# A RESPONSE TO M.B. FOSTER'S CRITIQUE OF HEGEL'S POLITICAL THOUGHT



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# A Response to M.B. Foster's Critique of Hegel's Political Thought

by

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A thesis submitted to the School of Graduate Studies in partial fulfilment of the requirements for the degree of

Master of Arts

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July 1992

St. John's Newfoundland

ISBN 0-315-86616-0

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# ABSTRACT

Michael Beresford Foster's book The Political Philosophies of Plato and Hegel crystallizes much of the criticism which liberal theorists direct against Hegel's political philosophy. In its grasp of the various trends which develop in the course of twentieth century liberalism, Foster's work is, in fact, remarkable. His criticism brings to light the important relationship between liberalism and the "event theory" of action and history. Through writings from Oakeshott to Rorty this relationship has been developed and in Foster's work it appears vividly contrasted with Hegel's views or, more accurately, with a liberal caricature of his views. Foster's work is also remarkable in that, although he brings interesting questions to Hegel's political thought, his criticism thoroughly misrepresents Hegel's argument, merely thrusting a dualistic perspective of his own upon Hegel's dialectical standpoint. As a result he is insensitive to the subtle relationships which Hegel develops, for example, between desire and reason, individual and state, freedom and history, and history and eternity. In every instance Foster assumes the radical separation of these concepts, all the while failing adequately to criticize Hegel's attempts to reconcile their apparent opposition. On the basis of this method Foster resolves that Hegel's political thought is "confused" and results in a totalitarian repression of individual freedom.

The burden of this thesis is to disentangle Hegel's actual argument from the snarl which Foster creates. To this end I show the dialectical relationships which Hegel establishes between such concepts as "real" and "ideal"; freedom and authority; and state and history. The essential point of this analysis is to show that, for Hegel, all socio-political institutions are in principle manifestations of human freedom. Consequently, I hope to show that the claim that Hegel's political thought develops an authoritarian and repressive state does not hold water.

# ACKNOWLEDGEMENTS

This thesis is dedicated to Professor F.L. Jackson whose teaching and guidance have been an inspiration. I must also acknowledge the instruction and kindness I have received from the Department of Philosophy and especially from Professor Floy Andrews, Professor James Doull, and Doctor James Bradley. This list would be incomplete, however, if I failed to thank my mother and father whose support and love have been constant. And last but far from least I owe a debt to The School of Graduate Studies of Memorial University whose generous fellowship and timely teaching-assistantships helped to keep the wolf from the study door.

# CHAPTER ONE
# INTRODUCTION: A SUMMARY OF FOSTER'S CRITICISMS

M.B. Foster's book The Political Philosophies of Plato and Hegel has been widely praised. T.M. Knox, for example, whose translation of the Rechtsphilosophie is the English standard, argues that Foster's work on Hegel is indispensable.[1] Michael Oakeshott, in his 1935 review of Foster's book, contends that it is "one of the most profound and illuminating contributions to the literature of political philosophy which has appeared in recent years."[2]

One reason for Foster's success is that he crystallizes much of the criticism which liberal theorists direct against Hegelian-idealist philosophy.* Borrowing freely from Hobbes and Locke, he attempts to show that the liberal notions of state of nature, sovereignty, contract, and freedom provide a bulwark against state dominance which idealist philosophers fail to provide. Further, Foster's argument is not meant to result in a systematic account of political life but is, rather, accumulative and metaphorical. He conceives the notions around which he constructs his argument not as truths about political life but rather as aesthetic creations. For Foster, philosophy is analogous to poetry and its concepts must be seen as creative descriptions of historically situated occasions and concepts. Philosophical reason, he contends, is thus essentially contingent, it cannot go beyond or behind history to contemplate eternity. His emphasis on the metaphoricity and historicity of thought are expressions of his belief in the contingency of truth and reflect the liberal suspicion of Hegel's rational deduction of the state.

Foster wishes to use liberal theory to explicate and criticise Hegel's account. It is important, however, to consider Foster's own standpoint before we discuss his criticism of Hegel and to this end I shall attempt to draw into a coherent argument the various metaphors

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* Another reason for the success of this book is Foster's interesting analysis of Plato's political thought. Though this analysis is essential to Foster's book, his criticism of Hegel can be understood with minimum reference to these sections.

and concepts which he employs.

The concept of the state of nature represents man's original pre-political condition. From the writings of Thomas Hobbes to Robert Nozick this concept has been used to elucidate the necessary characteristics of political life by deriving them from its simplest non-political assumptions. In Foster's argument, however, the concept of the state of nature is not simply a tool for definition. According to Foster, the significance of the "state of nature" is that it ascribes real, temporal existence, not mere logical priority, to man's non-political life. Therefore the state of nature can be seen to have its own substance and laws, and men in the state of nature can be described as already essentially formed and not as mere matter awaiting the form of political society. Men can therefore be seen to have rights and freedoms which stem not from the state but from their natural condition, a freedom governed not by the laws of the state but by the laws of nature. And this is Foster's central point, that the individual has rights prior to all socio-political relations and further that all socio-political relations can only be justified in so far as they respect, enhance and preserve the rights of the individual. He argues, however, that the temporal differentiation of state of nature and political society is retained in political society as an actual distinction between society and state, between the daily interaction of self-interested individuals and the artificial laws and institutions which men create as means to their individual ends.

Foster finds Locke's account of natural law more suited to his purposes than Hobbes' account. Unlike Hobbes, Locke sees natural law as operative in the state of nature and therefore as providing for limitations on the scope of civil law in society. According to Foster, Locke's view of the state of nature grants the subject freedoms prior to the determination of civil law.

Foster contends that there are two different senses of the laws of nature, roughly an empiricist and a rationalist sense. On the one hand, Foster claims, the empiricists focus on

those natural laws to which the actions of men are subject by virtue of their appetitive nature. On the other, he argues, rationalists attend to those laws "to which man owed obedience in virtue of his rational nature".[3]

In rationalist and empiricist forms of liberal theory, civil society is said to be governed by natural law. Foster argues that in civil society the "appetitive" laws of nature are maintained as economic law, and the subject is free in the economic realm only in so far as his actions are determined by nothing but his own likes or dislikes.[4] Appetitive activity, naturally and without conscious direction, generates a law and order of its own.[5] Unlike mere matter which is unintelligible unless in-formed by an activity external to it, the uninhibited activity of human appetite and desire generates laws and therefore also generates its own intelligibility.* Further, Foster contends that "rational", natural law is maintained in civil society as the universal rules of conduct which safeguard person, property and contract, i.e., civil law. The main points of Foster's argument are that, contrary to Hegel's view, the subject attains a fully adequate freedom in civil society and that this economic realm is fully intelligible, i.e., its laws are available to consciousness. It is significant that this realm be law-like, according to Foster, because it then has its own form and cannot be subordinate to the state as matter to form. He argues that because economic laws originate in relatively uninhibited desires and civil laws are means to individual satisfaction, the individual is free because subject only to desire and laws which are a means to desire.

According to Foster, Locke's doctrine of property develops an empiricist doctrine of civil law while Kant's doctrine of the moral law is a rationalist development of the same principle. Liberals of both the empiricist and the rationalist stripe see civil law as a reasonable system

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* In the Platonic metaphysics, with which Foster wishes to identify Hegel's thought, the activity of in-forming matter is the activity of a demiurge. In Foster's broader argument he contrasts the activity of the demiurge, which is confined to the uniting of pre-existent matter and form, with the activity of the Christian god, which creates both matter and form.

which can be deduced from a priori principles. They differ fundamentally, however, in that while rationalists see civil law and right conduct as ends-in-themselves which limit economic motives, empiricists relegate civil law to the status of a means to economic ends.[6]

Foster holds to the traditional liberal view that society should aim to limit legislation so that it refrains from interfering with the working of economic laws within the economic sphere, the main condition of a free economy on this view being the integrity of person, property and contract which preserves a sphere of conduct independent of the intrusion of any determinant save desire. Further, though Foster does not clearly make the point himself, it is consistent with his argument to hold that the integrity of persons preserves a sphere of conduct independent of the intrusion of any determinant save conscience. The point of Foster's argument is that, as described in "state of nature" accounts, the operation of natural law grants the individual a freedom from any determination save his own reason or desire.

Foster develops his liberal conception of freedom through his distinction of civil or economic society, which is governed by natural law, from the state whose laws are artificial. Following Hobbes, Foster argues that the laws of the state have authority not by virtue of any inherent reasonableness but by virtue of being commanded.[7] Though Foster contends that Hobbes does not explicitly distinguish civil society and state, he also contends that Hobbes' view that society is constituted by an act of will and is thus artificial, "presents the germ from which the distinction could grow".[8]

In Hobbes' account, society has its genesis in the state of nature (which he portrays as a state of warring). He argues that the people out of fear of death and the desire for self-preservation contract together and give up to a sovereign their natural right as individuals to protect themselves. Therefore as Oakeshott puts it, the sovereign, "is not the interpreter of the various wants of the subjects but the custodian of their will for peace".[9] For Hobbes, the people's will is united in the sovereign who is the sole arbiter of what is required for peace.[10] The significance of this argument, for Foster, is that the will and not reason is the source of

obligation.

From this concept of sovereignty Foster derives his own concept of the free will. Whereas economic activity is a submission of the will to appetite and moral activity is a submission of the will to reason, the activity of the sovereign will is subject to no determination other than itself. As thus self-determined, the will's activity is essentially creative and therefore, free.

Foster conceives the activity of the free will on analogy with artistic activity and he contrasts his view of art to that of Plato. Plato criticizes the creative element in art and contends that art is to be valued only in so far as it can be known as an embodiment of a preconceived form. Foster, by contrast, argues that one is unable to render the reason of the work of art and that artistic activity does not simply execute a preconceived plan but is, in fact, a creative activity whose product thus cannot be criticized by some external standard.* This position subordinates the concept of in-formation to the concept of creation; while the artist must bring form to the matter of his art, his activity is constituted as "aesthetic" solely by virtue of an indeterminate act of imagination. Likewise, the sovereign will subordinates natural law (at least in its rational aspect) to its creative activity. According to Foster, the sovereign creates the laws, perhaps treating so called "natural law" as a means to the ends of civil law. For example, the sovereign may realize that unless he recognizes certain "natural rights" he will not be able to rule because the citizens will not be happy and will therefore be rebellious. Natural law and natural right are subordinated to the pragmatic considerations of statecraft and the will of the sovereign. Foster contends that unlike Hegel, who sees economic and moral law to be of timeless, a priori derivation, he conceives these laws to be the historical products of the individual aesthetic will. Though economic law would seem to be the product of desire,

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* Foster also considers sovereign activity by analogy with God's creative activity. For the purposes of this essay, however, Foster's specific criticisms of Hegel's political philosophy can be consi ..red without reference to this element of his argument

for Foster the characterization of any set of events as "law" is a creative act both in the selection of relevant facts and in the description of their inter-relation.

It follows, according to Foster, that there are two ways in which the state is analogous to the product of an artistic activity.[11] On the one hand the state, like the "meaning" of a work of art, has no natural existence. And on the other hand, because the act of creation is governed by no pre-conceived end, the essence of the state is not discernable from its accidents; the state is an individual and cannot be criticized from some standpoint external to it.[12]

From this view of sovereignty as an essentially creative activity, Foster develops a conception of the state which he believes will guarantee individual freedom. Individuals are free in that their contract to enter into a political society is determined by nothing but their own desire and reason. More significantly, however, individuals are free because the state which they construct is artificial, the product of a creative human will. Further, he contends that it is not incompatible with Hobbes' view {though he doesn't bother to demonstrate this claim} to transfer the power of sovereignty from the monarch to the people. He argues that in the modern state sovereignty is seen to reside in the people, and government is subordinate to this sovereign will. In this view the subject of government is himself the sovereign authority to which he submits.[13] The upshot of Foster's view of sovereignty is that it portrays both the governor and the governed as equal in their subjection to the sovereign and the governor as in fact a minister of the sovereign.* For Foster because the state is the product of a creative will, it does not force individuals to conform to some eternal standard. Therefore, if the state is not satisfactory it can be recreated to conform more fully to the desires of the individuals it is created to serve. Foster leaves the nature of the "collectivity" of individuals unspecified

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* Foster contrasts this view to what he believes to be Hegel's platonism which subordinates the subjects to those who govern. In the 'so-called' platonic view, those who govern the state do so by virtue of their knowledge of its reasonable essence. Those who are subject to these rulers are subject precisely because they cannot understand the essential reason of the state.

however. In his view, the union of individual wills, because an artificial product, only arises in specific historical circumstances. It is the product of the unique political activity of a given people and is contingent upon the particular context of people, time, and place in which it arises.

The subjection of the people only to themselves distinguishes the state not only from nature but in some respects even from the work of art. According to Foster, whereas the work of art is caused by something external to itself, the state is causa sui because the sovereign will is not only the cause of the state but is also contained in the state; is both subject and object of its own activity. While the activity which gives birth to the work of art and to the state is similarly creative, the products themselves are to be distinguished. He argues that the individual is free in this society because he takes part in the creation of the laws which he obeys, because he creates the context for the enactment of his individual will.

It is important to note, however, that for Foster, as for most liberals, the state is neither necessary to nor constitutive of the individual's freedom but is rather, merely an artificial condition of it. This is significant in a number of ways. First, much liberal theory denies that there is an essential self which is somehow given embodiment in the subject's actions. Political activity is thus to be seen as just one among many activities which individuals may perform. It is not comprehensive of the individual's other activities, rather, it is merely a means to whatever activity the individual wishes to pursue. On this view, the primary function of the state is to restrict individuals from interfering with each other but such constraint is not itself to be thought constitutive of freedom. By contrast with Hegel's argument where freedom begins with submission to law, in Foster's argument, an act is free only in so far as it is not determined by any standard external to itself. In obedience to law one is not free, no matter how important obedience is to one's further freedoms.

Because the state is seen as the product of a creative act, it cannot be developed from its concept through a necessary deduction and is therefore contingent: neither the necessary

product of the individual's will nor the end or completion of his acts. Therefore, there is no one state which can be the perfect state because all states are subject to the contingent choices of individuals and the contingent circumstances of history. In fact, rather than speaking of "the" state we can only speak of "a" state because there simply is no "essential" state beyond the individual states which exist in history.

It follows from Foster's view of the general objects of history, that is, his view of individuals and states, that history itself cannot be seen as a necessary development. He has an "event" theory of history which is similar to the theories of Heidegger and Nietzsche. In this view history does not have a necessary rational development; rather on analogy with created objects, each historical epoch is its own justification and can be subject to no external standard of criticism. Foster's view of history is non-teleological; he argues that while history may be seen as a development, there is no end towards which it is progressing. From this standpoint, various epochs may be interpreted as a development only in the sense that individuals have an opportunity to learn from the past and to maintain its discoveries in science, philosophy, customs, laws, etc.: there is no need to re-invent the wheel. However, though what has been accomplished becomes the starting point of a new epoch, it may just as easily be overturned as built upon. For Foster there is no truth underlying the various epochs of history; rather there are only the creative interpretations of historians. Foster conceives history, state, and reason by analogy with creative activity and he argues that there is no reality to be ascribed to these realms other than one which is created.

