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The Method of Hegel's Philosophy of Right

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Abstract

This paper answers the question of how, according to Hegel, we can do philosophy of right. The first part of the paper deals with a critical dimension of Hegel's understanding of the method of the philosophy of right. In the second part, it is shown that in the philosophy of right we consciously look at the present as forming a comprehensive context, as something that is resistant to mere thought and as something that is temporal. According to Hegel, what we consider in this way is concrete.

I would like to begin with a famous passage from the preface to the *Elements of the Philosophy of Right* because it illustrates the focus of my paper: 'As far as the individual is concerned, each individual is in any case a child of his time, thus philosophy, too, is its own time comprehended in thoughts' (*Elements*: 21).¹

The idea of this paper is to read this passage about one's own time as the key to Hegel's idea of the method of the philosophy of right. In addition to the preface, the note to the second paragraph of the section on the state (*Elements*: §258) is particularly relevant here. I want to ask what Hegel wants to say about how we comprehend what right is and what right consists in.

One reason why the above passage has caused quite a stir is that it seems to stand in a remarkable tension with a philosophical project that supposes that logic and philosophy are purely a matter of reason—which seems to be Hegel's general philosophical project. The radicalism of the above thought lies in the fact that philosophy is nothing other than the grasping of something that is in the temporal present. One can put the question this way: how can an absolute knowledge and a pure logic emerge from an interpretation of the temporal? I see the solution to this problem in the thesis that Hegel's 'absolute knowledge' does not mean independence from experience. Rather, it means that with Hegel's time, temporal knowledge has arrived at a point where it is transparent to itself and thus recognizes that it does not need an external instance for its validity—it acquires its validity through the process of thinking itself. But this means, among other



things, that logic itself is not *a priori* to what there is. The alternative between the *a priori* and the empirical is abandoned. Rather, logic is a science that is at least somehow dependent on the temporal. The paradoxical Hegelian thought, as I understand it, means that history and experience are a condition for logical thinking to be self-sufficient.² But this is not directly my topic in this paper. My focus is on the philosophy of right and so I want to develop a closely related but somewhat different thesis. The thesis that I want to develop is that Hegel's method of the philosophy of right means dealing with the actual events and situation of our time. This implies that Hegel does not take his (famous) remark that what is reasonable is real to mean that the philosophy of right can be an *a priori* science. For this understanding, it is important to realize that Hegel makes some statements in the preface not so much as a direct description of his own convictions, but rather as a criticism of conceptions that view the given temporal situation too unphilosophically.

In the first part of this paper, I will mainly deal with this critical dimension of Hegel's understanding of the method of the philosophy of right. In the second part, I will outline three elements which I regard as constitutive for the comprehension of right. Here, I will also refer to Hegel's idea of history. Finally, I will discuss some consequences that we can take from these considerations concerning the method.

I. The criticism of other approaches or methods

The context of Hegel's claim that philosophy is its time comprehended in thought is a criticism of other accounts of philosophy of right. I think that our passage also contains this critical angle: it is meant to remind us of what we are and are not able to do in the philosophy of right. In general, in this preface, Hegel criticizes other options of doing philosophy of right: Firstly, he criticizes the understanding of freedom that consists in the deviation from the universal (*Elements*: Part VIII). From later passages of the philosophy of right (e.g., *Elements*: §257) we know that we can add here that these positions take the will of the individual as the only basis for the state and the right—as Rousseau and Fichte did, according to Hegel. Against them, he claims that we need more philosophical and conceptual analysis to clarify what is rational. It is important to see that these positions are *philosophical* in their use of the concept of the will, but they do not go as far as they need to in that they take the will only as the particular. Later, I will have to ask how, according to Hegel, we can help here with the right method.

Secondly, Hegel criticizes the method of simply saying what would be ideal without considering its possibility. He is very explicit in saying that it is a false

understanding of the method to develop things on the basis of what one has heard or felt or wished. This is also a basis on which people try to say what the state should be—instead of grounding theses about the state on history and on what there is. Jakob Friedrich Fries, who spoke of the power of the people, would be an example of this for Hegel. As far as Hegel's method is concerned, I think the point is very important that we have to be aware of what there really is. According to my reading, this means not only that the philosophy of right is more than just imagining how things could be, but I also read it as saying that we have to deal with what really is the case. I therefore think that this criticism is by no means trivial, but rather indicates that the proper method is to engage philosophically with historical events.

