

FREEDOM AND RECONCILIATION
IN HEGEL'S PHILOSOPHY OF RIGHT

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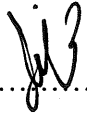
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ABSTRACT

Freedom and Reconciliation in Hegel's Philosophy of Right

In this thesis, my aim is to examine Hegel's notion of reconciliation in relation to the concept of freedom. In *Outlines of the Philosophy of Right*, Hegel claims that modern state has a rational core which makes it possible for individuals to reconcile to the social world. He justifies the political order by deducing it from the concept of human freedom to show why the state is reconcilable for individuals. After characterizing the attitude of reconciliation, I shall explore Hegel's strategy for justification of the state. By making an exposition of his analysis of freedom, I shall conclude that the state is reconcilable because it provides the necessary conditions for actualization of freedom.

ÖZET

Hegel'in Hukuk Felsefesi'nde

Özgürlük ve Uzlaşma

Bu tezin amacı Hegel'in uzlaşma kavramını özgürlük kavramıyla bağlantılı olarak incelemektir. *Hukuk Felsefesinin Prensipleri*'nde Hegel, devletin, bireylerin toplumsal hayatla uzlaşmasını mümkün kılan rasyonel bir özü olduğunu öne sürer. Devletin bireyler için neden uzlaşılabilir nitelikte olduğunu göstermek için, politik düzeni insan özgürlüğü kavramından çıkarsayarak gerekçelendirir. Uzlaşmanın nasıl bir tutum olduğunu betimledikten sonra, Hegel'in devleti gerekçelendirmek için kullandığı stratejiyi inceleyeceğim. Onun özgürlük tahlilini irdeleyerek, devletin özgürlüğün gerçekleşmesi için zorunlu koşulları sağladığı ve bu nedenle uzlaşılabilir nitelikte olduğu sonucuna ulaşacağım.

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Dedicated to Prof. Johannes Fritsche

TABLE OF CONTENTS

CHAPTER 1: INTRODUCTION.....	1
CHAPTER 2: RECONCILIATION	4
2.1 Alienation and reconciliation.....	4
2.2 Epistemological aspect of reconciliation.....	5
2.3 A state of perfect harmony?.....	7
2.4 Reconciliation or resignation?.....	12
2.5 Bipartite structure of reconciliation.....	13
2.6 Reconciliation and criticism.....	13
CHAPTER 3: HEGEL’S STRATEGY.....	16
CHAPTER 4: THE STRUCTURE OF PHILOSOPHY OF RIGHT.....	24
4.1 Arbitrary will and freedom of choice.....	24
4.2 Three systems of freedom and right.....	27
CHAPTER 5: UNITY OF PERSONAL, MORAL AND SOCIAL FREEDOM.....	88
CHAPTER 6: CONCLUSION.....	100
APPENDIX: THE QUESTIONS FOR DISCUSSION.....	108
REFERENCES.....	125

CHAPTER 1

INTRODUCTION

Hegel's theory of state, which he presents in his book titled *Outlines of the Philosophy of Right*, can be read as a project of reconciliation. Hegel aims to reconcile the individuals to the social world by making a rational explanation of the modern state. In this study, my main concern is to examine how Hegel carries out this project of reconciliation which is fundamental to his political philosophy.

In *Outlines of the Philosophy of Right*, Hegel rarely uses the term 'reconciliation'. He does not provide us any passage in which he defines this notion. Yet, the fact that the concept of reconciliation is not explicitly developed in the book does not make it any less important. This merely raises the difficulty of studying the notion of reconciliation, as it is necessary to extract its meaning from the text where it is somewhat concealed. Due to the scarcity of the secondary literature, a research on this theme becomes even more difficult. Since there are only a few sources that treat this notion, I deem it necessary to focus mainly on the original text. Furthermore, reconciliation is not an issue that is restricted to certain parts of the book. It can be understood only by exploring the whole text, so my essay comprises a detailed description of the structure of the entire book.

Hegel's ideal of reconciliation can be understood only with reference to the notion of freedom. The reason is that freedom is the answer to the question why, Hegel thinks, it is possible for the individuals to affirm the political order. According to him, social institutions are not foreign to the citizens because they provide the resources necessary for realization of their freedom. Freedom, in this sense, is pivotal to the issue

of reconciliation, so it is indispensable to give wide coverage to the former in a study about the latter. Unlike reconciliation, which is not defined explicitly by Hegel, freedom is a crucial concept which is referred to almost everywhere in the text. It can be even said that the whole book is the story of the development of freedom. This explains why, as shall be seen, there is an asymmetry between the scope of the discussion of reconciliation and that of freedom in my essay: There is only one chapter about reconciliation and the rest is all about freedom. Because Hegel's project of reconciliation is conditioned by the ideal of freedom for which he has a book-length account, it is indispensable to reserve much more space for the notion of freedom than for reconciliation. Therefore, after analyzing Hegel's concept of freedom and explaining why it entails social order, I shall conclude that modern social world is potentially reconcilable for the individuals.

There is a special reason behind the fact that I prefer to use the expression "potentially reconcilable". The claim that the social world is potentially reconcilable means that the modern state provides the necessary conditions for reconciliation, whether or not the individuals actually affirm it. My concern, therefore, is to examine the foundations of reconciliation that Hegel provides in his account of the state. These foundations reside in the idea of freedom. The state is potentially reconcilable for its members because it is essential for human freedom.¹

In the first chapter, I shall explore how Hegel's notion of reconciliation is characterized. This chapter will reveal that reconciliation is a matter of rational justification, so the second chapter will be an analysis of the strategy Hegel uses for justifying the political authority. To put it very simply, his strategy is to analyze human

¹ For further discussion, see question 6 in Appendix.

freedom to show that it necessarily entails social order. In the third chapter I shall provide an exposition of *Outlines of the Philosophy of Right* where Hegel examines the development of freedom. Then in the fourth chapter, I shall explain how Hegel's strategy works when applied to the phenomena expounded in the book. Finally, in the last part, I shall summarize my line of argument and conclude that Hegel provides the foundations of reconciliation in his theory of state.

CHAPTER 2

RECONCILIATION

2.1 Alienation and reconciliation

The importance of Hegel's project of reconciliation becomes prominent if its connection to the notion of alienation is considered. Reconciliation is a remedy to the problem of alienation experienced by the individuals in face of the social institutions.

In Preface, Hegel says that the laws of right differ from the laws of nature in that the former's validity is a matter of question. Natural facts simply are, so they are learned and accepted by human beings as they exist. Laws of right, though, are not absolute because they are man-made. Because they are constituted by human ideas and values, they may or may not be held to be valid. Every human being has his/her own criterion of what is right or wrong, so they may approve or reject the existing social norms and laws, which are, unlike the facts of nature, nothing but human products. They question whether the laws of rights are the way they ought to be. Whenever they feel that there is an antagonism between what is and what ought to be, they suffer from a sense of alienation before the social world. Alienation is the feeling that the social and political institutions, rules and practices are foreign in the sense that they do not reflect one's own ideas, values and demands. In such a situation, people have the sense that the social norms, which are not in compliance with their own will and reason, are just imposed on them. Because they cannot identify themselves with the social and political institutions, they experience a split between their individual and public lives, similar to the tragic conflicts between two irreconcilable roles.

Alienation is more of a modern phenomenon that occurs as a result of the changing values in the wake of Protestant reformation. “Nowadays” says Hegel in the lecture notes, “the civilization of the age has taken a new turn and thought has placed itself at the head of everything which is to have validity” (*Rph* p.7). Along with the emergence of the reflecting individual, it is characteristic of the post-Reformation era to question the rationality and validity of the norms and conventions. Since individuals no longer identify themselves unreflectively with their society, they tend more to experience alienation in the modern times. They become alienated if they do not think that the political system does not have a rational basis. For this reason, Hegel’s ideal of reconciliation, which aims to overcome alienation, can be said to be a modern project. In *Outlines of the Philosophy of Right*, Hegel endeavors to present the state as something inherently rational, so he cares about the modern need for rational justification. He believes that the state is rational insofar as it is necessary for realization of human freedom. Accordingly, individuals can overcome their alienation and become reconciled to the social world if they understand that their freedom can be achieved only within the state.

2.2 Epistemological aspect of reconciliation

Hegel’s notion of reconciliation is, in one sense, an issue of justification, so in this regard it can be said to be an epistemological problem. Hegel bases reconciliation on comprehension of the social and political reality. According to him, it is only by way of understanding the rationality of the social reality that the individuals get reconciled. Thus, the issue of reconciliation cannot be thought independently from the

epistemological question whether and how the social order is justified to the reason of individuals.

It is apparent from the following statement of Hegel that he cares about the problem of the justification of the social and political institutions:

(...) The truth about right, ethical life, and the state is as old as its recognition and formulation in public laws and in public morality and religion. What more does this truth require, insofar as the thinking mind is not content to possess it in this manner that is closest to us? It requires to be grasped in thought as well; the content which is already rational in itself must win the form of rationality, so that it may appear justified to free thinking. (*Rph* p. 5)

Accordingly, it is not sufficient that the laws and institutions of the state are recognized and accepted publicly by being written down. They must also be justified through rational assessment so that they are no longer alien to individuals. Hegel's emphasis on comprehension and rational scrutiny makes it clear that reconciliation is not simply a matter of voluntary agreement for him. For Hegel, the state is not accepted by individuals on the basis of its being a means for individual ends. He does not conceive the state as instrumental for the achievement of human desires, needs and interests. In his view, an instrumental view of the state does not provide the kind of justification which would result in individuals' reconciliation to the social world. If it is considered that Hegel conceives reconciliation as a way of overcoming alienation, it is understood why he seeks another kind of legitimation. Only through a rational justification that the state ceases to be alien to the will of the individuals. In a state that is rationally justified, the subjects feel that social institutions and laws come from their own will and identify themselves with them. On the other hand, a state legitimized solely on the basis of utility and based on the voluntary agreement of the

citizens is external to the will and reason of individuals since they consent to it regardless of whether it is rational for them or not.² For this reason, the problem of alienation remains unsolved in such a model of justification. Therefore, reconciliation is not a matter of voluntary agreement but a matter of rational justification of the political order.

2.3 A state of perfect harmony?

The claim that the modern state is potentially reconcilable might lead to the idea that the social order is thought to exhibit a perfect harmony. However, by maintaining that it is possible for the individuals to reconcile to the social world, Hegel does not mean that the latter is without problems. He does recognize that the modern state involves certain defects and conflicts. Yet, its imperfection, according to Hegel, is by no means inconsistent with the project of reconciliation.

In the preface of the book, Hegel puts emphasis on the importance of the present. In his view, the philosophy should be concerned with what is present and actual rather than a beyond. A theory of the state is more of an examination of the existing political institutions than construction of an ideal state. By stressing the significance of the present, Hegel criticizes an understanding of normativity that transcends our world and time. “If reflection, feeling, or whatever form subjective consciousness may take,” he says, “looks upon the present as something vacuous and look beyond it with the eyes of superior wisdom, it finds itself in a vacuum (...)” (*Rph* p. 14). Accordingly, Hegel thinks that it is nothing but an empty ratiocination to seek the normative principles beyond

² For further discussion, see question 1 in the Appendix.

what is present. An understanding of normativity detached from the present actuality is merely an abstraction. In parallel with this, it is mistaken to construct a state as it ought to be regardless of the extant conditions because it is not known whether such an ideal state can ever exist or not. Hence, Hegel argues that it is in vain to look beyond the present.

Our discussion about the epistemological dimension of reconciliation has already shown that Hegel cares about rationality as he looks for a rational justification of the modern state. Hegel thinks that philosophy must be concerned with what is present because rationality is found in the actuality. ‘Rational’ for Hegel does not only mean ‘intelligible’ or ‘reasonable’. In addition to its epistemological meaning, it also has a normative connotation. According to Hegel, something is rational if it is the way it ought to be. Hegel connects rationality to actuality with his famous statement: “What is rational is what is actual, what is actual is what is rational” (*Rph* p. 14). If the term ‘actual’ is taken in its ordinary meaning as ‘existing’, the sentence sounds too conservative because it seems to be a blanket endorsement of the status quo. However, Hegel attributes a different meaning to ‘actuality’ which rules out such an interpretation. For Hegel, actuality is the unity of essence and existence. Namely, something is actual only to the extent that it realizes its essence. Therefore, it is not the case that every thing which exists is actual. When the technical meaning of ‘actuality’ in Hegelian terminology is taken into consideration, it is seen that Hegel does not endorse every thing which exists. He only means that something is not rational and good if it does not exist and does not actualize its essence.³ So far as Hegel’s political theory is concerned,

³ For further discussion, see question 2 in Appendix.

the essence to be actualized is freedom. The state is rational as it is the condition of actualization of freedom.

It is important to note that although Hegel focuses on extant institutions rather than constructing an ideal political system, his presentation of the modern social world is not just a description of the existing features of the state available in his day. On the contrary, it can be said that there is even a discrepancy between his account and the particular existing institutions. Prussia for instance did not have some of the features which, according to Hegel, pertain to a rational state such as constitutional monarchy, a representative bicameral assembly and public jury trials (Hardimon, 1994, p. 58). However, the fact that some of the institutions Hegel mentions are absent in particular cases does not imply that Hegel constructs an ideal form of the state. Hegel is interested in what is actual but this does not mean that he embraces all the features present in the modern social world. If the technical connotation of the term 'actuality' in Hegel's thought is considered, it is understood why there is, in his theory of the state, a deviation from the existing political structure. As it was mentioned above, in Hegel's sense of the term, actuality does not amount to everything which exists. For him, something is actual only to the extent that it fulfills its essence. In view of this, if the particular states in the contemporary world do not show the characteristics peculiar to Hegel's state, this is because they do not fully measure up to what they ought to be, namely; they are not actual in the technical sense. Then, the disparity between Hegel's theory of the state and the contemporary political system does not signal a failure on his part to capture the reality of his day. Although Hegel abstracts from some of the existing features of the modern social world, it cannot be said that he abstracts from reality. Therefore, the

discrepancy between Hegel's exposition of the state and the modern institutions does not contradict his project of immanent normativity.

Turning back to the discussion of reconciliation, as it may be already understood from his emphasis on present reality and immanent normativity, Hegel thinks that the ideal of reconciliation can and should be realized here and now rather than in the indefinite future. His main thesis is that the state as it exists in the modern era is already worthy of reconciliation. The existing conditions are sufficient for the individuals to become reconciled. According to him, it is necessary to comprehend and affirm the actual and present state of affairs rather than postponing the ideal of reconciliation to a reformed future situation.

By claiming that reconciliation can be attained in the actual social world, Hegel does not mean that we live in perfect circumstances. His theory of state includes discussion of some problems found in the modern society such as poverty⁴, divorce and war.⁵ Then, Hegel is far from thinking that everything is wonderful in the modern state. His emphasis on the present involves acceptance of the current problems of the contemporary world. Therefore, it is not the case that he describes a utopian state abstracting from the reality of his day. He says:

On some principle or other, any state may be shown to be bad, this or that defect may be found in it; and yet, at any rate if one of the developed states of our epoch is in question, it has in it the moments essential to its existence. But since it is easier to find defects than to understand the affirmative, we may readily fall into the mistake of looking at individual aspects of the state and so forgetting its inward organic life. The state is no ideal work of art; it stands on earth and so in the sphere of caprice, chance,

⁴ For a discussion of Hegel's approach to problem of poverty, see question 7 in Appendix.

⁵ For a detailed examination of reconciliation in relation to the problems of divorce, war and poverty see Hardimon (1994) p. 228-251

and error, and bad behavior may disfigure it in many respects. (...) The affirmative, life, subsists despite such defects, and it is this affirmative factor which is our theme here. (*Rph* § 258 Z)

Accordingly, Hegel admits that particular states and institutions can be bad or deficient but yet the modern social world has a rational core that needs to be discerned. That is to say, it is necessary to extract the rational principles that lie under the problematic appearance of the modern political system. The rationality of the modern state consists in its organic structure. Only if the modern political order is reconstructed in thought in a way that reveals its rational organization, then it becomes possible to identify the affirmative factor inherent to it. Thus, it is the aim of Hegel's theory to reconstruct the social reality, which is partly problematic but yet rational, in a manner that results in our reconciliation with it.

If Hegel thinks that individuals can be reconciled to the social world even though it is partly problematic, then it is apparent that the attitude of reconciliation is not completely positive. With Hegel's expression, reconciliation involves recognizing "reason as the rose in the cross of the present" (*Rph* p. 15). By "cross of the present", Hegel seems to refer to the wickedness and suffering that stem from the problems and conflicts found in the modern state. Yet, it is possible according to him to recognize the rationality of the present despite the defects it contains. Then, it probably would not be false to say that the reconciliation has a negative aspect in the sense that it involves awareness of the problematic sides of the existing political institutions. Michael O. Hardimon (1994) even claims that reconciliation comprises a melancholic feeling that results from this awareness (p. 90). In short, Hegel does not conceive the attitude of reconciliation as a completely optimistic view of the world.

2.4 Reconciliation or resignation?

When the partly problematic situation of the actual world and the melancholic aspect of reconciliation that were mentioned in the previous section are considered, we have a distorted picture of Hegel in which his idea of reconciliation looks more like resignation to the existing social order. However, by reconciliation, Hegel does not understand an attitude of resignation.

Hegel is far from developing a theory of resignation as it may be understood from the following remark by him:

Reason is not content with approximation (...) and it is as little content with the cold despair which concedes that in this earthly life things are truly bad or at best indifferent, but since nothing better can be found here we should live at peace with the world. It is a warmer peace with the world which knowledge supplies. (*Rph* p. 16)

Here, Hegel seems to mean that the reason is not satisfied by the approximation to truth, it aspires rather to truth itself. There is no such thing as approximately rational. If the world is not really rational, it cannot be accepted merely on the grounds that it is all we have and we should content ourselves with it. The knowledge and comprehension of the social reality provide a “warmer peace” than resignation, because individuals, through rational scrutiny, come to understand that the core of the modern political system is rational although it involves certain problems and conflicts such as poverty, divorce and war.

2.5 Bipartite structure of reconciliation

According to Hegel, reconciliation consists of two components. It has both a subjective and an objective dimension. If it is considered that Hegel's notion of reconciliation has a dual structure, it is understood better that it is not an attitude of resignation.

It was already made clear that Hegel values subjectivity since he thinks that the social order must be justified to the thinking of individuals. It is important for him whether the political system complies with the criteria of the subjects. However, this does not mean that what matters is solely the standards of individuals. Although we tend to think that reconciliation, as a disposition of individuals, is merely a subjective phenomenon, it is not the case. Hegel thinks that there is an objective condition for the realization of reconciliation. Accordingly, for the ideal of reconciliation to be achieved, it does not suffice that individuals affirm the social order. Reconciliation is not based on the arbitrary opinions of individuals. If the state is not good from an objective point of view, there is no matter of reconciliation even if the citizens recognize and accept it. For this reason, Hegel tries to demonstrate that the modern social world is worthy of reconciliation regardless of whether it is affirmed by individuals. Reconciliation, therefore, is not a kind of resignation as the latter attitude implies that although the circumstances are not good enough they must be accepted as they exist. Hence, the dual structure of reconciliation makes it more explicit that reconciliation is not an attitude of resignation.

2.6 Reconciliation and criticism

The fact that Hegel's theory of the state aims to reconcile individuals to the social world might lead to the idea that it leaves no place for criticism of social institutions. However, the attitude of reconciliation is by no means incompatible with a critical stance towards the social and political order. On the contrary, Hegel's theory offers us normative standards by means of which the existing institutions can be rationally assessed and criticized.

Hegel's standards for possible criticism are found in his notion of actuality. As it was mentioned before, there is a disparity between the political system Hegel presents and the contemporary states. This is because Hegel aims to show the rational principles inherent to the modern states rather than making just a description of them. Actuality, in Hegel's jargon, is the reality reconstructed in thought in such a way that it reveals the rational essence of that which exists. In parallel with this, Hegel's account of state is a reconstruction of social reality in abstraction from some of its features which, in Hegel's view, are not actual in the sense that they are not rational. In other words, because Hegel is interested in the rational core of the modern social world, he excludes in his discussion some of the social institutions which do not conform to their rational principles. This is why Hegel focuses on some of the characteristics of modern states while he leaves some others which are not actual. Hence, if his distinction between existence and actuality is taken into consideration, it is seen that Hegel's theory does not exclude social criticism at all. Moreover, the rational principles he sorts out from the existing reality provide a basis for such a critique. By means of these standards, we come to know what is lacking in some extant institutions and how they can be reformed. Therefore, the attitude of reconciliation is quite consistent with criticism and reform

because it is possible to affirm the rational principles immanent to the modern state while criticizing some of its institutions which do not measure up to these principles.