Foster's critique of Hegel is a significant work because it is representative of much liberal criticism of idealist political philosophy. We find in L.T. Hobbhouse for example a criticism of Hegel's conception of the relation of reality and thought, which makes its way into Foster's argument Hobbhouse states that Hegel's philosophy:

> ... attributes the unity which belongs to the concept as contained in the act of thinking to the mass of objects to which the concept refers.[14]

In much the same vein Foster criticizes Hegel's uniting of the concept of the state, a mere metaphysical construct, with particular and actual states. Also Michael Oakeshott concurs with Foster's criticism of the concept of the state as the realization of human freedom.[15] Isaiah Berlin, another liberal of note, follows Foster in his rejection of the organic theory of the state, of the concept of a rational will, and of a rational, historical necessity.[16] Likewise Foster's conception of history is echoed in Richard Rorty's Contingency, Irony and Solidarity, where Rorty argues that history cannot be referred away from itself, that it is a product of "time and chance".[17] To respond to Foster's analysis of Hegel thus brings one into direct contact with some of the most important streams of twentieth century liberalism.

Though Foster' criticisms of the Philosophy of Right are often wide of the mark, he does bring some important questions to bear upon Hegel's political thought, and the contrast between his own standpoint and Hegel's helps clarify what Hegel is in fact saying. To answer Foster's criticisms is also to clarify some of the typical liberal misrepresentations of Hegel's political philosophy.

The thrust of my consideration of the presuppositions of civil society in Chapter Two and of Hegel's concept of civil society in Chapter Three is to show that civil society is an ethical realm, in Hegel's view, and not merely an economic realm as Foster contends. Foster considers Hegel's account of civil society from a dualistic standpoint. He speaks, for example, of a division of the economic will and the ethical will in Hegel's concept of civil society. The general difficulty is that by virtue of this dualism Foster is not attentive to the dialectical nature of Hegel's thought and its thorough and concrete mediation of universal and particular interests. I hope to show that Hegel's concept of civil society has an ethical and not a "natural" starting point in that it assumes the individual to be a self-conscious moral agent who has received ethical education as a family member. Also I hope to show that Hegel conceives civil society to be a manifestation of the subject's freedom.

Chapter Four is explicitly concerned with Foster's criticism of the philosophical basis of the Hegelian state. Foster argues that Hegel's views on such matters as the relation of the individual to the state and the relation of individuals and the state to history, are based on a platonic metaphysics. Further, he contends that Hegel's political thought is involved in deep seated contradictions. He states that while Hegel, as a rationalist, is very much concerned with the freedom of the individual, his thought remains wedded to a platonic metaphysics which grounds the actual, historical world of human action upon a spurious concept of its eternal essence and is therefore antithetical to human freedom.* According to Foster, Hegel views the real world of contingent action and temporal states as the mere appearance of an eternal ideal. He argues that this subordination of actual individual choices to their so called "ideal essence" is manifested in Hegel's concept of the class structure of the state.

Foster develops his point by contrasting Hegel's view to the liberal theory of the state for which civil society is the only political structure consistent with individual freedom. Civil society has its origin, Foster claims, in the free choice of individuals and is a means to individual satisfaction. On this view the state is subordinated to civil society, its purpose to provide legislation which restricts interference with the aims of individuals.

According to Foster, most individuals are engaged in the particular pursuits characteristic of civil society and therefore a universal law of the type Hegel believes can be known only in the state is in principle beyond the purview of the citizens of civil society. And for Foster, this is the tendency of the platonic element in Hegel's thought; to establish a class division between those who rule on the basis of their knowledge of the universal and those who obey on the basis of their knowledge of the merely particular.

Foster argues, however, that Hegel is too steeped in the rationalist emphasis on

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* Foster maintains that Hegel's consideration of freedom is further limited in that it does not comprehend the empiricist viewpoint.

individual freedom to accept the Platonic notion of a "philosopher-king" which alone can render his view consistent by establishing that only a select few can know the universal law and must impose it upon those who cannot know it.

In Chapters Five and Six I respond to Foster's criticism that Hegel's political philosophy is based on a metaphysical conception of the state and of history. The important point to recognize is that Hegel's political philosophy seeks to comprehend all such dichotomies as individual and state, time and eternity, necessity and contingency. Only by ignoring the dialectical movement of Hegel's thought can Foster maintain the radical separation of such concepts as ruler and ruled and ideal and real. The Philosophy of Right is essentially an attempt to show the unity of the subjective realm of individual self-consciousness with the objective realm of the state. In Hegel's philosophy, whether we speak of history or of the state we are never speaking of some transcendent sphere outside the realm of human thought and action. In this thesis I hope to show that, for Hegel, the state is the objective embodiment of the subjective will and the development of history is nothing other than the development of the consciousness of this objective freedom.

# CHAPTER TWO
# THE PRESUPPOSITIONS OF CIVIL SOCIETY

According to Foster Hegel fails to demonstrate that the transition from civil society to the state is necessary for ethical life. Hegel's depiction of civil society, he argues, meets all the criteria for what Hegel calls ethical life and because there is, therefore, no realm of greater universality than that established by the system of civil law, there is no necessity for a transition beyond the civil realm. He contends that Hegel makes a spurious distinction between civil society and the state, conceiving civil society as an imperfect realization of ethical life and that he limits civil society to a sphere for the exercise of the economic will. He argues that in Hegel's view the members of civil society, by contrast with the citizens of the state, are concerned solely with their own personal satisfactions. Further Foster states that Hegel wrongly distinguishes the laws which operate in civil society from those which operate in the state, in that he contrasts the universal laws of the state, which are operative only so far as the individual understands and wills them, with the economic laws of the civil realm, which are actualized whether or not the subject is conscious of them.[18] He claims that, for Hegel, in order that the subject's freedom be fully actualized, he must be conscious of the law which he is to obey, so that a transition from civil society to the state is thus required in order that the subject be ethically free.

Foster argues, however, that Hegel's requirement that civil society "pass over" into the state arises from a confused conception of civil society. In Hegel's view, he maintains, the universal law which is actualized in the state only in so far as the subject is conscious of it, operates with or without the subject's consciousness in civil society. However, according to Foster, there is no such universal which operates both unconsciously in civil society and also in the state so far as the subject is conscious of it. He argues that for Hegel there are two kinds of laws which operate in civil society, on the one hand economic law, which arises from

man's appetitive nature, and on the other hand civil law, which arises from man's rational nature. But the universal laws of economics cannot be the universal to which Hegel refers because though they operate unconsciously in civil society, consciousness of them does not imply a transition to the state.[19] Foster claims that civil law, by contrast, operates only so far as the individual consciously wills it, so he concludes that in Hegel's argument ethical freedom, a will which wills the universal, is in fact realized in civil society. Civil society thus contains all that is necessary for ethical life and it follows that there is no necessity for making the transition from civil society to the state.

Hence Hegel, according to Foster, by his failure to recognize civil law as an adequate basis of ethical life, merely applies the rationalist conception of civil society to his conception of the state. Thus when Hegel criticizes civil law because it is enforced only as a means to the particular satisfaction of individuals, he is in fact merely criticizing the empiricist conception of civil law and moreover, in his concept of the state he merely puts a rationalist concept of civil law in its place.

Foster goes on to argue that Hegel's rationalism is not compatible with human freedom because it subordinates will to reason. Foster argues that it is consistent with this "rationalist" strain in Hegel's thought that it is the individual and not society which must be transformed in order that ethical life be actualized. Foster states that in Hegel's view:

> ... the subject should submit himself to a moral education which will enable him to renounce the economic will, for which alone the law is a restriction, and to ascend to the standpoint at which he can recognize the system of law as the system of reason, in obedience to which 'ethical' freedom consists.[20]

Foster contends that this rationalism, defined over and against the empiricist viewpoint, is at the root of Hegel's failure to develop a proper conception of will. He claims that although, in Hegel's conception, the will is active in the internalization of objective laws, "the perfection

of will...consists in its surrender of autonomy and its submission to the primacy of thought."[21] Foster argues that in distinguishing will from both appetite and reason, and arguing that the will must conform itself to a rational principle, Hegel subjugates will to thought.

## (1) State-of-Nature as the Presupposition of Society

Foster's argument owes a great deal to the state-of-nature accounts of Hobbes and Locke. Like these liberal theorists, Foster asserts that individual freedom is prior to society and is an attribute of humans in their natural condition. On this view, whatever social order emerges must enhance but not contradict this 'natural' freedom. As discussed above, according to Foster, civil society is such a social order and he argues, therefore, that the conception of a state beyond civil society is superfluous.

Foster grafts onto Hegel's thought his own view that the only presupposition of this "economic realm" is a multiplicity of individuals who are motivated solely by self-interest and natural desire and the consequence of this view, that individuals can achieve ethical life only if they renounce their "economic will".

In this chapter I hope to show that Foster's starting point, the liberal notion of a "state of nature", is an inadequate approach to the question of civil society, because, although it attempts to portray the subject's pre-political condition, it actually presupposes that the subject has received ethical education. Hegel, by contrast, explicitly accounts for the ethical education which civil society assumes; he traces the development of the presuppositions of civil society in terms of the moral will and the family.

For Hegel civil society presupposes individuals who are free agents, whose desires are not simply given but are, in fact, particularizations of the individual's self-conscious freedom. In other words, in Hegel's view individuals are defined as freedom primarily and not as desire with freedom superadded. According to Hegel the members of civil society are capable of

moral self-consciousness and intention; they have been educated by the culture of family life; and are not merely self-interested individuals. I continue this discussion in Chapter Three attempting to show that Hegel's concept of civil society everywhere assumes the union of the subject's universal ethical interest and his own merely personal interest. Contrary to Foster's portrayal, Hegel does not assume a division between the ethical and the economic realms.

According to Hegel, state-of-nature accounts are untenable precisely because they speak of the individual in abstraction from society and describe social relations from the one-sided viewpoint of this isolated individual. In the accounts of Locke and Hobbes, for example, society exists as a means to individual satisfaction, or to speak in a more metaphysical manner, the universal is subjugated to the particular. Hegel argues that, starting from the standpoint of the isolated individual, it is impossible to derive an adequate account of the community unless one presuppose that individuals are already socialized. A brief consideration of Hobbes' and Locke's account of the transition from the state of nature to the "contract" reveals this presupposition.

Hobbes demonstrates the necessity for the movement from the state of nature to civil society in that a state of war is unbearable for isolated individuals in the state of nature. However, nowhere in his argument is there a demonstration of the possibility of this movement because he does not show how the lack of trust, characteristic of the state-of-nature, could be overcome; he merely assumes that it is.

Locke, on the other hand, has a fuller grasp of the potentialities of the natural state, that is to say, that it may be either peaceful or warring. There are two ways in which Locke's transition from a state of nature to civil society is more convincing than Hobbes. In Locke's account the state of nature, even were it peaceful, is shown to be inadequate because war is always possible. Second, Locke shows the possibility of a contract. In a peaceful situation there is trust and thus contracts are possible.

Locke's concept of peace, however, is still an abstraction; peace involves a mediation

of disputes which Locke does not account for. In the world of nature all individuals are identical in that they all embody their freedom in external objects. From this presupposition Locke develops his equal right to appropriate natural objects. However, the state of nature cannot be fully described in terms of equality and identity, or as an immediately peaceful state, that is, as a reconciliation without conflict. Humans are not simply equal and identical; there are great differences between individuals even at a merely natural level. Considered in terms of their ability to own property (in Hegel's terms as equal "persons") individuals are units determined in contradiction to other units; they have different bodies, they cannot embody their wills in the same object. Thus in Locke's theory of the duality of the state of nature, on the one hand, every individual is equal and free to appropriate external objects, while on the other hand, no will or property is secure from other wills. Because the identity and equality of the state of nature is abstract, i.e., accounted for without reference to particularity, it is unable to overcome the differences present in the state of nature. The comprehension of difference, i.e., peace, involves the mediation of disputes and it is only this mediation which creates the atmosphere of trust that makes possible the "social contract". Thus Locke's argument is insufficient because its account of peace presupposes a mediation of differences yet fails to account for this mediation.

## (2) The Moral Will as a Presupposition of Society

Hegel explicitly develops an account of the mediation required for peaceful communal life. What is required in the first instance is that the subject, although a particular individual, be able to will the universal, that the universal law not be external to the particular subject. In Hegel's view, that a particular subject consciously will the universal presupposes that he is self-determined or free, that he comprehends the mere particularity of his natural being. For Hegel the whole standpoint of objective spirit is beyond the dualism of mind and nature; in the concept

of the free will, which Hegel's political philosophy everywhere presupposes, this dualism is understood as implicitly overcome. In the "Introduction" to the Philosophy of Right Hegel recapitulates the argument of his psychology that the free will knows itself implicitly as the comprehension of nature. First we note that for Hegel the will is a "thinking will" and thought and will are not separate faculties. Rather for Hegel the will is a manner of thinking and he describes it as thought determining itself to existence. He states that in any activity of the mind both moments are present.[22] Further for Hegel the will is not limited by nature. Rather, the will's relation to nature is the will's relation to its own particularity and the distinction with which we are concerned is not between the will and nature but rather lies within the will itself; a disparity between what the will is in its principle and what it is in its deed. When Foster speaks of such a division at the standpoint of ethical life one wonders whether Hegel simply forgot one of the central features of his own thought or whether Foster was not entirely acquainted with the argument of the "Introduction" to the Philosophy of Right.

I will develop the first presupposition of civil society, the free moral will, through a consideration of Hegel's conception of the historical origin of civil society. Modern civil society has its origin in the results of the Protestant faith. In questioning the Catholic church which held authority in sacred matters, Luther developed the right of individual insight, initially as concerned biblical interpretation.[23] This began the secularization of spiritual resources as one's relationship to God was no longer seen to be mediated by an otherworldly, privileged order. Hereafter the world was seen as the precise locus of man's spiritual activity. Marriage was no longer deemed less holy than celibacy, work was deemed a valuable spiritual activity, and the moral validity of crafts and industry was recognized.[24]

In England, the "birthplace" of civil society, this spirit took hold in a criticism of the divine right of kings. In liberal theory, therefore, we find a justification of a civil society which claims for itself much of the power of the state which had hitherto been claimed by the king. In the

writings of Thomas Hobbes, for example, the sovereignty is justified as the unity of the people's will.[25] There is a limit to the Hobbesian conception of the sovereign, however, because in it the sovereign is not a true embodiment of the moral will of the subject. Though the sovereign is established by contract of the people and though they are obligated by his commands, the sovereign agrees to no contract with the people. Therefore there can be no breach of the contract on his part.[26] Moreover, we might note that in Hobbes' argument it is presupposed that the sovereign has those very characteristics which can only be developed in a society, that is to say that the sovereign is a will which, though particular, can will the universal good.

