identified civil society as an atemporal condition of life, it is necessary to emphasize that this convergence is formal only. According to the categories of the Logic, particularity returns to the concrete universal as its immanent ground.³¹ The process of logical deduction that traces the transition from universal to particular, and to the individual, can be recapitulated by the particular returning to the universal in an immanent conceptual process called "reflection into self." Just as the universal does not merely subsume the particular but is concretized through the particular, so the particular is not externally but immanently related to the universal. The particular cannot subsist by itself existentially and conceptually. The universal is revealed to be its ground.

It is clear that logical relations between individuals and ethical substance conform to this model. Not only is ethical substance the ground of individual activities, it is also their

universal product. By dint of the immanent logic of their own activities, individuals reveal this substance to be the ground from which they proceed. The particular passes over into the universal. Similarly, the "invisible hand" paradigm explains the general good to be consequent upon individual activities. The immanent and unconscious logic of their actions integrates individuals back into the social whole. The universal is their unintended product.

Hegel's ontological analysis of relations in the human totality presupposes the structures of modern social life. Civil society provides the paradigm of such a unity whose wholeness and functioning can only be generated by the independent and conflicting activity of its members. In the structures of modern social existence Hegel discovers certain solutions to problems posed by the category of the totality. The unity and substantiality of the ethical whole and the activity of its individual members are no longer juxtaposed. The objectivity of the social world is constituted by the interaction of individuals.

IV. Civil Society and Natural Right

In his first attempts to systematize developments of modern society, Hegel combines the ontology of ethical substance with a Platonic account of classes. In the System der Sittlichkeit the unity of the ethical whole is divided into three classes: the first representing free ethical existence, the second standing for rectitude, and the third those whose lives are "unfree" and "natural."³² Clearly Hegel has in mind the ruling philosophers, the guardians, and the artisans. The correct performance by each class of its appropriate virtue contributes

to the unity of the whole. In this community, social unity is truly organic: individuals are differentiated into classes functionally, and the function of each contributes to the maintenance of the whole.

Hegel's later characterizations depict the Burgher and the Politiker as the two classes.³³ Those who have the life of the whole as their purpose are the warriors and rulers. Their activities being ends in themselves, they are the "absolute class." Since for the Burgher, the security of property and the satisfaction of need are the highest values, they are the "natural" class. The value and goal of their activities are relative to their needs and desires. They stand in a necessary relation to what is other than themselves. The 1803~~3~~ essay describes the clash between the values of these two classes under the title "the tragedy and comedy of ethical life." While tragedy is the conflict of values that are ends in themselves, comedy describes the usurpation of the status of the absolute by that which is only relative and particular. Hegel believes that the comic element must be given its due in the modern world, since it is in the process of overtaking the life of the ethical in its entirety:

With the loss of absolute ethics and the debasement of the class of nobles, the two previously existing separate classes have become equal. . . . The necessary triumph of the principle of formal unity and equality has done away with the true inner distinction between the classes. . . . The principle of universality and equality had to take possession of the whole in such a way as to replace the particular classes with a mixture of the two. Beneath the law of formal unity what has really happened is that this mixture has cancelled the first class and made the second class into the sole class of the nation. (Quoted in Lukàcs, The Young Hegel, 375).

When bourgeois norms--the security of property, the satisfaction of needs, and the enjoyment of goods--are universalized, the unity of the

whole loses its organic and functional quality. The logic of the whole inadvertently asserts itself amidst the chaotic motions of the second estate, and Hegel likens this process to the motions of an elemental animal.

In the Philosophy of Right, however, he describes political economy as a science "which has arisen out of the conditions of the modern world" (#189Z). The logic of those motions studied by political economy is no longer compared to that of an elemental and destructive animal but is instead likened to those of the solar system, which to the eye only display irregular movements, though there are laws governing these irregularities (#181 A, p. 268). The positions of the stars, as they appear to the naked eye, contain necessary distortions. Given the point on earth of the observers, the point in the solar cycle, the atmospheric conditions, and the like, it can be discovered that what seems to be the case for the individual is indeed distorted, not accidentally but necessarily. When the point of view is shifted, the source of distortions also shifts. In political economy, the motions of society appear chaotic, senseless, and accidental. Viewed from the standpoint of self-interested individuals, their social activity presents the appearance of antagonism and conflict.

The divergence in Hegel's assessment of the social motions generated by the activities of the second estate is significant. In his early writings he stresses the "natural" and "blind" aspects of economic activity. With the service of categories drawn from Aristotelian practical philosophy, he distinguishes activities that are ends in themselves (praxis) from those that have their ends relative only to

something other than themselves (poiesis). Economic activity expresses man in his capacity as a needy and natural being. Economic activity is blind and elemental because of its disruptive social effect: the life of the second estate as it eventually permeates relations in the ethical community erodes former patterns of life. The economic sphere interposes itself between the family and the state. The accepted norm of public interaction becomes the satisfaction of needs. Hegel identifies economic activity with the "natural" realm in two senses: On the one hand, the natural as the expression of the needy being of humans is opposed to the rational, and on the other, the natural is opposed to the historical and the traditional.

In the modern world economic activity is organized as "a system of needs" (Ph R, #189 ff.). The pursuit by private individuals of their interests, satisfaction, and fulfillment is the accepted norm. Since needs and their fulfillment belong to man as man, qua anthropological creature, civil society is the first social order to make man's needy nature its explicit content. By making need satisfaction the norm of public life, civil society removes individuals from previous historical bonds and uproots the individual from the security of ethical life. The "destructive" and "elemental process" unleashed by the private activity of need satisfaction is not confined to the economic activities of a single class but permeates ethical substance as a whole.

Modern economic activity disrupts traditional relations between the household and the sphere of politics.³⁴ Whereas in ancient society the household functioned as the unit of social and sexual reproduction, in modern society the family loses its economic function.

Its task is restricted to nurturing, caring, and satisfying private needs. The public sphere, in which the activity of social reproduction takes place, is distinct from the intimate domain of family life. In ancient societies such a sphere could occasionally exist alongside the household as the market for the exchange of goods. In modern life civil society is the very domain of economic activity. In the sphere of universal exchange not only goods but also labor power is bought and sold, and the individual subsists by "earning a living" in civil society.

The principles of abstract revolutionary justice and equality fit the structural requirements of practices in civil society. The principles of revolution abstract individuals from inequalities of birth, rank, local differences, and privileges. The needy nature of men describes a uniform condition because all are equal in view of the demands of human nature. Since all individuals experience drives and needs with equal urgency, all are uniformly entitled to the rights and claims of human nature as well as being uniformly endowed with the ability to exercise and enjoy them. While the revolution rationalizes social and political reality by subjecting practices of shared life to the norms of thought, in the "system of needs" individuals are released from local and traditional confines. The rationalization of political reality and the spread of homogenizing market relations go hand in hand.

These social and historical transformations of European society make possible its philosophical comprehension. The norm of "nature" and the requirements of the Hegelian concept coincide: both entail generality, abstractiveness, and the penetration of opaque and accidental detail by universal rules.³⁵ But Hegel did not identify the methodology of the concept with the thought experiments of natural right theorists. Having

grasped the becoming of civil society as a process, he restores the primacy of the historical over the natural. Yet his concept of history presupposes the break with tradition brought about by civil society. Historicity for Hegel is not the lived time of the past. It is best revealed in the tension between past and present as one anxiously awaits the future. The task of the Phenomenology is often specified to be a witnessing of the birthpangs of the Neuzeit.³⁶ Civil society that is interposed between past and future portrays men in a timeless predicament of need satisfaction. Paradoxical as it may sound, the ahistorical character of modern society is a precondition for grasping social reality as historical, because only when the hold of tradition is broken can social reality be understood as having become in an objective process.

The Philosophy of Right describes civil society as the stage of "difference," which "prima facie portrays the disappearance of ethical life . . . this relation constitutes the world of ethical appearance--civil society" (Ph R, #181). The seeming disappearance of ethical life is precipitated by the fact that in civil society each individual is treated as a person with self-regarding needs and interests. The pursuit of needs removes the individual from ethical bonds and thrusts him back upon himself. The social universal of which the individual is a member appears only accidentally in civil society. The logic of the "invisible hand" is the only manner in which the interdependence of these individuals is revealed. The "system of needs" displays the proliferation, multiplication, refinement, and intensification of human needs. Increased division of labor means that needs and the work processes leading to their satisfaction are further subdivided. While spreading

individuation and specialization, the increased division of labor also creates greater interdependence among individuals. Along with greater homogeneity brought about by increased exchange, the idiosyncrasy, privacy, and peculiarity of tastes and desires also develop. Thus, particularity leads to its opposite--universality, homogeneity leads to idiosyncrasy, and the concentration of wealth leads to the emergence of poverty. Civil society not only is the sphere of "appearance," it is also the domain of "dissemblance." In the words of Mandeville, in civil society "private vices become public virtues." 37

I have previously discussed the 'fit' between form and content in natural right theories. The methodology of a state of nature, I have argued, corresponds to the intentions of natural right theorists to describe the regulation of relations among men in a civil order. The new paradigms of legitimacy and obligation provided by their theories requires the abstracting of men from previous social bonds. Human transactions are now subject to wilfully stipulated and artificially generated rules. Public authority is the guarantor of a legal-juridical framework. It must now be clear that a social order primarily defined through the institution of public legal authority, and upholding the rights of personality and property, defines the structure of relations in civil society. A uniform system of need satisfaction is established in which potentially all human beings can participate. Since the only normative bond among these individuals is economic exchange, the institutional tie uniting them can only be legal and formal. It is in virtue of being persons and property owners that all can participate in civil

society. The legal character of these transactions is necessitated by the structure of exchange and commodity relations. It will be remembered that Marx defined the commodity as "an object of use transferred to another by means of an act of exchange." The act of exchange presupposes the formal equality and freedom of those who enter this transaction. Both products and individual activities are equated with one another, and their equality can only result from their formal status as objects of property. Since it is the difference in their substantive qualities that motivates the exchange, their equivalence is a function of their legal status.

Marx defined the uniqueness of bourgeois relations with reference to the buying and selling of the one commodity--labor power. But such a market in labor power can only exist when human beings are treated as right-bearing persons. Individuals can alienate their activities formally as their own property only when they are recognized by others as the legitimate proprietors of their own abilities and activities. If individuals were not treated as persons, they would not have complete jurisdiction over their activities in matters that did not infringe upon the rights of other persons. The unhindered buying and selling of labor power presuppose the freedom of personality.

We can infer the following conclusions as to the relation of natural rights to civil society: 1) civil society is a market society, 2) in addition to the purchase and sale of goods, relations in civil society are characterized by the buying and selling of labor power as a commodity, 3) such relations presuppose a legal-juridical framework, 4) the commodity is an entity of use as well as a legal entity, 5) the legal

framework necessitated by relations in civil society corresponds to that described by Locke, Hobbes, Kant, and Hegel, 6) this framework must protect and uphold the capacity of individuals to bear rights, to own property, and to transact contracts.

Hegel, in the Philosophy of Right, claims that it was only appropriate to speak of "man" in civil society. For here, one could confront so-called "human nature" with all its needs, desires, and inclinations. Natural right theorists who make human nature the cornerstone of their theory of rights assume the standpoint of civil society as their own. But this anthropological category only makes sense when the norm of need satisfaction has become a collective practice. The historical inspiration of natural right theories is rooted in the transformations brought about by the advent of centralized monarchies and civil society. Again and again, the problem of the social order is defined in terms that can only be compatible with the structure of relations in civil society. Hobbes asks: "How to reconcile the needs, desires and inclinations of private individuals with the like needs, desires and inclinations of others?" Kant reiterates, "Given a multitude of rational beings requiring universal laws for their preservation, but each of whom is secretly inclined to except himself from them, to establish a constitution . . . with the result that their public conduct is the same as if they had no such intentions" ("Idea for a Universal History from a Cosmopolitan Point of View," pp. 15 ff.).

C. B. MacPherson, in his influential study The Political Theory of Possessive Individualism, eloquently analyzes the relation between market societies and modern natural right theories. MacPherson

concludes that "the possessive quality of this individualism is found in its conception of the individual as essentially the proprietor of his own person or capacities, owing nothing to society for them. . . . The individual is seen neither as a moral whole, nor as part of a larger whole, but as an owner of himself" (p. 3).

The purpose of this dissertation was to trace the development of the modern natural rights tradition from Hobbes and Locke through Kant to Hegel. I claimed that a philosophically cogent justification of rights cannot rest with the view of the individual as their sole proprietor, and that the very grounds on which rights are acknowledged as the justified claims of an individual require that they will also be recognized as the justifiable claims of all other individuals. Whereas for Kant the capacity of moral persons to act as autonomous agents provides the ground of their entitlement to rights, Hegel reformulates the concept of natural rights without reference to conditions of noumenal agency. For Hegel rights define norms of interaction among persons who recognize one another as spiritual beings capable of engaging in the social practices of labor, language, and action. I maintained that in the structure of its argumentation and its logic of justification, Hegel's defense of basic rights is unique. In the following conclusion I will suggest how Hegel's relation to the tradition of modern natural right continues to be alive and significant for us today.

