

THE "AUFHEBUNG" OF MORALITY IN ETHICAL LIFE

by
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What does it mean to say that morality is superseded by ethical life? Whether or not Hegel's philosophy of the objective spirit is still worthy of consideration depends to a great extent upon the answer to precisely this question. Ernst Tugendhat, for example, essentially based his devastating criticism of Hegel upon the following answer to it: "Hegel does not allow for the possibility of a self-responsible, critical relationship to the community, to the state. Instead, we are told that the existing laws have an absolute authority, that a community determines what each individual must do, that each individual's own conscience must cease to exist, and that trust must replace reflection. This is what Hegel means when he says that morality is superseded by ethical life." (349)¹ If this answer is correct, one can hardly escape Tugendhat's conclusion that the Hegelian theory of freedom is the summit of a perversion that is no longer merely conceptual, but also moral. On the other hand, Charles Taylor, to whom Tugendhat makes positive reference and who shares Tugendhat's intellectual background in linguistic analysis, finds Hegel's view that ethical life supersedes morality almost unproblematic. He has called interpretations similar to Tugendhat's "ludicrous." (377, cf. 375)² It therefore seems appropriate to reexamine the text of the *Philosophy of Right*³ and the lecture notes⁴ in order to determine what Hegel really means when he declares that morality is superseded by ethical life.

Such an investigation must clarify the following questions:

1. What does Hegel mean by morality?
2. How does he criticize morality?
3. How is morality maintained and transformed in ethical life?

An answer to these questions can be provided only by reconstructing—at least

in outline—the course of argument in the chapter entitled “Morality” and then proceeding to examine those passages in the chapter “Ethical Life” that take up once again the problem of morality. It should thereby become apparent that the character of the presentation and criticism of morality is altered in the course of the chapter on “Morality” itself. In the first two sections of this chapter, the development of morality itself is the primary theme; here criticism is limited to “overcoming” incomplete forms of morality. At the end of the second section, criticism takes on a new form. In the conflict between morality and (abstract) right, the one-sidedness of morality in general is demonstrated. However, it is only in the third section that criticism becomes the exhibition of contradictions either between the claim and the performance of moral positions, or between mutually exclusive moral positions that nonetheless lead to one another.

It can be said that there is a change in the meaning of morality that corresponds to the change in the meaning of criticism. Hegel begins with a very broad concept of morality; in the introductory paragraphs to the chapter on morality, morality is equated with subjectivity (§ 108, 112). Morality is not “that which is opposed to immorality” (§ 108), but rather the conscious “self-determination of the will” (§ 107). According to § 113, only the “expression” of such a “moral” will can appropriately be termed an “action.” Institutional “actions” (Hegel cites the legal “*actio*” of the courts as an example, cf. § 113) are not in a full sense actions. Initially, the chapter on morality is then a continuation of the theory of will and action contained in the sections “Practical Spirit” in the Philosophy of Subjective Spirit.⁵

In the first section of the chapter on morality, moral action is the conscious expression of an individual will—as opposed to unconscious, merely instinctive or habitually “set” actions. In the realm of objective spirit, action is considered in its “social” effect: it affects other acting individuals. Regarded in this external perspective, it is a “deed” (*Tat*), and the question is, to what extent the deed can be attributed to purpose and intention. The various forms of deeds purposely performed, which are the topic in §§ 115 ff., correspond by no means to the “concept of morality” that had “emerged” at the end of abstract right (§ 103), for this had been the “particular subjective will” which wills the “universal as such.” This concept is only the “truth” of those forms of volition and action in which the particular will wills itself (cf. § 114), and it is especially relevant at the outset of the third section (“The Good and Conscience”) in which Hegel presents and criticizes Kantian ethics. At the end of this section—at the climax of criticism, so to speak—morality once more seems to possess the meaning that Hegel had envisaged in the *Phenomenology* of 1807. Morality characterizes a “self-consciousness” or “world-view” in which the “knowing will” sees itself as “substance and purpose and singular content,” as “all reality” (GW 9, 324).⁶ Nowhere else in the Philosophy of Right does Hegel deal

with both a necessary "side of the concept of freedom" (§ 106) and its untenable radicalization under the same heading ("Morality") and in the same chapter. This has doubtless impaired an understanding of what it means for morality to be "superseded." Abstract right can, of course, also be one-sidedly rendered absolute, but that this is the case can become apparent only in the conflict with other "sides" of freedom, morality, and ethical life. Therefore this one-sidedness of abstract right must wait for its exposition until the sections "Intention and Welfare" and "Civil Society." The reason why internal development implies radicalization and its criticism only in the case of "Morality" cannot be explained by general reference to the concept itself. A satisfactory explanation requires that we briefly trace the "process within this sphere" (§ 106). As far as its content is concerned, this process includes a wealth of legal issues (accountability, liability, etc.), moral phenomena (self-realization, hypocrisy, cynicism, self-deception, irony, etc.), ethical conceptions and theories (altruism, eudaemonism, decisionism, probabilism, etc.), and at least an outline of the history of morality from Socrates (cf. 4, 301) up to Friedrich Schlegel. The structure of this process consists in an increasing "identification of the subjective will with the concept of the will" (3, 339). Only by viewing the structured process as a whole can one come to understand what morality is and how it is "superseded."

A

The development of morality begins in the section on "Purpose and Responsibility" with the expression of the moral will, action—taken in its most external sense as an "alteration" upon "the given state of affairs" (§ 115). The subjective will must first of all appropriate its own expressions, so to speak, by coming to recognize itself in them as being "its own" (*ibid.*). I am responsible in the most external sense of the word (as "strict liability") if something that is mine, that is, something that is a part of my property, is involved in such an alteration.⁷ But if some deed leading to an alteration can be understood as the expression of a will, then this "acting will" has the right to recognize "in its deed only that which is its own action," i.e., exclusively something that can be traced back to conscious purposes (§ 117). This "reflection" of the difference between deed and action marks the historical transition from the tragic to the moral (subjective) concept of responsibility, as § 118 indicates. However, this is, of course, no more than the point of departure for the legal, and, in a stricter sense, moral problems of accountability that arise as the result of actions committed on purpose.

