

CHAPTER I

The Method of the Philosophy of Right

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The aim of the *Philosophy of Right* is to comprehend the modern social world so as to reveal it as rational, and its demands on us as justified, by demonstrating how its principal institutions work together to realize 'practical freedom', the species of *self-determination* that Hegel associates with will or free agency. Right (*Recht*),¹ as Hegel employs the term, is defined in relation to practical freedom: it is what he calls freedom as 'Idea' (*Idee*) or, equivalently, the 'existence [*Dasein*] of the free will' (PR § 29). Both of these expressions refer, more colloquially, to any respect in which practical freedom is realized² in the world (PR § 4), but, as is fitting for social and political philosophy, most instances of Right will be ways in which practical freedom finds an existence (is realized) in institutions and practices of social life. The *Philosophy of Right's* goal is not to prescribe new institutions but to bring individuals, through the comprehension of their social world, to regard the demands their social life places on them as rationally justified, in large part³ because fulfilling them is necessary for their own freedom to be realized. It is because philosophical comprehension involves seeing 'what is' (PR *Preface*, 2I[26]) as essential to the realization of freedom that such comprehension *reconciles* individuals to the social world they inhabit and sustain through their own activity: what can otherwise appear as external *constraints* on their activity is shown by philosophy to

be instead the conditions of their freedom. It is relevant to grasping the method of the *Philosophy of Right* that Hegel describes philosophical comprehension as a process of giving rational *form* to an existing content that is already 'in itself', or, implicitly, rational (PR *Preface*, II[13–14]). Hence, whatever else is involved in seeing existing institutions as rational, part of philosophical comprehension consists in regarding them as systematically ordered – as constituted, both internally and in their interrelations, in accordance with the complex requirements of their overarching end, the realization of freedom.

My aim in this essay is to illuminate some aspects of the distinctive method by means of which the *Philosophy of Right* claims to achieve the goals just described.⁴ Although questions of methodology are extremely important to Hegel, his scattered remarks on the topic in this text are difficult to piece together into a coherent account. If we add to this the problem that Hegel's method is very different from those employed by more familiar approaches to social and political philosophy, the urgency of attending to the text's method before attempting to interpret or evaluate its claims becomes apparent. Already in the *Preface* Hegel tells us that the *Philosophy of Right's* method is the method of philosophy, or of 'Science', more generally (PR *Preface*, 10[12–13]). This immediately raises the question of the extent to which understanding the method of the *Philosophy of Right* depends on a familiarity with other parts of Hegel's system. I address this question immediately below, in discussing what the *Philosophy of Right* presupposes from the parts of Science that precede it in Hegel's system. After this, I turn to the essay's main concern, explicating the method Hegel relies on in showing that the basic institutions of the modern social world are rational, or necessary for practical freedom to be realized. Crucial to this is understanding the *movement* of the *Philosophy of Right*, the way in which it proceeds systematically from one claim about Right, and from one *domain* of Right, to another. Hegel describes philosophy's way of proceeding as a 'development of the concept' (of practical freedom) (PR § 32), but understanding what this means requires attending carefully to what the *Philosophy of Right* actually does and to the kinds of arguments it invokes. As we shall see, *developing* the concept of practical freedom involves more than conceptual analysis in a straightforward sense of that term. For Hegel, developing the concept of practical freedom

¹ I capitalize 'Right' in order to emphasize that the term has no single equivalent in English. Hegel's *Philosophy of Right* treats a variety of topics named by distinct terms in English, including individual rights, law, justice, political philosophy, morality and social theory.

² I will use the more colloquial term 'realization' to translate *Verwirklichung* rather than the more awkward 'actualization'. For an account of the role played by *Verwirklichung* in Hegel's method, see Robert Pippin, 'Hegel's Political Argument and the Role of "Verwirklichung"', *Political Theory* 9 (1981), 509–532.

³ As I note in the antepenultimate paragraph of this essay, the freedom realized in the rational social order is not exhausted by the freedoms enjoyed by its individual members; that freedom also includes a type of freedom (a self-determined reproduction of itself) that Hegel ascribes only to the social order as a whole. See Frederick Neuhouser, *Foundations of Hegel's Social Theory: Actualizing Freedom* (Cambridge, MA: Harvard University Press, 2000), 114–144.

⁴ For another helpful article on Hegel's method, see Kenneth Westphal, 'The Basic Context and Structure of Hegel's "Philosophy of Right"', in Frederick C. Beiser (ed.), *The Cambridge Companion to Hegel* (Cambridge: Cambridge University Press, 1993), 234–269.

requires operating on, and moving back and forth between, two planes of analysis: it involves 'deducing' a complete ensemble of (three) distinguishable but related *conceptions* of practical freedom and, intertwined with that, systematic reflection on the institutions and practices that *realize* practical freedom in all its guises.⁵ It is the way in which Hegel combines logical reflection on the concept of practical freedom with questions concerning its institutional realization that accounts for the distinctiveness of the *Philosophy of Right's* method.

Presuppositions of the *Philosophy of Right*

Commentators on this text tend to fall into two camps: those who regard its arguments as fully intelligible independently of the rest of Hegel's system and those who insist that those arguments cannot be divorced from claims established elsewhere, above all, in the *Logic*.⁶ Not surprisingly, both camps can point to passages in the text that support their respective positions. In this section I survey those passages with a view to uncovering what Hegel means when referring to what the *Philosophy of Right* 'presupposes' (*setzt voraus*) (PR *Preface*, 10[12]). Ultimately, my interpretation shares more with those of the first of these two camps, but it attempts to do justice to the legitimate claims of the second as well.

A careful reading of Hegel's remarks on the relation between the *Philosophy of Right* and his system as a whole reveals three claims regarding what the former 'presupposes' when detached from the latter. (Of course, whatever appears as a presupposition from the perspective of the *Philosophy of Right* alone is supposed to be established in earlier parts of the system.) The first presupposition is simply the recognition that philosophy – the 'speculative mode of cognition' – differs from ordinary ways of knowing; moreover, the distinctive aspect of philosophical knowledge that Hegel mentions here is clearly relevant to questions of method: it is the way in which philosophy 'progresses from one topic to another' (PR *Preface*, 10[12]).