Conclusion: Abstract Right Today

Beginning with Hobbes, the political philosophy of the modern period is dominated by questions of legitimate obligation and political authority. The relation of the individual to the community is not based upon a duty but expresses a claim. The foundation of the political order is not a law but a right. These original claims of the individual, called "natural rights," are based on assumptions drawn from a moral anthropology, a collective history of manners, theology, and Biblical exegesis. The state of nature describes that initial condition in which the natural claims of the individual find their strongest expression. I have called the state of nature a "philosophical metaphor" devised by these theorists to defend the priority of the individual to the community. The individual is prior to the community in three most significant senses: logically, Hobbes, Locke, and Kant assume that the attributes of the self and the identity of the individual can be defined without reference to his or her interaction with other selves. Psychologically, they claim that each individual confronts the demands of his or her nature prior to interacting with others. Temporally, relations between man and woman, father and child, and master and servant are said to precede the union of civil government. The metaphor of a state of nature is a complex figure of thought constituted by these various dimensions. I have called the theory of the self implied by the concept of a state of nature "practical egotism."

The sense in which this concept of practical egotism can be applied to Kant, however, must be distinguished from the sense in which it applies to Hobbes and Locke. Both in his theoretical and in his practical philosophy Kant begins with assumptions of formal identity among selves. On the one hand, the transcendental unity of apperception is a condition of validity only, while on the other hand, this principle also involves a necessary reference to the condition of a reflecting individual. Since the statement that all individual selves would partake of this universal principle is tautological, the experience between self and other becomes irrelevant for comprehending self-identity. In his practical philosophy, Kant defines a condition of noumenal agency in which all rational agents, and not only man himself, partake. Since relations of right only obtain among beings embodied in space and time, and vulnerable to the use of force, violence, and coercion, Kant has to show how a transition from the "kingdom^{of} ends" to the earthly community of justice can take place. It is on account of his failure to explain the condition of moral persons who are also concrete selves that his position can be most cogently described as a "practical egotism." Kant denies neither the reality of the world nor the existence of others, but both in his theoretical and in his practical philosophy he proceeds from assumptions that are unable to account for the shared experiences of the human community.

Hegel agrees with the tradition of modern natural right that, from the standpoint of the self, the drive to assertion and expression in the world are primary. The phenomenological analysis of desire expresses in existential terms the priority of freedom to nature, and of activity

to unity. It is suggested in the "struggle for recognition" that the self can attain full expression only in the presence of another. Hegel refers to the unity of recognizing selves as a geistige einheit--a spiritual unity. Whereas the Naturrecht essay characterized the unity of the ethical community in terms of "nature" and "substantiality," the shift to spirit in the Phenomenology of Mind indicates Hegel's parting with antiquity. The ethical world is now seen as the "work" and "product" of a collective subject. The reconciliation of the struggle for recognition involves the reappropriation by the recollecting self of the process whereby this collective subject exteriorized itself in history. The intellectual effort in grasping this process is paralleled by the effort of history whereby the human world comes to be. Substance becomes subject when it is recollected that substance was only the exteriorization of subject. The reconciliation of individual selves and their reintegration into the spiritual unity require that such unity be viewed as a process generated by the often inadvertent activities of a collective subjective in history. Hegel justifies the beginning of ancient natural right, namely, the condition of men in concrete human communities, only because history, which mediates between nature and freedom, teaches that the community is the product of human activities. The Hegelian spiritual totality is eminently historical because it is based upon the recollection of historical becoming.

The transformations of the modern world first allow the insight that ethical substance can indeed be grasped as subject. Hegel's philosophy stands in a unique relation to its times precisely because a new insight into the socio-historical world is revealed at this time--

that the ethical world can be both ground and product, both premise and consequent, of the activities of interacting individuals. Hegel can claim to develop the science of this modern world as the unfolding of a single conceptual principle--the free will--because the modern world can indeed be viewed as the unintended consequence of human activities.

Freedom can be discovered in the ethical world because the individual, by comprehending that this world can be the work of a collective subject, can also overcome its opacity and reconcile himself to its presence.

The possibility of redemptive reconciliation as envisaged by Hegel has been challenged since the middle of the nineteenth century. Marx, who claimed that the reconciliation of reason and actuality was incomplete because the actual was not in fact rational,¹ Nietzsche, who claimed that the attempt of philosophy to make all its presuppositions transparent concealed a drive to mastery,² Freud, who showed that the identity of the self could never be perfectly transparent to the individual,³ and Weber, who maintained that as the world became the product of human will it also became increasingly opaque and nonrational,⁴ all aided in the destruction of the Hegelian totality. In a sense Hobbes seems more pertinent to the contemporary world than Hegel precisely because the opposition of nature and convention, reason and inclination, vanity and justice, self and other is so stark and forceful in his thought. Sartre's analysis of interpersonal dynamics shows how they can conceal a search for domination while claiming full reciprocity.⁵ In many respects, the experiences of the modern self are more attuned to the psychology of Hobbesian individuals driven by honor, prestige, and power. But even if today we consider Hegel's moral phenomenology somewhat

naive and unschooled in the darker recesses of the human psyche, it is by no means obvious, to me at least, that his phenomenology of the self is totally outmoded.

Hegel's concept of Bildung as that sphere of individual and social identity formation transforming the causality of nature into humanized meaning is still very much with us. The conflict between the drives of the self and the imperatives of the species are always mediated by "civilization."⁶ The institutional structure of the human world cannot be reduced to instantiations of the psyche, and the identity of the individual cannot be totally separated from structures of social interaction. To put it briefly, if the attainment of self-expression by the individual and the demands of the human community are not in complete opposition, then Hegel's concept of Bildung is still respectable. Furthermore, the analyses of collective representations like ideology and culture that shape individual and social identity are perfectly compatible with Hegel's emphasis on Bildung. This suggests the further reflection: many of us today may have qualms about beginning with a speculative argument on the nature of self-consciousness. We may want to question whether if one does not accept Hegel's argument on self-consciousness, one could still agree with his critique of modern natural right.

I think we can preserve Hegel's insight on the phenomenon of self-consciousness even today by pointing to those aspects of shared existence that are illuminated by this premise. Linguistic practices, the dynamics of self-understanding and historical memory, and collective cognitive structures like myth and ideology are phenomena investigated

by the human and historical sciences that still vindicate the richness of Hegel's insight. To account for these one must assume that the experience between self and other is constitutive for the identity of each. The tradition of hermeneutics, and in particular Hans-Georg Gadamer's analysis of Hegel's significance in this tradition,⁷ should lead us to treat Hegel's ostensibly outmoded concept of self-consciousness with greater respect.

In my opinion, the most serious methodological criticism of Hegel's thought and of his conception of the spiritual totality has been made by Marx and the Marxist tradition. What is challenged here is not the internal relation between self and other, but the conception of spirit as a mysterious subject-object generating the historical process.⁸ The Marxist tradition is indebted to Hegel's concept of spirit insofar as this concept enables one to understand history as a process generated by its own internal and cumulative dynamic. But the unity of the historical process in Hegel is always a spiritual and a reflective unity. Hegel confuses the unity of a process with the intelligible principle in terms of which we grasp such unity. It is not coincidental that for Hegel the philosophy of history is the best kind of historiography. Since Hegel can understand history only in relation to the unified principle that it reveals, philosophy must be the truth of history because it articulates explicitly what history only intends. The mysterious subject-object called "world spirit" is not the figment of an aging imagination. Such methodological horrors are endemic to Hegel's thought. The principle that explains a unity becomes the self-unfolding subject of such unity because ultimately for Hegel all

continuity and unity are equivalent to the unity of the thought process that thinks them.

What I take to be Marx's great advance over Hegel is this: He acknowledges that Hegel had grasped history as the labor of men, their externalization in a process, and their subsequent return to self from this process. But while this dynamic clearly reveals the progression of the Phenomenology, it will be remembered that the unity of this progression is generated by the recollection of the philosophical "we." In other words, the experience of consciousness is only cumulative in memory and in self-reflection. What Marx discovered, I believe, was that not labor alone, but labor organized as a process of social reproduction, was the constitutive activity that would explain the unity and the dynamic, in fact, the necessarily dynamic unity called "history."⁹ Such a view of history has no need of a mysterious subject: the process reconstitutes itself in its very unfolding. The subject of history is immanent within it.

Marx's critique further suggests that the Hegelian totality that can only account for the synchronic unity of all its elements in a moment of eternal insight is fundamentally defective.¹⁰ Hegel cannot explain how the interaction of elements in a unity can relate to one another other than in a single model--the self-unfolding of the principle that makes these elements aspects of the same whole. But if the dynamic is internal to the process itself rather than being the privilege of the mind who comprehends this process, then the structure of the totality is not transparent. At any point in time, what is revealed is not the

eternal configuration of elements, but a structured unity originating in the past and evolving toward the future. The vision of the spiritual totality as the intelligible unity of an unfolding principle must be challenged not because it is dépassé and naive, but because it is conceptually ill-conceived. This at least is how I interpret the structuralist and Marxist critiques of Hegel.

II

I have claimed that in the structure of its argumentation, and its logic of justification, Hegel's defense of basic human rights is unique. Whereas Hobbes and Locke cannot distinguish between the unavoidable claims of the individual, and his or her entitlement to these claims, Kant argues that the claims of the individual can only be called rights if they are compatible with the freedom of all under a universal law. Hegel accepts the premise of modern natural rights theorists that obligation can only be legitimized if certain basic rights of the individual are respected. What distinguishes his structure of argumentation and justification from that of these thinkers is that he makes the internal relation of self to other the basis of a theory of rights: being a person entails that one treat the other as a person as well, and recognize in him the same capacity that one attributes to oneself. Basic rights define those formal conditions of interaction that make freedom actual as a social practice.

Today political philosophy is once more dominated by presuppositions of modern natural right. John Rawls in his Theory of Justice, and Robert Nozick in Anarchy, State and Utopia, both proceed from certain key assumptions of this tradition. Whereas Nozick accepts the premise that

"individuals have rights" as a basic but unprovable assumption of moral philosophy,¹¹ Rawls makes the treatment of individuals as beings entitled to rights the very basis of normative discourse.¹² Both assume, however, that political philosophy begins with a counterfactual that abstracts men from concrete social and historical life. The normative validity of the practices that follow are judged in the light of the conditions that free and rational agents in the original position would choose. Rawls is quite clear in presenting his theory of justice as a special instance of a "theorem of rational choice."¹³ Equipped with the sophisticated techniques of choice analysis, the prisoner's dilemma, and marginal utility economics, Rawls constructs his own version of the compact of civil government. Nozick, who is critical of the "inelegance" and "methodological clumsiness" of Rawls' procedure, instead formulates the transition to the state as it would be brought about by the mechanism of an "invisible hand."¹⁴ He is interested in arguing against Rawls that principles of rational self-interest are not in necessary conflict with principles of justice.

In view of the revival of a tradition once considered very outmoded, Hegel's reformulation and critique of modern natural right are both relevant and illuminating. The continuing assumption of the contractarian tradition, in its past and contemporary forms, is to accept the standpoint of an individual agent as a beginning point. Rawls disagrees with the psychology of the individualist-utilitarian tradition and replaces it by a Kantian moral psychology. Still he has to assume that these conditions of rational agency are timeless, spaceless, unaffected by the phenomena of life, love, and death, and untouched by differences of sex,

race, age, and culture. Hegel, I believe, provides such a conception of human agency, that in the attempt to account for significant differences in the life and attributes of individuals, one would not also have to relinquish normative criteria of personality. By making the practices of language, labor, and interaction constitutive of the human experience, Hegel suggests that our conception of persons need not exclude reference to concrete differences deriving from, and sustained by, these practices. In other words, a concrete universal, rather than an abstract one of the Rawlsian kind, would not disregard fundamental features of human existence in proceeding with a theory of rights.¹⁵

Furthermore, normative practices have certain material, historical, and cultural prerequisites among others. Hegel is very clear that the norms of personality, property, and contract emerge with the institutions of bourgeois society; their validity, however, transcends their condition of origin. Nonetheless, by focusing on the social structures of interaction that instantiate norms, Hegel suggests how the limits and hidden presuppositions, and the viability and desirability of certain norms, can be illuminated. Such a methodology reintroduces content and significant difference into the very structure of abstract and universal norms. I would formulate the merit of Hegel's method against those of modern natural right theorists in the following ways: 1) the normative conceptions of agency and personality constituting initial premises must be broadened to include structures of language, labor, and interaction. 2) Universal norms, i.e. those that all individuals prima facie are entitled to, must be presented (a) to accommodate concrete differences and (b) to illuminate significant divergences. 3) Most abstract norms contain a certain set of

hidden assumptions as to who they are valid for, and under what conditions. By examining how norms can become instantiated as social practices, and how social practices at times reinforce and at times contradict prevailing norms, a more fruitful line of inquiry can be initiated in political philosophy. Since Hegel does not begin with the condition of individuals who choose their conditions of social existence but instead takes the context of social interaction in which these individuals are placed as his beginning point, his political philosophy can in principle accommodate a wealth of historical and sociological insights that the contractarian tradition cannot.

Hegel refocuses political philosophy on the concrete structures of human interaction. The richness that the Philosophy of Right displays in sociological insight and institutional analysis can be traced back to Hegel's principle of externalization first expressed most generally in the section on Abstract Right. I take this principle to be: all human interaction occurs across an embodied medium that becomes the socially significant carrier of meaning for interacting individuals. The various structures of the ethical life world discussed in the subsequent sections of the Philosophy of Right are so many instantiations of this simple principle. The contractarian tradition in view of its individualistic premises, be they of the empirical or rationalist sort, is methodologically unable to discuss the reality of shared life except under various constructions of choice theorems and counterfactual models.