At the level of purpose, the subject only recognizes the mere "specifics" (§ 119) of the deed (particular consequences of particular purposes) as its action. At the level of purpose, by contrast, the fateful entanglement of individual

subjective purposes in the "connectedness and "necessity" of external circumstances and events is supplanted by an internal connection between aims and the anticipation of external occurrences. The latter is a universality that originates in the subject's own cognition. But this universalization of volition is at the same time a particularization of the agent out of the "universality which is substantiality," as Hegel stated in his handwritten notes to § 119 (VII, 225). The agent who has certain intentions is concerned with himself and his knowledge of himself, and he attempts to realize this knowledge within the context of social activity, its circumstances, rules, and dependencies. Only, "insofar as I find satisfaction in it, does my action have an interest for me" (3, 379). This holds for the "most amoral" crimes, such as murder merely for its own sake, as well as for moral actions in a strict sense, such as those performed from altruism or a sense of duty. In the latter case, also, the subject is interested in his own activity as a kind of self-realization. Without interest, the activity of the subject would have no "value" (cf. § 122); lacking interest, one would not be "involved" in one's own actions (3, 382). But in the absence of such involvement in one's own actions, there could be not truly active subject, no person—as Locke had already pointed out.⁸ According to Hegel, also, it had become "evident especially in recent times" (3, 377) that the subject "positively fulfills itself" in its actions (3, 373). This produces a new tension in the subject's actions: there is now a tension not only between the amount of purpose involved and the consequences, but also between the motivation and the external aims or "further content" (§ 122) of an action. The aim of any action can become in turn a means of attaining that which I am truly motivated to pursue—in the final analysis this is my own self-realization. I wish to realize myself as something that is active as a subject in general but also as a "natural" individual with concrete "needs, inclinations, passions, opinions, fancies, etc." (§ 123). This implies a first criticism of Kant: Hegel, as opposed to Kant, grants to the "satisfaction of bodily as well as spiritual needs" (3, 383) a positive moral status in the concept of "welfare" or "happiness." To make's one's own welfare one's conscious aim is—in contrast to the instinctive passionate satisfaction of needs—already an element of moral freedom. The reference of various needs "to a whole" (VII, 231), the calculation and postponement of needs for the sake of a lasting happiness, is in itself an indication of a "universality in reflection," and this must be understood as a first step towards acting in accordance with the laws of freedom.

This development towards the willing of something rational and universal is presented by Hegel in §§ 125 ff.; however, at least as far as the moral phenomena presented here are concerned, it is not especially convincing. According to Hegel, the universality immanent within reflection leads an individual to proceed beyond his merely private welfare. "The cognitive will

determines its volition not according to *its own* welfare, but rather extends it to the welfare of others" (3, 394). But the universality that is contained in the idea of the general welfare is *not* the strict universality of thought. In the lecture notes of 1824/1825, we read: The general welfare is an empty phrase; one must, of course, disregard the dead and those who are to come . . . and how can I further the welfare of those in China?" (4, 338). The logic of this extension consists, according to the text, merely in the fact that "I cannot further my own welfare without furthering the welfare of others" (4, 337; cf. VII, 237 f.). But this kind of universalization cannot assure that the others are intended as free subjects, not even in the mere sense of their legal freedom as persons. Therefore, Hegel is not able to progress any further in the development of moral phenomena or ethical conceptions at this point.⁹ Instead, an opposition arises between the benevolent will and formal right. This means that the inadequacy of previous forms of morality is not developed out of internal contradictions but rather from the "collision" between morality and right in which their mutual one-sidedness, the "finitude and thus the contingency of both right and welfare" (§ 128) can be recognized.

What is this one-sidedness? After all, Hegel seems to be able to resolve the conflict between right and welfare by means of a very narrow version of a right of distress, which is restricted to the point at which one's life is endangered. In reality, however, this solution is by no means a mediation between abstract right and morality; it is rather a solution which is strictly limited to right. Furthermore, according to Hegel, it belongs to the area of legal right in a strict sense and is not, as it is in Kant, a part of the *jus latum* which is an "*intermundium*" between morality and right.¹⁰ The right of distress implies only that a free will's right to be present in and dispose over objects may not deprive another person of the possibility to express his will at all ("a loss of rights altogether" § 127). Nevertheless, the unconditional will to freely dispose over objects and the unconditional will of the subject to realize itself in willing the general welfare may be mutually exclusive in a number of cases. Within the realm of morality, as far as it has been developed up to this point, there is no conceivable form of the will that would necessarily unite the two and thus overcome their mutual one-sidedness. Can there by any willing guided by subjective reflection and self-determination that would, at the same time, have to adopt an organization of the rights and duties of all as its unconditional aim? This is precisely the claim that is made by the will to good if the concept of the good is not determined as something alien to the will but rather as the essence of the will itself. The good, as dealt with in the last section of the chapter on morality, is both the essence of the will and the "world's final aim" (§ 129), which ought to be recognized, furthered, and realized by the cognitive will of the subject. This cognitive willing of the good contains all the traits of morality as it has been

developed up to this point. The subject realizes itself here (a) as actively "present," (b) as wanting its own welfare as well as that of others, and (c) as its own judge of what is good. "The right of giving recognition only to what my insight sees as rational is the subject's highest right" (§ 132 Rem.). But, at the same time, its concern is that which unconditionally ought to be, that which is the final aim for all and is "absolutely essential" for the subjective will itself: "The subjective will has value and dignity only in so far as its insight and intention accord with the good" (§ 131). One might say that the "modern" concept of freedom contains the demand for self-realization by means of the realization of something that unconditionally ought to be, and that I personally can see as something that unconditionally ought to be. Personal insight, however, is supposed to be founded upon rational grounds and standards. And since these cannot be provided from the stand point of morality, as the third section attempts to show, morality must be transferred into ethical life.