The second presupposition is bound up with the first. It concerns not merely *that* philosophy differs from other modes of knowledge but *how*

⁵ Hegel describes these two planes as follows: when we 'observe how the concept determines itself ... what we obtain ... is a series of thoughts [or conceptions of freedom] and another series of existing configurations [or realizations of those conceptions]' (PR § 32A; translation modified).

⁶ To the first camp belongs, for example, Allen W. Wood, *Hegel's Ethical Thought* (Cambridge: Cambridge University Press, 1990, 1–8; to the second, Eric Lee Goodfield, *Hegel and the Metaphysical Frontiers of Political Theory* (London: Routledge, 2014).

they differ. In this context Hegel explicitly notes that the *Philosophy of Right* presupposes a familiarity with 'the nature of speculative knowledge', which he claims to have set out in his *Science of Logic* (PR *Preface*, 10[12]). It is significant, however, that whenever Hegel refers to how the *Philosophy of Right* depends on the *Logic*, he points not to any specific philosophical doctrine but to the nature of philosophical knowledge in general – more precisely, to the method by means of which 'the concept ... develops out of itself', making it a purely 'immanent' progression and production of its own determinations' (PR § 31). Applied to the present case, this implies that understanding the method of the *Philosophy of Right* requires being able to show how the initially bare concept of practical freedom (or self-determination of the will) develops into a more determinate concept – into a systematically interrelated set of conceptions of freedom – through a procedure that (in a sense to be clarified below) is immanent. This means that understanding how the *Philosophy of Right* proceeds in the distinctive way that makes it philosophy does not require invoking specific concepts or claims that appear in the *Logic*; what is required, rather, is that the development of the concept of freedom as followed by the text's readers be of the same general type, and possess the same type of necessity, as exhibited by the development of concepts in the *Logic*. More precisely, readers of the *Philosophy of Right* who comprehend the necessity of its conceptual progression – from personal to moral to social (or *sittliche*) freedom – are in need of no further instruction in philosophical method to be had from the *Logic*. One of the challenges I take up here is showing that the rigour of the *Philosophy of Right's* development of the concept of practical freedom can be reconstructed even for readers unfamiliar with the *Logic* (as Hegel himself must have believed since he explicitly welcomed such readers into his lectures on Right (PR § 4R)).

The *Philosophy of Right's* third presupposition is metaphysical rather than epistemological. It consists in a small number of philosophical claims, namely, 'that the will is free and of *what* the will and freedom are' (PR § 4R). These claims Hegel takes to be established not in the *Logic* but in the *Encyclopaedia's* chapter on subjective spirit (PM §§ 363–399), immediately preceding his treatment of Right in the chapter on objective spirit. In other words, much of the *Philosophy of Right's* Introduction – its account of the will and the basic nature of practical freedom, as well as its definition of Right – is not argued for within that text itself. These doctrines, rather, are simply taken over as results that find their proof elsewhere in Hegel's system (PR § 2). Yet Hegel is quick to point out – again to readers who have not mastered the system as a whole – that the

presupposed character of these doctrines does not imply that reading the *Philosophy of Right* on its own rules out discovering in it most of the philosophical rigour appropriate to science. For all readers, he claims, will be able to picture (*vorstellen*), and to find plausible, what the Introduction asserts about the will. As long they are willing to inspect their own 'self-consciousness', they can acquire a serviceable grasp of the three fundamental moments of the will articulated in §§ 5–7, as well as the 'further determinations' of the will set out in the Introduction (PR § 4R). This means that, if we restrict ourselves to the *Philosophy of Right* alone, we will be able to understand and find compelling (though not prove philosophically) the concepts of will, freedom and Right with which the text begins. Moreover, even without referring to the *Logic* we will be able to grasp the necessity of the movement by which we arrive at the three specific conceptions of freedom relevant to Right, as well as the accounts of the institutions and practices of Right that realize those conceptions. In other words, even if the *Philosophy of Right* is read in abstraction from the rest of Hegel's system, the philosophical task it claims to carry out is very robust indeed.

Thus far, I have mentioned only the three aspects of the *Philosophy of Right*'s project that Hegel himself considers 'presupposed' when the text is separated from the rest of his system. In truth, there is a more substantive and more controversial assumption at work in the text – and in any part of the philosophy of nature or spirit when detached from the system. The importance of this assumption will become evident below, when examining the part of Hegel's method that involves looking to *experience* – to already existing institutions – in order to give determinacy to philosophy's account of the rational social order. The assumption in question is implicit in the claims, also discussed below, that philosophy's task is to comprehend the present (PR *Preface*, 20[24]) and 'to comprehend *what is*' (PR *Preface*, 21[26]). The idea that – after Napoleon, at least – *what is* is already implicitly rational and requires only the rational form that philosophical comprehension can bestow on it in order to become *completely* rational is fundamental to the *Philosophy of Right*'s project. It is expressed in the most famous of the Preface's declarations, that 'what is rational is actual [*wirklich*]; and what is actual is rational' (PR *Preface*, 20[24]). When Hegel announces this doctrine here, however, he refers to it not as a presupposition but as a 'conviction' (*Überzeugung*) or 'insight' (*Einsicht*) that the *Philosophy of Right* 'takes as its point of departure', which I take to mean that this conviction defines the very standpoint philosophy must take up if it is to be philosophy at all: to start off from the conviction that

what is is rational,⁷ even if still imperfectly or implicitly so, is constitutive for Hegel of the stance philosophy must take up if it is to comprehend reality.