In Locke's conception of civil society, sovereignty involves the moral will in a democratic form, as a collection and compilation of the rights of the citizens. It is important to note that in Locke's account of the state of nature, the presupposition of the contract is the trust accomplished in times of peace. It is apparent that this peaceful union and the mediation it involves is an implicit form of civil society. This is indicated in that individuals retain the freedom of their natural condition even when they enter civil or political society. Further, this freedom forms the limit of all legislation. As James Doull argues:

> ...the moral will knows itself to be the source of the social order and is the demand that it conform in general to its principle.[27]*

The justification for the authority of the political order comes to be seen as grounded in the moral subject and not in some divine right or external legislation. In liberal theories the state is viewed as a means to individual freedom and as based on contract and consent. For Hegel this represents an implicit form of what he calls the "right of the subjective will", that is, the subject's right to recognize the truth of a thing only in so far as it conforms to his

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* The further development of the concept of moral sovereignty is accomplished in Kant with the explicit development of the moral will which, though a particular will, wills the universal interest.

subjectivity, so far as it embodies his interests.[28]

According to Hegel, however, liberal theory does not adequately comprehend the principle of subjectivity and it describes society only in terms of abstract right. In Hegel's argument, civil society reflects the transformation of this merely external or legalistic right by the concept of the moral will. According to Hegel abstract right concerns the activity of the free will only in its appropriation of external objects. When any object is possessed by a person, Hegel argues, it is transformed from mere thinghood into property. For Hegel, from the standpoint of the free will, the object one will possess is arbitrary, one might just as easily choose a tree as a VCR. Because the object possessed is not in any necessary relation to the person, he may just as easily choose to give it away or sell it, to alienate it to another person.

For Hegel, the sense of community which develops in accordance with the principles of abstract right is based solely on merely legalistic or formal property transactions. He argues that at this stage the communal or common will has the form of the contract and is a mere agreement between particular individuals. He states:

> In contract [however] the parties still retain their particular wills; [and] contract therefore is not yet beyond the stage of arbitrariness, with the result that it remains at the mercy of wrong.[29]

For Hegel, the contract does not in fact found a community at all but is merely a formal union of still quite distinct, particular individuals. The contract remains somewhat external to the individuals involved and it is therefore a matter of mere choice whether or not they abide by its conditions. Because individuals cannot be assured that others will keep up their side of the bargain, there can be no trust and any social order so founded must crumble. All attempts to preserve the social order appear to be external to the individual's will and with no objective order which embodies his freedom there can be no legitimate punishment of wrongdoing. This situation corresponds to the "war of all against all" in Hobbesian state-of-nature accounts. It

is important to note, however, that in Hegel's account this state of war is not a merely natural state but springs from the contradiction involved when the free will has only a finite embodiment in property relations. Hegel contends that at this level of personality, when one determines one's freedom in property, one adopts the form of particularity and is brought into conflict with other particulars.* In itself, abstract right can only establish a rationalistic community based on mutual suspicion and under a rule of law.

In terms of the moral principle, however, the law is no longer external to the subject. Rather, the subject, turns inward because he cannot be satisfied by an objective order founded on merely legal principles. In this moral inwardness he knows a relation to a universal freedom which is more than a system of mere external arrangements, which is, in fact, a relation to a law he possesses within himself.

The moral will is reflected into itself and is aware of its freedom from all limitation. However, because it is free from limitation, it remains indeterminate, the abstract form of all willing. Therefore, according to Hegel, at the standpoint of morality, "subjectivity and objectivity are distinct from one another or united only by their mutual contradiction".[30]

This division of subject and object has two implications in Hegel's conception of the moral will. First, one's particular desires appear to be external to one's inner freedom and inward self-reflection. According to Hegel, this is the standpoint of the Kantian conception of morality as a battle against inclination. In contrast with the Kantian view, however, Hegel does not radically separate morality and immorality. Rather he states, "the general characteristics of morality and immorality alike rest on the subjectivity of the will."[31] Because the moral will is subject to no standard other than its own self-will, it may just as easily will its own merely personal interests or the universal good, the point being that there is no objective criterion to decide which is which.

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* For the logic of the contradiction which underlies the state of war see Hegel's Logic, Section 92.

It is apparent that the response of the society at large to the moral individual cannot itself be moral and, therefore, the second form which the division of subject and object takes in the moral will is between the individual and society. The subject can commit the most heinous crimes but as long as he holds that his intentions are good there is no moral basis for punishing him. Society's response can then be based only on merely pragmatic considerations such as public safety, for example. and no moral order can be actualized because the individual remains in a constant battle with the social order. Indeed for Hegel it is impossible to imagine a social order established on the basis of such a dichotomy.

The significance of civil society, indeed of the whole of ethical life including family and state, in Hegel's argument, is that it overcomes the externality of abstract right and the limitations of the merely subjective moral will. In civil society the moral will finds a realm which is its own work. The principle of civil society is the actual unification of the particular interest with the universal good and thus civil society both embodies and goes beyond the principle of morality as such. It is the objective embodiment of the protestant work ethic. According to Hegel, through work, the moral subject originates actual standards and objective relations and in developing these relations overcomes the abstractness of merely subjective standards of free action. In civil society one finds this freedom present and actual in the life of the community. Whereas the moral will as such is notoriously formalistic and destructive of communal life, as developed into an actual communal spirit it gains reality and fulfilment.

Hegel wishes to demonstrate that in the exercise of his own interests, the individual is necessarily dependent upon and implicated in the collective exercise of many other interests. A prime example of this is his analysis of the interdependence which develops in the system of need. According to Hegel, the fulfilment of the individual's personal desires involves him in willing a universal social order as the condition under which they can be realized. By contrast with the principles of abstract right and morality, therefore, civil society is a union of the subject's inward freedom and the objective social realm.

In other words civil society represents a transformation of abstract right by the concept of the moral will. The concept of private property is transformed, for example. No longer is private property merely an external embodiment of the will. Rather, it has become a means for the enactment of the demands of morality and it follows that private property can now be justified only so far as it furthers universal ends. Also crimes against person and property become all the more serious because they infringe not only upon the particular person but also upon the universal interest. In the working of the system of need, class, and especially corporations it is shown that there is an essential reciprocity between the interests of the universal and the personal interests of individuals. The moral subject can achieve his ends only in the civil realm which he creates; only through acting in accordance with the conventions of a specific determinate realm can he achieve his universal aims. It is also true, however, that the satisfaction of individual needs gives rise to a universal order. From one's immediate and particular work (e.g. that of the individual craftsman) one is drawn in civil society to recognize one's universality as actualized, i.e., to know it in custom and law. The merely moral subject remains a particular self-related will, severed from its own universality which is only present, subjectively, as an ought. In ethical institutions, in this case those of civil society, this "ought" becomes an "is".

## (3) Family as a Presupposition of Society

Hegel, further develops the presuppositions of civil society and addresses the question of mediation, which was raised above with regards to Locke's theory,* in his concepts of family life and love. In Hegel's account, the family is presupposed by all external natural and ethical relations. Though family members are related to each other by birth or in a merely natural

* See above pp. 15-16.

manner, in their everyday habits and customs they know an ethical mediation of differences. The family, therefore, is not a merely natural institution but is also an appropriate ethical beginning in that it shares the immediate starting point of abstract right (in that the subject is confronted with a natural limit which must be transformed) while at the same time providing an objective ethical institution which can be recognized as grounding the subject's moral freedom and as presupposed by such freedom.* It is presupposed by freedom, first, in an immediate or natural way. In infancy one is unable to look after oneself and therefore one's existence and welfare depends upon and is mediated by the concern of others. Also, many of the elements of full blown ethical life, which are present in the state, are already present in the family. For example, there is legitimate authority based on two criteria: (i) the dependency of the individual or child and (ii) the experience of the parents who have traversed the route which the child's development will take. Also, there is ethical education, taking the form of the parent's practical example, religious or ethical indoctrination, and economic activity in that, in the family, individuals are also related in terms of the satisfaction of need. Most importantly the very individuality of the family members is mediated by a relation to others, of child to parent, husband to wife, and sibling to sibling. Through their life together husband and wife become a unit, sharing all that they experience. Also as a child one's own self image is determined by one's relation to one's parents. One's conscience is determined by the moral strictures of the parents and one feels guilt when one contradicts the parent's rules.

As argued above, all mediation involves the negation and comprehension of the elements involved, and we see in the family, much self-sacrifice and the emergence of a primitive self-discipline. Husband and wife are disciplined in that they are required to be monogamous and for all family members incest is forbidden. It is thus the case that in family life the unlimited power of choice is strictly limited.

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* It is important to note in this context that for Hegel, human life is never merely natural. cf. Hegel's Logic, Section 24.

This effects a severe criticism of the liberal assumption that the free individuality upon which civil society rests is something given and unmediated as in state-of-nature accounts. In Hegel's account the individual freedom which is the foundation and justification of civil society and state is not merely given but rather has been mediated by interiorizing the culture and discipline of family life. The individual is ethically educated prior to his capacity for full self-conscious moral action, his will is disciplined by a concrete ethical institution equipped with force, authority, and legitimacy. Natural law and self-interest, the corner-stones of state-of-nature accounts, are comprehended by the family unit which includes not only selfish individuals but individuals devoted to others. In the family, therefore, the mediation of self and other, which can only be demanded from the moral standpoint, is already implicitly accomplished in the feeling of love which family members have for each other.

The family is, however, a limited form of ethical life because individuals cannot develop to their full potential so long as they remain dependent on their parents; and the purpose of the family is to develop the individuality of children to the point where they can leave their merely natural relations behind.* Children develop and leave their natural family in order to make a life for themselves, and ethical life in its immediate union of universal and particular ends is thus sundered into a situation where the individual defines himself in contra-distinction to the universal.** According to Hegel, the further development of individuality takes place in civil society, which he calls "ethical life in its stage of division" because in it the individual subordinates the universal good to his own private interests.[32] The family unit dissolves through the working of the principle of individual personality and in civil society individuals are treated not as loved family members but as independent persons related to each other

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* It is important to note that for Hegel the limit of the family is expressed in this contradiction, that the very individuality it develops leads to the dissolution of the family. Cf. The Philosophy of Right, Pars. 177 & 181.

** This division of universal and particular interests is presaged in teenage rebellion where children define themselves by contradicting their parents.

through self-interest and law.[33]

The presupposition of civil society is thus an individual whose desires and actions are already implicitly universal and the whole movement of civil society, in Hegel's argument, is the education of the individual from and through his isolated individuality to a recognition of a more universal perspective. Unlike the family where interests of the universal and particular interests of individual family members are united in an immediate natural unity, in the movement of civil society there is a development of individual freedom and ethical life such that objective institutions are seen to be products of the individual's will. Individuals are related to others by virtue of the choices they make, not because they are born into these relations as in the family.*

In civil society, however, there is never a full reciprocity between individual and society or between the subjective and the objective realms. The institutions of civil society appear to individuals as mere external authorities or conversely as means to the individuals personal satisfaction. The universal good and particular interests are united only in so far as the subject is subjugated to the universal or in so far as the universal is merely a means to the realization of the subject's wishes. In his reflection on civil society the individual knows that his individuality is dependent on the will of others. In making this interrelation an object for thought and in willing this inter-relation he gives it a rational form. According to Hegel, the state is this explicitly willed rational form of human inter-relation and its very institutions are established as the objective expression of this inter-relation of subjects, thus as a thorough union of subject and object.

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* It is also important, however, to keep in mind that the habits of cooperation and consideration developed in the family are also presupposed by civil society. This serves to stress Hegel's point that in civil society we do not begin from a standpoint of raw individuality.

# CHAPTER THREE
# HEGEL'S ANALYSIS OF CIVIL SOCIETY

According to Hegel an individual's particular acts are embodiments of his freedom, not simply of his personal freedom (freedom of choice or freedom from obstruction) but of a more universal freedom, mediated by consciousness of law and community. In developing its potentialities, Hegel contends, particularity passes over into universality and attains its right.[34] The process of civil society is thus an education of the particular individual from his own self-interest to a more universal ethical life, the development of the implicit universality of the moral will.[35] Through the course of this education, the individual is socialized and his talents, personality, and habits take on a social character.

Hegel's argument develops in two ways. On the one hand, he contends that through the interaction of self-interested individuals and the interplay of individual and social interests a "spontaneous" structuring of this inter-relation occurs. It follows therefore, that the structures of civil society are in fact, embodiments of the subject's free will. On the other hand, he argues that the structures which develop serve to discipline the particularity of the subject's interests so that they become universalized, and further rather than contradict the interests of the community.

## (1) The System of Needs

Contrary to Foster's claims, for Hegel, the individual with which we are concerned in civil society is not simply an isolated natural subject, bound to impulse, but is rather, a self-conscious subject related to his own appetites as a free member of a community. For Hegel, the subject's relation to desire and appetite is therefore not opposed to reason but is, in fact, determined by reason; and his needs are not satisfied through merely natural objects but

through the "artificial" products of human action. In the inter-relation with the needs of others, one's own needs become abstract as one multiplies one's needs and the means of achieving them in relation to others. Also, one sets up a hierarchy of needs in terms of ends and means; certain needs are no longer desired simply in themselves but in so far as they contribute to some further satisfaction. This establishes a system of needs which consists of rationalized social structures whose goal is the satisfaction of the needs of particular individuals. This multiplication of needs and means makes any single need into "one among many" and lessens its importance and immediacy.

In civil society humans give an explicitly rational form to their needs and desires. In the place of natural desires we create our own second nature, our appetites and consumption are not limited to the products of nature and, in fact, for the most part we consume the products of human work. Indeed our particular desires are often only means to more social desires such as the desire for status. Therefore it is terribly abstract to describe our appetites as given by nature. Human desires are, for the most part, produced through social interaction, likewise the objects of desire are produced by society and the value of these objects is determined by human labour.[36] In the system of needs both the objects desired and the means for achieving them are through and through the product of human activity. When we purchase a chair it is not the wood we want but wood formed for comfort and convenience, even beauty. For the most part we do not simply go back into the woods and cut down an oak tree, for example. We go to shopping malls and furniture stores, boutiques and antique-shops, we pay cash or use credit cards, and purchase covers and sprays to protect what we buy. Thus our desires and the means to their achievement cannot be described as merely "natural", they belong to a complex web of social and commercial interactions.* When one's needs are multiplied one

* Though certain needs remain given by nature they are drawn into the web of social interrelations. We still need food, for example, but implicit in each meal of beef are The General Agreement on Tariffs and Trade, various marketing boards, a host of government subsidies, not to mention the labour of farmers who may live thousands

is more dependent on others for one's satisfaction and the subject is thus somewhat liberated from the particularity of his will. The fact that in one's own work and self-interested activity one produces satisfaction for others makes reference to the needs of others essential to one's private conduct. Even one's desires are determined by the latest fashion and in the interest of status. According to Hegel, however, the intellect, as well as desire, is educated in the workplace. He contends that one encounters numerous situations and opinions in this realm and that the response to these complex relations generates new ideas and mental flexibility. Also one develops a practical attitude through work and, as Hegel argues, the end of practical education is the "habit ... of objective activity and universally recognized aptitudes".[37] One learns to be busy, to work in accordance with social standards, to get along with co-workers, basically to get things done. Over and against Foster's view, in Hegel's concept of civil society we are not dealing with individuals isolated by the particularity of their needs and brought together as a mere external collection of particulars. Rather we are concerned with members of a community whose actions serve universal, social interests.

