

HEGEL'S THEORY OF LIBERATION: LAW, FREEDOM, HISTORY, SOCIETY*

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The freedom of spirit, Hegel claims, consists in "the emancipation of spirit from all those forms of being that do not conform to its concepts." That is, freedom must be understood as "liberation [Befreiung]." The paper explores this claim by starting with Hegel's critique of the (Kantian) understanding of freedom as autonomy. In this critique Hegel shows that norms or "laws" have to be thought of as "being"—not as "posited." This is convincing, but it leaves open the question of the relation between law and freedom (i.e., the very question that the concept of autonomy was meant to solve). In its second part the paper claims that Hegel's solution to this problem consists in the analysis of freedom as the "historical" process of "social" transformation. While social norms ordinarily or habitually exist in the form of a second nature—according to Hegel, this is the form they necessarily take on in their social reality—, the act of liberation radically changes their mode of being: liberation is the momentary and transitory act of the ontological transformation of social norms from nature into freedom.

Freedom, as Adorno defines it, is "the determinate negation of any given concrete expression of unfreedom."¹ Freedom *means* liberation; freedom exists only in or as the process of liberation. Hegel makes the same claim in characterizing spirit as the "creator of its freedom." He holds that spirit, as active, essentially consists in the "development of the concept of spirit," which he describes as "the emancipation of spirit from all those forms of being that do not conform to its concepts."² In other words, those forms of spirit that

* Translated by Daniel Smyth.

¹ Theodor W. Adorno, *Zur Lehre von der Geschichte und von der Freiheit* (Frankfurt am Main: Suhrkamp, 2001), 338, tr. by R. Livingstone as *History and Freedom* (Cambridge: Polity Press, 2006), 243.

² Georg Wilhelm Friedrich Hegel, *Werke in zwanzig Bänden*, (Frankfurt am Main: Suhrkamp, 1969–1971), vol. 10, *Enzyklopädie der philosophischen Wissenschaften III*, § 382 Z, tr. by W. Wallace and A. V. Miller as *Hegel's Philosophy of Mind* (Oxford: Oxford University Press, 2007). Translations are, however, my own

are incompatible with its concepts are forms of unfreedom. Freedom must be understood as "liberation [*Befreiung*]" (*ibid.*) because its being consists in the process of its becoming—its development through itself, its autogeneration from within or against unfreedom. "This liberation of spirit, into which it enters in order to come to itself and to actualize its truth, and the business of this liberation [*das Geschäft derselben*] is the highest and absolute *right* [*Recht*]." (Enz III, § 550)

For Hegel, such a processual understanding of freedom as liberation follows from its fundamental determination. For something to be free is for it "[to be] with itself in this limitation, *i.e.*, in this other": "Freedom is to will something particular and yet to remain with oneself in such particularity, thus returning once more into the universal."³ The state of being free—*i.e.*, of remaining with oneself in another—consists in an activity. Free will is "not something finished and universal antecedent to its self-determination and to the sublation and ideality of that determination. It amounts to will only as this self-mediated activity and as this return into itself." (Rph, § 7 A) Free will, as Hegel anticipates Nietzsche in saying, is not a "presupposed subject or substratum" (*ibid.*), but rather consists exclusively in the process of its active self-realization. This has a twofold significance. First, it means not that freedom is an attribute of inner states or deeds, but rather that these can only become free by achieving *Dasein* and thereby existing "as standing over against themselves." (Rph, § 23) Such an achievement can occur both on the level of the individual—for example, through a "purification of drives"—and on that of the collective, through the development of free institutions. Second, the process of freedom's self-actualization is simultaneously the process of its self-creation. If freedom of the will consists simply in its self-actualization, then it only *comes into being* by actualizing itself. The process that defines the being of freedom can never lead to some state of actualized freedom as its *telos*. The development of freedom is endless. "Freedom" as such never exists, or it always exists as its self-production out of unfreedom. Understanding free-

(D. S.). Hereafter referred to parenthetically in the text as Enz III with section number. "A" indicates a quotation from the "*Anmerkung*" (remark), "Z" a quotation from the "*Zusatz*" (addition), and "N" a quotation from the "*handschriftliche Notizen*" (handwritten notes).

³ Georg Wilhelm Friedrich Hegel, *Werke*, vol. 7, *Grundlinien der Philosophie des Rechts*, § 7 Z, tr. by H. B. Nisbet as *Elements of the Philosophy of Right*, (ed.) A. Wood (New York: Cambridge University Press, 1991). Translation modified (D. S.). Hereafter referred to parenthetically in the text as Rph with section number.

dom as liberation therefore means thinking of freedom not as Being, but as Becoming; it means conceiving freedom not as a *state*, but as a *process*, because freedom consists exclusively in the endless repetition of the negation of unfreedom. That freedom is liberation defines its negativity.

In what follows, I wish to illustrate how freedom understood as liberation relates to the critique of freedom understood as autonomy. That is, I understand Hegel's conception of freedom as liberation to be a consequence of his critique of freedom conceived as autonomy or self-legislation. The concept of autonomy purports to give a "positive" determination of freedom. Kant writes: "*Freedom of choice is this independence from being determined by sensible impulses;*⁴ this is the negative concept of freedom. The positive concept of freedom is that of the ability of pure reason to be of itself practical. But this is not possible except by the subjection of the maxim of every action to the condition of its qualifying as a universal law."⁵ The negative determination of freedom as "independence ...from sensible impulses" is realized positively, according to Kant, in freedom as self-legislation. On this view, the freedom of self-legislation, or freedom as autonomy, no longer requires an act of negation. Freedom as self-legislation has thereby put liberation and therefore its own history behind it: the autonomous subject *exists* already; she has *already* freed herself. To rather follow Hegel and Adorno in defining freedom through or as liberation, by contrast, is to indicate that freedom *is always yet to come*.