Hegel understands freedom to be both a form of human practice and a set of norms justifying and upholding this practice. The Philosophy of Right studies the totality of those conceptual and actual preconditions

compatible with freedom. While the category of freedom can accommodate the demands of theories of obligation and autonomy, it is also more dynamic and encompasses a wider range of concerns in the social and political spheres than do the norms of justice and obligation. Since freedom defines the structure of a social practice, the evolution and transformation of social institutions create new possibilities for freedom while also threatening and destroying older ones. The interdependence between social and historical possibility and normative validity is intrinsic to the concept of freedom as Hegel defines it. The "being by self of spirit" designates an active process of shaping and transforming the world thereby expressing oneself in it. But such activity is also laden with immanent normative criteria. "Being by self" provides a measure with reference to which such activity can be judged, but this measure is as much created by the activity as it is presupposed by it. The formula, the "being by itself of spirit," captures the human experience of thrusting into the future and creating new possibilities when guided by the cumulative norms and orientations of the past. The future subjects these norms to its own test just as the past directs our choices in the future. Freedom for Hegel designates such a continuous dialogue between activity and process, identity and conduct, and past and future in the life of the individual and of the community. I have attempted to argue in this dissertation that Hegel's political philosophy can still provide us with many insights in our human task of living freely in a just community.

APPENDIX

Fichte's Discussion of Reciprocal Recognition

Fichte's discussion of "reciprocal recognition" in his Science of Rights is illuminating in two respects: first the conceptual significance of postulating such a relationship of recognition is clarified; second, the divergences between Fichte and Hegel enable us to understand Hegel's theory of the "redoubling" of self-consciousness better. Fichte proceeds from the transcendental question of how self-consciousness is possible. Since self-consciousness, he argues, presupposes the free causality of a rational being, and since such a being cannot posit this kind of causality without also positing a finite rational being outside itself, the reciprocal recognition of two finite beings is a precondition of self-consciousness. He calls relations among finite rational agents able to act self-consciously "relations of right" (SR, 19; 62). What Fichte offers is a transcendental justification that certain relations of justice ought to obtain among Kantian moral persons. He considers this discussion to provide an answer to questions left unexplored by Kant himself: how can moral persons know one another as free and rational agents, and how is interaction among finite being possible?

Fichte's discussion of reciprocal recognition addresses three issues at once: 1) the possibility of interaction among Kantian moral persons, 2) the transcendental presupposition of self-consciousness, 3) the normative justification of rightful and just relations among free

and rational agents. There is little doubt that the multiple figure of thought, which we confront in the Phenomenology, is also developed by Fichte. What I have called "the constitution of the social universal" in Hegel's discussion corresponds in Fichte's terminology to the "possible conditions of interaction among selves recognizing one another as persons." Hegel's analysis of the founding act at the origin of political societies corresponds to Fichte's endeavor to ground relations of justice in reciprocal recognition. Encompassing the concern with the genesis of the social universal and the foundation of political societies, is the analysis of self-consciousness. Fichte gives a transcendental deduction of the possibility of self-consciousness, while Hegel claims that self-consciousness is realized in and through recognition by another self. What then is the difference between Fichte and Hegel on this question, if any at all? Furthermore, is it fair to attribute such unique intellectual significance to Hegel's analysis of the "redoubling" of self-consciousness if Fichte already argues in like fashion? Does Hegel interpret Fichte's thought in relation to his own correctly?

The answers one can provide to these questions depend greatly, if not wholly, on the significance of this particular discussion of Fichte's for his work as a whole. How can the deduction as presented in the Science of Rights be reconciled with the methodology of the Absolute Ego in the Science of Knowledge? Is Fichte a theoretical idealist, but a practical realist? Does the plurality of finite, rational beings have theoretical import in his philosophy as well? Not being a Fichte

scholar, I have no answers to these questions. Though Hegel's discussion of reciprocal recognition in the Jena period is clearly indebted to Fichte's, Hegel does not appear to have thought that it required rethinking Fichte's work such that the methodology of the Absolute Ego would have to be reinterpreted in the light of the deduction presented in the Science of Rights. Hegel continues to refer to Fichte as the theorist of the Absolute Ego who grounds his system upon an act of intellectual intuition.

Suspending questions of historical interpretation and scholarship, which I am not competent to settle, much remains to be said on the respective discussions of reciprocal recognition that can illuminate their divergence. Let us take a closer look at Fichte's argument: It reads 1) A finite rational being cannot posit itself, 2) unless a requirement to act freely is addressed to it, 3) when such a requirement to free self-determination is addressed to it, 4) the first finite rational being must posit another finite rational being outside itself as the cause of this requirement, 5) self-consciousness must posit finite rational beings outside itself generally (SR, 32-62).

Fichte establishes the first two premises in the following way: no consciousness is possible unless self-consciousness is also possible; but if self-consciousness is possible, the subject must "determine to determine itself" (SR, 52 ff.). In other words, the subject in one and the same act is both object and determined, subject and determining. Reflection can only be initiated by a free return toward oneself; but the self is not there prior to this turning inwards either. Self-consciousness

posits itself. In the very act of reflection self-consciousness also comes to be. Fichte says, "when it (the finite rational being) acts, it determines itself, and when it determines itself, it is free as well" (SR, 54-55). The crucial step in the argument is the following: How can one think of the subject as determined to find itself as object and also think of this as a free (self-initiated) act? Fichte answers: "Only insofar that the subject finds himself a something which may be active or not, to which a requirement is addressed to be active or not, but which may also not follow that requirement" (SR, 54). I assume, though this is not explicitly stated by Fichte himself, that if the determination to determine oneself were not a possible condition only, but had to be thought of as necessary, it would contradict its being a free act. If a free act of self-reflection is to be possible, it must also be possible that the self will or will not initiate such an act. But it is not easy to grasp Fichte's meaning: on the one hand, he seems to say that if consciousness is to be possible at all, then self-consciousness must be presupposed; on the other hand, it seems an open question as to whether or not the subject will initiate an act of self-consciousness at all. What Fichte seems to be getting at may be thus stated: self-consciousness presupposes the presence of another being like itself, because only the impetus provided by such presence can lead to the initiation of an act of free reflection. The second finite, rational being is there as a possible condition of excitation. "This outside being has addressed a requirement to the subject to manifest free activity" (SR, 66).

The difference between Fichte and Hegel is clear: whereas for Fichte the second finite rational being is a condition for the possibility of the self-consciousness of the first, for Hegel the relation between self and other is internal to the very structure of self-consciousness. It is not that the presence of another excites one to turn inward, but that one attains self-consciousness only when this other is recognized as a self, and oneself is recognized to be other for this self. The initial condition must be repositied as a presupposition both of the logical structure of self-consciousness and of its realization. The relation between self and other is internalized by self-consciousness.

Now, Hegel's discussion of self-consciousness is phenomenological, whereas Fichte's is transcendental. Fichte moves from the fact of self-consciousness to uncover the grounds of its possibility. Hegel moves from the beginnings of self-consciousness toward its actualization. Whereas the transcendental course of argumentation must assume the fact of a given self-identity, the phenomenological argument shows the identity of the self to be constituted in the very process of acquiring self-knowledge.

This methodological difference can also explain why Hegel introduces temporality into relations among so-called finite rational beings. Hegel does not assume, as Fichte does, that free causality or rationality is an atemporal dimension of self-consciousness. For Fichte, consciousness of self implies being capable of action in accordance with such self-conception. To be a self, therefore, is to be capable of

free causality. The identity of the self is described in an analytic definition: to be self-conscious . . . is equivalent to being capable of causality in accordance with the conception of selfhood. Again, Hegel rejects this: self-consciousness does not describe an atemporal and tautological condition of rationality and agency. The self-understanding of a conscious being involves the education of the world-historical process. The truths of Idealism are not facts at the beginnings of human history. In fact, it is precisely this divergence between the philosophical understanding of self-consciousness and the experience of the individual self, that moves the phenomenological process toward increasingly more adequate forms of self-understanding. Self-identity is not a matter of formal definition, but a process of Bildung. The "struggle for recognition" is not resolved until reciprocal reconciliation becomes philosophically and historically possible. Hegel replaces transcendental argumentation with a philosophy of spirit that simultaneously comprehends a logical and a social universal.

Chapter I - Notes

1. Helpful explorations of the historical and philosophical context in which to understand Hegel's relation to the French Revolution are given by G. A. Kelly, Idealism, Politics and History: Sources of Hegelian Thought; Joachim Ritter, "Hegel und die französische Revolution," in Metaphysik und Politik, pp. 183 ff.; J.-F. Suter, "Burke, Hegel and the French Revolution," in Hegel's Political Philosophy: Problems and Perspectives, Z. A. Pelczynski, ed.
2. The interpretation of Hegel as the "Prussian state philosopher" begins with Rudolph Haym, Vorlesungen über Hegel und seine Zeit (Berlin, 1857). I explore the events surrounding the Prussian restoration in greater detail below.
3. Best known defenders of this view in the Anglo-Saxon world are Sidney Hook, From Hegel to Marx: Studies in the Intellectual Development of Karl Marx, pp. 17 ff.; Karl Popper, The Open Society and its Enemies: V. II. Cf. Walter Kaufmann's forceful critique of Popper, "The Hegel Myth and its Method," in Hegel: A Collection of Critical Essays, Alasdair MacIntyre, ed.
4. Herbert Marcuse, Reason and Revolution: Hegel and the Rise of Social Theory, pp. 402 ff. Marcuse quotes Carl Schmitt: ". . . on the day of Hitler's ascent to power, Hegel, so to speak, died" (p. 419).
5. See the collection of essays: Hegel's Political Philosophy, Walter Kaufmann, ed.
6. The best study of the wealth and ambiguities of Hegel's philosophy, in my opinion, continues to be Karl Löwith, From Hegel to Nietzsche: The Revolution in Nineteenth Century Thought.
7. Karl Marx, "Notes to the Doctoral Dissertation," in Writings of the Young Marx on Philosophy and Society, p. 61.
8. Despite his brilliance as an observer, journalist and historian of political affairs, the tendency to eliminate the autonomy of the political, and to reduce political affairs to the movement of social forces, is great in Marx's thought. I agree with critiques like Hannah Arendt that Marx was at best ambivalent toward the disappearance of a realm of political action in modern society. See The Human Condition, pp. 79 ff.
9. The most convincing documentation so far has been supplied by K.-H. Ilting in his Introduction to a projected six-volume compilation of the various editions of the Philosophy of Right. See: G. W. F. Hegel, Vorlesungen über Rechtsphilosophie 1818-1831, v. I, edited by K.-H. Ilting.

10. Ilting, "Introduction," pp. 36-76.
11. G. W. F. Hegel, Early Theological Writings, T. M. Knox, trans.
12. Georg Lukács, The Young Hegel, p. 505.
13. Thomas Hobbes, Elements of Law, Ferdinand Tönnies, ed., p. xvii; Hobbes, De Cive or the Citizen, p. 5.
14. Hobbes, De Cive, p. 7.
15. Jürgen Habermas, "The Classical Doctrine of Politics in Relation to Social Philosophy," in Theory and Practice, John Viertel, trans.; Dieter Henrich, "The Basic Structure of Modern Philosophy" (Unpublished lecture delivered at St. John's College, Annapolis, March 1970); K.-H. Ilting, "Hobbes und die Praktische Philosophie der Neuzeit," Philosophisches Jahrbuch (1965); Michael Oakeshott, "Introduction," Hobbes' Leviathan; Leo Strauss, Natural Right and History. Certain commentators, who have emphasized the relationship of Hobbes' thought to modern science, have not attributed to his thought such decisive historical significance as to claim that it marked the beginning of a new kind of political philosophy. See Richard Peters, Hobbes; J. W. N. Watkins, Hobbes' System of Ideas.
16. E. A. Burtt, The Metaphysical Foundations of Modern Science; E. J. Dicksterhuis, The Mechanization of the World Picture; Franz Borkenau, Dem Übergang vom feudalen zum bürgerlichen weltbild.
17. Strauss, Natural Right and History, pp. 166 ff.
18. Hegel, Vorlesungen über die Geschichte der Philosophie, Werke in zwanzig Bänden, v. 10, p. 226.
19. To distinguish the political community from other forms of human association, it is necessary to reveal its origin in the human soul. As the principle which defines all that is alive, the soul reflects the unique activities and ends that constitute the nature of each species. The human soul partakes of the principle of all other forms of life such as nutrition and growth. In addition it possesses characteristics of 'animal nature' in the form of appetites, desires and motion, but its distinct faculty is the 'rational principle' of speech and thought. Insofar as men unite to satisfy the needs of their bodies alone, they do not exhibit the distinctive human reality. According to Aristotle, politics does not exist for the sake of "mere life," but for the sake of the "good life" Politics, in Basic Works, 1252b 30 ff. In the Republic, Plato defines the first city--the city of artisans organized around the natural division of labor--as a "city of sows." Even if the origins of the human city do not differentiate the human

from the animal communities, the end for which the city continues in existence is not the satisfaction of need, but the cultivation of virtue and truth. (The Republic, trans. Allan Bloom)

20. Strauss, Natural Right and History, p. 127.
21. Aristotle, Physics, Book II.
22. Raymond Polin, L'Obligation Politique, p. 9.
23. "The felicity of this life consisted not in the repose of a mind satisfied. For there is no such finis ultimus (utmost aim) nor Summum Bonum (greatest good) as is spoken in the Books of Old Moral Philosophy." Hobbes, Leviathan, C. B. McPherson, ed., p. 130.
24. Kant, The Metaphysical Elements of Justice, John Ladd, trans.
25. Cf. Karl Löwith, From Hegel to Nietzsche, pp. 200 ff.; Lucio Colletti, Marxism and Hegel, ch. xii.
26. Hegel, Phenomenology of Mind, J. B. Baillie, trans., p. 80.
27. Vorlesungen über die Geschichte der Philosophie, p. 63.
28. "But that mind is, means nothing else than that it is a thing" (Phenomenology of Mind, p. 369). Cf. Alasdair MacIntyre, "Hegel on Faces and Skulls" in his A Collection of Critical Essays.
29. Renée Descartes, "Discourse on Method," The Philosophical Works of Descartes, trans. E. H. Haldane and G. R. T. Ross, pp. 101 ff.
30. The Logic of Hegel, W. Wallace, trans., # 76 ff.; Vorlesungen über die Geschichte der Philosophie, pp. 131 ff.
31. The phrase a "performative" is Jaako Hintikka's. For a good summary of the various interpretations of Descartes' proof, see Anthony Kenny, Descartes: A Study of his Philosophy, ch. 3.
32. Martin Heidegger, What is a Thing? W. B. Barton and Vera Duetsch, trans., pp. 95 ff.
33. Cf. G. R. Grice, The Grounds of Moral Judgment; H. L. A. Hart, "Are there Any Natural Rights?" in Readings in Political Philosophy, Anthony Quinton, ed.
34. Kant, Anthropology from a Pragmatic Point of View, Mary J. Gregor, trans., p. 10.