Thirdly—this is more obvious in *Elements*: §258—Hegel criticizes theories that take empirical properties—such as the poverty of the people—as the basis for answering the question of what a state should be. Haller would be an example of this. Hegel thinks that this implies treating the subject as thoughtless as long as there is no conceptual principle of the right that is revealed or given (as free will is in Rousseau's, Fichte's and Hegel's own account). I would not say that according to Hegel such an approach (like Haller's) only misses the rational. Rather, what is particularly interesting is what is said to be missing in this case: namely, a historical understanding of poverty, which implies the need to recognize how poverty has developed out of other things. What is missing, then, is a more careful and broader view of what there has been and what is.

Although with respect to the political content the aim of this criticism is very different from that of the second (against Fries), the methodological problem for Hegel here seems to be similar. Namely, both political theories conceive of what a state should be on the basis of contingent factors. To pick out some aspects at random, without taking into account other aspects of society and the state, is also (for Hegel) to ignore what there is. For Hegel, then, there is a similarity in the different approaches to the philosophy of right between not properly interpreting what is given in time and taking one's own desires as the starting point. In both cases, one fails to place something in relation to other real things. This thinking through of the relations of real things in time is what Hegel sees as philosophical.

This throws an interesting light on the first criticism. The thesis of the philosophy of right as an interpretation of given relations is here methodologically directed against Kant and Fichte, for whom the derivability of questions of right from principles of reason is so important. At first it may have seemed that, following Hegel, we could start with any concept and do philosophy of right somehow *a priori*. One would then say that Hegel criticizes Rousseau and Fichte for overemphasizing the concept of particular freedom, but that they were methodologically correct in proceeding purely conceptually. However, I think it

has to be said that the idea of the particular will is also obtained from the present. The particular will is namely the main theme in the self-understanding of modern society and, as such, something that has been developed in our history. In any case, this thesis that the particular will is also not an *a priori* principle but is obtained from the present is very convincing, if one takes very seriously the passage about one's own time, from which I started, with regard to the method. In this sense Hegel also makes it clear, here and elsewhere, that (for example) Plato was not able to develop Hegel's own philosophy of right simply because his time did not provide the resources for it. 'The principle [of the particular will] is later in history than the Greek world'.³

So, the particular will as a first principle is something that we can take from what there is in Hegel's time. Furthermore, we must go on to relate this idea or principle to other ideas of real things of the contemporary situation. The consideration of the different aspects of what there is is what philosophy is concerned with. The method is thus opposed to armchair philosophy and to the idea that we can deduce the right from some *a priori* principles or an *a priori* logic. It seems to me important to note that this criticism of others provides the first positive insight, namely that the right method implies that one refers to the present and thinks it through philosophically.

To return to the famous quotation with which I began, I would say the following: Although the claim about one's own time can stand on its own, I think that in the context of the preface it is actually formulated mainly as a criticism of others and as a hint to the right method. What Hegel is saying is that all we can do in philosophy is to grasp the rational in what there is. This means that no one can develop ideas outside of their circumstances, and that one must interpret the *things of the present* philosophically.

Before elaborating on Hegel's understanding of method more concretely, I would like to add another famous passage from the preface. This critical dimension is namely also one or perhaps even the main function of the passages on the identity of reason and actuality. I read the passage about one's own time closely together with the statements about the actual and the rational and I read both passages as expressing a critical strategy with regard to what we can claim in the philosophy of right. The connection between these statements is interesting for the question about the critical potential of the philosophy of right: While at first sight we can read the famous sentence 'the actual is the rational' as supporting the status quo of the political situation in Prussia in 1820, this is not the case with the claim about one's own time. On the contrary, one could even say in its spirit that we can only criticize what there is if we really refer to it and analyse what is deficient. I would therefore like to emphasize the critical dimension also with regard to the identification of the actual and the rational. Furthermore, this dimension can be seen in the following passage from the preface: 'philosophy is,

because it is grasping the reasonable, precisely so that it means grasping what is present and actual, not the setting up of what is beyond'.⁴

The critical dimension is obvious because the 'setting up of what is beyond' (*Aufstellen des Jenseitigen*) is clearly meant as something weak and fruitless. This corresponds to the criticism of Haller because there Hegel emphasizes that Haller even does not want to grasp anything at all ('*will nicht begreifen*', *Elements*: §258 note)⁵—Hegel can say this because Haller attacked the philosophical treatment of the state and the right.

The perspective adopted here is also interesting because if one takes into account the critical dimension, the actual must also be understood as the existing and cannot simply be understood as 'the essential' or 'the rational'.⁶ The idea is not that the existing simply is the rational and in this sense we can call it the actual; the idea is that we must refer to the existing and uncover the rational here. In fact, the quotation above did not speak only of 'actuality', but of the 'present and actual'. When Hegel says, later in the text, that the task is to understand the state in cognition as something that is rational 'for itself'⁷, I understand this to mean: we refer to the existing state and think rationally through all its principles, and thereby we are able to cognize what a state is and should look like.