Terry Pinkard and Robert Pippin have shown that Hegel's critique of autonomy is formulated as the diagnosis of a paradox: the so-called paradox of autonomy.⁶ I will first explain in what this paradox consists and show why it requires us to conceive of freedom as a process of liberation. In doing so, I grant a central role to Hegel's claim that the law's mode of existence is simply *to be*: laws only exist

⁴ Kant explains this in the preceding sentence as follows: "Human choice, however, is a choice that can indeed be *affected* but not *determined* by impulses, and is therefore of itself (apart from an acquired proficiency of reason) not pure but can still be determined to actions by pure will." Immanuel Kant, *Metaphysik der Sitten*, in *Kant's Gesammelte Schriften*, (ed.) Königlich Preussische Akademie der Wissenschaften (Berlin: Reimer/de Gruyter, 1900–), 6:203–493, here 6:213, tr. by M. Gregor as *The Metaphysics of Morals*, in *Practical Philosophy*, (ed.) M. Gregor (Cambridge: Cambridge University Press, 1996), 353–603, here 375.

⁵ *Ibid.*, 6:213–14/375.

⁶ On this diagnosis, see T. Khurana and C. Menke, eds., *Paradoxien der Autonomie. Freiheit und Gesetz I* (Berlin: August Verlag, 2011). On Hegel's critique of autonomy, see Christoph Menke, "Autonomie und Befreiung," 149–85.

as mere Being and to that extent they are not free (Section I). I will then sketch the way in which Hegel consequently understands liberation as a dialectical process of social development, education, or enculturation (*Bildung*). To conceive freedom as liberation means thinking of it as the permanent transformation of society (Section II).

I. The Paradox of Autonomy

In his writings prior to the *Phenomenology of Spirit*, Hegel criticizes the idea of self-legislation by describing it—primarily following Schiller—as an internalization of authority (*Herrschaft*). Schiller had objected that Kant's concept of autonomy "transforms the most powerful expression of moral freedom into a more admirable form of subjugation." However, this new form of subjection is only "more admirable" insofar as it is preferable to that earlier form of subjugation to which the "moral weakling" is exposed through his "frequently impure tendencies."⁷ Schiller's objection implies that Kant failed to carry out Rousseau's ambitious program, which had introduced the idea of self-legislation. This program consists in describing how "each individual, uniting with all, nevertheless obeys himself *and thus remains free as before*."⁸ Self-legislation is meant to solve the puzzle of how to reconcile freedom with obedience to the law. According to Rousseau, "Obedience to the law that one has prescribed to oneself is freedom."⁹ Schiller's objection is that Kant's concept of autonomy reveals that free self-legislation does not in fact overcome obedience and subjugation to the law. Even when it comes to self-imposed laws, one remains subservient. Hegel reformulates this Schillerian objection in the following vivid terms: "The difference between the Tungusic shaman and the European Prelate who rules church and state, or between the Voguls and the Puritans^[10] or the

⁷ Friedrich Schiller, "Anmut und Würde," in *Sämtliche Werke*, (ed.) G. Fricke and H. G. Göpfert (München: Hanser, 1980), 5:466. The corresponding section can be found in *The Works of Frederick Schiller* (Boston: S. E. Cassino & Co., 1884), 8:208. Translations are, however, my own (D. S.).

⁸ Jean-Jacques Rousseau, *Du Contrat social; ou, Principes du droit politique* in *Œuvres complètes*, (ed.) B. Gagnebin and M. Raymond (Paris: Pléiade, 1959–1995), 3:347–470, here 3:361, tr. by V. Gourevitch as *Of the Social Contract*, in *The Social Contract and Other Later Political Writings*, (ed.) V. Gourevitch (Cambridge: Cambridge University Press, 1997), Book I, Chapter 6, page 49, paragraph 4 (my emphasis).

⁹ *Ibid.*, 3:365/Book I, Chapter 8, page 54, paragraph 3.

¹⁰ The figure of the "puritan" with his "commands of duty" is defined through the observation that "the legal is a universal and its entire bindingness lies in its

man who obeys his own commands of duty is not that the former subjugate themselves while the latter are free. The difference is rather that the former have their masters outside of themselves, while the latter have their masters within, and are their own slaves." (GC, 1:323/211) Self-legislation, according to this critical diagnosis, requires an initial schism of the self and a subsequent self-suppression. The implementation of law necessarily carries with it the presupposition of a distinct, even contrary, lawless subject upon whom the law can only be enforced with violence, through submission or subjugation. And that holds equally well when the subjugated and the sovereign are one and the same person.¹¹ Autonomous and heteronomous laws thus have in common the fact that their enactment involves opposition to lawlessness.

(1) The Being of the Law

While Schiller counters such self-division through self-suppression with the unity of the "beautiful soul," in which "sensibility and understanding, duty and inclination harmonize,"¹² Hegel calls "that which is raised above this division a *Being* [*Sein*], a modification of life." (GC, 1:324/212) As the idea of self-legislation adopts the opposition of the traditional, heteronomous concept of law to lawlessness, it perpetuates the separation of the law from reality: the law, whether autonomous or heteronomous, is the expression of a mere "ought." "Since laws are unifications of opposites in one concept—a concept which accordingly leaves them as opposites—, while the concept itself consists in opposition to what is actual, it [*sc.*, the concept in the form of the law] thus expresses an ought." (GC,

universality. For, on the one hand, every 'ought,' every command announces itself as something foreign. Yet, on the other hand, an ought is, qua concept (*i.e.*, universality), something subjective. Thus, as the product of a human power—the capacity for universality, or reason—it loses all its objectivity, positivity, and heteronomy and the command reveals itself [*as*] grounded in an autonomy of the human will." Georg Wilhelm Friedrich Hegel, *Der Geist des Christentums und sein Schicksal*, in *Werke*, 1:274–418, here 1:323, tr. by T. M. Knox as *The Spirit of Christianity and its Fate*, in *Early Theological Writings*, (ed.) T. M. Knox (Philadelphia: University of Pennsylvania Press, 1977), here 210–11. Hereafter referred to parenthetically in the text as GC. Page references, separated by a slash, will be first to the German *Werke*, then to the English text. Translations are, however, my own (D. S.).

¹¹ For more on this point, see Christoph Menke, *Recht und Gewalt* (Berlin: August Verlag, 2011), 25–30.

¹² Schiller, "Anmut und Würde," 5:468/8:210.

