
Hegel and Ethics

Metaphysics and Morality in Kant and Hegel**Sally Sedgwick**

Even for those who have struggled with Hegel long enough to discover that he is neither a positivist nor a communitarian, nor (at the other end of the spectrum) a Platonist, the fact that he also insists upon distinguishing his approach to practical philosophy from Kant's may seem deeply puzzling. After all, the two philosophers share in common the same principal opponents. Both set out to undermine the sceptic's doubts about the possibility of objective practical judgments and requirements; both in addition reject positivist derivations of law, exclusively empiricist accounts of human behaviour, and intuitionist forms of justification. The two philosophers furthermore seem to share the same conception of the conditions of human freedom. For Hegel as well as Kant, a theory of morality and political right devoted to advancing the cause of freedom must require more than just the absence of obstacles preventing the satisfaction of our animal passions. For Hegel as well as Kant, freedom requires in addition the respect of the ends we have as *rational* natures. We achieve this kind of freedom when our actions are motivated by the legislation of reason and when the social norms which constrain us are norms we can rationally endorse.

Despite these similarities, Hegel tells us in the *Philosophy of Right* that the conception of freedom he associates with Kant and discusses under the heading of "Moralität" must give way to the more adequate conception of "Sittlichkeit" or "ethical life". It is clear that Hegel finds unacceptable what he calls the "empty formalism" of Kant's practical philosophy; it is also clear that he thinks that Kant's practical philosophy is "formal" because its supreme law or categorical imperative is an a priori law of reason.¹ But this doesn't yet tell us why, for Hegel, these features of the Kantian approach are objectionable. In my view, we do his critique little justice if we say that it is aimed at a consequence which presumably follows from Kant's preoccupation with providing an a priori foundation for law and morality: namely, the failure to give sufficient moral weight to the empirical particulars which individuate persons and situations and need to be taken into account in the practice of moral assessment. As I shall argue below, the suggestion that Kant's formalism requires us to ignore empirical content in this way is neither plausible as a critique of Kant nor accurate as a representation of what troubles Hegel about Kant. We go more to the heart of the matter, I believe, if we say instead that Hegel is out to challenge the very distinction between the "empirical" and the "pure" or "a priori" so fundamental to both Kant's practical and theoretical philosophy. Hegel's critique of Kant's practical philosophy is an instance of his critique of Kant's idealism more generally, and of the assumptions about reason and nature upon which that idealism rests. Or so I shall argue here.

This is a paper, then, about what we could call the metaphysical foundations of Hegel's critique of Kant's practical philosophy. My objective is to demonstrate how the two different forms of idealism yield distinct conceptions of moral subjectivity and of the source of practical laws. In comparing the idealisms of the two philosophers, I draw attention to features of Hegel's

conceptions of practical agency and freedom not also defended by Kant. And I argue that these are features we are likely to miss if we read the *Philosophy of Right* in abstraction from the larger aims of Hegel's idealism.²

I

Since this is a paper about the metaphysical foundations of Hegel's critique of Kant's practical philosophy, I begin my discussion with a currently unpopular topic: the metaphysics of Kant's metaphysics of morals. The place to start is the Third Antinomy of the *Critique of Pure Reason*, where Kant introduces the idea of transcendental freedom. Kant tells us there that transcendental freedom implies "absolute spontaneity" or independence from the causality of laws of nature. Absolute spontaneity, he claims, is a "special kind of causality": a power to initiate the "absolute" beginning of a series of events, a beginning which is neither itself in time nor caused by any prior condition in time. Although this idea of spontaneity contradicts our concept of nature as the series of antecedently determined events, it nonetheless is required by our concept of nature, according to Kant. This is because we necessarily think of nature, he argues, as a *completed* versus indefinitely regressive series — as having a "first" versus a merely "relative" beginning. We in other words necessarily suppose that in nature, "nothing takes place without a cause *sufficiently* determined *a priori*".³ Not only is the idea of transcendental freedom required by our concept of nature, Kant goes on to argue that it also must be presupposed in order to ground a particular understanding we have of our own behaviour. When we consider our behaviour merely empirically, we consider it as determined by natural laws over which we have no control. For any action, empirically considered, we expect to discover its causal conditions in, for example, natural predisposition or character, social environment and education. From this point of view, we do not suppose our behaviour to come about "completely unconditioned" by any preceding state. (A555/B583) But this is not the only perspective we bring to bear on our own actions, according to Kant. We in addition ascribe to ourselves and others the capacity for genuine agency: we assume that we can be held responsible for our actions and that we have not merely an "empirical" but also an "intelligible" character. We assume in other words that we possess the faculty of reason which is completely free and a special causal power.

Kant never wavers in his commitment to the following thesis: if we restrict our attention to the empirical character of the agent, we leave ourselves no way to ground moral laws and no basis for moral imputation. "Everyone must admit," he writes in the opening passages of the *Groundwork*, "that if a law is to count as moral, that is, as the ground of an obligation, it must be absolutely necessary. ... Accordingly, the ground of obligation ... must be sought *a priori* ... in concepts of pure reason. ..."⁴ How may we be justified in contradicting our concept of nature as the series of causally determined events and in positing as the ground of obligation the idea of transcendental freedom? Kant's answer, of course, is transcendental idealism. Transcendental idealism permits us to think of objects in a "twofold sense": as given in perception via our *a priori* forms of intuition, space and time (i.e., as appearances), and as independent of those *a priori* conditions (as things in themselves). (Bxxvii) The subject as appearance is determined by natural causal laws and has no freedom. Considered in abstraction from the conditions of

appearances, however, the subject may be thought to have an “intelligible” character and therefore a capacity of spontaneity which is “absolute”. Although, according to this doctrine, we have theoretical knowledge only of appearances and not of things in themselves, Kant argues that we can nonetheless legitimately think of ourselves as having an intelligible character and as therefore free. We can and do think of ourselves in this way, he claims, as a condition of the possibility of morality.⁵

So the idea of transcendental freedom implies absolute spontaneity and is required, in Kant’s view, in order to complete our understanding both of nature and of our own behaviour. Its legitimacy, as we have just seen, depends upon the transcendental idealist distinction between objects of theoretical knowledge and objects of thought, between appearances and things in themselves.

