

## Hegel and the Modern World

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### ABSTRACT

In this essay I examine Hegel's critique of England and France in his own day, and I argue that this critique sheds light on what he would say about constitutional states in the twenty-first century. Hegel's critique is based on the normative "idea" of freedom he sets out in his *Philosophy of Right* (1820). This idea, which in Hegel's view determines what rights and institutions are necessary for true freedom, gives a central role to what he calls "corporations" — business or trade associations, but also local communities and towns — in the free, rational state. The purpose of these corporations is twofold: first, to render economic activity cooperative and "ethical", and so to prevent the emergence of systematic poverty, and second, to send delegates to the legislature who represent legitimate interests in civil society, rather than just numbers of people. Hegel argues, however, that corporations disappeared or were abolished in England and France and that this led to extreme poverty in England and to the "liberal" idea in France that political authority should derive from the individual will (an idea that in turn sets the "people" permanently against government). I argue that poverty and individualistic "liberalism" remain problems in the twenty-first century, and that a Hegelian solution to these problems would be to reintroduce corporations (or their equivalent) something that Hegel himself advocated in the 1820s. Hegel's alternative to unrestrained capitalism and liberalism both of which he thinks undermine true freedom and right is thus not, as Marx recommends, to abolish the system of free production and exchange altogether, but to imbue citizens with an ethical concern for one another in their economic and political life an ethical concern that is grounded in corporations, associations and other communities.

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## Intruduction

Hegel famously described world history as the “progress of the consciousness of freedom” (LPWH 54). More specifically, he conceived of history as the emergence, over thousands of years, of the true “idea” of freedom — the understanding of what true freedom is. What is often overlooked, however, is that Hegel thought the constitutional states of his day embody the idea of freedom only imperfectly, only *more or less*. This idea thus stands in a twofold relation to such states. Insofar as they accord with it, it justifies the rights and institutions they encompass. On the other hand, insofar as these states fall short of this idea, it provides the normative standard by reference to which they can be criticized. For Hegel, however, the idea of freedom is not an “ought” that is external to modern constitutional states. It articulates, in its developed form, the freedom to which states, such as Britain and France, themselves lay claim, but which they fail to realize fully.

Many twenty-first-century states also claim to be free, but exhibit similar problems to those highlighted by Hegel. To understand what Hegel might have said about such states, therefore, we need to look at his criticisms — based on his normative idea of freedom — of the constitutional states in his own time. This is not to deny that there may be aspects of today’s states about which Hegel can say little. In my view, however, Hegel identifies problems in his time that continue to beset many states today.

## Hegel on England and corporations

Hegel had great respect for England, and indeed for Britain as a whole.<sup>1</sup> He recognizes that it is a settled modern state, with institutions and a system of justice in which “personal freedom” is “very secure” (GW26: 1381).<sup>2</sup> He also praises what he calls the “great patriotism” of the English — their recognition that the “particular advantage” of individuals is connected to the state as a whole (GW26: 998). Hegel claims, too, that, through its global network of trade, England has promoted industry around the world, as well as the “respect for rights” (*Rechtlichkeit*) that is “necessary for exchange” (GW27: 779).

Here, though, we see the limitation of the English legal and political system in Hegel’s eyes: for the latter aims principally at furthering the *production* and *exchange* of goods, that is, the economic interests of civil society. What dominates the English social and political order, for Hegel, are thus the particular interests of economic agents to which particular rights are attached (see GW27: 1568). Hegel maintains, too, that “in no other land” have the particular “feudal rights” and privileges of landowners and aristocrats been preserved as they have in England. Indeed, he states, “the government is still now in the hands of aristocrats” (GW27: 1140). What unites producers and landowners in England, Hegel suggests, is a common interest in *property*. Freedom is thus located above all in the “right to property” and the right to accumulate it, so in

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<sup>1</sup> For the influence of the Scottish Enlightenment on Hegel, see Waszek (1988).

<sup>2</sup> Translations of passages from Hegel’s lectures are in all cases my own.

effect “right is only for the rich”. Indeed, the whole “power of the state” (*Staatsmacht*) is considered a means to protect the particular rights, privileges and property of the few — a “means for particular purposes” (GW27: 1141).

Furthermore, Hegel explains, “the political right of the community, [and] the land” in England is itself “more or less private property” under the control of the wealthy (as in the notorious “rotten boroughs” that were not abolished until 1832) (GW26: 1165). This means in turn that the “welfare of the state” (*Staatswohl*) is at the mercy of “private arbitrariness” and thus insecure. The patriotism of the English, which in one respect Hegel commends, thus consists in identifying oneself with a legal and political system that in fact serves the interests of only some, rather than all. In Hegel’s view, therefore, the laws and rights in England lag behind those in other “developed countries of the Continent”, because “the particularity, not the universality, of rights has become thoroughly dominant”. Indeed, “there is, so to speak, no universal political right [*StaatsRecht*] in England” (GW27: 1057, 1141).

