TWO MODELS OF CONSCIENCE AND THE LIBERTY OF CONSCIENCE IN HEGEL'S PRACTICAL PHILOSOPHY

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Hegel presents significant accounts of “conscience” (Gewissen) at decisive moments both in the early Phenomenology of Spirit and the Philosophy of Right. In spite of some important similarities between these accounts, they present deeply different, perhaps even inconsistent, understandings of the nature and value of individual conscience. Roughly, on the Philosophy of Right account, conscience is fundamentally something inward and individualizing, requiring transformation if it is to be integrated into the social institutions and practices that constitute modern “ethical life.” By contrast, in the Phenomenology of Spirit, conscience is always already fundamentally social, entailing demands that individuals both realize their convictions in actions that are, in principle at least, available to others, and that they be able discursively to articulate, justify, and, in some cases, modify their convictions in relation to others. Drawing on this contrast between two understandings of the nature and value of conscience, I consider two models of the liberty of conscience. On the first model, the liberty of conscience fundamentally entails the need for the protection of an inward sphere over which institutions ought not to attempt to exercise coercive influence. On the second, the liberty of conscience entails acknowledging the discursive and social character of conscience, so that, while individuals should be entitled to a sort of moral autonomy, that autonomy entails an equal demand to be able to justify their convictions to others, and to respond reasonably to the claims that others make on them. I argue that Hegel’s concept of “spirit,” which suggests that selfhood is fundamentally a product of concrete relations among individuals, provides stronger support for the second model of the liberty of conscience.

Given the centrality of the liberty of conscience to the tradition of liberalism, it might surprise us that liberals tend to devote scant attention to the question of what conscience itself is. It may seem that this question is not actually all that important for liberals. After all, “liberty of conscience” may simply be a stand-in for recognizable
ideas about the individual’s freedom from coercion in matters of religion, or the separation of church and state. But matters cannot be quite so simple. With the broad decline of organized religion as a driving force in public and private life, and with the appeal to conscience to justify freedom in moral matters not obviously connected to religion, the question of what conscience itself is should be a pressing one for understanding the specific contours of the liberty of conscience. However, when we consider liberal accounts of the liberty of conscience, we run into a significant challenge from critics of a broadly communitarian bent. These critics argue that, because conscience is essentially social—either in its conditions for formation or realization—individualistic liberalism cannot give the claims of conscience their due. Even though liberals might profess the importance of the liberty of conscience, these critics contend that it cannot actually account for the importance of conscience as such.

In what follows, I would like to consider these issues—what conscience itself is, whether it is essentially individualistic or socially constituted, and what the specific requirements of the liberty of conscience are—by examining Hegel’s writings on conscience. Of course, when we turn to Hegel’s writings, we find two significant accounts of conscience, one in the early Jena Phenomenology of Spirit, and the other in the mature philosophy of objective spirit, both in the Encyclopedia and the Philosophy of Right. I believe that these present two distinct conceptions of conscience, which in turn provide the grounds for two distinctive models of the liberty of conscience. 1

Settling the question of which is most appropriate requires addressing the ontological question that liberals have been reluctant to answer, namely what conscience itself is. I argue that the Jena Phenomenology account, according to which conscience is socially constituted—not simply formed through interaction with others, but ontologically dependent on intersubjective recognition—is superior, since it understands conscience as a conception of what Hegel calls “the self,” and since it is most consistent with Hegel’s account of “spirit.” I show that the primary feature that distinguishes the Jena Phenomenology account of conscience is its intersubjective character, which we can see best by considering its dependence on the idea of recognition, and on specific forms of language. I demonstrate that the model of the liberty of conscience that results from adopting this conception of conscience, dependent on recognition and language, entails an appreciation for the discursive obligations that follow

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1 While he certainly considers related matters, Hegel does not use the expression “liberty of conscience.” So my argument is, at best, reconstructive.
from appeals to the liberty of conscience—in particular, the obligation to be able to justify one’s actions, and to judge the justifications of others—and of the demand for reconciliation in matters of moral disagreement.

I proceed as follows. I begin (§1) by sketching two models of conscience and the liberty of conscience that we find in the liberal tradition, the individualistic model of John Rawls, and the intersubjective model of Kimberley Brownlee. I then (§2) turn to Hegel’s accounts of conscience in the *Philosophy of Right*, and the *Phenomenology of Spirit*, sketching the differences between these accounts. I conclude (§3) by arguing for the superiority of the intersubjective model of conscience that we find in the *Phenomenology of Spirit*, on the grounds that it better construes the fundamental character of the self, as constituted through the recognition of others.