As argued above, the presupposition of civil society, in Hegel's argument, is the free, moral subject and not the "creature of desire" as in Foster's state-of-nature account. It follows that in terms of this universal, moral subjectivity, it is merely an abstraction to speak of a radical distinction between the differing interests of individuals. The abstraction from the immediacy of need and the development of a system of need actualizes the moral subject's comprehension of his relation to nature; it is an objective expression of his liberation from the givenness of this relation. Thus for Hegel, the significance of civil society is that in it individuals find satisfaction only in relation to other free individuals, that human action is essentially moral and communal, or what he calls "ethical". He states:

> This relation of will to will is the true and proper ground in which freedom is existent.[38]

This implicit relation of will to will is, for Hegel, the foundation of the most basic socio-economic interaction in civil society, the "contract". Compared to the natural recognition present in the family, the contract is an abstract recognition in that individuals are brought together not in terms of love and for the purpose of their spiritual development but solely in terms of property relations. In civil society however, we are concerned not simply with the rights of individuals in their abstract particularity (as in the case of "legal rights") but of infinitely self-reflected subjects who know their identity with the universal interests of society and who implicitly will this identity.* The individual's purposes are thus social in character and the social or universal aspect of his purpose expresses itself as the desire to be like others, to emulate others and to be equal to them. The manner of performing an act gains in importance and one becomes concerned with others' opinions of oneself and one's work as opposed to their property relations as such.

In relation to the multiplication of needs and talents one comes to be recognized socially only in so far as one works in the satisfaction of one or another of these needs and in so far as one's special skill in this work meets social standards. This actuates a division of labour which enhances the objectivity of the system of need and deepens universal interdependence. Hegel states:

> ...by a dialectical advance subjective self-seeking turns into the mediation of the particular through the universal, with the result that each man in earning and producing and enjoying on his own account is eo ipso producing for the enjoyment of everyone else.[39]

The resulting objective, social organization is composed of two elements: (i) A universal or common possession of general resources and skilled labour and (ii) Class division.

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* Ethical life is not developed in its full universality as the true end of social life in civil society where it remains implicit and consists only in the melange of mutual dependencies and opportunities which the enterprising individual assumes.

"Common capital", general resources etc., is a simple enough concept. However we must explicate Hegel's concept of class division since this issue is notoriously controversial.

Hegel argues that individuals partake in universal institutions and common capital by means of their own skills and resources. These are not simply personal attributes and acquisitions, however, because one attains one's own resources only in relation to others, and further because what actually counts as skill is determined by what is valued in the community. For Hegel, the basis of the class system is that the individual be related to society by virtue of the particular skills and theoretical and practical education attained by himself and his family. In this system the individual attains his position in society in terms of the actual circumstances of his life and his ability to perform socially recognized work.

The conjunction of particular skill and the universal will (the social will of particular individuals) is determined as an objective conglomeration of individuals in terms of the work they do, i.e., class divisions. The development of such objective classes is a necessity , according to Hegel, but he argues that "the ways and means of sharing capital are left to each man's particular choice" and that the classes are the root which "connects self-seeking to the universal".[40]* The important aspect of class division is that, in it, there is a unity of the universal interest with the particular interest. The objective order upholds subjective particularity and conversely the universal is instantiated in the particular intentions of the subjective will. One satisfies one's particular desires by adapting oneself to the customs of one's class and to the skills required in civil society, and by cooperating with one's co-workers.

In the satisfaction of self-interest, therefore, individuals also give birth to an objective order which in turn educates them beyond their isolated self-interest and disciplines them in the needs of the community. One is recognized not as a merely private person but as a member of a class and in order to actualize one's purposes (which means to have them recognized) one must limit oneself to a particular trade, profession, or vocation. It is important to note,

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* My emphasis

however, that individuals are not simply bound to a particular class. Hegel argues that by contrast with Plato's argument in the Republic, where "the allotment of individuals to classes was left to the ruling class", in the modern world the class system which develops of necessity in civil society and the state is also brought about by the activity of the arbitrary will.[41] In Hegel's analysis, an individual chooses which class he will belong to in accordance with the skills and manners he develops. Further, the forms of communal life which develop in civil society are not meant to determine completely the individual's ethical life; for Hegel, community is founded on far more than need and economic relations. The class system is not to be valued in and of itself but rather as an appearance or prefiguration of the ethical life which is only fully developed in the state.

Hegel recognizes the limits of the class system and he argues that adjustment and correction are to be undertaken by the government. He states that classes are superseded by and undergo modification through the working of civil law, the administration of justice, the process of education, and religious instruction.[42] Therefore one's relation to society is not wholly determined by one's relation to one's class. One must keep in mind, however, that one's class and occupation imply a certain peculiar discipline and experience of life, a certain education.* For example, what one ought to do is determined relative to one's class and one's interests are mediated by one's class. Therefore contrary to Foster's argument, the individual can know what he ought to do without renouncing the economic will.** In fact the important point for Hegel is that civil society (the "economic realm" as Foster calls it) is a definite form

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* Hegel's term for this education is Bildung which has the broad connotation of ethical development of the individual's consciousness of the laws and customs which ground his communal life. This is not an education gained simply in school though it may be partly gained there. Rather for Hegel it is an education which one undergoes through communal interaction: through work, life experience, family, art and science, for example. At the level of civil society education occurs chiefly through work and the communal interactions tied to it.

** see p. 12 above.

of self-conscious ethical life. In the "education" which occurs in the system of needs, the activity of the subject is to develop the implicit customs of this realm in order that they may be known. This reflection upon custom is, in the first place, rectitude or knowing the attitudes and behaviour appropriate to one's class. The identity of particular and universal interests is relative in the class divisions, however, and individuals are more than merely class-beings. For example, they may move from one class to another. Further, individuals from different classes come into direct relation to each other, as the system of needs engenders an interdependence of class, and it becomes necessary to know the customs of many different classes if one is to work in civil society.

## (2) The Administration of Justice

In this interdependence of classes and in virtue of the freedom with which the individual may move among different classes, the person who receives this education in the system of needs is conscious of participating in an order which goes beyond the particular class to which he belongs. According to Hegel this "classlessness" is at the basis of the administration of justice: everyone is seen to be equal and one's rights are recognized, not in virtue of one's class, but in virtue of universal personhood. Right therefore, has universal validity (it belongs to everyone) and in law it is given determinate existence for consciousness.[43] From its division into individual persons and distinct classes, civil society reasserts its unity and universality through the system of law. Hegel states:

> In the administration of justice...civil society returns to its concept,to the unity of the implicit universal with the subjective particular....[44] *

* It is important to note that this unity is accomplished only at the expense of the personal interests of the individual.

This unity has primarily two manifestations.

First, the particular conventions and interconnections brought about by the necessary dynamic of the system of need are raised to the level of self-consciousness in the system of law. Custom is made into a system in which the subject recognizes his own universal reason. Second, because the universal law is determinate and actual in this sphere, the right of intention is given objective standards by which it can judge action. The universal is made objective for consciousness in positive law and is further determined by its application to the details of civil and family life.

It is evident from the first argument that contrary to Foster's contention, Hegel does not have a rationalist conception of civil law. Rather, in Hegel's conception, civil law is not some "abstract end-in-itself" but arises from the particular customs and appetites of a people. Hegel sees law as produced in the actual life of a people such that it cannot possibly be deduced a priori as Foster suggests.* In the system of law, the subject knows a reason that is actual and determinate in the community and the social relations, which remain implicit in mere customs, now assume an explicit and independent reality which stands over and against the individual's merely particular interests.

From the second argument it is evident that whereas, from the moral standpoint, intention is merely subjective, in the administration of justice, because the laws are publicized and social custom and manners are recognized, intention is subject to objective standards. The limit or formality of moral intention consists in the fact that it cannot distinguish truth from error; that it cannot determine whether its act is the product of a universal will for the good or merely the product of its own self-interest. In a society whose customs have been raised to the objectivity of positive law, insight has the objective right to insight into what is recognized as right.[45] By contrast with Foster's portrayal, it is essential to Hegel's argument

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* Also Foster treats Hegel's concept of the state as a mere logical deduction. For a discussion of the misconception involved in this view see Chapter Five.

that civil law is willed and actualized by the self-conscious subject. In fact, for Hegel, the authority of the system of justice lies in the recognition by individuals that their personal interests can be realized only in a universal order.

Further, in the system of law, particular crimes take on a universal and objective aspect. According to Hegel the law is self-subsistent and objective; it is universally known and recognized as legitimate; and it is applicable to particular individuals and circumstances.[46] Also in our consideration of the system of law we are no longer dealing, as in abstract right, with isolated individuals but with members of an objective, social whole. Therefore, when one infringes upon the rights of a particular party one also infringes upon the rights of the whole society and we are concerned not simply with the particular individuals involved in the crime but with the universal interest of society which is injured in the breach of law. In civil society, therefore, retribution is no longer a matter of individual revenge, or of mere feeling and particularity, as it is in a purely abstract concept of right. Rather, punishment is enacted on the basis of the self-conscious application of universally recognized statutes and it thus has a universal form. Moreover, Hegel argues that because law is positive and individuals have been educated to objective social standards, the intentions of an agent can be determined by any educated person. He states that the agent can have faith in the judgment of his peers (in trial by jury) because of "the similarity between them in respect of their particularity, that is, their social position, etc".[47]

For Hegel the purpose of punishment is to purge the criminal of his abstraction or alienation from concrete ethical life and to return him to a proper relation to the community. On the subjective side the criminal, so far as he recognizes the wrongness of his crime, regains his rightful place in the community and on the objective side, the universal system of law is determined as comprehensive of particular breaches which are shown to be mere nullities. The so called rights which persons have in their isolation from one another, as in state-of-nature

accounts, are shown by Hegel to be untenable because they are mere abstractions.* In the administration of justice, concrete institutions are established which assert the concept of right over and against individuals in their isolation from each other.

There are, however, two significant limitations to the administration of justice. First, it remains in a certain sense only a relative unification of universal and particular interests because, though it brings all individuals under the rule of law, it tends somewhat to defend the individual's universal interests as against his merely personal interests. For example, one may need shoes but law, strictly speaking, will not provide you with the means for obtaining shoes. Second, because the actuality of the union of universal and particular ends occurs only in single cases of infringement of the law, justice is not a thoroughgoing unity of universal and particular rights. Again if one needs shoes the law will only be involved if one attempts to steal them or if someone unduly hinders one's attempts to obtain them. It is apparent that contrary to Foster's view, the universal which Hegel argues is unconscious in civil society cannot be civil law. Hegel explicitly demonstrates the limits of civil law and shows why the movement of civil society is towards a more concrete universal, towards an education of the individual such that he recognizes in a more explicit form that the will of the courts is his own will. For Hegel, that the subject recognize the courts as a determination of his own freedom presupposes the existence of the state.

## (3) Public Authority and Corporation

It is the demand of the subject that his concrete freedom, the unity of his universal and particular ends, be actualized in a stable and continuous manner. This unity is extended throughout the realm of civil society through two institutions: the public authority and the

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* See P.R., Pars. 102, 102-A, and 220, for Hegel's concept of revenge.

corporation.

According to Hegel, the purpose of the public authority is to be a middle term between the individual and the common goods and opportunities which society affords. One of the duties of the public authority is to maintain the common capital and general utilities.[48] Also the public authority is concerned with quality control and price fixing of essential services and goods. Hegel argues that "goods in absolutely daily demand are offered not so much to an individual as such but rather to a universal purchaser, the public."[49] The public authority insures that the public is not defrauded or taken advantage of by particular interests. However even lawful actions may interfere with the freedom of others and Hegel contends that the public authority also attempts to remove accidental hindrances to the rights of the individual and the public.[50]

Further the public authority is responsible for the management of the dispossessed classes, to ensure that the disparities of the system of needs do not infringe the universal right to partake in the common good. For Hegel, with the extravagance of the free market there is necessarily an impoverishment of those who for reasons of luck or ability cannot partake fully in the market. As members of civil society, they are encouraged to actualize themselves through work yet they are prevented from this by the very system which encourages the desire.[51] Because the dispossessed cannot fully partake in the benefits and opportunities of civil society, they feel this limitation as a resentment of those who have more and whose disproportionate wealth is one cause of their poverty.[52] In this contradiction, the members of the dispossessed classes are left out of society as a whole and do not find their freedom in its laws and customs, which appear merely to instantiate the aforementioned contradiction. Hegel argues that the public authority attempts to prevent vice from breeding among this class and to secure the welfare of its members.[53]

The individual's isolation or alienation from society is no longer considered as rooted solely in the individual's will nor can it be explained as a problem of the individual will.

Alienation becomes a class problem and when a class as a whole is prevented from fully enjoying the benefits of society, its individual members can find recognition only so far as they are themselves alienated from society and act on the basis of this alienation.* Only if one's class is liberated from opposition to the whole can an individual be liberated to the classless standpoint of justice and to participation in the broader interests of the whole society. Likewise justice can attain true universality only when class prejudices can be overcome.

In its relations to business, to the dispossessed class, and to individuals, the public authority protects individual interests only so far as they have a relation to the common good, so far as they are related to the universal community of civil society. The public authority has as its purpose the actualization of the universal contained within the particularities of civil society. In this actualization, however, the universal ends of society are determined in a merely external organization whose activity is mostly the prevention of hindrances to particular satisfaction. On the one hand, the public authority mediates between the various individual ends in order to maintain their harmony, though still only in the interest of individuals. On the other hand, individuals will their own personal ends and the common end primarily as a means to these ends.

In order to overcome the limits of the public authority, where the common good remains in a somewhat external relation to individual interest, the common good must be given a more objective form. The most objective form which a common good generated from self interest can take, according to Hegel, is actualized in the corporation. In the corporation, Hegel argues, the relation of the particular worker to the universal organization is mediated by his particular skill. The purpose of the individual's activity and of the activity of the corporation, however, is one and the same, that is, the satisfaction of the individual, though at this stage as a collective enterprise. In this way the purpose of the corporation is thoroughly concrete and a reciprocity

* In its extreme the "solidarity of the dispossessed" promotes crime. If one's peers and family are criminals the likelihood that one will also be a criminal is high.

is established between a universal good and the particular interests of individuals; only so far the individual cooperates with others and adheres to the conventions of the workplace can he find his satisfaction, and only through the efforts of particular individuals, in the satisfaction of their needs, can such a system and education be developed.[54] In the corporation it is not simply the case that the particular subject must will a universal good which is still imposed in a somewhat external manner; rather the corporation is a universal institutional will which more directly engages the particular interests of its members. Though the corporation is exacting in its discipline, educating its members to requisite levels of skill and habit, it also protects its members. Hegel argues that the corporation restricts unlimited earnings, rationalizes the form of charity, and actualizes the right to welfare of its members.[55]

The corporation is the most concrete institution of civil society. In the system of needs for example, one accomplishes one's own welfare and only subsequently, by compulsion, contributes to the satisfaction of the welfare of others. In the corporation one wills the satisfaction of others as well as oneself, and recognizes that one's particular satisfaction is the product and end not only of one's own will, but also of the will of others. Under the system of justice the standards which must be respected in the relation to these others has been determined but in the corporation the moments of civil society, of right and welfare, are united.[56] Further, the union of particular interests and universal interests is more concrete in the corporation than in the system of justice. Here, it is not simply a matter of an application of the universal to the particular or a merely relational union. Rather, for Hegel, the true union of the subjective and the objective will is implicit in the corporation.