III

I will now first of all consider the transition from morality to ethical life from its negative side, as critique, as the demonstration of contradictions within morality. The aspects of *conservare* and *elevare*, the transformational preservation of morality in ethical life, will be thematized in the following section (IV) of this paper. According to my interpretation, the forms and stages of morality dealt with up until now are not contradictory, but rather only insufficient. This ceases to be valid only at the last stage, the ethics of conviction and conscience, which is a radicalization of "morality."

The "refutation" of this morality can also be considered from various aspects, from the contradictory content of the moral theories and phenomena discussed by Hegel or from their structural or "logical" side. For, in the end, the "transition" from morality to ethical life has to be explained in terms of the "Science of Logic" (cf. § 141 App.).

Let us first consider the aspect of content. What kind of moral concepts and theories are discussed and critized by Hegel? One must distinguish on the one hand between individual facets of ethics and moral theories to which Hegel's presentation applies and which are often mentioned, especially in the lectures; and, on the other hand, positions that are compatible with Hegel's characterization of the good and its relationship to the subjective will. For example, in a broad sense the characterization of the good as that which is "essential" for man (§ 131), or the determination of good actions as "right actions," can also be referred back to Aristotelian ethics (cf. § 134). But if the good is supposed to be the essence or the concept of the will and if the particular will demonstrates "its unity with its essence" (3, 418 f.) by fulfilling its duties, then this cannot be

applied to ancient ethics, with the sole exception of Stoic ethics, which Hegel himself expressly exempts. According to the lecture notes of Hotho (1822/1823), Hegel explicitly concedes that, in Stoic ethics, man no longer merely discovers "what he ought to recognize as right in a source external to himself, neither in the law nor in customs." Rather, here mankind is aware that right is dependent upon "his essence, the concept of his will. . . . This is the standpoint where one says, 'Duty must be done for its own sake' " (3, 418 f.). Only in positions according to which the essence of will is realized in the fulfillment of particular, but unconditionally valid duties can the contradictions be demonstrated that allow such positions to appear in the last instance indistinguishable from radical amorality, whether relativistic or subjectivistic.

The dynamics of content in this last stage of Hegel's criticism of morality is contained in the assertion that any ethics founded upon the concept of an unconditional will in accord with duty must develop into its "purest" form, Kant's formal ethics. For, there is no other way to solve the problem that a particular duty is "limited" and "does not correspond to the good as such, and insofar as the particular duty is fulfilled, its value does not consist in the particular character of that duty, but rather in the universality that it is a duty, that it is good. That is, the determination of the good in each particular duty is merely formal" (4, 256). It is precisely this, Kant's unconditional and pure concept of morals that must in the end abandon the determination of the good, as well as its concretion in duties and particular good acts, to the voluntary choice of particular subjects. In the end, this leads to the negation of the boundaries between good and evil, moral and amoral.

Hegel had repeatedly criticized Kantian moral philosophy on this point ever since the *Phenomenology* of 1807. An examination of the justification of this criticism cannot be undertaken here.¹¹ Instead, it shall be briefly summarized only insofar as it furthers an understanding of the Hegelian consequence that morality is superseded by ethical life. According to Hegel, the categorical imperative by no means demonstrates that a particular concrete duty can be deduced from the essence of a rational will. Whether or not a maxim is capable of serving as a principle for legislation, depends rather upon the maxim's empirical content. There is no doubt that one cannot consistently wish to possess property and consent to embezzlement, wish to live and, at the same time, consent to murder; or wish to communicate and consent to lying. But this still does not imply that property,¹² communication or human life do or should at all exist (cf. § 135 App.). The presuppositions of such maxims as "one should not do x" are therefore natural, social, and legal contents or institutions. However, these cannot be considered moral if morality consists in the correspondence between the will and its concept; and consequently, this correspondence cannot be guaranteed merely by the manner of judgement itself, i.e., by

one's feeling of obligation or by one's conscience. Fichte's reformulation of the categorical imperative in his *System of Ethical Science* is then, according to Hegel's view, completely consistent. It was: "Always act according to your strongest conviction concerning your duty; always act in accordance with your own conscience."¹³ Hegel did not however discuss the way in which Fichte, in his *System of Ethical Science* (1798), arrived at social institutions and concrete duties via the intersubjective mediation of ethical consciousness. Hegel is more interested in the principle that established the subject's reflection and decision, the "activity of particularization" (4, 360), as the standard for all morality in place of any particular content of moral action.

This principle contains no criterion, though, for distinguishing the ethical fulfillment of obligations from arbitrary decisions or from blatant or concealed (even from oneself) willing of evil. For Hegel, evil is nothing other than the reflecting will's conscious separation from the universality of mind, i.e., of the *logos* that knows itself as the same in nature, the human world, and individuals. This separation can take various forms. One form is the consciousness that all that matters is a decision one way or the other (decisionism: "every affirmation with regard to the will" is positive, good);¹⁴ another is the consciousness that it depends upon my decision whether or not good or evil will be realized; and still another is the consciousness that every act can be referred to some good aim or reason; and yet another is finally the consciousness that my "voluntary choice . . . is the master over good, right, evil, truth" (4, 389). In this "very summit of subjectivity" (*ibid.*) everything obligatory in the morality of self-realization is rendered the victim of an ironic game: "It is not the thing that is excellent, it is I who am so; as the master of law and things, I simply play with them as with my caprice; my consciously ironical attitude lets the highest perish, and I merely hug myself at the thought" (§ 140 App.).