That being said, Hegel's theory does not allow for radical criticism which results in alienation from the social world. Radical criticism can be understood as the complete rejection of the rational standards present in the modern social world, or the denial that the existing institutions can meet these standards. Such a critique which demands that the present norms or institutions should be replaced by others contradicts Hegel's project of reconciliation. Hegel is opposed to a kind of criticism based on standards that transcend the existing social reality. For him, social criticism is admissible and is compatible with reconciliation so long as it is immanent.

CHAPTER 3

HEGEL'S STRATEGY

In the previous chapter, we have examined how the attitude of reconciliation is characterized without accounting for the reasons why, Hegel thinks, it is an achievable ideal. This chapter will be a preliminary look at Hegel's strategy for justifying the claim that modern individuals can be reconciled to the social world.

It was mentioned before that the reconciliation is an epistemological issue since the affirmation of the social order is possible through comprehension of its rationality. *Outlines of the Philosophy of Right* can be seen as Hegel's endeavor to present the state in a way that reveals its rational structure and results in our reconciliation with it. If reconciliation is conditioned by apprehension of social reality, then we need to ask what Hegel means by comprehension. The kind of comprehension Hegel has in mind is the result of philosophical science of right, so it differs from the apprehension delivered by the other branches that treat right. The main difference consists in that the philosophy does not stop at what is given; it rather examines the necessity inherent to the concept of the thing. "The truth is that in philosophical knowledge the necessity of a concept is the principal thing, and the process of its production as a result is its proof and deduction" (*Rph* §2 R). Accordingly, philosophical science grounds the justification of the state on the concept of right, so it shows the necessity behind it rather than appealing to the historical origins, empirical facts and circumstances. An explication based on the historical events which brought about the enactment of laws gives us merely –what Hegel calls- pragmatic knowledge. Such a causal explanation does not make us

comprehend how the laws follow necessarily from their concept. It is only through a philosophical exposition that we have justification of the state because it shows us the necessity behind it.

If Hegel's distinction between reason and understanding is taken into consideration, it is understood better how the philosophy differs from other sciences and what is meant by the philosophical comprehension. Hegel criticizes non-philosophical sciences as they reduce comprehension of truth to understanding. The defect of understanding, according to him, is that it is one-sided and abstract. Understanding makes a distinction between form and content, universal and particular and so on. It works through schematization, abstraction, differentiation and application which are all, Hegel admits, necessary procedures of thinking. However, thought cannot be reduced to understanding since the latter fails to unify the distinct elements it discovers and to resolve the contradictions it ascertains. Thus, lacking an ability to make synthesis, understanding has merely an analytic function. For this reason, the distinct aspects and contrasts that it discerns remain one-sided and abstract. Because of such characteristics, understanding is not suitable for grasping the true character of reality. It is through the reason that comprehension of reality is possible. Unlike the understanding which gives a partial knowledge of truth, the reason comprehends the reality as a systemic and organic totality encompassing and unifying all its distinct moments. Thinking, according to Hegel, cannot stop at any division or contradiction but surpasses them by reaching a higher unity. Hence, although the understanding is a necessary component of thinking, it is insufficient and even misleading if it works independent of reason. And philosophy is the science of reason rather than the understanding.

It is also necessary to have an idea about Hegel's notion of concept since he describes the philosophy as the science of concept. We have mentioned above that Hegel bases the justification of the state on the concept of right. Then what does he mean by concept? Hegel conceives the notion of concept in a way that differs from its usual usage. In the ordinary sense, concept is considered as a tool of our knowing. Thus, as something pertaining to our faculty of knowledge, it does not have a bearing upon reality. Moreover, it is merely an abstraction. This is precisely the point of view of understanding which abstracts the form from the content, the universal from the particular. From such a perspective, there is only an external relation between the content and the form. For Hegel, though, concept is not just an abstract category which takes its content separately. It is the structure of both our knowing and being. According to Hegel, the concept is concrete rather than abstract, contrary to what the understanding supposes. It is not the case, he contends, that the content is added externally to the form. Rather, they are essentially bound up with each other. Hegel considers the concept as self-determining, so there is a necessary relation between the form and the content. Namely, the concept gives its content by itself so it does not take a content that is extrinsically given. This means that the concept determines itself as it ought to be. It is here that the meaning of Hegel's notion of rationality can be captured. The self-determination of the concept expresses a rational principle, so the reality can be understood by the examination of the concept. The philosophy provides a conceptual explanation of the world in the sense that it is based on the necessity which lies in the concept and its determination.

The self-determination of the concept can be understood as a dynamic process in which it unfolds itself gradually. Over the course of its determination, it takes different

shapes until it is fully developed. All these diverse configurations of the concept are necessary moments that constitute it. Hegel compares the unfolding of the concept to organic growth. It resembles a tree which, developing out of a seed, gradually differentiates itself into trunk, branches and leaves. Similar to the parts of a tree, all the determinations of the concept are organically connected.

The concept has a dialectical movement as Hegel calls it. He notes that he does not mean by dialectic the kind of argumentation which proceeds negatively taking a proposition, then falsifying it and deducing, in this way, the opposite of the initial postulate. This method is designed to refute the common assumptions by asking a question and ruling out, one by one, the candidate answers. This type of dialectic is a technique of reasoning applied externally to some content, so it belongs to the subject. The kind of dialectic Hegel adopts, though, is not an activity of subjective thinking. In parallel with the fact that the thought and being have the same conceptual structure, as it was already explained, the dialectic is not a tool of thought but the moving principle of reality itself. According to Hegel, the dialectic understood in the former sense is a purely negative method aimed at destruction of the false concepts. Hegel's dialectic has a negative character as well but it also involves positivity. He says:

The higher dialectic of the concept consists not simply in producing the determination as a contrary and restriction, but in producing and seizing upon the positive content and outcome of the determination, because it is this which makes it solely a development and an immanent progress. (*Rph* § 31 R)

What Hegel means is that the dialectic of concept proceeds by canceling yet preserving a content that appears to be false or contradictory. Hegel calls this dialectical movement of annulling and retaining 'sublation' (*aufheben*). Accordingly, whenever a determination

of the concept is deficient in the sense that it is not the way it ought to be, there is a passage to a new determination through the sublation of the former. This means that a deficient determination is overcome because of its limitedness, but it is not rejected completely as something purely negative. Rather, it is integrated into the new configurations of the concept as something having a positive content that contributes to their development. This is what we mean when we say that all the determinations of the concept are necessary moments of it.

The idea of sublation and dialectic is closely related to Hegel's notion of determinate negation. Nowhere in *Outlines of the Philosophy of Right*, does Hegel make mention of this idea. He rather lays bare it in the introduction of *Phenomenology of Spirit*. Yet, it would not be false to read his theory of right in line with his idea of determinate negation. Hegel introduces determinate negativity as opposed to abstract negativity. It is mistaken, according to Hegel, to consider a false view as pure and empty nothingness. A knowledge claim which is refuted nonetheless contains truth because it is that from which a new configuration of knowledge results. It is determinate nothingness in the sense that it has a positive content.

When (...) the result is conceived as it is in truth, namely, as a determinate negation, a new form has thereby immediately arisen, and in the negation the transition is made through which the progress through the complete series of forms comes about of itself. (*PhdG* ¶79)

According to Hegel's above statement, since a deficient view gives rise to a superior alternative, it is necessary for progression.

The idea of determinate negation provides a method for criticism and refutation. Hegel thinks that criticism must be internal rather than external in the sense that a view

must be assessed by its own tenets and standards. Internal critique of a theory allows us to develop a superior one through scrutiny into its principles, whereas external criticism provides no positive content for the construction of a better alternative. According to Hegel, a theory develops over time in the sense that it is a synthesis of all the different positions encountered in history. Determinate negation and internal critique express that ideas inherited from the past are not entirely false. They are rather partially true, so they are the moments of one system which evolves throughout the history.

In light of the information about some of Hegel's technical terms 'concept', 'dialectic', 'determinate negation' and 'internal critique', we are now in a position to understand the strategy he adopts in *Outlines of the Philosophy of Right*. We have already stated that the justification delivered by the philosophical science of right is grounded on the necessity of the concept. In line with this, Hegel thinks that the social world and its requirements can be comprehended by having recourse to the concept from which they all necessarily follow. The concept in question is that of freedom. Hence, Hegel's strategy is to deduce right from the concept of freedom as he believes that the latter necessarily entails the former. He proves that it is possible for the individuals to reconcile to the state because the institutions, laws and social roles it comprises are necessary for realization of human freedom.

To legitimate the political order, Hegel pursues a regressive strategy. Namely, he starts with an acknowledged phenomenon and shows which conditions are necessary for its realization. In this way, he introduces and justifies a series of conceptions without which the phenomenon in question could not occur. Thus he begins with the simplest form of freedom which is a common point of departure among the liberalist theorists of his day. By arguing regressively from the freedom of property, he reaches the conclusion

that the social institutions and laws are necessary for ensuring ownership. (Westphal, 2010)

As it will be seen later in detail in the next chapters, *Outlines of the Philosophy of Right* is divided into three parts titled as *Abstract Right*, *Morality* and *Ethical Life* which correspond respectively to personal, moral and social freedom. (Neuhouser, 2000) Personal and moral freedom are discussed in abstraction from the political institutions. In the ethical life section, he introduces social freedom incorporated in the framework of the state.

Abstract right, morality and ethical life are all moments towards the actualization of freedom. They are different determinations of the concept of freedom, so each of them is partial realization of it. Hegel's account of state can be described as a conceptual reconstruction of social reality. He analyses the concept of freedom into its different components to show how they complement one another. Since he employs a conceptual method, he treats the three types of freedom in the logical order. Although some of the social institutions such as family are historically prior to the system of abstract right and morality, they are logically posterior. The reason is that the concept develops itself from the most abstract to the most concrete determination. Since the abstract right is the most formal configuration of freedom, it is logically prior to the social institutions which appear earlier in the history.

The most important part of Hegel's justification is his exposition of the transitions between the three realms of freedom. Through the internal critique of the system of abstract right, he posits the morality as the precondition of personal freedom. Then he applies the same procedure to the morality and concludes that it is problematic without the system of ethical life. Internal criticism reveals that both abstract right and

morality fail by their own standards since they contain some contradictions. In parallel with the principle of determinate negation, each form of freedom, despite its shortcomings, gives the insights necessary for a more developed configuration. Hegel thus lays bare that abstract right and morality can be secured only by being institutionalized within the state. In this way, he justifies political authority on the basis that it is indispensable for the fulfillment of individual freedom.

Now that we have an idea about Hegel's line of reasoning, we need to see how it works with the content he provides in the book. For this reason, it is now necessary to explore the notions of personal, moral and social freedom developed in the sections of abstract right, morality and ethical life.

CHAPTER 4

THE STRUCTURE OF PHILOSOPHY OF RIGHT

4.1 Arbitrary will and freedom of choice

In the introduction to the book, Hegel examines the nature of the will and he deduces, from the concept of the will, right and freedom. The will, according to Hegel, consists of three moments or elements. The first moment is the possible rejection of any determination of the will. Every content and determination is like restrictions on the will, so in this moment what is understood by freedom is to free oneself from every thing and to remain indeterminate. Freedom that lies in withdrawal from every object and activity is nothing but ‘negative freedom’ as Hegel calls it. The will is the pure thought of itself and it is pure universality since it is not engaged in any particular activity. This state of pure indeterminacy, abstraction and universality, however, cannot generate freedom. As pure universality, it is deficient because of its one-sidedness and abstractness. “A will” says Hegel, “which (...) wills only the abstract universal, wills nothing and is therefore no will at all...The will, in order to be a will, must restrict itself in some way or other” (*Rph* §6 Z) Freedom cannot be pure indeterminacy because a will unless it is determined is not a will. A will which wills no particular object is nothing but a contradiction. Hence, Hegel concludes that there is also a moment of the will which leaves the state of indeterminacy and posits an object and content for itself.

The second moment of the will is a positive one unlike the first moment which comprises only negative freedom. The will abandons the state of pure reflection and determines itself by willing a specific object. Since it has a particular object, it is not

purely universal and abstract like the negative will. In this moment though, the will is incomplete as in the first one. Similar to the negative will, it is one-sided as it consists of sheer determinacy and particularity. If the will is simply determined by something other than itself, it cannot be said to be free. Thus, the second moment of the will is inconsistent with the aim of freedom as the will is only restricted by particularity here.

After analyzing two aspects of the will, Hegel concludes that the will involves both moments. The will remains universal even when it particularizes itself because its determinations are not restrictions but its own choices. The fact that will's determination is its own choice means that it is not a sanction imposed on the will. In this sense, even though the will is particularized, in every choice, there lies the universality of the I. Namely, in every determination of the will it preserves its freedom for it puts itself in its object or activity. The first and second aspects of the will when taken independently are therefore incomplete but together they constitute the most basic form of freedom: freedom of choice. When the will determines itself making a choice, there are always other options and possibilities available to it. The freedom of choice is, thus, based on the fact that one could have done otherwise by picking another option.

Hegel is critical of the freedom of choice which, in his view, fails to establish the genuine freedom. It is important, though, to note that he does not attempt to refute it by putting forth his own conception of freedom. Namely, he does not criticize it externally but rather internally by showing that it entails a contradiction in itself.

The inconsistency of the freedom of choice is that it contradicts what it values most. If we pay attention to this understanding of freedom, we notice that the core of it is self-determination. According to this conception of freedom, what makes me free even when I am committed to an activity is the fact that it is my own choice and I determined

myself. However, Hegel claims that although the freedom of choice seems to be based on self-determination, this is just the appearance. The choice is made among a set of options available to the will. Because the will merely chooses among the desires and needs given by the nature, it is determined contingently. For this reason, what is thought to be freedom is nothing other than arbitrariness. It is more like a capacity of an arbitrary will which rests on mere possibility. Namely, the will's freedom is not based on itself but on a probability. Therefore, choice is not the genuine freedom.

Hegel concludes that the will is self-determining only if it wills its own freedom. "A will is truly a will only when what it wills, its content, is identical with itself, when, that is to say, freedom wills freedom" says Hegel (*Rph* §21 Z). In freedom of choice, as we have mentioned, the will is not self-determining because its object, which is simply imposed on it by nature, is other than itself. Only if the will makes itself its object can it be said to be genuinely free and self-determining. Freedom in its true sense is not a possibility, as it is for the arbitrary will, but a necessity. It is something that the will necessarily has simply by virtue of being a will. This means that the will has the right to be free. Hence, Hegel deduces the right from the will that wills the freedom. Right requires a system where the freedom of the will is recognized as a status. Hence, Hegel begins to examine the concept of right.⁶

It is important to note that Hegel has a broader definition of right. For him, it does not only express legal right but also comprises personal and moral right. Hegel, thus, discusses firstly non-legal sense of right and derives legal right from the former.

⁶ For clarification, see question 5 in Appendix.

4.2 Three systems of freedom and right

4.2.1 Abstract right

To his discussion of right, Hegel starts with the abstract right since it is the most formal type of freedom. It concerns the rights that one has by virtue of being a person.

Basically, the person is Hegel's term for the atomistic individual with private aims and desires. Abstract right is the realm of personal freedom.

As its name suggests, abstract right is the sphere of abstraction from all particularity. Hegel employs the term 'person' to describe the self involved in abstract right. The person is formal in the sense that it does not refer to any specific subject. Namely, the self is not identified with reference to a society, class, race or religion. A person is not defined by virtue of a social role he/she occupies in a community. Personality is a universal characteristic that one has irrespective of his/her social roles, professions and affiliations. Persons, regardless of which specific and particular interests they have, share the same nature as beings with desires to be satisfied and ends to be realized. Personality, thus, implies a claim for some rights that one has simply by virtue of being a person. Behind personality, there is a demand for the right to realize personal freedom through the satisfaction of desires and pursuit of private ends.

Persons are atomistic in the sense that they are self-interested individuals. Within the scope of abstract right, all interpersonal relations are restricted to interactions between atomistic individuals without any moral or ethical principle that links them to one another. That is to say, in the realm of abstract right there is no spirit of community

shared by the persons. Here, the multiplicity of individuals is more like an aggregate of atoms.

The rights that follow from personality are abstract in the sense that they are indifferent to the specific content of the personal will. In other words, abstract right does not say anything concerning which ends, aims and desires to pursue. Rather than prescribing any particular action, it concerns solely one's universal right to express and actualize one's personal goals. In short, abstract right is only formal as it does not have any content.

Abstract right is indifferent to the content of the will in the sense that this content is only a possibility for it. Rights express the capacity of the persons to act according to their desires, needs and purposes. In other words, what is important in the domain of abstract right is the possible rather than the actual actions of the persons. He says:

In relation to action in the concrete and to moral and ethical relations, abstract right is, in contrast with the further content which these involve, only a possibility, and to have a right is therefore to have only a permission or a warrant. (*Rph* §38)

Here, Hegel means that abstract right does not decree any command concerning the moral goodness and ethical duty. It merely indicates a permission or a possibility to follow the private aims. Personal will is yet arbitrary will whose freedom consists merely in possibility.

While saying that the abstract right does not have any content, it is meant that it does not have any positive content. The only content abstract right has is negative. "The imperative of right is", as Hegel states, 'Be a person and respect others as persons' (*Rph* §36). As it is noted before, abstract right is universally shared and a person by claiming

rights confers the same ones to the other persons. This suggests that at the level of abstract right, all persons are equal. For this reason, personality requires respecting others as persons.

The unconditional commands of abstract right are restricted, once again because of its abstractness, to the negative: 'Do not infringe personality and what personality entails.' The result is that there are only prohibitions in the sphere of right, and the positive form of any command in this sphere is based in the last resort, if we examine its ultimate content, on prohibition. (*Rph* §38)

Although abstract right's imperative 'Respect others as persons' seems like a positive one, Hegel suggests that it is indeed a negative command because of its lack of content. As there is no moral reflection and ethical institution involved in abstract right, respect for others includes nothing but the negative principle 'Do no violate personal rights of others'. After all, the abstract right takes the individual as a person regardless of his/her social or political roles, so there is not requirement for social and political duties arising from such roles. For instance, a parent or a state owes a child an education, but an individual qua person does not have any such social or political duty to anybody (Rose, 2007, p. 60). This suggests that the only obligation and responsibility a person owes to another is not to violate his/her personal rights.

Its lack of content also explains why the abstract right precedes the sections of morality and ethical life in Hegel's exposition. As it was mentioned before, Hegel explores the concept of freedom in a logical order. Abstract right is logically prior to morality and ethical life in the sense that it is abstracted from the content given by them. As we shall see, freedom develops from abstraction to concreteness through morality and ethical life. The priority of abstract right also consists in the fact that morality and

ethical life presuppose freedom of choice found in the sphere of abstract right. Acting out of ethical duty or moral goodness is possible on the basis of freedom to choose. The negative freedom involved in abstract right suggests that there is not a hindrance to freely chosen action. If there were an obstacle to action, then the moral and ethical action would not ever be possible. In this sense, negative freedom is the condition of positive freedom constructed in morality and ethical life.

That being said, abstract right is not prior to morality and ethical life in the sense that it can exist independent of them. We shall see later that abstract right is possible only on the basis of the latter because by itself it faces some contradictions and it cannot be realized if it remains abstract. Therefore, abstract right, morality and ethical life condition one another.

Since the abstract right concerns negative freedom based on permissions and prohibitions, it indicates some limitations concerning interactions of persons. Accordingly, the abstract right sets up some domain in which a person can live without inference by others. This exclusive domain is expressed by property which, Hegel thinks, is very important for the actualization of personal freedom.

After introducing and expounding the concept of person, Hegel comes to examine the notion of property. According to Hegel, property is the embodiment of freedom and the objectification of personal territories in the external world. One expresses one's personality, choices and preferences through the medium of property. A person does not exist in the full sense, because his/her freedom is not actual yet without property.

The dichotomy of externality and internality becomes prominent in the discussion of abstract right and property. As noted above, property is the translation of inner will's freedom into the external realm. In line with this, Hegel points out:

(...) The right of persons in its essence is a right to things, 'thing' [*Sache*] being taken here in its general sense as anything external to my freedom, including even my body and my life. In this sense, the right to things is the right of personality as such. (*Rph* §40 R)

Hence, Hegel calls every thing external to the person 'things'. This does not imply that other persons are also things for an abstract right bearer. A thing is that which is not a person, namely a rights bearer. It is a will-less entity which does not have right and freedom, so a thing is not just what is external to 'my freedom' as Hegel puts it, but what is external to freedom in general.