It might seem that, in insisting upon transcendental idealism as the sole means of grounding obligation, Kant asks us to accept far too much. Not only must we be willing to challenge a deterministic account of human behaviour, we also need to be persuaded that the only adequate way to do so requires that we suppose that our freedom is “transcendental” and our spontaneity “absolute”. We in other words have to accept the idea that we are subjects capable of initiating actions from outside time, subjects which have in addition to an “empirical” character an “intelligible” character.

The situation could be worse. Kant could be requiring us to grant not merely the *idea* of the intelligible subject but its existence and theoretical knowability as well. But at least on one widely accepted interpretation of it, transcendental idealism does not require us to accept this much. According to the so-called “deontologized” or “two standpoint” interpretation, transcendental idealism permits no such assertions about objects independent of the a priori conditions of space and time.⁶ It permits only that we adopt a conception of ourselves as capable of transcending those conditions, as capable of the kind of freedom required to ground our sense of ourselves as agents. Kant warns us not to give in to the temptation to try to know or understand how laws grounded in our intelligible nature can have a causal influence on our empirical or phenomenal nature. He frequently reminds us that, “reason would overstep all its bounds if it undertook to explain how pure reason can be practical”. Rather than try to explain how we can, as intelligible subjects, be moved by the idea of freedom, he tells us in the *Groundwork* that the “concept of an intelligible world is ... only a point of view outside appearances which reason recognizes that it must take in order to think of itself as practical. ...”⁷

II

Surely there can be no question about whether it is possible to find passages in both Kant’s theoretical and practical writings which provide support for the two standpoint interpretation.⁸ But, of course, there *is* a question — a much debated one — about how consistent Kant is in his adherence to it. That is, there is the worry that he sometimes seems to commit the fallacy of (what he calls) “transcendental illusion” in claiming knowledge of the unknowable, of things in themselves. (A295/B352)

Although Hegel is among those who raise this charge against Kant, what I am more

interested in exploring here are his objections to Kant's distinction between appearances and things in themselves, between empirical and intelligible characters, which apply even assuming that Kant is consistent in adhering to the two standpoint view. That is, I am interested in Hegel's critique of the very idea of an intelligible versus empirical form of subjectivity. So in what follows I will be concerned with the following question: What, if anything, is unacceptable about Kant's conceptions of the practical standpoint and of practical agency once we set aside the worry that he sometimes seems to commit transcendental illusion in trying to theoretically explain or know them? Otherwise put: what, if anything, is unacceptable about Kant's conception of practical agency once we assume that he is not committed to an extravagant metaphysical thesis about the existence of the intelligible or noumenal self?

In answering this question we need to bear two points in mind: First, the thesis that the intelligible character is theoretically unknowable because not an object in space and time should not be understood to imply for Kant that its features are either eliminable or substitutable. The actions of the intelligible character are in his view *necessarily* "spontaneous" and therefore *necessarily*, in his words, "not subject to the form of time, and thus also not to the conditions of temporal succession. ..." (A551/B579) Kant never, in other words, suggests that it is merely contingently true that the intelligible character is, as he puts it, "free from all influence of sensibility and from all determinations through appearances". (A541/B569)

Second, the thesis that the intelligible character is theoretically unknowable should not be understood to imply for Kant that the idea of the intelligible character or of an absolute form of spontaneity plays anything less than an essential role in providing for the possibility of both his philosophy of nature and his account of practical agency. As we saw above, the idea of absolute spontaneity is in his view required to complete our understanding of nature as well as of our own behaviour. Regarding the latter, he claims that we need to suppose that we have an intelligible character in order to ground our conception of ourselves as agents.⁹ Even though it is not theoretically knowable because not an appearance in time, we nonetheless know with necessity that we have pure reason "as a purely intelligible faculty". We know this, Kant argues, because in matters of conduct we hold ourselves and others morally responsible. (A551/B579, A547/B575) The fact of moral imputation implies that reason must have causality and that we have, in addition to an empirical character an intelligible character, because, as he puts it, "when we have in view merely the course of nature, *'ought' has no meaning whatsoever*". (A547/B575) (my emphasis)

So although our reason as an intelligible faculty is not itself an object of theoretical knowledge, we nonetheless have a priori and therefore necessary knowledge of its essential features and of its role in grounding morality. Just as we know with necessity that the "I think" or "original synthetic unity of apperception" is a condition of the possibility of all cognition, according to Kant, so we know with necessity that the intelligible character is a condition of the possibility of practical agency and moral imputation. We furthermore know, Kant reminds us again and again, that the laws of both forms of subjectivity contain nothing empirical.¹⁰

III

To return to our central question: What does Hegel find unacceptable about Kant's idea of the intelligible subject or of practical agency? The answer, briefly put, is that even a deontologized or two standpoint distinction between empirical and intelligible characters, between the subject as appearance and as thing in itself, presupposes in Hegel's view an untenable dualism. We now need to consider why he believes this is so.