In his *Philosophy of Right* Hegel argues that freedom becomes objective in the idea of right — that rights embody our freedom (see PR §29). In his lectures on the philosophy of history he then shows how, in modernity, freedom and right come to be understood explicitly as *universal*, as belonging to human beings as such, rather than to those with a particular status (as in Roman law). In modernity, in other words, “right and the state must be just [*gerecht*] in themselves, in their purpose, independently of private interest and particular opinion” (GW27: 391). Universal right, however, includes the right to *particular* satisfaction and welfare, so “private interests must satisfy themselves” in the free, rational state. In such a state, Hegel insists, “*particular welfare* should be *treated as a right* and duly *actualized*” (PR §230), and the state “hangs in the air” if the particular “happiness” (*Glück*) of its citizens is not guaranteed (GW26: 1410). Yet in England, he maintains, particular welfare is not treated as a *universal* right, and is not guaranteed to all, but right itself is based on the *particular* interests of the few. Consequently, despite the high value placed by the English on personal freedom, England lies “far behind other civilized states” in the matter of “private right” — a right that should be universal (GW27: 1568).

To repeat: in the free, rational state, as Hegel conceives it, the “right of the subject’s *particularity* to find satisfaction” through action is universal and belongs to all citizens (PR §124 Remark). Two institutions in such a state are assigned the role of ensuring this right is actualized. These are the “police” (*Polizei*) (or “public authority”)<sup>1</sup> and the “corporations”.

The role of the police is to oversee matters of “common interest”, so that people can continue “unimpeded” to acquire the means for satisfying their needs (PR §235). Duties falling to the police thus include maintaining streetlights and bridges, and keeping the “commonest necessities of life” available and affordable (PR §236; see also GW26: 990-1). The police must

<sup>1</sup> Hegel uses the term “public authority” (*öffentliche Macht*) in PR §235.

also defend “the public’s right not to be cheated”, and so regulate weights and measures; must protect public health (which, for Hegel, is “a more important right than the exercise of a trade”) through, for example, requiring children to be vaccinated; and must ensure that children receive an education (PR §§236, 239; GW26: 1380, 1387). It is also the role of the police to provide aid to those who fall into poverty through mechanization, bad luck or their own “extravagance”. In such cases, Hegel maintains, the police must both meet the immediate needs of impoverished individuals, and provide them with work which, he says, they have “a right to demand” (*ein Recht zu fordern*) (PR §§240-1; GW26: 495).

The police, or public authority, belongs to the “executive power” of the state (PR §287). For Hegel, however, it is not itself a political entity, but a “welfare state” — an institution that regulates economic activity to ensure that the right of individuals to satisfy their needs, and secure their welfare, is realized. As such, the public authority sets a limit to the “freedom of trade” in order to protect the “right of consumers”, which is often “set too much to one side” by such freedom (GW26: 991).

Yet the public authority does not control every aspect of economic life. It controls the price of basic necessities and combats fraud, but it imposes no limit or *measure* on the needs, desires and choices of individuals. It does not, therefore, prevent people from seeking to maximize their personal wealth and profit. In Hegel’s view, however, a system of needs geared towards *measureless* expansion and competition between producers will drive down costs and wages, leading to greater wealth for some and greater hardship for others. Indeed, it will lead to the emergence of systematic poverty — poverty that is not just contingent, but the necessary product of the system of needs itself.

In Hegel’s view, however, poverty is not just an unfortunate side-effect of a dynamic economy, but a fundamental “injustice” (*Unrecht*) that should be prevented (GW26: 1390-1, See also Vieweg, 2012, 318). It violates the “abstract” right of individuals to own property, their “moral” right to satisfy their needs, and their “ethical” right to achieve satisfaction through their own labour. Yet police regulation of the economy, as Hegel conceives it, cannot prevent systematic poverty from emerging. A state founded on freedom and right thus needs other institutions that prevent the emergence of such poverty. These institutions, Hegel argues, are the *corporations*.

Corporations, for Hegel, are not large profit-making companies (such as Google). They are principally business or trade associations that include employers and employees working in a given area (such as hat-making). They can, however, also be local communities and towns, and even religious communities (see PR §270 Remark [296]; GW26: 762).

Within the corporation its members continue to satisfy their particular desires through their labour; yet their activity is not purely (or primarily) selfish, because they also promote — consciously — the rights and interests of their fellows. Their activity is thus self-consciously “ethical” (*sittlich*): I care for my own well-being, but “I also care for associates of the same

trade, for something universal” (GW26: 759). Furthermore, the support that members receive from one another, in good times and bad, is recognized to be a *right*, not just charity. The corporation thus has the right to “impose more duties” on its richer members to use their wealth for common ends (GW26: 761).

Members of a corporation also receive *recognition* from one another for their skill in their profession, and in this way, each enjoys “*honour in his estate*” (PR §253). Such recognition confirms the identity of each member as, for example, a hat-maker or carpenter and thus establishes that “*he is somebody*” in the eyes of his fellows. This recognition by one’s peers means in turn that one does not have to seek recognition for oneself through “external manifestations of success” in one’s trade, that is, through accumulating conspicuous wealth (PR §253 Remark). Recognition within a corporation, together with the ethical spirit and habits cultivated in the latter, thus overcomes the “risk of unbridled consumerism” in civil society (Herzog 2013, 132).

Without the corporations, Hegel maintains, individuals enjoy no institutional recognition as subjects with particular abilities (rather than just abstract persons under the law), so they try to prove their worth, and thereby gain general recognition, through “*external evidence*”, namely wealth (PR §253). There is, however, no intrinsic limit to such evidence, no point at which one is clearly rich enough to count as “*somebody*”. Individuals in a civil society without corporations are thus driven to go beyond any limit they encounter and to strive for ever more wealth and luxury: in Hegel’s terms, they seek the “*bad infinite*” (GW26: 1309). Hegel argues, however, that the love of luxury and extravagance is “associated with the creation of a rabble” (PR §253 Remark). Civil society, regulated by the police but *without* corporations, necessarily produces poverty as a counterpart to great wealth.