1:321/209) "Being," in contrast, is "above this separation" in which the "ought" of the law is contrasted with reality. "Being [is] the synthesis of the subject and object, in which subject and object have lost their opposition." (GC, 1:326/214)

What is *motivating* Hegel here—motivating him to introduce Being as a synthesis in contrast to the opposition involved in the "ought" of the law—is the same thing that motivated Schiller to introduce the idea of the beautiful soul. It is an ethical motive. The "synthesis of the subject and object," which Hegel calls "Being" (and which he aligns with the concept "life"), is meant to describe what he conceives as a successful self-relation, in which the violence and injuries inflicted in the self-subjugating process of self-legislation are overcome.¹³ This ethical motive of a self-relation free from violence is at first only abstractly opposed to the concept of autonomy. However, Hegel's talk of "Being" as "synthesis" transforms into an immanent critique of the concept of autonomy once it goes beyond the ethical desire for a non-violent, successful self-relation and addresses the concept of autonomy on its own normative-theoretical terms. The *ethical* motivation for Hegel's concept of Being holds that only a normative standard that has *Being* can provide for a successful self-relation which does not involve subjugation. That is because for a normative standard to have "Being" means for it not merely to command by way of an ought, but to be lived out; it is not simply a standard that a self has ("autonomously") given itself, but one that it already contains within itself. Hegel's critique of autonomy in the name of the "Being" of law turns from an abstract, ethically motivated opposition to an immanent critique, once it refers to the theory of normativity implied in the concept of autonomy. This second step in the critique of "autonomy" in the name of the "Being" of the law relies on the assumption that only a normative standard that *already* exists can be said to exist *at all*. "Being" represents the very *mode of existence* of the normative, the mode in which the law exists. It is not merely that the law becomes ethically good only once it "exists"—that is, once it can be lived out by the subject whom it addresses. Rather, the law can only *exist at all* if it already "is"—that is, if it is not merely an ought, but is already actualized.

The immanent critique of the concept of autonomy, as bound up with the normative argument about talk of "Being" (specifically, the "Being" of the law), is formulated in more detail by Hegel in the

¹³ On this ethical motivation for Hegel's critique of autonomy, see Christoph Menke, *Tragödie im Sittlichen. Gerechtigkeit und Freiheit nach Hegel* (Frankfurt am Main: Suhrkamp, 1996), 244–67.

Phenomenology of Spirit. His main objection to the idea of autonomy is that its attempts to unite the law with reality still “leave [them] as opposites” in the external form of an “ought.” The idea of self-legislation thereby *destroys* the very law it sought to ground, and thus destroys itself as well. Self-legislation, Hegel goes on to argue, can never produce a normatively binding law. Any attempt to define the law as the result of an act of positing or legislation rather relativizes the law, due to its dependence on that very act. Hegel calls this, in good Greek fashion, the “impiety [*Frevel*]” of autonomy. Hegel thus describes a first form of autonomy—autonomy as the capacity for legislation—as “the tyrannical impiety which makes whim [*Willkür*] into law and ethical life into obedience to it.”¹⁴ Or again, in describing the second form of autonomy he considers—the autonomous “examination of laws”—, Hegel rails against the “impiety of knowledge...that rationalizes itself free from absolute laws and takes them to be a whim [*Willkür*] foreign to itself.” (*Ibid.*) Thus, the normative, critical content associated with “Being” lies in the thesis that the law cannot be posited, but can only exist as a being (“in itself”): “spiritual being is thus initially for self-consciousness as a law existing *in itself*.” (PhG, § 435, 3:321/260)¹⁵ Tracing the law back to an autonomous act either of positing or of examination of the law means dissolving the very idea of normative bindingness. The law either already *is*, or it does not exist at all; the law is Being, not positing. “For the subject, ethical substance, with its laws and forces...stand in this relation: that *they are*, in the highest sense of independence [*Selbständigkeit*]*—an absolute, infinitely firmer authority and power than the being of nature.*” (Rph, § 146)

¹⁴ Georg Wilhelm Friedrich Hegel, *Werke*, vol. 3, *Phänomenologie des Geistes*, § 433, 320, tr. by A. V. Miller as *Phenomenology of Spirit* (Oxford: Clarendon Press, 1977), 260. Hereafter referred to parenthetically in the text as PhG. References cite the paragraph number and page numbers of both the German edition and the English edition. Page references, separated by a slash, will be first to the German *Werke*, then to the English text. All translations, however, are my own (D. S.).

¹⁵ A strict prosecution of this critical argument which diagnoses the “paradox of autonomy” would object that any autonomous act of positing or examining a law must always itself presuppose yet another law as existing (in itself). “The paradox arises from Kant’s demand that, if we are to impose a principle (a maxim, the moral law) on ourselves, then presumably we must have a *reason* to do so; but if there was an antecedent reason to adopt that principle, then that reason would not itself be self-imposed; yet for it to be binding on us, it had to be (or at least had to be ‘regarded’ to be, as Kant ambiguously stated) self-imposed.” Terry Pinkard, *German Philosophy 1760–1860: The Legacy of Idealism* (Cambridge: Cambridge University Press, 2002), 59.

The normative-theoretical argument against the idea of autonomy—that decrees are not mere declarations, but exist only as what already *is*—is not meant to replace the ethical motivation for the critique of autonomy—the idea of a successful self-relation that overcomes self-legislation's violent self-subjugation. On the contrary, the former is meant to ground the latter: "Yet insofar as this *existing law* is valid as such, the obedience of self-consciousness is not in the service of a master, whose orders would be whims in which it would not recognize itself. Rather, the laws are the thoughts of its own absolute consciousness, which it immediately *has*." (PhG, § 435, 3:321/261)¹⁶ The law's being-in-itself (*Ansichsein*) means at the same time the immediate identity of the self with the law: "Ethical self-consciousness is *immediately* one with the essence through the *universality* of its *self*." (PhG, § 435, 3:321/261) The law as existing defines the identity of the self as immediate. Where laws have Being (in themselves), there can be no master or slave *relationship* between law and self, since such a relationship presupposes a difference between the relata; where the laws have Being, the law and the self stand in the immediate unity of "life."