Besides a right for usage, property owner claims also the right to sell, alienate, bequeath and so on. The fact that Hegel defines thing as what is external to one's will and freedom might cause it to be understood in a restricted sense. It is important though to note that 'thing' has a much broader meaning for Hegel. Artistic skills, erudition, inventions and so forth, which usually thought to be inner and mental, can also be put into the category of thing or property because they can be ceded to another person. They, according to Hegel, have an external aspect in the sense that they become external by being expressed. Hence, property or thing may include also what is mental.

Hegel's emphasis on the importance of possession might cause a misinterpretation concerning what he takes as the basis and justification of property. At first look, it may seem that he cares about property because he considers it necessary for the satisfaction of natural desires and needs. However, his following statement shows

that this is not the case: “The rationale of property is to be found not in the satisfaction of needs but in the supersession of the pure subjectivity of personality. In his property, a person exists for the first time as reason” (*Rph* §41 Z). Accordingly, Hegel does not base property on empirical and natural facts about human needs, nor does he justify it in terms of utility. For him, no right can be legitimized on such a ground. He states:

If emphasis is placed on my needs, then the possession of property appears as means to their satisfaction, but the true position is that, from the standpoint of freedom, property is the first existence [*Dasein*] of freedom and so is in itself a substantial end. (*Rph* §45 R)

It is mistaken to ground property on natural needs, impulses and caprices because these are arbitrary whereas behind property there is a necessity. Property is a substantial end in itself rather than merely a means for the satisfaction of desires, needs and instincts. Its substantiality resides in the fact that it is necessary for the actualization of the will and realization of freedom. Hegel distinguishes property from possession because he thinks that the latter does not have this necessity:

To have power over a thing *ab extra* constitutes possession. The particular aspect of the matter, the fact that I make something my own as a result of my natural need, impulse, and caprice, is the particular interest satisfied by possession. But I as free will am an object to myself in what I possess and thereby also for the first time am an actual will, and this is the aspect which constitutes the determination of property, the true and rightful factor in possession. (*Rph* §45)

In Hegel’s view, possession is instinctual, hence arbitrary. Contrary to property, it does not have any rightful claim, so it has nothing to do with freedom. Property, as rational

appropriation peculiar to humans, is distinguished from instinctual seizure endemic to the animals.

When Hegel claims that property is necessary for freedom, he is talking about the system of private property. Common property, according to him, does not express the proper relationship between the person and the thing. As it is mentioned before, property is the objectification of one's inner will. Hence, it has the character of belonging to a specific person. Hegel criticizes Plato as there is no place for private property in his account of state. For Hegel, rejecting the principle of private property is a violation of personal freedom. Rejection of private property, in his view, is due to a misinterpretation of the nature of freedom. Private property is one of the determinations of freedom, so it is necessary.

Hegel asserts that property is not enough to actualize freedom unless it is recognized by others. "Since property is the existence of personality," he says, "my inward idea and will that something is to be mine are not enough to make it my property" (*Rph* §51). Accordingly, without the recognition of other persons, the inner will cannot completely externalize itself.

That a person puts his will into a thing is just the concept of property, and the next step is the realization of this concept. The inner act of will which consists in saying that something is mine must also become recognizable by others.
(*Rph* §51 Z)

Without recognition of others, property remains as a concept, meaning that it is not yet actual. It is already noted that property indicates a personal territory that is not intervened by others. Namely, property sets up some boundaries to prevent a possible

interference by other persons. This already suggests that property does not actualize its concept if it is not recognized by others.

As the abstract right is the domain of atomistic individuals, it might be hard to understand what kind of recognition and intersubjectivity it involves. Abstract right contains interpersonality in a restricted sense, as it is clearly put by Hegel in this way: “If at this stage we may speak of more persons than one, although no such distinction has yet been made, then we may say that in respect of their personality persons are equal” (*Rph* §49 R). As it is seen in this quotation, because there is not a distinction between persons in the level of abstract right, we can only mention a plurality of equal subjects. Namely, there is not a difference between individuals because they, as right bearers, are abstracted from their particular characteristics that differentiate them from one another. In the sphere of abstract right, the individuals are considered to have only universal qualities, so they are all equal. The only principle of intersubjectivity is deduced from the equality of persons: “Respect others as persons.” All persons are universally equal, so they all have the same rights. This requires recognizing others’ personality and respecting their rights as one’s own rights. Apart from this, there is no principle that governs interpersonal relations. Interpersonal relations in abstract right are quite different from intersubjectivity found in morality and ethical life as we shall see later. Thus, Hegel restricts abstract right to atomistic individuals who have only formal relations to others. At this level, the individuals are atomistic because they are not social. In short, the intersubjectivity in abstract right is limited to respect and recognition in a formal sense based on the equality of persons.

It is important to note that the equality Hegel refers to is the universal equality. That is to say, all persons are equal in terms of their universality. This means that we

cannot deduce equality of particulars from the notion of universal equality. To put it more concretely, Hegel rejects the view that all persons must have equal amount of property. He finds the idea of equal distribution of goods “empty and superficial” (*Rph* §49 R). It is superficial because it fails to see the distinction between universal equality and the equality of particulars. He states:

People are equal, but only qua persons, that is, with respect only to the source from which possession springs; the inference from this is that everyone must have property. Hence, if you wish to talk of equality, it is this equality which you must have in view. But this equality is something apart from the fixing of particular amounts, from the question of how much I own. From this point of view it is false to maintain that justice requires everyone’s property to be equal, since it requires only that everyone shall own property. The truth is that particularity is just the sphere where there is not room for inequality and where equality would be wrong. (*Rph* §49 Z)

As Hegel suggests here, the universal equality of persons does not entail the equality of their particular goods. Abstract right does not fix the quantity of properties the persons have as the quantity is a matter of particularity. As it is stated before, abstract right is indifferent to particularity. Hegel even claims that equality is wrong at the level of particularity, because it does not allow difference among the individuals.

Hegel asserts that there are three basic determinations of property. One of the determinations is taking possession of something. One may take possession of something by grasping it physically, by forming it or by merely marking it as his/hers. Another determination of the property is use of the thing. The use of the thing is realized through consumption, destruction and modification of it. The third determination is alienation of property. Alienation expresses that property does not only imply possession

but also the possibility to renounce ownership. Just as one puts one's will into something to own it, one may also choose to withdraw one's will from it.

A person may alienate his/her property to transfer it to another person. Transfer of property has various forms such as gift, exchange, purchase, selling and hiring. Such a transfer is realized through a contract between two persons. Contract implies that each party who enters it makes an agreement over the transfer and recognizes each other as right bearers and property owners.

Although Hegel provides some concepts and distinctions concerning various phenomena of ownership and contract, his analysis is still too abstract to provide an accurate framework of property. This picture will be completed later in the section of civil society when it is supplemented with the social reality and concrete phenomena of production, commerce and all sorts of economic activity.

It is already stated that the interpersonality involved in the sphere of abstract right is too formal and it differs from the intersubjectivity in morality and ethical life. In parallel with this, the common will based on contract is quite different from the universal will which is in question in the ethical life. Namely, on the level of abstract right, there is not yet a communality based on a social ethos. Hegel says:

The two contracting parties are related to each other as immediate self-subsistent persons. Therefore contract arises from the arbitrary will. The identical will which is brought into existence by the contract is only one posited by the parties, and so is only a will shared in common and not a will that is universal in and for itself. (*Rph* §75)

Accordingly, contract is contingent because it is posited by the persons based on their arbitrary wills. The contractual union is merely an aggregate of particular wills. It is only

relatively universal because it is the inadequate realization of the universal will based on rational necessity which is achieved in ethical life.

Since the contract is an arbitrary union of particular wills, Hegel points out that “it remains at the mercy of wrong” (*Rph* §81 Z). The contract requires its parties to abide by its stipulations but its actualization depends on their arbitrary particular will. Hence, because of its contingency, there is no guarantee that the contract is not infringed by the persons who enter it. The violation of contract and right is called wrong.

It is necessary to note that ‘wrong’ does not have moral connotations as long as it remains within the domain of abstract right. We have already mentioned that abstract right is abstracted from morality, so, in parallel with this, wrong does not involve any moral meaning too. Wrong is un-right, namely it is the negation of right. As abstracted from morality, wrong does not concern personal vice and bad intentions. In short, wrong, as the infringement of right, has only an objective character, so it does not involve moral subjectivity.

After making a general definition of wrong, Hegel classifies it into three categories. The first is non-malicious wrong which is the less important one as its name also suggests. Non-malicious wrong involves recognition of right because both parties are willing to do what is right. Here, wrong stems from a mistake in applying the right to a particular object. In the second one, namely in fraud, the contract is used by one party to deceive the other one. Hegel says that there is still recognition of right in fraud because the deceiver claims to act in the name of right although he deliberately creates a semblance of contract. The third category of wrong is crime and coercion where there is an attack on one’s property including one’s body. In fraud, as it is mentioned, the wrongdoer recognizes the other party’s personality by acting in accordance with the

right, though a semblance of it. However, in crime, there is not even a claim to right. Here, the criminal does not even consider it necessary to veil his/her wrong behind a semblance of right. Rather, he/she rejects altogether the concept of right. After this introduction of three types of wrong, Hegel adds that punishment is required for the last two categories whereas it is not necessary for the first one because in non-malicious wrong the wrong doer wills nothing against the right.

Hegel's treatment of punishment can be seen as an endeavor to justify the rationality of penalty although he does not explicitly say so. There is a secondary literature where we find some detailed analyses of Hegel's approach to punishment and discussions whether his justification is successful or not. I should note that my aim is not to discuss the success of Hegel's arguments for the legitimation of penalty.

Hegel introduces punishment by saying that coercion is self-destructive. According to Hegel, coercion involves a contradiction in itself "because it is an expression of a will which annuls the expression of determinate existence of a will" (*Rph* §92). This means that coercion is self-contradictory because it is will's attack on itself. The self-destructivity of coercion lies in the fact that coercion can be annulled only by coercion again. This second act of coercion that aims to cancel the initial one, which is a crime, is punishment. Such a conception of punishment already makes it clear that Hegel considers penalty necessary and legitimate. Punishment is a kind of coercion but it differs from the crime of coercion in that it is justified. Hegel says:

Abstract right is a right to coerce, because the wrong which transgresses it is an exercise of force against the existence of my freedom in an external things. The maintenance of this existence against the exercise of force therefore itself takes the form of an external act and an exercise of force annulling the force originally brought against it. (*Rph* §94)

Coercion undermines freedom and the system of rights so it must be annulled.⁷

Punishment can be understood as a double negation because it negates coercion which is itself the negation of right and freedom. Thus, right reaffirms and reinforces itself through a double negation of crime and coercion.

Hegel stresses that punishment is not necessary on the basis of its utility. In his view, it is mistaken to conceive punishment as a deterrent, a preventive measure, a threat or a rehabilitation technique. It is equally false to explain it on conventional reasons such as its being good for society. Punishment, according to Hegel, is necessary in the name of justice, rather than utility and conventions. As we have already seen, crime is the denial of the entire idea of right so the punishment is requisite for the preservation of justice system.

Hegel considers punishment as retribution because it is executed in response to a crime. Also, the punishment is retributive in the sense that there is parallelism between a crime and the penalty it deserves. Hegel thinks that punishment depends on the crime, so it must be determined according to the qualitative and quantitative character of the latter. In short, the idea of retribution implies that there is equivalence between the crime and penalty. That being said, Hegel does not advocate strict equivalence that characterizes the law of retaliation 'eye for eye, tooth for tooth'. Equivalence is not looked for in the specific external form of the crime and punishment. Retribution is rather based on the equality of value which is intrinsic to a deed. Therefore, punishment is fixed according to the value of an action which concerns its universality.

⁷ It is important to note that Hegel in the original text uses the term 'aufheben' which, if its dialectical connotation is considered, has a richer meaning than its translation 'to annul'. To say that crime is annulled through punishment is not to say that it is negated as if it never took place. Rather, it means that crime is cancelled yet preserved. (Knowles, 2002, p. 143)

The issue of penalty reveals the limitation of abstract right. At the level of personal right, there is no way of determining the appropriate punishment. Hegel grounds retribution on the equality of value but he does not say how the value is ascertained. As an objective quality, value requires impartial judgment. However, it is known that abstract right is restricted to arbitrary will of self-centered individuals. Persons have only a subjective point of view, so they are not suitable for decision concerning the punishment which requires adopting an objective standpoint. Because of this, retribution may take the form of revenge. In revenge, the particular interests of the avenger prevail, so it may result in further injustice. This contradicts the aim of punishment which is exercised in the name of justice. The problem of penalty, thus, shows that abstract right is not self-sufficient for constituting a stable system of normativity. As the social norms are not a matter of arbitrary will, there is a requirement for a new configuration of will which can will the universal by restricting its particularity. It is only the moral will which is capable of making decisions freed from subjective interest and acting in the name of universality. Hence, morality appears as the precondition of abstract right.

4.2.2 Morality

Morality is the standpoint of the subject, so there is a transition from personality to subjectivity in the sphere of morality. Unlike the person, moral subject has a self-relation as it has a capacity for reflection. In morality, the inner life of the subject, which was of no concern in abstract right, becomes prominent. Namely, personal activities involved in the abstract right are considered only from an external point of view whereas in morality

these deeds are viewed from the perspective of the subjects. The subject is not simply a choice maker like the person but a moral agent who reflects, makes an assessment and establishes his/her own principles.

Dealing with the property rights, we have seen that according to Hegel, it is necessary for the full actualization of freedom to realize the content of the will as an external end. In the sphere of abstract right, it is through property that one externalizes and objectifies one's will. In parallel with this, we see an externalizing activity in morality as well, although in a different way. Here, the external expression of the internal content of the will is not restricted to property. It is action with a moral meaning and value. Hence, Hegel begins the discussion of morality by making an analysis of action.

Hegel's examination of action starts with the notions of purpose and responsibility. The analysis of these notions includes a short and superficial discussion of guilt and imputability, ignoring -perhaps deliberately- the traditional debates on the issue.

As it is already mentioned, in the discussion of formal right, property was conceived as the external expression of a person who puts his/her will in it. An external thing possessed by me takes the predicate 'mine', so it involves my selfhood. However, the 'mine-ness' contained in the property consists of my choices, since the abstract right is limited to arbitrary will. In formal right, we have the person who chooses one thing over another but we do not see which motivation he/she has making such a choice. "So far as right in the strict sense was concerned," says Hegel in his lecture notes, "it was of no importance what my intention or my principle was" (*Rph* §106 Z). As he puts it in the above statement, there is no question of motivation, purpose and intention in the level of

formal right. This question is the subject matter of morality. In the domain of morality, the inner content which is translated into the external world by the subject is the purpose rather than the choice.

“Purpose concerns” Hegel explains, “only the formal principle that the external will shall be within me as something inward” (*Rph* §114 Z). Accordingly, purpose - as understood by Hegel - is indifferent to the particular content of the will because it is abstract. It indicates the formal right of the moral subject to recognize as his/her own action only that which corresponds to his purpose. Hence, purpose simply expresses and emphasizes the mine-ness of an action without any specification of its content. By abstracting the purpose from its content, Hegel postpones the treatment of intention to the next section and he restricts his discussion to an elementary analysis of responsibility and imputability.

When one acts, it is within a complex set of circumstances which affect and limit the success of an action. Action is the translation of the inner content of the will to externality, but - because the external world is contingent - my action may have some consequences which I cannot always foresee. According to Hegel, this fact constitutes the finitude of the subjective will.

The intervention of a subject in the external world results in an alteration of the states of affairs. Hegel calls such an intervention ‘deed’ which he distinguishes from the action. The former, according to him, is the event caused by the interference of someone and it is attributed to a subject only from an external point of view. Deed is indifferent to the purpose of the subject. In a deed, there is not a distinction between the consequences which are foreseen and those which are unforeseen by the subject. For Hegel though, it is necessary to distinguish the action from deed. Action is the part of the deed which the

subject claims and identifies as his/hers. Hence, the action is defined from a subjective viewpoint, whereas the deed is described from an objective perspective. An action involves a purpose, so when it is ascribed to a subject, the aim of the agent is taken into consideration, while the deed is attributed to somebody causally.

In parallel with the distinction between deed and action, Hegel seems to have two different conceptions of responsibility in mind. In broad terms, a subject is responsible for any deed which results from his/her interference in the sense that it is he/she who caused it even though it was not in his/her purpose. Here, it does not mean that the subject is chargeable for everything he is causally responsible. A discussion of whether one is guilty or not requires taking one's purpose into consideration. According to Hegel, one has an idea of the circumstances of one's action, but because the will is finite - as it is mentioned above - one's idea of the external situation is also limited. Because of the finitude of the will and the contingency of the external world, one's action may have unexpected outcomes. For this reason, claims Hegel, one has the right to recognize as one's action and to accept responsibility for that part of the deed which is involved in one's purpose. Hegel calls this the right to know. Accordingly, one is responsible and chargeable for an event if one has the conscious knowledge of the situation confronting him/her. This is the narrower sense of responsibility.

Hegel notes that the right to know is a modern notion and that the ancients did not yet have the subjective perspective towards the matter of responsibility. Ancient heroes like Oedipus accepted responsibility for the whole compass of deed regardless of whether they had knowledge of the circumstances or not. For Hegel, the ancient standpoint is just "primitive simplicity" because of not having a distinction between deed and action (*Rph* §118 R). Hence, as it is clear from his critique of ancient view of

responsibility, Hegel thinks that the subjective aspect of a deed can never be ignored in the issues of imputability.

Hegel's emphasis on purpose and the right to know, however, does not suggest that it is only the subjective dimension of the action which matters. It is apparent from his following remark that Hegel does not hold such a view:

The maxim: 'Ignore the consequences of actions' and the other: 'Judge actions by their consequences and make these criterion of right and good' are both alike maxims of the abstract understanding. The consequences, as the shape proper to the action and immanent within it, exhibit nothing but its nature and are simply the action itself; therefore the action can neither disavow nor ignore them. (*Rph* §118 R)

The right to know does not imply the idea that we can omit the consequences of an action and focus merely on the motivation of the subject. As Hegel's statement reveals, it is equally false to ignore the consequences and the motivations because they are both one-sided and incomplete views of action. Like the subjective aspect of an action, its objective side is also important. Subjectivity is expressed merely by the external and objective realization of a motivation, so it is important whether a subject can successfully realize his/her purpose. To put it in another way, mere purpose and motivation are not enough to explain and evaluate an action because they matter only if they are embodied in the external world. Hence, Hegel rejects the views which presuppose a gap between the inner will and its outward existence by abstracting either from the purpose or the consequence of a deed. According to him, motivation and result are like the two sides of the same coin, so they both belong to the nature of an action.

The inseparability of the consequences of a deed and motivations of the subject shows that the notion of purpose is insufficient to comprehend the moral meaning of an

action. We have already mentioned that an agent, according to Hegel, has an idea of the attendant circumstances, so he/she is aware that his/her action does not consist of his aims and motives. Namely, since there are always some indirect consequences linked with one's intervention, one knows that one's action is more complex than is foreseen by one's purpose. As the abstract idea of purpose is inadequate to express the complex character of action, Hegel introduces the notion of intention.

As it is noted before, there are direct and necessary consequences of an action on one hand and indirect and arbitrary consequences on the other hand. An action involves a chain of relations and circumstances, so it cannot be reduced to its parts. It must rather be viewed in its totality and universality. According to Hegel, the universal character of the action is present in all its single parts as in an organism. Intention expresses the universal character of an action. "The transition from purpose to intention" says Hegel, "lies in the fact that I ought to be aware not simply of my individual action but also of the universal which is conjoined with it" (*Rph* §118 Z). When a subject aims an end, he/she should take into consideration the universal quality of the action in terms of his/her intention.

Hegel notes that just as an action is exposed to arbitrariness in the external world, there is also a factor of contingency internal to the subject. As it is already stated, due to the arbitrariness of the external world, an action might engender some consequences which are not foreseen by the subject. However, the contingency of an action consists also in the fact that the awareness of one's deed varies from person to person. In the cases of lunacy, imbecility or childhood, for instance, the subject is unable to comprehend the universal character of his/her action. Because such people are devoid of rational agency, Hegel claims, they cannot be deemed responsible for all of their deeds.