Note that these considerations about the famous passage are not intended to exonerate Hegel from the charge of adapting the Prussian status quo. The situation is not so simple, because Hegel could also criticize those who criticized the Prussian state—which probably is the case—in addition to the criticism of Haller and other figures of restoration. Then the critical dimension of these passages alone cannot really help to defend Hegel against the accusation of supporting the Prussian state. All I wanted to say was that he does not support the Prussian state *with* or *through* these passages. Be that as it may,⁸ I think that the critical dimension is interesting because Hegel does not only criticize other accounts. Rather, he also introduces standards for criticism that are interesting and fruitful—regardless of whom he wants to criticize himself. He formulates as a condition of criticism of the actual, that one relates to it and analyses it. This is what I want to look at more closely.

II. Hegel's method of the philosophy of right

How do we relate to the present or to our time? The modern society of Hegel's time is structured in family, civil society and the state, and these elements are to be analysed and related to each other. The way in which they are structured and related to each other is, at least in part, different in modern times than it used to be. The best example for Hegel in this context is the relation between civil

society and the state. This is so for the following reason: According to Hegel, civil society is the realm in which the people have space for their particular interests and needs.⁹ Modern society is such that this sphere is accepted, it is developed and differentiated in many respects. Thus, it is also clear what is part of it and to what extent something is part of it. That this is so is the result of a long history of transformations and differentiations. This is the story that Hegel tells us especially in the *Phenomenology of Spirit* and in the *Philosophy of Spirit* of the *Encyclopaedia of the Philosophical Sciences in Basic Outline*. And it is an interesting story. I outline this story, or my interpretation of it, very briefly here. In this way, I would like to show what characterizes our time for Hegel. This is important—also in its historical dimension—for the content of the philosophy of right. I will then return to the question of the method of the philosophy of right.

People had also pursued and satisfied their needs before modern times. But since these had neither a clear differentiation nor a clear place, individual and natural elements mixed with general and cultural elements in such a way that the structure as a whole was endangered or destroyed. Extreme examples of this are as much the Roman Empire (*Elements*: §357)¹⁰ as the French Revolution, both of whose dialectics are described in detail in the ‘Spirit’ chapter of the *Phenomenology*. These destructive processes have led to transformations and differentiations—we can speak of education—and as such they are to be comprehended in the present. One of the most important results is that arbitrariness and contingency have their place in this way. To put it simply, we can see things as being contingent, for example, in the choice of profession or in natural endowments, but not in matters of punishment and right. In other words, Hegel describes these historical processes in such a way that part of the problem of the respective historical constellations is that it is not transparent what is private and what is public, what counts as necessary and what counts as accidental. Roughly speaking, the solution is therefore increasing differentiation. We can also understand the present in this sense. What is also interesting about this example is that, according to Hegel, even the modern existing state is in danger of being endangered by poverty and the rabble that (can) arise out of civil society. In the discussion of Hegel’s philosophy of right, this has always caused irritation. In my view, it can be explained briefly as follows: this endangerment is given as long as civil society, as the sphere of the particular will, has too many loose ends and is insufficiently integrated into the general will of the state and society. Thus, §185 elaborates on what particularity is ‘for itself’ and this is referred to both as in the present and in the past.¹¹ The danger of particularity also exists for Hegel’s present time because the integration of the particular into the general is not only a question of differentiations that occur in institutions and organizations. It is also a question of how these connections present themselves to the individual—that is, a truly good state and society is only possible through the human *insight* into the structure and right.

And this is only possible through the way of education (end 187 on education).¹² This is then again realized, at least in part, through institutions. In this way, as Hegel states in §258, the individual becomes someone for whom it is not accidental (something arbitrary) to be a member of the state and this makes a crucial difference.¹³ The danger of particularity still exists because the commitment and insight of individuals into the rationality of modern organization and the state, which is primarily provided by education, is not something static and stable. Poverty and the rabble are products of the behaviour of the community when many lack this commitment and insight.