35. Most vividly associated with Husserl's philosophy, the concept of 'intersubjectivity' has come to stand for two issues: first is the so-called problem of other minds--how can we know the existence of the other as a mind if we only know ourselves to be one because we experience our internal states of consciousness? If our only criterion for assuming that we are self-conscious beings is that we immediately experience ourselves to be so, how can we extend this predicate to others of whose internal states we have no such knowledge? The second issue connoted by the term 'intersubjectivity' again involves the assumption of the privacy of consciousness. How do we, as conscious beings, constitute a mutually shared world of objects, that comes to be the shared reference point for our individual perceptions and sensations? By using the term 'intersubjectivity' in the context of the modern state of nature methodologies, however, I understand: the mutual constitution of a shared human world among individual selves.
36. See Talcott Parsons, The Structure of Social Action, pp. 89 ff.
37. Stanley Rosen, G. W. F. Hegel: An Introduction to the Science of Wisdom, pp. 12 ff (Hereafter referred to as Rosen, Hegel).

Chapter II - Notes

1. Jean Hyppolite, from whom I borrow this terminology, explores the theme of moral Bildung in the Phenomenology with explicit reference to Rousseau. See Genèse et Structure de la Phénoménologie de l'Esprit, v. I, pp. 16, 43.
2. In his essay entitled "Idea for a Universal History from a Cosmopolitan Point of View," Kant argues that if the very conception of a world history, of a history that treats the actions of the human race as those of a unified subject, is to make sense, the standpoint of the "world-citizen" or the "cosmopolitan student of human affairs" must be assumed (in On History, L. W. Beck, ed., pp. 11 ff). Hegel would appear to have continued Kant's line of reasoning, since the unity of the process is said to be only evident from the standpoint of the philosophical subject--the "we."
3. Georg Lukács, in The Young Hegel (505), claims that the Phenomenology ends without documenting the social form of the spiritual reconciliation (Versöhnung) that consciousness attains. It is plausible to read the Philosophy of Right as documenting precisely such a social reconciliation. If the systematic unity of the two texts were to be defined, one could say that since the standpoint of the Philosophy of Right presupposes the explicitly developed concept of spirit (#57), the Phenomenology can be read as a unified argument clarifying what this concept entails.
4. A most illuminating treatment is to be found in Otto Pöggeler, "Qu'est-ce que la Phénoménologie de l'Esprit? Archives de Philosophie (April-June, 1966). P.-J. Labarrière, in Structures et mouvement dialectique dans la Phénoménologie de l'Esprit de Hegel, makes the controversy surrounding the unity of the Ph G a basis for exploring its argument.
5. This thesis was defended by Theodor Haering in his "Entstehungsgeschichte der Hegels Phänomenologie des Geistes," see O. Pöggeler's discussion in the article above, pp. 207.
6. Hyppolite, Genèse et Structure de Ph G de Hegel, pp. 65 ff.
7. The passage is cited by Johannes Hoffmeister in his Introduction to the Ph G (1952), p. xxxvii. I have consulted Labarrière's translation (Structures et mouvement dans la Ph G, p. 33).
8. Jürgen Habermas, Knowledge and Human Interests, ch. 1; J. E. Smith, "Hegel's Critique of Kant," Review of Metaphysics (March 1973).

9. I am indebted to K. R. Dove's analysis, "Hegel's Phenomenological Method," Review of Metaphysics (June 1970), pp. 615 ff.
10. Dove, p. 624.
11. Both Kojève and Hyppolite describe this philosophical knowledge as a form of "ontology" (Kojève, Introduction to the Reading of Hegel, pp. 171 ff.; Hyppolite, Genèse et Structure de Ph G, V.I, p.59; V.II, p.568. Since the basic issue is to elucidate precisely what Hegel could mean by philosophical knowledge in view of his arguments in the Phenomenology, I find the assumption that such knowledge must be "ontological" wholly unwarranted.
12. It is important to remember that the processes of Entäußerung and Erinnerung--externalization and interiorization--are correlates. For Hegel, the unity of a process is always defined by the intelligible principle in terms of which such process is grasped. I discuss the significance of this point below, ch. IV.
13. Habermas raises a most difficult objection against Hegel's method of proceeding. If the structure of the argument as recollected by the philosophical "we" proceeds along already given logical categories--e.g. desire is the reflection into self of life--Habermas argues, should not the phenomenological content be treated as the instantiation of a developed logic? Phenomenology then becomes a Realphilosophie (Knowledge and Human Interests, p. 22). I have no replies to his objection.
14. See Dove, "Hegel's Phenomenological Method.
15. Such a recognition has logical and historical preconditions. While the analysis of the completed structure of subjectivity in terms of the principle of a "spiritual unity" defines the formal precondition of this recognition, the historical conditions making this principle intelligible are provided by the experiences of the modern world. See below, ch V, section v, "Idealism and Abstract Right."
16. Renée Descartes, "Meditation IV, Philosophical Works of Descartes," Werner Becker, Idealistische und Materialistische Dialektik, p. 37. All references in this section to Kant's Critique of Pure Reason (abbreviated as CPR) are to Norman Kemp Smith's translation.
17. Robert Paul Wolff, Kant's Theory of Mental Activity; "A Reconstruction of the Argument of the Subjective Deduction" in his Kant: A Collection of Critical Essays.
18. The validity of such transcendental arguments has been challenged by Stephan Körner, see "The Impossibility of Transcendental Deductions," Kant Studies Today, ed. I. W. Beck, pp. 230-245.

19. A central difficulty in Kant's argument is whether the synthesis of the manifold of intuitions under the forms of sensibility--space and time--is also governed by the synthetic activity of the pure concepts of the understanding. See Dieter Henrich, "The Proof Structure of Kant's Transcendental Deduction," Review of Metaphysics (1969), pp. 640-59.
20. A formalist interpreter of Kant may object that reading the Transcendental Deduction such as to draw from it conclusions on Kant's theory of self-consciousness is to conflate conditions of validity with those of facticity. While I agree that these conditions must not be conflated, it seems to me clear that Kant himself has done so. If the "transcendental unity of apperception" refers to a validating condition of all knowledge, why must this validating condition be described in terms of the formal identity of a singular self-consciousness over time? This ostensibly logical condition is attributed the characteristics of a singular self-consciousness. For the difficulties surrounding the numerical identity and individuation of Kantian selves, see Robert Paul Wolff, The Autonomy of Reason: A Commentary on Kant's Groundwork to the Metaphysic of Morals, pp. 9 ff.
21. CPR, A 117a: "All the variety of empirical consciousness must be combined in one single self-consciousness"; B 132: "This unity of apperception I likewise entitle the transcendental unity of self-consciousness"; B 134: "That all representations belong to me is equivalent to the thought that I unite them in one self-consciousness" (emphasis in the text).
22. That the "I think" be an empty principle, that no determinate object may be given to thought thereby, is very significant for Kant. The possibility of maintaining two distinct sources of knowledge--sensibility and understanding--depends upon its correct articulation. If the "I think" were not empty, the necessity that the pure concepts of the understanding apply to objects of experience could be deduced from the simple tautology: "In order to have representations at all, I must be aware of them, and having representations means that the categories apply to them." The heteronomy of intuition and concepts, sensibility and understanding must be maintained, while the formal condition of the "I think" must be shown to apply to all objects of experience necessarily.
23. CPR, B 155 ff.: "How the 'I' that thinks can be distinct from the 'I' that intuits itself . . . and yet, as being the same subject, can be identical with the latter; and how, therefore I can say: 'I as intelligence and thinking subject, have myself as an object that is thought . . . these are questions that raise no great nor less difficulty than how I can be an object of myself at all.'"

24. My discussion of Fichte is indebted to Dieter Henrich's article, "Fichtes ursprüngliche Einsicht," in Subjektivität und Metaphysik, pp. 193 ff., and his unpublished "Lectures on German Idealism," delivered at Harvard University in May 1973. All references in this section to Fichte's Science of Knowledge are to the English translation by P. L. Heath and J. Lachs (hereafter abbreviated as SK).
25. Science of Knowledge, pp. 37, 95, and Science of Rights, A. E. Kroeger, trans., p. 51 (abbreviated as SR).
26. See Stanley Rosen's illuminating analysis of the relationship between the logical forms of judgment and Fichte's philosophy of mind, Hegel, pp. 92 ff.
27. D. Henrich, pp. 114 f.
28. While the left Hegelians identify the Absolute with the self-understanding of a human community, the right Hegelians interpret the human community as a vehicle for the expression of the truth about God himself. Cf. Karl Löwith, From Hegel to Nietzsche.
29. Hegel's concept of life has influenced both Dilthey (Die Jugendgeschichte Hegels) and Marcuse (Hegels Ontologie die Geschichtlichkeit). Cf. "Fragment of A System," in Early Theological Writings, p. 311, and Marcuse's Reason and Revolution, p. 37.
30. Hans-Georg Gadamer, "Hegel's Dialectic of Self-Consciousness," in Hegel's Dialectic, P. Christopher Smith, trans., p. 57.
31. Ibid., p. 58.
32. Aristotle, De Anima 412a21, in Basic Works of Aristotle, Richard McKeon, ed.
33. Richard Kennington, "The Teaching of Nature in Descartes' Soul Doctrine," Review of Metaphysics (1972), pp. 86 ff.
34. Aristotle, On Generation and Corruption, in Basic Works, 338b5 ff.
35. Kojève, Introduction to the Reading of Hegel, p. 4.
36. The Logic of Hegel, William Wallace, trans. (Hereafter referred to as Encyc. I): ". . . the essence is not abstract reflection into self, but into an other. The Ground is the essence in its own inwardness; the essence is intrinsically a ground; and it is a ground only when it is a ground of somewhat, of an other" (p. 224).

37. Kojève, Introduction, pp. 5 ff.
38. In the Appendix I discuss the import of Fichte's similar discussion in the Science of Rights. It is recommended that the reader not consult this Appendix until after the next chapter, for to discern Fichte's meaning it is necessary to analyze the concept of a 'state of nature' in detail.
39. Rosen, Hegel, p. 160.
40. Encyc. I, p. 48; Hegel's Philosophy of Mind, W. Wallace, trans. (hereafter referred to as Encyc. III), p. 11; Philosophy of Right, Ilting, ed., p. 105.
41. Those analyses that begin by describing the structure of self-consciousness in epistemological terms alone, resolve the problem of individuality by arguing that these otherwise formally identical selves are differentiated from one another by their bodies. Hegel rightly claims that there is more to human individuality than being a body in space and time distinct from others. See Habermas, "Remarks on Hegel's Jena Philosophy of Mind" in Theory and Practice, John Viertel, trans.
42. Gadamer, "Hegel's Dialectic of Self-Consciousness," pp. 63 ff.
43. Habermas, in Theory and Practice, p. 144.
44. R. C. Solomon's discussion, "Hegel's Concept of Geist" (in A. MacIntyre, ed., Hegel: A Collection of Critical Essays), while emphasizing the epistemological import of this concept for Hegel, can provide no analysis that would treat the dimension of spirit qua social universal to be other than a non sequitor.
45. L. Feuerbach, Principles for a Philosophy of the Future; M. Heidegger, Hegel's Concept of Experience; Habermas, Knowledge and Human Interests; Karl Otto-Apel, "Szientistik, Hermeneutik, Ideologiekritik," in Hermeneutik und Ideologiekritik.
46. Cf. Gadamer, "The Idea of Hegel's Logic," in Hegel's Dialectic, p. 77; Labarrière, Structures et mouvements, pp. 185ff., 243 ff.
47. Dieter Henrich, "Hegels Logik der Reflexion," in Hegel im Kontext, pp. 97-98.
48. Ibid. I would like to thank Andrzej Rapaczynski for bringing to my attention the significance of the Doctrine of Essence in understanding Hegel's Logic.