The ironical subject's "vanity" is a clear demonstration of the essence of subjectivity that is able to abstract from all aims and maxims in which it has posited its determinacy. At the same time, it is an essential attribute of freedom that the universal (at this point subjective) will knows itself to be independent of each of its self-posted or self-appropriated determinacies (cf. Introduction § 5–7). On the other hand, how can there be an objective good that is obligatory for all, if each individual subject is free from all restraints? The Kantian moral philosophy and its romanticist opposite are merely two sides of the same coin: if the unconditional good is supposed to be free from all empirical determinacy, then "only the good will" can be unconditionally good. But the will that is not empirically bound, is conscious of its freedom to appropriate everything and simultaneously be free from everything. It can play with everything—in the end, it makes no difference—it opts for the greatest possible irregularity in its action, whether it merely imagines anything as a universal law, or even exempts

itself from all existing laws (as a sort of "free rider"). The "essence" of the will is the fact that it determines itself, and that it remains free from all of its determinacies in this activity.

The fact that the summit of morality is the dissolution of all obligation and the reciprocal transition from one opposite to the other (the good in itself as opposed to subjective freedom of choice; the good will as opposed to cynicism, etc.) is necessarily due to its "relational structure" (cf. 4, 349, 4, 391). Morality is a relationship in which both sides—the universal, the good, the essence of the will, on the one hand; and the particularity of duty, action, and the will, on the other hand—are supposed to be both "self-sufficient" as well as "identical" (4, 391). The universal will is supposed to become actual through particularization, the particular will is supposed to become "ethical" by corresponding to the universal. But this "becoming," this genesis, cannot reach its goal; otherwise, the good would be rendered finite and the will would be deprived of its ethical striving.

Hegel scholars have not yet reached agreement on the question which logical determinations correspond to the transition from morality to ethical life. U. Rameil recently suggested the corresponding transition is from the Relation of Substantiality to the Concept; L. de Vos, by contrast, proposes that it is the transition from Teleology (the last section of "Objectivity") to the Idea of Life.¹⁵ In Hegel's *Handwritten Notes* (VII, 214) and in Hotho's and V. Griesheim's (3, 470 and 4, 364) lecture notes there are references to the Judgement of Concepts and its transition into Inference. The important thing is that on both sides of this relationship "identity is present" (4, 391 f.). This identity consists in the fact that both the subject and the good are, on the one hand, "self-identical," "solid and immutable"; and, on the other hand, that they are "restlessness, dissolution" (*ibid.*). This is due to the fact that subjectivity at the peak of its amorality wishes to be "free of determination": "this indeterminacy is, however, the very opposite of voluntary choice ("Willkür"); it is the "self-sameness, the universality of the will" (VII, 288). The good turns out for its part to be not only the identical essence of the will but also the dissolution of all determinacies: no determinate will can ever correspond to its pure, indeterminate essence. If this unity is viewed positively, then it is the "system of the particularization of the good" (Handwritten Note to § 142; cf. VII, 289, 292), both "in itself" as "the world" or "the existent mind . . . recognized in other human beings" (VII, 292), as well as in the will of the subject that comprehends this system and wills it as rational. "System" means a totality of determinacies that are organized in a "subject-like" manner, so that the system makes distinctions within itself and represents itself as a totality in each of these distinctions.¹⁵ This totality must be independent of various individuals' contingent and arbitrary opinions, that is, it must be "in itself." At the same time, however,

it must become manifest in their deeds and knowledge (the "testimony" of the particular subject, cf. § 147) and this manifestation must occur by means of their free, self-realizing activity. The "system" of ethical life is not a set of interconnected rules, but is rather a self-developing, common self-comprehension (a "spirit") that can be incorporated in institutions and persons. For this reason, the system as a whole can also be represented by individual particularities: "Individuals are particular in and for themselves and over against other individuals. This whole side of particularity, all of this is the one side in which ethical life is realized" (3, 501).

With regard to Kant's ethics, the transition from morality to ethical life has the following significance: the will does not will its "essence" by making its universality, its conformity to laws, its proper aim. Rather, the will must be directed towards aims that are necessarily bound to everyone's (legal, moral, ethical) freedom in a certain community. Its particular aims must simultaneously further the aims of a totality which is constituted by laws, the will of which is unconditioned and independent of the concrete aims and maxims of individuals. At the same time, however, the community's will is directed towards conditions for free actions. Such conditions must include rules for the free disposal over property, possibilities for self-realization in common tasks, the material presuppositions for self-determinate activity ("subsistence"), etc. This occurs unconsciously in ("functioning") civil society, and consciously in the family and the state.

IV

How is morality superseded and transformed in ethical life? Are its claims merely critically restricted, so that it is granted a limited right at the level of ethical life, so that it parallels, for instance, civil society in the ethical state; or is it transformed into another, higher form of conduct and consciousness? The beginning of the third section of the *Philosophy of Right* seems to indicate that morality has indeed been superseded by a different, even opposite way of thinking and acting. If the "ethical powers . . . rule the individual's life" with "absolute authority" (§§ 145, 146); and if the "only great ethical totalities" namely "marriage" and "the state" (Handwritten Notes to § 142), determine the individual with their obligations and laws, so that "the individual's private conscience, which had been for itself and opposed to the ethical substance, has disappeared" (§ 152)¹⁶; then the mere "affirmation" of existing rules and powers appears to have replaced conscience and responsibility.

However, the fact is often overlooked that, for Hegel himself, ethical life is subject to a development within which its relationship to morality changes. In his remarks to § 147, Hegel mentions four stages of the ethical relationship

to the substance as represented by habits, customs, ethics, institutions, and laws. The first of these stages is constituted by the subject's feeling within the substance that the substance is like an "element which is not distinguishable from oneself"; the second is "faith and trust, which is no longer "identity," but rather "a relationship"; the third is constituted by "reflection" and "insight due to reasons"; the fourth is "adequate knowledge." Ethical life must proceed through these four stages, the third of which corresponds to morality (cf. 4, 406)—and the second, third, and fourth of them must be preserved in the consummation of ethical life. In Hegel's *Handwritten Notes* to § 151, it is stated: "Conscience, reflection, morality, is not spirit, but neither is dull innocence" (VII, 301). And the lecture notes from 1822/1823 record in § 147: "Faith, trust are the immediate forms of reflecting understanding; and, as far as their content is concerned, they surpass it. Nonetheless, man must appear before this tribunal, must search for reasons" (3, 487). But reasons that are open to subjective insight can be provided only by adequate knowledge, which recognizes ethics, institutions, and laws as forms of freedom.