Within corporations, by contrast, individuals no longer need to strive endlessly to go beyond their current wealth to prove their worth: their selfhood no longer lies in an ever deferred *beyond*. Rather, they are confirmed in who they are — and so, as it were, returned to themselves — by the *recognition* they receive from their associates. They enjoy thereby the true “infinity” that consists in finding oneself in and through the other, in mutual recognition. The recognition we gain from our peers thus constitutes a *measure* (or limit) in our lives that we do not need constantly to transcend. We must, of course, work to maintain such recognition, and to satisfy our needs. Yet once an individual has been accorded recognition within a corporation, “the economically destabilizing need to prove himself through conspicuous consumption vanishes”, and with it the major cause of systematic poverty is removed (Anderson 2001, 198). The corporations thus prevent the emergence of systematic poverty in civil society by ensuring that the system of needs is ethical and rational.

Another cause of systematic poverty, Hegel contends, is overproduction, which requires production to be cut back, leading the workers concerned to fall into unemployment. Corporations address the problem of overproduction by limiting their membership in light of

the “universal context”, and thus restricting the number of people who can produce certain goods (PR §252). In this way, they endeavour to keep production proportional to expected consumption and to avoid the excess production that puts people out of work and into poverty. Such regulation can, of course, be undertaken by the police, but the latter is an external authority whose actions can appear “malicious” (*gehässig*) (GW26: 990). Within the corporations, by contrast, control of production is undertaken by the producers themselves, and so in that sense is self-imposed (See Houlgate (2005), 205). It is also recognized as serving the common interests of these producers and thus as ethical.

Corporations, in Hegel’s view, will not prevent the emergence of all poverty: contingent poverty, due to bad luck or changing demand, remains a possibility. Yet in a society with corporations, both production and consumption will be ethical, and supply will be regulated to keep it in balance with demand. What Hegel regards as the main causes of *systematic* poverty — “love of extravagance” and overproduction — will thus be removed (PR §253 Remark).

Hegel recognizes that England in his day has a developed welfare state. Indeed, he maintains that the “poor taxes” (*Armentaxe*) in England exceed the total state income of Prussia (GW26: 1392). He points out, however, that England no longer has any corporations, and he connects their absence directly to the presence of poverty in the country. In 1819-20, he remarks that “England, as is well known, suffers from an excess of riches and of poverty; [and] one can argue that a major reason for this is that corporations do not exist there in an organic ordered form. If everyone is just active for himself, the ethical element is lacking” (GW26: 509). He then repeats the point in 1822-23: “In England there is the most monstrous poverty and rabble mentality, and a large part of this cancer is due to the removal [*Aufhebung*] of the corporations” (GW26: 997).

One of the roles of corporations, in Hegel’s view, is to “educate others so as to make them eligible for membership” (PR §252). They can thus help those denied admission due to market saturation to acquire different skills that enable them to be admitted after all. Corporations, therefore, remain open rather than closed associations. In England, however, the situation is very different. There, under “freedom of trade” without corporations, the “great capitalists” (such as the brewers) simply “suppress” their rivals and establish monopolies through their “great capital”, which are “the worst of all monopolies” (GW26: 1402). No provision is made by such capitalists to help their rivals back into the market, but the latter are put out of business without any concern for their welfare. The “cancer” of poverty arises, therefore, because producers pursue their limitless particular interests with utter disregard for the right of their rivals to their own well-being and without any ethical fellow-feeling for them.

Hegel’s image of England in the 1820s no doubt overlooks many aspects of that country. Moreover, Britain today is in several respects very different from two hundred years ago. Notably, it has institutions, such as the National Health Service, which clearly serve the public good, rather than just particular interests. Yet there are still significant parallels between now

and then. For many people in Britain even now the primary role of the state is not to foster a sense of unity among citizens, but to enable certain members of civil society to “get rich” (under the umbrella of law and right). There is still, therefore, a drive among many to achieve “limitless” wealth, and there are still “great capitalists” who establish monopolies that put others out of business. So modern Britain still tolerates excessive wealth alongside extensive poverty. Hegel’s criticisms of England in the 1820s are thus far from outdated, but remain relevant today (and they apply to other countries, too, such as the USA).

Two Hegelian ideas seem to me of special importance in this regard. First, Hegel insists that in a free, rational state, the *universality* of right should have priority over *particular* interest. A state claiming to be free should thus not just be a civil society, driven by particular interests and regulated by a public authority, but a *Rechtsstaat* — a state suffused with a consciousness of the universal rights, and unity, of its citizens.

These universal rights include the right of everyone to gain subjective satisfaction through their action and labour (see PR §124 Remark). This is the right to work in whatever sphere one chooses — public, private or domestic — and to achieve well-being through doing so. Poverty, which deprives people of such well-being, should thus be treated as an *injustice*, not just as the price for economic success. It should also be recognized as systemic, where this is indeed the case, and not just as the product of individual fecklessness. From a Hegelian perspective, therefore, modern constitutional states need to place a high priority on preventing systematic poverty and on taking people out of poverty where they fall into it. No one in such states should be poor or be unable to make a living, since everyone has the equal right to secure their well-being (if not to an equal level of wealth).