Yet for precisely the same reason, there cannot be any relationship of freedom here either. The law that exists *in* itself is not one that is free *for* itself. The insight concerning the Being of the law does not yet answer the question that drives the idea of autonomy: the question of how freedom and law can be thought together. It is here that we find the decisive difference between the ethically motivated concept of Being in Hegel's early writings and the normative-theoretical argument for the Being of the law in (and after) the *Phenomenology of Spirit*. The Being of the law, as it is understood ethically in Hegel's early writings—Being as (good) life—is meant, like Schiller's concept of the "beautiful soul," to silence the guiding question of the theory of autonomy: namely, how law and freedom can be united. By contrast, the normative-theoretical argument that Hegel develops in the *Phenomenology of Spirit* itself demands, on its own understanding, that the question of the relation of freedom to the law be posed in a new and radical way. As a being-in-itself, the law determines ("constitutes") the identity of the self; only then,

¹⁶ This formulation which insists on "immediately having" rather than "positing" can also be understood as a reformulation of Kant's own position, properly understood. See Sebastian Rödl, "Selbstgesetzgebung," in *Paradoxien der Autonomie*, 91–112. In light of this reading, one might invoke the concept of constitutive rules to elucidate Hegel's view that the law's mode of existence is Being (in itself).

Hegel argues, can it truly be law—*i.e.*, the principle of the self's achievements. But in such a state of having and performing its own law, the self is not free. For the law to be-in-itself (without being-for-itself) is a state of unfreedom—the unfreedom of the merely living. Granted, the self immediately “having” the law is not the same as subjugation by a master, for here there is no difference between mastery and serfdom, and thus, it follows, no command and no obedience. But the absence of mastery is not yet freedom. The self, which, in its being-in-itself, simply *is* the law, submits itself to subjugation by its own law, or by its identity. The history of freedom first begins *after* the Being of the law.

(2) Freedom after Being

That the history of freedom begins only *after* the Being of the law is quite literally true within the successive steps of the *Phenomenology of Spirit*. Hegel discusses the Being of the law in two different places in the *Phenomenology*: first, in the course of his critique of autonomy at the end of the chapter on reason, and then in his treatment of the notion of freedom itself at the beginning of the chapter on spirit. This latter chapter observes the historical process by which “real spirits’ [Geister]” progress as “authentic actualities” or “forms of a world.” (PhG, § 440, 3:326/265) In the transition between the two chapters, Hegel reformulates the normative argument he had proposed in the chapter on reason to counter the idea of self-legislation, as the central characteristic of Antigone’s sense of justice and right. The laws “*are*, and nothing more”:

It is in that way that they count for Sophocles’ *Antigone* as the *unwritten* and *unerring* law of the gods:

Not now and yesterday, but forever
It lives, and nobody knows from whence it appeared.

They *are*. If I inquire about their emergence and confine them to their point of origin, then I have gone far beyond them, since it is I who am henceforth the universal, and they are the conditioned and restricted. If they are supposed to be legitimated through my insight, then I have already set their unwavering being-in-itself into motion, and I regard them as something that is perhaps true for me but perhaps not. An ethical disposition consists precisely in immovably sticking to what is right and in abstaining from any movement, any undermining, and any reduction. (PhG, § 436, 3:322/261-62; cf. Rph, §§ 144 Z and 147 N)

The structureless structure of the ethical disposition that corresponds to the Being of the law is the “*immediate* unity of substance with self-consciousness.” (PhG, § 458, 3:338/275) In this unity, “character, will, and aim appear absolutely fused into one”¹⁷: in conformity with the Being of the law, there is a natural, “organically developed [*gewachsene*]” identity of the self (which Hegel here terms “individuality”). While the tragic chorus calls this immediate identity of the self with its law “autonomous,” Hegel understands it to be unfree.¹⁸ It ruptures with the first, elementary act of freedom—the self-conscious decision for “action” (PhG, § 463, 3:342/279), in which a self first makes a law truly its own and thereby delivers it over, in that very act, to what Hegel admiringly characterizes as the power of the “feminine” principle, an “eternal irony.” (PhG, § 474, 3:352/288) To freely make a law one’s own is an act of ironic repetition.

Here it begins to become clear how Hegel understands the problematic that emerges from the paradox of autonomy from the *Phenomenology of Spirit* onwards. The problem has two facets. On the one hand, the law’s mode of existence is its being-in-itself in immediate unity with the self; the law exists only insofar as the self does not *give* it (to itself), but rather “immediately has” or, indeed, *is* the law. On the other hand, and contrary to Hegel’s earlier reformulation of Schiller’s aesthetic model of reconciliation in his ethical concept of life, the Being of the law prescribes a form of “individuality” that does not allow for action. As Hegel describes this problematic, which arises precisely in the attempt to resolve the paradox of autonomy, the Being of the law is both necessary and unfree: *necessary* in order for laws to exist and *unfree* because it precludes action.

With the collapse of the concept of autonomy, the concept of freedom must likewise be thought anew. Freedom does not actualize itself by positing laws (nor by obeying these self-made laws). Freedom rather consists in moving past the “organic” identity of the self with the law. Freedom consists in the determinate negation of this identity, in the “battle for liberation which the soul must fight against the immediacy of its substantial content.” (Enz III, § 402 Z) In other words, freedom as liberation is the rupture of Being (*i.e.*, the Being of the law and, consequently, the Being of identity). This is not a split

¹⁷ Georg Wilhelm Friedrich Hegel, *Werke*, vols. 13–15, *Vorlesungen über die Ästhetik*, 15:546, tr. by T. M. Knox as *Lectures on Fine Arts*, (ed.) T. M. Knox, 2 vols. (Oxford: Clarendon Press, 1975), 2:1214; translation modified (D. S.).

¹⁸ “Following your own law [*autonomos*] / and alone among the mortals / you will descend, alive / to the kingdom of death.” (*Antigone*, 821–24). See Christoph Menke, *Tragödie im Sittlichen* (Frankfurt am Main: Suhrkamp, 1996), 83–93.

with the Being of the law—for without the Being of the law, neither law nor freedom exists—, but rather a rupture *within* the Being of the law. This liberation from identity opens up a gap within the law: a difference between the law and its Being.

II. The Paradox of Liberation

The abstract formula to which the critique of autonomy leads us is this: freedom is liberation from the Being of the law or from the immediate identity of law and self. Yet at the same time, the critique of autonomy reveals that Being is essential to the law (and hence that identity with the law is essential to the subject). How can these two claims be thought together?