Chapter III - Notes

1. See Leo Strauss, The Political Philosophy of Hobbes, pp. 104 ff.; Kojève, Introduction to the Reading of Hegel, pp. 15 ff.; Rosen, Hegel, pp. 154 ff.
2. The state of nature metaphor also entails a "theory of associations." By delineating those relations that fall under the jurisdiction of public authority from those that do not, Hobbes, Locke, and even Kant, make explicit their assumptions about the nature of various social institutions. When relations between husband and wife, master and servant are claimed to have their origins in the state of nature, it is thereby implied that certain transactions in the family and in the household do not come under the authority of the state. Now, what kinds of relations between husband and wife, master and servant can be legitimate in a state upholding the rights of individuals? Can the husband treat his wife as his possession? Does the wife have any rights cua individual? What other obligations does the servant owe the master besides the performance of his services? It would be extremely interesting to study the metaphor of the state of nature "archeologically"--as this term is used by M. Foucault--to uncover and bring to light those implicit and unstated assumptions concerning various aspects of collective life. Such a study would combine historical sociology with the critique of ideology, since it would lead to the uncovering of those presuppositions that guide thought without ever being acknowledged to do so.
3. Cf. W. Dilthey, Gesammelte Schriften, V. II, pp. 348 ff.
4. In his Second Discourse Rousseau unites the fictive genealogy of political societies with the evolutionary growth of man's self-knowledge (First and Second Discourses, Roger D. Masters, trans., pp. 68 ff). Man first knows himself, or rather is acquainted with himself, as a species. But this self-acquaintance is the beginning of pride as well: by distinguishing himself from all the other creatures of nature, man attains a consciousness of his own uniqueness. The awareness of such uniqueness individuates, claims Rousseau, and man turns away from the species toward himself. Continuing interaction among such proud beings, induces a painful sense of comparative worth. Distinctions of strength, beauty and eloquence are perceived. Men now begin to live in the eyes of others. Their pride, . . . attaching itself to signs of public distinction, is transformed into vanity--concern with one's appearance in the eyes of another. Rousseau argues that political society originates, not out of man's natural love for himself--amour de soi--, but out of his comparative sense of worth--amour propre (p. 71). The distinction between 'pride' and 'vanity,' between one's sense of self-respect and one's sense of self-worth, is also crucial for grasping Hegel's concept of recognition.

5. Philosophy of Right, #57A; Philosophy of Mind (Encyc. III), #430 ff.; Lectures on the Philosophy of History, J. Sibree trans., pp. 57-59.
6. Thomas Hobbes, Leviathan, C. B. MacPherson, ed. (Hereafter cited as L), ch. xx ff.; John Locke, First and Second Treatises of Civil Government, Peter D. Laslett, ed., ch. viii (all references to the Treatise are abbreviated as T).
7. Cf. Leo Strauss, The Political Philosophy of Hobbes, ch. vi, where the connection of political genealogies to the concept of history is analyzed. Also, see G. A. Kelly, "Notes on Hegel's Lordship and Bondage," in A. MacIntyre, ed., Hegel: A Collection of Critical Essays, pp. 205 ff.
8. Encyc. III, #433 Z. This presumed "necessity" of slavery in virtue of being a stage in man's self-education, is a good example of the kind of obfuscations that Hegel's philosophy of history is likely to produce. The attempt to consider history philosophically, as the unfolding of an immanent principle, generates a false teleologism whereby earlier stages are treated as necessary antecedent conditions to subsequent ones. But such teleologism is always ex post facto for Hegel: only from the standpoint of the completed process as a whole can one turn back, and reconstruct events into a teleological sequence. The limitations of this view of history are discussed in my conclusion.
9. Both Kelly, "Notes on Hegel's 'Lordship and Bondage,'" and Victor Goldschmitt, "Etat de Nature et Pacte de soumission chez Hegel," Revue Philosophique (1964) analyze the multiple dimensions of the concept of a 'state of nature.'
10. Vorlesungen über die Geschichte der Philosophie, III, Werke in zwanzig Bänden, p. 228; Encyc. III, #431 Z; Philosophy of Right, #187 Z; Logic, Wallace trans. (Encyc. I), #24 Z.
11. See Kelly, "Notes on Hegel's 'Lordship and Bondage,'" p. 196.
12. I borrow the concept of an "epistemological break" from L. Althusser, For Marx, pp. 55 ff. This shift in Hegel's thought has been well documented, Georg Lukacs, The Young Hegel, pp. 241 ff.; Franz Rosenzweig, Hegel und der Staat, pp. 129 ff.; Manfred Riedel, "Hegel's Kritik des Naturrechts," in Studien zu Hegels Rechtsphilosophie, pp. 55 ff.; Herbert Marcuse, Reason and Revolution, pp. 43 ff.
13. For Hegel's view on "die schöne Einhielt," see H. S. Harris, Toward the Sunlight: Hegel's Development 1770-1801, pp. 161 ff.
14. Hegel, "The Positivity of the Christian Religion," in Early Theological Writings, T. M. Knox, trans., in particular pp. 151; 163 ff.

15. Hegel, "Love," in Early Theological Writings, pp. 303 ff.
16. NR, 467 ff. In Chapter VI, I discuss Hegel's critique of formalist thought with reference to the problem of totality.
17. NR, 467. Cf. Rosen, Hegel, 266 ff.
18. Spinoza, The Ethics, Props. XXI-XXIII.
19. NR, 505. In Hegel's mature thought the priority of the community to the individual is preserved on the basis of his speculative analysis of self-consciousness.
20. Aristotle, Politics, in Basic Works, 1253a 20-35.
21. The best discussion of Hegel's treatment of social classes and the philosophical import of this question is to be found in G. Lukács, The Young Hegel, chs. vii and viii.
22. I call this transition 'anthropological-historical' because it is inspired by an analogy between the development of the individual and that of mankind. Just as the child becomes an individual by eventually outgrowing the family unit, and joining the larger community, so too, the family, first organized under the authority of the father, eventually emerges as a political unit by joining with other families under the leadership of a fatherly king or chief. In both instances, the transition from the first to the second stage of development occurs through the individuating experience of recognition. See Hegel, Jenaer Systementwürfe I (1803-1804), in Gesammelte Werke, 6, pp. 305 ff.
23. See Paul Chamley, "Les Origines de la Pensée Economique de Hegel," Hegel Studien, vol.III (1965).
24. "Money is this materially existing concept, the form of the unity or of the potentiality of all the things relating to needs" cited in Shlomo Avineri, "Labor, Alienation and Social Class in Hegel's Realphilosophie," in The Legacy of Hegel, Proceedings of Marquette Symposium.
See below, ch. VI, section IV.
25. Hegel, System der Sittlichkeit, G. Lasson, ed. (1967), p. 29. While usually dated to have been written after the Naturrecht Essay (1802-3), the precise date of the SdS remains undefined. (This text is hereafter abbreviated as SdS.)
26. Hegel, Jenaer Realphilosophie (1905-06), J. Hoffmeister, ed. (1969), p. 212. See p. 93 below for further discussion.

27. See Gadamer, "Hegel's Dialectic of Self-Consciousness," Hegel's Idealism, pp. 64 ff.
28. Dilthey, Gesammelte Schriften, V. II, pp. 384 ff.
29. Strauss, The Political Philosophy of Hobbes.
30. Ibid., pp. 108 ff.
31. Kojève, Introduction to the Reading of Hegel, pp. 22 ff.
32. Part of the confusion in Kojève's account derives from his analysis of desire "as desire for the desire of another." This interpretation makes the concern with one's value in the eyes of another--the sentiment that Rousseau calls "vanity"--the cornerstone of the dialectic of desire. It seems to me that Kojève introduces categories into the discussion that properly have their place in much later sections of the book--namely, those sections where the phenomenon of culture is discussed, Ph G, ch. VI B.
33. Dieter Henrich, "The Basic Structure of Modern Philosophy," p. 8. unpublished lecture delivered at St. John's College (March 1970).
34. Cf. Augustine, City of God, David Knowles, ed., "Pride . . . is a perverse kind of exaltation to abandon the basis on which the mind should be firmly fixed (571). . . . In fact they should have been better able to be like the gods if they had in obedience adhered to the supreme and real ground of their being, if they had not in pride made themselves their own ground" (p. 573).
35. Hobbes identifies reason with "ratiocination," and with "reckoning." Philosophy and science, he claims, proceed in the following manner: by true ratiocination, we deduce the effects from the causes or the appearances from the causes of their generation, or, from known effects and appearances we proceed to their unknown causes or generation. While in the compositive or synthetical method we begin from first principles to deduce effects generated by them, in the analytical method, we start with particulars and by decomposing them, by ideally taking them apart in our minds, we arrive at those first principles. The method of reason is essentially interventionist, for the same process by which the causes of the appearances are discovered, can also be recapitulated in "constructing" and "generating" these appearances. This is the background of Hobbes' claim that "to know truth is the same thing as to remember that it was made by ourselves . . ." (Body, Man and Citizen, R. S. Peters, ed. 24; 48 ff).
36. Richard S. Peters, Hobbes; Strauss, The Political Philosophy of Hobbes, Introduction; J. W. N. Watkins, Hobbes' System of Ideas; Dilthey, Gesammelte Schriften, p.
37. See below, ch. IV, "A Remark on Philosophy and History."

38. In this context, Hobbes' treatment of the English Civil War in the Behemoth deserves special mention.
39. Vorlesungen über die Geschichte der Philosophie, III, p. 61.
40. In The Political Theory of Possessive Individualism, C. B. McPherson analyzes the class assumptions of Locke's political thought, pp. 220 ff.
41. Cf. Gunnar Myrdal, The Political Element in the Development of Economic Theory, pp. 37-42, 60 ff.
42. H. Arendt, The Human Condition, p. 111.
43. As the universal medium of exchange for which all can be bought and sold money provides the generally acknowledged and legitimate title of ownership. As Myrdal remarks, this contradiction between the principle (labor is the source of property) and the practice (capital is owned by those other than the ones who labor) of capitalism underlies Marx's critique of it, who, like Locke, at times seems to assume a "natural" title of ownership to the products of one's labor.
44. Locke, T, sec. 41; 45. Cf. L. Strauss, Natural Right and History, pp. 234 ff.
45. "In this society of free competition, the individual appears detached from the natural bonds, etc., which in earlier historical periods makes him the accessory of a definite and limited human conglomerate. . . . this 18th century individual . . . appears as an ideal, whose existence they project into the past. Not as a historic result but as history's point of departure." Marx, Grundrisse, p. 83.
46. The affinities between Hegel and Adam Smith are analyzed below, ch. V, section v; ch. VI, section iv.
47. Chamley, "Les Origines de la Pensée Economique de Hegel," p. 228. The activity of labor and labor's products are not the only instantiations of exteriorization in Hegel's thought. In his early writings Hegel refers to the tool, the word, and the act as being equally significant in this respect. See Habermas, "Labor and Interaction: Remarks on Hegel's Jena Philosophy of Mind."
48. Karl Marx, The Economic and Philosophic Manuscripts of 1844, p. 175.
49. Encyc. III, #384 Z; Ph R, #4.
50. See Jenaer Realphilosophie, pp. 213-214.

51. "The final purpose of education, therefore, is liberation and the struggle for a higher liberation still; . . . in the individual subject, this liberation is the hard struggle against pure subjectivity of demeanor, against the immediacy of desire, against the empty subjectivity of feeling and the caprice of inclination," Ph R, #187 Z.
52. "The state comes into existence, originating in the bare needs of life, and continuing in existence for the sake of a good life. . .," Aristotle, Politics, 1252b 27-29.
53. The Ph G speaks of the struggle of the bourgeoisie against the aristocracy of land and office as the "struggle between the base and noble elements" (525; 355). Hegel's language is only partly ironic. See below, ch. VI, section iv.
54. Cf. Hegel's discussion of Montesquieu, Ph R, #3 Z.
55. The best discussion of the issue is to be found in Manfred Riedel, "Objektiver Geist und Praktische Philosophie," in Studien zu Hegels Rechtsphilosophie.
56. This particular criticism derives from premises shared by Hegel's epistemological rejection of theories also beginning with an "immediate" given. In both instances, 'dogmatism' means that fundamental assumptions go unclarified.
57. In Chapter V below, I analyze the teleological dynamic of all human activity, as this dynamic leads to the repositing of those initial conditions from which activity proceeds, as aspects of its completed goal.