Kant's distinction between empirical and intelligible subjects presupposes an untenable dualism because it depends on the assumption of what Hegel calls "original heterogeneity" or "absolute opposition".¹¹ One thing Hegel does *not* mean by this is that it is Kant's view that the ends of the intelligible subject and the ends of the empirical subject must always conflict. Rather, the intelligible subject is "absolutely opposed" to the empirical subject just in the sense that, on Kant's definition, the intelligible subject is supposed to contain nothing empirical: its activity proceeds from a standpoint outside time and its laws are a priori. Likewise, the empirical subject or subject qua appearance is "opposed" to its intelligible or transcendental counterpart, because on Kant's conception it is without form or law: it must rely for form or law on the a priori contributions of pure intuition and understanding. Neither space and time nor the laws of nature which determine the behaviour of empirical subjects are given in the a posteriori content of sensation, according to Kant; this is why he identifies them as a priori forms of experience.

In the same way, empirical and rational motives are originally heterogeneous or absolutely opposed, on Hegel's reading of Kant. Although desire can be brought under the governance of reason, desire can never itself be rational, can never give rise to rational (i.e., categorical) imperatives — hence Kant's insistence that morality cannot rest on an empirical foundation. Nature itself cannot be the source of law. Law must be the product of reason, and reason is a faculty which legislates from outside the realm of nature.

But how warranted is Hegel's charge of original heterogeneity? After all, objects of nature for Kant, rather than bare or unformed contents "absolutely opposed" to reason, seem more accurately described as unities of form and content. Every object of perception, he writes in the first *Critique*, "stands under the necessary conditions of synthetic unity of the manifold of intuition in a possible experience". (B197/A158) Every object of perception, in other words, is given via our a priori forms of intuition and thought through the categories. We know nature, according to Kant, as an already formed content.

Hegel was aware that, as appearance, nature cannot be known as a bare content, on Kant's conception. That is, he was aware of the role Kant awarded the a priori forms of subjectivity in making nature possible as the object of empirical knowledge. What is more, he thought that Kant's idea of the object as a unity of form and content was a profound discovery — profound enough to inspire the development of his own form of idealism.¹² Hegel nonetheless charges Kant with dualism because he believed that, for Kant, nature as appearance is a unity of parts supposed to be originally heterogeneous: the content or matter of nature is given a posteriori in sensation; the form of nature, on the other hand, derives from a subject which is transcendental and thus free of or "absolutely opposed" to that given empirical content. So

although aware that in Kant's view we know nature only as a unity of form and content, Hegel characterizes form and content on Kant's conception as an original heterogeneity because in his view Kant assumes that the contributions of form and content are independent or separable. It is this thesis of separability, then, which is the main target of his critique.¹³

IV

Whatever verdict we may finally reach about the accuracy of this portrayal of Kant, it is not difficult to see why Hegel was persuaded by it. After all, what are we to conclude from the Kantian conceptions of reason and nature reviewed above if not that, for Kant, the contributions of form and content are independent or separable? This is certainly suggested by his insistence upon the "pure" or non-empirical nature of reason and the a priori status of its laws. It seems to underlie his assertion in the Antinomy that, "Reason is present and the same in all the actions of men and in all situations; it is not itself in time and does not fall into a new state in which it was not before". (A556/B584) The thesis of original heterogeneity furthermore seems responsible for Kant's view that the given a posteriori content of nature can never yield form or law, can never (as Hegel might put it) determine itself as rational.

But even should we grant that this dualism or "opposition" is as "absolute" as Hegel portrays it, why must we also conclude that it is objectionable? Hegel clearly believes that it is objectionable; but thanks to recent efforts to clarify the implications of this dualism for Kant's philosophy, it is far from obvious that he should. Turning our attention, now, to Kant's practical philosophy: commentators have taken great pains to argue that Kant's dualism does not entail the undesirable features commonly associated with it. Most notably, it does not entail that his practical philosophy is an empty formalism. The fact that Kant draws a sharp distinction between our empirical and our rational or intelligible natures does not imply, these commentators point out, that in his view we can realize morality by relying on the faculty of pure practical reason alone. There is in other words no reason to suppose that it follows from the formal character of Kant's supreme moral law that his practical philosophy is a formalism in the sense that it awards no essential role to empirical content.

There is clearly something correct about this effort to cast Kant's dualism in a sympathetic light. Empirical content indeed plays an essential role in his practical philosophy, and in several respects. A good Kantian, for example, must not only test her maxims against the supreme law of practical reason or categorical imperative; she must also formulate her maxims properly. To do so, she needs to give careful attention to the specific facts of her case; she needs to apply good judgment in identifying what Barbara Herman has called its "morally salient features".¹⁴ She needs, that is, to be a good empiricist.¹⁵

Kant in addition argues that we cannot expect to realize morality without the help of social institutions and practices. Although the categorical imperative on his account is itself given by the nature of reason, he writes in his 1784 essay "Idea for a Universal History With a Cosmopolitan Purpose" that reason itself requires, "effort, practice and instruction in order to progress gradually from one level of insight to the next". Reason and its supreme law is given as an "innate capacity," but this does not by itself secure for reason a governing role in our lives.

