

Karl Marx's Political Epistemology

Subjectivity, abstraction and the state
in the writings of the early 1840s

James Martin McIvor

Government Department
London School of Economics and Political Science
University of London

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Abstract

This study of Karl Marx's pre-1844 writings argues that the crucial link between his 'mature' social theory and preceding philosophical traditions lies in the elaboration in these early texts of what is here termed a 'political epistemology'. This can be summarised as a critique of laws and social institutions which treats them as human beings' operative conceptualisations of their practical interdependence. It is on the basis of this implicit equation that Marx transposes the terms of German Idealist investigations of consciousness and knowledge into an original analysis of political power and social conflict.

The historical and philosophical background to this idea of a 'political epistemology' is sketched through a consideration of the neo-Scholastic rationalism of the eighteenth century, the critical idealism of Kant, and the post-Kantian idealism of Fichte, Schelling and Hegel. Marx's student writings provide evidence of the importance of key post-Kantian themes and problems in shaping his early intellectual outlook. Marx's political journalism of 1842-3 takes forward these epistemological issues into an engagement with the social antagonisms of *Vormärz* Prussia. Finally, Marx's 1843 critique of Hegel is re-interpreted, not as an outright rejection of the post-Kantian project, but as an attempt to refound it upon new ground, with the aim of realising more adequately its original principle of understanding human experience and activity as radically self-determining.

In conclusion it is proposed that a reading of Marx that attends carefully to his redeployment of post-Kantian arguments will help us to make clearer sense of the complex theorisations of society, history, and economy developed in his later writings. Such an interpretation suggests that Marx's central concern remains one of realising a self-conscious and self-determining collective agency in society, and an epistemologically informed diagnosis of the unbridgeable oppositions and illusory misrecognitions that result from the obstruction of this practical goal.

Author's declaration

I declare that the work presented in this thesis is mine alone.

Signed

James Martin McIvor

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Introduction

1. Missed connections? Karl Marx and political philosophy

Marx is something of a ‘dead dog’ within political philosophy today. Even those who would acknowledge his continuing importance to contemporary political and social issues (his relevance to the academic discussions and real practical conflicts generated by ‘globalisation’ is frequently noted) might suspect the *philosophical* interest of his writing to have been exhausted. We have seen the dissolution of the ‘Western Marxist’ tradition, that vast industry of intensive Marxological scholarship and commentary that spanned nations and decades, but which seemed by the end of the twentieth century to have largely run its course.¹ Even if the startlingly rapid eclipse of the great continental schools of Marxian theory had more to do with the fate of the political movements, communist and new left, with which they were always closely, though rarely easily, involved, surely we would think that all those seminal and fiercely contested debates, with their armies of disciples on either side, had by then talked the subject to death.

Within the sphere of Anglophone political philosophy Marx’s fate seems less tied up with that of figures such as Lukacs, Adorno, Althusser or Della Volpe (whose influence was only ever fleetingly and indirectly felt on the margins of the discipline, if at all) than with the careers of a well-known group of writers once grouped under the banner of ‘Analytical Marxism’. Originally driven by a vision of a modernised Marxism cleansed of its nineteenth century anachronisms and raised to the idiom of contemporary Anglo-American philosophy and social science, none of the key individuals in this group are today practising anything that could be described as ‘Marxism’ in any usefully discriminatory sense. It is still these figures who most contemporary students of the discipline would point to as examples of ‘Marxists’, and *their* effective abandonment (even if not always explicit renunciation) of the pursuit seems to tell us all we need to know about it.² Excise the dialectical sophistries, the methodologically dubious holisms

¹ For useful overviews see Anderson 1976 and 1983, and Jay 1984.

² The chapter on ‘Marxism’ in Will Kymlicka’s *Contemporary Political Philosophy* is almost entirely taken up with the discussion of ‘analytical’ Marxists who no longer practise the trade. The recently published Second Edition finds barely any new references to add to

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and teleologies, and the confused equivocations over its own normative status, and it seems that one is left only with a leftwing interpretation of liberal egalitarianism and a collection of hypotheses about social class, historical change, and the tendencies of capitalist economies, to be confirmed or refuted empirically in the same way as any others that one might care to propose.³

This is ironic because, at the very same time, there has been an extraordinary revival of philosophical interest in those same German thinkers whose influences on Marx's thought it had seemed so important to expunge.⁴ Much of it driven by the renaissance in normative philosophy consequent upon the publication of John Rawls's *Theory of Justice*, contemporary Anglo-American thinkers have increasingly found that the more deeply they pursue debates such as that between liberalism and communitarianism, and issues around public reasoning, moral agency, and cultural identity, the more they are led back to the uniquely powerful and sophisticated exploration of similar issues by Kant and Hegel (one thinks particularly of writers such as Christine Korsgaard, Onora O'Neill, Allen Wood, Charles Taylor, and Robert Hardimon). This trend has coincided and productively dovetailed with a new wave of rigorous and illuminating English language scholarship on the German Idealist movement manifested in the work of people such as Karl Ameriks, Henry Allison and Paul Guyer on Kant, and Henry S. Harris, Robert Pippin and Terry Pinkard on Hegel. As the astonishing richness and complexity of this extraordinary conjuncture in the development of modern philosophical inquiry – 'a cultural phenomenon whose stature and influence has been frequently compared to nothing less than the golden age of Athens', notes Karl Ameriks⁵ – is brought home to

the chapter from the twelve years since first publication, and all of these feature as specifically non-Marxist efforts to develop left or socialist arguments from alternative philosophical resources. Kymlicka 2002.

