

Res Publica Duplex.

Civil Society and the Political State in Hegel's Philosophy of Right

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Handout

A. Abstract

While Hegel was no republican in the ancient Roman or the early modern neo-Roman sense of the term, the constitution of the modern polity he outlined in *Elements of the Philosophy of Right* (1820) is only inadequately characterized as a constitutional monarchy. In addition to the “monarchical moment” of a largely symbolic head of state, Hegel's Philosophy of Right recognizes the aristocratico-republican moment of a civil service executive and the democratico-republican moment of a bicameral legislative body. Most importantly, in addition to the constitutional set-up of the “political state” (*politischer Staat*) governing the polity “from above,” Hegel's Philosophy of Right recognizes the public sphere of “civil society” (*bürgerliche Gesellschaft*) structuring and staffing the polity “to below.” The presentation tracks the emergence and the functioning of Hegel's innovative civico-political distinction in its historical and systematic context.

Historically, Hegel's crypto-republican philosophy of the political state and civil society is situated in relation to the distinction, to be found in Montesquieu and B. Constant, between political liberty and civic liberty. Systematically, Hegel's modern polity is presented as the combined differentiation and unification of the two public spheres of the self-organization of civic life and the governmental structuring of political life. The presentation is organized in four sections. The first section presents the historically and geographically extended horizon of Hegel's politico-philosophical thinking. The second section presents Hegel's outwardly monarchical state as a latter-day alternative to ancient (Roman) and early modern (neo-Roman) republicanism on the one side and post-monarchical late modern democratism on the other side. The third section features the development and articulation of Hegel's civico-political distinction between civil society and the state. The fourth section tracks the transformation of the socio-economically defined divisions of civil society into the executive and legislative powers of government in Hegel's modern polity.

B. Disposition

Section 1. Pneumatic Republicanism

Section 2. Gothic Government

Section 3. Civil Liberty

Section 4. Political Freedom

C. Primary Texts

Montesquieu, *The Spirit of the Laws*, ed. Anne M. Cohler, Basia Carolyn Miller and Harold Samuel Stone (Cambridge: Cambridge University Press, 1989).

W. v. Humboldt, "Ideen über Staatsverfassung, durch die neue Französische Konstitution veranlaßt," in *Berlinische Monatsschrift* 19 (1792), 84–98.

G. W. F. Hegel, "Fragmente einer Kritik der Verfassung Deutschland," in id., *Gesammelte Werke*, ed. North Rhine-Westphalian Academy of Sciences and Arts (Hamburg: Meiner, 1968ff.), vol. 5, 1-219.

G. W. F. Hegel, "The Constitution of Germany," in id., *Political Writings*, ed. Laurence Dickey and H. B. Nisbet, tr. N. B. Nisbet (Cambridge: Cambridge University Press, 2004), 6-101.

G. W. F. Hegel, *Grundlinien der Philosophie des Rechts*, in id., *Gesammelte Werke*, ed. North Rhine-Westphalian Academy of Sciences and Arts (Hamburg: Meiner, 1968ff.), vol. 14/1.

G. W. F. Hegel, *Elements of the Philosophy of Right*, ed. Allen W. Wood and tr. H. B. Nisbet. (Cambridge: Cambridge University Press, 1991).

G. W. F. Hegel, *Enzyklopädie der philosophischen Wissenschaften (1830)*, in id., *Gesammelte Werke*, ed. North Rhine-Westphalian Academy of Sciences and Arts (Hamburg: Meiner, 1968ff.), vol. 20.

G. W. F. Hegel, *Philosophy of Mind*, tr. William Wallace (Oxford: The Clarendon Press, 1894).

B. Constant, “De la liberté des Anciens comparée à celle des modernes, discours prononcé à l’Athénée Royal de Paris,” in id., *Œuvres complètes*. Série Œuvres, vol. 15. *Brochures politiques. 1819-1821*, ed. Kurt Kloocke and Paul Delbouille (Berlin and Boston: De Gruyter, 2017), 292-311.

B. Constant, “On the Liberty of the Ancients Compared With that of the Moderns,” in id., *Political Writings*, ed. Biancamaria Fontana (Cambridge: Cambridge University Press, 1988), 309-328.

D. Quotations

Q1. “[...] it should be said that it is just the great development and maturity of form in **modern states** which produces the highest **concrete inequality of individuals** in actuality: while, through the deeper rationality of the laws and the greater stability of the legal condition, it gives rise to all the **greater and more founded liberty**, which it can without incompatibility allow.” (*Enzyklopädie* [1830], § 539; GW 20: 511; Hegel, *Philosophy of Mind*, tr. William Wallace [Oxford: The Clarendon Press, 1894], 135; translation modified)

Q2. “**Montesquieu** stated the true historical view [...] that **legislation** [...] should not be considered in isolation and in the abstract, but rather as a dependent moment within *one totality*, in the **context** of all the other determinations which constitute the character of a **nation and age** [...]” (Hegel, *Grundlinien*, Einleitung; GW 14/1: 26; *Elements* 29).

Q3. “**History** must be illuminated by **laws**, and **laws** by **history**.” (Montesquieu, *Esprit des lois*, bk. 31, ch. 2; *Spirit of the Laws*, 675).

Q4. “**Republicanism** is the state principle of the the **separation** of the **executive power** (of the government) from the **legislative [power]** [...]” (Kant, *Zum ewigen Frieden*, AA 8: 352)

Q5. “Without such a **representative body**, **freedom** is no longer conceivable.” (Hegel, *Fragmente einer Kritik der Verfassung Deutschlands*; GW 5: 149; *Political Writings* 94)

Q6. “The principle of the modern states has this enormous strength and depth to allow the **principle of subjectivity** to attain fulfillment in the independent extreme of personal **particularity**, while at the same time bringing it back to **substantial unity** and so preserving in the **principle of subjectivity** this **substantial unity**.” (Hegel, *Grundlinien*, § 260, GW 14/1: 208; *Elements* 282; translation modified)

Q7. “In relation to the spheres of **private law** and **private welfare**, the spheres of the family and **civil society**, the **state** is on the one hand an **external necessity** and the higher power to whose nature their laws and interests are **subordinate** and on which they depend. But on the other hand, it is their **immanent end**, and its strength consists in the unity of its **universal and ultimate end** with the **particular interest of individuals**, in the fact that they have **duties** towards the state to the same extent that they also have **rights**.” (Hegel, *Grundlinien*, § 261; GW 14/1: 208; *Elements* 283; translation modified)

Q8. “Viewed as a **mediating organ**, the **Estates** stand between the **government at large** on the one hand and the **people** in their division into **particular spheres** and **individuals** on the other. Their determination requires that they should embody in equal measure both the sense and disposition of the **state and government** and the interests of **particular circles and individuals**.” (Hegel, *Grundlinien*, § 302; GW 14/1: 250; *Elements* 342; in the original emphasis)