The respect for and reliance upon reason, Kant claims, is something that education must encourage in us. Moreover, the right kind of education is possible only in a civil society capable of guaranteeing freedom under external laws. Moral enlightenment therefore cannot be achieved except in a society governed by a just constitution, in his view. And the security of any particular civil society furthermore depends on the existence of a law-governed federation of states. This is why, on Kant's account, enlightenment is not possible for the individual; we may hope for its realization, he says, only for the species.¹⁶

So moral character is unachievable in isolation from the right kind of social environment and institutions, according to Kant. It is also unachievable, in his view, without the help of natural inclination or feelings. In the absence of feelings of happiness or contentment, he says in the *Groundwork*, we are not likely to do what morality requires; this is why we have at least an "indirect" duty, he tells us there, to secure our own happiness.¹⁷ In "Idea for a Universal History" he furthermore argues that we have our natural inclinations to thank for the very fact that our rational capacities get awakened into action at all. Natural self-love or "unsocial sociability" invariably brings us into conflict with others. But because we seek to "live comfortably and pleasantly," we learn to take advantage of the civilizing influences of reason. Nature therefore "deserves to be thanked," Kant writes, for without unsocial sociability "all our excellent natural capacities would forever remain undeveloped".¹⁸ So even though Kant insists that morality cannot be grounded on anything empirical and that natural inclinations very often tempt us away from doing our duty, he clearly awards our empirical natures an indispensable role in the realization of morality.

Of course, when we add together the fact that attention to empirical conditions must be involved in the proper formulation of our maxims, and that social institutions are necessary for the development of moral character, and that we have natural inclination to thank for the fact that pure practical reason is awakened into action at all, we do not arrive at the conclusion that the distinction between nature and reason in Kant is anything less than absolute. The efforts of commentators to emphasize the role of the empirical in his practical philosophy, to vindicate him of the charge of empty formalism, presuppose this distinction rather than challenge it. I am not suggesting that they set out to do otherwise. My point is simply that we should not understand these efforts as possible responses to Hegel's critique. There is no evidence supporting the view that, in charging Kant's moral philosophy with empty formalism, Hegel overlooks the role Kant awards empirical content. Hegel recognizes that, for Kant, particular duties are not analytically deducible from the categorical imperative; he knows that, for Kant, the categorical imperative must be applied to our maxims and our maxims must be formulated to reflect the contingencies of context. Hegel is furthermore aware that, in Kant's view, we cannot realize the ends of morality simply by reflecting on what pure practical reason requires. He knows that Kant acknowledges that without the help of social institutions as well as our natural inclinations morality would not be possible for us at all.

Given that Hegel does not ignore the role Kant awards empirical content in any of these ways, why does he claim that the categorical imperative, as formal, must also be empty? As I suggested above, the answer to this question has to do with the link between Hegel's empty

formalism critique and his objection to the thesis of absolute opposition. A full treatment of this topic would require a separate paper, but the general idea is this: In Hegel's view, if we treat the categorical imperative as a formal principle (i.e., as the command that we not commit self-contradiction), it will be empty in the sense of insufficiently determinate: it will fail to specify narrowly or clearly enough the range of morally permissible actions. Where is the self-contradiction, after all, in theft or in the absence of property? We can derive a contradiction of the kind Kant is after, Hegel argues, only if we presuppose a *particular conception* of human freedom and of the conditions compatible with it. Kant claims, of course, that it is the formal character of the moral law which is responsible for the fact that it has universal validity — validity, that is to say, independent of any particular conception of human nature, of ends worthy of realization, or of the conditions compatible with those ends. But on Hegel's understanding, if a law is indeed formal in this way, it will also be empty or insufficiently determinate. If what we are after are non-empty laws of reason, laws which can provide for determinate application, then we need to give up our commitment to the assumption that reason is “pure” or “absolutely opposed” to content.

V

As I said, a full treatment of Hegel's critique of the categorical imperative would require a separate paper; all that I've wanted to suggest here is that his empty formalism charge does not rest on any failure to acknowledge the role Kant awards empirical content. Rather, Hegel's critique of the categorical imperative is motivated by the far less superficial conviction that Kant's very distinction between form and content cannot be maintained.

In order to say more about this, about the motivation for Hegel's objection to the dualism or heterogeneity of form and content, I turn now to the *Philosophy of Right*. The *Philosophy of Right* is one among Hegel's many works in which his argument against the thesis of absolute opposition is carried out. On the interpretation I want to defend, his representation in the *Philosophy of Right* of the ideal State and of practical rationality, his argument for the “identity” of the “rational” and the “actual,” all depend on and therefore cannot be understood apart from his rejection of that thesis.

This is the place to insert two clarificatory remarks which bear on the interpretation of the *Philosophy of Right* I am about to offer. First, I don't want to be understood as committed to the thesis that we nowhere in Kant's works find evidence of his own reservations about the absolute opposition of form and content — reservations which may even be taken to anticipate Hegel's objections. Perhaps we do.¹⁹ But even supposing that we do, we nonetheless cannot say of Kant what I believe we can say of Hegel: that his idealism takes as its *point of departure* the rejection of the thesis of original heterogeneity.

Second, the argument of the *Philosophy of Right* is directed against a variety of approaches to political theory, not merely against Kant's approach. Given that in the above discussion I introduced Hegel's critique of heterogeneity as key to understanding his critique of Kant, why am I now suggesting that Hegel's critique of heterogeneity determines the argument of the *Philosophy of Right* as a whole?