To this end, as already noted, the public authority has to provide work for those who otherwise cannot find it (see GW26: 495). Furthermore — and this is the second Hegelian idea I would stress — modern constitutional states without corporations need to reintroduce them, or their equivalents, where they can. Corporations, as Hegel conceives them, are not mere vestiges of the medieval world. They are made necessary by the logic of freedom, by *reason*, and so are essential components of the free, rational state.

Corporations were accorded a significant position in the Prussian General Code of Law (1794) (See Vieweg (2012), 338), but they were abolished in France and withered away in Britain (see GW26: 997, 1397). Yet Hegel advocates their restoration, and his normative theory of the corporation thereby becomes a *critique* of present circumstances. This is evident in particular in Hegel’s 1824-25 lectures on the philosophy of right, in which he maintains that “the task of the time is to form corporations, [but] people do not want to resolve to do so; the need is present, but people fear thereby acting against principles that hold abstractly” (GW26: 1397).<sup>1</sup>

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<sup>1</sup> See also GW26: 1443: “what the endeavour of all thinking men aims at is to constitute communes [*Kommunen zu constituieren*]”.

Since corporations are made necessary by the logic of freedom, they cannot be rejected on the grounds that they are historically outdated — a strategy adopted by both liberal and Marxist critics of Hegel. Corporations are essential for true freedom, so if they are absent in modern states, that is a reason for criticizing the latter, not for discarding the idea of the corporation.

Note that a society with corporations would still include the free production and exchange of goods. In contrast to Marx, Hegel insists that “freedom of trade” is rationally necessary and “belongs to real freedom”, to a free, rational state (GW27: 1562). So, although corporations train their members to be ethical (rather than merely selfish) consumers, they do not determine what they should consume. Demand in a free, rational state can thus still vary according to fashion, and so members of corporations remain vulnerable to fluctuations in the market. Similarly, although corporations limit the numbers entitled to exercise their trades, they do not prescribe precisely what their members should produce; nor do they determine in advance who may choose a certain trade and apply to join a corporation. So, production, though regulated, is still in many respects free.

As Allen Wood points out, modern societies without corporations assign some functions of the latter to various “professional organizations” (Wood 1990, 242). For example, one cannot be a teacher or lawyer in many modern states without being accredited, and in some states the number of those who can enter certain professions is capped.<sup>1</sup> In such cases, however, we would not deny that people are *free* to choose a career in these professions. Similarly, people in Hegel’s rational state are free to choose hat-making or carpentry as a trade, and they will be able to pursue that trade if the relevant corporation judges that they have the necessary skills and there is sufficient demand for them in society. The rational state thus does not run a command economy, as we see, according to Hegel, in ancient Egypt (PR §236 Remark).

Furthermore, in a rational state with recognized corporations, we will still encounter the diversification of needs, the emergence of “luxury” and some inequality of wealth. There will still be economic growth, technological development, and thus mechanization; and there will still be some excess production. The corporations, however, will ensure that the economy is not directed at *maximizing* growth, and affording the few the chance to accumulate extreme wealth at the expense of others, but rather that society as a whole enjoys the “security of a smoothly continuing profit” and everyone is guaranteed their “livelihood” (*Subsistenz*) (GW26: 1402). The corporations do so through regulation, and through integrating an *ethical* spirit into economic activity and so freeing us from narrow self-interest to “conscious activity for a common end” (PR §254).

Hegel’s conception of ethical consumption and production, which generate neither extreme wealth nor systematic poverty, is, in my view, no mere ideal — unless we make it so by insisting rigidly on unrestricted freedom of trade. Indeed, this conception chimes (in certain respects)

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<sup>1</sup> On the capping of medical school places by the UK government, see [www.gov.uk](http://www.gov.uk) (“Extra places on medical and dentistry courses for 2021”).

with the demands of contemporary environmentalists, who also urge us to adopt more ethical economic practices. Hegel's insight, however, is that neither moral education nor simple self-interest is sufficient by itself to transform us into ethical agents. What is required are specific *institutions* that (together with the state) educate us into behaving ethically and partly regulate our activity. These institutions, which modern understanding abolished in the name of its abstract "freedom," are the corporations.

For Hegel, therefore, the alternative to an unregulated civil society — to unrestrained capitalism — is not simply a civil society regulated by the state (though such regulation is important); nor is it, as Marx recommends, to abolish the system of free production and exchange altogether.<sup>1</sup> The alternative is a civil society imbued with an ethical concern for others — an ethical concern that is grounded in corporations, associations and other communities.<sup>2</sup>

### Hegel on France and "liberalism"

For Hegel, the principle that governs modern states is that of the "freedom of the will". Such freedom is embodied in right and law; but it also requires that the "subject", or citizen, see the latter as fulfilling his or her own will and interest. The subject must be "present with his will" (*mit seinem Willen dabei*) in the laws and institutions of freedom (GW27: 1561-2). As Hegel puts it in the *Philosophy of Right*, the subject must bear "*spiritual witness*" to ethical laws and institutions "as to *its own essence*" (PR §147). This requires that subjects in turn develop a "disposition" (*Gesinnung*) for true freedom — a disposition in which "there is nothing higher than right [*Recht*]" in worldly affairs (GW27: 1564). Indeed, Hegel contends, such a disposition, which is itself the product of the institutions of freedom as well as of education, is the ultimate foundation of freedom in the state: "the last guarantee that the government and people have".<sup>3</sup>

Hegel argues, however, that in certain modern states, and especially in France, primacy is accorded to the individual will alone, *without* any guarantee that this will has the proper disposition — the disposition that affirms the basic rights and institutions of freedom. Laws and rights, indeed political legitimacy as such, are thus understood to have their ground in the "democratic" choices and decisions of individuals, regardless of their education and experience. This is the modern principle of "liberalism" — or what Hegel also calls the "principle of atomism" — that he thinks is promoted by the French Revolution, continues to dominate French political life after the Revolution and is then spread abroad by Napoleon (GW27: 1564-7). This

<sup>1</sup> See Marx (2000), 257: "the Communistic abolition of buying and selling, of the bourgeois conditions of production".