1. Conscience in liberal tradition

Conscience has played an important role in the liberal tradition. It is invoked most centrally in connection with the liberty of conscience. This liberty was initially connected primarily to religion, the liberty to practice a faith of one’s own choosing without suffering persecution from the state. Of course, even in Locke, it is not simply connected to action and behavior. Instead, Locke acknowledges that the pursuit of salvation depends ultimately on the conscience of the believer, on her own inward dispositions and beliefs. Over time, in concert with the gradual decline of religion in western societies, the liberty of conscience came to be extended to include moral views that do not depend explicitly on any religious faith or doctrine, and to include conscientious objection and civil disobedience.

We find in Rawls’s *A Theory of Justice* a clear summation of the importance of conscience to liberal politics. Rawls argues that the liberty of conscience is among the “basic liberties” guaranteed by the first principle of justice, whose equal protection cannot be sacrificed for the sake of any subordinate good. For Rawls, individuals have the liberty of conscience “when they are free to pursue their moral, philosophical, or religious interests without legal restrictions requiring them to engage or not to engage in any particular form of religious or other practice, and when other men have a legal duty not to

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interfere.” Given the centrality of conscience specifically—in distinction from religious faith or adherence to doctrine—to liberal politics generally, and to Rawls’s view in particular, we might expect to find more sustained reflection on what conscience itself is both within the liberal tradition and in Rawls’s own writings, than we do. However, Rawls does not provide a direct account of this. Ultimately, he seems to identify conscience as a sort of faculty or capacity possessed by the individual for pursuing, reflectively affirming, and rationally revising a conception of the good, of what is of ultimate value in human life. He therefore connects conscience with the individual’s *rationality*, their capacity “to form, to revise, and rationally to pursue a determinate conception of the good.” On Rawls’s account, a conception of the good is understood to be “a conception of what is valuable in human life” that specifies those final ends that the individual wants to realize for their own sake, and includes specific attachments to persons, and loyalties to groups. Rawls distinguishes rationality, the capacity for a conception of the good, from *reasonableness*, “the capacity for a sense of right and justice (the capacity to honor fair terms of cooperation...).” We might think it peculiar that Rawls’s appeals to conscience link it primarily to the individual’s own conception of the good, rather than to her sense of justice. However, we find a similar account of the relation between conscience and the individual’s conception of the good, in distinction from consideration of matters of justice, when we compare Rawls’s defences of civil disobedience and conscientious refusal. For Rawls, civil disobedience is “a public, nonviolent, conscientious yet political act contrary to the law usually done with the aim of bringing about a change in the law or policies of the government.” By contrast, Rawls identifies conscientious refusal as “noncompliance with a more or less direct legal injunction or administrative order...on conscientious grounds.” These two acts have, on Rawls’s

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account, different aims, and conscience plays a distinct role in each. The aim of civil disobedience is explicitly public and political, and it is based on “political principles.” While the act is “conscientious,” its ultimate aim is the promotion of justice, of changing existing laws and policies. By contrast, conscientious refusal need not appeal to political principles, but can instead be grounded in reasons one does not expect others to share, such as those drawn from one’s religion or moral outlook. While it is true that Rawls does not think that a just polity should automatically accept every act of conscientious refusal, he nonetheless thinks that the conscientious character of these acts lends them an importance that we should not expect in other violations of the law. Here too, then, Rawls distinguishes straightforwardly conscientious acts—those stemming from the individual’s own religious, moral, or philosophical commitments, from her conception of the good—from those with an explicitly political aim—that are justifiable by appeal to public, political principles, or by a conception of justice.