I take Hegel's answer to be that we can only grasp how liberation *from* the Being of the law or *from* its identity with the self is possible once we have understood that they both came into being precisely *through* liberation (*Befreiung*). There can be only one history of liberation from the Being of the law or from the identity of the self—the history Hegel begins with Antigone (and sometimes with Socrates)—because there is already a prehistory of liberation, a liberation *to* the Being of the law or *to* the identity of the self. There can be only one history of liberation because the Being of the law or the identity of the self are themselves the result of an act of liberation. The dissolution of the above contradiction—that the Being of the law or the identity of the self are essential *and* that we must (or want to) free ourselves from them—consists in a radical historicization. It is only because the Being of the law or the identity of the self has a prehistory that it has a history—and only thus can it have a future in liberation.

The prehistory of the Being of the law (or the identity of the self) consists in liberation from nature. The law *is*, but it is not (*as, like*) nature. It is artificial. Hegel sees this just as modern theories of natural law do. The Being of the law, from which we must free ourselves again and again, is something we created in freeing ourselves from nature. Conversely, we were only able to liberate ourselves from nature by becoming the agents of a law from which we would again have to liberate ourselves. The Being of the law thus stands at the intersection (or: *is* the intersection) of two paradoxically interconnected histories of liberation: the liberation from nature and the liberation from identity. The liberation from nature can only succeed by generating the Being of the law, from whose identity the self must *once again* liberate itself. The complex argument in which Hegel develops these thoughts can be sketched out in five steps.

(1) *Liberation from nature.* — Freedom of spirit, in its positive determination, consists in its normativity—that is, in its ability to make distinctions in following and applying rules. This (free) normative ability rests on the “ability [*Können*]” that Hegel calls “negativity”: “The essence of spirit is..., formally, *freedom*, the absolute negativity of the concept as identity with itself. According to this formal determination, spirit *can* abstract from everything external including its own externality, its very own existence [*Dasein*].” (Enz III, § 382) Spirit’s positive freedom is the capacity to draw conceptual distinctions. And this presupposes its “polemical”¹⁹ freedom in being able to distinguish itself from “external” distinctions, that is, distinctions that are naturally pre-given. In order to use concepts and be able thereby to differentiate things, spirit must be able to distinguish itself from nature. This “ability” for negativity is power (or resistance): the power of negativity *against* nature, the power to break with the power of nature corresponds to the capacity of normativity (of the concept). “This power over any presented content forms the foundation of spirit’s freedom.” (Enz III, § 382 Z)

Spirit that is free in drawing distinctions, guided by its conceptual rules, always already wields the power of negativity against the determinateness of nature’s distinctions. Insofar as it is free and possesses the ability to make conceptual distinctions, it *has* the power of negativity. “Liberation” from nature consists in gaining this power—in *becoming* someone who “*can* abstract from everything external including her own externality, her very own existence [*Dasein*].” (Enz III, § 382) The liberation of spirit is liberation from that form of human existence in which nature’s determining power continues unabated—in which spirit exists only “in itself” or as “conceptless”. It is liberation from the existence of “man as natural being.” (Rph, § 57 A)

(2) *The Aporia of Self-Liberation.* — “Man as a natural being” is the “untrue standpoint” where man exists “only as concept existing-in-itself”. In this “earlier, untrue appearance” man is “capable of slavery.” (Rph, § 57 A) This assessment—that man as natural being is “capable of slavery”—should be clearly distinguished from Hegel’s ambiguous reflections on the necessity of, if not the justification for,

¹⁹ Nature is “uninhibited, not opposed to something other. Freedom, by contrast, appears as simultaneously polemic. It has opposites, the first of which is nature itself.” Georg Wilhelm Friedrich Hegel, *Vorlesungen über die Philosophie des Rechts*, Nachschrift Griesheim, as cited by Manfred Riedel in his “*Freiheitsgesetz und Herrschaft der Natur*,” in *System und Geschichte. Studien zum historischen Standort von Hegels Philosophie* (Frankfurt am Main: Suhrkamp, 1973), 115.

slavery during the “transition from man’s naturalness to a truly ethical state.” (Rph, § 57 Z) For, *contra* Hegel’s remark in his 1821/22 lectures on the philosophy of right that slavery was “entirely legal [*rechtlich*]” at the moment of this transition²⁰, his talk of a “capacity” for slavery confutes the question of its legality, and thereby the question of its *il*legality as well. Such talk pulls the rug out from under these questions. If it is (only!) “man as natural being” that is “capable of slavery,” then this capacity consists precisely in an *in*ability—namely, in the natural absence of every mental ability. But to be thus incapable is to be incapable of justice or right: “The standpoint of free will, where right and the study thereof *begin*, is already beyond the untrue standpoint occupied by man as a natural being—where he exists only as the concept existing-in-itself and is thus capable of slavery.” (Rph, § 57 A; my emphasis, C. M.)

Thus Hegel does not declare natural man to be “capable of slavery” in order to then ask whether or not such a state is just. The question Hegel wishes to pose in describing natural man as capable of slavery instead concerns the *power* (or rather, powerlessness) of man as natural being—it is the question of man’s power or powerlessness, his ability or inability to free himself from this “untrue standpoint.” Hegel’s question is the following: if the state in which man qua “natural being” is capable of slavery is a state of *incapacity*, how is liberation from this state even possible? More precisely: how can someone so incapable as to be capable of slavery liberate *himself*—how can natural man *make himself* incapable of enslavement, passing from a state of incapacity to one of capacity, from a state of powerlessness to one of power?