Hegel's understanding of the standpoint appropriate to philosophy rests on a complex conception of reason as a goal-directed activity, driven to achieve only its own self-posed ends, as well as on (related) theses concerning the teleological character of human history. These fundamental claims are not justified in the *Philosophy of Right*, nor can they be here. (It is not even entirely clear where one should look to find Hegel's justification of the standpoint of philosophy: in the *Phenomenology of Spirit*? in the *Logic*? in some composite of the two?) For our purposes, however, it is important to note that lacking an adequate proof of the standpoint that the *Philosophy of Right* begins from does not rid its method of all philosophical rigour, as if Hegel's understanding of what it is to give rational form to an already implicitly rational content were so loose as to allow anything to be made to fit reason's form. (If this were so, Hegel would have considerably less squirming to do later in the text, when – to mention the most obvious example – he struggles mightily to reconcile the reality of poverty with the rationality of civil society (PR §§ 241–245).) The two features of the *Philosophy of Right*'s method that account for its ability to judge certain aspects of reality as less than fully rational – its ability, in Hegelian jargon, to distinguish actuality (*Wirklichkeit*) from mere reality (*Realität*) or existence (*Existenz*)⁸ – are precisely the two aspects of that method I emphasize here: its resources for giving determinate content to the abstract idea of practical freedom (by developing three specific conceptions of it) and its ability to detect 'contradictions' in the ways in which those conceptions of freedom are realized in institutions of Right.

Will and Three Conceptions of Practical Freedom

As indicated above, the *Philosophy of Right*'s Introduction can be regarded as a summary of claims about the nature of will, practical freedom and Right that Hegel thinks have been proved earlier in his system. These introductory claims should be understood as abstract definitions of the will and its essential characteristic, practical freedom, which, precisely because they are abstract, tell us nothing yet about what a social world

⁷ It is not only *Wirklichkeit* that Hegel calls rational: '*what is* is reason' (PR *Preface*, 21[26]).

⁸ As many have pointed out, even if 'nothing is actual except the Idea' (PR *Preface*, 20[25]; emphasis added), much of *Realität* falls short of being a manifestation of reason.

in which freedom were realized would look like. In truth, there is more argumentation in even this part of the text than calling its doctrines 'pre-suppositions' implies. Most notably, there is a logical progression in the development of the three moments that define the will (PR §§ 5–7), and the necessity of that progression can be reconstructed without appealing to the *Logic* or to other parts of the system. (Very briefly: the three moments of the will are derived by reflecting on the bare concept of practical *self-determination*, where the idea of having determinations, or specific properties, must be brought together with the idea that those determinations have their source in the will itself.⁹) Because the distinctive method of the *Philosophy of Right* – developing the concept of practical freedom in interplay with thinking about how it is realized in the social world – gets under way only in 'Abstract Right', I will provide here only a brief summary of the Introduction's relevant claims.

The most prominent of these is that any instance of the free will must incorporate three moments: (a) the capacity to abstract from given determinations of the will – 'needs, desires, and drives' (PR § 5) – rather than letting one's actions simply be determined by those determinations; (b) the positing of some determinate, particular content that makes the will more than the content-eschewing, purely universal capacity to abstract from all determinations that is at issue in the first moment (PR § 6); and (c) the bringing together of *determinacy* and *self-determination*, resulting in what Hegel calls 'being-with-oneself in an other' (*Beisichselbstsein in einem Anderen*),¹⁰ conceived of as a form of *appropriating* the particular content of one's will – making it 'one's own' as opposed to foreign, external, or merely given (PR § 7A). A determination of the will that incorporates all three of these moments in some way is an end (*Zweck*), which has both a subjective and an objective aspect: an end belongs to the domain of ('inner') consciousness, but it also makes reference to the ('outer') world by presenting itself as 'something to be achieved' through action (PR § 9). This means that practical freedom remains incomplete until a will translates its internally self-determined ends into successful action in the world. Finally, full self-determination requires that the ends one espouses and

realizes in action be self-determined in the robust sense that their particular content be consonant with the will's essential nature (its freedom). The will that is fully free, then – free 'in and for itself' (PR § 22) – determines its ends not randomly, nor merely with a view to maximizing pleasure, but in accordance with its essence as free, and it makes these robustly self-determined ends real through successful action in the world. The three specific conceptions of freedom discussed below – personal, moral and social freedom – are all instances of willing that is free in and for itself. That is, each involves a will espousing ends in accordance with a specific understanding of its freedom and acting to 'objectify' that conception (to *make* it real). What distinguishes these forms of the will that is free in and for itself is that each operates with a distinct understanding of the freedom that constitutes its essential nature and that serves as the criterion for its espousal of ends.

Before investigating the method of the *Philosophy of Right* in more detail, it will be helpful to clarify the three conceptions of practical freedom that ground its account of the institutions of Right (without yet examining the arguments that reveal the necessity of moving from one to the other). As noted above, the three conceptions are the following: personal freedom, the foundation of 'Abstract Right'; moral freedom, the foundation of 'Morality'; and social freedom, the foundation of 'Ethical Life' (*Sittlichkeit*). Of these, personal freedom is the simplest, which explains why it is the first treated in the *Philosophy of Right*. The type of self-determination at issue in personhood is the will's choosing of its ends. Persons are characterized by given drives and desires that have the capacity to motivate them to act, but they are persons in virtue of the fact that their wills are not *determined* by the drives and desires they happen to have. Rather, persons have the ability to reject some of their desires and to embrace others; their self-determination consists in 'stepping back' from given inclinations and deciding which among them to satisfy and how specifically to do so. A will qualifies as self-determined on this conception in virtue of having chosen which ends to act on, regardless of the reasons for making the choice it does. Moreover, as a will that is free in and for itself, personhood entails constraining one's choices in accordance with one's own self-conception as a free chooser of ends: choices that undermine the conditions of one's choosing agency – consenting to be a slave, for example – fail to meet personhood's criteria for free action.