What I am concerned with here, however, is not the content of Hegel's philosophy of right, but its method. How do I know what is right, what laws and structures are rational, and what constitutes a good state? I have tried to show that we have to start from what is actual and present: for the modern state, in terms of principles, this is the individual will, which is the most dominant aspect of modern self-understanding. We find this principle in the family, the market, the institutions and the state. So we need to think these through to see how they are connected. Here we trace their logic by considering the particular in relation to the general. One can say that in philosophy of right we reconsider what there is with respect to its structure and try to understand what there is with respect to the order of the singular, the particular, and the universal (and other logical forms, although this group is the most fundamental). So logic can help, as can history, but we have to start with the present and consider it with respect to logic and history and make it a thoughtful consideration of what there is.

I will try to say more about the 'thoughtful consideration of what is present' and try to show that we consciously look at the present as forming a *comprehensive context*, as something that is *resistant* to mere thought and as something that is *temporal*. I believe that, according to Hegel, we consider something that we understand in this way to be concrete. I will now go through these three points that make a claim concrete: comprehensiveness, resistance and temporality. In elaborating on these three aspects, I do not want to claim that there are not others, but these three seem to me to be important and determining in any case. I will also try to give some examples to explain what might be meant and come back to the example of civil society.

II.i. Comprehensive representation

To see the present as actual is to see it in the context of everything else that is present. Actuality is comprehensive, a total context, a wholeness. This seems to be a clear understanding of actuality in Hegel's *Logic*, namely in the logic of essence. This seems to be an underlying idea of the philosophy of right. In this context, this has an important methodological point. It can be formulated as

follows: nothing can be determined separately from the other aspects of the present. One has to see different aspects together and relate them to each other. Furthermore, aspects of becoming and the genealogy of what there is are also to be integrated into the picture.

Consequently, we can only cognize something as well as formulate an appropriate critique of what exists if we take this into account. It is a compelling and not at all trivial point that, for example, the adequate self-understanding of my moral doing is dependent on other things—such as what institutions are established in my own time. A concrete idea of forgiveness, for example, is dependent on the institutional formation of punishment.¹⁴ What role forgiveness plays and what it means is also dependent on other institutional structures, such as marriage. This is so because it makes a difference whether people can leave each other and begin a new relationship or not. In what sense it is important for our society that we forgive each other, and even the answer to the question of what forgiveness consists in, depends on one's own time and the present society.

Criticism of institutions must also take into account the development of the human self-understanding. This idea can be directed against theories that do not take into account the individual freedom of our modern time. It can also be fruitful with respect to theories that overestimate the moral aspects in comparison to what the institutional tasks consist of.

This goes hand in hand with a criticism of concepts and content in other theories. This is already clear from the example given. An understanding of the concept 'freedom' that does not take into account the structure of our life in a broader sense is supposed to be insufficient.

II.ii. *Resistance*

When we take the temporal present as the actual in order to develop a philosophy of right and also in order to criticize what there is, one idea seems to be that in order to develop my thoughts I have to do this according to standards that decide what makes sense to develop. In general, this is an idea that is at the centre of Kant's philosophy—namely the idea that we need to have some kind of criteria in order to avoid pipedreams. In the case of strict cognition this is for Kant the demonstration of its real possibility.¹⁵ A somehow similar idea can be seen here in Hegel: In order to really grasp the rational, we have to have some kind of resistance.

I think this idea is present in the passage I already quoted: 'philosophy is, because it is grasping the reasonable, precisely so that it means grasping what is present and actual, not the setting up of what is beyond' (*Elements*: Preface).¹⁶ It is quite interesting to take the grasping (*Ergründen*) and setting up (*Aufstellen*) as

opposite concepts. As already said, *to set up* (*Aufstellen*) is a much weaker epistemic attitude. The passage then says that for cognition—in contrast to other epistemic attitudes—we need to refer to the present and actual. It actually says that *because* we want to gain cognition we have to relate to the actual. The expression ‘*erfassen*’ is—like ‘*begreifen*’—such that it offers a haptic image for thinking. ‘*Ergründen*’, furthermore, also goes in the direction of *digging*. This fits in with the fact that what I grasp must be something that can also elude me; and in this sense cannot be invented.

The point seems to be that we need a kind of resistant scenario according to which we develop our concepts. However, what could this mean in Hegel's view? Again, we can refer to the concept of freedom here. We need to look for concrete scenarios (not just thought experiments) in which this concept is challenged: Thinking concretely through situations in which I myself need to be protected could lead to a more adequate understanding of freedom than the liberal one. Thus, as with the first point of comprehensiveness, we can also express this here as a norm: Think through different kinds of scenarios that are realistic in your own time to test your concepts and your theories. As such this point is again convincing and by no means trivial. However, Hegel does not only claim that we need to think through scenarios; he rather also thinks that these scenarios need to have been *experienced* in the present or in the past. This is more than saying that we need to *think* through scenarios. It is also an interesting thesis, but perhaps not so convincing. It has to do with the fact that history is extremely important for Hegel's method, and I will come back to this.