CHAPTER IV -- NOTES

1. On political obligation and natural rights see D. D. Raphael, ed., Political Theory and the Rights of Man; Howard Warrender, Hobbes' Theory of Obligation; C. B. MacPherson, The Political Theory of Possessive Individualism; H. L. A. Hart, "Are There any Natural Rights?" in A. Quinton, ed., Political Philosophy.
2. Max Weber, Theory of Social and Economic Organization, ed. Talcott Parsons, pp. 324 ff.
3. See "Doctrine of Essence" in G. W. F. Hegel, Science of Logic, pp. 393 ff. These issues are discussed at length below, ch. V, iv-v.
4. I. Kant, On the Old Saw: That May be Right in Theory, but it Won't Work in Practice (hereafter referred to as Theory and Practice), pp. 67 ff; Kant, Metaphysical Elements of Justice, trans. John Ladd, pp. 76 ff. (hereafter abbreviated as MJ). Kant systematized the concept of a "state of nature" under the heading of "private law." He sought to delineate a condition among individuals conceptually distinct from, and impervious to the legislation of public authority. Both property relations and relations in the family came under this heading. A theory of associations antedating civil government is again implicit in this notion. Kant seems to have retained some of the older juridical categories pertaining to the rights of the household lord. His concept of the family is not altogether modern since neither women, nor children, nor servants have an actual or potential status as persons. [MJ, 71 ff.; see Hegel's criticism, Ph R, # 40 Z.] The more significant issue concerns the systematic role of property relations in Kant's practical thought. In the so-called state of nature, Kantian moral persons interact with one another in the material world. Kant's analysis of this condition reveals his commitment to the thesis of logical egotism most clearly (see below, Ch. V, section IV).
5. John Rawls, A Theory of Justice, pp. 17 ff.
6. There is a significant difference between these three statements. The first two cite the principle which justifies the right of nature. The quotation from the Leviathan formulates the capacity in virtue of which men can enjoy and exercise this right. Hobbes has a tendency to collapse these distinctions into one. The capacity to enjoy the right of nature--the natural liberty to preserve oneself--is appealed to as a justification of this right as well. I discuss the systematic import of this conflation below, p. 174.
7. G. R. Grice, The Grounds of Moral Judgement, p. 147: "As such there are no natural rights, for from the bare proposition that A is a man nothing follows about A's rights." Robert Nozick, in Anarchy, State and Utopia, also criticizes traditional natural right theories for

- their "essentialism"; for assuming that human nature involves a unique set of distinctly identifiable characteristics, pp. 10 ff.
8. H. L. A. Hart, "Are There any Natural Rights?" pp. 52 ff.; R. P. Wolff, "There's Nobody Here but Us Persons," Philosophical Forum (Fall-Winter, 1973-74), pp. 128 ff.
 9. Quoted in R. Polin, La Philosophie Politique de Thomas Hobbes, p. 192.
 10. Benedict de Spinoza, Ethics, Part III, Prop. VI and Proof; see also Leo Strauss, Spinoza's Critique of Religion.
 11. Michael Oakeshott, "Introduction" to Hobbes' Leviathan, p. xxxv; Leo Strauss, The Political Philosophy of Hobbes, ch. II.
 12. In De Cive Hobbes states: "Reason declaring peace to be good, it follows by the same reason, that all the necessary means to peace be good also, and therefore that modesty, equity, trust, humanity, mercy . . . are good manners or habits, that is virtues" (p. 58). The source of virtue, however, is not necessarily the source of rights. Rights are formulated with reference to conditions of mutual co-existence, whereas virtues are always binding in conscience. Rights are only binding when the goal of self-preservation is not threatened.
 13. According to Warrender the validating conditions of obligation can always be stated in the form of rights. The ground of obligation is the law of nature understood as "the will of God" (Hobbes' Theory of Obligation, pp. 18, 48 ff.). Warrender's theological interpretation of obligation in Hobbes' system does not delve into the complexities of Hobbes' metaphysical and epistemological thought. The ambiguities inherent in all reference to the law of nature are left unexplored. This law, if interpreted along the lines suggested by Warrender, would constitute a transcendent source of obligation. If it is remembered that God's will is expressed in his creation, however, the law is immanent in all actions. Hobbes conflates the grounds of justification and the validating conditions of obligation because the urge to self-preservation is a drive as well as a rational truth.
 14. Some interpretations of Hobbes have emphasized his authorization theory of obligation at the expense of his theory of natural rights (M. Oakeshott, Introd., Leviathan, xxx-lxvi). While a case can be made that under conditions of civil government authorization entails obligation, Oakeshott's interpretation is most difficult to reconcile with conditions of obligation which predate civil government, and which underlie the obligation to civil government itself. If only authorization generates obligation, the transition from the state of nature to that of civil government would become logically incoherent, since it would presuppose the establishment of that which it would claim to bring about. It is a mistake to think that the content of authorization can be determined by the act of authorization alone, and that authorization creates the grounds of obligation itself. See my discussion below in ch. V., section II.

15. In his Discourse on the Origin of Inequality Rousseau praised Hobbes for "seeing very clearly the defect of all modern definitions of natural right" (in The First and Second Discourses, 129). Rousseau applauded Hobbes for basing natural right upon a natural instinct like self-preservation, rather than on an assumption of human reasonableness and sociability as had done Grotius and Pufendorf. But the ambivalence of this concept frustrates Rousseau, and he criticizes Hobbes for having fallen into the trap of rationalism by equating self-preservation with prudential self-interest. Hobbes is accused of having attributed to men not only amour de soi, which all natural beings possess, but also amour propre (vanity) that only those who lived in society know. Hobbes distinguishes between the just and the unjust contents of preservation (see note 16); between vanity and legitimate concern for the future. Again, it is the rich ambivalence of this concept as its meaning vacillates between minimalist conditions of existence, and contentful assumptions about the identity of the self to be preserved that accounts for its foundational place in Hobbes' thought.
16. If no distinction is made between the just and rational, the apparent and illicit contents of preservation, Hobbes' theory of obligation will be jeopardized. Thomas Nagel argues that ("Hobbes' Concept of Obligation," Philosophical Review [1959], pp. 68-83), in Hobbes' system, obligation can never cross "rational self-interest." According to Nagel, the limits of obligation are defined by what men cannot be asked to do in virtue of their natural right to self-preservation. But what each agent considers to be necessary for his self-preservation, is not immediately equivalent to his rational self-interest. Men in desiring the preservation of their lives also desire what is good for them, but their understanding of how to attain both is shaped by their passions. In this diversity and multiplicity of desired goods lies the unreliability of their judgment as to how to avoid death. The just and rational goal of self-preservation often contradicts one's immediate inclination and self-interest. Hobbes, however, is assuming that the long-range goals of rationality and self-interest are not contradictory. Nagel fails to show why this cannot be the basis for a consistent theory of obligation.
17. H. L. A. Hart, The Concept of Law, pp. 60 ff.
18. In the development of the modern sciences of nature the concept of law is first applied to nature under a normative metaphor treating God as the divine law giver. Emerging out of moral discourse, the concept of law returns to ethical and political thought, shaped by the assumptions of the modern sciences about the generality and necessity of laws. See J. Habermas, "Natural Law and Revolution," in Theory and Practice; M. B. Foster, "Christian Theology and the Modern Science of Nature," I and II, Mind (1935, 1936); E. A. Burt, The Metaphysical Foundations of Modern Science.

19. See Nozick's "nihilist" treatment of human rights in his Anarchy, State and Utopia. Nozick can provide no normative justification for the claim that individuals have rights. It is an assumption with which he begins.
20. The controversy as to whether Locke is a traditionalist or a modern has centered around the compatibility of two claims: is his presentation of the law of nature, as one that obliges men within and without society compatible with his epistemological denial that there are any "innate" or "imprinted" ideas in the minds of men? Cf. Strauss, Natural Right and History, pp. 202 ff.; J. W. Gough, John Locke's Political Philosophy; Introduction by W. von Leyden to Essays on the Law of Nature.
21. Aristotle, Politics, chs. 5, 6, 7.
22. Aristotle, Politics, 1253 a.
23. J. Habermas, "The Classical Doctrine of Politics in Relation to Social Philosophy," p. 49.
24. The issue of modernity in Locke's political thought must be placed in the context of his arguments against "paternalism." Paternalism was the most influential among those forms of political thinking to confuse various types of dominion and the rightful exercise of authority. It subordinated relations in the political and private spheres to a natural hierarchy which in turn attributed its legitimacy to the original authority of God the father, represented by the ruler in the commonwealth. It denied individual rights because the temporally prior father-offspring relation first placed individuals under bonds of duty. Since this priority became a source of political precedence, the basis of political relation was one of duty and obligation, rather than one of right. See Locke's criticisms in the First Treatise and Sir Robert Filmer's Patriarcha (Two Treatises of Civil Government, Haffner Library ed.).
25. The equivocation in the concept of natural law has two forms. Among the Roman Jurists, who first used the concept of jus naturale, nature is understood as an order of relations among living beings. The law of nature refers to the inevitable patterns of life of each species and of their relations to one another. It is not restricted to the human species alone (Ulpian's teaching for example). If on the other hand, order is perceived as ratio, an intelligible measure only revealed to human reason, then jus naturale becomes the privilege of men and the criterion of human activities alone (Gaius). R. W. Carlyle and A. J. Carlyle, A History of Medieval Political Theory in the West, v. I, pp. 36 ff.
26. See R. Polin, La Politique Morale de John Locke, pp. 172 ff.
27. Political Theories of the Middle Ages, p. 90.

28. Karl Marx, Grundrisse, pp. 156 ff; 239 ff.
29. For an illuminating discussion see J. W. N. Watkins, Hobbes' System of Ideas.
30. "There is no method by which we find the causes of things, but is either compositive or resolute, or partly compositive and partly resolute. The resolute is called the analytical, and the compositive synthetical" (Hobbes, Body, Man and Citizen, p. 72).
31. Weber, Theory of Social and Economic Organization, pp. 324 ff. One must remember that Weber's description is an "ideal type," an analytical construct composed of most typical characteristics. It serves not to describe but to explain social reality. Consequently, the fit between this model of legal-rational authority and the theories of Hobbes and Locke is not perfect.
32. Guido de Ruggiero, The History of European Liberalism, pp. 347-370; C. B. MacPherson, Possessive Individualism, pp. 263 ff.; Habermas, "The Classical Doctrine of Politics in Relation to Social Philosophy," pp. 67 ff.
33. The right to determine what is fit for the preservation of their subjects may seem to place a more substantive prerogative in the hands of government than defining the external conditions of action. This is not so. Government is bound by the extent of public consent, but public consent is limited by the protection of the initial rights to life, liberty and property. The limits of political obligation cannot simply be defined by this notion of consent, because consent itself is defined with respect to inalienable rights. Cf. Hannah Pitkin, "Obligation and Consent," in Politics, Philosophy and Society, eds. Laslett and Runciman, p. 56.
34. Cf. Hobbes' instructive text, A Dialogue between a Philosopher and a Student of the Common-Laws of England.
35. A remark on the concepts of 'will' and 'rational agency' is in order here. Kant defined will as a kind of "causality": "the causality of living beings insofar as they are rational" (Groundwork to the Metaphysic of Morals, trans. H. J. Paton, p. 114. Hereafter cited as G). Rational living beings are capable of being moved by thought and reason. I follow R. P. Wolff in defining "being moved by reason" as "being moved by one's comprehension of the truth of a proposition" (The Autonomy of Reason: A Commentary on Kant's Groundwork to the Metaphysic of Morals, p. 118. Hereafter cited as Autonomy of Reason.) Being moved by the truth of a proposition signifies, a) that agents are able to account for their actions by citing reasons for them, b) that the relation between reasons and actions is cognitive and representational rather than causal and behavioral, c) one is moved to act not by the fact of having reasons, but on account of what they state and mean. Having a reason for one's actions means acting on one's comprehension of the cognitive significance of principles.

This definition of the will and of rational agency includes all acts of prudential reasoning as well. Any being who would set ends for himself and determine his course of action on the grounds that he considered it to be the best means to attain a given end, would under the above definition be a rational agent. Now such a definition of agency may be broader than what Kant had in mind. It may be that by the "causality of will" Kant only meant the "determination of actions in accordance with the pure concept of law." The definition that I have given includes being able to act in accordance with the concept of law in general. As far as such rational causality is concerned, it may either be said that it is an open question as to whether any creature has a will, but that it is logically possible that man be capable of such agency (Kant, Critique of Practical Reason, trans. L. W. Beck, 57. Hereafter cited as C Pr R). For any person engaging in acts of prudential deliberation and choice, it can also be assumed that he/she is capable of rational agency in the Kantian sense (Wolff, Autonomy of Reason, 190).

36. See John R. Silber, "Procedural Formalism in Kant's Ethics," Review of Metaphysics (1974), pp. 197-237; also Wolff who argues that "there is absolutely no substantive limitation to the character of the ends to which a society of rational agents may choose collectively to commit itself" (Autonomy of Reason, p. 224).
37. Rawls is concerned with meta-ethical question of normative discourse. He seems to present his theory of justice as a procedural framework for all valid normative discourse. The theorem of justice appears as a special instance of a theorem of rational choice. But if justice is construed minimally to involve all rational means-ends choices, in Kantian terms this would involve the complete collapse of "prudential" and "practical" categories. Can the Kantian theory of justice be freed from its basis in Kant's understanding of noumenal agency? If we consider the transcendental status of certain Kantian questions unnecessary, what other revisions in his theory should we commit ourselves to? Rawls' brilliant interpretation of Kant does not face the consequences of eliminating Kantian dualism. Can there be a Kantian theory of rationality without the dualism between appearances and the noumena?
38. A Theory of Justice, pp. 30 ff. See the interesting passage in Kant's Theory and Practice where he discusses the incompatibility between upholding principles of formal justice in a commonwealth and a conception of the salus populi. "The common weal to be considered first of all is precisely that legal constitution" (p. 66).
39. See Grice, The Grounds of Moral Judgement, pp. 93 ff.
40. A. E. Taylor's well-known article, "The Ethical Doctrine of Hobbes" (in Hobbes Studies, ed. Keith Brown) attempted to show the deep similarities in the philosophies of Hobbes and Kant.