³ I should make clear that while I may have criticisms of some of this work I by no means wish to dismiss it as misguided and worthless, only to suggest that it has prematurely diverted attention away from the task of trying to 'make sense' of those aspects of Marx's thought that less easily fit current intellectual paradigms.

⁴ I allow myself the term 'German Idealism' as a convenient and widely recognised shorthand to denote, loosely, a group of influential thinkers (primarily Kant, Fichte, Schelling and Hegel) and the concepts and issues that they shared and debated with each other. I do not mean to presume that 'Idealism' can in this context be straightforwardly defined, certainly not in a way that holds good for all of these thinkers throughout all their careers.

⁵ Ameriks 2000, p. 1.

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us afresh, some have begun to suggest that its importance and interest may go beyond that of an intellectual historian's minority pursuit in the normal division of academic labour. Thus Terry Pinkard has summated the 'legacy of idealism' as 'a set of some of the deepest and more thorough reflections of what it could mean for us to be free both individually and collectively under the inescapable conditions of human plurality'.⁶ And Robert Pippin has argued that

much of the controversy about philosophical modernism, antimodernism, and postmodernism can still be profitably formulated within the framework first proposed in the German Idealist version of modernism, especially in Kantian and Hegelian discussions, especially in their discussions of agency, self-determination, and rationality...⁷

The present study is premised upon an enthusiastic endorsement of such assessments, and attempts to effect an important extension: that this revival should suggest and inform a new engagement with the thought of Marx, by virtue of his intellectual proximity to this movement, and on account of his searching and transformative application of its theoretical constructions to emerging political and social questions of his age – questions of interdependence and collective agency, of relations of power and market exchange – that remain today the most fundamental questions of our own. I do not mean by this to put the philosophers of Idealism 'back in their place' as mere prologues to Marxism and foils to its glorious development, a place to which they were traditionally consigned by more celebratory narratives of Marxism's emergence.⁸ Marx had very little to say directly about consciousness, knowledge, subjectivity,

⁶ Pinkard 2002, p. 367.

⁷ Pippin 1997a, p. 5. A similar return to source may be underway in more continentally orientated discussions. Slavoj Žižek, his interest driven by the problems of post-structuralist and psycho-analytic theory, has asserted that 'the notion of modern subjectivity elaborated by the great German Idealists from Kant to Hegel ... forms the unsurpassable horizon of our philosophical experience.' Žižek 1999b, p. ix.

⁸ A recent new entry in the burgeoning literature of Hegel commentary suggests: 'At first largely motivated by the quest for the origins of Marx's project, this revival of interest has begun to focus on Hegel in his own right, and one with perhaps something more profound to offer than Marx.' Franco 1999, p. ix. I certainly think Hegel should be regarded as a profound thinker in his own right; I don't think this need mean reducing Marx to the status of a pale imitator.

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rationality, and certainly nothing remotely as developed or complex as the discussions of his more philosophically-minded predecessors who remain in this respect unsurpassed. Nor do I wish to overplay Marx's innovation in carrying the epistemological concepts and arguments developed by the idealists forward into the social and political domain – as I will set out in what follows, such an extension is at least implicit in Kant and was elaborated in some detail by Hegel. But my claim is that Marx picked up these insights and suggestions and ran with them (so far and so fast, indeed, that their origins quickly disappeared from view in his writing) and with these tools began to develop an analysis of modern politics and the market society that went way beyond anything envisioned by Kant or Hegel, not least because they could only glimpse these newly emergent historical realities within the span of their lifetimes.

At the other end of this intellectual journey is the unique and radical social theory found in Marx's monumental *Capital*, and an accompanying practical commitment to a communist political ideal. And here I must make an important qualification to my opening suggestion that Marx is no longer being read philosophically today. For there has been, concurrently with the revival of interest in Kant and Hegel and surviving the fate of analytical and continental schools of Marx interpretation, an ongoing project of investigation into the presuppositions of Marx's mature critique of political economy, and particularly its relation to the thought of Hegel, carried out by English language scholars, that has made major advances in understanding in recent years.⁹ The present study is very much inspired and informed by this fascinating body of literature and hopes in its way to contribute a small addition to it. The problem is not that such work is not being undertaken, but that it is little known to anyone without a central interest in Marx's thought. My suggestion is that the revival of serious interest in the idealism of Kant and Hegel and its value for thinking through problems of moral, political and social theory should naturally follow through into precisely this sort of investigation of the relation of Marx's social thought to the philosophical debates from which he emerged. But for most people the connection has yet to be made. Part of the reason why this work does not receive the attention it deserves stems, I suspect, from the fact that most of it begins with

⁹ I have in mind the work of writers such as Chris Arthur, Patrick Murray, Tony Smith, Geert Reuten, and others. A useful introduction to this new literature is given in the opening chapter of Arthur 2002. Representative selections can be found in Moseley (ed) 1993, and Moseley and Campbell (eds) 1997.