If we understand the point here to be that we can challenge our own concepts with respect to realistic or historical scenarios, then we can also use this to understand the role that crises play in our political life. On the one hand, the scenarios can help us to understand crises. This is so because crises often consist of tensions between the individual life or particular interests and the general ethical principle. We therefore need to take into account these different perspectives and this means going through concrete scenarios. An example of this is Hegel's interpretation of Antigone. On the other hand, the scenarios help us to understand the *dynamic and development* of crises and their rational solutions. When we imagine scenarios or rethink historical scenarios, what we understand or experience is that latent contradictions or tensions often build up and lead to crises. In my view, this does not only apply to the past, in the reconstruction of which the insight that and how crises were actually overcome can lead to an insight into the rationality of institutions or structures (because they contributed to the resolution of these crises). Rather, it also applies to the present, in so far as, for example, the insight into a crisis looming through potential poverty can, in turn, lead to the support and affirmation of certain structures. For Hegel, our understanding

of the political world would not be possible without an understanding of crises, and our concept of freedom is tied to that of crisis.

It should be mentioned here that Hegel seems to somehow to exclude his own time from the ongoing progress of experiences that lead to new development. One possible reading of Hegel is: The development and elaboration of Hegel's own philosophy of right uses the critical strategy by trying to show where other concepts cannot surmount needs. This leads to Hegel's position, which can then master these challenges. What would this mean? Even then, there would be enough room for a criticism of the existing state, since it is not clear whether this existing state realizes the potential that the philosophical analysis takes from what there has been and what actually is. Thus, this idea does not have to lead to an uncritical support of the Prussian state. Independently of the relation to the Prussian state, I have already made clear in the context of the topic of poverty that Hegel sees dangers for the political situation of his time in any case. Nevertheless, Hegel's position, understood in this way, would imply the thesis that Hegel's time is a kind of endpoint. This seems unacceptable, and many interpreters—myself included—are looking for alternative interpretations.¹⁷ But this goes beyond our topic of the method. In the context of this topic, I want to say that the claim that each theory of right and freedom has to become critical by looking for realistic challenges and that these challenges can be seen in thinking through historical situations is, as such, convincing. And I want to stress that these situations are at least partly due to the way the world naturally is or has developed historically. One aspect of a philosophy of right that refers to a world that implies resistant facts is that it also deals with the material conditions of our lives. For example, technology and its progress are important for our understanding of labour and the difference between urban and rural life is important for the social interactions and these considerations often play a notable role in Hegel's philosophy of right. I also think that the analysis of the market shows why this sphere and the distinction of this sphere from others is important for our self-understanding of human beings.¹⁸ For this it would not be enough to have the logical concept of particularity. There seem to be many examples of these aspects that are important for Hegel's idea of the modern state. The world is such that we only now have a differentiated understanding of ourselves as human beings that needs to be taken into account. The world is such that we tend towards luxury. The world is such that we could need to be protected and, in this sense, we have to refer to what there is to look for the best philosophy of right or concept of freedom. So again, I would say that it cannot be logic alone that helps us in the philosophy of right but reflection on what there is.

II.iii. *Temporality*

If we really want to grasp something, that something must be temporal. Note the following: If one says that cognition must be related to something temporal, there is the possible objection that mathematical cognition is not. I cannot discuss this objection in detail here, but I would like to state the following against it: 1) With Hegel—as with Kant—it is not clear whether mathematical operations per se can already be regarded as cognition in its full scope. 2) In his philosophy of nature, Hegel examines space and time (also in the mathematical sense) in such a way that time ‘is the truth of’ space and the material is a kind of fulfilment or even a condition for the space-time scheme—in this way, in my view, even mathematical cognition is related to the temporal (not only to time). 3) If one does not find this convincing, one can still say that mathematical knowledge is excluded here, but that all philosophical understanding must be related to the temporal.

The temporal dimension of what we have to refer to if we want to really grasp something is prominent in the phrase that philosophy can only comprehend its own time. Moreover, in the passage I have already quoted several times, Hegel speaks not only of the actual but also of the present (*Gegenwärtige*). We have already dealt with one dimension of what is to be understood by this third point under the second. If there has to be resistance in the form of historical experiences, then the reference to something temporal is already included.

Nevertheless, it seems worthwhile to develop this aspect further and perhaps there is something here that further explains why what is resistant must be something that has been realized *in history*.