Hegel also identified these states in the historical development of ethical life, and, except for the first of them, they provide the systematic basis for the divisions of ethical life—family, civil society, and state. In a brief sketch of the history of ethical life provided in the lecture of 1818/1819, Hegel distinguishes an immediate ethical life, a stage of reflection, which he attributes to Socrates in Greece and to Stoic ethics and Roman law in Rome as "moments of morality and right" (1, 290); and, a stage of "ethical unity," which develops into these moments. This schemework of an immediate ethical life, a stage of reflection that comprehends right and morality, and, as opposed to it, a stage that conjoins the "self-sufficiency of individuals" and the "unification in laws" into a "unity as a known, conscious, articulate cognitive unity" (VII, 307) is applied by Hegel in his remarks on § 157 to the threefold division between family, civil society, and state. According to this scheme, civil society is the sphere in which morality is maintained. In the lecture of 1824/1825, it is stated: "Here is where right belongs, here the individual is for himself; just as morality also has its place here: the particular individual's being within himself" (4, 416).

In civil society, Hegel indeed represents morality and right—in this converse order—as forms for cognition, action, and organization in a kind of ethical life that is necessary, though "deficient" to the extent that common life may be sundered so that a consciousness of unity is lost. Morality is then located in the system of needs. Abstract right becomes a "social reality" in the administration of justice ("*Rechtspflege*"), and at the end of this second section of the chapter "Civil Society," the renewed conflict between right and welfare leads to a transition into the highest form of ethical life within civil society, the police or internal administration and the corporation. This time, however, the conflict arises

from the side of right. The inadequate attempt to resolve it by the means available to civil society, the common precautions taken by "atomistic" individuals who know themselves to be the only reality, leads to the "transition" (§ 256) from civil society to the state.

The form of moral subjectivity that is once more thematized in the first section of "civil society" is intention and welfare. The system of needs is the sphere in which individuals' particular "plans for self-realization" can be pursued. In this process, there arises a mutual dependency of individuals upon each other, upon the social division of labor, upon the market, etc. This interdependence gives content and reality to the vague moral idea of "the general welfare": The furthering of private prosperity increases the possibility of "satisfying the needs of all others" (§ 199). But the "criss-cross movements of reciprocal production and exchange" (§ 201) also develop a rationality of their own that transcends the mere contingencies of the market: divisions of professions and estates are established that transmit and regulate skills and knowledge, that propagate rules of conduct, develop self-respect and "professional honor," and require mutual assistance for members of a profession. In the free, subjective choice of a profession and estate, which is simultaneously accompanied by particular forms of life, customs, and duties, the individual realizes himself in a moral and ethical manner: "An individual actualizes himself only by becoming something definite, i.e., something specifically particularized" that is represented by a particular estate (§ 207). One's "ethical frame of mind" consists in the disposition "to make oneself a member of a moment in civil society by one's own act" (*ibid.*). This moment, the specific estate, is just as necessary to civil society as civil society is to the rational community. "Morality has its proper place in this sphere" (*ibid.*). This means that the free, conscious choice of an estate and the acceptance of the corresponding obligations are the unification of free self-realization and an adherence to objectivity necessary and actual rules. At the same time, in the obligation to "contingent and singular assistance" (*ibid.*), morality contains a field in which the subjectively determinate, yet concrete furthering of the welfare of others is an altruistic activity that improves the world.

In the third section of "Civil Society" (§ 242), Hegel returns again to this aspect of "moral" engagement in regard to the distress of others, an aspect that was not especially emphasized in the chapter on morality. In this section, however, the organizations, rules, and activities dealt with, are supposed to assure that "particular welfare is treated and actualized as a right" (§ 230). For Hegel, this necessitates a whole range of measures undertaken by private persons, estates, and the social state: "This is the place where morality finds plenty to do despite all public organizations" (§ 242), namely, as "subjective," spontaneous assistance in which the individual discovers his value in alleviating the

distress of others. A unity of right, welfare (happiness), and moral value, which would not be subject to the contingencies of circumstances and subjective decisions, can nevertheless only be attained by a will that is exclusively "institutionalized" for this purpose and possesses the highest power in a community. This is the worldly God of the state, which in accordance with its concept can will and realize nothing other than the "supreme good" represented precisely by this unity between freedom and happiness, if it is not to cease to be a state at all.

The manner in which morality is superseded in the realm of civil society is incomplete in two respects. First of all, it contains only the stages, purpose, intention, and welfare, but not good and conscience; and second, it occurs in a domain in which the individual is still "conserved" in his particularity and has not yet been elevated to a common activity aimed toward the unification of everyone in an autonomous community that develops and realizes itself in its own "spirit." Only in the third section of "Ethical life," in "State," can one thus discover the decisive point where morality is superseded.