It is this question of the liberation of spirit from the natural existence of man, in which he is capable of slavery, that also fuels Hegel’s fascination with the slave revolts “in the West Indies” that one “still reads about today” (and which left such a deep imprint on Hegel’s work, as Susan Buck-Morss has documented²¹):

²⁰ Georg Wilhelm Friedrich Hegel, *Die Philosophie des Rechts. Vorlesung von 1821/22*, (ed.) H. Hoppe (Frankfurt am Main: Suhrkamp, 2005), 65. In contrast to this point—and this is the ambiguity of Hegel’s question—is the “assertion of the absolute injustice of slavery”: “man [is] in and for himself not bound to slavery.” (Rph, § 57 A) Indeed, Hegel goes so far as to say that the Roman slaves who revolted were attempting “to achieve the recognition of their eternal human rights.” (Enz III, § 433 Z)

²¹ Susan Buck-Morss, *Hegel und Haiti* (Frankfurt am Main: Suhrkamp, 2011). The upshot of Buck-Morss’s thesis—that the slave revolts in Haiti formed the historical background for Hegel’s discussion of the Master-Slave dialectic—is, however, highly ambiguous. For there is an entirely different logic underlying the treat-

The negroes in the West Indies have often risen up, even now one still reads about conspiracies on the islands every year, even many times a year—but they become victims of the general state of things.—Yet they can die as free; the state of the individual conditioned through the universal.—Conspiracies themselves a proof of merely partial sensibility—likewise, one cannot speak of the guilt or this or that person for being masters.—What the alteration of the general situation hangs on. (Rph, § 57 N)

The problem of the liberation of the slaves is a problem of capacity, power, or ability. It is a problem of the capacity to acquire the capacity to abstract, which, as the freedom of negativity, is the basis for all possession of rights. Even while Hegel looks back on ancient or even prehistorical instances of slavery to pose the question of its legal validity, his marginal notes on contemporary slave rebellions expand upon the aporia of their possibility or *practicability*: the rebellious slaves of the West Indies “become victims of the general state of things”; their revolt remains merely a series of repeated “conspiracies”; the question of “what the alteration of general situations hangs on” remains unanswered. Hegel’s notes break off with this question. As an actual, contemporaneous deed, the self-liberation from slavery appears impossible. Because Hegel understands it as self-liberation from man’s existence as natural being, this deed cannot be thought and thus cannot be done. In order to be done, it must have already happened.

Here it might help to compare Hegel’s (implicit) diagnosis of the aporia of slave self-liberation with his (explicit) theory of how the bourgeois revolution succeeded.²² The bourgeois revolution could succeed because it merely involved a change in the prevailing politi-

ment of the “*Battle for Recognition and the Relation of Master and Slave*” in the *Phenomenology* when compared to battles that play out in historical times. The latter battles concern right and justice, while the former antedate these very notions. It is in the battle for recognition that the *idea* of right is first *formed*. To see an interpretation of the struggles of Haitian slaves against their masters in the battle for recognition in the *Phenomenology of Spirit* would be to fail to understand those struggles as struggles for justice and rights. It would be to claim that the very idea of right was being attained in those struggles and, consequently, that neither of the sides involved in these battles already possesses it.

²² On this point, see Joachim Ritter’s interpretation in “Hegel und die französische Revolution,” in *Metaphysik und Politik* (Frankfurt am Main: Suhrkamp, 1969), 183–233. See also Jürgen Habermas “Hegels Kritik der Französischen Revolution,” in *Theorie und Praxis* (Frankfurt am Main: Suhrkamp, 1978), 128–47, tr. by J. Viertel as “Hegel’s Critique of the French Revolution,” in *Theory and Practice* (Boston: Beacon Press, 1973), 121–42.

cal and legal circumstances, which is itself far downstream from the revolution in self-consciousness that liberates man from his existence as a natural being. To borrow a Marxian term²³, the bourgeois revolution was merely an act of “political emancipation.” And such acts *presuppose* that the break with man’s natural existence has already been accomplished (somewhere, somehow). This break is not itself a political action, but rather occurs in the field of economy and culture. As Hegel understands the bourgeois revolution, the oppressed class attains self-consciousness of its freedom through its experiences of material production and then through the development of its own culture, which finally leads to the upheaval of the political order. Thus, when the bourgeois class frees itself politically, it already *is* free, it *has already* liberated itself from the state of natural existence.

The insight to be gained from this is that every act of liberation that is successfully carried out in the actual present as someone’s own deed presupposes a liberation-*event* (*Geschehen*) that must have already taken place in the past. Liberation precedes itself. Hegel’s claims about the impossibility of slaves enacting their own liberation is therefore not *merely* ideological—an assertion of an incapacity meant to legitimate the status quo of the slaves’ disenfranchisement. On the contrary, it brings out the truth about liberation—*i.e.*, that it is only possible *now* if it has already happened. Liberation, according to Hegel’s paradoxical formulation, is “historical, *i.e.*, it belongs in time, in the *history before freedom*.” (Rph, § 57 N; my emphasis, C. M.) Liberation divides itself into an act that is freely carried out in the present and an event that is always already past, pre-historical. On the one hand, liberation must be one’s own, free act, for freedom, to which liberation should lead, cannot simply be a given, let alone a pre-given. On the other hand, liberation can only be a subjectless event, for the natural existence out of which liberation is supposed to lead, is a state of incapacity.

(3) *Enculturation* (*Bildung*) and *Society*. — Hegel’s answer to the paradox of self-liberation is his theory of “*Bildung*” or education, enculturation.

Man is only free, only in possession of himself in the first place, through *Bildung*. (Rph, § 57 N)

²³ Karl Marx, “Zur Judenfrage,” in Karl Marx and Friedrich Engels, *Werke* (Berlin: Dietz, 1977), 1:347–77, here 1:352–56, tr. as “On the Jewish Question,” in *The Marx-Engels Reader*, (ed.) R. Tucker (New York: W. W. Norton & Co., 1978), 26–52, here 29–33.

In his immediate existence in himself, man is something natural, something external to his concept; it is only through the training [Ausbildung] of his own body and spirit, essentially by means of his self-consciousness comprehending itself as free, that he first takes possession of himself and becomes his own property, opposed to others. (Rph, § 57)

In the concept of "*Bildung*," the liberation from the subjugation of natural determination is understood as *work*, as "the *hard work* of opposing the mere subjectivity of conduct, the immediacy of desire, and the subjective vanity of sensation and the arbitrariness of caprice." (Rph, § 187 A) This is the work of self-formation, which man accomplishes as he modifies things or "works them up [*bearbeitet*]." That freedom is the result of a process of "*Bildung*" means that it is "literally worked for [*erarbeitet*]." ²⁴ Hegel describes this work in terms drawn from prevailing eighteenth-century theories of *Bildung* as discipline. What is actualized in *Bildung* is the "*necessity* that the particular raise itself to the *form of universality*, that it seek and find its subsistence in this form." (Rph, § 186) The bourgeois subject themselves to disciplinary formation because they take it that they

²⁴ Habermas, "Hegels Kritik der Französischen Revolution," 134. About work, Hegel writes: "Work...is *inhibited* desire, *suspended* vanishing—that is, work *cultivates and educates* [*bildet*]. The negative relation to the object becomes the form of the object and something that *persists*; this is because it is precisely for the labourer that the object has self-sufficiency. This *negative* middle, or this formative *activity*, is at the same time *singularity* or the pure being-for-itself of consciousness, which now enters into the element of persistence in the work external to it. In this way, working consciousness thus comes to an intuition of self-sufficient being as *its own self*."