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two feet already inside Marx's theoretical project and as a result can seem rather a scholastic pursuit to anyone approaching from more standard intellectual starting points. One of the most interesting debates within this literature, for example, concerns whether 'Capital' follows a logic of 'Essence' or the logic of 'the Concept'.¹⁰ Few would view this as the most burning issue in political philosophy and social theory today (though my contention is that perhaps more should). Most obviously, as has long been recognised, there is no standard disciplinary category to which Marx's mature theory obviously belongs and it tends to appear as a marginal trespasser at the boundaries of political theory, economics, sociology, and history. This, of course, is due to an ambitiously global intent that transcends familiar disciplinary boundaries – an agenda I am not unsympathetic to. But one needs to show how we get there from here – and one of my aims here is to stake out one possible route, the one that can be discerned in the texts of Marx's earliest intellectual development.

So the present study aims to provide the beginnings of a bridge between two bodies of literature and ongoing projects of intellectual inquiry: that concerning the political lessons of the German Idealist movement, and that concerning the philosophical dimensions of Marx's 'mature' writings. It aims to do so by providing a clear and sensitive reconstruction of how the former issued into the latter – that is, how Marx's thought, as exhibited in the writings of his earliest adult years, progressed from an inaugural encounter with the dilemmas and historical predicament of German Idealism, via an energetic engagement with the political and social questions of his day, through to the first formulation of the new research agenda (historical materialism and the critique of political economy) and practical political project (revolutionary communism) with which his name would become identified.

The hinge in this development, I am proposing, is Marx's deployment in these writings of what I call a 'political epistemology' – roughly summarised, an approach to political institutions and 'subject positions' which treats them as human beings' practical conceptualisations of their material interdependence. This is not a presupposition that Marx ever makes explicit as a methodological principle, and it may well be that it operated at such a tacit level in his thought that he would not have immediately recognised it as here articulated. But my basic argument in what follows is that this is a

¹⁰ See Murray 1993, Smith 1993b.

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conception which has a firm basis in the German Idealist discussions within which Marx was immersed, and that it can take us a long way toward making sense of and rendering coherent much that otherwise remains obscure and disparate in these early writings, and indeed in later ones. Attempting to demonstrate this will be the primary task of the chapters ahead. But the basic coinage perhaps calls for a little preliminary explanation.

2. The idea of a political epistemology

The starting point for the discussion that follows are some striking and highly suggestive appearances at various points in these early writings, of a particular philosophical version of a very old analogy in the history of political thought.¹¹ The analogy is that between the state, as a collective political entity, and the individual knowing subject. The particular terms through which this analogy is articulated in Marx's early texts are those provided by the philosophy of German Idealism. Thus Marx discusses the problems and conflicts of the modern state in terms that parallel, and at times explicitly invoke, philosophical discussions of the limitations and paradoxes of the finite subject. And, by extension, his aspiration to a political project that in some sense reaches beyond or abolishes the division between state and society seems then to parallel the philosophical search for a philosophical standpoint that transcends or revokes the primordial split between subject and object – and, perhaps, leads to similar difficulties and dilemmas.

Reflection on the possible basis for drawing such a connection suggests the possibility that, in certain respects, this is not just a matter of superficial analogy but in some sense an *identity*, and that this identity forms one of the most basic organising assumptions of Marx's political thought in this period. What this means is that in these texts Marx critiques political forms precisely *as* more or less adequate embodiments of human beings' operative conceptualisations of their practical interdependence in society,

¹¹ A recent critical survey of this analogy is given in Neocleous 2003, who observes the modern prevalence of 'a set of rhetorical tropes centred on the idea of the mind, such as "reason" and "intelligence"' that show how 'the statist tendency in political thought has imagined the state as a necessary mechanism for human knowledge and, moreover, a knowing subject in itself'. Neocleous does touch on Hegel and Marx, but does not explore in any depth the philosophical arguments involved in making such a link, tending to see the analogy as a rhetorical device serving simply to legitimise domination.

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and that as such, philosophical frameworks and vocabularies developed by German Idealist thinkers for the analysis of knowledge and consciousness are directly applicable to them. This presumption of identity can be broken down into the following rough and schematic steps:

- 1 The necessary structure of the knowing subject will in important respects be paralleled in the necessary structure of the acting agent. This is not to say (necessarily) that either reduces to the other, nor that there are not important differences in their status and application. Conclusions about one do not automatically extend to the other. But certain elements and logical relationships are the same in both.
- 2 The necessary structure of the individual agent will at the same time be the necessary structure of any collective agency. This again does not necessarily mean that the transition from one to the other is straightforward, nor that there could be such a thing as a 'collective agency' that is in no important respects different from 'individual' agents. But to the extent that individual agents *can* act 'together', towards shared or agreed 'ends' and on the basis of shared or agreed understandings of their situation, there are important respects in which they will be replicating the structure of individual agency on a collective or interpersonal level.
- 3 The structures of collective agency constitute the fundamental or immanent logic of actually existing political institutions and social forms. For it is through these institutions and forms that individuals seek to realise a collective agency, to act together, in however limited or expansive a sense. This is a legitimate characterisation and starting point for analysis irrespective of how the agents concerned think about or describe these institutions and forms. Its theoretical purchase depends rather on how successfully we have identified the real nature and preconditions of their agency.