In general, there are interesting time-aspects in what Hegel develops in his philosophy of right. I will first mention some of them: For Hegel civil society has primarily a future dimension (*Elements*: §203)—this is already present in the provisions for the future in agricultural life. There it is linked to a trust in what comes from outside (for example, the rain), which makes the future rather a phase in a cyclical understanding of time. However, in cities and factories the future dimension is given in ways that anticipate the market, and the relation to the future is therefore more direct and active. Again, this changed directness towards the future has an effect on the modern self-understanding.¹⁹ Interestingly, trust also plays a role here (in the modern urban societies), but a different one. Namely, at least in the form of the state and society that Hegel endorses, trust in other persons is an essential element. Trust does not come from civil society but from society as a whole—including the state.²⁰ With respect to the time relations, we can thus say that the future dimension of the market needs a basis in the present and can indeed have it *if* we have a functioning state. These remarks on the dimensions of time in the different elements of the philosophy of right (market

and state) can show us that what is present is (or should be) the essential reference point of any philosophy of right. It also shows us that the human embedding in time, and the understanding of it, is also a changing one—the contemporary understanding is different from earlier times. In a philosophy of right, care must be taken to ensure that contemporary references to time play their proper part in the structure of the state.

There is another temporal relation between philosophy and comprehension. Namely, we can understand grasping also as a kind of preserving, holding on, keeping that which is lasting. This fits in with the aspect that the universal that lies in the sphere of the state is partly given by comprehending the dependence relation. In the preface to the *Elements of the Philosophy of Right*, Hegel also explicitly says that philosophy seeks something lasting (vi) and this is why Hegel understands philosophy always as a kind of remembering.

But even if there are these temporal dimensions that can also tell us something about the actual structure of the political world and society, this has not really told us enough about why Hegel thinks that we need the present (*Gegenwärtige*) as something temporal. Why, for example, do we really need the temporal in order to grasp what good political institutions consist of?

Perhaps here Hegel simply has a similar thought to Kant, namely that grasping requires a kind of grip that ultimately cannot be given by thinking alone. However, I suspect that Hegel has a slightly more logical reason for this, which has to do with his understanding of contradiction and possible reconciliation. I think that for Hegel the complex connection between the temporal and thinking—which has already come up in the discussion of the time-dimensions—has to do with what development is and what thinking is. Let me add two remarks in this direction.

Firstly, a condition for development is that contradictions are real. Only then can opposites really be in a strict sense *together*, and only this can drive the further development. I do not know how strictly we have to take this. At least it makes sense that actual extremes like the danger (or even the fact) of poverty—if we understand them in the right way—make the tasks of the state vivid and obvious (more than pure thinking could do this): If the state functions and is recognized in all its aspects, the poverty of civil society can be solved. This becomes obvious by the actual danger. It also becomes clear that civil society alone cannot remain stable, and this insight changes our relationship to the state.²¹

Secondly, Hegel thinks that a condition of grasping is that we have different spheres of realization. What does this mean? With regard to the philosophy of right, in which we want to have an ongoing mediation of different concepts of freedom, we need different spheres of realization for this kind of mediation. This is possible here in the form of the actual, to which we can return and rethink. This is why we have to refer to our own time and to the past if we want to

develop the philosophy of right. According to Hegel, our concepts are bound to the present, which shows itself to have developed out of the past and seeing it in this way shows us how it is really structured and why. As an example, we can again take the relationship between civil society and ethical life. Only if we can reconsider the history of the actual civil society, can we see the tensions and resources in the modern structure, and only this comprehension has the effect that the structure can indeed be realized.

One might object that this cannot be Hegel's idea of thinking and development because of his *Logic*. This is another topic and I do not want to say much about it here. In order to answer this objection in just a few words I must repeat what I already said earlier: I think that Hegel's *Logic* is (somehow) dependent on the actual development as well. Nevertheless, we are able to present logical development in a non-temporal form. But even here, there is a kind of temporal order. Namely, even in the *Logic* we have to remember and repeat—and this is ultimately something that can only happen if we have something that has been there and to which we can come back. Thus, all grasping is temporal in the sense that it is a return to something that has been there.