According to Hegel, the subject has the right to be held responsible for the events which were present in his intention. He calls it right of intention. That being said, Hegel is alert to the dangerous implications of such an understanding of responsibility, so he also introduces the right of the objectivity of action. The danger of accepting the right of intention lies in its liability to abuse. As we can never know exactly one's intention, we can be deceived by someone who pretends to be ignorant of the circumstances of his/her action. Against this, the right of objectivity indicates that the universal quality of an action should be known by the agent. Except the cases of childhood, lunacy and imbecility, an individual is presupposed to know the universal nature of his action and this is a way of treating him/her as a rational and free agent.

To say that an action has a universal character, Hegel notes, is not to say that the particular motives of the agent do not matter. One has the right to pursue and satisfy one's natural ends such as needs, desires and passions. Such natural inclinations do not represent the lower side of the human nature which must be suppressed. Rather, they are necessary for the achievement of freedom. For Hegel, there is no subjective freedom if the subject does not have welfare which is attained through the satisfaction of natural ends. Desires, needs, passions and all natural motives constitute the raw material of freedom. Hegel is well aware that this idea might be objected by saying that such natural motives are merely given:

Consequently we may raise the question whether a human being has the right to set before himself ends not freely chosen but resting solely on the fact that the subject is a living being. The fact that a human being is a living being, however, is not contingent, but in conformity with reason, and to that extent he has a right to make his needs his end. (...) It is only the raising of the given to something self-created which yields the higher orbit of the good (...) (*Rph* §123 Z)

According to Hegel, the fact that natural desires and needs are given does not necessarily mean that they are irrational. As long as they are controlled by the practical reason, they are in line with rationality. Therefore, the universality of action does not imply that particular motives ought to be left aside for the sake of a higher substantial end.

The welfare is not only about satisfying my own subjective will but it also concerns the welfare of others. “The welfare of many other particulars in general” says Hegel, “is thus also an essential end and right of subjectivity” (*Rph* §125). Hence, Hegel announces that a subject has the right to promote happiness and well-being of others as well as his own.

Hegel holds that subjective satisfaction does not prevent an action from having an objective and substantial value. He criticizes those who underestimate the value of an action because of the particularity involved in it. Such a view claims:

(...) Because subjective satisfaction is present, as it always is when any task is brought to completion, it is what the agent intended in essence to secure and that the objective end was in his eyes only a means to that. (*Rph* §124)

If there is ever any subjective end involved in an action, it is thought that this was the mere motivation of the subject. This idea entails that an action counts as valuable only if it is done out of objective motives without the admixture of any self-interest and particular inclination. For Hegel though, such an understanding of morality as a struggle against one’s own satisfaction is merely a product of abstract and one-sided reflection. The objective and universal value of an action is by no means overshadowed by the subjective and particular motives contained in it as if there is an incompatibility between the two. According to Hegel, it is mistaken to suppose that there is a gulf between

subjective and objective aspects of a deed. On the contrary, he thinks that they are inseparable.

It must be noted that the objective and universal principle of action is restricted to abstract right in the domain of morality. Hegel warns us as such: “(...) The universal that is in and for itself (...) has not so far been further determined than as ‘right’ (...)” (*Rph* §125). Since the abstract right is the only universal principle that is deduced so far, the opposition between objective / universal and subjective / particular ends discussed above corresponds to the conflict between formal right and welfare.

Although Hegel argues that objective and subjective ends of the subject are not incompatible, he is aware that there might be conflict between the two, as he puts it in this way: “(...) These ends of particularity, differing as they do from the universal, may be in conformity with it, but they also may not” (*Rph* §125). There are cases in which particular welfare and happiness of the individual may contradict objective principles of right. As one such example, Hegel examines a case where one’s life is in danger and is in conflict with someone else’s property. Life, as Hegel defines it, is the entirety of the particular interests of the natural will. If somebody is in a life threatening situation, it is acceptable for him/her to take or use somebody else’s property for the sake of self-preservation. In jeopardy of one’s life, one has even a right over someone else’s property. Although such a right, which is called the right of distress, seems to contradict the system of abstract right, it is justified in the sense that the loss of a life would be the complete negation of freedom and right. Hence, in a case where one’s freedom and rights altogether are at risk, infringement of property rights can be tolerable because it is a partial rather than a complete annulment of freedom.

Hegel concludes that right and welfare have some limitations and they end up in contradictions as it is seen in the right of distress:

This distress reveals the finitude and therefore the contingency of both right and welfare –of right as the abstract existence of freedom without being the existence of the particular person, and of welfare as the sphere of the particular will without the universality of right. (*Rph* §128)

According to Hegel, welfare and abstract right are by themselves insufficient to actualize freedom because they are one-sided. For the realization of freedom, they must be in unity. Hence Hegel introduces the notion of good that combines objectivity and universality with subjectivity and particularity.

“The good is (...)” says Hegel, “freedom realized, the absolute end and aim of the world” (*Rph* §129). Hegel thinks that freedom is actualized only in good. This is not to say that welfare and right are not realizations of freedom. Both correspond to a kind of freedom but Hegel does not think that achievement of happiness or execution rights are by themselves sufficient for genuine freedom. They are only necessary but insufficient conditions and moments of actual freedom which resides only in the good.

Since the good is the realization of freedom, it is substantial for the subjects: “For the subjective will, the good and the good alone is the essential, and the subjective will has value and dignity only insofar as its insight and intention accord with the good” (*Rph* §131). The good is the aim of the subjective will because it is only in good that it can attain freedom. However, the will is not yet in accordance with the good in the domain of morality. “Consequently, it stands in a relation to the good, and the relation is that the good ought to be substantial for it, i.e. it ought to make the good its aim and realize it completely (...)” (*Rph* §131). Moral will is yet distinct from the good so it only

relates itself to it. As long as we are confined to the moral perspective, the relation of the subjects to good appears merely as an ought which remains as a beyond. In the limited sphere of morality, the good remains merely as an ideal to be achieved some day.

As the good is the essence of the will, it is a duty for the moral subject. There is no inclination towards happiness, pleasure or satisfaction behind the ideal of good. It is a duty which should be done for the sake of duty because it is the condition of human dignity and freedom. However, Hegel does not stop here: "Now if my knowledge stops at the fact that the good is my duty," he states, "I am still going no further than the abstract character of duty" (*Rph* §133 Z). As long as the good is merely characterized as a duty, it becomes nothing but a formal obligation.

The good is just an abstract duty because the content of the good action is not yet specified in the domain of morality. Hegel puts it in this way:

Since every action for itself requires a particular content and a definite end, while duty as an abstraction entails nothing of the kind, the question arises: what is my duty? As an answer nothing is so far available except: (a) to do right, and (b) to promote welfare (...) (*Rph* §134)

If the definition of the good stops at the fact that it is a duty, we do not have any concrete principle of action. No content can be derived from the abstract right or the idea of welfare which are the only principles of action introduced thus far. It was already explained that abstract right lacked any concrete principle of conduct, so by itself it cannot furnish us with any content for the duty. Along the same line, welfare does not enable concretization of the duty although it seems to give us a particular content of action. Like the abstract right, it remains content-less because it does not tell us which of the desires, inclinations and interests to follow. Hence, in the moral sphere, the duty and

good action cannot be determined concretely since both abstract right and welfare fail to give us any content.

Hegel criticizes a formal concept of duty because the good, according to him, cannot be accomplished if it remains abstract. He condemns the moral theories⁸ which are confined to a notion of abstract duty. A doctrine of morality which cannot go beyond an understanding of duty done for the sake of duty, according to him, ends up in an *empty formalism*. He explains this as such:

From this point of view, no immanent doctrine of duties is possible; of course, material may be brought in from outside and particular duties may be arrived at accordingly, but if the definition of duty is taken to be (...) formal correspondence with itself –which is nothing but the establishment of abstract indeterminacy- then no transition is possible to the specification of particular duties nor (...) is there any criterion in that principle for deciding whether it is or is not a duty.” (*Rph* §135 R)

A moral doctrine based on the maxim “Do your duty because it is your duty” consists of an identity or “formal correspondence with itself” as Hegel puts it in the above statement. Such a maxim, according to Hegel, is just an empty form which can take a content only externally, so it does not give us an immanent doctrine of duties.

It is important to note that Hegel does not reject the idea that the duty ought to be done for duty’s sake. On the contrary, Hegel himself acknowledges and emphasizes the formal character of morality because he believes that a moral action should be committed with a sense of duty. An action done out of duty is not based on merely

⁸ As Hegel puts it explicitly in §135 Kant is the main target of his critique. However, I deliberately avoid a discussion on Hegel’s critique of Kantian morality which is a broad issue since it requires firstly an exposition of Kant’s theory, then Hegel’s reading of Kant and finally a further debate whether Hegel is right in his criticism. For the purposes of this study, it is sufficient to know that Hegel develops a critical attitude towards an understanding of morality which adheres to a formal concept of duty.

particular and subjective motives like pleasure, desire, passion and so on. Rather it has an objective and universal value. As Hegel puts it in the lecture notes: “I should do my duty for duty’s sake, and when I do my duty it is in a true sense my own objectivity which I am bringing to realization” (*Rph* §133 Z). The formal aspect of duty expresses the moral autonomy of the individuals. Doing something on the basis of its being duty involves the practical reason. Namely, duty indicates that a moral action is not determined by the natural instincts, desires and needs which are simply given but by the practical reason. This means that self-determination of the will is central to the notion of duty. Hence, what Hegel criticizes is not the formal character of duty but the absolutization of this formal aspect. For him, it is problematic to reduce duty to this formal dimension because morality, then, lacks concrete principles of action and becomes an empty formalism.

Because of the abstract constitution of the good, (...) - particularity in general - falls within subjectivity. Subjectivity in its universality reflected into itself is the subject’s absolute inward certainty of himself, that which posits the particular and is the determining and decisive element in him, his conscience. (*Rph* §136)

What Hegel means here is that it is up to the subject to determine the particular content of duty because it remains abstract at the level of morality. He introduces the notion of conscience which expresses the capacity of the subject to make an assessment of the moral laws. Having recourse to conscience, one finds in oneself a conviction of what is right and good.

Before a discussion on conscience, Hegel has already introduced the notion of right of insight in connection with the importance of the subjective conviction:

The right of the subjective will is that whatever it is to recognize as valid shall be seen by it as good, and that an action, as its aims entering upon external objectivity, shall be imputed to it as right or wrong, good or evil, legal or illegal, in accordance with its knowledge of the value which the action has in this objectivity. (*Rph* §132)

In parallel with the right to know discussed previously by Hegel in the section of purpose, the right of insight indicates that the subject has the right not to recognize any thing as good, right and obligatory if it is not in accordance with his/her reason. Like the right to know, the right of insight is closely linked to the issue of responsibility: An action cannot be imputed to a subject regardless of her/his insight into the value of this action. Yet Hegel feels the need to introduce the right of objectivity besides the right of insight to avoid the implications that may arise from an absolute subjectivism. Accordingly, an action has an objective value independent of the subject's conviction, so there are objective criteria for judging on the cases of imputability. Hence, the right of the subjective will to question the rationality of the norms and standards is never independent of the knowledge of what is good and bad objectively.

Right of objectivity already makes it clear that conscience cannot be thought independent of the objective determinations of good. "True conscience" says Hegel, "is the disposition to will what is good in and for itself. It therefore has fixed principles and these are for it determinations and duties that are objective for themselves" (*Rph* §137). The good can be determined only through the union of subjective insight and the objective system of duties and laws. Conscience is only one moment of the realization of the good. Abstracted from the objective and universal principles, it is formal and one-sided.

According to Hegel, conscience is formal as it lacks an objective content in the sphere of morality: “At the level of morality, distinguished as it is in this treatise from the level of ethics, it is only formal conscience that is to be found” (*Rph* §137 R). Hegel makes a distinction between true conscience and formal conscience. Morality is the domain of formal conscience. Until the morality is supplemented with the customs, laws and institutions that are present in the ethical life, the conscience remains content-less. True conscience which is the unity of the subjective willing and the objective principles is found only in the ethical life.

That morality is restricted to formal conscience is why there is necessarily a passage to the ethical life. Just as the abstract right, due to its inner contradictions, made it evident that it had to be supplemented with the morality, the moral right similarly is apparently problematic if it is abstracted from ethical life. The problem seen in morality stems from the abstractness of conscience.

Conscience is (...) subject to the judgment of its truth or untruth, and when it appeals only to itself for a decision, it is directly at variance with what it wishes to be, namely the rule for a mode of conduct which is rational, valid in and for itself, and universal. (*Rph* §137 R)

Although conscience is justified to know in itself what is right and good, it is not absolutely true in its decisions when it appeals only to itself. The importance of conscience lies in its testing and questioning the rationality of norms, but the conscience contradicts itself if it is based merely on the subjective willing and decision because in such a case it moves away from what is rational in itself. What the conscience of a specific subject alone gives us is self-certainty rather than truth. Namely, it is arbitrary whether the good defined by the particular subject corresponds with the good in itself.

For this reason, morality which is restricted to the standpoint of the subject fails to determine moral goodness.

The failure of morality, however, does not only stem from the fact that it is insufficient for the determination of the good. It is also problematic because it may even cause evil:

Once self-consciousness has reduced all otherwise valid determinations to emptiness and itself to the sheer inwardness of the will, it has become the potentiality of (...) elevating above the universal the self-will of its own particularity, taking that as its principle and realizing it through its actions, i.e. it has become potentially evil. (*Rph* §139)

Hegel means that if the formal conscience becomes the absolute principle of morality, it may lead to evil action. The reason is that, in the absence of objective norms, it can endorse any content which can be both good or evil. An action is called evil, according to Hegel, when the subject raises his/her particularity over the universal.

The fact that morality is not self-sufficient for determining good action and for preventing evil reveals the necessity of objective principles that are found in the ethical life. Therefore morality must be supplemented with ethical life.

4.2.3 Ethical life

Until the section of ethical life, the individual was conceived in isolation and it was seen that human freedom abstracted from social life was quite problematic. It is with the ethical life that the sociality of the will, right and freedom comes into view. Henceforth,

the individual is viewed within an ethical order embodied in the social and political institutions like family, civil society and state.

Ethical life, for Hegel, signifies two meanings. However, this does not mean that it is an ambiguous term. Rather, by employing the notion in two different senses, Hegel suggests that ethical life has a bipartite structure. Accordingly, ethical life is a single reality made up of two inseparable and supplementary components. It consists of an objective and a subjective aspect. Objective dimension of ethical life refers to the existing social order constituted by the laws, customs and a set of institutions such as family, civil society and state, while the subjective aspect concerns the individuals' consciousness of this order.

Objectivity of ethical life implies that there is a social order which exists independent of the subjective standpoint. Furthermore, this ethical order works in such a way that it ensures the freedom of individuals whether they are conscious of it or not. "If we consider ethical life from the objective standpoint," says Hegel, "we may say that in it we are ethical unselfconsciously" (*Rph* §144 Z). By the expression "unselfconsciously", Hegel means that individuals automatically realize their own freedom by participating in the social and political institutions and performing their duties defined by the laws and customs of the society. Ethical life should not be considered, though, as a means for securing the individual freedom. The reason why the human freedom is actualized within ethical life is that the laws and social institutions are themselves the aim of individuals. The subject "bears witness to them as to its own essence, the essence in which he has a feeling of his selfhood" (*Rph* §147). According to Hegel, social membership is essential for human beings. Social practices, which appear like obligations imposed on the individuals, indeed reflect the latter's selfhood and

identity. Hence, the ethical life, which Hegel conceives as a substance, is not a means but an end for the individuals.

The idea that there is an objective ethical order persisting independently may seem to imply that the subjects are of no importance. In a controversial passage which is exposed to rough criticisms, Hegel even states that individuals are related to ethical life as accidents to a substance. According to him, the ethical life is “a circle of necessity whose moments are the ethical powers which govern the life of individuals. To these powers individuals are related as accidents to substance (...)” (*Rph* §145). If interpreted from the viewpoint of the traditional metaphysics, Hegel’s conception of individuals as accidents may seem to imply that it does not matter for the substantial order whether the individuals exist or not. In such a theory of metaphysics, the substance is thought to have existence independently and to be, in this sense, ontologically prior to the accidents. However, in Hegelian metaphysics, substance and accidents are interdependent. Although the substance is that which exists independently, it depends yet on the accidents to be manifested and to be actual (Wood, 1990, p. 197). If the rest of the statement quoted above is taken into consideration, it is understood that Hegel’s ethical life is dependent on the individuals: “(...) and it is in individuals that these powers are represented, have the shape of appearance, and become actualized” (*Rph* §145). Ethical life is manifested, actualized and sustained through the consciousness and the actions of the individuals.

There are several interrelated reasons why the ethical life is called a substance by Hegel. One reason is that it is, as mentioned before, substantial for human freedom. According to Hegel, humans are essentially social beings and they can realize their freedom only within the ethical structure of the community. Secondly, Hegel, by

conceiving the ethical life as a substance, wants to emphasize its necessity in contrast with the contingency of the individuals. Ethical order is not independent of the subjects. It is rather independent of the arbitrariness of subjects. As explained above, it depends on the subjects for its manifestation, but it is exalted above subjective caprices. The laws, social roles and institutions do not change according to the whims of individuals. Also Hegel seems to mean that the existence of this or that individual does not matter for the existence and the continuance of the ethical system. For instance, the social role of motherhood exists independent of the specific persons who have it. Nevertheless, there must be some individuals who occupy this role in order for it to be actualized and sustained over time. Therefore, what is accidental to the substantial order is the specific individuals and their arbitrary inclinations, desires and caprices, rather than the individuality. Thirdly, ethical life is a substance in the sense that it exists as a self-subsistent being similar to the natural objects. It has a certain nature like the natural entities. To ethical life, the individuals are related naturally and spontaneously prior to any reflection, faith and trust (Wood, 1990, p. 196).

Besides the objective order, ethical life also consists of a subjective aspect that concerns individuals' disposition toward the laws and institutions. As explained above, the individuals merely by living in accordance with the rules and customs of the community and by participating in the social institutions become free from an objective point of view because their ethical environment supplies the necessary conditions to realize freedom. However, if they do not have a conscious relation to these laws and institutions, they cannot be said to be free from the subjective perspective, given that the subjective freedom consists in the self-determination of the will (Beiser, 2008, pp. 213-214). The subjects who conform the norms of the ethical community without identifying

themselves with these norms cannot be said to be self-determining because in such a case they are governed simply by an external authority. If, on the other hand, they have self-consciousness of how the ethical life is essential for them, then they have subjective freedom because by acting upon the social rules they simply pursue their own goals.

For individual freedom, both the objective and subjective aspects of ethical life are indispensable. It is not enough that individuals affirm and conform the laws and customs of the community because it must be justified for them to do so. These norms should be rational and Hegel believes that they are as they provide the necessary conditions for free individual action. Therefore, subjective disposition and objective circumstances cannot be separated from one another. This is what is meant by the bipartite structure of reconciliation that was explained before.

In parallel with the dual structure of ethical life, Hegel asserts that the duties imposed by the objective order and subjective rights are inseparable in the ethical system. According to him, within the ethical life, “right and duty coalesce, and by being in the ethical order a human being has rights insofar as he has duties, and duties insofar as he has rights” (*Rph* §155). By performing their duties, the individuals realize at the same time their right and freedom. As the doctrine of duty provides rational, objective and necessary principles for individual action, doing one’s duty, one liberates oneself from the arbitrary inclinations, impulses and desires. In this way, one is freed from the heteronomy of the natural instincts and needs and realizes one’s right to be self-determining in one’s actions.

Having an idea about the ethical life in general, we can now examine in detail its constituting parts; family, civil society and state.

4.2.3.1 The family

Hegel starts with the examination of family since he conceives it as the most fundamental social membership through which the individuals develop the values of ethical life. Family is preliminary for the other social identities as a professional person in the civil society and a citizen in the state since it provides an initial experience of togetherness and fellowship.

Differing from the other types of associations seen in the civil society and the state, family is based on feeling. The familial relationship is formed by the sentiment of love characterized by the desire for unity with another. Marriage is the first moment of this unison gathering two persons who have a desire for partnership.

The fact that desire and feeling are at the core of the family may create the false impression that this most basic social institution is merely a natural union. However, Hegel emphasizes that the family members do not relate themselves simply in a natural way. It is mistaken, in his view, to consider marriage as a sexual union. The partnership of human beings differ from purely natural and sexual union of animals in that the former is not based on satisfaction of desires and needs. According to Hegel, the partnership established in the marriage is an internal relation since a married couple forms internal bonds. In this sense, it is distinct from the natural sexual relationship which is only external. In marriage, the individuals do not unite in order to satisfy their natural needs but to form a union through rational decision. Namely, what is valuable in marriage and family is the establishment of a union itself where the peers have a shared identity.