It is plain from the preceding account that it is quite problematic to argue that Hegel sees civil society as an economic realm in the sense of a realm of activity restricted exclusively to the satisfaction of material desires. Rather, for Hegel, civil society is an education of the particular will to a consciousness of its universal ground. The universality of the moral will is developed in concrete institutions and relations and is rid of its abstractness.

Also, given that civil law is but a moment in the development of civil society, it is difficult to credit the view that it is only if one renounces the economic will and (qua rationalist) wills the civil law as an end in itself that one is transformed into an ethical agent. Hegel argues that the corporation is a more concrete ethical institution than the court of law and, far from requiring that the subject renounce the "economic will", the corporation actualizes the subject's right to welfare, to a livelihood.

Consequently, for Hegel, the economic relations of civil society are essentially ethical, they develop the subject's objective duties and overcome abstract moral reflection. The unconscious movement of civil society is to develop universal and free relations among humans who recognize and respect each other, who share customs, laws and history. It is a dialectical development, where the individual, originally unconscious of the necessity of sublating his particularity and relating to others as equal to himself and necessary to his freedom, is raised to a consciousness of this his universality. By contrast with Foster's analysis of the Philosophy of Right, Hegel's actual conception of civil society does not accept the division of ethical and economic life. The whole gist of his argument is that objective social institutions are the embodiments of the moral will, that morality is not an abstract system of precepts but rather a living system of freedom which exists only in the actions of real human communities.

# CHAPTER FOUR
# FOSTER'S CRITIQUE OF THE HEGELIAN STATE

Foster argues that there can be a transition from civil society to the state only if Hegel accepts the Platonic notion of a "philosopher-king". The transition to civil society can be made, he contends, only if Hegel establishes a class division between those who know the idea of the state (its eternal core) and who thus consciously will the universal, and those who will only particular ends and who thus cannot know the true idea of the state. Those who will the universal, Foster says, partake in what Hegel calls ethical life (Sittlichkeit) and it is their task to in-form those who are merely caught up in their particular interests. This in-formation is the act by which the class of philosopher-kings rules over its subjects. Philosopher-kings impose on the subjects an intelligible form which the subjects do not have and which they are incapable of giving to themselves. It is thus the activity of ruling which will distinguish the state from civil society, which will necessitate the existence of a realm of greater universality than that of civil society, and a class of rulers which presides over a class which is ruled.

Moreover, Foster attempts to show the basis of what he believes to be Hegel's totalitarian tendencies. He argues that Hegel's concepts of the ideal state and of history do not allow for any real activity of the human will and that in subjugating historical time to eternity, and the real (historical) state to its eternal core, Hegel denies that which is essential to freedom; that there is a contingency in the realm of human activity which enables the will to act subject to no necessity. The implication of this argument is that the heart of Hegel's concept of practical spirit is the subjugation of individual freedom to the authority of the state.

This rejection of an eternal rational order of political life has become a corner-stone of liberal thought. Communities it is argued, are ordered by consent, law, and tradition, each of which arises in the contingent self-enactments of individuals and is not to be considered a

necessary development. From this standpoint, substantive freedom beyond the contingent acts of individuals is a mere idea to which idealists attempt to force facts to conform. For Foster, humans are free, not in conformity to any objective ideal nor in so far as they realize any supposed rational or real self. The notion of an eternal, objective political order which is beyond the individual and to which he must conform, will thus appear to Foster as an authoritarian subjugation of the individual's will.

Foster's argument, however, depends upon a misrepresentation of Hegel's thought. He foists his own dichotomies of eternal and temporal, will and reason, individual and state, upon Hegel's argument. In this chapter I will summarize Foster's argument that Hegel cannot develop a concept of the free will because his doctrine of the state rests on a platonic metaphysics which subjugates time to eternity, the "real" state to an "ideal" state, and the citizen to the ruler. Later, in Chapters Five and Six, I hope to show that Foster's argument misrepresents Hegel's political philosophy because it fails to consider the dialectical nature of such terms as "the cunning of reason", "passion", "ideal and real", "Bildung", and "government".

## (1) Hegel's "Platonism"

Foster contends that Hegel's philosophy is limited in that it fails to transcend fully the platonic metaphysics. In Foster's view, Hegel is thus led to an acceptance of the platonic division of the state into classes which differentiate ruler and ruled.

For platonists, the state is a "timeless process" which is not manifested in any actual entity.* The elements or stages of the state have a mere logical relation, that is to say, they exist

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* Foster doesn't bother to discuss the obvious difficulty of a concept of a timeless process, that is, how there is process or movement without time, because he believes this concept to be merely a spurious idea, something merely conjured in thought.

in no real relation.[57] For example, Foster contends that in Hegel's account "abstract right" and "civil society" are mere idealizations and refer to no city or state that ever existed. Conceived as a timeless process, the state is thought to be realized or completed logically prior to time.

Foster contrasts Hegel's view of the state to that of Hobbes and argues that whereas Hobbes views the state as the artificial product of a sovereign, Hegel, because he views the state as logically realized and therefore timeless, " reverts to the Greek doctrine that the state is natural...."[58] When Foster argues that Hegel conceives the state as natural he means little more by it than he does by timeless; he simply wishes to assert that in Hegel's view the state is neither made nor created. Foster states, however, that Hegel introduces two significant modifications of the Greek view, the concepts of "organism" and "evolution".

To construe Hegel's conception of the state as organic is to say that the life of the state consists in the domination of the whole over the action of its members. In an organism, Foster states, the essence of each of the members is relative to the whole and it is only in performing its proper function that the organ can realize its own perfection.[59] Though Foster does not clearly state how this view marks a development on platonic theory, he implies that whereas platonists see the ruler as dominating the subjects, in Hegel's conception of the state no single element has absolute dominion. Foster states:

> No single power in the state is the source of sovereignty any more than the health of a body is a function of a single organ within it.[60]

The second modification of the platonic conception of the state as a natural unity which Foster attributes to Hegel is the notion of natural development or evolution. For Hegel not only is the state timeless and logically realized, it is the end of an historical teleological process.*

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* Thus for Foster the terms "natural", "organic", "timeless", "teleological", "evolution", and "realized" are not used in a particularly technical manner. Rather they are an attempt by Foster to distinguish what he sees to be the "determinism" of Hegel's idealist concept of history from his own theory of "real" history. They point to what Foster sees to be the lack in Hegel's theory of a proper concept of the free will.

In Foster's usage, teleology has two implications: (i) development towards an end and (ii) that individuals are means to this end. For Foster, in its teleological conception, the end of the state is permanently realized and therefore the state cannot be seen as the product of human purposes. Further, because human activity contributes to the operation and development of a state which they do not consciously will, humans are merely the "unconscious tools of its achievement."[61] He states that in Hegel's view:

> To be used thus by the World Spirit as a means to its end is what constitutes the historical importance of a people or an event and the greatness of an individual.[62]

According to Foster, Hegel's philosophy of history is thus not about real history but rather, is about a mere logical development. The implication of Foster's view is that Hegel treats his own subjective idea of the state as essential and treats what is actually essential, the specific, historical epochs and events, as mere appearance.

What is significant to note at this point is that for Foster, Hegel's "metaphysical" account of the state leaves no room for the activity of the human will. Foster argues that, while in Hegel's view human "reason" can be satisfied in the act of comprehending the intelligible essence of state and history, and "desire" can be satisfied in their accidents, there is no realm for the satisfaction of the "will".[63]

## (2) Ruler and Ruled

As noted earlier, Foster contends that, for Hegel, one attains ethical life only by renouncing desire and by willing the universal and that Hegel therefore distinguishes between those who partake in ethical life (and comprehend the universal) and those who partake in the realm of desire and who thus do not participate in ethical life but only in the "economic" realm. Foster argues that the platonic metaphysical division of form and matter is thus embodied in

the class structure of Hegel's state in a division between the ethical realm of the state proper and the economic realm of civil society.[64]

Foster finds suggestions of this platonic division in Hegel's account of the regulative bodies of civil society. For example, the public authority must maintain the general order of society, regulate excesses in the economy, insure the quality of goods, and make provisions for the poor.* He states that the enforcement of order and the maintenance of social standards requires on the part of those who enforce and maintain them that they must understand the law and will it, while it is further required that those upon whom the law is enforced neither understand nor will it.[65] Foster asserts that the same is likewise true of the corporation, that corporate control of economic law demands understanding only on the part of those in an executive capacity.

This implicit basis of class division along the lines of ruler and ruled becomes explicit, Foster claims, in Hegel's distinction between a "universal class" of civil servants and a class which merely wills the particular. Foster states:

> If this universal class exercised only the ethical will by which the subject accepts the law, its discrimination would necessitate no transition from society to State. But when Hegel proceeds...to endow it ...with the function of regulating the order of society he is ascribing to it an activity which can be exercised only in the state.[66]

Thus he argues, that the relation of those who have renounced the economic will to those engaged in economic activity will be a relation of a governing class to a subject class.[67] This means that in Hegel's account, the whole of civil society is maintained as a subject class in the state, and its members, while they will be able to satisfy the economic will, will not be able to satisfy the ethical will.[68] Foster contends that in Hegel's argument, ethical life, though not

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* See above pp. 36-37.

available to the citizens of the state, is available to its rulers. He argues further that a realm of ethical life over and above civil society (i.e., the state) is necessary only if one introduces this spurious class division of ruler and ruled.[69] He asserts that Hegel's concept of Bildung or education, society's discipline and socialization of the individual's particular will, can only be understood as based on the platonic division of classes. He argues that in Hegel's account it is demanded of the educators or rulers that they know the universal and that they impress it upon their subjects. For Foster, it follows that the relation of ruler to subject is analogous to the relation of a craftsman to simple matter in that both ruler and craftsman bring universal and intelligible form to that which is formless and particular.[70]

Foster contrasts this division of the state into ruler and ruled with the Hobbesian account of the state which, he argues, maintains the subject's freedom. Hobbes' contention that there is a state of nature in which men exist prior to the state implies that the subjects have "form" prior to the imposition of law by the state. Foster contends that this is significant because it means that individuals are not mere matter awaiting the form which the state gives them, but rather are complete in their isolation from society.[71]

According to Foster, Hobbes' doctrine of the state of nature also implies that the human will is not constrained by reason. Again he contrasts Hegel and Hobbes. He argues that, in Hegel's view, that the state is a timeless product of a logical development implies that any activity of the will upon the laws or constitution of the state is mere perversity.[72] In Hobbes' view, however, the state does not develop from some timeless idea but is rather the creation of the human will. Foster states, that in Hobbes view:

> [The state] was created by an act of will at the contract and is sustained in being at each succeeding moment by exercise of a will itself similarly creative: the sovereign will.[73] *

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* According to Foster it is the will of the people in the contract that is actually sovereign.

According to Foster, the empiricist concept of positive law stems from the view that law is the product of a sovereign will, and contradicts Hegel's view that any act of will upon the law is perverse. In the empiricist conception, it is the will of the sovereign which makes law obligatory. In Foster's view, it is thus will and not reason which determines law and, in fact, it is precisely in so far as the essence of law is opaque to reason that law is positive. The empiricist conception of positive law has two further characteristics. First, on this view, law is made an object for the subject and the enactment of law presupposes that the subject understands it. Second, law is thought to be general or abstract and can never comprehend the particular details of its own fulfilment. Foster argues that the fulfilment of law, therefore, requires an act of will on the part of the subject and that the subject is free in so far as his will is determined by nothing but himself. That which is specifically imperative in a command cannot be the object of reason or desire because only that which "is" can be such an object and the essence of the imperative is that it must be enacted; that it "is" not but "ought" to be.[74]

According to Foster, Hegel does not have a true concept of the sovereign will or of a state whose unity is the product of its own will.[75] Whereas the Hobbesian view sees the government as subject to the sovereignty of the people's will, Hegel, in subordinating will to reason, subordinates the people to a ruler. Foster asserts that because Hegel does not have an adequate account of sovereignty, he is unable to conceive law as the product of will and as necessarily positive.

## (3) Institutions and Patriotism

Foster argues that a close consideration of Hegel's conception of parliamentary institutions reveals that Hegel's concept of government allows no political freedom for the citizens of the state. He contends, that, for Hegel, parliamentary institutions serve two

functions: (i) they allow for the expression of public opinion (thus for the satisfaction of the particular and arbitrary will of individuals); and (ii) they enlighten the subject as to the necessary grounds for government decisions.[76] Foster argues, however, that in Hegel's account, public opinion contributes nothing to the subject's freedom and parliament is, in fact, unable to demonstrate to the citizen the underlying reason for the actions of the state. He maintains that the first of these functions is rendered useless by Hegel's own argument and that the second is rendered impossible.

According to Foster, the expression of public opinion does not advance the ethical freedom of the subject because, though the primary significance of parliamentary institutions is to permit the expression of public opinion, public opinion is itself justified only in so far as it has no effect on the state.[77] In Foster's view, Hegel cannot allow public opinion to have any effect upon government because he sees government to be the ethical activity of a select few and argues that the mass of people are capable of economic activity only.

Foster is equally critical of the second function of these institutions, and states that Hegel's account of this function renders his concept of parliament contradictory. Foster argues that on the one hand, Hegel states that by demonstrating the necessary grounds of government decisions, parliament both satisfies the requirement that the subject be conscious of the law and arouses in the subject the virtue of patriotism. But, Foster contends, on the other hand, Hegel states that parliament is incapable of providing insight into the logically necessary principles which govern the state because the decisions of the state serve the temporal interests of the state and are subject only to "historical" justification.[78] According to Foster, in Hegel's view the contingent, everyday decisions and judgments of the historical state are finite matters which cannot be determined by the concept of the state.

For Foster, that the subject cannot, in principle, become acquainted with the underlying reason of the state is further evidence that he does not attain ethical freedom. Foster contends

that in Hegel's political thought the subject is related to the state in virtue of patriotic sentiment and not self-conscious freedom. He states:

> Patriotism begins where, upon Hegel's doctrine, the possibility of derivation from the concept ceases and where law becomes positive in the proper sense of the word.[79]

For Foster, patriotism is thus simply the acceptance of the positive historical regulations of the state and it is only by the apparent subterfuge of identifying patriotism with the ethical will (which knows and wills universal laws) that Hegel can claim that subjective freedom is maintained in the state.