In order to avoid repeating too much that is common knowledge, I shall limit myself to a few comments on Hegel's treatment of political sentiment (§ 268, 289), which should be seen as an ethical form of conscience, as the "true conscience" (§ 137). The text in § 268 seems to confirm the "laughable" interpretations regarding morality's being superseded by ethical life. Subjective certainty is replaced by that sentiment that conforms to the "institutions existing in the state," patriotism and "trust." However, an adequate interpretation necessitates the following reservations: first of all, the topic here is not every individual's correct sentiment in every situation and in regard to every specific state, but rather the relationship of subjects who can fundamentally be called "citizens" (cf. § 261 Rem.)¹⁸ to the institutions of a community that can fundamentally be called "a state." And, this community can only be one whose constitution and institutions are directed towards the aim of furthering the rights and self-realization of individuals. In such communities, the citizens have a variety of conventions and traditions (Hegel includes "national freedoms" among them, cf. § 258 Rem.) and are therefore able to attain a habitual correspondence to a "political culture" without forsaking reflection upon its foundations. For, each individual as a citizen still "contains" the "one extreme, explicit individuality of conscience and will" (§ 264). Second, the trust that Hegel mentions here is not trust in each law or measure established by governmental authority, but rather only a trust in the correspondence of my "substantial and particular interest" to the interests and aims of the state. An individual's particular interest is his self-realization in fulfilling a certain life plan. This must be furthered by a state that respects and stabilizes the "particular spheres" of the family and of civil society and the estates (§ 289). The

substantial interest is an interest in comprehending and realizing oneself as a member of an autonomous legal and cultural community that pursues common aims.¹⁹ For Hegel, the individual is never a *tabula rasa* who approaches a particular community with its customs and laws and then begins to analyse them. An individual is rather the particularization of a community being, a "variation" of a British scholar, a German craftsman, or a Polish laborer. An individual does not comprehend what he is by means of introspection: "Consciousness not in me (Moral reflection), but as existent, i.e., external to me—my unity outside of myself—unity of individuals," as Hegel notes to § 151. But the individual does not realize himself in uniformity with his class, social group, or nation, either, but rather by "determining and creating" the rational spirit of these groups "out of himself as his ownmost and truest" (3, 496). For, without its "ethical character," the substance, also, is a "mere abstraction" (*ibid.*, cf. also 501). In contrast to civil society, the citizen of the state furthers and concretizes the universal, not by means of "subjective selfishness" (§ 199), but rather by fulfilling common public tasks that transcend his private existence, even if these require that he risk his life.²⁰

The trust that my private and public self-realization is assured for the most part in an autonomous legal, social, and cultural state, is not to be confused with a blind faith in every kind of governmental authority, laws, or orders. Nevertheless, Hegel's determination of the rational relationship between the citizen and his state presents problems. Two of them should be mentioned here.

1. Hegel's conception of ethical life refers to states, the institutions of which can be comprehended by means of the concept of freedom, institutions in which the particular will is directed towards the universal will and the universal will directed towards the particular. Such institutions were not unrealistic ideals for him: some had occurred historically, others were in the process of being developed. However, there had been states and, more important, there could be states that could not be understood as realizations of the rational concept of freedom. Hegel evades the problem of the citizens' relationship to such states by empirically asserting that "a Christian, European state" (4, 632) or the "cultured" state "in our age" (VII, 404) must contain all the essential moments of rational statehood. Even more questionable is the comparison recorded in the lecture notes of 1824/1825, in which the "defigured" state is compared to a sick man who still deserves dignity and rights. On the other hand, in his lectures on the Philosophy of Right, Hegel repeatedly granted the possibility of an alienation between an individual and the customs and laws of his community. At times, he even expressly draws a parallel between his own age and the ethical "decay" of Athens in Socrates' age (cf. 3, 436; 3, 474). In the writings of the Jena period, Hegel viewed the cleft between a people's transformed self-comprehension—or that of certain groups within a people—and the existent

institutions and laws as the source of a continuing "progress in the development of right"; however, in the Philosophy of Right, such alienation occurs only as a symptom of world-historical catastrophes. At this point, Hegel is far removed from his position in the Philosophy of Spirit 1805/1806 where he regards the changing "public opinion" as the true "spiritual bond" and as the "true legislative corps," which provide an impulse to alterations in "constitutions" by means of alterations in the forms of life (GW, 8, 263). Hegel emphasizes in the Philosophy of Right that the constitution must be held to be something "absolutely in and for itself"; it "must be viewed as that which is divine and lasting, far beyond the sphere of the created" (§ 128). Perhaps that does not exclude an amendment of the constitution "by constitutional means" (*ibid.*), but in the Philosophy of Right it is not evident by which procedure that could be done. The "legislative power" can merely develop the constitution via the "progressive development of laws," but the constitution itself lies "outside of its (sc. the legislative power's) direct influence" and cannot be altered by the legislative branch. Furthermore, the possibility that the "interests of the communities, corporations, and individuals" (§ 302) can find an expression in legislation is very restricted in the usual case already.²¹ The reason for this is that Hegel ultimately entrusted the adequate comprehension of the rational principles of constitution and legislation only to philosophers and philosophically educated officials. He thus draws a sharp distinction between the possibility of an insight into these principles and the empirical insights that a citizen might have.

2. In his lectures on the Philosophy of History, Hegel grants that there is something like a culturally invariant morality, which is independent of the specific customs and laws of a community. There are "moral virtues . . . in all zones, constitutions, and political situations" (XII, 89). In states that have not yet been formed by "consciousness of freedom," a "very pure" morality is still possible, that "expresses the universal duties and rights as objective commandments" (XII, 95). These duties and rights concern the "relinquishment of sensuality," and consciousness of persons as beings who are free "from all particularity" and "infinite within themselves" (*ibid.*). This "merely negative" morality is apparently capable of providing a genuine foundation for human dignity and human rights. As long as the claim is not made that such morals could render the particular constitutions, institutions, and conventions of states superfluous, morality has its place in ethical life, also. Hegel could therefore well have recognized universal moral and legal standards in addition to the "national freedoms" in his Philosophy of Right.

V

If my interpretation of the text is correct, we must interpret the assertion

that morality is superseded in ethical life in a more differentiated manner than usual. One must distinguish between various aspects of morality that are criticized, "conserved," and transposed to various degrees. Hegel's criticism of morality is that an ethics of conscience or conviction is incapable of deducing determinate duties from an indeterminate universality (lawfulness in general, the community of all rational beings, conscience as pure decision, etc.). This must lead to a relativity of all duties as imperfect realizations of the universal "good," or as something arbitrarily posited by the subject. And without determinate duties, the only conceivable alternatives are absolute distrust within the state of nature or completely arbitrary rule by a tyrant.