My claim is that this series of theoretical 'simultaneous equations' (structure of knowing subject = structure of acting agent = structure of collective agency = 'inner logic' of political institutions) unpacks a key premise of Marx's thought in this period, and can

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help us to understand why he talks about things in the way that he does, and maybe even helps to explain some of the conclusions he arrives at. But, as I have said, not only does Marx never spell this out in so many words, and at most points to it only fleetingly and obliquely, I would not want to claim that this is even necessarily something that he consciously entertained or worked through in his own mind at the time. So what, then, would be the justification or status of my ascription of this conception to him? There are two points to make in response to this question.

Firstly, I think that the chain of reasoning I have sketched does begin to resemble some arguments that were accumulated through the course of the development of the German Idealist tradition (even if in never so linear a form), and became part of the common philosophical heritage that Marx and his generation of thinkers took up, even if by this time they were barely conscious, sedimented assumptions in the very language of philosophical and political debate. Thus, to pick through this story very quickly, it is clear that important elements of Kant's epistemology carried over into his moral philosophy, such that theoretical consciousness and practical freedom were talked about in similar and often isomorphic terms, and the 'unity of reason' in some way encompassed them both.¹² Furthermore, it is at least arguable that Kant's transcendental account of the universal and necessary structures of subjectivity and agency has no particular anchorage in empirical individuals and can be taken to describe the structure of a supra-individual subjectivity that we all, insofar as we are rational beings, participate in;¹³ certainly this is what Kant's immediate successors quickly began to argue.¹⁴ And finally, it has been

¹² 'I require that the critique of a pure practical reason, if it is to be carried through completely, be able at the same time to present the unity of practical with speculative reason in a common principle, since there can, in the end, be only one and the same reason, which must be distinguished merely in its application'. Kant 1785, p. 5, 4:392.

¹³ As Warren Breckman notes, 'A tension between the concepts of "subject" and "person" began to appear once it was recognized that even if Kant himself conceived the subject as a conscious and autonomous human individual, in truth the concept of the subject *per se* says nothing about the *particular* identity of the subject ... Hence the ease with which post-Kantian philosophers could extend Kant's epistemological argument about the subject from the conscious human "I" to "God" or "Absolute Spirit".' Breckman 1999, pp. 11-12.

¹⁴ See for example Schelling 1975a, pp. 86-99: 'There cannot possibly be more than one I ... *the I is absolutely one* ... the pure I is the same everywhere, I is everywhere = I.' This is given a sociological spin in Fichte 1794, p. 159: 'If all men could be perfect, if they could achieve their highest and final goal, then they would be totally equal to each other. They would constitute but one single subject...'

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persuasively argued that Hegel's philosophies of politics and culture turn fundamentally upon an exploration of what might follow from that universal subjectivity's socio-historical embodiment, as what he termed 'objective Spirit [*Geist*]' – or, to choose a more clumsy but perhaps more illuminating translation, 'objectified, socialised, mindedness'. Thus Terry Pinkard has described the project of the *Phenomenology* to 'shift the basic epistemological task away from constructing metaphysical theories about how our representations might possibly match up with the world toward one in which the basic issue comes to be how we have come to *take ourselves* as being the agents that we have come to be', so that 'a wide variety of things, ranging from the rituals involved in Greek religious cults to the French Revolution, are in fact best understood as forms of knowledge'.¹⁵ This extraordinarily imaginative extension of the epistemological analysis to a wide variety of social and cultural phenomena means that its original terms quickly become buried amid a plethora of legitimate redescriptions, to a point where it is almost lost from sight and perhaps should no longer be thought of as privileged. But as commentators such as Pinkard have shown, a refreshed awareness of the original role of the epistemological inquiry can be essential to rendering the strange idiom of Hegel's concrete socio-historical analyses lucid, and indeed newly plausible.¹⁶

This leads on to the second prong of my defence of the notion of a 'political epistemology' in Marx's writings. For even if it is not the way Marx might have chosen to explain his premises and procedures, I want to suggest that it is the best way into an understanding of his thought for us today. This is because it aims to unpack and explain tacit premises and conceptual connections which were embedded in the theoretical discourse of Marx's day but which are less familiar to a contemporary readership. The path by which German philosophy found its way to this particular and peculiar mode of social and political inquiry during the late eighteenth and early nineteenth century is also

¹⁵ Pinkard 1994, p. 22, p. 20. See also Pippin 1989, p. 80, where it is suggested that Hegel's distinctive philosophical project took off where he translated his original search for 'a way to overcome existentially [the individual's] alienation or difference from God and the religious community' (set out in the early 'theological' writings) into 'an analysis of the implications of Kant's transcendental unity of apperception'.