<sup>2</sup> Hegel insists, however, that corporations themselves must not become isolated from one another and fixated on their own particular interests. As he puts it, "the spirit of the corporation" must be "inwardly transformed into the spirit of the state, because it finds in the state the means of sustaining its particular ends" (PR §§289 Remark, 302).

<sup>3</sup> On the relation between the state and religion, which is also "associated with a disposition of the most exalted kind", see PR 270 Remark [292].

principle is given explicit expression by the Abbé Sieyès in his influential pamphlet, *what is the Third Estate?* “What is the will of a nation?”, Sieyès asks. “It is the product of individual wills, just as the nation is the assemblage of individuals” (Sieyès, 1951, 55).

One problem with this principle, in Hegel’s view, is that it grounds the laws and rights that are meant to secure the freedom and welfare of all on the *contingent* wills, or *Willkür*, of individuals, or more specifically of the many. This, however, exposes such laws and rights to the risk of being weakened or dismantled altogether. In his *Philosophy of Right* Hegel argues that various rights and institutions are made necessary by freedom, so the will that claims to be free *must* affirm them — it has no choice in the matter. Citizens of a free state can certainly choose what property to own (if it is not already owned by another), what to believe in religious and ethical matters, and what career to pursue; but they cannot choose to deny their fellows the *right* to make such choices, because this right is built into the very nature of freedom. For Hegel, therefore, right, or what is made necessary by freedom, has priority over choice, over the arbitrary preferences of individual wills. If, however, we reverse this priority and base our rights and freedoms *on* the choices and preferences of individual wills, “political life” would be “grounded only on contingency rather than on a foundation which is *stable* and *legitimate* [*berechtigt*] in and for itself” (PR §303 Remark).

Furthermore, the principles that govern the state would be determined by the simple fact that large *mass* of people has certain opinions. What would hold sway would not be reason, freedom and right, but the “massive power” of the people, the simple weight of numbers. In Hegel’s view, however, freedom and right in the modern state must be guaranteed. The state and corporations must, therefore, “ensure that individuals do not present themselves as a *crowd* or *aggregate*” that determines what is right and lawful (PR §302). Hegel was once accused by Karl Popper of proclaiming that “*might is right*” (Popper, 1966, 2, 41).

This accusation, however, is seriously misplaced. Hegel rejects the idea that the “many” should determine rights and laws in a free state, precisely because it would give pride of place to the *might* of popular opinion, rather than reason, freedom and right.

A further problem that Hegel highlights is that giving priority to an “assemblage of individuals”, or the will of the many, risks setting the many in permanent opposition to the government and institutions of the state. This risk arises because the many will look to the state to satisfy, not just their justified demands (such as the demand for security and well-being), but also those that are arbitrary, contingent and even contradictory (such as the demand for perfectly functioning public services with low taxes). The state is unlikely to meet such contradictory demands, so the expectations of the many will be disappointed, and they will soon turn against the government. This disappointment will then be repeated with the next government and so on, and will breed an attitude of constant suspicion and mistrust towards the state. Hegel thinks that this problem besets “liberal” post-Revolutionary France in particular. As he puts it in his 1830-31 lectures on the philosophy of history, the will of the many is against the government,

brings down the ministry and the current opposition now steps in; but it now becomes the government itself and so again has the many against it. [ ...] So, the movement and unrest continue. Against every decision, every institution, there is a party that calls itself the “people” and seeks to assert its will (GW27: 1566-7).

In England, Hegel notes, opposition is usually directed against *this* specific ministry, not against government as such (GW26: 1453). In France, however, the people, as an aggregate of individuals, see themselves as the source of all political legitimacy and so, eventually, set themselves against every government — and so against government as such — since each one will fail in some way to meet the people’s demands.

Hegel is thus a severe critic of “liberal democracy”. Yet his criticism is not based on any preference for *illiberal* authoritarian government. It is based on his commitment to freedom and right and his concern that liberal democracy may threaten the latter in the ways just described. Indeed, Hegel argues, there are further reasons for rejecting the modern, liberal view that the state derives its authority from the “will of the people”, and that members of the legislature (and in some cases the head of state) should be chosen by the people voting *as individuals*.

First, this view produces a legislature that reflects the opinions of people, but does not necessarily represent all the legitimate *interests* of civil society. Second, it leads some states to decide matters of national importance through popular referendums, in which people with “no further cohesion” come together “for a moment to perform a single temporary act” and in which “arbitrary will and opinion” decide the outcome, as much as insight does (PR §§303 Remark, 308) — an outcome, as in the UK Brexit referendum of 2016, that can have deleterious consequences for the society for years, perhaps decades, to come. Third, the idea of liberal democracy, as Hegel conceives it, leads modern states to misunderstand what constitutes the foundation of their freedom.