Determinate duties for a "morally" self-determining subject are only possible in relation to a specific community of human beings, which secures the freedom of individuals by simultaneously securing its own freedom from their contingent aims. With respect to the existence of such a community, all rules, rights, and duties, as far as they concern individuals' external conduct, are relative, i.e., they can be restricted for the sake of this existence. But with regard to the freedom of individuals, the community is also relative in its own manner; if it fundamentally or "permanently" ceases to assure the legal, moral, and ethical freedom of individuals, it can no longer lay claim to such duties. (Hegel himself is not very clear on this point, however). This paradoxical relationship between individual freedom and the rules and existence of the community as aims that are both aims in themselves as well as means to one another, can only be realized in communities that fulfill at least the following conditions: First, the individuals must cooperate with each other in opposing forms of organization and conduct (family, civil society, state). Second, there must be a specific relationship between actions, purposes, and rules: rules are not simply theoretically deduced and then applied or put into practice, but are rather generated by unconsciously conforming ways of acting. Rules that have become conscious must be philosophically comprehensible as a system (of conditions of freedom), but within the life of the community, they must be applied "flexibly," and colliding rules and purposes must be adequately compensated for according to the particular situation (cf. for instance, occupational freedom and employment security via the corporations, abstract right and the furthering of the general welfare by the state).²³ And finally, it must be possible for functions and roles to be assigned in which individuals can fulfill common aims by developing a particular character.

Individuals can also question the "practical truth" (as Tugendhat calls it) of such a state, its rules, and its conduct.²⁴ But the criteria for practical truth or freedom are not such vague concepts as democracy or fraternity, but are rather precisely those structures within the community that can fulfill the paradoxical task mentioned above. For Hegel, such structures have cosmic and logical

parallels. His attempt to demonstrate them places him above the suspicion of historicism, but it sometimes also seduces him into a new version of Platonistic rule by those who are the wisest.

In spite of this, one cannot accuse Hegel of eliminating conscience and responsibility. What he rejects is simply the veneration for the decisions of conscience as being beyond criticism. Hegel holds that, according to its very "idea," conscience claims to be the "rule for a rational, universal manner of acting which is valid in and for itself" (§ 137). Hence it cannot be placed beyond all intersubjective standards for examination. One can accuse individual decisions for conscience of being mistaken and punish the acts that follow from them. But this may not be connected with an examination of another's conscience, the attempt to dictate someone else's conscience, or to punish convictions as such, etc.; otherwise, one would indeed commit a "sacrilege" against the "sanctity" of conscience (*ibid.*). Furthermore, the individual does not make his "value" and his guilt ultimately dependent upon an external tribunal, but rather upon an internal one, which therefore remains absolute even in regard to the state.²⁵ The remaining aspects of morality, also, are not abolished, in Hegel's view, but are instead preserved and complemented. The right to self-realization in conscious actions aimed at one's own welfare and the welfare of others is made concrete by one's conscious, responsible, "productive" (even innovative) conduct within the profession that one belongs to or that one chooses, in privately donating assistance, and in one's support for the institutions of the social state. Complete self-realization can be found only in an autonomous legal and cultural state, for the sake of which one performs certain understandable tasks. But in doing so, one does not cease to be a private, moral, religious individual with particular responsibilities. Viewed in this manner, there are still problems involved in Hegel's conception of morality as superseded by ethical life; but one can hardly still describe this conception as a "moral perversion."

Translated by Thomas Nenon. I am grateful to Raymond Geuss for some improvements in the translation.

NOTES

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1. Ernst Tugendhat, *Selbstbewusstsein und Selbstbestimmung* (Frankfurt/Main: Suhrkamp, 1979). Regarding Tugendhat's critique of Hegel, cf. my "Kehraus mit Hegel? Zu Ernst Tugendhats Hegel-Kritik," *Zeitschrift für philosophische Forschung*, vol. 35, no. 3/4.
 2. Charles Taylor, *Hegel* (Cambridge: Cambridge University Press, 1975).