In allying conscience so closely with the individual’s own conception of the good, Rawls seems to run the risk of making conscience excessively individualistic. While the liberty of conscience must belong to individuals, the worry about individualism is that Rawls conceives of conscience in isolation from intersubjective relations in a way that obscures it. We find a range of criticisms along these lines. Robert Vischer and Jason Howard argue that excessive focus on conscience as a sort of “right” that requires protection tends to atomize conscientious agents, and that conscience is severed from the intersubjective sources that form and sustain it.11

In a recent book, *Conscience and Conviction*, Kimberley Brownlee advances a distinct critique of Rawls’s conception of the nature and importance of conscience. While Brownlee’s primary aim in this work is to provide a defence of civil disobedience, she bases her defence on two distinct but related notions, those of conscientious conviction and conscience. On her account, conscientious moral conviction is “a descriptive property of sincere and serious, though possibly erroneous, moral commitment.”12 By contrast, conscience is “an evaluative notion” consisting of “a set of practical moral skills

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that stem from an inward knowledge of the workings of our own mind and heart. Having conscience means not just taking morality seriously (conscientiousness), but also being genuinely, self-consciously morally responsive."\(^\text{13}\) While all acts of conscience involve conscientious conviction, the reverse does not hold. That is, Brownlee argues that some acts can involve conscientious conviction, in the sense that they are motivated by a genuine commitment to morality, but still fall short of counting as "conscience," since the agent conscientiously avows and realizes convictions that are morally erroneous—she fails to be "genuinely...morally responsive." In such cases, even though the individual takes herself to be performing a moral action motivated by genuine conviction, her conviction itself is a false belief about the requirements of morality.

Brownlee’s view contrasts most notably with Rawls’s in her claim that both conscientious conviction and conscience are essentially expressive and communicative, subject to what she calls "the communicative principle of conscientiousness." In order to count as conscientious—either in the weak sense of merely having genuine convictions, or in the strong sense of being genuinely morally responsive—an agent must satisfy a dialogic requirement demanding that "we be willing to communicate our convictions to others so as to engage them in reasoned deliberation about its merit."\(^\text{14}\) In short, rather than understanding conscience individualistically, relating it only to the individual’s own conception of the good, Brownlee presents an essentially intersubjective account of the very nature of conscience.

This view entails very different practical consequences. In particular, Brownlee argues that, because conscientious conviction and conscience are essentially communicative, they provide a much better foundation for civil disobedience than they do for conscientious refusal, or what Brownlee calls personal disobedience. While personal disobedience need not have a communicative aim, civil disobedience necessarily does, and so it answers more directly to the communicative principle of conscience. On her account, then, the model of conscience that we adopt bears significantly on the sorts of

\(^\text{13}\) Ibid., 52.

\(^\text{14}\) This is one of the four conditions for conscientiousness that Brownlee identifies. The others are first, a demand of consistency among her judgments, motivations, and conduct; second, a requirement of universality or uniformity among her own judgments and those of others; third, a non-evasion demanding that the individual take responsibility for the risks stemming from honoring her convictions. See K. Brownlee, *Conscience and Conviction*, 29–30.
social, legal, and political institutions capable of demonstrating appropriate forms of respect.

We might therefore praise Brownlee for basing her account of our legal and political obligations connected to conscience in an explicit and articulate account of the nature of conscience itself, a task that we have seen Rawls neglects. At the same time, we can ask an important question of Brownlee’s view. Even if we grant that showing respect for persons entails a need to acknowledge that they have or are a conscience, why do we need to identify being conscientious with sociality? Why isn’t respect something that is my due for being a being of a certain type? Why does it require that I engage in certain forms of discursive practice? What is it that recommends this intersubjective conception of conscience over an individualistic one?

What is missing from Brownlee’s account is what might call an ontology of conscience, an account not only of a coherent conception of what conscience is, but an argument that this conception is actually binding on us in some way. In the remainder of this paper, I would like to consider the following question: Does Hegel provide us with an ontology of conscience that speaks in favor either of the individualistic or the social model?

2. Two conceptions of conscience and liberty of conscience

We find significant accounts of the nature and importance of conscience in Hegel’s early *Phenomenology of Spirit* and in his mature *Philosophy of Right*. However, despite some important similarities, these two accounts are also deeply different, and I would like to show that they present distinct models of conscience. Depending on which account we accept, we will arrive at very different understandings of the nature and value of the liberty of conscience.