¹⁶ Pinkard stresses, against hitherto more common readings of Hegel in the English literature, this 'epistemic' dimension of *Geist*, which he says 'denotes for Hegel not a metaphysical entity but a fundamental *relation* among persons that mediates their *self-consciousness*, a way in which people reflect on what they have come to take as authoritative for themselves'. Pinkard 1994, p. 9.

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the path by which we now need to find our way back to it. This has particular relevance to any readership produced by an Anglophone philosophical tradition which never fully took on board the Kantian critique of empiricism, certainly never took very seriously the wider uses to which his Idealist successors put it,¹⁷ and in consequence has I think never really been able to make sense of Marx's proclaimed 'materialism', his notion of 'human nature', and the status of his critique of political economy as 'social science'. (I think this may also be why many people had such difficulty coming to grips with the schools of continental Marxism, who dealt in a philosophical discourse that was in important respects built on post-Kantian ideas and arguments, even if these were now transformed beyond recognition.)¹⁸ So while my headline claim that we need to understand how Marx's early thought was formed by the legacy of German Idealism may sound like rather old news, my claim in its boldest form would be that we never really got to the bottom of this relationship, nor thought through its far-reaching consequences. Confirmation of such a claim might be that a reconstruction along the lines I am suggesting does indeed generate some new conclusions about elements of Marx's later thought that have long seemed contradictory or confusing. I indicate what I think some of these might be in the concluding chapter.

But the bulk of my discussion is taken up with those early texts where I think we can see this idea come into play in its freshest form, and where I think we can gain a clearer view of it relatively free from its entanglements with questions of economics,

¹⁷ Of course the 'Anglo' vs 'Continental' schema is a crude one that admits endless exceptions, from the British Idealists to the Austrian positivists, but to the extent that there have been broad divisions in the course of modern philosophy, Kant and his successors have seemed to many to mark a decisive fork in the road.

¹⁸ For an excellent if symptomatic review of these encounters see Callinicos 1985. Although showing an insightful awareness of these differences of philosophical tradition ('Kant to Hegel' versus 'Kant to Frege'), and making an enterprising and valuable attempt to mediate them, I think this discussion too gets into difficulties when claiming, for example, that 'Marx made it amply plain in *Capital* that he regarded himself as engaged in precisely the same enterprise as natural scientists, namely that of penetrating beneath the surface appearances of things to reveal the inner structure of reality' (p. 101); or that historical materialism is 'concerned with identifying the hidden structures underlying the conscious behaviour or individuals' – structures which must then be understood in non-intentional ways (p. 105); or that the notion of commodity fetishism must be rejected because it 'presumes the possibility of immediate knowledge' and implies a heretically non-materialist identification of 'social relations with forms of consciousness' (pp. 131-3). I return to some of these issues in the final chapter.

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class, and history. Before proceeding a brief review of what is already known about and has already been said of this material is in order.

3. 'Marx before Marxism'

For most people, 'the early Marx' is the Marx of 1844, 'labour' and 'alienation' and communism as 'the riddle of history solved'. The writings that lead up to this first formulation of a recognisably 'Marxist' project make up a relatively unknown and under-examined segment of his corpus. Nevertheless, his historical and international significance has ensured that few aspects of his life and work remain wholly unfamiliar and have not been subject to some scholarly attention. Many people will know that Karl Marx began his university studies with the intention of following his father into law, and came out at the end with a doctoral dissertation on ancient Greek atomism; that finding the path to an academic career blocked he turned to journalism, and earned a name for himself with some sharp writing in defence of press freedom; that following the suppression of his newspaper he spent his honeymoon grappling with the final paragraphs of Hegel's *Philosophy of Right*. The story of 'Marxism' proper then begins with his subsequent emigration to Paris that brought him into contact with the French workers' movement, and (via Engels) the writings of the English political economists, issuing in the first recognisably 'Marxist' synthesis of these elements, the 'Economic and Philosophical Manuscripts' of 1844, the centrepiece of what are still customarily thought of as 'the Early Writings'. More generally, most people have an idea that Marx began his intellectual life as some kind of 'Young Hegelian', and that he eventually arrived at 'the materialist conception of history' by in some sense 'inverting' this philosophical paradigm.

The canonical accounts

The first classic account of this period in Marx's life was provided by Marx himself, in the famous and much-quoted Preface to the 1859 *Contribution to the Critique of Political Economy*, a narrative of the birth of historical materialism that would achieve canonical status within the Marxist tradition:

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Although I studied jurisprudence, I pursued it as a subject subordinated to philosophy and history. In the year 1842-3, as editor of the *Rheinische Zeitung*, I first found myself in the embarrassing position of having to discuss what is known as material interests. The deliberations of the Rhenish Landtag on forest thefts and the division of landed property; the official polemic started by Herr von Schaper, then Oberpräsident of the Rhine Province, against the *Rheinische Zeitung* about the condition of the Moselle peasantry, and finally the debates on free trade and protective tariffs caused me in the first instance to turn my attention to economic questions. ... When the publishers of the *Rheinische Zeitung* conceived the illusion that by a more compliant policy on the part of the paper it might be possible to secure the abrogation of the death sentence passed on it, I eagerly grasped the opportunity to withdraw from the public stage to my study.