Modern states often take the foundation of their freedom to be the fact that the people *choose* who will govern them. Freedom is, of course, also taken to involve respect for the rule of law, but laws are themselves to be passed by representatives chosen by the people. This, indeed, is why such states describe themselves as “democracies”. For Hegel, however, democratic popular choice is merely “formal freedom”, the freedom to decide things for oneself on the basis of one’s particular desires and opinions. As such, it is not the foundation of freedom but just one moment *within* genuine freedom, which consists in the system of rights and institutions that constitutes the rational state. This system of rights includes the right to choose one’s property and occupation, and *nota bene* the freedom to vote, but it is not *founded* on the freedom of choice. It is determined by the concept of freedom, and so is what the free will *must* affirm if it is to be truly free, and it has priority over choice in the rational state. In Hegel’s view, this system of rights, not democratic choice as such, is the true guarantee of freedom in modern states (when it is present). Freedom thus resides in the clear articulation of rights and in the distinct civil institutions and political powers that underpin these rights (see PR §272 Remark).

Most modern states recognize that the division of powers is a crucial pillar of political and social freedom. Yet, from a Hegelian perspective, they risk obscuring the importance of that division, and thus of leading their citizens to misunderstand the core of true freedom, by describing themselves principally as “democracies”.

Hegel does not deny that elections are an important component of political freedom, but he insists that popular choice by an aggregate of “atomic” individual wills is not the foundation of our freedom. Indeed, we who come after Hegel know that popular choice in modern states can sometimes threaten the rights and institutions which are freedom’s true foundation: for parties can be elected to the legislature, as in Germany in 1930 and 1932, that have no regard for objective freedom at all but seek to rule through the worst blind force.<sup>1</sup> *Pace* Popper, Hegel does not think that “*might is right*”, but that freedom should govern our social and political lives. In his view, however, genuine freedom is guaranteed, not by democracy as such, but by a free and rational constitution, the rights it secures and the ethical disposition that it produces in its citizens.

It remains to be explained, however, how Hegel integrates a democratic moment into a free, rational state. The key to understanding Hegel’s position is again the corporation. As we have seen, Hegel rejects the idea that rights and laws in a free state should be determined by the aggregated arbitrary wills of individuals, by the will of the many. Yet he does not deny that members of the lower legislative chamber in such a state should be elected. They should be elected, however, by individuals as members of corporations and other recognized associations. Individuals will vote, therefore, not as abstract individuals with their own (possibly idiosyncratic) views, but as persons who understand the rational organisation of civil society and the interests and rights of the institutions to which they belong.<sup>2</sup>

Delegates are thus sent to the lower chamber not simply by a certain *number* of people, but by organised, recognized institutions — “associations, communities, and corporations” (PR §308). They are, accordingly, “*representatives* not of *individuals* as a crowd, but of one of the essential *spheres* of society, i.e. of its major interests” (PR §311 Remark). Indeed, strictly speaking, they are not *re*-representatives at all, since they do not stand in for someone or something else; rather, the interest of each institution is “*actually present* in its representative”. The lower chamber is thus the place where not merely the opinions of large masses of people, but the *rightful interests* of associations and their members, are given voice. It is, of course, possible that individuals voting *en masse* as individuals may elect delegates who promote their interests and rights, but this is ultimately left to chance. If, however, voting occurs within recognized associations, there is a structural guarantee that those interests and rights will be

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<sup>1</sup> The National Socialists gained 107 seats in the Reichstag in September 1930 (out of 577) and 230 in July 1932 (out of 608). See Bullock (1962), 161, 216-17, 230.

<sup>2</sup> As Klaus Vieweg notes, the right to vote in the rational state is thus connected to the “adequate *political education* of the voters” (Vieweg [2012], 384).

given voice in the lower chamber. Minority interests that are organized in a recognized way will thus not simply be sidelined by the majority.

For Hegel, then, the entitlement to vote — unlike the right to own and exchange property — belongs not to persons as such, but to individuals as members of recognized associations or “interest groups” (See Vieweg, 2012, 437). Yet this does not mean that Hegel’s conception of elections is incompatible with the way they are understood in many twenty-first-century states. In Hegel’s state recognized communities or “municipalities” (*Gemeinden*) are among the associations that send delegates to the lower chamber, and in modern states such delegates are often elected to represent the constituencies in which voters live. If such constituencies have a recognized municipal identity and common interest and are more than mere geographical areas, they count as *associations* in Hegel’s sense (though, as we know, they do not always have this character) (PR §§308-9).

Modern states, of course, usually have universal adult suffrage, but this too is not incompatible with Hegel’s conception of elections. Indeed, Hegel states explicitly in 1817-18 that “if associations are to send deputies” — to the lower chamber — “and every citizen must belong to an association, then every active citizen can also take part in the election”. He adds that “day laborers, servants, etc., not being members of an association, are excluded”; yet he also states that “no one in the state may be permitted not to be a member of an association” (*Keinem im Staate muß es erlaubt sein nicht ein Mitglied von einer Genossenschaft zu seyn*) (GW26: 200-1). Moreover, as already noted, Hegel includes among recognized “corporations”, not just business and trade associations, but also organized local communities and parishes. In this respect every adult member of the Hegelian rational state — including women — should be entitled to vote, since they all belong to, or can join, such communities.<sup>1</sup>

Hegel clearly does not regard simple mass democracy as appropriate for a truly free state. His concern, however, is not that only the privileged few should be able to vote, but that elections should ensure the recognized *rights* and *interests* of civil society are given voice in the legislature. In my view, there is no reason in principle why every adult citizen should not participate in such elections.