The moral subject embodies a more complex conception of self-determination. Moral subjects are self-determining in that they determine what to do in accordance with self-determined *principles* – in accordance

⁹ An excellent treatment of Hegel's conception of freedom can be found in Alan Patten, *Hegel's Idea of Freedom* (Oxford: Oxford University Press, 1999), 43–81. See also David James, *Rousseau and German Idealism: Freedom, Dependence and Necessity* (Cambridge: Cambridge University Press, 2013), 145–147; and Robert Pippin, 'Hegel, Freedom, the Will', in Ludwig Siep (ed.), *Grundlinien der Philosophie des Rechts* (Berlin: Akademie Verlag, 1997), 31–54.

¹⁰ For more on this term, see Wood, *Hegel's Ethical Thought*, 45–51 and Neuhaus, *Foundations of Hegel's Social Theory*, 19–25.

with their own understanding of what is (morally) good. Moral subjectivity is more complex than personhood, first, because it involves determining one's will in accordance with *principles* that define one's understanding of the good and, second, because those principles are 'one's own' in the sense that the moral subject is able to *reflect* on them and to affirm, reject, or revise them accordingly. Individuals realize moral freedom, then, when they subscribe to their own rationally assessable vision of the good, determine their ends in accordance with it, and bring about the good in the world through their own actions.

In contrast to personal and moral freedom, where the emphasis is on free individuals conceived of independently of others, social freedom consists in certain ways of participating in the three principal social institutions of modernity (the family, civil society and the state). The starting point for Hegel's conception of social freedom is the freedom that citizens enjoyed in the ancient Greek city-state. According to Hegel, citizens in ancient Greece had so deep an attachment to their polis that their membership in it constituted a central part of their identities: participating in the life of the polis was valuable for its own sake (not simply as a means to other ends), as well as the source of the projects and social roles that were central to their self-understandings. Hegel regards this as a kind of freedom for two reasons. First, the fact that Greek citizens regarded their community's good as convergent with their own enabled them to obey the laws governing them – laws directed at the collective good¹¹ – without experiencing them as external constraints. Second, the polis was the source of a distinctive and deep satisfaction for its members. It provided a social framework that gave meaning to their lives and served as the primary arena within which, by fulfilling their social roles, they achieved their 'sense of self' through the recognition of their fellow citizens. Apart from these 'subjective' aspects of social membership, social freedom as conceived of in the *Philosophy of Right* includes an 'objective' element: the institutions that individuals subjectively embrace as their own in fact promote the personal and moral freedom of social members generally; those institutions are rational (in part) because, independently of the subjective relation their members have to them, they create the *conditions* under which social members are formed as persons and moral

¹¹ Hence, like moral freedom, social freedom includes acting in accordance with a conception of the good. Part of *modern* social freedom involves relating to the conception of the good that animates social life in the mode of a moral subject, as an individual locus of moral authority that is rationally responsible for the conception of the good according to which it acts.

subjects and under which they realize the forms of freedom corresponding to those self-conceptions.¹²

Method

The aim of the remainder of this essay is to clarify the distinctive method of the *Philosophy of Right* and, in doing so, to reconstruct some of the moves by which Hegel demonstrates that the basic institutions of the modern social world are rational because they are necessary for the full realization of practical freedom. As already noted, one part of his procedure can be described as a development of the *concept* of practical freedom (into three systematically related conceptions of freedom), but Hegel also characterizes what the *Philosophy of Right* accomplishes as 'developing the *Idea* [*Idee*] ... out of the concept [of freedom]' (PR § 2). Since, in Hegelian jargon, the Idea of *x* includes the *concept* of *x* together with its *realization* in the world (PR § 1), the *Philosophy of Right*, in developing the Idea of Right out of its concept, will derive not only a complete ensemble of conceptions of practical freedom but also the real-world configurations (*Gestaltungen*) (PR § 32) of Right corresponding to them, that is, the specific practices and institutions required for practical freedom in its various guises to be fully realized. Moreover, these two aspects of Hegel's account of Right are carried out in conjunction with each other, and grasping how they are interrelated is essential to understanding the *Philosophy of Right's* method. In short, the movement that leads from one conception of freedom to another – the progression from personal to moral to social freedom – is possible only by attending to the 'contradictions' that come into view when one considers how a given conception of freedom would be realized in the world in the absence of the full complement of social institutions that by the end of the book have been shown to be necessary if practical freedom is to be fully realized (a condition that will require the realization and integration of all three conceptions of practical freedom). Although one can distinguish conceptual development in the *Philosophy of Right* ('development of the concept') from its claims about how the social world must be structured if practical freedom is to be realized ('development of the Idea out of the concept'), neither of these aspects of its method can proceed independently of the other; both are necessary if an *immanent* development of the Idea of freedom is to be possible.

¹² Neuhausser, *Foundations of Hegel's Social Theory*, 145–174.

This means that the three main divisions of the text – ‘Abstract Right’, ‘Morality’ and ‘Ethical Life’ – together with the conceptions of freedom each is based on, can be understood as stages of a single philosophical argument that aims to articulate a comprehensive, fully adequate conception of practical freedom and its realization. This argument begins with the simplest conception of a self-determined will (personal freedom) and demonstrates the necessity of supplementing that conception with a more complex conception (moral freedom) by showing how personal freedom by itself is incomplete. A specific conception of freedom is shown to be incomplete when the attempt to think a world in which it is realized reveals that such a world ‘contradicts’ in some way the core ideal of freedom, that of a will determined only by itself. The demonstrated incompleteness of one conception of freedom points out the need to revise that conception, where revision takes a distinctively Hegelian form: we retain rather than discard the original conception of freedom, but we regard it as incomplete – as capturing a part but not the whole of practical freedom – and as needing to be supplemented by a more complex conception of freedom whose features respond in some way to the very incompleteness that was shown to plague its predecessor. (This is what transpires in the ‘transitions’ that mark the text’s progression from one main division to another (PR §§ 104, 141).) A similar ‘dialectic’ is repeated until the process yields a complete conception of practical freedom – more precisely, an ensemble of systematically related conceptions of practical freedom – the completeness of which is revealed by the fact that its realization in practices of Right reveals no further respects in which it is inadequate to the ideal of a will determined by nothing external to itself. One important feature of Hegel’s argument, then, is that it does not begin with a fixed, wholly determinate conception of the freedom that a rational social order must realize. Instead, it *arrives at* such a conception only by reflecting on the achievability and adequacy of various preliminary and incomplete conceptions of freedom. The method by which the *Philosophy of Right* establishes the ‘correct’ conception of practical freedom and the ‘correct’ institutions of Right proceeds, then, not by importing and then applying concepts established in some other division of philosophy but by following out a movement of thought immanent to the barest idea of a self-determined will.