In the *Philosophy of Right*, Hegel presents conscience as a shape of the free will, and so as a “right,” specifically of the moral will of the reflective agent.15 He identifies conscience as the self-conscious subject’s knowledge of the objective moral good: “Conscience ex-

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15 The existence of the moral will takes the form of the “right of the subjective will.” G. W. F. Hegel, *Die Philosophie des Rechts*, in *Werke*, Bd. 7, (ed.) E. Moldenhauer and K. M. Michel (Frankfurt a.M.: Suhrkamp, 1986), §107, 205. Hereafter referred to parenthetically in the text as PR. References are to the section number, followed by the page number in this edition. Translations from the German are my own. Conscience constitutes one shape of this right of the subjective will. See PR, §132, 245 and §137, 255.
presses the absolute justification of subjective self-consciousness, namely in itself and from its self to know what right and duty are, and to recognize nothing but that which it thus knows as the good; likewise in the consideration that what it so knows and wills is in truth right and duty." (PR, §137R, 255) Hegel stresses the “inwardness” (Innerlichkeit) of conscientious subjectivity, especially in those “epochs where that which counts as right and good in actuality and in custom cannot satisfy the better wills.” (PR, §139, 260; §138R, 259)

To be sure, Hegel argues that we must distinguish two forms of conscience. The “true conscience,” whose claims to know the good are justified by “fixed principles,” is possible only within the freedom-enabling objective institutions and practices of modern ethicality. (PR, §137, 254) By contrast, the “evil” conscience takes its own subjective capacity for certainty, and not the objective norms of ethicality, to be the marker of the moral good. (PR, §139, 260–1) However, even if the “true conscience” is possible only within specific institutional arrangements, Hegel nonetheless stresses the inward and subjective character of conscience, arguing that the state cannot recognize it in its proper form. (PR, §137R, 255)

By contrast, in the Jena Phenomenology of Spirit, Hegel does not simply account for conscience as a form of knowing that is realized in action. Of course, both of these elements are essential to his account. Hegel identifies the subjective side of conscience in terms of the individual’s “conviction” (Überzeugung) concerning what is right and obligatory.16 Likewise, it is through action that these convictions are “actualized.” (PhG, §634, 417) However, in this earlier account, Hegel stresses the intersubjective character of conscience, in two key ways. First, actions only realize convictions by making them presentable to others: “The deed has continued existence and actuality” only in the “communal element” of conscience, “the moment of becoming-recognized by others.” (PhG, §640, 420) Second, Hegel stresses the role of uniquely expressive language in making self-consciousness something objectively available as such:

Language steps forward only as the medium of independent and recognized self-consciousness, and the existing [daseiende] self is immediately universal, plural and in this plurality simple being-recognized. The content of the language of conscience is the self

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16 G. W. F. Hegel, Die Phänomenologie des Geistes, (ed.) H.-F. Wessels and H. Clairmont (Hamburg: Felix Meiner, 2011), §637, 419. Hereafter referred to parenthetically in the text as, PhG. References are to the paragraph number and page number. Translations from the German are my own.
that knows itself as essence. It expresses [spricht sie aus] only this, and this expression is the true actuality of the deed and that in which its action acquires validity [das Gelten der Handlung]. (PhG, §653, 428–9)

Indeed, Hegel identifies a range of forms that this expressive language can take. Conscience depends not only on the language of assurance (Versicherung) through which I convey my already-settled convictions to others. Equally importantly, he stresses the need to develop the linguistic abilities of judgment and confession (Geständnis), through which individuals can articulate, and, ideally, settle, cases of moral disagreement. These other forms of expressive language are important, since Hegel is sometimes dismissive of the excessive subjectivity of mere assurance, both in the *Phenomenology* (PhG, §76, 60) and in the mature works. (PR, §137R, 255) The availability of more complex and essentially intersubjective forms of language is important in indicating that conscience requires more substantive means for challenging and in some cases modifying merely subjective claims. In short, in the *Phenomenology of Spirit*, Hegel’s account of conscience is nested within his broader account of the conditions for reciprocal intersubjective recognition, and one of its primary roles in the work’s broader argument is to show that conscience is essential in securing that distinctively intersubjective relation: It is only in being recognized as conscience—as an individual capable of realizing my convictions through action and expressing them to others—that I am genuinely recognized as the particular, concrete self that I am.

This dynamic of recognition is the primary source of the distinctness of Hegel’s early account of conscience, where recognition is not simply at play, but rather, more powerfully shapes the distinctive account of conscience that is so important to the work as a whole. That is, Hegel argues, in the *Phenomenology*, that fully reciprocal recognition among subjects is possible only when they recognize one another as conscience. (See PhG, §670/441) These differences between the early and late accounts bear importantly on the sort of political ideas we might draw from them. If we grant that recognizing the individual as conscientious is an important moral requirement, we will derive very different guidance for how we actually go about securing that recognition in practice.