The first work which I undertook to dispel the doubts assailing me was a critical re-examination of the Hegelian philosophy of law; the introduction to this work being published in the *Deutsch-Französische Jahrbücher* issued in Paris in 1844. My inquiry led me to the conclusion that neither legal relations nor political forms could be comprehended whether by themselves or on the basis of a so-called general development of the human mind, but that on the contrary they originate in the material conditions of life, the totality of which Hegel, following the example of English and French thinkers of the eighteenth century, embraces within the term 'civil society'; that the anatomy of this civil society, however, has to be sought in political economy.¹⁹

Following this account, and perhaps equally influential in shaping the self-understanding of the Marxist tradition, was Frederick Engels' *Ludwig Feuerbach and the End of Classical German Philosophy* (1888),²⁰ which defined the philosophical pedigree of Marxism against the dissolution of the 'Hegelian school' and the transcendence of Idealism.

... the doctrine of Hegel, taken as a whole, left plenty of room for giving shelter to the most diverse practical party views. And in the theoretical Germany of that time, two things above all were practical: religion and politics ... Towards the end

¹⁹ Marx 1859, pp. 424-5.

²⁰ Engels 1888.

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of the thirties, the cleavage in the school became more and more apparent ... when in 1840, orthodox pietism and absolutist feudal reaction ascended the throne with Frederick William IV, open partisanship became unavoidable. The fight was still carried on with philosophical weapons, but no longer for abstract philosophical aims. It turned directly on the destruction of traditional religion and of the existing state ... in the *Rheinische Zeitung* of 1842 the Young Hegelian school revealed itself directly as the philosophy of the aspiring radical bourgeoisie and used the meagre cloak of philosophy only to deceive the censorship ...

... the main body of the most determined Young Hegelians was, by the practical necessities of its fight against positive religion, driven back to Anglo-French materialism. This brought them into contact with the system of their school ... Then came Feuerbach's *Essence of Christianity*. With one blow it pulverised the contradiction, in that without circumlocutions it placed materialism on the throne again ... The spell was broken; the 'system' was exploded and cast aside, and the contradiction, shown to exist only in our imagination, was dissolved. One must himself have experienced the liberating effect of this book to get an idea of it. Enthusiasm was general; we all became at once Feuerbachians.²¹

But Engels influentially distinguished the trajectory of Marxism (and its superiority to Feuerbach's project) by its taking over to 'the materialist standpoint' the 'revolutionary side' of Hegel, his 'dialectical method'.

We again took a materialistic view of the thoughts in our heads, regarding them as images of real things instead of regarding the real things as images of this or that stage of the Absolute Concept. Thus dialectics reduced itself to the science of the general laws of motion, both of the external world and of human thought – two sets of laws which are identical in substance, but differ in their expression in so far as the human mind can apply them consciously, while in nature and also up to now for the most part in human history, these laws assert themselves unconsciously, in the form of external necessity, in the midst of an endless series

²¹ Engels 1988, pp. 15-17.

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of seeming accidents. Thereby the dialectic of concepts itself became merely the conscious reflex of the dialectical motion of the real world and thus the dialectic of Hegel as turned over; or rather, turned off its head, on which it was standing, and placed upon its feet.²²

It is not only because they vividly set the scene for the more detailed investigation to follow, that these summaries are worth quoting at such length. They also must be taken seriously as first-hand accounts of the development of Marx's distinctive intellectual and political project – so that, even if we judge them to be inadequate or perhaps even problematic (as may be the case with Engels' reconstruction), our own version of events must at least be such that we can plausibly imagine how it may have given rise to such reconstructions. And this is what I will hope to do in what follows.

The 'mythology of doctrines'

During the twentieth century more texts of this period became generally available (including, crucially, Marx's critical notes on Hegel from 1843), and more extended English language studies, beginning with David McLellan's *Marx Before Marxism* (1970),²³ have been concerned with filling out the details of this biographical narrative, and providing piecemeal summaries of the extant texts.²⁴ As such they have provided invaluable introductory surveys of the terrain and frequently throw up important insights, some of which are taken up in the discussion that follows.

Where there has been an attempt to form a more overall assessment of their political and philosophical content, however, this has often been distorted by an overriding concern to determine whether at a given point in his youth Marx was 'still' an

²² Engels 1888, pp. 38-9.

²³ McLellan 1970.

²⁴ General overviews and discussions of Marx's pre-1844 writings are found in Adams 1940; O'Malley 1967; McGovern 1970; Howard 1972; van Leeuwen 1972 and 1975; Hunt 1974; Rubel 1975; Mewes 1976; Draper 1977; Teeple 1984; Kain 1988; Berki 1990. Others that focus on specific texts within this period are cited as they arise in the chapters that follow.