On Foster's account, therefore, Hegel contradicts himself in that he argues both that there is no supra-temporal standard by which the subject may judge the state and that nonetheless the state is to be deduced from its a priori concept. For Foster, this contradiction can be rendered intelligible only if Hegel accepts the platonic class division and concept of the philosopher-king. If the citizen cannot know the true form of the state, it must be imposed on him by a ruler who can know the truth; he must be "educated" and "in-formed" by a philosopher-king. Foster states:

> ...there is only one ground upon which access to this standard of judgment can be denied to the subject himself: namely that he is incapable of the exercise of philosophical reason and is therefore inferior to those who are capable of it.[80]

He argues however, that Hegel denies the validity of the concept of a philosopher-king in order to maintain the ethical freedom of the subject. But, says Foster, if one asserts the freedom of the citizen and denies the validity of the concept of the philosopher-king, one must also deny the concept of

"in-formation" and the concept of an "ideal" state. Foster argues that Hegel's insistence that the subject is free contradicts the spurious metaphysics which he has conjured and thus

leaves his philosophy without an object.* Therefore in Foster's view, Hegel's political theory is just that: a mere theory which does not conform to the facts, that is, which does not conform to the real, temporal and contingent existence of individuals and states. As mere theory, Foster argues, "metaphysical" philosophy, in particular the Philosophy of Right, is helpful to neither statesman nor citizen. And he states:

> That it should be so very useless awakens the first suspicions of its superiority.... And hard upon the heels of that suspicion will follow the conviction that the whole ...metaphysical deduction must miss its true nature....[81] **

Foster's criticism thus aims at the central thesis of Hegel's thought, for if individual freedom can be asserted only at the expense of Hegel's theory of the state, then Hegel's argument that the free will is the basis of his concept of the state will be called into question. The thrust of Foster's argument is that Hegel's political idealism cannot account for the actual freedom of individuals, and is, therefore, rightly shipwrecked on the coral reef of liberal realism.

* For Foster, it follows that if real historical objects cannot be the objects of philosophical thought and there is no such thing as a "metaphysical" object, then philosophy has no object whatsoever.

** In place of metaphysical reason, Foster puts forth his own "metaphorical-historical" view which he believes is implied in Hegel's thought. See p 8 above.

# CHAPTER FIVE
# CRITICISM OF FOSTER'S ANALYSIS I:
# HEGEL'S CONCEPTION OF THE IDEAL AND THE REAL

## (1) The Eternity of the State

In Foster's account the implication of Hegel's theory of the state is that the citizen is dominated not only by the ruling class but also by the process of world history. On the one hand, the citizen is informed by the ruler and on the other hand he is merely a means to the end of world history.

Foster's argument hinges on his characterization of Hegel's metaphysics and philosophy of history as platonic. He argues that Hegel's thought subordinates the temporal realm to some spurious concept of an eternal, timeless idea. Further, he maintains that the Hegelian state, because a timeless natural unity, is the product of no conscious human purpose. In contrast to Foster's view, I argue not only that the Hegelian state is not timeless but also that it is very much the product of human self-conscious purposes.

Contrary to Foster's account, in Hegel's argument, the "eternity" of the state lies not in some timeless other-worldly realm, but in the fact that it is a product of the infinitely free will. For Hegel, natural objects, as finite, are in a constant state of alteration because of the contradiction between self and other.* The free will as self-referential being is not in principle subject to this alteration because it contains natural form as sublated and is thus a unity of self and other.** The activity of the will is precisely to give itself embodiment, to transform the other into a determination of itself. Therefore the character of the will, for Hegel, is that it is the true

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* Again see Hegel's Logic, Section 92.

** As argued above (p. 19) to define the free will solely in terms of property involves a contradiction which implies a war of all against all.

infinite which contains all finitude, difference, and limitation within itself.[82] For Hegel, freedom, because infinite, implies the sublation of time.

Hegel's political philosophy presupposes the development of the concept of the free will in his psychology and the movement of his political thought is to show how the state is the product of this will. The minimum presupposition of Hegel's political thought is the free will in its most abstract form, that is, in its relation to external natural objects and other individuals who are "conscious of their own particularity and diversity."[83] From this starting point the action of the will is to overcome the difference between itself and its other, to make the other its own, and thereby to embody itself in its other. The free will determines itself in the actual world by transforming what is the "merely given" in accordance with its concept. The will's self-reflected and self-determined activity is thus in principle eternal, but not in the sense of an abstraction from the finite world. Rather its activity is self-determination in the finite and real world. According to Hegel the practical development of the free will is an historical process; the successive transformation and appropriation of the otherness of the objective realm by the subjective will. History therefore, is nothing other than the self-development of the free will. How then, can Foster find in Hegel's political thought a state which is the result of no conscious purpose and a process of world history which uses individuals as its tools and instruments? Foster's misunderstanding of Hegel's view of history centres around his concept of the "cunning of reason". Hegel states:

> It is what we may call the cunning of reason that it sets the passions to work in its service....[84]

He uses the phrase the "cunning of reason" as a metaphor for the implicit realization of spirit in the immediate or natural form of the human will, that is, for the will's unconscious impulse towards freedom.* Even in one's most personal and particular desires one is free,

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* It is important note that the term "passion" in this context is used in a far more inclusive sense than is normally the case. It refers to the broad scope of man's particular interests, character, desires, wants, talents, idiosyncrasies, etc.

according to Hegel. One's actions show a command of nature and overcome one's individuality by bringing one into a relation to others; that is, they have a universal significance. The universal significance of an action, Hegel argues, is its implicit principle. Initially the means of realizing this principle appear as something external to the universal, as mere particular acts, as the purely subjective interests of individuals. Hegel argues, however, that passions, in the process of their own self-fulfilment, create a universal order of society and that this social order in turn, is given power over the passions.

It becomes evident in history, Hegel contends, that the passions are thus not opposed to the universal ethical order but are the means by which it is achieved. Foster's point, that individuals are merely instruments in so far as they are not conscious of the ends they serve, would seem correct. The chief element which Foster neglects however, is the dialectical element. In Hegel's argument, both passion and principle are mere abstractions from concrete human existence; humans are self-conscious intelligent beings and their reactions are interwoven with universal elements, with the good and with welfare.[85] The content of passion by its very nature is of universal significance and is not, as Foster assumes, radically opposed to the good.[86]

Further, the process of history, which originates in a subject unconscious of his freedom, is precisely a development of that freedom from its implicit expression in impulse and desire to its self-conscious actuality in the state. In terms of world history, Christianity represents, for Hegel, a liberation from the unconsciousness of this process in the human recognition that it is realized in "the fullness of time" and that the end of its development is free, self-conscious spirituality. From the origin of Christianity onwards human beings are aware of the goal of spirit and the process of history becomes a self-conscious, self-development.[87]* Once humans

[118] It is important to note however, that the consciousness of freedom is not always fully explicit or perfect. Rather for Hegel what is accomplished and realized in one age becomes the assumption of the next age, who in the act of appropriating this starting point develop a new principle of spirit. While conscious of the principles of past ages one cannot be fully conscious of the principle of one's own age or of the age to come. For Hegel the movement of each epoch is towards the development and consciousness of its own principle.

become in some measure conscious of their own freedom, they can no longer be described merely as unconscious tools. For Hegel, humans are ends in themselves, who consciously will and actualize their own freedom. He states:

> Not only do they in the very act of realizing [freedom] make it the occasion of satisfying personal desires whose purport is diverse from that aim -- but they share in that ideal aim itself....[88]

Man's ethical life has its principle in freedom, Hegel argues, and is elevated above all necessity and chance, beyond all contingency and temporality.[89] Therefore, for Hegel, human beings are both "in time" and in a sense "beyond time". He argues that time is a limited form of history, the mere succession of epochs ad infinitum. He calls this the spurious or negative infinite, an interminable alteration between one epoch and the next; a "time-1" which always becomes a "time-2".

Therefore, considered solely in terms of its merely temporal movement, spirit appears as incomplete and finite. However, according to Hegel, the actual process of history is to comprehend this limit. He states that time is, in fact, the necessity which compels spirit to manifest its inherent principle, that is to give embodiment to the free will.[90] For Hegel, therefore, history is the expression of spirit in time, the labour of transforming time in its apparent difference from spirit, into an expression of spirit or, in other words, the development of the ideality of the real.[91]

## (2) The State as Essence and Existence

In contrast to Foster's criticisms, I have argued that the state is eternal not in a merely metaphysical sense but because it is the product of the free will. Further I have argued that because the state is the embodiment of the free will, the individual cannot be viewed as the "tool" of history. In fact, for Hegel, it is the state and not the individual which is the true subject

of history. So we must consider how it is that Foster maintains that the true Hegelian state is an ideal essence which is not involved in the actual, finite, changing realm of history.

Foster argues that in Hegel's account reason can discern an intelligible core of history. He argues that for Hegel, this ideal core is related to the merely historical as essence to appearance. He states:

> This core is the total system of universal determinations which can be developed out of the concept by the dialectic of reason; it is what Hegel calls the "idea" of the state, and is the proper object of a Philosophy of Right.[92]

Foster contends that this core is related to the world of historical appearance as intelligible nature to sensible nature and as form is to matter.[93] According to Foster, form is the principle which constitutes not only the uniqueness of an object but also the identity of the object with others of the same kind. He states that the form of a table for example is not only identical in all tables but is the principle of unity in each. No object is possible except as a unity of form and matter and of these things the form is the universal and intelligible and matter is the particular and sensible.[94]

But the core of Hegel's argument is that the ideal state is not the simple essence of the state. He contends that when we distinguish between the essence of the state and its appearance we are considering the state in its reality as a particular nation bound by space and time. Within this reality, he argues, the distinction between essence and appearance is actually a distinction between the underlying consciousness of freedom and the actually existing state as the object and embodiment of this spirit. As Hegel argues, the "universal spirit is essentially present as human consciousness."[95] * Moreover, Hegel argues that this universal has its phenomenal

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[127] According to Hegel spirit is immediately present to consciousness in the form of the object of religion.

reality in the state and, in contrast to Foster's caricature, he states:

> In the case of the spirit or concrete concept, however, the phenomenon itself is the essential.... The phenomenal aspect of spirit is its self determination, which is the element of its concrete nature: the spirit which does not determine itself is an abstraction of the understanding.[96]

For Hegel, in the case of spirit, "essence is existence" and "existence is essence". Spiritual activity is self-determining and its freedom consists precisely in transforming what confronts it as mere externality into its own embodiment. What Hegel calls the "concept" is the unity of self and other, of essence and appearance. The state thus sublates the subjective will which is its source and in fact, is nothing other than its concrete existence. There is thus an essential reciprocity between the state and the individual's consciousness of his freedom. The objectivity of the state is the individual's objectivity and conversely the individual's consciousness of his freedom is the state's own subjective life. The objective realm of spiritual existence or freedom is thus the state and its motivating principle is the subjective will. Subjectivity stands outside the state only in the mind of the commentator or so far as the subject consciously abstracts himself from its laws and customs, and it is thus only in abstraction from the actual state that a distinction of subjective essence and objective appearance can be maintained.

## (3) The Real and the Ideal State

Hegel's account of the relation of the "ideal" state to the "real" state is vastly different than the one which Foster ascribes to him. A careful analysis reveals that, in Hegel's view, the ideal state is not to be radically separated from either the real state or the free will. According to Hegel, the ideal state develops out of the activity of the real state and is not some eternal "idea" or essence in which the real state but feebly participates. Hegel contends that the development of the ideal state is the development of the nation's own thought, that is, its

movement from a primitive or merely natural awareness to a thinking culture. Correlative to this development is the emergence of a free self-conscious life among its citizens; and it is in the self-consciousness of its citizens that the nation's spirit or ideal side is actualized. On this view, the very essence of a nation's spirit is the activity whereby it realizes its potentiality and makes itself its own deed, its own work. In more concrete terms, a nation's spiritual act is the process whereby it develops itself from its largely restricted and merely national reality to its free ideality, to an actual "idea" of itself, articulated in its art, religion and philosophy. The ideal state is the result of an actual historical development through which a definite cultural and intellectual idea of the state has been accomplished. Through this process the universal interests of the citizens of a state become objective for them.[97] According to Hegel, it is within the state that the individual's powers of reflection are developed. He sees this as the development of the state's own self-reflection. Individuals have a measure of independence in the state "in that they can distinguish between their own ego and the universal."[98] He argues in the Philosophy of Right that the ethical order and its laws are not simply the product of the subjective will but also stand over and against the subject as an absolute authority.[99] A culture's self-consciousness and thought develops through the education of the particular will. Initially, however, freedom lies only in the external objectivity of the state which stands over and against the individual subject as power and authority. In the oriental world only the ruler is free (albeit in a very primitive way) and the subject partakes of this freedom only through the sentiment of obedience, a non-reflective relation to the objective realm in that the subject finds his own freedom in a merely external power. Because the freedom of individual citizens does not have an objective form, it remains undeveloped and freedom appears in this realm only as the authority of the state as embodied in a particular ruler. This relation of force and submission is the basis of the Oriental realm, Hegel argues.* Individual self-reflection develops in virtue

* See The Philosophy of History, pp.111-219, for an account of the Oriental World. He describes it as a world in which "nothing subjective in the shape of disposition, conscience, [or] formal freedom is recognized" and where "government exists only as the prerogative of compulsion".(p.111)

of this initial discipline of the particular will.[100] This discipline develops the objective and universal laws of the state into the particularity of the individual will, and likewise the particular will is raised to a consciousness of an objective universal realm.

Thus whereas in the face of the of the emperor's power, the subject of the Oriental world is a mere slave, the whole development of the relation of individual and state is the overcoming of this disparity so that the state more explicitly embodies the subject's freedom. In his master/ slave analogy Hegel describes this development succinctly:

> ... the slave, however, in the service of his master, works off his individualist self-will, over-comes the inner immediacy of appetite, and in this divestment of self and in 'fear of his lord' makes 'the beginning of wisdom'-- the passage to universal self- consciousness.[101]

The subject educated to a knowledge of his unity with the universal cannot be satisfied with the objective disparity between ruler and ruled. Hegel states:

> ... the servile self-consciousness freeing itself both from the individuality of the master and from its own individuality, grasps the absolutely rational in its universality....[102]

The subjective will thus confident of its own freedom transforms the objective realm and individual self-consciousness is in this way both the product of the state and the state's own self-consciousness.