One might also object to my interpretation of the philosophy of right that Hegel structures the philosophy of right according to his *Logic*. I would agree with that, but this does not seem to me to be sufficient to conclude that it is *deduced* from the *Logic*. First of all, the mode of representation can be separated from how we cognize something. This seems to me by no means to apply only to the philosophy of right, but also, for example, to the philosophy of nature, in which we start with very abstract principles such as space and time—with which our actual relation to and cognition of nature surely does not begin. Hegel's idea of representation is that we go from the abstract to the concrete, that is, we start with the simple and then enrich it. There are a few other things connected with this form of representation: we can distinguish principles from each other very well in this way; at the same time, it then seems important that we read the works repeatedly and that the different philosophical investigations relate to each other like a kind of repeating circle. This is so because we can then recognize the abstract principles as simple principles that are the abstraction of something much richer. One could perhaps also add that the way in which Hegel presents the philosophy of right is not only in accordance with the *Logic* but it may also take up aspects of the common self-understanding of modern philosophy.

A similar objection to my reading of Hegel's method of philosophy of right might say that it is not legitimate to start from the principle of the particular will and relate it to the family, the market, and the state because this is not Hegel's own approach in *Elements of the Philosophy of Right*. He started from the abstract principles of right. In fact, my presentation of the examples often corresponds mainly to the preface and the third section of the philosophy of right. But here I

would like to answer that it must be legitimate to concentrate on the third section when it comes to the question of how the cognition of political principles must *ultimately* take place.

Above all, it should be noted that I do not claim that, for Hegel, philosophy of right is not meant to uncover the logical structure of political and institutional relations. Rather, my thesis is that, according to Hegel, the philosophy of right has to examine the present and the past with respect to logical structures, it has to expose these structures in the actuality and in this way also expose the deficits or necessities of what there has been and what is.²² The thesis, then, is not that there is no logical structure but that the philosophy of right is not simply based on or derived from the *Logic*.²³

It might furthermore be objected to my reading that Hegel characterizes his method in the philosophy of right as dialectical (*Elements*: §31A) and that I have not taken sufficient account of this. In fact, although I have not said much about it, I think that Hegel assumes that, in the analysis of the present that I have described, contradictions emerge (such as that between poverty and an equal, free civil society). Thinking through these contradictions is, I think, what constitutes dialectics. This is presented and reflected upon in the *Logic*, but in the philosophy of right it arises from the contemplation of the present—at least that is the thesis I have put forward here. There are repeated passages in Hegel’s philosophy of right that do not seem to refer to the *Logic* at all, but rather assert dialectic or contradictions in reality. For example, §246 of the *Philosophy of Right* speaks of the dialectic of civil society as its contradictoriness, which it (civil society) ‘drives beyond itself’.

In conclusion, I would like to return to the quotation with which I began. What does it mean to ‘comprehend one’s own time in thoughts?’ As I claimed, according to Hegel, we consider something that we comprehend or grasp in a way that is guided by these three aspects—comprehensiveness, resistance and temporality—as *concrete*. To think something concrete, then, means to relate something to the context, to develop it with respect to something actual that can resist, and to think of it in a way in which I come back to things already thought and (re)think them. If we grasp what freedom is in this way, we arrive at a concrete concept of freedom. As I have argued, to grasp our own time means to comprehend it in this way. At the same time, these criteria also provide the basis for being able to criticize concretely what there is.

One of the consequences we can draw from this is that history does indeed play a crucial role in our comprehension of right and freedom. Even for Kant, we can say that we know about freedom because freedom is actual. But for Hegel, this actuality is given by an historical development and not by something inner or doubtless.

Another consequence, which I have already mentioned, is that the philosophy of right is no armchair philosophy, and its principles cannot be deduced *a priori*. For this reason alone, I think it is quite promising to take the passage about one's own time as the key to a fruitful method of the philosophy of right.²⁴

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Notes

¹ Abbreviations used:

Elements = Hegel, *Elements of the Philosophy of Right*, trans. H. B. Nisbet, ed. A. Wood (Cambridge: Cambridge University Press, 2017).

GW = G.W.F. Hegel. *Gesammelte Werke*. Hamburg: Felix Meiner, 1968ff.

² See Emundts (2022a).

³ 'This principle is historically later than the Greek world' (*Elements*: §185). Compare with the following remark from the preface: 'In the course of the following treatise, I have remarked that even Plato's Republic, a proverbial example of an empty ideal, is essentially the embodiment of nothing other than the nature of Greek ethics'. This reference to Plato is surprising because it refers to Plato as someone who interprets his own time—that is, not as someone who derives something from the ideas of reason alone. I think Hegel wants to assert that ultimately one cannot help but interpret one's own time and that this was true even for Plato. One punchline then is that Plato could not develop a theory of the state that was binding for Hegel's time. The reference to Plato in the context of the method of philosophy and especially with regard to the (different) role of philosophers is explained by Novakovic and Maksymchuk (2022).