The answer to this question derives from the fact that heterogeneity, for Hegel, implies a particular understanding of reason and nature but not a particular understanding of their respective epistemic roles. We assume heterogeneity if we conceive of nature as a bare or unformed content, incapable of supporting necessity or law. This doesn't mean that we need also to be committed to the view that necessity or law must derive from elsewhere — from pure reason, for instance. We likewise assume heterogeneity if we understand reason to be pure or to contain nothing empirical. We needn't in addition hold that mere perception unaccompanied by a priori concepts is not for us a possible source of knowledge. We needn't in other words be transcendental idealists to be committed to the thesis of absolute opposition or heterogeneity, according to Hegel. Hegel never in any case suggests that Kant was alone in adhering to the thesis; nor does he claim that the thesis originated with Kant. His view instead seems to be that Kant inherited and took for granted the thesis of heterogeneity, and never subjected it to critique.

VI

So far I've suggested that Hegel holds the thesis of heterogeneity or absolute opposition responsible for what he thinks are inadequate conceptions of reason and nature. As I've just noted, the thesis is not in his view tied to any particular account of the roles of reason and nature in grounding knowledge. It is also in his view not tied to any particular account of the roles of reason and nature in grounding right. The thesis makes its way into a variety of theories of right, according to Hegel; and it accounts for what he ultimately finds unacceptable about each of them. Since he tells us that the subject matter of the science of right is the idea of human freedom and its actualization,²⁰ we can so far anticipate this much: that for Hegel any theory of right which depends upon the thesis of heterogeneity will be unable to provide for a fully satisfactory account of human freedom.

Let's first consider what Hegel takes to be unacceptable about the conception of nature implied by the thesis of heterogeneity, beginning with a brief look at his treatment of some non-Kantian approaches to right. In the Preface of the *Philosophy of Right* he declares himself opposed to positivist approaches to law. For the positivist, rational requirements are supposed to have their basis in the will of a people as reflected in actually existing behaviours and practices. Hegel warns us against interpreting his claim that "what is rational is actual" as an expression of his allegiance to this approach to right. Rather, his view is that, "in laws of right, the thing is not valid because it exists".²¹

Not surprisingly, the problem with positivism for Hegel is its conception of nature or of the realm of the actual. The positivist assumes that nature is absolutely opposed to reason since, for the positivist, we can know nature as a bare or unformed content — as something "multifariously concrete" and without unity. Positivism, that is, suffers from what Hegel in the *Encyclopaedia Logic* characterizes as an uncritical empiricism.²²

Up to a point, Hegel's attack on uncritical empiricism follows Hume's critique of Locke. Even if we grant that objects of nature are given in sensation as bare or unformed particulars, our empirical judgments about nature cannot strictly speaking be *about* bare particulars. They cannot be about bare particulars because it is not possible to demonstrate an immediate causal link from

sensation to judgment. Hume claimed that our judgments about matters of fact depend upon the intermediary of imagination, which invariably extends the data of sense. For Hegel, our judgments about matters of fact depend upon the intermediary of thought, and thought necessarily takes what is concrete and via the employment of concepts turns it into something abstract. The empiricist such as Locke supposes that, by relying on perception alone, we can justify for example our idea of matter. What he fails to notice, Hegel writes, is that matter, "is an abstraction, something which as such cannot be perceived". The uncritical empiricist in other words uses "metaphysical categories" of matter, force, and so forth, "without knowing," Hegel says, that he is engaged in metaphysics.

So Hegel follows Hume in arguing against uncritical empiricism that we cannot know the bare or unformed content of sense experience. But whereas for Hume the unknowability of bare content implies scepticism about matters of fact, for Hegel it implies that we need a new account of the proper object of empirical knowledge. Hume concludes scepticism about matters of fact only because he shares with the uncritical empiricist the assumption that what our empirical knowledge *should* inform us about are the unformed particulars presumably given in sensation. This is just the assumption Hegel wants us to reject. What we ought to learn from Hume's critique of Locke, in his view, is that the proper object of empirical knowledge, rather than a bare or unformed content, is an already conceptualized content. We know nature, that is to say, only as a unity of form and content. And since we know nature only as such a unity, the conception of nature as "in itself" or "originally" a bare content which must derive whatever form it has from elsewhere is a mere abstraction. This of course means for Hegel that the thesis of absolute opposition is a mere abstraction as well.

Bearing in mind this revised conception of the proper object of empirical knowledge, we can see why Hegel is unsympathetic not merely to positivist derivations of law, but to state of nature approaches as well — at least in so far as they, too, rely on an uncritical empiricism. In so far as they purport to derive their support from the raw data of sense experience, they are worthy of suspicion, in his view. It is no mere coincidence, after all, that the Hobbesian aiming to justify an absolute form of sovereign power discovers that the state of nature without law is absolutely intolerable: a "war of all against all". Nor is it coincidence that the Lockean seeking to justify a more limited state power observes in human nature a greater capacity for self-regulation. As Hegel puts it in his 1802/03 essay on "Natural Law," the empiricist tacks onto the bare multiplicity a conceptual unity — all in the name of securing his desired conception of law.²³ In so doing, the empiricist engages in metaphysics.