Let us now fill in some of the details of this schematic account of the *Philosophy of Right*’s method by retracing the development from the first conception of practical freedom (personal freedom) to the second (moral freedom). As I have suggested, Hegel’s first step in the main body of the

Philosophy of Right is to articulate the simplest conceivable conception of a will that is free in and for itself (PR §§ 34–38). This conception is personhood, and it is the first because the free choosing central to its understanding of its freedom is the simplest conception of a self-determined will: to be free is to *not* be determined by the drives and desires one happens to have but to choose – even arbitrarily¹³ – which of them to satisfy and how. Immediately after articulating this conception of freedom, Hegel turns to the second plane of analysis in the *Philosophy of Right* and asks how personal freedom is ‘given existence’, or realized, in the social world (PR §§ 39–46). His answer is that a person realizes her freedom as a choosing will by having at her disposal a portion of the world – made up of will-less entities, or things (*Sachen*) (PR § 42) – within which her will has unlimited sovereignty and from which other wills, as potential obstacles to achieving her ends, are excluded. The thought of an exclusive domain of activity that is subject to an individual’s arbitrary will is the main idea behind Hegel’s theory of Abstract Right, the principles of which define the boundaries of such a domain. They do so by ascribing to individuals a set of rights guaranteeing them the liberty to do as they please with those things that are properly regarded as subject only to their own wills – their lives, their bodies and the material things they own – which together constitute their *property* (PR § 40). Personal freedom is realized, then, when individuals inhabit a social world that secures for them a private sphere of action within which they are unhindered by other agents from pursuing the ends that, by choosing, they make ‘their own’. The institutional safeguarding of the individual rights associated with property (in the extended sense that includes one’s life and body) constitutes the *configuration* of Right – the *Idea* – that corresponds to freedom conceived of as personhood.

Before examining how Hegel’s treatment of personal freedom gives rise to a more complex conception of practical freedom pushing us into a new domain of Right, it is worth considering more carefully what has taken place in the argument just given for the necessity of individual property rights. The argument belongs to the second of the two tasks of the *Philosophy of Right* distinguished above, that concerned with the *realization* – in institutions and practices of Right – of a specific conception of freedom. There is clearly an important conceptual component to Hegel’s

¹³ Persons cannot choose completely arbitrarily because they will their freedom of choice and so recognize the conditions of personhood as constraints on their choices. Such constraints, however, leave a large space for arbitrary choice.

argument in the case of personhood: if persons are to realize their freedom as free setters of ends without regard to the rational content of those ends (except that their choices may not undermine the conditions of personhood itself), then the part of the world they relate to in doing so must be such that it can be an instrument of the arbitrary wills of persons – an embodiment of their freely chosen ends – without suffering a ‘violation’ of their nature. This means that the worldly domain in which persons realize their freedom must be composed of will-less entities that impose no normative constraints of their own on what persons may do with them. Such will-less entities are *things*, and an institution that guarantees to persons property rights in things counts as an ‘existence of the free will’, or an instance of Right. To the extent that reflection on what is required for the realization of personal freedom proceeds without appeal to anything beyond the conception of personal freedom itself – to the extent that sovereignty over things can be deduced as necessary if the freedom of an arbitrarily choosing will is to be realized – one can indeed say that the Idea develops immanently out of the concept (PR § 2).

At the same time it would be absurd to pretend that Hegel’s accounts of the specific practices of Abstract Right that characterize a rational society – property, contract, punishment – relied only on *a priori* arguments. That is, there is a sense in which real experience is essential to the *Philosophy of Right*’s account of the rational society. In this respect it – like all of Hegel’s philosophy of nature and spirit – differs from the *Logic*. Hegel alludes to this difference in describing the project of the *Philosophy of Right* as an ‘*exploration of the rational*’ that consists in a ‘*comprehension of the present and the actual*’ (PR Preface, 20[24]). The point here is that the comprehension of the present that is essential to the *Philosophy of Right*’s account of the institutions of Right cannot be a purely *a priori* operation of reason. Hegel acknowledges this when he notes that the configurations of practical freedom – really existing institutions of Right – temporally precede philosophy’s comprehension of them as such (PR § 32R). That this is essential to Hegel’s conception of rational comprehension is borne out by his well-known claim that philosophy can accomplish its work only after a certain historical process has taken place: only after ‘actuality has gone through its formative process and attained its completed state’ (PR Preface, 23[28]). This is why in the same passage Hegel equates philosophy with ‘the thought of the world’ (emphasis modified) and, earlier, with ‘its own time comprehended in thoughts’ (PR Preface, 21[26]). The same idea is expressed in the claim that ‘to comprehend *what is* is the task of philosophy’ (PR Preface, 21[26]).