Love resolves the distinction between two persons. Two individuals who love one another and get married are no longer distinct and independent human beings. Surely, this is not to say that they become numerically identical. The persons who establish a family relation are still distinct human beings. They become one in the sense that they are no longer atomistic individuals but social beings who have a common identity. Their oneness consists in their forming together a legal person.

It was noted above that there is rational decision on the basis of love and marriage. The rationality of marriage consists in the individuals' volition to abandon their independent individuality to become one with another.

On the subjective side, marriage may have a more obvious source in the particular inclination of the two persons who are entering upon the marriage relationship (...). But its objective source lies in the free consent of the persons, especially in their consent to make themselves one person, to renounce their natural and individual personality to this unity of one with the other. (*Rph* §162)

As it is seen in the above statement, there are subjective and particular factors in marriage but it has yet an objective aspect in the sense that the individuals voluntarily give up their independency. Although being one with another may seem like a constraint on our selfhood, it is in fact liberation for us because we attain our self-consciousness through unifying with the others. In short, marriage is practiced through rational and autonomous choice in pursuit of a substantial aim. This implies that marriage does not depend solely on feelings and inclinations but on objective principles determined by reason.

Given that the marriage is not effectuated for the satisfaction of desires and needs but for a substantial aim, it is understood why family is one of the moments of the

ethical life. “The ethical aspect of marriage consists in the parties’ consciousness of this unity as their substantial aim, and so in their love, trust and common sharing of their entire existence as individuals” (*Rph* §163). As Hegel expresses in this quotation, the ethicality of conjugation resides in individuals’ awareness that it is their duty to renounce their natural personality and to enter in marriage because membership in a family is essential for them.

The internal bond of marriage has an external existence through property and resources. In contrast to the property we saw in abstract right, in family the property is not the result of the particular needs and desires of a single individual. It has rather an objective dimension in the sense that there is the universal aim of providing for the needs of family members. The arbitrary desires of a particular person characteristic of abstract right is transformed into the ethical concern for the family.

In Hegel’s conception of family, having children is very important. The unity formed by marriage exists merely as the disposition of the parties. In such a unity, there is still a distinction between two parties. The children become the physical existence of this spiritual unity. The married couple objectifies their union by having children.

Children cannot be said to be free and autonomous unless they are educated and disciplined by their parents. The reason is that they are dependent on their natural and sensuous side as they do not have yet the ability of rational self-determination. Education in the family enables the children to rise above their arbitrary will and develop a concern for the universal.

In respect of his relation to the family, the child’s education has the positive aim of instilling ethical principles into him in the form of immediate feeling (...) In respect of the same relation, this education has the negative aim of

raising children out of the natural immediacy in which they originally find themselves to self-subsistence and freedom of personality (...) (*Rph* §175)

As it is seen in this statement of Hegel, the parents play a role in children's ethical development and let them overcome their subordination to natural inclinations and desires.

Family, by its nature, is liable to dissolution. Besides the factors of divorce and death of family members, there is another reason why the family is dissoluble. As a result of the education delivered by the family, the children become self-subsistent persons who are capable of holding property and founding a family of their own. Hence, they leave the family and pursue a career participating in the civil society.

4.2.3.2 Civil society

Civil society is the arena of economical, commercial and industrial activity where the individuals take part in order to meet their needs and wants. Thanks to the system of civil society, people have the chance to express their individuality and difference. For this reason, it is a necessary component of human freedom.

What is at stake in civil society is the concrete person as Hegel calls it. He is concrete in the sense that he actualizes his personal rights which were yet abstract in the sphere of abstract right. The fundamental personal rights such as property and exchange were discussed before in abstraction from the economic system which underpins these rights. It is only in civil society that the abstract right becomes concrete and actual.

The universality inherent to civil society does not only consist in the fact that the individuals who participate in it are family members with universal ends. There is

another universal aspect of civil society in that the attainment of these ends are possible only through the others. This is one of the two principles which constitute civil society.

The concrete person who as a particular person is his own end, is, as a totality of needs and a mixture of caprice and natural necessity, one principle of civil society. But the particular person is essentially so related to other particular persons that each asserts himself and finds satisfaction by means of the others, and at the same time simply by means of the form of universality, the second principle here. (*Rph* §182)

As the above statement suggests, the civil society is made up of both universality and particularity. Its starting point is particular individuals with self-interests but it is conditioned by universality because the well being of one person is dependent on the welfare of all. Civil society is a system of interdependence where individuals are united around the commercial activities, contract relations, division of labor and corporations.

At the level of civil society, universality and particularity subsist as two distinct moments. They condition one another but there is not yet a unity between them until the stage of the state. As we shall see later, in the state the particular interests of the individuals and universal ends of the community are identical. However, in civil society they do not yet coincide. The individuals aim at their particularity with an endeavor to promote the well being of them and their families. The universal is not an end but only a means to achieve their private aims for them. To illustrate with Hegel's example, people may consider paying of taxes inimical to their personal freedom, but it is in fact necessary for the sustainability of the system of civil society because in a country where nobody pays the taxes it is not possible for the individuals to realize their particular ends. This shows that particularity is conditioned by universality in the civil society. However, since universality is not an end but a means for individuals, civil society is

liable to the problem of alienation. Reconciliation cannot take place if individuals do not identify themselves with universal values. It is only in the state that individuals overcome their alienation because they see that social norms and institutions are essential for their freedom.

Hegel's distinction between the state and civil society as two spheres with different ethical characters is vital. Civil society, according to Hegel, is a necessary component of the state which is higher in the sense that former is subordinate to the latter. As it will be seen later, the civil society cannot subsist unless it is supported and held in check by the state. None the less, if we insist to call the civil society a state, then it can be rather referred to as the external state with Hegel's term. The reason is that the tie that links people in the civil society is an external one based on the necessity of the needs and interests whereas in the state the people are attached by the internal bond of the community which is substantial for them.

The independence of its two moments, namely particularity and universality is the very reason why the civil society cannot subsist by itself and why it is subordinate to the state. The fact that civil society is a system which originates from the particularity lays it open to the danger of arbitrariness. Hegel explains the contingency of the system of civil society as such:

Particularity by itself, given free rein in every direction to satisfy needs, contingent caprices, and subjective desires, destroys itself and its substantial concept in this process of gratification. At the same time, the satisfaction of need, necessary and contingent alike, is contingent because it arouses new desires without end, is in thoroughgoing dependence on arbitrariness and external contingency (...), civil society affords a spectacle of extravagance and want as well as of the physical and ethical degeneration common to them both. (*Rph* §185)

As the above statement reveals, it is not difficult to understand why the civil society is fragile given that it is a system born out of the natural needs, desires and inclinations which are arbitrary. Civil society may end up in extravagance since the natural exigencies are measureless. The satisfaction of desires is not terminal because there are always new desires to be satisfied. Hence, the civil society may be easily corrupted if it is not held in check by the state.

Hegel conceives civil society as a mediator between family and state.

Accordingly, it provides a transition to the universality of the state through a process of education. Civil society cultivates people in a way that they are prepared for citizenship in the state. Although the family is one of the preliminary moments of the ethical life, it is not sufficient for the formation of subjectivity because membership it involves is based on feeling and other natural motives. As noted before, family members are attached to one another through love. Citizenship, though, differs from the membership in family in that the former is objective and universal. The education in civil society enables the individuals to overcome their natural and immediate state and to attain universality and objectivity: “(...) education is the absolute transition from an ethical substantiality which is immediate and natural to the one (...) which has been raised to the shape of universality” (*Rph* §187 R). Family is the simplest form of ethical life which must be mediated by the civil society for the attainment of ethical substantiality. How the civil society educates the individuals and raises them from particularity to universality is realised better if its structure composed of three components is taken into view.

Hegel conceives civil society as containing three moments called the system of needs, administration of justice and the police and the corporation. An examination of

these three elements of civil society helps us comprehend the role civil society plays in the transition from the family to state. It will be understood as well where the civil society fails and why it is dependent on the state.

As its name suggests, the system of needs indicates that it is possible to systemize satisfaction of human needs discovering the necessity behind their arbitrariness. Although the needs and the natural conditions of their satisfaction such as the fertility of the earth or climate are contingent, there is yet an economical system with objective principles and universal laws of production, distribution and commerce. Based on the similarity of human needs and desires, the system involves a process of mass production and exchange of the goods which require certain technics and division of labor. Hence, subjective satisfaction is possible by virtue of objective regulations, methods and mechanisms incorporated into an economy.

Hegel's discussion of the system of needs begins with his exploration into the nature of human need and its satisfaction. According to Hegel, the needs of humans differ from that of animals in that the former becomes more sophisticated as a result of civilization and socialization. Human needs are not simply given by the nature as the animal needs, desires and instincts. It is true that human beings, like animals, depend on nature concerning their needs. However, they transcend their natural needs in the sense that their demands are also shaped by the opinion and reflection. In his lecture notes, Hegel explains this fact as such: "Understanding, with its grasp of distinctions, multiplies these human needs, and since taste and utility become criteria of judgment, even the needs themselves are affected thereby. Finally it is no longer need but opinion which has to be satisfied (...)" (*Rph* §190 Z). Accordingly, although the needs are given by the nature, in human beings they are multiplied by the understanding and judgment.

For instance, humans feel the need to cook their food whereas animals are satisfied with the raw materials. Compared to the animals, there are more factors such as taste and utility which are important for human satisfaction. It is also the society that leads to the expansion of the needs. The character of needs are transformed by the customs, trends, status symbols of the society. There are needs that are socially created as humans tend to imitate one another. In addition to needs, the means of satisfying these are also multiplied and varied. Human desires are divided into certain parts which become ends in themselves. To illustrate, the desire to drink water from a stream engenders the demand for a purifier and this generates in turn the need for the materials necessary for the construction (Rose, 2007, p. 121). Hence the needs and means of supplying them consist of multiple parts which are themselves new needs and desires.

The social moment in the formation of the human needs, according to Hegel, has an aspect of liberation as it indicates that the strict natural necessity is transcended by human understanding. The fact that the needs are not simply given by the nature but transformed by opinion and judgment expresses a kind of emancipation.

In Hegel's view, another way of liberation possible in civil society is labor. Work is the general name given to all the activities and practices necessary for satisfaction of needs and functioning of the economic system. Humans by working on the raw material produce the goods they consume by themselves. They do not have immediate satisfaction as the work provides mediation between the humans and the nature. In this sense, humans liberate themselves, to a certain degree, from the strict necessity of nature.

The system of needs and work require the cultivation of intellectual and practical skills. As mentioned before, the civil society is educative for the individuals who

participate in it. Theoretical formation consists in development of understanding and mind, acquaintance with a set of empirical facts, relations and mechanisms of the system and acquisition of linguistic skills. Through work, the individuals also have practical education by being disciplined, acquiring technical knowledge and learning to cooperate with others.

The relation of particularity to universality found in the civil society was already explained before. As the satisfaction of self-seeking individuals depends on the welfare of all, particularity is conditioned by universality in civil society. In line with this, the economic system functions in such a way that each individual through his/her labor contributes to the collective wealth of the society. From these resources, each one takes a share depending on his/her initial capital and skills. However, due to the inequality and contingency of personal skills and capital, there are disparities among the persons concerning how much one acquires. Natural inequality results in social and cultural inequalities and asymmetries. Nevertheless, it is mistaken, according to Hegel, to adopt an economic system where the property and resources are equally distributed because it is against the individual freedom. People have the right to express their differences within a free market economy.

Inequality in the distribution of resources reveals that although civil society involves objective aspects and principles, it is still exposed to arbitrariness. “This sphere of particularity, which fancies itself the universal,” says Hegel, “is still only relatively identical with the universal, and consequently it still retains in itself both natural and arbitrary particularity (...)” (*Rph* §200 R). As it is mentioned before, there is not yet a unity between the particularity and universality in the sphere of civil society and the distinction between them generates problems such as inequalities of income and

property. Hegel introduces estates, which are the subsystems of civil society, as the elements which prepare the transition to an integrated unity of particularity and universality found in the state. Estates are groups of individuals who belong to the same economic stratum and who have common interests, needs and modes of work. It can be said that each estate corresponds to a certain culture since its members go through certain cultivation and share manners of life. The importance of the estates, as Hegel puts it, “(...) is due to the fact that although the private persons are self-seeking, they are compelled to direct their attention to others. Here then is the root which connects self-seeking to the universal, to the state (...)” (§201 Z). As the estates gather people together according to their professions and economic status, they create an atmosphere of sharedness and fellowship and hence prepare the individuals for the ethical community embodied in state.

Hegel divides estates into three main categories: The agricultural estate that consists of those who have their resources in the natural products of the soil. The business estate, which is based on the trade and industry, subdivided into the estates of craftsmanship, manufacture and trade. The estate of civil servants who work for the state and who have as their aims the universal interests of the society.

According to Hegel, a person should take part in an estate in order to actualize himself/herself. Although it may seem to be a restriction on his/her individuality to join an estate, it is not the case. On the contrary, estates contribute to the liberation of the individuals.

Hegel concludes the section on the system of needs saying that the right of property is on the basis of the civil society. In fact, the entire system of needs is founded on the abstract right which can be actualized only in civil society. However, we have

seen that abstract right cannot become actual unless there is an objective mechanism of punishment. Therefore, the protection of property, enforcement of the personal rights and the maintenance of the system of needs depend on an organ committed to the administration of justice.

Before starting to examine the administration of justice, it must be noted that the judicial power does not belong exclusively to the civil society. Rather, it is merely shared by it. It is the state who has the entire authority of legislation of which the administration of justice found in civil society is only a subordinate part.

Law is a written expression of what rights we have. Right does not have a concrete existence if it is not posited as law. Through the administration of justice, it becomes determinate by being stated and applied to the individual cases which occur in civil society. However, it should not be considered that positive law comprises all kinds of rights. It was already mentioned that morality, like abstract right, indicates a right, so it may be thought that the legislation covers moral rights as well. However, it is not the case as expressed by Hegel: “Morality and moral commands concern the will in its most personal subjectivity and particularity, and so cannot be a matter for positive legislation” (*Rph* §213). Hence, moral rights cannot be codified and it is merely abstract right which has a place in the legal system.

It is important to note that the importance of positive laws do not lie simply in the fact that they constitute an objective statement of the rules of conduct enforceable in a society. Hegel expresses this point explicitly as such:

(...) making a law is not to be represented as merely the expression of a rule of behavior valid for every one, though that is one moment in legislation; the

more important moment, the inner essence of the matter, is knowledge of the content in its determinate universality. (*Rph* §211 R)

By being posited, the right becomes object of knowledge, so there is an epistemological dimension of the positive law. Abstract right does not function if it is not known, recognized and willed by the persons.

As it was already mentioned, abstract right expresses the universal status of a person. It is the right that one has regardless of one's race, sex or religion. It is only by being codified in a legal system that the universal human rights can be recognized publicly. In civil society, the individuals are educated into respecting the universality of the rights. Hence, the administration of justice has an educative role in addition to its function of regulating the individuals' behaviors.

Given that Hegel emphasizes the epistemological aspect of the positive law, it would not be surprising that he argues against an esoteric possession of the knowledge of law by the minority of the professionals. As he stresses many times, the point of having a written code is primarily to make the rights knowable and comprehensible publicly. For this reason, it is important that the laws are intellectually accessible to the laymen.

To hang the laws so high that no citizen could read them (...) is injustice of one and the same kind as to bury them in row of learned tomes, collections of dissenting judgments and opinions, records of customs, etc. and in a dead language too, so that knowledge of the law of the land is accessible only to those who have made it their professional study. (*Rph* §215 R)

As it is seen in the above quotation, Hegel is against the monopolization of the legal knowledge in the hands of the few.

The court of law is an important part of the judicial system. It is the social institution which has the task of applying the law to particular cases without the involvement of subjective interests. Although it deals with the particularity, the court expresses the universality of the right. Owing to the universal character of a trial, it is a right of all the individuals to pursue the legal processes by appearing in a court. Therefore, the right to have knowledge of the code entails the right to follow the proceedings of the law in a public court.

Because right has a legal recognition in civil society, wrongdoing which was at stake in the abstract right is now an infringement of the law and is seen as a threat to the social and economical system, rather than as damage to particular persons. Hence, as a social phenomenon, crime is evaluated by considering how dangerous the criminal is for the society.

Judgment of the court consists of two aspects: first, examination of the nature of the crime; secondly, its subsumption under the law. The second aspect concerns punishment which, as we have seen, was one of the antinomies of abstract right.

As right and punishment are legislated in the civil society, just retribution becomes possible in contrast to the sphere of abstract right where this was not the case. To remember, the problem with abstract right system lies in the impossibility of impartial punishment for the criminal acts. As right is not institutionalized in the domain of formal right, there are not objective principles to consult for the determination of penalty. In civil society, however, the verdict for the punishment is justified by the content of the law and by the evidence. There are judges and juries capable of determining impartial penalty, so the civil society provides the conditions necessary for an objective system of punishment.

In the section of morality, it was said that the subjects have a right to promote their welfare by their actions. However, morality does not give us a concrete content of welfare as it is abstracted from the empirical circumstances which condition the well being of the individuals; so, welfare remains an abstract principle in morality. It is in civil society that welfare becomes concrete in the economical system where the subjects have the opportunity to satisfy their particular needs and desires. According to Hegel, welfare is essential for the system of needs.

Hegel closes the discussion of the administration of justice by saying that it is not sufficient for the promotion of individual well being which is an end for the civil society.

Through the administration of justice, offences against property or personality are annulled. But the right actually present in the particular requires, first, that contingent hindrances to one aim or another be removed, and undisturbed safety of person and property be attained; and secondly, that the securing of every individual's livelihood and welfare be treated and actualized as a right (...) (*Rph* §230)

As it is seen in this statement of Hegel, there is more to be done for personal subsistence and well-being than prevention and annulment of the crime through legislation. It does not suffice to guarantee one's property because there may be more kinds of problems that may arise in civil society. For this reason, there is a need for other social institutions in addition to the administration of justice.

One of these necessary institutions is called police which has a broad sense for Hegel. Although the term seems to have a connotation like police force, Hegel means more than this (Knowles, 2002, p. 285). Police cannot be reduced to enhancement of security and prevention of crime (Peperzak, 2001, pp. 467, 468). Hegel conceives the

police as a public authority⁹ which has infrastructural functions aimed at the operation of economic system. If the broad meaning of the notion of police is taken into consideration, it becomes clearer why there is a need for the police besides the administration of justice.

The reason why there is a need for the police to intervene in the economic processes is that there may be collisions stemming from the disagreement of the private interests. As it was mentioned above, it is not enough to guarantee the personal rights by means of the administration of justice in order for the system of civil society to work properly. An authority devoted to justice alone cannot make the civil society function, because it is not only unjust activities which disrupt the social and economic order, but also unintentional circumstances. As a result of the arbitrary willing of individuals, there may be hindrances to private goals or general welfare. For this reason, there must be another institution which should coordinate and harmonize self seeking activities of atomistic individuals.

It is not the case that the police is not concerned with the issues of justice. The police is responsible for the enforcement of rights as well and it is, in this sense, complementary for the administration of justice. However, it has many other functions. It controls and regulates the economy by fixing the prices of the common needs, inspecting the quality of the goods etc. It is also in charge of public services and facilities such as bridge-building, street-lighting and so on in addition to its provision for the public health and education.

⁹ In Knox's translation of *Philosophy of Right*, the title of the section on the police is as follows: "Police [or the public authority]"

Besides the police, Hegel also introduces the corporations as another necessary element of civil society. The corporation is an association which unites the professionals who work in the same branch of civil society. Authorized by the state, it represents the common interests and rights of its members by providing them legally established privileges.

It should be noted that the corporations belong to the business estate which was examined before as one of the three estates. The other two estates; namely, the agricultural estate and estate of civil servants do not comprise corporations because they already realize universality and they do not need a platform like corporations where they can have a sense of community. The agricultural estate has universal aims as it works for the soil of the country. Also, it has an attachment to family life which is another universal ground. The estate of civil servants is obviously universal in character as it serves public purposes. However, the business estate consists of the individuals with private ends. Contrary to the agricultural estate, members of the business estate are torn off from their family ties, so there is no universal basis for them other than the corporations. In this sense, corporations are necessary in order to bring universal values to the business estate which would otherwise end up to be too egoistic.

There are different corporations which correspond to different areas of economic activities such as craftsmanship, merchandise and manufacture. A corporation seeks the interests common to its own field of work, tries to protect its members against contingencies, tests their professional qualifications and provide education for them.