Hegel of course doesn't deny that we sometimes just have sensations (in the absence of any accompanying cognition). We surely do; and in so far as we do, we are like other animals. But we are unlike other animals in that we in addition think about what we sense. Indeed, on Hegel's conception, thinking is so much a part of our experience qua rational or reflective natures that it borders on misleading in his view to characterize our experience as involving the purely passive reception of sensations at all. In describing our experience as rational natures, we need to account for the fact that, as rational, we don't merely have but in part also determine our experience. As rational, the contributions of our thinking and of our sensing are inseparable, in his

view. This is because in the absence of concepts, sensations for us as reflective, thinking beings are blind.²⁴

Appeals to nature in the derivation of right or law are therefore invariably naive and question-begging, according to Hegel. In so far as they rely on an uncritical empiricism, they misidentify the object of our knowledge as a bare content without form. They enlist the help of a faulty faculty psychology in supposing that, for rational animals seeking to reflect upon or know nature, the activities of thinking and of sensing are separable.

Uncritical empiricism helps itself to an equally implausible faculty psychology, Hegel argues, when it sets out to provide an account of human willing. What it then assumes is the separability of desires or instinct and practical reason. Not surprisingly, Hegel insists that it is misleading to characterize the behaviour of rational natures as ever simply determined by desire. As thinking or reflective beings, we no more merely have desires than we merely have sensations. Unlike non-rational animals, we represent to ourselves the objects of our desire. Minimally, we rank them; or, we identify with and attend to some but not others. In this way, we in part determine the objects of our desire. And in arguing that we in part determine the objects of our desire, Hegel is not merely claiming that it is possible for us, as rational, to subordinate the supposedly independent ends of desire to the equally independent ends of reason. This cannot be what he has in mind because in his view, of course, ends of desire and ends of reason for rational natures are not wholly independent. In his view, the faculties of thinking and desiring or willing are as inseparable in us, qua rational natures, as the faculties of thinking and perceiving.²⁵

VII

These remarks indicate what Hegel believes is unacceptable about the metaphysics of uncritical empiricism and its implied conception of nature. Earlier, however, I noted that in the *Philosophy of Right* Hegel assesses theories of right on the basis of how well they are able to provide for the realization of human freedom. So why does he judge uncritical empiricism to be deficient from this point of view as well?

We can see from Hegel's answer to this question how much he is indebted to Enlightenment rationalism. His view is something like this: It is because uncritical empiricism fails to sufficiently appreciate the extent to which we are thinking or rational natures that it is unable to provide for the fully developed form of freedom of which we are capable. This is obviously true, Hegel believes, for the reductive empiricist for whom reason has no freedom and is a mere slave of the passions. But it is also true, on his account, for the dualist who admits that nature qua instinct and desire isn't everything and that we have in addition a rational faculty which can bring instinct and desire in line. Since both positions rely on a conception of nature as "in itself" or "originally" without form or law — as "in itself" without rationality, Hegel would say — both fail to appreciate the way in which our animal natures can be rationally self-determining and therefore the source of our freedom. If uncritical empiricism is able to admit that freedom is possible for us at all, it must locate the source of that freedom outside the realm of nature empirically considered: as deriving from God's will, or from the will of the human subject qua intelligible or transcendental. But the need to derive freedom from an external source,

Hegel claims, only reveals a failure to appreciate the extent to which thinking determines our being. It is to treat empirical human nature as essentially animal nature instead of as essentially *rational* animal nature.

Here, of course, the question of Kant versus Hegel raises its weighty head. Both philosophers understand our freedom to derive from our nature as rational beings. Both therefore agree that it is thanks to our rationality that we can be self-legislating or self-determining — that we can give ourselves law, as Kant would put it. But since for Kant thinking or rationality doesn't determine our being through-and-through (or, since for Kant our rational and our animal natures are separable), the most we can hope for, as Kantians, is the successful domestication of our empirical natures, of our brute drives and desires. Because human animal nature on Kant's conception can never itself be the source of laws of freedom, it must be made to submit to the governance of reason. Hegel's complaint, as I understand it, is that in this way Kantian freedom cannot be realized without the aid of coercion.²⁶

VIII

This brings us back to where we started. Practical agency and moral imputation according to Kant require as conditions of their possibility the idea of a non-empirical or transcendental form of freedom. Hegel is convinced not only that this model sells human nature short in confining our empirical characters to a state of unfreedom; as should by now be clear, he in addition is convinced that Kant's reliance on a transcendental or intelligible form of subjectivity depends upon an implausible metaphysics. Kant's metaphysics is implausible because, like empiricism's reliance on the conception of nature as a bare content, it presupposes the absolute opposition or heterogeneity of form and content. This presupposition lies at the basis of Kant's conception of the transcendental or intelligible subject. (And as noted above, it is the very *idea* of the transcendental or intelligible subject which Hegel finds unpersuasive; his critique does not depend upon assuming that Kant is committed to its existence or theoretical knowability.)

A central objective of the *Philosophy of Right* is therefore to challenge not just positivist or empiricist approaches to law, but also the assumption that laws of freedom or laws of right derive from a reason supposed to be "pure" or "absolutely opposed" to nature. In the limited space remaining, I'll try to suggest a way to think about the conception of practical reason Hegel urges us to adopt instead.

We might describe the *Philosophy of Right* as a defense of the thesis that reason is historical. It tells a story of the development of various theories of right, each responsive to the needs of its own time, and each presumably more satisfactory than its predecessors. According to this story, social institutions and events play a causal role in making the progress of reason possible, since social institutions and events both aid and awaken the need for reason's development.