For Hegel, a nation's greatest achievement is self-understanding; the full self-comprehension of its own customs, laws, institutions, of the whole sphere of its ethical life. And this self-understanding is its ideal life. This ideal life therefore, is not some perfect abstract attainment, according to Hegel, but is the end of the real work of the nation, the dusk of its ethical activity. He argues that "thinking culture", a community's rational self-consciousness

and self-expression in art, science, religion, and philosophy, is both the completion and the corruption of the state. Thinking culture, the highest development of the state, sets itself over and against the state and is its dissolution.[103]

## (4) Dialectic of the Real and the Ideal

Thought, according to Hegel, is the negation of the finite and determinate. By comprehending itself in thought, by raising its implicit principle to self-consciousness, a nation overcomes its geographical and temporal limitations. The thought of Plato, for example, lives on though Athens has fallen. More philosophically though, the principle developed in a particular state becomes the starting point of the next phase of world history, whose "real" activity is the objective determination of this principle.

Thus at the historical point when a particular state has reached its completion, a contradiction between its ideal and its real moments presents itself. The thinking reflection upon the state isolates its rational spirit and thus stands in opposition to all that is merely particular, determinate, and limited in the state. Social bonds are thus broken, Hegel contends, and subjectivity takes refuge in individuality.[104] The decline of the Greek state is a striking example of this process. According to Hegel, Greek democracy is based on the non-differentiated union of custom and moral disposition. Because the citizens are not conscious of private interests they may be entrusted with the responsibility of the state. In Athens all citizens enter into the government and the active spirit of the state is present in the particular actions of her people.[105] Individuals are recognized as citizens only in so far as they will the objective ends of the state.

This aesthetic harmony is corrupted by a subjective principle which emerges in democracy itself, in the implicit differences between individuals. As one attempts to persuade

one's fellow citizen to one's side in the public assembly, argument and reflection are required, disciplines the Greeks acquire from the sophists.[106] In their principle that man is the measure of all things is the notion that all things are to be related to the subject. In so far as thought distinguishes itself, as the measure of all, from the customs of the polis, the potential for arbitrariness and caprice arises. There are no objective principles in abstraction from the state which can relate the individual to the objective realm. This differentiation is further developed by Socrates whose negative dialectic makes subjectivity a revolutionary moral principle. Subjectivity thus determines itself over and against the state.[107] The state, because it stands opposed the subject, becomes a merely finite object, a merely natural unity from which spirit has withdrawn.

This heightened subjectivity overturns both the religious and political orders: Men no longer consult oracles and slavery must be abolished. In The Meno, Socrates demonstrates that even a slave boy can have universal knowledge and powers of reflection, and is thus equal to the citizen. According to Hegel, this principle of subjectivity becomes the principle of the Roman world.[108]

Hegel argues that although this division of ideal and real dissolves the bonds of the state, it also gives rise to a new principle. Whereas the principle which motivated the nation was at first merely implicit in its laws and external affairs, in thinking culture this principle is made explicit, and given the form of universality. Hegel argues that this change also brings with it new and additional determinations of content, developments in art, religion and philosophy.[109]

For Hegel, contrary to Foster's view, the state's intelligibility and eternity is fully manifest only once its practical and particular activity is accomplished. The idealization of the state transforms its merely linear history and gives it the form of universality in religious representation and in philosophical conceptualization. As noted earlier, the concept of the modern state is the free will, and the philosophical demonstration of the necessity of this concept shows that the institutions of the state have the form of the free will, that they are its

embodiments. Foster fails to understand Hegel's view of the philosophical concept of the state. He sees Hegel's development of the institutions of the state from the concept to be a merely logical and a priori demonstration. According to Hegel, however, to speak of the state as logically prior to temporality is to speak in abstraction. Indeed, for Hegel, logic itself is an abstraction from the actual world of human activity and consciousness. He states:

> Logic, then, has for its presupposition the science of manifested spirit, which contains and demonstrates the necessity, and so the truth of the standpoint occupied by pure knowing and of its mediation.[110]

By contrast, the idea of the state is not an abstraction from a particular state; rather it is the negation of its particularity and finitude, the recognition of the finite as, in truth, a moment of the infinite. Whereas an abstraction leaves the world much as it finds it, the idea of the state transforms the nation in which it develops. According to Hegel the concept of the state contains a whole history of spirit in its universal principle; for example, abstract right is the principle of the Roman world and morality is the principle of the Reformation.[111] The concept of the state is thus not a timeless merely logical structure as Foster portrays it. Rather, the concept contains the whole history of the state, but, having negated its historical contingency, the concept expresses this history in philosophical form, as necessary moments of the free will.[112]

# CHAPTER SIX
# CRITICISM OF FOSTER'S ANALYSIS II: HEGEL'S CONCEPTION OF THE RELATION OF THE STATE TO THE INDIVIDUAL

Once we have found Foster's characterization of Hegel's metaphysics and philosophy of history to be untenable it follows that his particular criticisms with regards to the relation of ruler and ruled, political institutions, patriotism, etc., are invalid. As we have seen, Hegel's "metaphysics" is not platonic; I wish to show that his characterization of the individual's relation to the state follows suit.

## (1) The Ruling Class

First we must consider Foster's view that in Hegel's concept of the state there is implied a division between an ethical class which wills the universal law, and therefore regulates society, and a class who by virtue of their attachment to their own particular desires must be regulated. With regard to the public authority this claim is manifestly erroneous. In Hegel's view, since the whole of ethical life requires the fullest recognition of the subjective will, it is clear that the subject has the right to know and understand the laws he obeys and that these laws are his own objectivity. The notion of a public authority whose activity is the bringing of order to an otherwise orderless mass simply does not mesh with Hegel's account. It is telling that Hegel argues that the public authority is responsible for regulating even non-criminal actions. He states:

> ...the subjective willing which is permissible in actions lawful per se and in the private use of property, also comes into external relation with other single persons, as well as public institutions....[113]

He argues that the effect of one's actions on others need not lie in one's purpose and may always, inadvertently, be wrongful and that, therefore, police protection is needed.[114] The point is that, for Hegel, the activity of the public authority does not presuppose a public ignorant of the universal law; though one may know the law one may inadvertently infringe upon another's rights and this situation requires the public authority.

Foster's view of the corporation is skewed along the same lines as his account of the public authority. He argues that in the corporation only those in charge are aware of the common interests which determine the actions of individual members and that only they have a measure of conscious control of this interrelation of universal good and particular desire. Again there is simply no support in Hegel's argument for this caricature. He expressly states that in the corporation the member becomes freed from the particular isolation of his craft and is "elevated to conscious effort for a common end."[115]

Foster's contention that civil servants rule over a class which wills the particular , is equally one-sided. Civil servants are concerned with the universal as it appears in civil society. As argued earlier the full principle of ethical life is not developed at this stage. The "universal class" is so called not because its members possess any great insight into the principle of the state but because the content of their work is not merely limited to their own particular craft or interest. Rather in their work civil servants are concerned with the general condition of society. In this light, to translate universal class as civil servants is perhaps too specific as the above characterization would also describe professionals such as educators, health-care personnel, those in the justice system, as well as civil servants proper. Further, for Hegel, the division of classes arises in the system of needs and such a division is not characteristic of the political relation of the state to its citizens.

## (2) Bildung and Law

A careful consideration of Hegel's concepts of Bildung and positive law is further evidence that a ruler/ruled dichotomy cannot be grafted onto his concept of the state.

The Hegelian concept of education or "in-formation" stands in stark contrast to Foster's charge of platonism. In the first place, in Hegel's account, the individual cannot be described as formless matter. Individuality is infinite subjectivity; self-realizing, self-determining form. Individuals are not simply "particulars", rather they possess a universal character by virtue of their self-consciousness. Individuals are, in principle, free, Hegel argues, and the education gained in the state does not result in the attainment of some higher standpoint beyond this freedom. Rather, education merely makes explicit the subject's own potentialities. Educated to its end, spirit becomes objective to itself, Hegel argues. Thus the purpose of education is liberation and enhanced consciousness of one's freedom.[116] Its very activity overcomes any dichotomy between those who are educators and those who are to be educated. Further, in the Hegelian concept of the state no one class is identified as uniquely in need of ethical education. In Hegel's view of the state, all subjects undergo the discipline of the objective realm. In the work place, in the family, in clubs and societies, and in one's class, one becomes used to relating to others and one's opinions and needs take their place within a universal setting as one among many others. This socialization is in some instances "forced" upon one by parents, managers, club presidents, premiers, etc., but much of it occurs simply from observing the rules, conventions and customs of one's situation and from the simple desire to fit in. In the work place it is necessary to cooperate with one's co-workers and to produce quality products. One's boss hardly need remind one of this. The point is that ethical education does not necessarily take the top-down route Foster suggests.

Foster's criticism of Hegel is based in part, on his preference for Hobbes' account of the

state of nature. In denying Hobbes account, however, Hegel does not imply, as Foster suggests he does, that prior to the state subjects are like matter without form. For Hegel there is no such thing as a subject outside the state and, in his view, to speak of individuals existing somehow prior to or outside the rational historical development of freedom, is an abstraction. As human beings, we are born with a rational will whose movement is to objectify itself in the world, and the state is thus implicit in even the crudest objectification of the human will. Foster argues that unless subjects are conceived to exist prior to the state they will not possess their own identity or independent intelligibility and therefore must be given form by the ruler. Foster's conclusion does not follow, however, because Hegel denies that there is such a thing as a pre-social human and to speak of a ruler as socializing a pre-social individual, as in-forming him, is thus not adequate to Hegel's account.

Likewise, Foster's claim that if the state is eternal then any act of will upon it will be a perversion of its nature, presupposes that by contrast to the absolute will of the state, the individual's will is finite. As noted earlier, however, Hegel's whole argument is that the modern state is the product of the subjective will and that both therefore occupy the same standpoint of spirit, subjective and objective respectively. When Hegel argues that the subject cannot wilfully change the laws of the state, he is not denying the sovereign an activity of will. Rather, he is arguing that in the modern state the laws are in principle the products of the subjective will. To contend that law-making is simply a matter of collecting and publicizing individual laws, as opposed to creating them, does not deny an activity of will. The customs and traditions from which laws are drawn are not simply the time-worn prejudices of by-gone days; they are neither simply given nor blindly followed. Rather, they are the products of the actions of individuals who sustain them in their observance. To bring these together into a consistent rational legal code, is to make explicit a universality already implicit in custom and in no way denies that new laws can be thought of and made. In fact, Hegel argues that the need for further determination of the legal code is continual.[117] What Hegel is asserting, however, is that these

determinations will not be mere abstract thoughts or ought-to-be's deduced from mere reason but rather will arise in the context of culture and tradition. This does not deny laws which attempt to change things, for example, to root out prejudice, but does make the point that laws can be effective only if society has developed an acceptance of law; that the true context of law is human, cultural self-consciousness.

It is therefore the case that Hegel has a definite conception of the contingency of positive law: (i) it must be applied to contingent events; (ii) it is a universalization of contingent customs; (iii) it is the product of the activity of will. Thus unlike Foster, Hegel does not consider will and reason to be radically separate.

## (3) Parliament and Patriotism

Foster's misunderstanding of Hegel's position is further apparent in his consideration of Hegel's view of the efficacy of parliamentary institutions. Foster contends that contrary to Hegel's view, parliamentary institutions do not educate the subject as to the necessary ground of the state. Hegel's statement that the Estates, what we would call the parties in parliament, provide "insight into the situation and the concept of the state and its affairs" does not refer to the strictly philosophical concept of the state. Rather, Hegel is referring to the fact that by witnessing debates in the assembly the citizen can see that the state, in its universality, is concerned with the particular interests of individuals. This union of universal and particular, the concrete universal, is the concept of the state to which he refers and which, though not demonstrated in its philosophical necessity, is subject to historical-political demonstration. Hegel states:

> Regarded as a mediating organ, the Estates stand between the government in general on the one hand and the nation broken into particulars (people and associations) on the other.[118]

This union of universal and particular, as present in a given state, contains an element of contingency, that is to say, in its particularity it cannot be demonstrated as following necessarily from its concept. Rather, the concept of the state, or the free will, must be shown to pervade the particular issues with which a state is concerned, e.g., fair taxes, public housing, crime prevention.

In the light of the context in which Hegel uses the term "concept" in the above example, it becomes apparent that Foster's criticism of Hegel's view of patriotism misses the mark. Even under Foster's criterion, Hegel is not involved in a contradiction when he bases patriotism on knowledge of the concept, defined in this limited way.

Further, for Hegel, patriotism is not simply an irrational sentiment which is opposed to the concept. Rather it is a relation to the state at the level of feeling, the conviction that one's universal and particular interests are indeed maintained in the state and, even at the level of this very basic sentiment, patriotism is free and reasonable. It is free and reasonable because the state is immediately related to the individual and the individual finds his own essential interests reflected in the apparent otherness of the state. For Hegel patriotic sentiment is the common, everyday sense of civic order or community spirit, not some heroic, non-rational, self-sacrificial passion.

Also, in reference to Foster's criticism of Hegel's account of free speech, it is terribly one-sided to see parliamentary institutions as justified while having no effect. For Hegel, public opinion is two-sided; it contains not only eternal principles and the correct habits and genuine needs of community life but also a good deal of sheer prejudice and perversity.[119] It is merely the negative side of public opinion which must be rendered innocuous in the debates of the estates.[120] Hegel argues that public opinion must be respected as well as despised for the principle of the modern world is subjective freedom, and the right to insight and argument are necessary to ethical life. While it must be tempered by the rationality of the constitution and

the public criticism of the assembly, in Hegel's view, public opinion is a powerful force and in fact contains in its wisdom and prejudice the heart and essence of its age.[121]

Thus in Hegel's concept of the state, parliamentary institutions are essential to the freedom of all individuals. Hegel argues that they mediate between the universal policies of the government and the particular interests of individuals. It is apparent, therefore, that Hegel's account of parliament is not "confused" as Foster puts it. His account of patriotism is clearly distinguished from his account of civil law and parliamentary institutions do in fact, guarantee subjective freedom.

## (4) Conclusion

Contrary to Foster's view, we must conclude that Hegel's thought is not driven by an implicit platonism. Therefore he does not require a conception of a philosopher-king or a ruling class in order to render his thought consistent.

On the one hand, to argue that the development of the state from the concept is necessary and reasonable is not to posit some other-worldly essence of the state. To contend that the individual cannot judge the state in terms of an other-worldly standard does not require any political division between those who can and those who cannot know the truth.

From our discussion of the ideal and the real it should also be apparent that Hegel's concept of the state is not tied to a Platonic metaphysic. For Hegel, only the ideal state can be demonstrated in its necessity and this takes two inter-related forms: (i) the state must be shown to be the necessary objectification of the subjective will and (ii) the subjective will must be shown to be the state's own subjectivity and the state as a concrete universal must be shown to undergo its own necessary self-development. What sustains the state is the spirit of its people, and the state has its subjective side in this spirit; in its citizens' consciousness of their

freedom and in the collectivity of their individual purposes. For Hegel, the ideal state arises from the real state and though it marks the dissolution of the real state, it is also its highest development.