Corporations are important in the sense that self-seeking economic activity becomes an ethical mode of life in them. Gathering people around a common purpose, they provide a shared identity for their members. Becoming a member of a corporation,

an individual is recognized as a professional who has certain qualifications and skills. “Unless he is a member of an authorized corporation (...)” says Hegel “an individual is without the honour of his estate (...)” (*Rph* §253 R). Accordingly, membership in a corporation is important for gaining respect of the others. For these reasons, corporation, like family, is an ethical root of the state.

4.2.3.3 State

Ethical life and freedom can be actualized only in the state. Both the family and the civil society are the roots of the ethical life, however they can only inadequately realize it. As we have seen, there is a principle of universality working in the civil society. Especially by way of the corporations, civil society approximates to a unity of particularity and universality. However, this unity is merely relative because it is only through their particular interests that the individuals relate themselves to universality. To put it simply, in the level of civil society, the universality is not substantial for the individuals. For this reason, civil society cannot realize the ethical life but it prepares the transition to the community life through its formative institutions like corporations which educate the individuals with universal values. Compared to civil society, the family is a better model for ethical life as it is a substantial unity of particularity and universality in the sense that individuals identify themselves with the ends of the community. Yet, the family is not complete realization of ethical life because it is based on feeling. Another reason is that it is not enduring since it is doomed to dissolution as a result of death or the children who leave home when they grow up. Finally, it is not self-sufficient as it depends on the system of civil society and state for its maintenance.

It is in the state where the universal and objective will coincides with the principle of subjectivity and particularity. For individuals, membership in the state is a way of furthering their ends and realizing their freedom. This does not mean however that the state is instrumental for the achievement of individual aims. Hegel makes this point clear when he explains how the state is distinguished from the civil society:

If the state is confused with civil society, and if its specific end is laid down as the security and protection of property and personal freedom, then the interest of individuals as such becomes the ultimate end of their association, and it follows that membership of the state is something optional. But the state's relation to the individual is quite different from this. (*Rph* §258 R)

As can be seen, the state, in contrast to civil society, cannot be reduced to a means for the promotion of the individuals' rights. Hegel makes a distinction between the civil society and the state by calling the former "external state" (*Rph* §183). Civil society is external in the sense that there is no internal tie of community between its members. The individuals associate through an external bond based on the satisfaction of needs. In such a model of unity there is not a necessary connection between the members. It is contingent as it depends on the arbitrary will of the individuals. The state, on the other hand, is not grounded on the empirical side of the individuals. If it existed merely for enabling the well-being of the individuals, then the citizenship would be optional, says Hegel. However, he stresses that the state is not established through a contract of the individuals with the aim of furthering their ends. In a contractual state, what is common to the community is what is agreed by the individuals depending on their arbitrary wills. In Hegel's conception of the state, though, the element of commonality resides in the universal will embodied in the state which is substantial to all members. This universal

will is not established as a result of contractual agreement between the individuals, it is already independent of the opinions of individuals. It was already mentioned in the beginning of this chapter that Hegel conceives the ethical life a substance in the sense that it is self-persistent. This suggests that the state does not have a contractual basis and it is distinct from the civil society in this manner.

According to Hegel, the state is not justified by appealing to the empirical character of the human beings. Its legitimacy is rather deduced from the concept of human freedom. Hegel takes individual freedom as the starting point in his theory of state, but he thinks that the individual will cannot be reduced to arbitrary will. In his view, it is not by satisfying their arbitrary will that the individuals realize their freedom. He considers the individual will as essentially social, so membership in the state is a condition of human freedom. Hence, Hegel derives the state from the social nature of individual will rather than the empirical aspect of human volition.

It is also important to note that Hegel, by the term 'state', refers to two things. On one hand, he means the entire system of ethical life which comprises family and civil society. On the other hand, he refers to the government which he calls political state.

Thus far, Hegel's claim that the modern state is rational has been a recurring theme for us. However, we have not yet put forth the reasons why he thinks it is rational. The rationality of the state, according to Hegel, is due to its organic structure consisting of components with different functions which are all necessary for maintaining and reproducing its life. The organism of the state, in my view, can be understood in two ways. If the state is taken as the whole framework of ethical life, then the organism is the systemic totality of family, civil society and state. Ethical life is rationally organized in the sense that all its elements hitherto adduced function in a harmonious way and enable

its persistence. If however the state is understood as the government, then what is meant by the organization is the constitution.¹⁰

Like the corporations in civil society, the constitution is an institution where the individuals are related to universality. In this sense, it is the basis of citizens' trust in the state. The constitution, however, differs from the other institutions of family and civil society which educate the individuals with universal values because in it, there is a complete unity of universality and particularity. The individuals' trust in the state consists in the fact that duty and right are inseparable. For the individuals, to fulfill their duties towards the state is a way of realizing their own freedom. When their volition to perform their duties becomes habitual as a result of their trust in the social institutions, their disposition is characterized as patriotism. Hegel describes the patriotic disposition as "certainty based on truth" meaning that it is not rooted in the subjective opinions. (*Rph* §268) Patriotism does not arise from contingent feelings, whims and opinions which do not have any truth and objectivity. It is based on truth in the sense that it is justified on the basis of state's rational structure. Hegel adds that the trust "may pass over into a greater or lesser degree of educated insight", he thinks obviously that there are different levels of patriotism depending on the level of education. (*Rph* §268) It seems that according to Hegel uneducated individuals may have a more naïve form of patriotism. Yet, it is certain that the attitude of patriotism does not have its source in the subjective thoughts and feelings.

Hegel notes that the patriotic disposition is not a kind of willingness for sacrifice or heroism in exceptional cases. Patriotic acts take place in the ordinary circumstances

¹⁰ For more information on Hegel's organic model of state, see the question 3 in Appendix section.

as a part of daily life in the state. This is what Hegel means when he says that patriotism consists in habitual volition.

The organic structure of the government consists of three moments: legislation, execution and monarch. This system which Hegel calls constitutional monarchy functions through the coordination of these three powers.

The fact that state's organism is differentiated into three elements may lead to the misunderstanding that Hegel defends the idea of separation of powers. However, he rather criticizes the advocates of this idea. He agrees that in a rationally organized state that there must be necessarily a division of powers. What he rejects is the idea of attributing separate and independent characters to these powers. "(...) Each of these powers" says Hegel, "is in itself the totality, because each contains the other moments and has them effective in itself (...)" (*Rph* §272). Although each element of the state has a distinct function, they are not abstracted from one another. There is a unity between them in the sense they work in an interrelated manner and together form a whole system. For Hegel, the theorists of separation of powers do not comprehend the organic unity of the state and the constitution. They are mistaken, according to him, in conceiving the operation of the state as a system of checks and balances. In such a system, different elements of the constitution control and restrict one another to balance the power shared by them. In Hegel's opinion, such an approach is mistaken in so far as it has a negative perspective considering the distinction between powers. It is negative in the sense that it considers these powers as potentially evil and on the basis of this presupposition claims that it is necessary to impose restriction on them. In such a view, feeling of mistrust is put in the center which apparently contradicts Hegel's state based on trust and patriotism of the citizens. According to Hegel, it is the positive contribution of all the powers and

their harmonious coordination which underpin citizens' trust in the state. Knowing that all the organs of the state work with an aim towards a common good, the individuals share a universal will. Also, when it is recalled that Hegel considers the ethical life as a substance, it is understood why he cannot advocate the idea of separation of powers. If the state consisted of different self-subsistent powers, then there would be more than one substance rather than a simple substance with mutually dependent accidents. Hegel thinks that the lack of substantial unity is a danger for the society because of the strife between self-subsistent powers. In such a situation, either the whole system collapses or the unity is restored through force by one of the powers which results in despotism.

Hegel begins to his examination of the constitution with the function of the monarch. He does not do so, however, out of royalist, anti-democratic inclinations. The reason is rather that it is the monarch which includes in itself all the other moments, so it must be explained first how the three elements of the constitution are unified by it.

In order to determine the will of the people, there must be a singular subject who decides, otherwise it remains abstract. The will of the state is actualized only through a subjective decision. From this, Hegel derives the necessity of the person of the monarch.

Hegel argues for hereditary monarchy for which he has a speculative justification. Besides this logical ground, there is only one practical explanation of why the monarchy should be of hereditary character. From a practical point of view, Hegel bases the hereditary succession to the throne on the negative consequences of elective monarchy. If the monarchy is elective, then it is the particular will which determines the sovereign. In such a case, the state would have an arbitrary basis which may cause its disintegration. Hence, it seems that Hegel has no positive reason for hereditary monarchy apart from his logical justification.

The fact that a singular individual possesses the power of sovereignty may give rise to the idea that the regime described by Hegel is despotism. However, he argues that such a system of constitutional monarchy is by no means despotic. Hegel stresses many times that the monarch's decisions are not based on his private opinions and caprices. Rather, his decisions are bound by the laws which reflect the universal will of the people. It is in a lawless state where the particular will of the monarch takes the place of the written codes that there is a risk of despotism. If the state is fully developed and well organized, then it has an objective basis in the laws which prevent despotic consequences. The monarch's decisions are also mediated by the executive body which consists of well educated and qualified civil servants. Hegel reduces the function of the monarch to final decision by which the distinct powers of the state are unified.

The second element of the constitution is the executive power which comprises an advisory body of civil servants, the police and the administration of justice. Although its name might suggest that its function consists of execution of the laws, it has broader tasks given that it includes the police and the judiciary which have various public services as we have seen in our discussion of civil society. The executive power is concerned in general with the subsumption of the particular cases under the universal. Application of the law to the particular situations is only one example of this subsumption. The executive organ is a mediator between the spheres of particularity and universality, so it has all sorts of tasks necessary for mediation between people and the government.

The advisory officers that take part in the executive power provide an objective insight to the decisions of the crown. Since the monarch comes to power by hereditary right, there is no guarantee whether he is competent for impartial judgment. The civil

servants, though, who are appointed to their offices according to their skills and qualifications, have the knowledge of laws and the existing circumstances, so they are capable of objective proof for the decisions of the crown. Hence, owing to the advisory body, the crown is grounded on both objective and subjective principles.

The fact that civil servants, unlike the monarch, are not determined by birth is significant in another sense as well. It implies that any body who is trained to a particular task can be employed as a civil servant. Therefore, the executive power is not monopolized by a certain group or class of people, but is accessible to anybody who is cultivated and qualified.

The intermediary role of the executive body requires the difficult task of reconciling bottom-up and top-down control. Civil life should be governed from below in a way which respects the particular and subjective interests. Hegel is against controlling the civil society from above although this would bring maximum efficiency in fulfilling the universal aims of the state. Yet, the executive is committed to the objectives of the government which require supervising the civil institutions so as to maintain the whole system. Hence, the executive organ bridges the particularity and the universality by working from below and above at the same time.

Legislation, the third organ of the constitution, is concerned with the laws and every thing that has a universal character. In Hegel's state, the legislative organ cannot establish a constitution. Its function is rather revision and further development of laws and institutions which exist already.

Hegel believes that the people play an active role in the legislative process, but he criticizes the idea that all should participate in the deliberations and decisions of the state.

To hold that all individuals should share in deliberating and deciding on the universal affairs of the state on the grounds that all are members of the state, that its concerns are their concerns, and that it is their right that what is done should be done with their knowledge and volition, is tantamount to a proposal to put the democratic element without any rational form into the organism of the state, although it is only in virtue of the possession of such a form that the state is an organism at all. (*Rph* §308 R)

According to Hegel, it is mistaken to defend a system of mass election on the basis of the universal status of the person. To conceive the people as consisting of abstract persons who have the universal right to vote is to reduce it to an aggregate of atomistic individuals. Such a conception overlooks the rational organization of the state since it considers the people as an unorganized, formless mass. Hegel defends a system of representation through the estates rather than the open democratic election. The latter does not guarantee that all groups and classes of the people are represented in the parliament. Because a single vote is not very effective in the overall results, open election system, in Hegel's view, might cause electoral indifference and end up in the accumulation of the power in the hands of the few. If, however, the people participate in the government in a rationally organized manner, then there is no such contingent consequence. This organization is possible through the corporate representatives that constitute the Estate Assembly. Accordingly, the associations formed in the civil society are maintained in the political sphere. Such a system ensures that all the economic and civic branches of the society are represented in the legislature.

The Estates Assembly is divided into two bodies: the upper house which consists of the representatives from the agricultural estate and the lower house which pertains to

the business estate. Together with the Estates Assembly, the legislature consists of high level civil servants with direct ties to the Crown and the Executive body.

In discussing why Hegel refuses the contractual model, it was already made clear that the state, according to him, is not an aggregate of the particular wills of individuals. For Hegel, it is not the case that the state is an association of otherwise independent individuals with private interests and aims. Hegel's rejection of open election system makes more sense when his criticism of contractual state is taken into consideration. Hegel would not allow open elections since such a system of representation would reduce the state to a conglomerate of particular wills. Representation through the estates, though, is based on a model in which the state is composed of individuals which are already members of communities. Participating in legislation, individuals are always already universal and intersubjective beings rather than merely atomistic persons. Then, estates prepare the transition from particularity to universality. In the estates, individuals are educated with universal values which allow them to develop the ethical disposition characteristic to state membership. The estates are formative in the sense that they inform people about the affairs of the state together with the principles of how to act in the society.

Participation of the estates in the legislation is important as it links the civil and political life. Without such a system of representation, Hegel thinks, the state would be hung in the air without being able to integrate the civil society into the political sphere. Through the system of corporate representation, the civil society becomes a necessary part of the state's organism. Hence, the government does not appear hostile to the civil life of the individuals. The civil society and the state do not stand over against one another. Rather, they work in cooperation.

The estates stand as mediators between the state and the people. “They are a middle term,” explains Hegel, “preventing both the extreme isolation of the power of the crown, which otherwise might seem a mere arbitrary tyranny, and also the isolation of the particular interests of communities, corporations and individuals” (*Rph* §302). Accordingly, the estates preclude radicalization of both the government and the people. The estates contribute to the legislation with their popular insight which the higher civil servants do not possess as they have standpoint of the state. Thus, thanks to the representative estates, it is ensured that the laws enacted and executed by the government protect the particular interests of the individuals.

This is the end of our discussion of the structure of Hegel’s philosophy of right. It is now time to explore the relation between three different configurations of freedom.

CHAPTER 5

UNITY OF PERSONAL, MORAL AND SOCIAL FREEDOM

After an exploration of Hegel's strategy and the structure of his theory of right in distinct chapters, we are now in a position to see how this strategy works when applied to the phenomena expounded in the book. In the previous sections, we examined the three configurations of freedom that correspond to abstract right, morality and ethical life as if they are separate phenomena. The objective of this chapter is to show that these three types of freedom are indeed components of the one and only system of freedom and to explain how they complement one another so as to constitute the genuine freedom.

To recall, Hegel's aim is to justify the political order through an investigation into the conditions of the possibility of freedom. He starts from the minimal concept of individual freedom and, by identifying its deficient sides, concludes that it must be supplemented with other kinds of freedom if it is to become possible. In this way he examines a series of configurations of freedom proceeding from the most abstract and the less developed towards the most concrete and developed. Because the conceptually higher configurations of freedom are the conditions of the lower ones, there is a regressive movement in Hegel's argumentation. Namely, only after all the three forms of freedom are accounted, we can come to see how the lower ones are complemented and conditioned by the higher ones. Although we have already had an idea about how and why there is a passage from one type of freedom to another one, the interrelations between them can be figured out only regressively. Hence, to reconstruct Hegel's

argument in a way that renders it more explicit, we need to go through the abstract right and morality in the light of the information we now have about the ethical life.

In his exploration of the concept of freedom, Hegel's starting point is abstract right that concerns the principles governing property, contract, transfer and wrong against property. It is the realm of personal freedom abstracted from the moral principles and the political institutions. This type of freedom expresses the rights regarding ownership that one has by virtue of being a person. To make it more explicit, personality is a universal status, so each and every individual has a claim to the same rights. Here is where the problem of abstract right appears for the first time. Since personal rights are universal, they require respecting others as persons. In this principle of respect for others, we have already the glimpse of morality that seems to be a condition for the system of abstract right. Accordingly, respect for others' personal rights expresses a principle of universality so it requires richer reflections than is found in the abstract right which is oriented at particularity. Yet, although we have already begun to see why the personal right is deficient and why it must be supplemented with morality, Hegel does not stop at this point and continues his argumentation until he presents the question of impartial punishment which undermines the system of abstract right. Discussing the problem of unjust interference with others, he argues that punishment is necessary to ensure the stability of abstract right. The reason is that penalty is a way of annulling the wrong which is committed not only against one person but against the whole justice system. Punishment, therefore, is required for the restoration of right. Hegel maintains that punishment should be determined according to the concept. He means that there is an intrinsic and necessary connection between a crime and the form of punishment which must be executed as a retribution for it. However, there is a difficulty of fixing

penalties impartially at the level of abstract right. Since abstract right is the realm of subjective will, there is no objective principle for the determination of the punishment. Retribution may easily take the form of revenge if it is not freed from subjective interests and caprices. Because the punishment is settled arbitrarily in the domain of personal right, it may be excessive and may result in further transgression of right. Thus, the question of how to exercise the appropriate form of punishment reveals the limitation of abstract right. The perspective of the person is restricted to subjective inclinations and whims, so it lacks the resources necessary for the stability of abstract right system. From the insufficiency of abstract right, there arises the necessity of explaining how a will which is subjective and particular can yet will the universal. This requires a scrutiny into the moral agency which is alone capable of generating principles in the name of universality. Therefore, morality is not a postulate Hegel simply posits: “ (...) this concept of morality” he says, “is not simply something demanded; it has emerged in the course of this movement itself” (*Rph* §103). Hegel means that morality emerges necessarily in the development of the concept of freedom. Through an internal critique of abstract right, Hegel discloses only what is implicit in the concept. Morality thus appears as the necessary condition of realization of abstract right.

Also, morality is complementary for abstract right in the sense that the discussion of punishment is incomplete without a vocabulary of responsibility, purpose and intentional action found in the moral framework. In the realm of abstract right, action is treated in abstraction from the intentions and motives of the subjects. It is not investigated why an action is committed or whether it is intended by the subject. However, to judge whether a deed is a crime or not, it is necessary to scrutinize the subjective and internal aspects of the action besides the objective and external factors.

Therefore, the theory of action provided by the moral standpoint is complementary for the issue of penalty.

Besides the problem of punishment, there is another sense in which the abstract right is deficient. Abstract right is characterized with arbitrary will which we have already examined. For the arbitrary will, as mentioned before, what matters most is self-determination. Accordingly, self-determination of the arbitrary will lies in the fact that it is led by its own choices rather than by any authority external to itself. The will is said to be free if it pursues its freely chosen ends without any interference. Since the personal freedom is based on the arbitrary will, which is supposed to be self-determining, there arises the question whether abstract right can constitute the genuine form of self-determination. An analysis into the abstract right shows that personal freedom is a deficient form of self-determination. As explained above, self-determination understood in the sense of arbitrary will is characterized as being free from constraints. If self-determination is reduced to such a character, then the abstract right appears to be self-contradictory. To recall, personal freedom demands unlimited activity within certain boundaries defined by the property. Because there is a plurality of persons who hold the same rights, it is necessary to enforce certain principles to guarantee the freedom of all. Such principles, however, seem like restrictions to the personal will as they are imposed on it externally. Therefore, within the limited scope of abstract right, the persons cannot be said to be self-determining since the only way of securing their freedom is to comply with some principles which do not come from their own will. This contradiction that lies in the abstract right can be resolved only if the individuals come to affirm these principles as their own. This requires moral capacities in so far as only a moral subject can be motivated to perform commitments with a disposition towards duty. That is to

say, there is another sense in which the abstract right must be supplemented with morality if it is to become possible. Hence, Hegel, through an internal critique, shows that abstract right fails by its own criteria as it cannot realize the ideal of self-determination on which it is based.

As we saw, personality is too superficial to constitute a normative system of rights as it reduces human agency to ownership. For this reason, Hegel makes a distinction between mere proprietors and subjects. As opposed to the persons, moral subjects are not just choice makers who pick arbitrarily among the given desires and needs, but autonomous agents who make decisions in accordance with principles that they themselves establish by consulting their own reason. Their actions and behaviors are shaped by their own understanding of what is good and rational. Their ends are not simply determined by their particular interests but by universal values that they take as their duty. Thus, the normativity involved in the abstract right is possible through the subjective capacities developed within the morality.