## Conclusion

For some, Hegel’s philosophy of right simply reflects the historical circumstances of his time. His aim, on this view, is “to reconcile people to the modern social world as it is here and now” (Hardimon, 1994, 249).

My understanding of Hegel’s project is somewhat different. His philosophy of right is not just a reconstruction of freedom in existing modern states — a reconstruction that would look different if the state were to change in the future. His philosophy is governed by reason, or the

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<sup>1</sup> Hegel notes that England has corporate bodies with a political function, such as municipal councils, even though the lack of corporations in the economy contributes to the cancer of poverty in the country (see GW26: 1462).

“concept”, and sets out the *logic of freedom* — what freedom, logically, *must* be. This is not to deny that Hegel draws on examples from states, including Britain, to flesh out the forms of freedom and right he examines; but the latter are made necessary by the logic of freedom, not the prevailing circumstances. Hegel is unequivocal on this point:

In philosophical cognition, [ ...] the chief concern is the *necessity* of a concept, and the route by which it has become a *result* [is] its proof and deduction. Thus, given that its *content* is necessary *for itself*, the second step is to look around for what corresponds to it in our representations [*Vorstellungen*] and language. [ ...] But it [the representation] is so far from being the measure and 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 [*sich berichtigen*] with the help of the latter (PR §2 Remark).

Hegel’s account of freedom is thus not just descriptive (or “reconstructive”), but *normative*: it tells us what freedom *must* be. This does not mean, however, that it merely presents what freedom *ought* to be. As Hegel puts it, philosophy “must distance itself as far as possible from the obligation to construct a *state as it ought to be*” (PR Preface, 21). Yet how can Hegel’s account of the state be normative and not prescribe what freedom and the state ought to be?

The familiar distinction between the “is” and the “ought” to be found in the work of many philosophers. Hegel, however, draws a *threefold* distinction between what there simply is (or mere “existence”), what ought to be, and what something is *in truth* — what he also calls the “concept” or “Idea” of a thing (PR §1: “the *Idea of Right*”). The latter differs from mere “existence” because it is what something is according to reason — what, logically, it must be if it is to be that thing — whether or not it actually exists. In this sense, the *concept* of freedom is normative: it determines what true freedom must be, whether or not it is found in the world. Yet precisely because this concept is grounded in reason, it determines not just what freedom *ought* to be according to “opinion” (*Meinen*) (PR Preface, 22), but what freedom *is* in truth, when it is understood properly.

Hegel argues in his philosophy of history that true freedom has become “actual” — an historical *reality* — in modern constitutional states. Yet he shows that modern states, such as Britain and France, embody true freedom only *more or less*, and that none is the perfect embodiment of the state presented in his philosophy of right. This is because no state, however rational, is a “pure artwork”. The state “stands in the world, and so stands in the sphere of arbitrariness, contingency and error” (GW26: 1406). Reason, for Hegel, does not, therefore, govern all aspects of modern states, but is “the rose in the cross of the present”, a cross that is all too real (PR Preface, 22).

Insofar as modern states realize the true idea of freedom — and so incorporate the forms of right set out in Hegel’s philosophy of right — philosophy justifies their basic structures. Otherwise, however, philosophy provides a rational standard by reference to which a state or institution can “correct itself”, and it thus becomes a critique of the current historical circumstances. It becomes a *critical theory of freedom* based on reason.

Yet Hegel does not advocate the *revolutionary* transformation of modern states that are only imperfectly free. He advocates the introduction, or preservation, of institutions — corporations and associations — that imbue citizens with an ethical concern for one another in their economic and political life. In other words, Hegel advocates institutions that would ensure the whole society is permeated by different forms of mutual recognition and respect. Is this Hegelian critique of modern states idealistic and utopian? I think not; after all, corporations were historical realities before they disappeared in the early nineteenth century. Moreover, as already noted, modern societies without corporations assign some functions of the latter to various “professional organizations” and local communities. So, even in states that are today more or less “liberal”, citizens recognize, to some degree, that they do not participate in the economy or in politics simply as individuals concerned with their own particular advantage. This is the seed out of which new corporations can grow.

There are two further Hegelian ideas I would like to mention before ending this essay. First, Hegel argues that there should be a division of powers in a free, rational state between the sovereign (or head of state), the executive and the legislature (PR §272 and Remark). He also argues that there should be two chambers in the legislature: a lower chamber, whose members are elected by recognized corporations, associations or municipalities from civil society, and an upper chamber whose members inherit their place and are thus selected by nature. Many, including Marx, reject Hegel’s upper chamber as a vestige of the medieval world.<sup>1</sup> In so doing, however, they overlook an important, and perhaps surprising, feature of that chamber. For Hegel, its members are chosen by nature because they are meant to reflect the interests of those who are dependent on nature and “gratefully” attuned to the rhythms of the latter (PR §203; GW26: 966-8). These members, Hegel insists, are not to be confused with feudal nobility and should not include those who are proud of their “lack of merit” (*Verdienstlosigkeit*). Indeed, he states, they can just as well be called “non-nobility” (*Nichtadel*) as “nobility” (*Adel*) (GW 26: 199, 1457). The important thing is that they should work on and care for the land. What looks to some like an outdated institution, therefore, in fact ensures that legislation takes account of our dependence on and concern for *nature*. Hegel could not have anticipated the ecological crisis that we now face. It is remarkable, however, that he gives not just civil society, but also nature, a voice in the legislative process in a free, rational state.