If we take our bearings from the *Philosophy of Right* account, we will be prompted to ascribe a sort of authority to the knower, and the state will have to acknowledge the unbridgeable gap between the public and shared knowledge of the customs and laws that structure the life of the people, and the intimate and inward knowledge pos-
sessed by the individuals of her own convictions. As Hegel says: “The state cannot recognize conscience in its proper form, that is, as subjective knowing, just as little as subjective opinion, the assurance of and appeal to subjective opinion, can have validity in science.” (PR, §137R, 255) Some commentators have taken these assertions of the limitations of individual conscience in relation to the state to entail that Hegel endorses an anti-liberal view, according to which the claims of individual conscience have no genuine standing in the modern state. However, as many have argued in response, acknowledging this limitation does not entail that the individual’s convictions are simply subject to the overriding demands of the state. Instead, Hegel argues that conscience is a subjective, moral right possessed by the individual, and that the state must invoke some stronger reason to coerce the individual in matters of conscience. (See PR, §270R) While conscientious claims are therefore defeasible for Hegel, in particular when their realization would undermine the stability of the state, simply appealing to their falsity—even the fact that they might be evil!—is insufficient to justify the state in coercing conscientious action. At the same time, when individuals hold conscientious convictions that conflict with those that predominate in the state’s public culture, they undermine the possibility of securing recognition, and therefore of enjoying full agency within it. While conceiving conscience as a right does entail the protection of a certain subjective sphere from undue interference, that security seems to come at the cost of an unbridgeable gulf between the inward and subjective, on the one hand, and the public and objective, on the other.

By contrast, because it situates conscience within the broader dynamic of recognition, the Jena Phenomenology account presents a very different picture of what it means to recognize conscience. Most

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17 See, for example, Ernst Tugendhat, Selbstbewußtsein und Selbstbestimmung (Frankfurt a.M.: Suhrkamp, 1979), 349.
notably, recognizing an individual as conscience means that one cannot abstract from the specific contents of her conscientious claims, protecting her right as a claimant in separation from what it is that she holds to be true. That is, if “conscience” is a status that I enjoy only when recognized by others as such, and if that recognition depends on their genuine affirmative response to the claims that I make on or before others, then others recognize me only when they recognize the specific claims that I make. Of course, this requirement opens up the possibility that persistent disagreement regarding moral matters will undermine the possibility of genuine recognition.

At the same time, Hegel’s account of the language of conscience indicates that we need not accept as ultimate disagreements between the individual’s avowed claims and the predominant norms of the existing political culture, and so we need not assume that the latter always take precedence over the former. Instead, Hegel’s optimism about the capacity of language to be a medium for the resolution of moral disagreement entails not only an obligation on the part of the agent to express her convictions publicly in order really to be conscientious. It also entails the demand for the agent to demonstrate a willingness to justify her convictions, and for others to engage in a good faith attempt to understand her. To be sure, it would be unreasonable, in the pluralist modern age, to expect complete moral agreement among citizens, so the possibility of some forms of continued disagreement is to be expected. And in some cases, those disagreements will result in the need to make hard choices about the access to goods and opportunities. However, since conscience is, for Hegel, discursively and intersubjectively constituted at such a fundamental level, recognizing individuals as conscientious entails the need to seek some reconciling resolution in cases of moral disagreement, not simply to dismiss the individual’s conscientious claims, consigning the individual to the margins of the predominant social and political culture. Instead, the intersubjective model of conscience shows that the roots of whatever moral agreement we find lie within concrete relations between subjects, and that institutional arrangements must be called into question when they persistently exclude individuals from full participation.

3. The ontology of conscience

Of course, if we do find such drastically different models of conscience in Hegel’s early and late accounts, it is an important question which account we ought to accept. To an important extent, this problem mirrors the one that we found in considering the contrast
between Rawls’s individualistic and Brownlee’s intersubjective accounts of conscience. The question that faces us concerns what I have been calling the correct “ontology” of conscience. Which account, the individualistic or the intersubjective, most accurately portrays the reality of conscience? I believe that we can best answer this question by considering Hegel’s concept of “spirit.” I shall demonstrate that Hegel’s concept of “spirit,” which suggests that selfhood is fundamentally a product of concrete relations among individuals, provides stronger support for the second model of the liberty of conscience, and indicates the irreducibility of discursive practices both to the isolated attitudes of individuals, and to relations of coercive power among them.