41. See Frederick Olafson, "Thomas Hobbes and the Modern Theory of Natural Law," Journal of the History of Philosophy (1965) and Karl Heinz Ilting, "Hobbes und die Praktische Philosophie der Neuzeit," Philosophisches Jahrbuch, Vol. 73 (1965) both of whom argue that the relation between rights and obligation is Hobbes' original contribution, which Kant integrates into own practical philosophy.
42. Wolff, Autonomy of Reason, p. 181.
43. Kant, Critique of Practical Reason, pp. 31 ff; 43, 124.
44. "There is, at base, no difference between moral and political obligation. All obligations are grounded in the collective commitments of a society of rational agents. . . . limited or partial obligations exist, the scope and force of which correspond to the degree to which the quasi-contractual situation approximates to the pure case of explicit collective commitment" (Wolff, Autonomy of Reason, p. 224). Wolff seems to have confused expectations of reciprocity and mutuality governing moral relations with the paradigm of a contractual commitment (see, p. 220). How can one's moral duty to a child, to the sick, to the disabled be reconciled with the contractual expectation of reciprocity among healthy adults?
45. See H. L. A. Hart, "Are there Any Natural Rights?" in Oxford Readings in Political Philosophy; T. H. Green, Principles of Political Obligation, pp. 29 ff.
46. This is why Kant calls the moral law the ratio cognoscendi of freedom (C Pr R, 48). When a moral agent acts such as to adopt this self-conception, he in fact demonstrates the "interest of reason" in the moral law. We know our freedom through the moral law. But that human beings are also rational agents capable of adopting the moral law as a principle of their actions, itself presupposes freedom. Freedom is the ratio essendi of the moral law. The moral law is the form and the only one in which freedom manifests itself.
47. Hart, "Are there Any Natural Rights?" pp. 55 ff.
48. By reducing all principles of heteronomy to the passion of "self-love," Kant makes the link between moral egotism and the issue of natural rights all the more clear. Happiness of the self, if made a maxim of morality, would subordinate all goals, purposes, and undertakings to itself. Other individuals would be treated as means utilized in attaining the welfare of the self, and not as ends in themselves. The principles of self-love and those of autonomy are opposed. The perspective of autonomy is identical with that of the "world-citizen," who acknowledges humanity in his own person (C Pr R, 20; Anthropology, From a Pragmatic Point of View, trans. Mary J. Gregor. While Kant clearly elucidates the moral foundations of the rights of persons, he accepts

the premises of the very tradition of practical and moral egotism he attempts to repudiate. The static psychology of Kant's understanding of human nature does not permit an adequate repudiation of the modern tradition. It is not sufficient to divide the human psyche into the principles of self-love on the one hand and the autonomy of reason on the other. What or who mediates these principles? Hegel's concept of Bildung is significant in performing precisely this function.

49. "Perpetual Peace," On History, ed. L. W. Beck, p. 93; Theory and Practice, pp. 57 ff.
50. Kant introduces a social category into his juridical discussion. "Support" refers to the economic and social status of subjects as far as their means of livelihood is concerned. According to Kant, while it is not necessary to own landed property in order to be a citizen, it is necessary to own a skill, some form of tools of craft and some means of independent subsistence prior to the sale of one's services. In effect, what Kant does is to distinguish the class of modern proletarians who have nothing but their labor-power to sell in return for wages from the class of artisans. Those who have nothing but their labor to sell are not "independent," he observes. See Theory and Practice, pp. 63-64; Metaphysical Elements of Justice, p. 79. See also chapter VI, section V below, "Abstract Right and Bourgeois Right."
51. Hegel's claim that a legal system most adequately corresponds to the concept of right points to his affinities with the tradition known as "legal positivism." But Hegel is not arguing that there are no substantive normative criteria with reference to which the validity of laws in a positive system can be judged. Due process of promulgation and formal correctness is only one condition of validity. The content of the laws cannot be repugnant to the concept of right, by which Hegel understands the "embodiment of free will." The material limits of legal validity are defined by conditions and institutions compatible with the freedom of personality. But Hegel also agrees with the liberal tradition that a formal procedure known as the legal system is a pre-condition in upholding substantive rights. It is more correct, therefore, to entitle Hegel a "legal realist." While it is intrinsic to relations of right that they assume the form of a legal system, this system itself must rest upon some principles. Hart provides an illuminating account in his The Concept of Law, Ch. VI, though refraining from committing himself to a substantive theory of human rights.
52. Hegel's early essay on the German Constitution (1802) most explicitly discusses the modernization of the structures of public justice to be precondition for the unity of the state (in Hegel's Political Writings, trans. T. M. Knox, ed. Pelczynski, pp. 141 ff. Hereafter cited as Political Writings). Also Shlomo Avineri, in Hegel's Theory of the Modern State, pp. 34 ff.

53. While the condition of generality safeguards the right of privacy of the individual, the condition of universality stipulates that the law be valid for all on the same grounds--namely, the capacity for personality or free agency. I have not yet discussed the right of persons in Hegel. It is assumed in this discussion to be substantially identical with Kant's conception. I will modify this in the next section, but at this point in the discussion the divergences between the Kantian and Hegelian conceptions of personality are of no consequence.
54. My analysis is indebted to Foster in his Political Philosophies of Plato and Hegel (hereafter cited as Plato and Hegel), pp. 110 ff. Foster traces this concept of law back to Hegel's philosophical psychology which allows no distinction between reason and will--the latter signifying for the good part of the modern tradition a residual source of spontaneity and arbitrariness that cannot be wholly rationalized. For Hegel, on the other hand, will is "mind practical."
55. In Hegel's early writings "positivity" refers to those laws which confront moral and religious agents as given commands without supplying a living rationale and a motivational incentive to justify themselves; Early Theological Writings, trans. T. M. Knox, Also, Georg Lukacs, The Young Hegel, pp. 18 ff.
56. I remind the reader here of the discussion in chapter II concerning Fichte's theory of the self and his analysis of the initial act of reflection in which the identity of the self is posited (see ch. II, iii). Hegel rejects such an absolute act of reflection on the same grounds that he rejects the tautological principle of identity ($A = A$). For an illuminating discussion, see Rosen, Hegel: Science of Wisdom, pp. 97 ff.
57. Knox explains (n. 12 to the Introduction, p. 307) that though Hegel's meaning may be clear, his illustration is not particularly apt. The Institutes are not general principles of law, but an elementary textbook; while the Pandects are a complex code of case-law to which the Institutes are an introduction.
58. Arendt discovers the origin of the Hegelian concept of history in the experience of the French Revolution ("The Concept of History," in Between Past and Future). The oppressive tendencies of Hegel's philosophy of history (the cunning of reason using individuals as its ploys, etc.) are traced back to the experience of the Revolution which "devoured its own children" (Robespierre).
59. See Arendt's analysis of the paradoxes surrounding the concept of a "constituting assembly," On Revolution, pp. 155 ff.

60. "Absolute Freedom and Terror," Ph G, pp. 598 ff.
61. Lectures on the Philosophy of History, pp. 446 ff.
62. Both Habermas, "Hegel's Critique of the French Revolution," in Theory and Practice, pp. 142 ff.; Joachim Ritter, "Hegel und die Französische Revolution," in Metaphysik und Politik discuss Hegel's critique of the tradition in this connection.
63. Habermas, "Hegel's Critique of the French Revolution," p. 123.
64. I would like to thank Andrzej Rapaczynski for having lent me his manuscript on this topic entitled "Logic and Time." Discussions of the relation between logic and time are also found in A. Koyré, "Hegel à Iéna," in Études de l'histoire de la Pensée Philosophique (referred to as Koyré in the text); Rosen, Hegel, pp. 130-14), 229 ff., and, of course Kojève, Introduction to the Reading of Hegel, pp. 100 ff.
65. Encyc. II, #258 Z; Logic, Wallace (Encyc. I), #94 ff; Logic, Miller, pp. 154, 125 ff.
66. Labarrière, Structures et Mouvement de la Ph G., pp. 215 ff.

Notes to Chapter V

1. See Joachim Ritter, "Person und Eigentum," in Metaphysik und Politik; K.-H. Ilting, "The Structure of Hegel's Philosophy of Right," in Hegel's Political Philosophy, ed. Z. A. Pelczynski; Manfred Riedel, "Natur und Freiheit in Hegels Rechtsphilosophie," in Materialien zu Hegels Rechtsphilosophie, ed. Manfred Riedel, v. 2.
2. A. Kojève, Introduction to the Reading of Hegel, pp. 97 ff.; Stanley Rosen, G. W. F. Hegel, pp. 6 ff.; J. Hyppolite, Genèse et Structure de la Phénoménologie de l'Esprit, ch. II.
3. See Ritter, "Person und Eigentum," pp. 264 ff.; Jean Hyppolite, "L'état du Droit (La Condition Juridique)," Hegel-Studien, Beiheft 3 (1966), pp. 180 ff.; J. Habermas, "Hegel's Critique of the French Revolution," Theory and Practice, pp. 126 ff.
4. Habermas, "Hegel's Critique of the French Revolution," p. 126.
5. Habermas, "On Hegel's Political Writings," p. 187.
6. Habermas, "Hegel's Critique of the French Revolution," p. 128.
7. J. Ritter, "Person und Eigentum," pp. 272-273.
8. Habermas argues that the Philosophy of Right, "written in the shadow of the Logic" ("On Hegel's Political Writings," p. 187), presents various stages of interactional practice as the self-unfolding of a unified principle. With this philosophical monologue, Habermas claims, Hegel abandons the perspective of interacting selves so characteristic of his earlier discussions of spirit. Relations of abstract right, discussed in the Philosophy of Right, cannot document an interpersonal emancipation, because Hegel's methodology substitutes the unfolding monologue of a speculative subject for the concrete moral reconciliation of interacting selves. ("Remarks on Hegel's Jena Philosophy of Mind," p. 162). I disagree with Habermas that the methodology of Hegel's later work substitutes a quasi-technical, monological paradigm in place of the social interaction of individuals. As I will argue in the following chapter, Hegel's methodological concept of the totality allows him to accommodate concrete structures of ethical life. It is not clear to me why Habermas would want to see the Hegelian totality as expressing a "technical" paradigm. Is it that the attempt to grasp the whole cannot do justice to the plurality and individuality of human experience? Would this also imply that philosophical discourse, guided by the goal of giving an account of the whole, is itself technical? Is ontology a sublimated drive to domination? Does Habermas agree with Nietzsche, and Adorno that the drive of philosophy is a drive to domination?

9. Karl Marx, Critique of Hegel's Philosophy of Right, p. 64.
10. K.H. Ilting, "The Structure of Hegel's Philosophy of Right," p. 93.
11. Cf. T. H. Green, Principles of Political Obligation, pp. 45-46; Arthur Danto, "What is a Person," Encyclopaedia of Philosophy, pp. 110-114.
12. Hannah Pitkin, The Concept of Representation, pp. 24 ff.
13. The difficulties associated with Hobbes' concept of personality also supply the strongest arguments against Oakeshott's thesis that Hobbes' theory of authorization resolves the problem of political obligation in his thought.
14. T. H. Green, Principles of Political Obligation, p. 64; David Brion Davis, The Problem of Slavery in an Age of Revolution, pp. 29 ff.; 118 ff.
15. Locke, An Essay Concerning Human Understanding, pp. 211 ff.
16. See F. H. Bradley, "My Station and its Duties," in Ethical Studies.
17. Cf. Hannah Arendt, "In acting and speaking, men show who they are, reveal actively their unique personal identities and thus make their appearance in the human world . . .," The Human Condition, p. 179.
18. For Hegel, the basic category is not the "having" of property, but what one "does" with it.
19. Again, I am indebted to Hannah Arendt's analysis in The Human Condition, pp. 109 ff.
20. Cf. Gunnar Myrdal, The Political Element in the Development of Economic Theory, pp. 197 ff. I would like to thank David Levin of the Yale Economics Department for a helpful conversation on the distinction between the political and the political-economic aspects of property.
21. Cf. C. B. MacPherson, The Political Theory of Possessive Individualism, pp. 46 ff.; Karl Marx, Grundrisse, pp. c3, 154.
22. See Shlomo Avineri, Hegel's Theory of the Modern State, ch. V.
23. J. Ritter, "Person und Eigentum," p. 268.
24. L. Strauss, Natural Right and History; Heidegger, Die Frage nach dem Technē; What is a Thing?

25. Cf. Ilting's interesting attempt to derive all norms of practical discourse from the fundamental norm of "recognition," and Habermas's critique (K.-H. Ilting, "Anerkennung," in Probleme der Ethik; Habermas, Legitimation Crisis, pp. 102-104.)
26. Ernst Cassirer, Rousseau, Kant and Goethe; D. Henrich, "Historische Voraussetzung von Hegels System," in Hegel im Kontext, pp. 44 ff.
27. "Procedural Formalism in Kant's Ethics," Review of Metaphysics, (1974).
28. Kant, Anthropology, p. 27.
29. Yirmiahu Yovel, "The Highest Good in History. in Kant's Thought," Archive für die Geschichte der Philosophie, Vol. 54 (1972).
30. Nathan Rottenstreich, "Freedom as a Cause and as a Situation," Revue Internationale de Philosophie (1970), p. 57.
31. Fichte criticizes Kant in his Science of Rights for speaking as if there were a moral obligation to live in community with other persons. Fichte points out that one is always situated in the human community, the issue is whether one chooses to live in a particular community organized as a specific state (p. 24). Of course, it is no coincidence that Kant speaks as if there were an obligation to live in the community of others.
32. Alexis Philolenko, La Liberté Humaine dans la Philosophie de Fichte, pp. 38 ff.; C. K. Hunter, Die Interpersonalitätsbeweis in Fichtes früher angewandter praktischer Philosophie.
33. See Sartre, Being and Nothingness.
34. Cited in Philolenko, La Liberté Humaine dans la Philosophie de Fichte, p. 52.
35. See Fichte, The Science of Rights, pp. 48 ff.
36. Immanuel Kant, The Critique of Judgement, trans. J. H. Bernard, pp. 12 ff.
37. Kant, Anthropology, 107 ff. See H. Arendt, "The Crisis in Culture," in Between Past and Present, pp. 220 ff.
38. The significance of the faculty of the "imagination" in Kant has been explored by Heidegger in a different context, in Kant and the Problem of Metaphysics, but the recurring concern both in Kant's epistemology and in his theory of justice is the mediation of spontaneity and necessity; nature and freedom.