In the section of morality, Hegel presents a theory of action which comprises an analysis of purpose, intention and responsibility. Discussing these notions, he introduces some rights such as the right to know the circumstances of an action, to be held responsible only for the set of consequences which are known and purposed and to be satisfied with one's actions. An important reason why Hegel feels the need to explore such concepts is that an action, in his view, consists of both objective and subjective components. According to him, it is mistaken to judge an action merely in terms of its external consequences. We need to have a grasp of its internal aspects involving subject's purposes, intentions, motivations and insights. Abstract right views human actions merely from an objective point of view whereas it is necessary to consider both

dimensions of action to be able to make judicial decisions and to appropriately determine penalties. Morality, hence, completes the missing part of the picture of human action and provides an insight into the processes of decision about guilt and responsibility.

Compared to personality, subjective freedom represents a higher form of self-determination in the sense that moral agents act only in accordance with the principles they recognize as rational. The kind of self-determination typical of morality does not consist in choice making as in abstract right. It was already explained that abstract right, which is supposed to constitute self-determination, suffers from an inner contradiction. Choice, as the kind of freedom found in abstract right, is not a form of self-determination because it depends on the available alternatives which are not chosen themselves. Therefore, moral freedom seems to represent a better model of self-determination than personal freedom. However, Hegel shows that morality cannot epitomize genuine form of self-determination either. Moral will cannot be said to be self-determining as it suffers from indeterminacy. As mentioned previously, moral will is not capable of determining the content of the good by itself. From the moral point of view, the good is merely a duty to be performed but it is not specified what the good action is. The only principle of action to be found in morality is the maxim “Do your duty because it is your duty”. Such a principle is merely empty and formal because it provides nothing but an identity. Since it does not give any immanent doctrine of duty, it may take any content arbitrarily. In short, abstracted from the objective principles embodied in the laws and customs of society, the moral will is content-less. For this reason, like the abstract right, morality too falls short of the ideal of self-determination

because of its indeterminacy. This is one of the reasons why there is a transition from morality to ethical life.

The fact that moral freedom does not represent genuine form of self-determination is not the only contradiction found in morality. There is a further problem which undermines morality. At the end of our discussion of abstract right, it was understood that the normativity involved in the system of right requires moral capacities. In other words, only moral subjects can respect others' rights, so the abstract right is preconditioned by morality. However, morality alone is not sufficient for preventing crimes and violation of rights. Because moral maxims are exposed to arbitrariness, they may give rise to evil. A subject which considers his conscience as the absolute mechanism of decision may pervert good into evil. Therefore, morality abstracted from ethical principles fails to ensure the stability of abstract right. This makes it clear why the morality must be supplemented with ethical life.

There is another reason why the morality is not self-sufficient. Morality cannot respond to the question how the individuals acquire moral abilities. Moral agency can be developed through a process of character formation. However, morality lacks the resources necessary for educating the individuals. As we shall see later, becoming a moral subject requires undergoing a social formation. The individuals can develop moral capacities only by participating in the social institutions present in the ethical life. Thus, the problem of education appears as a further reason why morality is conditioned by ethical life.

The shortcomings of personal and moral freedom discussed so far can be solved only within the system of ethical life. An analysis of ethical life shows that it is the condition and ground of abstract right and morality. In ethical life, personal, moral and

social freedom constitute an organic unity by working together in a harmonious fashion. We shall see that ethical life is complementary for abstract right and morality in many respects.

Abstract right is conditioned by ethical life in the sense that personal goals on which the abstract right is grounded cannot be achieved in abstraction from civil society. As it is known, abstract right reduces freedom to realization of human desires and needs. However, human utility is approached only from the restricted perspective of single, atomistic individuals. Namely, at the level of abstract right, there is no social explanation of human need. It is treated in abstraction from the social structures of production, work and exchange as if its satisfaction can be independent from them. Such an incomplete picture of need reveals the insufficiency of abstract right. It is incomplete and limited because it ignores the intersubjective nature of human needs. Personal ends can be achieved only by means of the others, so system of abstract right is not self-sufficient for the realization of personal freedom. To become actual, personal freedom must be supplemented with the civil society because human wants and desires can be satisfied only within an economic system regulated by the civil institutions. Although the starting point of personal right is particular aims of self-seeking individuals, it is mediated by universality in the sense that human needs can be systematized on the basis of their universal character. This means that satisfaction of personal desires and needs is a social activity that takes place in the domain of ethical life. Personal right is actualized through the commercial activities, division of labor and solidarity of corporations, so ethical life is a necessary condition of abstract right.

Ethical life is not only essential for the achievement of personal goals but also for the stability of abstract right. As discussed previously, personal rights can be secured

only if individuals recognize universality of rights and respect others as persons. However, abstract right lacks the resources necessary for enforcing the normative principles it entails. The reason is that, at the level of abstract right, there is no written statement of rights. This is problematic because the right does not have a concrete existence if it is not written down. The normativity necessitated by the abstract right can be put into practice only if the rights are posited as law. This is not only because the codification provides an objective statement of rules of conduct valid for every one. Positive laws are important for enforcing the normative principles especially because they make it possible for the individuals to know and recognize the rights. That is to say, the individuals can respect rights only if they know them. The right becomes an object of knowledge only by being codified. Then, abstract right's main failure lies in the fact it ignores the epistemological dimension of rights. All these taken into consideration, it is evident that abstract right cannot function without the legislative body found in the system of ethical life.

The institutions of ethical life are complementary for abstract right also with regards to the issue of application of the principles to the particular cases. At the level of abstract right, we see no transition between universal rights and particular situations. There are universal rules of conduct at one hand such as the principle of respect for others' rights and particular individuals and situations on the other hand, but there is no connection between them. That is to say, there is no way of knowing how the normative principles apply to the particulars. Just as there is no institution for codification of the norms in the domain abstract right, there is no organ which deals with the application of these norms. This is another reason why the abstract right needs to be supplemented with the institutions of ethical life. It is only by means of the executive body and

administration of justice found in the ethical life that the universal principles can be applied to particular cases.

In relation to the issue of application of normative principles, there is also the problem of punishment which was, as discussed earlier, the main contradiction lying under the system of abstract right. To recall, the question of how to determine the appropriate punishment in a way that would not cause in further injustice cannot be answered within the domain of formal right. One reason is that determination of proper penalty requires the moral capacity of impartial judgment. However, the problem of punishment cannot be solved completely within the sphere of morality which provides no objective basis for just penalty. This difficulty is overcome only if punitive practices are fixed by the law and exercised by the legal institutions of the state and civil society. Legal processes of punishment are carried by the judges and juries who are capable of making impartial decisions. The penal code provides a ground for the justification of their verdicts. Also, administration of justice allows the individuals to follow the trials in the courts of law. The publicity of the legal processes ensures the impartiality of the sentences given by the judges. Hence, the problem of punishment shows that abstract right is conditioned by the ethical life.

Ethical life is complementary also for morality, which fails to constitute a self-sufficient system just as abstract right. As is explained above, morality is problematic because of its formal concept of duty. Morality cannot give by itself any concrete principle of action because it is restricted to the standpoint of the conscience. Although conscience is an important decisive element of action, it is insufficient, as it cannot alone figure out what is good in and for itself. The good can be determined only by the guidance of objective principles of conduct which are present in ethical life. The laws

and customs of the state constitute a set of rules valid for every one. The good can be actualized only if conscience work with these principles provided by the legal system. Hence, ethical life complements morality by providing objective principles which guide the action.

There is another sense in which ethical life conditions morality. It was already mentioned that morality is deficient in that it provides no basis for the formation of moral abilities. Development of moral skills is possible only through social activities and experiences included in the ethical life. There are two social institutions; family and civil society, which foster the moral cultivation. It is evident that family is a milieu where individuals are taught moral precepts at a young age. However moral education is not restricted to teaching of moral principles. The family indirectly contributes to children's development of moral capacities through parental discipline which helps them to control their desires, inclinations and needs. In the family, individuals rise above their particular, arbitrary will and learn to subordinate themselves to the objective rules of the family. Similar to the family, civil society contributes to moral education of the individuals by fostering objective and universal values. Although the civil society is grounded on self-interest, it nonetheless involves an objective and universal aspect as a system existing above the subjective caprices. There are various senses in which civil society comprises a principle of objectivity. Productive labor, as one of the activities inherent to civil society, has an objective character in the sense that goods are manufactured according to universal criteria. That is to say, production takes place in response to general needs and desires, so a manufacturer determines his/her activity in accordance with an imperative concerning how the commodity ought to be. The objective nature of labor, therefore, helps the individuals surpass their arbitrary will and develop a moral will. Another sense

in which the civil society has an objective quality is that labor takes place in a system of social cooperation. Although it is, as a system of needs, based on arbitrary will, it is not contingent itself because it works according to certain laws. Members of civil society are limited by the objective principles of economic system to which they subordinate their particular will. Also, civil society is divided into different sectors which constitute corresponding guilds. These guilds are effective in the development of moral disposition because by becoming an estate member, individuals learn to determine their activities in accordance with the interests of their fellow beings. Thus, despite the fact that labor, production and commerce are not moral activities, civil society indirectly enables its members to develop moral capacities. In short, family and civil society, with their disciplinary structure, educate the individuals morally by helping them become universal beings. Therefore, morality is conditioned by the social institutions found in ethical life.

Our discussion shows that abstract right, morality and ethical life constitute an organic unity in which they work in cooperation to realize human freedom. This organic structure of freedom, as noted before, is what constitutes the rationality of the state. Since freedom can be actualized only within the political system that embodies ethical life, the state is both actual and rational. The state, therefore, provides the rational justification for reconciliation which is, to remember, an epistemological issue. By deducing ethical life from the concept of human freedom, Hegel, thus, demonstrates that the state is potentially reconcilable for individuals.

CHAPTER 6

CONCLUSION

In this essay, I argued that Hegel's theory of right can be read as his attempt to reconcile modern individuals to the social world. Hegel demonstrates that modern state is potentially reconcilable because it is essential for human freedom. Understanding Hegel's project of reconciliation, thus, requires working through Hegel's book-length analysis of freedom. For this reason, after one chapter on the notion of reconciliation, I focused on the concept of freedom and tried to show why it entails the social institutions.

First, I examined the attitude of reconciliation by highlighting its certain features, as it is, I believe, liable to misunderstanding. It is a prevalent mistake to interpret reconciliation as a disposition of resignation characterized by the sentiment that nothing better can be found at the moment and that one should confine oneself to the existing conditions. To avoid such a misinterpretation, I explained that reconciliation found in Hegel's philosophy is not such a passive acceptance of social reality. On the contrary, it involves reflection and rational scrutiny into the social norms and institutions. To put it in other words, only if the political order has a rational justification that the individuals are reconciled to it. In this manner, reconciliation can be said to be an epistemological matter. Hegel's conception of reconciliation is characteristic of modernity as it answers the demands of modern, reflecting individuals. In the modern era, there is a growing tendency to question the validity and rationality of the customs, norms and rules.

Individuals feel alienated from the social institutions and laws when the latter do not have a rational basis. Hegel, thus, offers reconciliation as a response to the problem of alienation and the modern demand of rationality. The fact that rational justification is required for the state already makes it clear that there is an objective condition of reconciliation besides a subjective criterion. Accordingly, for Hegel, reconciliation has a dual structure. Reconciliation takes place if the state is worthy of affirmation from an objective point of view and if individuals are aware of its goodness and rationality.

Second, I discussed Hegel's strategy for justifying the political order. The method he uses is the philosophical science which provides conceptual explanation. For Hegel, a conceptual explanation is important because it is the only way of revealing the necessity behind a matter of fact. Hence, he deduces the phenomenon of right from the concept of freedom. To do this, he analyses the concept of freedom and explores all its constituent parts in a logical order. Accordingly, he proceeds from the most abstract towards the most concrete configuration of freedom. He derives a higher conception from a lower one by showing the latter's inner contradiction. That is to say, a higher determination of the concept follows necessarily from a lower one because the former is entailed in the latter. Hegel, thus, examines a series of forms of freedom by negating each of them one after another until he reaches the concrete concept. However, the fact that deficient determinations of the concept are negated does not mean that they are falsified altogether. Hegel distinguishes the process of negation that he applies from the ordinary understanding of negation. He calls the former as determinate negation which implies that the negated configurations of the concept are determinate as they are partially true. According to Hegel, all the different determinations of the concept are its necessary components but they are contradictory and problematic when abstracted from

the others. Any determination which is negated has a positive content in the sense that it provides the principles for a better alternative. Determinate negation gives a method for criticism that Hegel calls internal critique. The idea behind internal criticism is that any view or theory must be evaluated according to its own criteria because this provides insight into where this theory fails and how it can be reformed. The concept of freedom, which Hegel analyses by way of internal critique, consists of three determinations: abstract right, morality and ethical life. Hegel treats abstract right and then morality in abstraction from social institutions to see whether freedom is possible without a political order. Hence, he makes an internal criticism of the former two systems of freedom and aims to demonstrate that their contradictions can be resolved only within the ethical life embodied in the state. His strategy is to start with the liberty of property which is commonly acknowledged as fundamental for individual freedom and to demonstrate that its only enabling condition is the state. This is called regressive proof in so far as the argument moves by regressing to the preconditions of the first premise.

After explaining Hegel's strategy for the justification of the state, I thirdly explored his notions of will and freedom. Hegel introduces arbitrary will before beginning his discussion of abstract right, morality and ethical life. Arbitrary will expresses the freedom of choice which is the simplest type of willing. It is necessary first to define arbitrary will because the freedom of property presupposes the capacity to choose. Arbitrary will is based on the freedom to pursue one's self-chosen ends without any restriction. The idea behind freedom of choice is, therefore, self-determination. However, Hegel argues that arbitrary will cannot realize the ideal of self-determination. The reason is that choice itself is dependent on the available options which consist of the desires and needs given by the nature, so it is not a true model of self-determination as it

is supposed. The will can be said to be self-determining only if it wills its own freedom, only if its freedom is recognized as right. Thus, Hegel begins to examine right by deducing it from the notion of arbitrary will. There are three types of right, namely personal, moral and legal right that correspond respectively to the domains of abstract right, morality and ethical life. It is important to note that, for Hegel, right is not necessarily legal. His notion of right has a broad sense including the right of personhood and subjectivity which he examines in abstraction from the legal system.

Abstract right is the sphere of basic property rights that one has simply by virtue of being a person. It comprises acquisition, use, alienation, contract, transfer and all sorts of activities as regards ownership. It is formal in the sense that it is abstracted from both morality and ethical life. It concerns the right to pursue one's self-chosen ends but it is indifferent to the moral motivations or ethical principles involved in the act of choice. It is with morality that the motives, purposes and intentions behind action come into the picture. Whereas human agency is restricted to choice making in abstract right, morality introduces a subject who acts in accordance with moral principles, who has a feeling of duty and who is capable of judging what is good and evil. In parallel with the abstract person who possesses a property, a moral subject owns his/her actions as an agent responsible for his/her deeds. Abstract right and morality portray the individual in abstraction from social institutions. It is not until ethical life that the individual becomes a member of a community. By ethical life, Hegel refers both to the social order that consists of a set of institutions like family, civil society and state and to a certain life style that the individuals have by participating in these institutions, so it has both an objective and a subjective meaning. Family is the most fundamental ethical union based on the feeling of love where the members are linked to one another through natural

bonds. Civil society is the field of economics based on the systematization of the universal human needs and wants. It is a platform where the individuals pursue their private aims participating in a system of production, cooperation and commerce. This enables them to adopt universal principles in so far as their particular interests intersect with the universal ends of the economic system. Civil society also comprises the administration of justice which is necessary for securing the social and economic order, the police devoted to public welfare and the corporations which are associations of the professionals from the same business sector. Family and civil society are necessary institutions that make up the system of ethical life. However, it is only in state that ethical life can be realized in the full sense. The state consists of three organs; legislation, execution and the monarch. Although it is distinguished into three bodies, it is not based on a system of separation of powers. Hegel believes that the distinct powers are not independent from one another. They rather form an organic unity. Legislature, which consists of an advisory body of civil servants and the Estates assembly, is concerned with codification of laws. The executive applies the laws and functions as a mediator between the state and the public sphere. The monarch's task is to unify the three powers in itself with a final decision.

After examining Hegel's three conceptions of freedom separately, I discussed the transitions between abstract right, morality and ethical life in the next chapter. To recall, there are necessary transitions between personal, moral and social freedom in the sense that they are inconsistent or deficient when abstracted from one another. As mentioned above, Hegel shows the inner contradictions of each type of freedom through determinate negation and internal critique. He begins with personal freedom by abstracting it from both morality and ethical life. Abstract right has a normative

character since personal freedom, as a universal status, requires respect for others' rights. However there is no mechanism found at the level of abstract right to maintain this normative system. Hegel argues that punishment is necessary for the restoration of justice but it is not possible to fix impartially the appropriate penalty for unjust acts. The reason is that the person, who has nothing but an arbitrary will, is incapable of making judgments free of subjective interests. Because determination of punishment requires subordinating particular inclinations to universal ends, a deeper conception of subjectivity is necessary to explain how a subjective will can will what is objectively good. This is the transition to morality where the subject is no longer a choice maker based on his/her arbitrary will but a moral agent who act in accordance with principles. Hence, Hegel deduces morality from the abstract right by showing that the former is implicitly entailed in the latter. Morality, thus, is the condition of a system of penal justice which is necessary for enforcing property rights. Morality is complementary for abstract right not only because impartial judgment requires moral capacities but also because the phenomenon of wrong can be understood in its full sense if it is considered as a moral deed that involves personal motives, purposes and intentions. However, morality also suffers from inner contradictions which show that it cannot constitute a self-sufficient system and that it must be supplemented with another conception of will. The reason why morality is inconsistent is that it fails to provide a determinate doctrine of duties. The moral standpoint is restricted to a formal and empty concept of duty when it is abstracted from ethical principles that reside in the laws and customs of the society. It was said that a system of punishment is possible through moral subjectivity, however morality alone is not enough for determination of penalty due to its indeterminacy. Because morality lacks concrete principles of action and depends on arbitrary subjective

convictions, it may give rise to evil. This shows that morality is insufficient like abstract right for enforcing norms and preventing unjust intervention. Another reason why morality is problematic is that it lacks the educative institutions necessary for acquisition of moral capacities. All these difficulties encountered in the domain of morality can be overcome only within ethical life. With its institutions of family and civil society, ethical life plays an important role in moral education. Also, laws and customs inherent to ethical life provide objective principles which guide action, so the danger of arbitrariness that may arise from the formalism of moral will is averted. The system of ethical life is also the condition of abstract right. Equitable punishment, which is a problem inherent to the system of personal freedom, becomes possible only if there is a written, objective statement of rights. Impartiality of penalty can be guaranteed with positive laws and executive institutions found in ethical life. Furthermore, the ideal of self-determination which cannot be actualized in the domains of abstract right and morality can be realized within the ethical life. As mentioned before, freedom consists in self-determination for the arbitrary will. However, it is understood that personal freedom is not a true model of self-determination because it is dependent on the options which are given externally. Moral freedom is closer to self-determination in the sense that a moral subject does not make an arbitrary choice among available options, but rests on principles he/she recognizes as rational. Yet, the moral will cannot be said to be self-determining either, as it suffers from indeterminacy. The ideal of self-determination is, therefore, achieved in ethical life where individuals act autonomously when they conform to the laws with which they identify themselves.

In conclusion, Hegel demonstrates that modern state is potentially reconcilable for individuals by showing that it enables them to achieve their goals. His conceptual

analysis of freedom reveals that political order is a necessary component of freedom, so it is not external but intrinsic to human nature. Hegel, thus, concludes that social world is indeed a home for the individuals whose freedom can be realized only within the modern state. The state having an organic structure necessary for actualization of human freedom provides the rational justification which helps individuals to develop a disposition of reconciliation.

APPENDIX

THE QUESTIONS FOR DISCUSSION

1. Your thesis states: ‘... a state legitimized solely on the basis of utility and based on the voluntary agreement of the citizens is external to the will and reason of individuals since they consent to it regardless of whether it is rational for them or not’.

Q: Well, why would anyone consent to a state which is ‘external’ to his or her will and reason? What sense(s) of ‘rational’ are relevant here?