On any account, Hegel’s concept of “spirit” is social in some sense. Yet the sense in which spirit is social varies between Hegel’s early and late accounts. In the mature Philosophy of Right, for example, Hegel stresses that modern ethicality, the locus of the true conscience, constitutes a shape of spirit in the sense that it entails a reconciliation between objective custom and law, on the one hand, and subjective knowing and feeling, on the other: The laws and powers of the ethical substance “are not alien to the subject; rather the evidence [Zeugnis] of spirit comes from them as being of [the subject’s] own essence, in which it has its feeling of self and lives in them as its own element, indistinct from it.” (PR, §147, 295) Likewise,

In the simple identity with actuality the ethical appears to the individual as its universal mode of activity, as custom, – habituation to these appears as a second nature, posited in the place of the first merely natural will, and is the permeating soul, significance, and actuality of its existence, which is as a world living and present spirit, whose substance is thus for the first time spirit. (PR, §151, 301)

On this conception, spirit consists primarily of a relation between individual and world, in particular a relation between self-consciousness and the customs and laws that structure the social world.

To be sure, we find elements of this same account of spirit in the Phenomenology of Spirit. Indeed, when Hegel first introduces the idea of spirit, he identifies it again in terms of a relation between the individual and the world:

[Spirit] is the self [das Selbst] of actual consciousness, which confronts actual consciousness as an objective actual world, but which has just as much lost for the self the significance of some-
thing alien [fremd], just as the self has lost all significance of being something divided from the world, as a dependent or independent being-for-self. [As] the substance and the universal, self-same, remaining essence, it is the unmoved and firm ground and point of departure of the deeds of all. As the thought in itself of all self-consciousness, [it is at the same time] the purpose and goal [of those deeds]. – This substance is just as much the universal work that engenders itself through the deeds of all and each as their unity and equality, for it is the being-for-self, the self, the deed. (PhG, §439, 288–9)

However, just as we find a progressive account of shapes of spirit in the text, so too do we find a progressive account of conceptions of the self, of which “conscience” is supposed to be the most adequate.21 And, as we have seen, the stress in understanding the self as conscience is not on a specific relation between the individual and the world, but rather among individuals. In short, in the account that Hegel offers in the Phenomenology of Spirit, spirit is not simply a relation between subjects and normatively structured institutions and practices, but rather between subjects. The achievement of relations of fully reciprocal intersubjective recognition at the conclusion of the account of spirit is itself a specific sort of community, namely that of “absolute spirit.” (PhG, §670, 441) On the Phenomenology of Spirit account, Hegel makes explicit that, as “spirit,” the self is fundamentally constituted by relations of recognition, and that this constitutive claim is equally true when we understand the self as conscience.

Of course, we might endeavor to read back into the Philosophy of Right account a certain thesis about the role of recognition in Hegel’s theory of objective spirit, and so argue that the two accounts of conscience are not actually all that different. There are two prominent strategies for achieving this end. According to the first, we might try to argue that the Philosophy of Right offers a self-standing account of the conditions for the realization of reciprocal recognition, as, for example, Axel Honneth does.22 The weakness of this account is that interpreters must face up to the fact that recognition does not play the same systematic and structuring role in the Philosophy of Right that it does in other of Hegel’s works, most notably the Phenomenology of Spirit, where the idea of recognition clearly does

play an important role in shaping at least Chapters IV–VI. In the *Philosophy of Right*, it is the idea of freedom, not recognition, that plays the most central role in structuring the argument and development. Interpreters like Honneth are therefore left with little firm ground on which to rest their argument that reciprocal intersubjective recognition is a guiding idea in the *Philosophy of Right*.\(^{23}\)

Interpreters pursuing the second strategy have attempted to argue that recognition plays basically different roles in Hegel’s early and late practical philosophy. According to the classic statement of this view by Ludwig Siep, the *Phenomenology of Spirit* presents the “process of formation” (*Bildungsprozeß*) of relations of recognition, while the mature practical philosophy presents the system of institutions necessary to make those relations concrete.\(^{24}\) Of course, given Hegel’s relative silence on recognition in the *Philosophy of Right* and the corresponding philosophy of objective spirit, those pursuing this strategy need still to establish that recognition actually does play a significant role in the mature practical philosophy. Robert Pippin, for example, argues that we can look to Hegel’s Berlin “Phenomenology” in the *Encyclopedia* philosophy of subjective spirit, which includes an account of the struggle to death resulting in the relation of the lord and bondsman.\(^ {25}\) This approach has the advantage of being supported by claims that explicitly connect the objective institutions of