⁴ In the Preface: '[...] since philosophy is exploration of the rational, it is for that reason the comprehension of the present and the actual, not the setting up of a world beyond', *Elements*, 20.

⁵ 'Here, however, Herr von Haller not only consciously dispenses with the rational content of the state and with the form of thought, but fulminates with passionate zeal against them both.' *Elements*, 278 (§258 note).

⁶ For different readings of this passage, see Kervégan (2018: xvii–xxxiii; 2019: 23ff.).

⁷ *Elements*, 276 (§ 258 note)

⁸ For this question, see for example Horstmann (1974), Kervégan (2019: 245ff.).

⁹ See Horstmann (2017).

¹⁰ ‘The Roman Realm. In this realm [the process of] differentiation comes to an end with the infinite diremption [*Zerreiung*] of ethical life onto extremes of personal or private self-consciousness and abstract universality’ (*Elements*: §357).

¹¹ ‘Particularity in itself [*fr sich*], on the one hand indulging itself in all directions as it satisfies its needs, contingent arbitrariness, and subjective caprice, destroys itself and its substantial concept in the act of enjoyment’ (*Elements*: §185).

¹² ‘Furthermore, this form of universality to which particularity has worked its way upwards and cultivated [*heraufgebildet*] itself [...]. This is the level at which it becomes plain that *education* is an immanent moment of the absolute, and that it has infinitude value’ (*Elements*: §187, n.).

¹³ ‘If the state is confused with civil society and its determination is equated with the security and protection of property and personal freedom [...] it also follows from this that membership of the state is an optional matter.—But the relationship of the state to the individual [Individuum] is of quite a different kind’ (*Elements*: §258, n.). It is an open question whether it is mainly a question of insight or structure. See Emundts (2022b) for ‘insight’; see Neuhouser (2000) for ‘structure’.

¹⁴ Hegel’s idea of forgiveness has been recently discussed as a substantial part of his understanding of modern societies and their principles of trust and recognition, for example in Brandom (2019). Angehrn (2017) stresses rightly that we have to understand it together with punishment and other structural elements.

¹⁵ ‘To **cognize** an object, it is required that I be able to prove its possibility (whether by the testimony of experience from its actuality or *a priori* through reason)’ (Kant 2013: Bxxvii, n.; my translation).

¹⁶ ‘[...] since philosophy is exploration of the rational, it is for that very reason the comprehension of the present and the actual, not the setting up of a world beyond which exists God knows where’ (*Elements*: Preface).

¹⁷ Sedgwick (2015) and Sedgwick (2023: Ch.7).

¹⁸ For this thesis, see Heisenberg (2018).

¹⁹ ‘The substantial estate [...] and the dependence of the yield on the varying character of natural processes, the end to which need is directed in this case become that of *provision* for the future. But because of the conditions to which it is subject, this provision retains the character of a [mode of] subsistence [Subsistenz] in which reflection and the will of the individual play a lesser role, and thus its substantial disposition in general is that of an immediate ethical life based on family relationship and on trust’ (*Elements*: §203).

²⁰ According to Houlgate trust here is an essentially theoretical relation to ethical life—a knowing of oneself in the other—that underlies the ethical actions of people (2016).

²¹ I presuppose here that Hegel thinks that poverty can be overcome (with the right understanding of the state)—which is not indisputable. For this thesis, see, for example, Anderson (2001) and Houlgate (2022).

²² *GW* 14.1, §2 of the *Philosophy of Right* seems to me to be at least open to such an interpretation because it not only speaks of necessity but it also says that something that has become what it is can be taken as proof and deduction of it.

²³ The thesis that the philosophy of right is derived from *Logic* is often an implicit claim. Stephen Houlgate (2022) has recently argued for it (although I would not agree with respect to the methodological idea, I agree with the main thesis about poverty). Fulda (1982) develops the thesis that, in view of empirical facts, we reconstruct their true content starting from the Hegelian concept. Here, too, logic is thought to be foundational. However, Fulda's explanations are such that it is also about a 'going back and forth' (1982: 422) between logic and the present. Through this (and through his interpretation of the example of property), aspects of his explanations seem to me to be compatible with what I am claiming.

²⁴ I discussed an early version of this paper at the conference on Hegel's *Rechtsphilosophie* in Frankfurt and a later version in Oxford at the HSGB Annual Conference in 2022. Thanks are due to the organizers and participants of both events. Special thanks are due to Pirmin Stekeler-Weithofer, Angelica Nuzzo, Stephen Houlgate, Andreja Novakovic, Rolf-Peter Horstmann, Mihnea Chiujea and Ronja Liebenrodt.

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