But this description of the historical nature of reason doesn't quite capture the specifically Hegelian conception. For one thing, Kant could endorse it as well. Kant surely grants that there has been progress in the development of theories of right; and as we saw above, he also recognizes that the progress of reason has had to depend on the assistance of actual events and

institutions.

We can see more clearly where the two philosophers part ways if we consider how they each locate the place of their own philosophizing in this developmental picture. We could perhaps say of Kant that he understands himself to have discovered the given nature of reason. Although surely aware of the role of history in, at least to some extent, setting the agenda for his own philosophizing, Kant does not follow Hegel in deriving from this the conclusion that history or the realm of the actual in part determines the nature of reason itself. Rather, as we saw above, reason for Kant is “in all situations present and the same. ...” (A556/B584) The most the realm of the actual can do, on Kant’s conception, is assist in the realization of reason’s already given nature.

Although he is often represented as doing so, Hegel does not take himself to have discovered the given nature of reason. He cannot understand his own position in this way because, as we have seen, he denies that reason *has* a given nature. By this I mean that he rejects the view that reason is somehow outside time and “absolutely opposed” to what is in time. It is because Hegel does not take himself to have discovered the given nature of reason that he struggles with the problem of how in the *Philosophy of Right* to properly begin his analysis of right. Reason for Hegel is surely not historical in the sense that is a mere slave of the passions or of actual social forces.²⁷ But reason in his view cannot transcend the realm of the actual either. The philosopher has to begin somewhere in order to philosophize at all, he writes; but the philosopher cannot start from scratch. The philosopher cannot leave his world behind either in his speculations about an original state of nature or in his discovery of laws of a reason supposed to be intelligible or pure. Although philosophy must begin somewhere, its beginning is always “relative,” Hegel says, in that it is always the “result” of and so dependent upon some prior philosophical conception.²⁸ This is why he tells us in his Preface that philosophy (and by implication, the *Philosophy of Right*) comes on the scene too late to instruct the world about how it ought to be. His point is not that because reason is historical rather than transcendent, it can have no legitimate prescriptive force; rather, Hegel means in this passage to draw our attention to the fact that the nature and laws of reason are not given prior to or independent of reason’s relation to the actual. Philosophy comes on the scene too late not because laws of reason reduce to nature or history, but because nature and history on Hegel’s account are nonetheless in part responsible for what it is possible for us to identify as rational.²⁹

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1 See Hegel’s 1821 *Grundlinien der Philosophie des Rechts* §135.

2 I am therefore in agreement with Robert Pippin who claims that Hegel’s critique of Kant’s practical philosophy is “unavoidably metaphysical,” or occurs at the level of the “‘metaphysics of the person’.” See Pippin’s “Hegel on the Rationality and Priority of Ethical Life,” *Neue Hefte für Philosophie* 35 (1995), esp. pp. 119 and 122. For a different approach, see Allen W. Wood’s *Hegel’s Ethical Thought* (Cambridge University Press, 1990). In the first paragraph of his Preface, Wood writes that the effort to discover in Hegel’s metaphysics or “dialectical logic” the “hidden key” to his social thought promises

to be not only “difficult” but also “unrewarding.” It is not an effort, he says, undertaken by those who are “sensible.”

- 3 Except where otherwise indicated, translations of this as well as all other German texts treated in this paper are mine. Here I rely on Norman Kemp Smith’s translation of “subalternen” as “relative”. See his translation, *Critique of Pure Reason* (New York: St. Martin’s Press, 1965). In my text I provide in parentheses references to the “A” and “B” Akademie editions of the first *Kritik*.
- 4 *Grundlegung zur Metaphysik der Sitten* [Ak 389].
- 5 As Onora O’Neill aptly puts it, what Kant is claiming is that the empirical point of view which can regard human nature only as appearance “lacks closure”. See her *Constructions of Reason: Explorations of Kant’s Practical Philosophy* (Cambridge: Cambridge University Press, 1989), p. 111.
- 6 Proponents of the “two standpoint” interpretation claim that for Kant appearances are not mental representations of things in themselves (mental representations, that is, of the unknowable reality which causes them). The distinction between appearances and things in themselves refers, that is, not to two different kinds of objects, but to two ways in which empirical objects may be considered. As Henry Allison puts it, Kant intends by “appearances” objects considered, “in relation to the subjective conditions of human cognition,” and by “things in themselves,” objects as they are “independently of these conditions”. This “two standpoint” or “two aspect” reading of the distinction has the obvious advantage over the “two object” or “ontologized” reading, Allison claims, of preserving Kant’s “robust empirical realism,” according to which appearances, although not objects independent of the subjective conditions of our knowing them, are nonetheless real and mind-independent. See Allison’s *Kant’s Theory of Freedom* (Cambridge: Cambridge University Press), pp. 3 and 18.
- 7 *Grundlegung* [Ak 458]. Kant is claiming at least this: our questions about how the intelligible and empirical realms are causally related cannot be answered from within the point of view of theoretical knowledge. According to Christine Korsgaard, it is an implication of Kant’s commitment to the two standpoint view that he believes that such questions cannot even be “coherently asked”. This is because, on her reading of Kant, “freedom is a concept with a practical employment, used in the choice and justification of action, not in explanation or prediction; while causality is a concept of theory, used to explain and predict actions but not to justify them”. From her 1992 essay “Creating the Kingdom of Ends” reprinted as Chapter 7 of her collection, *Creating the Kingdom of Ends* (New York: Cambridge University Press, 1995), p. 204. Korsgaard takes up this distinction between explanation and justification again in *The Sources of Normativity* (New York: Cambridge University Press, 1996), p. 14.
- 8 E.g., the B-Preface of the first *Kritik*. It is not necessary for morality that “freedom be understood,” Kant tells us there, “only that it may ... at least be thought and not be self-contradictory”. Bxxix
- 9 See again *Grundlegung* [Ak 458].
- 10 As Kant puts it at A341/B399, e.g., the ‘I think’ is “purified of the empirical”.
- 11 This language is already present in Hegel’s earliest (“Jenaer”) writings. See, e.g., his discussion of Kant’s philosophy in his 1802/03 *Glauben und Wissen*, and the section “Manchelei Formen, die bei dem jetzigen Philosophieren vorkommen,” in his 1801 *Differenz des Fichteschen und Schellingschen Systems der Philosophie*.
- 12 See Hegel’s “Jenaer” writings cited directly above.
- 13 The terms “separable” and “inseparable” may be familiar to us from John McDowell’s