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\(^{23}\) Most notably, they must rest a good deal of weight on Hegel’s scant remarks on love and friendship in PR, §74A. But even there, Hegel does not actually mention “recognition” (*Anerkennen*) or any of its cognates. See Honneth, *Leiden an Unbestimmtheit*, 17ff. and Honneth, *Das Recht der Freiheit* (Frankfurt a.M.: Suhrkamp, 2011), 81ff.


modern ethicality (the subject matter of the *Philosophy of Right*) with the idea of recognition.26

However, whether we accept the continuity thesis or not, there is an important difference between the early and late accounts. In the late accounts, Hegel presents the struggle for recognition as being reasonably easy to resolve with the achievement of a “universal consciousness,” shared among different subjects, quickly shifting the focus of his account to the question of where we find such a universal consciousness realized in different configurations of institutional life. And that entails that the central question in the mature philosophy of objective spirit is not that of direct relations among subjects, but rather of the sorts of institutional norms they should collectively recognize. In short, the form of recognition that is most important in the mature works is norm recognition, not intersubjective recognition.27 But that simply entails that, in the mature works, the issue of intersubjective recognition is subordinated to a problem about the sort of knowledge about institutions that is possible for agents. Even in those passages where Hegel does seem to stress the issue of recognition, his ultimate aim is to clarify the sort of knowledge of institutions that it must be possible for individuals to have.28

26 See, for example, Hegel, *Enzyklopädie* III, §436R, 226. Even here, however, we find significant differences within the accounts of “self-consciousness,” since the *Enzyklopädie* version (outside of the “Zusatze”) is purged of the discussion of anything explicitly “historical,” including stoicism, skepticism, and “unhappy consciousness.” While Hegel’s motivation here might stem in part from the requirements of the mature system—in which “world history” fits within the account of “objective spirit”—such modifications bear significantly on the meaning and significance of recognition in the account.


28 For example, in §436R, Hegel’s primary claim is about speculative identity, not recognition: “This universal reappearance of self-consciousness, the concept that knows itself in its objectivity as identity with self-identical subjectivity, and thus knows itself as universal, is the form of the consciousness of the substance of every essential spirituality, of the family, of the fatherland, of the state, of all virtues, of love, friendship, courage, of honor, of fame.” Hegel, *Enzyklopädie* III, §436R, 226. Likewise, in §436Z, his central claim concerns the relations between institutions and speculative identity, not recognition: “The speculative or the rational and true consists in the unity of the concept of the subject and objectivity. This unity is manifestly present in the standpoint currently under question. It forms the substance of ethicality, of the family, of sexual love (for this unity has the form of particularity), of the love of the fatherland, the willing of the univer-
The central question that Hegel thinks a theory of recognition needs to answer therefore shifts from “How is it possible for individual subjects reciprocally to recognize one another?” in the Phenomenology of Spirit to “Which institutions ought individuals to recognize?” in the Philosophy of Right. We find evidence for this shift in the differing roles that a “universal consciousness” plays in Hegel’s accounts in both texts. In the late, Encyclopedia account, the achievement of recognition just is the achievement of such a universal consciousness, which suggests that individuals recognize one another when they recognize a shared set of norms. However, in the early, Phenomenology of Spirit account, the achievement of a “universal consciousness” (which we find at the conclusion of Chapter IV, in the discussion the “unhappy consciousness”), is not by itself sufficient for the establishment of relations of reciprocal intersubjective recognition which, again, we find only at the conclusion of Chapter VI. If we consider the development of the idea of recognition within the text from Chapter IV to Chapter VI, we can see the reasons why Hegel thinks that a “universal consciousness” cannot by itself ensure relations of reciprocal recognition.

First, Hegel argues that it is possible for individuals all to recognize the same set of norms—to inhabit the same “ethical world”—but for no one to be recognized, namely when there is no shared conception of “the self” operative in the social world. Second, even if there is a universal and common conception of what it means to be a self, genuine intersubjective recognition will be impossible if that conception of the self is alienating, that is, if it fails to comprehend those particular aspects of the individual’s constitution that distinguish us one from another, but that are necessary conditions for the participation in the social world in the first place. So it turns out that a specific set of norms governing what it means to be a self are the necessary social conditions for securing reciprocal intersubjective recognition. Not every form of “universal consciousness,” not every social world, will fit the bill.