If philosophy must take account of empirical reality in order to go about its business – if it depends essentially on ‘what is’ – then it cannot be *a priori* in the sense of providing a fully determinate account of what is rational, or how things ought to be, independently of how they in fact are. At the same time, philosophical comprehension is not merely experience’s handmaiden. If reason must ‘enter into external existence’ (PR Preface, 20[25]) in order to do its work, it does so without relinquishing its sovereign status in relation to experience: ‘the human being does not stop short at the existent but claims to have within himself the measure of what is right ... [In] right ... the thing is not valid because it exists’ but because it accords with that rational criterion (PR Preface, 13[16]). Thus, conceptual thought that did not enter into a relation with empirical reality could not establish with sufficient determinacy what is right, but at the same time positive Right (in the existing social world) depends on philosophical comprehension to assure its normative validity. Philosophy’s task is not merely to take in or describe the existing world of Right but to discern ‘in the semblance of the temporal and transient the substance which is immanent and the eternal which is present’ – to ‘find the inner pulse’ that beats in freedom’s existing configurations (PR Preface, 20–21[25]) – and it needs reason, not merely empirical apprehension, in order to do so. How is this to be understood?

I have suggested that there is a conceptual point behind Hegel’s claim that personal freedom requires rights over things in order for it to be realized. (The freedom of arbitrary, ‘choosing’ wills must be realized in relation to will-less entities that place no normative constraints on what their owners do with them.) This thought alone, however, does not suffice to provide a thinker who had no experience of practices that realize personal freedom with a determinate picture of what a social world in which personal freedom were realized would look like. For this determinate picture, Hegel relies on what we might call ‘historical experience’. That is, he ‘looks around’ (PR § 2R) in the world around him – itself the outcome of centuries of humans’ struggles to *make* themselves free – and finds real practices that appear to be instances of the type of realization of freedom his conceptual argument has led him to seek, in this case, various schemes of individual rights that can be interpreted as giving expression to the value of personal freedom.

Since many readers will balk at the suggestion that the argument of the *Philosophy of Right* relies on experience as a source of determinacy for the otherwise not fully determinate conceptions of freedom it ‘deduces’, it is worth citing Hegel himself on this issue. As he puts it, once a certain

conception of practical freedom has been shown to be necessary – has been ‘proved and deduced’ – there remains a second step for philosophical comprehension to take:

the second step is to look around for what corresponds to [the concept] in our ideas (*Vorstellungen*) and language ... If ... the representation is not ... false in its content, the concept may well be shown to be ... present ... within it; that is, the representation may be raised to the form of the concept. But it is so far from being ... the criterion of the concept which is necessary and true for itself that it must rather derive its truth from the concept, and recognize and correct itself with the help of the latter (PR § 2R).

In this passage Hegel joins two ideas encountered above: the philosophical comprehension of what is depends on ‘looking around’ in the real world to find determinate practices that correspond to the conceptions of freedom it has shown to be necessary; and the concept of freedom (as it develops throughout the *Philosophy of Right*) is the criterion for what among the ‘infinite wealth of ... appearances’ is ‘true’ (PR *Preface*, 2I[25]).

As Hegel emphasizes, it is important not to lose sight of the primacy of the Concept in relation to experience: the conceptual arguments by means of which various conceptions of practical freedom are shown to be necessary furnish the criterion of the truth of appearances. At the same time, those conceptual arguments depend on consulting experience in that they proceed by attending to – and discovering ‘contradictions’ in – determinate configurations of Right that the philosopher can be acquainted with only by finding them in the real world. It is time to examine more closely the claim that the method of the *Philosophy of Right* combines a conceptual reflection (on the concept of practical freedom) with ‘looking around’ in real experience and that progress in the former depends on the latter. This is to attempt to understand how ‘dialectic’ (PR § 31R) – the way in which ‘the concept ... develops out of itself and is merely an *immanent* progression and production of its own determinations’ (PR § 31) – requires the interplay of both moments.

One illustration of how the *Philosophy of Right*’s argument depends on the interplay of these two moments can be found in the move, internal to Abstract Right, from property to contract. Here, too, Hegel begins with a conceptual argument: the idea of property involves the thought of a thing that has taken on a significance in relation to freedom. When things become implicated in realizing personal freedom, however – when they go from being mere things to being property – they are no longer merely natural entities but external depositories, or embodiments, of a person’s

will. But if that will now exists externally in things, and things belong to a public world shared by multiple subjects, then the will in question exists not only for itself but for other subjects as well. My relation to my property is not merely a relation between my will and the things I own but also (and more fundamentally) a relation to the wills of others. The former relation might be physical possession or control, but I *own* something only insofar as the things I take to embody my will are also regarded as such by the other wills that inhabit the same world as I. What initially (in ‘property’) appeared to be a relation between a will and things now appears (in ‘contract’) to depend on a more fundamental relation *among* wills. I exist in the world as a person – my personal freedom is realized – only to the extent that my property is recognized as such by others.

While this argument proceeds independently of any specific experience with practices of ownership, the phenomenon Hegel points to as the argument’s result – contract – cannot be ‘deduced’ purely *a priori*. Here again Hegel ‘looks around’ within existing practices to find something that exhibits the structure among wills he has just shown to be necessary for personal freedom to be realized. For someone who inhabits a property-owning society the making of contracts is a familiar practice that exhibits the requisite structure. In a contract two wills come to an agreement that establishes which of the contracting parties will own what: I become the owner of what was yours, and you become the owner of what was mine, and only because we have *agreed* to that arrangement. In other words, contract is the phenomenon of Abstract Right that makes explicit the truth we have just learned about property: that one person’s ownership of a particular thing depends on an agreement among a plurality of persons to *treat* that thing as an extension of a person’s will.

Because the move from property to contract is internal to Abstract Right and therefore grounded in a single conception of practical freedom (personhood), it cannot serve to illustrate the most important aspect of Hegel’s dialectic, its moving to more complex conceptions of practical freedom, and hence to new domains of Right, via ‘contradictions’ discovered in the ways in which an earlier conception of freedom is realized in institutions and practices of Right. Here, too, Hegel provides little explicit instruction as to the type of contradiction one should expect to find when considering the configurations of Right that realize a particular conception of freedom, though students of the *Logic* will not be surprised at his remark that progress (*Fortgang*) in the *Philosophy of Right* takes place when ‘abstract forms [of practical freedom] reveal themselves to be ... non-self-standing [*nicht ... für sich bestehend*]’ (PR § 32A; translation modified).