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<sup>1</sup> See Marx (1970), 96: “Hegel wants the medieval system of Estates, but in the modern sense of the legislature”.

Second, Hegel insists that individuals in a free state must *trust* its laws and institutions, for only with such trust do we feel at home, and so truly free, in the state. “I am free”, Hegel maintains, “when I am with myself [*bei mir selbst*]” (GW27:1164), and I am “with myself” in the state when I can place my trust in its laws and institutions. Indeed, our relation to the latter must be “immediate and closer to identity than even *faith* or *trust*”, if we are to feel truly free (PR §147). Such trust, Hegel explains, is “the consciousness that my substantial and particular interest is preserved and contained in the interest and end of another (in this case, the state)” (PR §268). It is the feeling that *my* well-being and freedom are secured by the state, and that in relating to the latter I am in fact relating to myself and my own essence. Such trust can remain naive and immediate, or it can “pass over into more or less educated insight” (PR §268). Either way, trust, as Hegel conceives it here, is the knowing of oneself in the other that underlies free, ethical action.

Note that true trust, for Hegel, is not blind, but the immediate or educated *recognition* that right is actualized in the social and political world. It is the understanding, in the form of feeling, that right and the good which include my right and my well-being are embodied in the laws and institutions around me. This point is crucial: trust and understanding are not at odds with one another, but true trust is itself a form of felt understanding and insight. It is feeling free in knowing oneself to inhabit a world of freedom.

If, however, trust is to be the consciousness and recognition that right is actualized in the world, then the laws and institutions to which I relate must, indeed, actualize right: they must actually correspond to the trust I have in them. This means, among other things, that such laws and institutions must protect the abstract right to property and the moral right to freedom of action and to particular satisfaction. Trust can be the felt *recognition* of actual freedom only if there is a reality there to recognise, that is, only if freedom in all its forms *is* actualized in the world about us. Those who are afraid of trust, and always urge us to be vigilant in face of the state because they fear that trust will enable corruption among officials to flourish, thus misunderstand Hegel’s concept of trust. True trust, as the felt *awareness* that freedom is realized in society, is possible only when freedom is indeed realized in society.

The actuality of freedom and right must, therefore, precede the trust we place in it, and, according to Hegel, a crucial “guarantee of public freedom” is the *division of powers* (PR §272 Remark). This not only means that the executive and legislative powers must be distinguished from one another — something Hegel thinks did not happen in the French Revolution, with devastating consequences (see GW26: 1451-2). It also means that local communities and corporations must be accorded legal recognition and rights in order to protect the state and those who are governed by it “against the misuse of power on the part of the official bodies and their members” (PR §295). The objective actualization of freedom also requires that the deliberations in the Estates’ assemblies be public and that there be “freedom of public communication”, including the press (albeit within limits set by right and law) (PR §§314-15, 319). All of this

constitutes the objective condition of public trust. Such trust is, however, itself essential to ethical life and constitutes a distinctive form of freedom: the freedom of being and feeling at home in the world.

On the basis of Hegel's insight into the connection between freedom and trust, we can identify two dangers that people face in modern states that are *more or less* free. The first is that our trust might be blind after all, and that we place our trust in institutions that do not merit it. Genuine trust, however, is an essential element of modern freedom, for Hegel. It is important, therefore, that modern states claiming to be free merit such trust: they must protect individual rights, maintain the division of powers, and protect themselves from public corruption by (among other things) publicising proceedings in the assemblies and according appropriate rights to local communities and corporations. It is also important that the press and education system make it possible for citizens to gain a proper understanding of the real political and social situation in which they live. Only under these conditions can the trust that citizens place in their laws and institutions become genuine trust, as Hegel conceives it: namely, the felt *recognition* that freedom is, indeed, realized in those laws and institutions. If, therefore, a state is making the transition from authoritarianism to freedom, the most important thing, from a Hegelian perspective, is not immediately to give everyone the vote, but rather to ensure that the institutions of the state are worthy of trust — that they are free of corruption and guarantee basic rights, including the right to be free of poverty. Indeed, the same imperative to keep the state free of corruption and poverty also governs those who live in states that claim already to be free.

The second danger we face is that we might refuse ever to place our trust in the institutions of the state, even when they do in fact merit it, and instead cultivate an attitude of perpetual vigilance and suspicion. Vigilance is certainly warranted when signs of corruption are evident. Such vigilance and suspicion are, however, not always well grounded and can degenerate into a self-sustaining “culture of suspicion” (to use Onora O’Neill’s term) that undermines the possibility of trust (See O’Neill, 2002, 57). In this way, our zealous efforts to be alert and to avoid naivety threaten the very ethical life we claim to be protecting.

A life in which we trust our fellow human beings is not altogether without risk; but a life without genuine trust lacks an essential element of ethical freedom. Some see trust, especially that placed in the laws and institutions of the state, as nothing more than naivety. Hegel’s insight, however, is that a life lived in a *trusting* relation to laws and institutions, that are themselves free of corruption, is one to which we all have an inalienable *right*.

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