On the other hand, it is spurious to argue that since the individual does not have access to an other-worldly standard, his knowledge of the state is limited, because, for Hegel, there simply is no other-worldly standard. In Hegel's argument, the state is eternally present and is not a timeless abstraction as Foster maintains. Both the ideal and the real state are seen as moments within the history of an actual state. Further, Hegel asserts the radical identity of individual and state. Since the state is the objectivity of the subjective will which in turn constitutes the state's own subjective life, to judge the state from an external standpoint would require that the subject step outside himself and for Hegel this is a mere abstraction.

Hegel's philosophy does not fall into the dichotomies of platonism or even of liberalism, for that matter. Its whole import is to demonstrate the unity of the real and the ideal state and of the political and the individual will. He conceives these divisions in terms of a different set of relations than does Foster. For Hegel, we are not concerned with the relation between "state-of-nature" and society but between the state in its natural beginnings and in its full development as "thinking culture". Nor are we concerned with a division between the moral will and the economic will, but with the relation between the free will in its relation to an objective and universal good and the free will in its relation to its merely subjective or particular satisfaction. In each of these instances Hegel takes each side of the relation as a limited form of the truth and contends that the full truth lies in their reconciliation. Above all else, Hegel's doctrine of the state is a severe criticism of abstract or metaphysical conceptions of morality, eternity, individuality and political life. A careful analysis of the context and meaning of his concepts reveals that it is his precise intent to comprehend abstract dichotomies and to demonstrate that concrete human freedom is the principle of all political activity.

In considering Foster's argument one is struck by the depth of its misrepresentation of such concepts as the moral will, civil society, freedom, and Hegel's concept of the state overall. Foster cannot enter into the spirit of Hegel's argument because his own dualistic presuppositions render Hegel's trinitarian standpoint unintelligible and confused. Foster assumes a division of reason and desire and he therefore fails to comprehend that throughout Hegel's analysis the significance of civil society is that it is the objectification of the moral will. Foster maintains a radical division of time and eternity and therefore he fails clearly to explicate the freedom of the will in history and the eternity of the state as the product of the free will.

In line with much early twentieth century liberal thought, Foster attributes to Hegel a form of totalitarianism. It has been the burden of this essay to show that the concept of the free will permeates each aspect of Hegel's political philosophy; that the proper dialectical understanding of his concepts reveals the state as the thoroughly concrete embodiment of freedom; and that the charge of totalitarianism is therefore unfounded.

## ENDNOTES:

[1] G.W.F. Hegel, Hegel's Philosophy of Right, Trans T.M. Knox. (Oxford: Clarendon Press, 1967) Forward p. vi. (Hereafter referred to as P.R.)
[2] Michael Oakeshott, rev. of The Political Philosophies of Plato and Hegel, by M.B. Foster,in The Cambridge Review Nov. I, 1935. p.74.
[3] M.B. Foster, The Political Philosophies of Plato and Hegel, (Oxford: Clarendon Press, 1935) p.33. (Hereafter, Plato and Hegel)
[4] Plato and Hegel, p. 56.
[5] Plato and Hegel, p. 78n.
[6] Plato and Hegel, pp. 147-149.
[7] Plato and Hegel, p. 114.
[8] Plato and Hegel, p. 147.
[9] Michael Oakeshott, Hobbes on Civil Association, (London: Basil Blackwell and Mott Ltd., 1975) p.40.
[10] Thomas Hobbes, Leviathan, Introduction W.G. Pogson Smith. (London: Oxford University Press, 1909) ch. 17, p. 132 and ch. 18 p. 133. (Hereafter, Leviathan)
[11] Plato and Hegel, pp. 192-193.
[12] Plato and Hegel, p. 188.
[13] Plato and Hegel, pp. 165,187.
[14] L.T. Hobbhouse, The Metaphysical Theory of the State, (Connecticut: Greenwood Press, 1984) p. 66.
[15] cf. Oakeshott's On Human Conduct, (Oxford: Clarendon Press, 1975)
[16] cf. Berlin's Four Essays on Liberty, Oxford: Oxford University Press, 1969.
[17] Richard Rorty, Contingency Irony and Solidarity, (Cambridge: Cambridge University Press, 1989) p. 22.
[18] Plato and Hegel, p. 153.
[19] Plato and Hegel, p.154.
[20] Plato and Hegel, p.155.
[21] Plato and Hegel, p. 126.
[22] P.R., Par. 4-A
[23] P.R., p. 12.
[24] G.W.F. Hegel, The Philosophy of History, Trans. J. Sibree, (New York: The Colonial Press, 1900)pp. 422-423.
[25] Leviathan, ch. 17, p. 132.
[26] Leviathan, ch. 18, p. 134.
[27] James A. Doull, "Hegel and Contemporary Liberalism, Anarchism, Socialism: A Defense of The Rechtsphilosophie Against Marx and His Contemporary Followers", in The Legacy of Hegel: Proceedings of the Marquette Hegel Symposium, Ed. O'Malley et al. (Netherlands: Martinus Nijhoff, 1973), p. 234.

[28] P.R., Par. 107.
[29] P.R., Par. 81-A.
[30] P.R., Par. 112.
[31] P.R., Par. 108.
[32] P.R., Par. 184.
[33] P.R., Par. 181.
[34] P.R., Par. 186.
[35] P.R., Par. 187.
[36] P.R., Par. 196.
[37] P.R., Par. 197.
[38] P.R., Par. 71.
[39] P.R., Par. 199.
[40] P.R., Par. 201-A.
[41] P.R., par. 206.
[42] P.R., Par. 203.
[43] P.R., Par. 210.
[44] P.R., Par. 229.
[45] P.R., Par. 132.
[46] P.R., Par. 220.
[47] P.R., Par. 228.
[48] P.R., Par. 235.
[49] P.R., Par. 236.
[50] P.R., Par. 230.
[51] P.R., Par. 243.
[52] P.R., Par. 244.
[53] P.R., Par. 245.
[54] P.R., Par. 251.
[55] P.R., Par. 253.
[56] P.R., Par. 255.
[57] Plato and Hegel, p. 164.
[58] Plato and Hegel, p. 195.
[59] Plato and Hegel, p. 189.
[60] Plato and Hegel, p. 190.
[61] Plato and Hegel, p. 196.
[62] Plato and Hegel, p. 196.
[63] Plato and Hegel, p. 133.
[64] Plato and Hegel, p. 165.
[65] Plato and Hegel, pp. 157-158.
[66] Plato and Hegel, p. 161.
[67] Plato and Hegel, p.161.
[68] Plato and Hegel, p. 167.
[69] Plato and Hegel, p. 157.

70 Plato and Hegel, p. 159.
71 Plato and Hegel, p.165.
72 Plato and Hegel, p. 193.
73 Plato and Hegel, p. 192.
74 Plato and Hegel, pp. 116-117.
75 Plato and Hegel, p. 193.
76 Plato and Hegel, pp. 169, 176.
77 Plato and Hegel, p. 177.
78 Plato and Hegel, pp. 170-171.
79 Plato and Hegel, p. 171.
80 Plato and Hegel, p. 172.
81 Plato and Hegel, p. 174.
82 G.W.F. Hegel, Hegel's Philosophy of Mind, Trans. William Wallace and A.V. Miller. 3 (Oxford: Clarendon Press, 1978) Section 386.
83 Hegel's Philosophy of Mind, Section 483.
84 G.W.F. Hegel, Lecture's on the Philosophy of World History: Introduction -- Reason in History, Trans. H.B. Nisbet.( Cambridge: Cambridge University Press, 1980) p. 89. (Hereafter, Reason in History)
85 The Philosophy of History, p. 28.
86 Reason in History p. 73.
87 cf. Reason in History, p. 54.
88 The Philosophy of History, p. 33.
89 Reason in History, p. 28.
90 G.W.F. Hegel, The Phenomenology of Spirit, Trans., A.V. Miller (Oxford: Oxford University Press, 1979) p. 487.
91 Reason in History, p. 128.
92 Plato and Hegel, p. 133.
93 Plato and Hegel, p. 133.
94 Plato and Hegel, p. 13.
95 Reason in History, p. 95.
96 Reason in History, p. 96.
97 The Philosophy of History, p. 73.
98 Reason in History, p. 101.
99 P.R., Par. 146.
100 Reason in History, p. 95.
101 Hegel's Philosophy of Mind, Section 435.
102 Hegel's Philosophy of Mind, Section 435z.
103 The Philosophy of History, p. 71.
104 Reason in History, p. 146.
105 The Philosophy of History, pp. 252-253.
106 Philosophy of History, p.269.
107 The Philosophy of History, p. 270.

[108] The Philosophy of History, p. 279.
[109] Reason in History, p. 147.
[110] G.W.F. Hegel, Hegel's Science of Logic, Trans. A.V. Miller. (New York: Humanities Press, 1976) pp. 68-69.
[111] The Philosophy of History, pp. 281, 416.
[112] Reason in History, p. 146-147.
[113] P.R., Par. 232.
[114] P.R., Par. 233.
[115] P.R., Par. 254.
[116] P.R., Par 187.
[117] P.R., Par. 216.
[118] P.R., Par. 302.
[119] P.R., Par. 317.
[120] P.R., Par. 315.
[121] cf. P.R., Par. 318-A.

# BIBLIOGRAPHY:

## BOOKS:

Avineri, Shlomo, Hegel's Theory of the Modern State, Cambridge: Cambridge University Press, 1972.

Berlin, Isaiah, Four Essays on Liberty, Oxford: Oxford University Press, 1969.

Cullen, Bernard, Hegel's Social and Political Thought: An Introduction, Dublin: Gill and MacMillan Inc., 1979.

D'Hondt, Jacques, Hegel in His Time, Trans. John Burbidge, Peterborough: Broadview Press, 1988.

Foster, M.B., The Political Philosophies of Plato and Hegel, Oxford: Clarendon Press, 1935.

Hegel, G.W.F., Hegel's Logic, Trans. William Wallace. Oxford: Clarendon Press, 1978.

Hegel's Philosophy of Mind, Trans. William Wallace and A.V. Miller. Oxford: Clarendon Press, 1978.

Hegel's Philosophy of Right, Trans. T.M. Knox, Oxford: Clarendon Press, 1967.

Lectures on the History of Philosophy Vol.I, Trans. E.S. Haldane. London: Routledge and Kegan Paul, 1963.

Lectures on the History of Philosophy Vol.II, Trans. E.S. Haldane and F.H. Simson. London: Routledge and Kegan Paul, 1963.

Lectures on the History of Philosophy Vol.III, Trans. E.S. Haldane and F.H. Simson. London: Routledge and Kegan Paul, 1963.

Lecture's on the Philosophy of World History: Introduction - Reason in History, Trans. H.B. Nisbet. Cambridge: Cambridge University Press, 1980.

The Philosophy of History, Trans. J. Sibree, New York: The Colonial Press, 1900.

Hobbes, Thomas, Leviathan, Introduction W.G. Pogson Smith. London: Oxford University Press, 1909.

Hobbhouse, L.T., The Metaphysical Theory of the State, Connecticut: Greenwood Press, 1984.

Inwood, Michael,(Ed.), Hegel, London: Oxford University Press, 1985.

Locke, John, Locke's Two Treatises of Government, Ed. Peter Laslett. London: Cambridge University Press, 1960.

Lowith, Karl, From Hegel to Nietzsche: The Revolution in Nineteenth Century Thought, Trans. D.E. Green. New York: Doubleday, 1967.

MacGregor, David, The Communist Ideal in Hegel and Marx, Toronto: University of Toronto Press, 1984.

MacIntyre, Alasdair, (Ed.), Hegel: A Collection of Critical Essays, Notre Dame: University of Notre Dame Press, 1976.

Maier, Josef, On Hegel's Critique of Kant, New York: AMS Press Inc., 1966.

Marcuse, Herbert, Reason and Revolution: Hegel and the Rise of Social Theory, New York: Humanities Press, 1963.

Mitias, Michael, H., Moral Foundation of the State in Hegel's Philosophy of Right Anatomy of an Argument, Amsterdam: Rodolphi, 1984.

Oakeshott, Michael, Hobbes on Civil Association, London: Basil Blackwell and Mott Ltd., 1975.

On History and Other Essays, Totowa, N.J.: Barnes and Noble, 1973.

On Human Conduct, Oxford: Clarendon Press, 1975.

Rationalism in Politics and Other Essays, London: Metheun and Co. Ltd., 1962.

Pelczynski, Z.A., (Ed.), Hegel's Political Philosophy: Problems and Perspectives, Oxford: Oxford University Press, 1971.

The State and Civil Society: Studies in Hegel's Political Philosophy, Cambridge: Cambridge University Press, 1984.

Priest, Stephen, Hegel's Critique of Kant, Oxford: Clarendon Press, 1987.

Reyburn, Hugh A., The Ethical Theory of Hegel: A Study of the Philosophy of Right, Oxford: Clarendon Press, 1967.

Ritter, Joachim, Hegel and the French Revolution: Essays on the Philosophy of Right, Trans. R.D. Winfield, Cambridge: MIT Press, 1982.

Robinson, Jonathan, Duty and Hypocrisy in Hegel's Phenomenology of Mind: An Essay in the Real and Ideal, Toronto: University of Toronto Press, 1977.

Rorty, Richard A., Contingency, Irony and Solidarity, Cambridge: Cambridge University Press, 1989.

Smith, Stephen B., Hegel's Critique of Liberalism: Rights in Context, Chicago: University of Chicago Press, 1989.

Stepelevitch, Lawrence and Lamb, David (ed.)Hegel's Philosophy of Action, New Jersey: Humanities Press, 1983.

Taylor, Charles, Hegel, Cambridge: Cambridge University Press, 1975.

Travis, D.C., (Ed.) A Hegel Symposium, Austin: University of Texas, 1962.

Verne, Donald, (Ed.), Hegel's Social and Political Thought: Philosophy of Objective Spirit, New Jersey: Humanities Press, 1980.

## ARTICLES:

Doull, James A., "Hegel and Contemporary Liberalism, Anarchism, Socialism: A Defense of The Rechtsphilosophie Against Marx and His Contemporary Followers", in The Legacy of Hegel: Proceedings of the Marquette Hegel Symposium, Ed. O'Malley et al., Netherlands: Martinus Nijhoff, 1973, pp. 224-248.

"Hegel's Critique of Hellenic Virtue", Dionysius, Vol. IX, 1985, pp. 3-17.

"The Christian Origin of Contemporary Institutions", Dionysius, VI, 1982, pp 111-165

"The Christian Origin of Contemporary Institutions, Part II: The History of Christian Institutions", Dionysius, VIII, 1984, pp. 53-103.

Foster M.B., "Christian Theology and Modern Science of Nature (I)", Mind, XLIV, 1935. pp. 438-466.

"Christian Theology and Modern Science of Nature (II)", Mind, Vol. XVI., Jan. 1936. pp. 1-27.

"The Christian Doctrine of Creation and the Rise of Modern Natural Science.", Mind, Vol. XLIII, October, 1934. pp. 447-468.

Jackson, F.L., "The Revolutionary Origins of Contemporary Philosophy", Dionysius, Vol. IX, Dec. 1985, pp. 129-171.