- recent *Mind and World* (Cambridge, MA/London: Harvard University Press, 1994). But see § 4 A of the *Philosophie des Rechts*, where Hegel characterizes thinking and willing as “untrennbar: sie sind eines und dasselbe, und in jeder Tätigkeit, sowohl des Denkens als Wollens, finden sich beide Momente”. (The notion of freedom as our “second nature,” also prominent in *Mind and World*, appears in this section of the *Philosophie des Rechts* as well: “das Rechtssystem [ist] das Reich der verwirklichten Freiheit, die Welt des Geistes aus ihm selbst hervorgebracht, als eine zweite Nature. ...”) I discuss the influence of Hegel on McDowell in “McDowell’s Hegelianism,” *European Journal of Philosophy* 5, no. 1 (April 1997): 21-38.
- 14 See Herman’s “The Practice of Moral Judgment,” *Journal of Philosophy* 82 (1985): 414-436, reprinted as Chapter 4 of her collection of essays *The Practice of Moral Judgment* (Cambridge, MA/London, Harvard University Press, 1993).
- 15 I cannot for example properly assess the moral worth of my intention to give money to CARE unless my maxim accurately reflects the facts about how much I am actually able to give. To apply the categorical imperative test, I need in this way to attend to empirical content.
- 16 See Propositions 2 and 6 for these passages.
- 17 *Grundlegung* [Ak 399].
- 18 See Proposition 4.
- 19 A prominent spokesperson for this position is Burkhard Tuschling. In, e.g., his essay “The System of Transcendental Idealism: Questions Raised and Left Open in the ‘Kritik der Urteilskraft,’” he writes that “Kantian Transcendental Idealism involves elements of the Hegelian or speculative understanding,” and draws his evidence chiefly from Kant’s Introduction to and second part of the *Kritik der Urteilskraft* as well as from Kant’s *Opus Postumum*. In *System and Teleology in Kant’s Critique of Teleological Judgment, Spindel Conference 1991, Southern Journal of Philosophy XXX, Supplement*, ed. Hoke Robinson: 109-127.
- 20 *Philosophie des Rechts* § 1.
- 21 This passage appears in Hegel’s Zusatz to the Preface. See also *Philosophie des Rechts* § 3.
- 22 *Enzyklopädie der Philosophischen Wissenschaften im Grundrisse* (1830), *Erster Teil: Die Wissenschaft der Logik*, § 38.
- 23 “Über die wissenschaftlichen Behandlungsarten des Naturrechts, seine Stelle in der praktischen Philosophie und sein Verhältnis zu den positiven Rechtswissenschaften,” Section I.
- 24 As Hegel writes in the *Enzyklopädie Logik*, “Man is always thinking, even when he only intuits; when he considers something, he considers it as a universal; he focusses on the singular ... in so doing, withdraws his attention from something else, and takes it as something abstract and universal ...” §24 A 1.
- 25 I am drawing heavily on §4 of the *Philosophie des Rechts* for this discussion. In Hegel’s words, “The animal acts by instinct ... , but it has no will, because it does not represent to itself what it desires”. For helpful discussions of the relation of desire to agency in Hegel, see in addition to the article by Pippin mentioned above, Terry Pinkard’s contribution to that same issue of *Neue Hefte für Philosophie*, “Historicism, Social Practice, and Sustainability: Themes in Hegelian Ethical Theory,” as well as his book *Hegel’s Phenomenology: The Sociality of Reason* (Cambridge: Cambridge University Press, 1994), pp. 274ff.
- 26 As Hegel argues in the *Philosophie des Rechts*, it is this outcome which motivates the

- advance from the stage of "Moralität" to that of "Sittlichkeit".
- 27 For Hegel's rejection of the thesis that reason is a mere slave to the passions, see *Philosophie des Rechts* § 17; for his rejection of the thesis that reason is a mere instrument of social forces, see §§ 146, 148.
- 28 See § 2 and the Preface to the *Philosophie des Rechts* for Hegel's remarks on the difficulty of making a new beginning in philosophy. This is a problem which Hegel addresses again and again. See, e.g., the Introduction of his 1807 *Phänomenologie des Geistes* and the Prefaces of 1812 and 1831 to his *Wissenschaft der Logik*.
- 29 I owe thanks to the Hegel Society of Great Britain for the invitation to prepare this paper for their annual meeting in September of 1997. I am grateful to those present at the meeting for their constructive comments. I also wish to thank the Alexander von Humboldt-Stiftung for the generous grant which made the completion of this paper possible.