3. The original quotations were taken from the *Grundlinien der Philosophie des Rechts* according to Eva Moldenhauer and Karl Markus Michel's edition in vol. VII of their G.W.F. Hegel *Werkausgabe* (Frankfurt/Main: Suhrkamp, 1970). The standard English translation, which was used as a guide in this lecture, is T.M. Knox's *Hegel's Philosophy of Right* (Oxford: Clarendon Press, 1952; ppb. Oxford: Oxford University Press, 1967). The body of the paragraphs is cited only according to the paragraph number; the "Remarks" (Rem.) and "Handwritten Notes" are quoted according to the German edition (VII, 1 ff.). Quotations cited with a roman numeral refer to the German *Werkausgabe*; the roman numeral indicates the volume, the arabic numeral indicates the page. For quotations cited with GW followed by an arabic numeral, see footnote 6. Quotations employing only an arabic numeral are explained in footnote 4.
4. The lecture notes are cited according to the edition: G.W.F. Hegel, *Verlesungen über Rechtsphilosophie 1818-1831*, ed. and commented in six volumes by Karl-Heinz Ilting (Stuttgart/Bad Canstatt: Frommann-Holzboog, 1973 ff.). Both the volume and the page numbers are indicated by arabic numerals.
5. Cf. § § 388-399 of the Heidelberg *Enzyklopaëdie der philosophischen Wissenschaften im Grundrisse* (1817); as well as R.P. Horstmann, "Subjektiver Geist und Moralität," in D. Henrich, ed., *Hegel's philosophische Psychologie*, Hegel-Studien, Beiheft 19, (Bonn: Bouvier, 1969), pp. 190-199.
6. I quote the *Phenomenology* and Hegel's Jena writings according to the Gesamtausgabe of the Rheinisch-Westfälische-Akademie der Wissenschaften (= GW); G.W.F. Hegel, *Phänomenologie des Geistes*, ed. by W. Bonsiepen and R. Heede (Hamburg: Meiner, 1980) (= Gessammelte Werke, vol. 9); G.W.F. Hegel, *Jenaer Systementwürfe III*, ed. by R.P. Horstmann in cooperation with J.H. Trede (Hamburg: Meiner, 1976) (= GW 8).
7. Cf. K. Larenz, *Hegels Zurechnungslehre und der Begriff der objektiven Zurechnung* (Leipzig: A. Deichert, 1927).
8. A precise treatment of the connection between self-interest and self-consciousness is given by R. Brandt, "John Locke," in *Klassiker der Philosophie*, vol. 1 O. Höffe, ed., (Munich: Beck, 1981), pp. 374 ff.
9. In the transition from "welfare" to the "good" via the collision between abstract right and welfare, one can at best discern an attempt by Hegel to employ the means available to his Philosophy of Right in order to adopt Kant's accomplishment of overcoming happiness as the highest principle of morals by the concept of the unconditional good.
10. Cf. Kant's discussion of the right of distress in the appendix to the introduction to the "Doctrine of Right" in the *Metaphysics of Morals*, in: Kant, *Werke* (Akademie Ausgabe) VI, 235 f.
11. A brief, clear and critical portrayal of Hegel's criticism of Kant (with regard to ethics) is given by W.H. Walsh, *Hegelian Ethics* (London/Melbourne/Toronto: St. Martin's Press, 1969), pp. 21-34.
12. In his criticism of Kant's example in which the trust of a depositor is betrayed, which can also be found in the *Phenomenology of Spirit* (cf. GW 9, 233), Hegel did not take into account Kant's philosophical foundation for the right to property.
13. J.G. Fichte, *Das System der Sittenlehre nach den Prinzipien der Wissenschaftslehre*, Second Main Section, § 13, in J.G. Fichte, *Sämtliche Werke*, ed. by J.H. Fichte. vol. IV (Berline: Veit, 1845-1846; reprint Berlin: de Gruyter, 1965), p. 156.

14. Insofar as "good" is a positive, affirmative determination, every voluntary affirmation of a determination of the will (purpose) appears to be "good." Cf. 4, 372: "Evil has the capability within itself to be able to be presented as good because the good has merely the determination of being affirmative with regard to the will—because it only has the form of an identity of understanding."
15. Udo Rameil, "Sittliches Sein und Subjektivität. Zur Genese des Begriffs der Sittlichkeit in Hegels Rechtsphilosophie," *Hegel-Studien* 16 (1981), pp. 129 ff.; L. de Vos, "Die Logik der Hegelschen Rechtsphilosophie," *Hegel-Studien* 16 (1981), pp. 107 ff. Concerning the logical categories in Hegel's critique upon the concept "ought to," see B. Bitsch, *Sollenskritik und Moralitätskritik* bei G.W.F. Hegel (Bonn; Bouvier, 1977)
16. Cf. on the point my discussion with Tugendhat cited in footnote 1.
17. One must, however, compare this with the continuation of this statement in Hotho's lecture notes: "one's own conscience, which would oppose the ethical substance, has disappeared; subjectivity no longer wishes the arbitrary choice of determining, but has rather united itself with objectivity and has determined and created this as its ownmost truth" (3, 496).
18. In comparison to the classical tradition of the concept of citizen, Hegel paid little attention to the determination of the individual as the citizen of a state. Only in the Remarks to § 169, "*en passant*" as it were, is the following comment made: "The isolated individual, so far as his duties are concerned, is in subjection; but as a member of civil society he finds in fulfilling his duties toward civil society the protection of his person and property, regard for his private welfare, the satisfaction of the depths of his being, the consciousness and feeling of himself as a member of the whole; and, insofar as he completely fulfills his duties by performing tasks and services for the state, he is upheld and preserved" (VII, 409). Cf. regarding this distinction from that of a citizen ("bourgeois") in civil society (as well as from the concepts of person, subject, human being, etc.), Hegel's Remarks on § 19 in the Philosophy of Right.
19. "Cultural community" insofar as the state fulfills itself in the products and activities of the absolute spirit: art, religion, and philosophy.
20. Regarding ethical freedom as freedom from one's own desire for self-preservation, cf. my "Zum Freiheitsbegriff der praktischen Philosophie Hegels in Jena," in: *Hegel in Jena*, ed. by D. Henrich and K. Düsing, *Hegel-Studien*, Beiheft 20 (1980), pp. 217–228.
21. By means of the participation of royal power and the government in legislation (§ 300); the appointment of delegates by "societies, communities and corporations" (§ 302) instead of their being elected by "atomistically isolated" citizens; and the crown's right of appointment ("delegates called by power of the crown").
22. A. Peperzak, "Hegels Pflichten und Tugendlehre" forthcoming in *Hegel-Studien*, vol. 17 comes to the same estimation of Hegel's criticism of morality.
23. Cf. my "Intersubjektivität, Recht und Staat in Hegel's 'Grundlinien der Philosophie des Rechts,'" in: D. Henrich and R.P. Horstmann, eds., *Hegels Philosophie des Rechts*, Veröffentlichungen der Internationalen Hegel-Vereinigung, vol. 11 (Stuttgart: Klett, 1982), pp. 255 ff.
24. Cf. Tugendhat (op. cit.), pp. 31, 47, 351.
25. This has been noted especially by H. Heimsoeth, "Politik und Moral in Hegels Geschichtsphilosophie," in: Heimsoeth, *Studien zur Philosophiegeschichte* (Köln: Universitätsverlage, 1961), pp. 40 ff.
26. One of the most important problems is dealt with by K. Hartmann, "Moralität und Konkretes Allgemeines," *Archiv für Geschichte der Philosophie* 60 (1978), pp. 314–324.