39. K.-H. Ilting, "The Naturalistic Fallacy in Kant's Ethics," in Proceedings of the Third International Kant Congress, p. 113.
40. See Rottenstreich, "Freedom as a Cause and as a Situation," pp. 52 ff.
41. I would like to thank Professor Smith for his reminder that transcendental possibility involves actuality, since transcendental reasoning proceeds from what is to question the grounds of its possibility. In Kant's practical philosophy, of course, the issue is still more complicated since the Faktum der Vernunft, the fact of reason's interest in the moral law, is more an act--a Tathandlung--than a fact--a Tatsache. Kant calls this act of reason a "fact," because in the final analysis, having failed to explain it with reference to the motivational antecedents in human nature, he has to treat it as sui generis.
42. Charles Taylor, Hegel, p. 82.
43. Both Marx and Dewey further develop this emphasis on activity that permeates Hegel's philosophy of mind. They would differ with Hegel, however, as far as the possibility of sublating causality into teleology is concerned; but even if one did not agree that the paradigm of teleological explanation is the paradigm of philosophical explanation as such, it is clear that the explanation of human action still very much warrants the kind of analysis Hegel proves us with. Cf. Georg Henrik von Wright, Explanation Understanding.
44. Kant, Critique of Judgement. See H.-G. Gadamer's Truth and Method, pp. 29-39.
45. Hans-Georg Gadamer's Truth and Method explores the significance of Hegel's concept of spirit with reference to the conceptual foundations of the humanistic disciplines. (cf. pp. 146-150).
46. Herbert Marcuse, "The Affirmative Character of Culture," in Negations, pp. 88 ff.
47. I am much indebted to Marcuse's excellent analysis, "The Concept of Essence," in Negations.
48. H. Schnädelbach's analysis "Zum Verhältnis von Logik und Gesellschaftstheorie bei Hegel," in Oskar Negt, ed., Aktualität und Folgen der Philosophie Hegels, is one of the few systematic attempts to explore this connection.
49. Philosophy of Right, #42 Z; Encyc. I, Logic (trans. Wallace), pp. 232 ff,
50. H. Schnädelbach, "Verhältnis von Logik und Gesellschaftstheorie," pp. 70 ff.

51. See Hegel's early treatments in the Jena writings, Jenaer Realphilosophie, pp. 217-221.
52. Marx was the first to initiate the criticism that Hegel's philosophy could only be shown wrong when the nature of the social reality it grasped was itself proved to be distorted. By arguing in this manner, Marx actually gives an "empiricist" reading to Hegel--as if Hegel made no distinction between philosophical deduction and the rationalization of facts.
53. See Jürgen Habermas, "Between Philosophy and Science: Marxism as Critique," in Theory and Practice, pp. 195 ff.
54. Cf. Georg Lukács, "Reification and the Consciousness of the Proletariat," in History and Class Consciousness; for the structural parallelisms between Marxism and psychoanalysis, see Althusser, Reading Capital, pp. 16 ff.
55. Marx, Grundrisse, pp. 459 ff.
56. Grundrisse, pp. 156 ff., 471 ff.; Capital, v. I, 167 ff.
57. For an excellent analysis of the significance of this distinction, cf. Althusser, Reading Capital, pp. 79 ff.
58. Capital, v. 1, pp. 35 ff.
59. Hegel's concept of property is not equivalent to the concept of a commodity because the latter concept only makes sense within a system of commodities each of which can be exchanged for the other in terms of a socially homogeneous measure of value. The discussion of abstract right does not involve concepts like production, need, and exchange. But if Hegel's concept of personality and property are the only ones in the modern tradition to accommodate the social realities of bourgeois society, can they be immune to the kind of mystification that Marx uncovered in his analysis of the "Fetishism of the Commodities"? In other words, are Hegel's concepts bound to signify relations other than those they claimed initially? Is the object of property bound to become a fetishized commodity? I think the answer is No. The object of property becomes a commodity under the system of capitalist production. Hegel's discussion of abstract right does not include presuppositions regarding an organized form of social and economic existence. Hegel's definition of property is almost tautological: if the individual is treated as a person entitled to rights, then the rightful claims of this person over certain domains of the external world will also be recognized. This definition is neutral regarding questions of collective and individual ownership of the means of production.

Chapter VI -- Notes

1. Translated into English as Immanuel Kant, pp. 22-28.
2. Ibid., p. 36.
3. Leibniz, The Monadology and other Philosophical Writings, Robert Latta, trans., # 49 ff.
4. ". . . since all substances must have a mutual harmony and connection and all must express in themselves the same universe and the same universal cause, which is the will of their Creator, and the decrees and or laws which he has established in order to make them fit into one another as well as possible," "Letter to Arnauld" (1687), Appendix A, in Leibniz, Monadology; see also #51.
5. Discussed in Wolff, The Autonomy of Reason, pp. 184 ff.
6. Goldmann, Kant, p. 61.
7. See "Metaphysical Expositions of the Concepts of Space and Time," Kant, CPR, "Transcendental Aesthetic," sections 2 and 4.
8. Kant, CPR, "The Antinomy of Pure Reason," section 5 ff.
9. NR, pp. 441 ff.
10. Both Rosenzweig (Hegel und der Staat, p. 155) and K.-H. Ilting ("Hegels Auseinandersetzung mit der Aristotelischen Politik," in Philosophisches Jahrbuch [1963-64], p. 78) remark that Hegel's sympathies in the NR toward the empirical theories of natural right derive from his assumption that an empirical theory is closer to expressing the "this"--the living unity of a people--than formal theories of natural right.
11. G. Lukacs, History and Class Consciousness, p. 137.
12. Aristotle, Politics, 1253a 20-35. Cf. "Ancient and Modern Natural Right" above, pp. 8 ff.
13. Spinoza, Ethics, Prop. 1.
14. Spinoza, Ethics, Definition IV.
15. Cf. Aristotle's definition of substance in the Metaphysics (Basic Works, 1028a 30-33): "Of the many senses in which a thing can be said to be 'first', substance is so in every sense. It is first by definition, in the order of knowledge and in time.

16. Jean Hyppolite, "Notes sur la Préface de la Phénoménologie de l'Esprit: l'absolu est Sujet," in Hegel-Studien, Beiheft 4 (1969), pp. 74 ff.
17. Althusser, Reading Capital, p. 94.
18. "Each new stage of forth going, that is, of further determination, is also a withdrawal inwards, and the greater extension is equally a higher intensity. The richest is therefore the most concrete and the most subjective, and that which withdraws itself into the simplest depth is the mightiest and most all-embracing." Hegel, "The Absolute Idea," Logic, pp. 840-41, 802 (emphasis in text).
19. "Since every category of the Whole is simultaneously present in each of its moments, or since the essence of time is eternity, the logician might at any moment being with any category. . . ." How can there be an order in the process of creation if that creation is eternal, that is, simultaneous, or Whole from 'moment' to 'moment' of eternity?" Rosen, Hegel, p. 114. Rosen's book contains some of the best discussions in English known to me of this most difficult topic of the totality.
20. See Harris, Toward the Sunlight, pp. 119 ff.; Manfred Riedel, "Objektiver Geist und Praktische Philosophie," in Studien zu Hegels Rechtsphilosophie, pp. 11 ff.
21. G. Lukács, The Young Hegel, pp. 447 ff.
22. "As free men the Greeks and Romans obeyed laws laid down by themselves, obeyed men who they had themselves appointed to office, waged wars on which they had themselves decided, gave their property, exhausted their passions, and sacrificed their lives by thousands for an end which was their own," in "The Positivity of the Christian Religion," in Early Theological Writings, p. 154.
23. See the speech of the Corinthian in Thucydides (The Peloponnesian War, Crawley, trans., pp. 39 ff.): "The Athenians are addicted to innovation, and their designs are characterised by swiftness alike in conception and execution . . . again they are adventurous beyond their power, and daring beyond their judgment, and in danger, they are sanguine . . . a scheme unexecuted is with them a positive loss, a successful enterprise a comparative failure. . ."
24. John Keats, "Ode on a Grecian Urn," in Complete Poetry and Selected Prose of John Keats, edited, and an Introduction, by Harold E. Briggs, Modern Library College Edition (New York: Random House, 1951), pp. 294-295.

25. Hegel, Jenaer Realphilosophie (1805-06), pp. 249 ff: "Dies ist die schöne glückliche Freiheit der Griechen, die so sehr beneidet worden (ist) und wird. . . ."
26. See Emile Durkheim, Selected Writings, Anthony Giddens, ed., pp. 96 ff.; 101 ff.; 113 ff.
27. J. Ritter, "Moralität und Sittlichkeit -- Zu Hegels Auseinandersetzung mit der Kantischen Ethik," in Metaphysik und Politik, pp. 281 ff.
28. The original expression of "objective" and "objectifying" spirit is Nicolai Hartmann's, cited in M. Riedel, "Objektiver Geist und praktischer Philosophie," p. 11.
29. Cf. P. Chamley, "Les Origines de la Pensée Economique de Hegel," pp. 252 ff. Chamley primarily stresses the activity of labor and the significance of exteriorization in Hegel's thought. Also, Avineri, Hegel's Theory of the Modern State, p. 141.
30. Talcott Parsons, The Structure of Social Action, v. I, pp. 96-97.
31. "In so far, therefore, as it is the positedness that is at the same time reflection-into-self, the determinateness of reflection is the relation to its otherness within itself. It is positedness, negation, which however bends back into itself the relation to other, but as reflection-into-self it is at the same time the sublatedness of this positedness, infinite self-relation." Logic 408; II, 22-23.
32. Hegel, System der Sittlichkeit, pp. 56 ff.
33. In the Naturrecht essay Hegel refers to the Burgher and the Politiker as the "negative" and "positive" totalities respectively. He argues that the ethical whole must control the disruptive dynamism of the negative elements within it, for this purpose leads to the formation of differences and inequalities (pp. 483 ff.)
34. See Hannah Arendt, "The Rise of the Social," The Human Condition, pp. 38 ff.; J. Habermas, Strukturwandel der Öffentlichkeit, pp. 28 ff.
35. Joachim Ritter, "Hegel und die Französische Revolution," in Metaphysik und Politik, p.
36. ". . . our epoch is a birth-time, and a period of transition. The spirit of man has broken with the old order of things hitherto prevailing, and with the old ways of thinking, and is in the mind to let them all sink into the depths of the past and to set about its own transformation." Ph G, 75; 15.

37. "'private vices' are 'publick benefits'; competition is the lever of progress; individual. egoisms form the basis of national prosperity," L. Colletti, "Mandeville, Rousseau and Smith," in From Rousseau to Lenin, p. 199.

Conclusion -- Notes

1. Karl Marx, "Introduction," Critique of Hegel's Philosophy of Right, pp. 131 ff.
2. F. Nietzsche, On the Genealogy of Morals, Third Essay, "What is the Meaning of Ascetic Ideals?" pp. 97 ff.
3. An illuminating analysis of the convergence between Freud and Marx on questions of individual and collective identity formation is to be found in Habermas, Knowledge and Human Interests, ch. 12.
4. Max Weber, "Science as a Vocation" and "Bureaucracy" in From Max Weber: Essays in Sociology, H. H. Gerth and C. Wright Mills, eds.
5. Jean-Paul Sartre, Being and Nothingness, pp. 240 ff., 361 ff.
6. By making the critique of culture a task of philosophy in the contemporary world, the work of the Frankfurt School has carried on the Hegelian emphasis on Bildung. Integrating Freud's insights with the heritage of German Idealism, and combining collective emancipation with the emancipation of the individual has been a central preoccupation of theorists like Marcuse, Fromm, Adorno and Horkheimer. In his Dialectical Imagination, Martin Jay provides a lucid presentation of their attempts at synthesis. See in particular, ch. iii.
7. Hans-Georg Gadamer, Truth and Method, pp. 11-19.
8. Cf. Georg Lukacs, History and Class Consciousness, pp. 146 ff. Marx, The Economic and Philosophic Manuscripts of 1844, p. 188; Marcuse, Reason and Revolution, pp. 232 ff.; Jürgen Habermas, Knowledge and Human Interests, pp. 25 ff.
9. Cf. Marx's discussion of the cyclical and cumulative movement of production in Grundrisse, pp. 459 ff.
10. Althusser, Reading Capital, ch. ix, "Marx's Immense Theoretical Revolution."
11. Nozick, Anarchy, State and Utopia, p. 4.
12. Rawls, A Theory of Justice, pp. 46 ff.
13. Ibid., 16, 47.
14. Nozick, pp. 27 ff.

15. Habermas' recent attempts at developing a normative theory of communication may be said to explore Hegel's claim that the structure of reciprocal recognition is evidenced by the very experience of language users. Habermas claims the norm of "undistorted communication" to be immanent in the very logic of human discourse. Unfortunately, in developing this idea, Habermas accepts the quasi-contractarian methodology of an ideal speech situation--this situation describes both a condition of validity, and a normative goal. Not only are there strong reasons for questioning the resourcefulness of this methodology in illuminating the nature of human communication, one must also ask whether the model of undistorted communication can yield norms other than those traditionally found in contract theories of justice. See, Thomas McCarthy, "A Theory of Communicative Competence," Philosophy of the Social Sciences 3 (1973).

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