Although it is confusing to say that an act is voluntary and it is external to the will at the same time, it makes sense to say “external” if we consider Hegel’s distinction between state and external state. At the beginning of the section of Civil Society, Hegel criticizes modern constitutional theorists as he thinks that they reduce the state to civil society. In § 183, Hegel says that civil society can be rather called ‘external state’ because it is based on the external necessity of human needs. Civil society is a system where individuals seek their particular ends in a collective manner, but the collectivity of civil society does not express a spirit of community. It only expresses a condition of particularity. Because individuals are interdependent for attaining their personal goals, the collectivity and universality are only means for realization of particular ends in Civil Society. Therefore, the principle of universality which is at work in Civil Society is not internal but external to individuals because it is only instrumental for them. In the state, however, universality is not a means but an end for individuals, so it is internal for them. Turning back to my statement you quoted, if we consider “externality” in terms of

Hegel's expression "external state", then it makes more sense to say "a state legitimized solely on the basis of utility and based on the voluntary agreement of the citizens is external to the will and reason of individuals". In such a case, although individuals consent to the state as something instrumental to their self-interests, they are not truly autonomous and rational according to Hegel. He thinks that the consent in this case arises from the arbitrary will which does not imply true autonomy. The self-determination involved in arbitrary will consists in free choice. That is to say, arbitrary will is self-determining because it is determined by its own choices. However, Hegel does not believe that freedom of choice entails true self-determination. Choice is made among a variety of options which are externally given, this means that the will in his activity of choosing is determined by something other than itself, so it is not completely autonomous. A state legitimized solely on the basis of utility is grounded on freedom of choice, as the only motivation behind consent to such a state is the demand to pursue one's freely chosen ends without hindrance. For Hegel, such a legitimation is not a rational one insofar it bases the state on arbitrary will and contingent human needs. A state is rationally justified only if it has a necessary and objective basis. According to Hegel, state is rational because it allows not only freedom of choice but also rational autonomy. In *Philosophy of Right*, Hegel aims to justify political authority by showing that rational agency is possible only within the state. Therefore, he has a different starting point for political legitimacy compared to those who ground the state on human utility.

2. Your thesis states: 'When the technical meaning of "actuality" in Hegelian

terminology is taken into consideration, it is seen that Hegel does not endorse every thing which exists. He only means that something is not rational and good if it does not exist and does not actualize its essence’.

Q: What, if anything, links ‘rational’ to ‘good’? Or what does Hegel suppose links them?

For Hegel, ‘rational’ is not only an epistemological but a normative expression.

Rationality does not only express intelligibility. It also has a normative connotation in the sense that something is rational if it is the way it ought to be. And what something ought to be is determined by its inner essence. So Hegel links rationality to the norms that lies in the essence of things. Accordingly, something is rational to the extent that it realizes its essence and it conforms to its inherent norms. In the statement quoted in the question, I employed the term “good” to emphasize the normative aspect of Hegel’s concept of rationality. In fact, Hegel himself does not use this term in relation to his dictum: “What is rational is what is actual, what is actual is what is rational”. I borrowed this term from Michael O. Hardimon and Adriaan Peperzak who use it in the same context. In his book titled *Hegel’s Social Philosophy: The Project of Reconciliation*, Hardimon (1994) says: “‘Rational’, as Hegel uses the term, has both an epistemic and a normative aspect; roughly speaking, it means both rationally intelligible and reasonable or good.” As it is seen, Hardimon expresses the normativity of Hegel’s concept of rationality with the term “good”. Similarly, Peperzak (1987) in his book titled *A Commentary on the Preface to Hegel’s Philosophy of Right* says: “Actuality is only that reality which is as good as it should be, the necessity of which can be understood by a thoroughgoing reason and which is thus necessarily good.” Therefore, although Hegel

does not explicitly links rationality to goodness, it would not be false to say that there is a connection between these concepts when it is considered that Hegel attributes normativity to rationality.

3. Your thesis states: ‘Similar to the parts of a tree, all the determinations of the concept are organically connected.’ (18).

Q: What might such ‘organic connection’ have to do with the state? With freedom? With reconciliation? With justification? Are there better or worse forms of such organic conceptual connections? What makes the difference between better or worse forms of such connections?

The organism of the state can be understood in two ways in parallel with Hegel’s distinction between “the state proper” and “the political state”. By “the political state”, Hegel means the government whereas “the state proper” refers to the entire system of ethical life including family and civil society. Accordingly, if the state is taken to mean the state proper, then its organism is the systemic totality of family, civil society and state. Ethical life is rationally organized in the sense that its different components, namely family, civil society and state work in cooperation just as the parts of an organism. Having different functions like the organs of a living being they all depend on one another. In the absence of one of these institutions, ethical life cannot be sustained. If the state is considered as “the political state”, namely the government, then what is meant by the organization is the constitution. Different parts of the constitution, namely the crown, legislature and executive power, constitute an organic unity in the sense that

they work in a harmonious fashion. Hegel conceives different powers of the constitution as complementing rather than restricting one another. Their relation to one another is not negative in the sense that each of them contains within itself the other ones.

Besides the state, Hegel also considers human freedom as an organic unity of different types of freedom such as personal, moral and social freedom. There is an organic relation between these three kinds of freedom in the sense that they complement and precondition one another. To put it briefly, personal freedom is made possible by moral freedom as its norms concerning ownership, contract and transfer require moral subjectivity, while moral freedom in its turn necessitate objective principles of conduct given by the laws and social institutions, otherwise it suffers from contingency and indeterminacy. In this sense, three types of freedom are organically connected to one another.

Hegel bases justification of the state on the organic structure of ethical life. In his view, the state is rational because it is an organic system sustained by the harmonious operation of its different parts. To justify the state, Hegel analyses it into its constituent parts and tries to show the organic relation between them. And the reason why Hegel cares about justification is that he aims to reconcile the individuals to the modern social world. As he values rational autonomy, he believes that the individuals come to be reconciled only if the state is rationally justified.

It is important to note that organicism does not have a single meaning. Depending on the thinker, there are various understandings of organicism, so we need to understand what kind of organicism Hegel has in mind. Hegel's organic model can be said to have three features.

Firstly, it is an organism in which each part exists for the whole while the whole exists for each of the parts. This means that the individuals and the state depend on one another. Thus Hegel has a different position than both the liberals and the communitarians concerning the classical debate on the purpose of the state. By adopting a model of organism in which the state exists for the individuals while the individuals exist for the state, he reconciles liberal and communitarian tenets. Like the liberals, he maintains that the aim of the state is to promote the rights of individuals. With communitarians, he holds that the state is an end for the individuals. The interdependency of individuals and society shows that the priority of individuals vs. the priority of the community is a false dichotomy.

The second feature of Hegel's organic theory is that the interests of the parts coincide with the interests of the whole. That is to say, each part, in seeking its own interest, also promotes the interests of the whole.

The third feature of Hegel's organic model is that there is life in each part of the whole, so the subordinate parts have some degree of autonomy. (Beiser, 2005) That is to say, Hegel does not have a model of organism in which there is no conception of the parts apart from the whole. This feature of Hegel's theory distinguishes his model of organism from the conservative models. An organic theory becomes conservative if it holds that the individuals do not have any conception of themselves apart from the society to which they belong, that their community is good and suitable for them just because they are shaped by its values and customs or that they don't have any non-social standards for evaluating and criticizing their community. Hegel's theory does not have such features although he claims that human beings are essentially social. It is important for Hegel that the individuals can differentiate themselves from their community. His

idea that society is substantial for the individuals does not mean that there is an immediate, undifferentiated identity between society and individuals. He values moral subjectivity so he has an ideal of community where the individuals have subjective criteria for evaluation of the state. Also, his emphasis on personal freedom shows that the individuals have the right to achieve their non-social, namely private interests. (Westphal, 1993)

In conclusion, a theory which is committed to a model of organism is not necessarily communitarian and conservative. There are different models of organism, so we need to make distinction among them. The three features of Hegel's metaphor of organism I discussed reveal that his model allows individual freedom, so it is distinguished from the conservative alternatives.

4. Your thesis states: 'Abstract right, morality and ethical life are all moments towards the actualization of freedom. They are different determinations of the concept of freedom, so each of them is partial realization of it. Hegel's account of state can be described as a conceptual reconstruction of the social reality. He analyses the concept of freedom into its different components to show how they complement one another'.

Q: Why should we suppose that the different 'components' of freedom are (or include) social institutions?

Hegel demonstrates the sociality of different components of freedom by showing that they are self-contradictory when abstracted from social institutions. In this way, he

argues that all the components of freedom are social because they become possible only within a social context.

The component of freedom which Hegel firstly discusses is personal freedom that concerns rights of property, contract and transfer. He examines it in abstraction both from social institutions and morality. Hegel's analysis soon reveals that personal goals are conditioned by the social institutions. Personal right is the domain of arbitrary will aimed at satisfaction of desires and needs. However, human utility cannot be attained without the social structures of production, work and exchange. Personal ends can be achieved only by means of the others within an economic system regulated by the civil institutions. This means that satisfaction of personal desires and needs is a social activity. Another reason why personal right is social is that it depends on social institutions for its stability. Personality can be secured only if the individuals recognize the universality of rights and respect others as persons. However, since personal right is abstracted from morality and social institutions, it lacks the resources necessary for enforcing its norms. The normativity necessitated by abstract right can be put into practice only if rights are posited as laws. Codification provides an objective statement of rights valid for every one. Also, positive laws are important for enforcing the normative principles because they make it possible for the individuals to know and recognize their rights. Therefore, personal right cannot function without the legislative body found in the system of ethical life. Social institutions are also necessary for fixing punishment impartially because personal right which is based on arbitrary will provides no objective principle for the determination of penalty. It is only judges and jury members who are capable of making impartial decisions on the basis of penal code. This means that administration of justice and legislation are necessary for sustainability

of personal rights. For all these reasons I discussed so far, personal freedom includes social institutions.

Another component of freedom Hegel examines is moral freedom. Again, he abstracts it from social institutions to show that morality is not a self-sufficient system. Morality cannot give by itself any concrete principle of action because it is restricted to the standpoint of conscience. Although conscience is an important decisive element of action, it is insufficient as it cannot alone figure out what is good in and for itself.

Morality involves social institutions because the laws and customs provide objective principles of conduct. There is another sense in which morality is conditioned by social institutions. Morality provides no basis for the formation of moral abilities.

Development of moral skills is possible only through social activities and experiences.

Family and civil society are the social institutions which foster moral cultivation. Family contributes to children's development of moral cultivation by helping them control their desires and inclinations. In the family, the individuals rise above their particular,

arbitrary will and learn to subordinate themselves to the universal principles of the

family. Like family, civil society contributes to the moral education of the individuals as

it involves universal and objective principles. There are various senses in which the civil

society instills universal values in individuals. For instance, productive activity has an

objective character in the sense that the goods are manufactured according to universal

criteria. Members of civil society are limited by the objective principles of economic

system, so they learn to limit their arbitrary particular will. Another sense in which civil

society has a universal quality is that labor takes place within a system of social

cooperation. Also, corporations are effective in moral formation of individuals.

Individuals by becoming a corporation member learn to determine their activities in

accordance with the interests of their fellow beings. Hence, even if labor, production and commerce are not moral activities, civil society indirectly enables its members to develop moral capacities through these activities. Therefore, the problem of moral education and determination of good action show that moral freedom, like personality, involves social institutions. This is how Hegel demonstrates that all the components of freedom are social.

5. Your thesis states: 'Freedom in its true sense is ... something that the will necessarily has simply by virtue of being a will. This means that the will has the right to be free. Hence, Hegel deduces the right from the will that wills the freedom. Right requires a system where the freedom of the will is recognized as a status. Hence, Hegel begins to examine the concept of right'.

Q: How, exactly, is a right to freedom justified in this way? What sort of 'meaning' could play this role? What would justify such an account of this 'meaning'?

In *Outline of the Philosophy of Right*, Hegel stresses that he makes a philosophical science of right which is based on the necessity of concept. Accordingly, he aims to show how the right follows necessarily from the concept of will.

Hegel begins his examination of will by saying that freedom is essential for the will. In §4, he puts this idea in this way: "The will is free, so that freedom is both its substance and goal." To explain this idea, he compares the relation between will and freedom to the relation between matter and weight. He claims that just as matter necessarily has weight, the will necessarily has freedom. Will without freedom,

according to Hegel, is not actual as it does not realize its essence. In this sense, besides being substance of the will, freedom is also a goal to attain for the will.

After explaining the necessity of the freedom for the will, Hegel discusses in which case the will can be said to be free. He firstly examines freedom of choice as the simplest form of freedom. The principle behind the freedom of choice is self-determination, however Hegel argues that will is only relatively self-determining when it makes a free choice. The reason is that choice is made among the options which are already given. Thus, even if it is the will which chooses, it can yet be said to be determined by something other than itself. According to Hegel, freedom of choice consists simply in the fact that one could have done otherwise, in the fact that one prefers something rather than something else. This means that freedom of choice is quite contingent and it is only arbitrary will which is involved in the act of choice. For the arbitrary will, freedom is only a possibility rather than a necessity.

In the freedom of choice, therefore, the problem is the fact that will's object is something other than itself. It is only if will makes itself its object that it can be said to be truly self-determining. Freedom itself must be the object of the will if the will is to be free. For such a will, freedom is a necessity whereas for the arbitrary will it is merely a possibility. Will is necessarily free if its freedom has an objective basis. This is possible if freedom of the will is recognized as a right. Through right, freedom is systematized and becomes a universal status recognized by the others. In a system of right, freedom is not simply a possibility but a necessity for the will. Right, in this sense, is the condition of freedom and self-determination. Hegel, thus, deduces right from the concept of will by showing that without right, will is not necessarily free. However, it is important to note that right is not justified in this way. Justification of right requires analysis into

three determinations of freedom; namely personal, moral and social freedom. So, by the statement “Hegel deduces the right from the will that wills the freedom” in the passage quoted in the question, I do not mean that Hegel justifies right in this way. I only try to explain why there is a transition from the concept of will to that of right in Hegel’s argumentation. That is to say, in this passage, I aim to show why right is the next concept Hegel examines. In this sense, what is in question in this passage is not justification of right but Hegel’s first step for this justification which takes entire text of *Outlines of the Philosophy of Right*.

6. Your thesis states: ‘after analyzing Hegel’s concept of freedom and explaining why it entails social order, I shall conclude that modern social world is potentially reconcilable for the individuals’.

Q: What would be required for actualising this potential? Why is this (or are these) required?

The expression “potentially reconcilable” is related to Hegel’s bipartite notion of ethical life. For Hegel, ethical life consists of an objective and a subjective component.

Objective dimension of ethical life refers to the existing social order constituted by the laws, customs and a set of institutions such as family, civil society and state, while the subjective aspect concerns the individuals’ consciousness of this order. According to Hegel, ethical life, as an organic and self-subsistent system, is rational in itself regardless of whether the subjects are aware of it. This does not mean that ethical life is independent of the individuals. It is dependent on them for its sustainability given that

the social roles and practices cannot exist without the individuals. What Hegel means is rather that ethical life is independent of the attitude of the subjects. In my view, Hegel's claim that ethical life is rational in itself can be understood in the following way:

Modern state is reconcilable in principle, even though the individuals fail to understand this. In *Outlines of the Philosophy of Right*, Hegel is interested in showing that modern state provides the conditions necessary for reconciliation without saying whether and to what degree the individuals are actually reconciled. When it is considered that Hegel conceives the state reconcilable from an objective point of view, it would not be mistaken, in my opinion, to say that the state has the potential for reconciling the individuals. This potential is actualized only if the individuals come to comprehend the rational principles inherent to the social world. For this potential to be realized, it is not enough that the individuals recognize the political authority or they identify themselves with the state through immediate, unreflective faith. According to Hegel, reconciliation is not actualized if the state is not rationally justified for the individuals. Hence there is a subjective condition for actualization of reconciliation: It requires the individuals to comprehend the social world through rational scrutiny. It is important to note that this comprehension is not possible if the individuals cannot participate in the institutions of ethical life. The state is justified to the individuals if they come to understand its organic structure and this is possible only if they take part in this organism. Individuals, by engaging practically in the social institutions, go through a process of education and understand better the organic system of the state. Reconciliation, in this sense, does not only require rational scrutiny but also practical engagement in the institutions of ethical life. In parallel with this, my statement "potentially reconcilable" can be taken to mean that state is reconcilable given that its members participate in its institutions.

Therefore, comprehension through rational scrutiny and practical engagement in the social institutions are necessary for the potential of reconciliation to be actualized.

7. In what respects is poverty a problem for the existence of a rational (Hegelian) state? How – and how well – does Hegel try to address, reduce or circumvent this problem?

Hegel's discussion of poverty reveals that for him, poverty does not only express material deprivation but a certain state of mind that stems from this deprivation. The poor who are deprived of all the advantages of society such as education, health-care, administration of justice and even consolation of religion may develop an antagonistic disposition towards the society and the state out of a sense of injustice. Poverty, thus, may cause a group of people become alienated from the society. Such a group Hegel calls rabble. He characterizes the rabble mentality by the loss of the sense of right and wrong, loss of honor and indignation against the government, the society and the rich. Therefore, poverty is problematic for the existence of a rational state insofar as it is a threat against Hegel's ideal of reconciliation.

The first possible solution that Hegel discusses is charity. However he contends that charity by itself is not enough because it is subjective, thus contingent. The public authority must step in in order to regulate financial aid in an objective way. This can be done in two ways: the burden of maintaining the poor might be laid on the wealthy class through taxation, or the poor might receive aid from the voluntary institutions such as hospitals, monasteries and other foundations. However both suggestions are problematic

because they are against the principle of civil society, the principle that individuals should earn their living by themselves through their work and activities. Therefore, giving money directly to the poor may even aggravate the rabble mentality since it leads to a sense of loss of honor as a result of failure to be an independent and self-subsistent individual. For this reason, Hegel offers to provide jobs for the poor, but he concludes that this is not feasible either because this results in overproduction which is one of the reasons of poverty. He ends the discussion of poverty by saying that the problem of overproduction can be solved by colonizing activity. That is to say, a state can seek markets in other lands which are deficient in the goods it overproduced and it can encourage the unemployed to emigrate there. Such a suggestion is problematic itself although Hegel does not say so. Colonizing activity may be a remedy to the problems of unemployment, overproduction and poverty at home territory whereas it leads to exactly these problems in the colonies.

Most of the scholars such as Avineri (1972), Raymond Plant (1973) and Thom Brooks (2015) believe that Hegel leaves the problem of poverty unsolved. But there are some scholars such as Joel Anderson (2001), Stephen Houlgate (2005) and Dudley Knowles (2002) who think that Hegel implicitly offers a solution to poverty through his system of corporations. I agree with the latter that Hegel's discussion of corporations is supplementary for his treatment of poverty.

Before discussing how corporations operate in coping with poverty, it would be useful to remember how Hegel characterizes the functions of corporations. In § 252, he says: "... A corporation has the right, under the surveillance of the public authority, to look after its own interests within its own sphere, to admit members, qualified objectively by the requisite skill and rectitude, to a number determined by the general

context, to protect its members against particular contingencies, to provide education requisite to fit others to become members.” As it is seen in this quotation, Hegel attributes corporations the function of setting some measures to economic activities. One of the provisions of corporations is to restrict the number of people who enter into a sector of economy. Corporations assess how many people the industry can sustain. This is a way of preventing or reducing the problem of overproduction, since one reason of this problem is the excessive number of people who produce a certain type of product. Also, corporations try to prevent monopolization through equal distribution of production opportunities. Furthermore, corporations provide ethical education which allows its members to become universal beings with a care for the common welfare. The traders and producers who gain ethical consciousness through corporations try not to undercut one another as much as possible.

Corporations are important in the sense that limitations on economic activities are self-imposed. Hegel thinks that exercise of control by the state from above is an attack on individual freedom, so the intervention of public authority must be minimum. Corporations, though, impose restrictions on production and trade practices and thus reduce poverty without undermining freedom and autonomy of individuals.

Corporations have another task in addition to supervision of economic activities. As Hegel mentions in §253, they provide financial aid to the poor. He puts it this way: “Within the corporation the help which poverty receives loses its contingent character and the unjust humiliation associated with it. The wealthy perform their duties to their fellow associates and thus riches cease to inspire either pride or envy, pride in their owners, envy in others. In these conditions rectitude obtains its proper recognition and honour.” According to Hegel, direct financial help which would normally result in loss

of honour turn into an act of fellowship within the corporations. Hence, for Hegel, direct financial aid through the corporations is also a possible solution to the problem of poverty.

However, although corporations are effective in dealing with poverty, they cannot, in my view, eliminate this problem altogether. The reason is that corporations are not open to all the members of civil society. In § 252, Hegel states that day labourers cannot become corporation members. “The corporation member” he says, “is to be distinguished from a day labourer or from a person who is prepared to undertake casual employment on a single occasion. The former who is, or will become, master of this craft, is a member of the association not for causal gain on single occasions but for the whole range and universality of his particular livelihood.” This statement of Hegel shows that there are certain individuals who cannot enter in corporations. This shows that although corporations reduce the problem of poverty, there still remains a group of people who are exposed to this problem.

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