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idealist or ‘already’ a materialist,²⁵ as having ‘gone beyond’ liberalism or ‘not yet’ come to communism.²⁶ The result can be a peculiar variant of what Quentin Skinner diagnosed ‘the mythology of doctrines’ in the historiography of political thought, whereby a past writer is expected to have a definite position on what now seem to us to be the most important issues and debates, and their writings are searched for remarks or clues as to what that position might be.²⁷ In the case of Marx studies we have often had an individualised version of what Skinner describes as ‘the endless debate – almost wholly semantic, though posing as empirical – about whether a given idea may be said to have “really emerged” at a given time’.²⁸ Quite apart from the problematically teleological presumption of such schemas, I suspect that any attempt to periodise Marx’s thought in such broad terms (‘idealism’ and ‘materialism’, ‘liberalism’ and ‘communism’) cannot begin to accommodate the complexity of the philosophical and political debates in which he is enmeshed, and moreover can set us on a false trail of trying to reconstruct an underlying philosophical or political ‘position’ or allegiance behind the concepts and arguments that are actually deployed in the texts under study.²⁹ It is true that the

²⁵ See especially Teeple 1984. Heinz Lubasz recognises that Marx shows little interest in declaring himself a philosophical idealist or materialist in his early articles, but then seems to conclude from this that Marx’s philosophical background played little role in his empirical inquiries – but the point is that philosophical discussions were not yet being conducted in these terms, and the deep involvement of most radical intellectuals, Marx plainly included, with what we know now as ‘German Idealism’ did *not* of itself preclude an interest in empirical investigation of nature and society, as Hegel’s lifetime interests amply demonstrate. Lubasz 1976, p. 26.

²⁶ Hunt 1974; Draper 1977.

²⁷ Skinner 1969, pp. 32–36. Engels may have been a bad influence here, with his insistence that there is only one ‘great basic question of all philosophy’ which splits all philosophers in history into the ‘two great camps’ of idealism and materialism, a pronouncement that might have been calculated to make Skinner blanch. Engels 1888, pp. 19–20.

²⁸ Skinner 1969, p. 35.

²⁹ Though he may seem to many the most notorious offender, I would actually exclude Louis Althusser from these strictures. Whatever one may think of his own periodisations of Marx’s early thought (and I think we must now find them too simple) his demand of a ‘symptomatic reading’ of the theoretical ‘problematic’ governing a text and its synchronic relations to an ‘ideological field’ were intended precisely to correct against the temptation to read Marx’s early works in the ‘future anterior’ by comparing them always against the ‘goals’ of his subsequent development. See Althusser 1961, pp. 51–71 especially. For his classification of Marx’s early texts into a Kantian-Fichtean ‘liberal rationalist’ stage (from

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distribution of labels and the drawing of dividing lines is a practice encouraged by the later polemical engagements of Marx and Engels themselves, for whom a clear and combative identification as ‘materialist’ and ‘communist’ was an important and politically productive gesture. But at the time of writing the texts we are here concerned with (that is, up until 1844 at the earliest), it is pretty clear that Marx did *not* think that whether one was an ‘idealist’ or a ‘materialist’, a ‘liberal’ or a ‘communist’, were the most important questions of the day; that it was *not* his primary intention in these texts to work out and set forth his position in response to them; and indeed that these questions would barely have posed themselves to him in these terms at all. Even if these are questions which in part motivate our inquiry, this is precisely because the very nature of Marx’s mature ‘materialism’ and the ultimate content of his conception of ‘communism’ has remained so unclear and contested, so that it makes no sense to return to his early writings with these categories in hand as if their meaning were simple and settled.

More difficult questions arise when we consider Marx’s relationships with other key thinkers of his generation and of the philosophical tradition he engaged with – questions which clearly were of immediate concern to him during the period we will be looking at. There is no doubt that it did seem very important to Marx and his contemporaries to know where one stood in relation to Kant, Hegel, Plato, Aristotle, and all the rest, but despite the fact that these texts are littered with explicit declarations of allegiance and opposition and pronouncements on such thinkers’ true significance, the question of ‘influences’ on Marx’s early thought remains an area in which there is little agreement. Here there are two important ways in which the unwitting historical parochialism warned against by Skinner can manifest itself. One is the attempt to find in Marx statements which resonate with our own model of what another thinker stands for, such as Kant’s ‘universalism’, or Hegel’s ‘dialectic’, or Aristotle’s ‘essentialism’, which come nowhere near to accommodating the complexity, diversity and ambiguity of the thought of these writers, their relations to one another, and the many ways in which these writers might be been read by Marx.³⁰ In drawing such comparisons and connections the more cautious route is also the more interesting and productive: remaining at the level of specific texts, concepts and arguments, and sticking to cases

1840–42) and Feuerbachian ‘communalist’ stage (from 1843) see Althusser 1964, pp. 223–27.

³⁰ This is a practice which particularly hampers the discussion in Kain 1988, for example.