What this means is best elucidated by looking at specific examples of such progress.

In the transition from Abstract Right to Morality Hegel's argument takes the following form: when we investigate what is required for personal freedom to be systematically realized – realized for *all* persons – we discover that the structure of the will attributed to persons is insufficiently complex for them to be *completely* self-determined, and that, if they are to be so, the freedom of personhood must be supplemented by a more complex conception of freedom, that of moral subjectivity. The need to move beyond personal freedom comes to light in considering the practice that follows property and contract in 'Abstract Right', namely, punishment (PR § 103). Punishment is essential to Abstract Right because of the arbitrary nature of personal freedom (because it is constrained only by the requirement that one's choices not undermine one's own personhood). This means that it is a contingent matter whether my choices respect the personhood of others. Hence, if personal freedom is to be realized universally, the principles of Abstract Right must be codified in laws backed up by the threat of punishment for those who violate them.

The need to move beyond personhood to a more complex conception of freedom is demonstrated by considering how punishment can be consistent with the freedom of the punished – or, more generally, how constraint by laws that threaten punishment can be consistent with the freedom of the persons subject to them. This is possible, according to Hegel, only if 'particular' and 'universal' wills are joined within a single will: punishment reveals the requirement of 'a will which, as a particular and *subjective* will, also wills the universal as such' (PR § 103). The idea here is that, in a social world in which personal freedom is realized for all, the wills of persons must be constrained by principles that, as long as they lack a more complex will, must appear to them as external. When I am required to constrain my choices so as not to violate the personhood of others – or, if I have failed to do that, when I am punished by the law – I remain free only on the condition that I also possess a 'universal' will (that I endorse the general principles of Abstract Right). In that case I recognize the principles that constrain my actions, or the laws that punish me, as 'my own' and can regard constraint by them as *self*-constraint, that is, as self-determination in accordance with principles that come from me in the sense that I have 'insight' into their validity (PR § 132R). This, very generally, corresponds to the (internally divided) structure of the self-legislating will of a moral subject: such a subject has particular desires that may or may not accord with the demands of reason,

but it also recognizes the authority of the principles that pass judgment on those desires, which means that it can regard its moral actions as 'its own' – as self-determined – even when its particular desires are overruled by universal reason.¹⁴ The claim here – which articulates the sense in which practical freedom conceived merely as personhood fails to be self-standing – is not that a society made up of individuals who were only persons and not also moral subjects is a conceptual or practical impossibility but that such beings could not inhabit a world where personal freedom was realized and at the same time enjoy full self-determination (because their actions would be constrained by principles that were not 'their own'); as Hegel puts it, a social world of this type is not 'in keeping with freedom' (PR § 33A).

What, briefly, are the deficiencies of moral freedom that necessitate the move to 'Ethical Life' and its distinctive conception of freedom (social freedom)? As in the case of personal freedom, the deficiency of moral freedom comes to light upon envisaging the conditions of its realization, and here, too, the general character of that deficiency resides in its failure to be fully self-standing: 'morality cannot exist independently; ... [it] must have the ethical [*das Sittliche*] as [its] support and foundation' (PR § 141A). The non-self-standing character of moral freedom has two aspects. First, realizing moral freedom depends on something outside the individual's will in the sense that becoming a moral subject (as well as a person) requires a formation, or *Bildung*, that can be accomplished only within social institutions of the appropriate kinds: moral subjects must be socialized so as to be able to regard their actions as constrained by normative principles, to reflect on the principles that ought to guide their actions, and to act on the principles they recognize as good. Second, moral subjects fall short of complete self-determination in that, considered on their own – apart from the places they have been socialized to occupy in the basic institutions of society – they lack the resources needed to give non-arbitrary content to the concept of the good they take to be morally authoritative. While socially detached moral subjects might sincerely desire to realize the good, without a concrete vision of the projects and forms of life that best promote the good of all, they cannot know what specific actions their allegiance to the good requires of them. In Hegel's words, moral subjectivity is 'abstract', 'empty' and 'formal' (PR §§ 134–137, 141); it fails to satisfy

¹⁴ This argument establishes only the necessity of a will that possesses the general structure of moral subjectivity. It does not deduce every feature Hegel eventually ascribes to the moral subject, for example, its being bound by principles of the *good*, which include but also extend beyond what is required for realizing personhood.

the criteria for a fully self-determining will because it cannot by itself give sufficient determinacy to its own governing concept.

The thought that leads to the *Philosophy of Right's* final conception of freedom – social freedom – is that the solution to both these problems lies in an account of good (or rational) social and political institutions. Thus, rational institutions are charged with the dual task of socializing their members into beings who possess the subjective capacities required to be persons and moral subjects and of providing a social framework that gives definition to the particular projects that imbue their individual lives with purpose and provide determinate content for their understanding of the good. Each of these tasks points to a respect in which the systematic realization of personal and moral freedom depends on rational institutions. That such institutions secure the conditions necessary for realizing personal and moral freedom should not, however, lead us to think that Hegel's theory values social membership for purely instrumental reasons (merely as a means to realizing the first two forms of practical freedom). On the contrary, if the problems posed by those forms of freedom are to be solved in a way that remains true to the ideal of complete self-determination, this solution must give rise to a new and more substantive conception of the self-determining will, which finds expression in the idea of social freedom. In other words, the means by which the rational social order secures the conditions of personal and moral freedom must themselves realize a kind of freedom; more than being merely a means to freedom's realization, they must also be an instance of it.

Bringing together the various requirements that social freedom is supposed to meet yields a statement of its essential features: in addition to securing the necessary conditions of personal and moral freedom, social freedom will incorporate self-determination in two senses. The first of these concerns the wills of individual social members. Such individuals will be self-determining in the sense that, because their self-conceptions are linked to the social roles they occupy, their participation in the institutions of Ethical Life will be not only voluntary but also activity through which they constitute – give real existence to – their very identities.