If we follow the argument of Chapter VI, then, we can see why Hegel thinks that conscience is the conception of the self according to

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29 This is the lesson of the decline of the ancient “ethical world,” in Chapter VIA, a shortcoming initially corrected by the introduction of the idea of the “person” in the “Condition of Right” (das Rechtszustand).

30 This is the central problem with understanding the self solely as a “person” that prompts the shift from “ethicality” to “culture.”
which fully reciprocal recognition is possible, since it is a universal conception of the self, but one that necessarily includes the individual’s particularity, specifically in the form of the convictions that the individual realizes through her actions. However, acknowledging this role for conscience implies that attempts to cash out Hegel’s account of reciprocal recognition in terms of a given set of institutions or a theory of institutional rationality—as the interpreters who follow Siep (like Pippin) aim to do—are bound to fail, for the simple reason that conscience outstrips any given set of institutional norms. That is, conscience acknowledges the essential “negativity” of subjectivity, its capacity to transcend any given determinacy—including that of an established custom or norm—when that determinacy fails to answer to the rational standards implicit in subjectivity itself. For this reason, Hegel’s concept of conscience, and the concept of reciprocal intersubjective recognition that depends on it, will not fit neatly within a fixed theory of rational institutions. Instead, Hegel’s account of the role that conscience plays in securing the conditions for reciprocal intersubjective recognition ultimately requires the transcendence of any given set of institutional structures, precisely because the moral claims that individuals make on one another can justifiably exceed the expectations established by existing institutions.

If we therefore have good reason to accept the Phenomenology of Spirit account of the conditions for reciprocal intersubjective recognition, then we are obliged to accept the thesis that the self is primarily constituted through direct relations among subjects (not only through subjects’ engagement within shared institutions). And that account better supports the intersubjective view of conscience that Kimberley Brownlee defends, where both conscience and conscientious conviction bear with them strong social demands that depend on the expressive activity of the individual standing in direct relations to concrete others. In both cases, conscience is not simply the capacity to have convictions, but depends equally on their public realization through action, and their declaration through language.

Of course, if conscience is essentially “transinstitutional,” then we might be deeply worried about the capacity for a “liberty of con-

31 See PhG, §94/134: “This pure universal movement, the absolute liquidation of everything fixed [das absolute Flüssigwerden alles Bestehens], is, however, the simple essence of self-consciousness, absolute negativity, pure being-for-self.”
32 As Andreas Wildt rightly argues, Hegel’s conception of reciprocal recognition in morality is “transinstitutional.” See Wildt, Autonomie und Anerkennung (Stuttgart: Klett-Cotta, 1982), 22.
science" adequately to protect it. If conscience always outstrips any given institutional configuration, how can a scheme of institutions hope to protect it, rather than simply limiting it? It is at this point that we should return to consider not only Brownlee's intersubjective understanding of conscience, but her broader normative argument about its political importance: It provides the grounds for a robust account of civil disobedience. And understanding civil disobedience as an essentially communicative action fits particularly well with Hegel's argument that conscience depends on distinctive linguistic forms, and that it is necessary for securing relations of reciprocal intersubjective recognition. If the protection of conscience is important for liberals, on this model of conscience, it is essential that a liberty of conscience not simply protect a private and inward sphere from undue interference by the state, but that it include a set of rights and obligations governing the discursive expression of conscientious convictions whose ultimate aim is a shared idea of what is right. That is, on this model, it is essential that the liberty of conscience include a political obligation whose aim is an improvement of existing institutions, especially when those institutions are incapable of answering to the claims of citizens. While such a right will always sit in (varying degrees of) tension with existing laws and institutions, if we accept the intersubjective model of conscience, its protection is of paramount importance. At the same time, such a right need not find expression only in civil disobedience, but rather in any action whose aim is the public communication of an individual's commitments concerning what is right.

At the same time, on this account, conscience does not simply consist of the attitudes of isolated individuals, who are or are not subject to the power and authority of the state. Instead, it is subject to the dynamics of social life. By consequence, my standing as conscience is not something I can be guaranteed in advance. Hegel's recognitive account of the self entails a fundamental vulnerability to the actions of others. However, it also undermines the pretense of forms of social union and community that would simply dismiss or sideline conscientious claims that do not coincide with the predominant forms of moral and political understanding. Instead, it points to the equal fragility of community, as a delicate tie that failures of recognition threaten to undo.

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