"However, this formative activity does not only have the positive significance that the serving consciousness as pure being-for-itself becomes in its own eyes an existing being within that formative activity. It also has the negative meaning of the first moment, that of fear. For in forming [*bilden*] the thing, his own negativity, that is, his being-for-itself, only becomes an object in his own eyes in that he sublates the opposed existing form. Yet this objective *negative* is precisely the alien essence before which he had trembled. But now he destroys this alien negative and posits *himself* as such a negative within the element of persistence. He thereby becomes *for himself* a *being-for-itself*. In the master, being-for-itself is *an other* or only *for him*; but in fear, being-for-itself is *within him*; in formative activity [*Bilden*], being-for-itself becomes *his own* for him, and he attains the consciousness that he himself exists in and for himself. By being *externally posited*, the form becomes for him something not other than himself; for his pure being-for-itself is just that form, which thereby becomes the truth for him. Thus, by way of this recovery of himself through himself, he becomes his *own sense*, precisely through work, where only *alien sense* seemed to be." (PhG, §§ 195–96, 3:153–54/218–19)

can thereby better pursue “their own interests”—“the needs, their satisfaction, the enjoyments and comforts of a particular life.” (Rph, § 187 A) The *truth* of *Bildung*, however, resides in the fact that, through the process of work, it produces subjects who are subjected to the determining powers of social forms and norms rather than the determining power of their natural instincts and impulses. In this sense, *Bildung*, as discipline through work, is the central concept in Hegel’s theory of society. *Bildung* means socialization—the transformation of natural beings into ones capable of actualizing social forms and norms.²⁵ Through *Bildung*, man liberates himself from his existence as a natural being and enters into his existence as a disciplined social being.

The theory of *Bildung* not only explains how the break with natural existence is possible (which cannot be possible as a free act of self-liberation), but it also simultaneously provides a characterization of the Being of the law, which, according to Hegel’s critical diagnosis, had been dissolved through autonomous self-legislation (or autonomous examination of the law). For the theory of *Bildung* characterizes the Being of the law as the Being of social forms (or norms) whose production breaks the determining power of natural instincts. The Being of the law should not be understood metaphysically, but rather socially. The Being of the law is not the Being that Parmenides pairs with the Good and the True, but rather What-has-come-to-be—namely, through the habituation of the rules, norms, attitudes, and institutions that Aristotle describes in his theory of virtue. The law “is” (or: the self “immediately” “has” the law) precisely because the law *has come into being* (or: because the self has been *made* into the locus of the law through habituation). The Being of the law is social Being, and social Being is *having-come-to-be* or *having-been-made*. The Being of the law is second nature.

(4) *The Dialectic of Bildung*. — The theory of social *Bildung* answers the question as to how the break with man’s existence as natural being could have occurred: namely, through subjugation to the alternative necessity of social norms. Yet in answering this question, the theory of social *Bildung* simultaneously explains how the Being of the law was produced: namely, as the replacement of natural by social necessity. But on its own, the theory of social *Bildung* fails to answer the twofold question about freedom raised above—a

²⁵ On the tradition (since Montesquieu) of interpreting bourgeois society in terms of *Bildung*, see Albert O. Hirschman’s “Der Streit um die Bewertung der Marktgesellschaft,” in Hirschman, *Entwicklung, Markt und Moral* (München/Wien: Hanser, 1989), 192–225.

twofold question that must be answered in one breath (if at all). This question is: (1) How can there be liberation from the determining powers of first nature? And (2) how can there be freedom in the face of the Being of the law? The answer that the concept of *Bildung* supplies to the first question is that the break with natural necessity can only happen through subjugation to the alternative necessity of social forms. But this seems to characterize the Being (the having-come-to-be) of the law in a way that makes the second question appear unanswerable: the law of *Bildung* is social necessity.

Hegel sees the solution to this problem in the “dialectic” of *Bildung*. In this dialectic, he describes the “social” process, which is the medium of *Bildung*, as an involuted event (*Geschehen*). Social processes, and *a fortiori* the *Bildung* of the self accomplished through them, are internally divided; this dividedness or involution is what defines them as “social” or “historical.” They are divided into, on the one hand, what “lies in the consciousness of the members of bourgeois society” and what “appears [to them] as *means*”, and, on the other, the “interest of the idea therein,” which enforces itself behind the backs of society’s members. (Rph, § 187) Social action is characterized, according to Hegel, by the fact that intention and effect diverge from one another as appearance and essence. The essence of a social action lies not in what the agent wants with it and therefore knows of it, but rather in what is accomplished through it, unbeknownst to the agent. The same holds for all social processes, especially in their fundamental determination as *Bildung*.²⁶ Of course, *Bildung* appears and operates merely as disciplinary formation. But in so doing, it serves as the means for an “end of reason,” which the disciplined (and self-disciplining) member of society must necessarily misunderstand. The “rational aim” of such social discipline is liberation:

Bildung, in its absolute determination, is therefore liberation and work towards a higher liberation, namely, the absolute point of transition to the infinitely subjective substantiality of ethical life, which is no longer immediate and natural, but spiritual and thus raised to the shape of universality. (Rph, § 187 A)

Hegel thereby describes the dialectic of *Bildung* as the self-deception of the member of society (*Bürger*). The member of society brings his liberation on himself by doing something entirely different, namely, disciplining himself. Social disciplining is the “point of transition” to

²⁶ Hegel treats these two sides of *Bildung* in Rph, § 186 (formation as “necessity”) and § 187 (formation as “liberation”).

liberation; discipline dialectically flips over into liberation. But how exactly does it accomplish this—assuming that talk of “the aim of reason” does not itself provide an adequate answer?