The second sense of self-determination – the least intuitively evident but most distinctively Hegelian aspect of the *Philosophy of Right's* treatment of freedom – is based on the following thought: if self-determination is to be fully realized in securing the conditions of the first two forms of practical freedom, it is not enough that the individuals who make up the social order have self-determined wills; it must also be the case that the social order as a whole, regarded as a living, self-reproducing

system, embodies the characteristics that define a fully self-determining will, one more thoroughly self-sufficient than any individual will on its own could be. On this conception, the actions of socially free individuals count as 'their own' in two respects: their social participation flows from and gives expression to their own consciously embraced identities; and, in acting in accordance with those identities, they actually produce the totality of social conditions that make their own (personal and moral) freedom possible, as well as the 'self-determination' (or self-sufficiency) of their social order.

Finally, let us return to the idea that philosophical comprehension gives a rational *form* to an already existing content that, prior to such comprehension, is merely implicitly rational. As suggested, this involves coming to see an apparently patternless collection of existing institutions and practices as systematically ordered in accordance with the concept of practical freedom and its Idea (the requirements of its realization). In other words, philosophy makes explicit the initially hidden systematic character of our practices of Right by regarding them through the single lens of – as multiple but related instantiations of – the concept of practical freedom. Its business is to give form to what otherwise appears formless, but its form-giving is not an *imposing* of form on to an external content. We can make sense of this claim by referring again to the account of Abstract Right given above. For that account reveals the rationality of property rights by showing our existing practices to be essentially – though not in every detail – ways in which the social world realizes practical freedom of a specific sort. Regarding existing schemes of individual rights in this way is an act of *interpretation*; that is, it takes those schemes to be aiming at something – or to have a point – and then makes that point explicit by articulating the conception of freedom that best makes sense of, and unifies, the various types of rights recognized in modern societies. This point makes it possible to see how philosophical comprehension systematizes (and legitimizes) existing practices of Right without imposing a form on them from without. What can appear to be merely different types of individual rights – to property in the narrow sense, to one's body and life, to the liberty to act in various ways unimpeded by others – are shown by philosophy to have their point in their relations to a single conception of freedom. As we progress from one domain of Right to another, we apprehend systematic relations of a similar sort among social practices – most notably, family life, economic life and the life of citizens – that appear to be even more diverse than the types of individual rights at issue in the first of those domains.

The systematicity that rational comprehension reveals to exist among the domains of Right is of two main types: one concerns systematic connections among the *conceptions* of freedom that underlie each domain respectively; the other consists in systematic connections among the ways in which institutions *realize* those conceptions. The first form of systematicity is demonstrated by the *Philosophy of Right's* conceptual argument, in its necessary progression from the freedom of personhood to that of moral subjectivity to that of social membership. The second is revealed by showing how the institutions and practices of Right made necessary by specific conceptions of freedom are, in roughly the form in which we already know them, constituted so as also to contribute to realizing freedom in the forms underlying not only their own but also the other domains of Right. Part of what it is for philosophy to give a rational form to what is, then, is to show how specific instances of Right, though grounded primarily in one conception of freedom, also cooperate with other instances in realizing the forms of freedom distinctive to their domains. One version of this second type of systematicity can be found in the ways in which the institutions of Ethical Life realize not only social freedom but also the freedoms of personhood and moral subjectivity. (Participation in the family is a way of realizing social freedom, but in its fully rational form it also promotes the personhood and moral subjectivity of family members.) Another version of the second type of systematicity is located in the ways in which the aims individuals pursue in one institution of Ethical Life converge with the aims they pursue in the other institutions. (In their productive activity in civil society, men not only pursue their own particular ends but also fulfil their duties as fathers insofar as their labour satisfies the needs of their respective families.) It is by demonstrating how institutions of Right systematically realize the Concept of freedom in these senses (and in others discussed in this essay) that Hegel takes himself to have shown that 'the state' – the modern social order that incorporates Abstract Right, Morality and the institutions of Ethical Life – is '*an inherently rational entity*' (PR *Preface*, 21[26]).

CHAPTER 2

Property, Use and Value in Hegel's Philosophy of Right

Stephen Houlgate

Hegel is aware that it is only in the modern world, with the emergence of civil society, that 'the *freedom of property* has been recognized here and there as a principle' (PR § 62R).¹ Nonetheless, he contends, property is made necessary by the very idea of freedom itself. The purpose of this essay is to explain why this is the case by tracing the logic that leads in Hegel's *Philosophy of Right* from freedom, through right, to property and its use. I conclude by briefly comparing Hegel and Marx on the topic of 'value'.

Free Will and Right

The first task is to explain why freedom, or the free will, must give itself the form of *right* (*Recht*). What Hegel calls 'intelligence' is the knowing of what *is* (PM § 465). Will, in contrast, seeks to realize, and realizes, its subjective aims in the external world. It is, therefore, the activity of giving objective 'existence' (*Existenz*) to the content of its aims (PR § 8; PM § 469).² Insofar as will actively objectifies itself in this way, it is 'self-determining' and *free*. Initially, however, its aims are determined by nature, rather than by itself: they are its immediately given needs, drives and inclinations. Accordingly, Hegel maintains, will is at first not fully free, but free only implicitly or 'in itself' (*an sich*) (PR §§ 10–11; PM §§ 471–475).

Will is, however, explicitly free, or free 'for itself', insofar as it distinguishes itself in thought from its given drives and inclinations and understands itself to be the power to *choose* which aims it will realize: the

¹ See also PR § 182A, and VRP 3: 565, 641. Translations from VRP are mine.

² In Hegel's logic there is a difference between *Existenz* and *Dasein*. This difference, however, plays no role in the discussion of abstract right in the *Philosophy of Right*, so in this essay both terms are translated as 'existence'.