(5) *Liberation is the Repetition of Liberation.* — Let us return once more to the answer that the theory of *Bildung* gives to the question of the Being of the law. This question turned out to be the same as the question as to why the break with natural existence can lead only to the establishment of the alternative necessity of social forms. For the Being of the law is its existence as second nature or social necessity. And the answer to this question is that this break in social *Bildung* is not accomplished in the same manner as the self-liberation from the state of incapacity (which is the “capacity for slavery”): it is not accomplished as one’s own free act. The break with natural existence *must have* been accomplished in this way in order to lead to freedom, but it *cannot* have been accomplished in this way. To this extent, the theory of *Bildung* simply replicates the paradox of self-liberation that Hegel so peculiarly illustrates with the slaves’ struggle for liberation. Hegel’s account of the dialectic of *Bildung* promises to dissolve this paradox by arguing that the process that *appears* as a break with the natural necessity through the establishment of another, social necessity, can be understood, *in truth*, to constitute liberation. In light of what we have said thus far, this can only mean that the very same process, which can only have initially taken place as an alien, externally imposed event—the process, that is, of social formation—is now *retrospectively* understood by those formed through it as their own act. The disciplinary replacement of natural necessity by social necessity, however much it may seem to be in the self-interest of the member of society, could never have been carried out in freedom. For such a replacement is itself the detour that leads to freedom in the first place. In order to be able to lead to freedom, however, social discipline must be retrospectively appropriated by those who were subjected to it. The reason why it is not just a process that leads from one necessity to another is that the subjects formed through it *would have* carried it out as their own activity, were it not the case that their very ability to carry out such activities itself results from this process. The process of *Bildung* “becomes, through [spirit’s] recovery of himself through himself, a *sense* he has made *his own*, precisely through work, where only *alien sense* seemed to be.” (PhG, § 196, 3:154/118-19) *Bildung* becomes the “point of transition” from the discipline of work to liberation when the person formed by *Bildung* appropriates it as an act in which she can “rediscover” herself. It thus effects such a transition only as a process that can be *re-constructed* (*nachvollzogen*) as if

it had been produced in precisely the sort of freedom to which it in fact first gave rise.

The dialectic of *Bildung* entails that liberation is only possible as “second” liberation: liberation does not exist the first time around, but only the second time. The first time around, liberation is liberation from nature through the discipline of work. The first time around, liberation leads from the necessity of natural instincts to the necessity of social forms (and thus *not* to freedom). The first liberation happens to the subject who achieves it; liberation from nature is a pre-historical event (it falls under the “history before freedom”). As such, the first liberation from nature is thus no *liberation* at all, for it does not lead *to* freedom. Because it is not a proper act performed by someone, but rather an event (*Geschehen*), it only reproduces the power of necessity in another form (no longer natural, but social). Liberation is the repetition of liberation. Liberation only exists in the mode of repetition and therefore in the tense of irrecoverable posteriority: *Bildung*, discipline through work, *will have become* liberation.

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The question that obviously arises here concerns the possibility of such a liberating repetition of disciplinary *Bildung*. The insight that can be recovered from Hegel’s account of this dialectic—in spite of any talk of the “aims of reason”—is that a liberating repetition must have the ground of its possibility in the repeated disciplining it involves. Yet this is not the case because the normative and social intellectual abilities produced by such discipline already include the (meta-) ability of self-critique and self-transformation. What is crucial for the possibility of liberation is rather that, in generating social normativity, disciplinary *Bildung* simultaneously generate its own negativity, its opposition to nature. This division has two sides: it produces social normativity as second nature—and, in doing so, retroactively alters the first nature to which it opposes itself. Within this division, which discipline induces, normativity gains self-sufficiency as second nature, while first nature is internalized (or aestheticized²⁷). Discipline transforms first nature into the dark abyss of indeterminacy that remains removed from and opposed to every disciplinary effort. In generating this opposition to inner (as

²⁷ See Christoph Menke, *Kraft. Ein Grundbegriff ästhetischer Anthropologie* (Frankfurt am Main: Suhrkamp, 2008), Ch. III., tr. by G. Jackson as *Force: A Fundamental Concept of Aesthetic Anthropology* (New York: Fordham University Press, 2013).

aesthetic) nature, discipline generates the very force by which it can be called into question or even suspended. The repetition of discipline is liberation—not because or insofar as it might be able to produce a form of normativity that would not, in principle, be susceptible to the “Fall” into second nature, but rather because or insofar as it is able to mobilize the power of indeterminacy, which discipline generated as its own opposite.

The logic of repetition, which simultaneously makes liberation possible and, by the same token, defers it again and again, therefore displays two apparently conflicting aspects. The first is the *power* of liberation. In repeating the process of *Bildung* that produced social forms by breaking with the determining power of natural drives, liberation dissolves social forms into the indeterminacy of formlessness and generates them anew out of this abyss. In so doing, repeated liberation alters society: it changes the social forms and norms produced by discipline. And this social alteration takes place even where the content of social forms remains the same throughout the liberating repetition of their *Bildung*. They are no longer the same, for they reappear having come into being out of their opposite and thus having lost the necessity that accrued to them as second nature.

The second aspect is, in diametric opposition, the *powerlessness* of liberation. If liberation, the step from nature to freedom, only exists in the mode of repeated disciplinary *Bildung*—the replacement of a first necessity by a second, a natural necessity by a social one—then there can be no condition, no “realm” of freedom. It remains a constitutive feature of social norms that they merely “are” and that the self “has” them “immediately.”²⁸ That is, it remains a constitutive feature of freedom to be constantly *becoming* or to exist only in liberation. For liberation is transition through social norms that are necessary or exist in themselves—their production in the work of *Bildung* and their transformation in the play of repetition. But always the second after the first. Liberation always remains to be achieved and therefore always arrives too late.

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²⁸ This holds too for freedom of thought, insofar as thought is understood anthropologically, as a *human* activity. For, according to Hegel, there is no human activity, not even that of thought, that does not stand in the irresolvable tension between first and second nature. This has immediate consequences for how Hegel’s *Science of Logic* must be understood in relation to his philosophy of spirit.