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were it can plausibly be supposed that a reference is consciously intended or a usage consciously deployed.³¹

The 'tacit dimension'

At the same time, however, I want to suggest that there is another perspectival illusion that needs to be checked – that as well as making too much of superficial similarities, we may overlook or lose sight of deeper interconnections. I have in mind the key premises and paradigms which make up what Albert Hirschmann has called the 'tacit dimension' in the history of ideas – 'propositions and opinions shared by a group and so obvious to it that they are never fully or systematically articulated'.³² In what follows I will be arguing that certain fundamental presuppositions and problems can be seen to frame and inform the whole movement of post-Kantian thought in Germany and remain important for understanding the construction of Marx's distinctive ideas. I think a case can be made that much of this framework was quite simply taken for granted in the texts and discussions we will look at, and that while the elements of this paradigm would most naturally strike us as 'Kantian' or 'Hegelian', it would have been seen by Marx and his contemporaries as simply fundamental to modern 'philosophy' or 'science', at the same time as they worked to differentiate themselves from the particular positions at which Kant and Hegel arrived. There may indeed be some 'anxiety of influence' at work here,³³ particularly so where we come to the interrelations *among* various rival Young Hegelian writers whose fierce competition for intellectual leadership of their movement produced a shrill polemical atmosphere and perhaps a certain narcissism of small differences.³⁴

³¹ Carver 2000 makes a similar argument specifically with respect to Marx's relation to Hegel.

³² Hirschmann 1977, p. 69.

³³ Joe McCarney has suggested, for example, that for circumstantial reasons Marx may have overstated or exaggerated the nature of his philosophical break with Hegel, and I think we have to at least consider the possibility of such a thing. McCarney 2000.

³⁴ Zvi Rosen, for example, rejects the thought that there is any 'affinity' between Bruno Bauer's and Ludwig Feuerbach's analyses of religion and that their 'similarity' is 'external and merely formal', citing the fact that they publicly repudiated each other's arguments in response to attempts to lump them together. Rosen 1977, pp. 96-102. Certainly Young Hegelian critiques of theology differed in important ways but I don't think that should

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But my basic contention in what follows will be that beneath the cacophony of sloganeering that characterised the Young Hegelian period there was a common project, and that this can be understood as in part a return of the radical Kantian beginnings of the German Idealist movement as it was conceived at the turn of the century by its key founders, Schelling and Hegel. This recovered critical impulse was targeted against Schelling's turn to 'positive' philosophy, and what was increasingly seen as Hegel's (superficial or symptomatic) reconciliation with 'positive' religious and state institutions in his later career. This is not to presume that this underlying project was simple to define or sustain – just as its internal instabilities and ambiguities had led to the breakdown of the original Idealist programme into opposed tendencies, so too the Young Hegelian formation quickly fragmented into diverse political and intellectual campaigns. But all these important philosophical and practical differences can best be understood if we bear in mind that they arise from disputes about the adequate formulation and realisation of what is at some level an initially shared project, not totally disconnected visions created *ex nihilo*. And this applies to Marx just as much as anyone else.³⁵

The young Marx and 'philosophy'

Of course it is Marx who, more than any other, transforms this philosophical project out of all recognition, to a point where it appears as explicitly and insistently *anti*-philosophical. This trajectory has been the topic of a handful of more recent studies of Marx's emergence from the Young Hegelian movement: Harold Mah's *The End of Philosophy and the Origin of Ideology: Karl Marx and the Crisis of the Young Hegelians* (1987),

blind us to their common basis, recognised by John Toews (1980, p. 287) – a shared starting point that moreover remains recognisably part of the German Idealist problematic.

³⁵ It is for this reason that I do not follow the common practice of investigating Marx's earliest writings in the context of a wider 'ensemble' study of several Young Hegelian thinkers – as seen in, for example, McLellan 1969; Mah 1987; Breckman 1999; Kouvelakis 2003. For the purposes of this study I am more interested in the continuities of Marx's thought with that of his idealist forbears than its differences with his various contemporaries. This, along with the constraints of space, mean that figures such as Bauer, Ruge and Feuerbach are largely confined to the margins of this discussion.

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Daniel Brudney's *Marx's Attempt to Leave Philosophy* (1988), and, by far the best of these, Peter Osborne's unpublished D.Phil thesis, *The Carnival of Philosophy: Philosophy, Politics and Science in Hegel and Marx* (1988).³⁶

Mah presents an 'empirical phenomenology' of the spiritual journeys of Bruno Bauer, Arnold Ruge and Karl Marx, and locates the origin of the modern concept of 'ideology' in their failure to make sense of their personal conflicts and the apparent regression of the Prussian state within the terms of their adopted Hegelian worldview. The consequences of this are taken to their farthest conclusion by Marx, who effectively travels backwards along the road of Hegelian phenomenology to arrive at 'the immediate, sensuous world' as the standpoint for a critique of all philosophy as compensating for and justifying a deficient social reality by 'creating a fantasy world of unity and freedom'.³⁷ Daniel Brudney's discussion (which concentrates on Marx's texts of 1844-6, beyond our period, but interprets these in the light of a detailed reading of Feuerbach and Bauer's earlier work) is premised on a very similar narrative of Marx's disavowal of philosophy, and diagnoses what he takes to be the deep problems of the resulting position. Clearly taking his bearings from recent analytical discussions of Marx's apparent confusion over issues of human nature and normative moral stances, Brudney argues that Marx's anti-philosophical recourse to the empirical, the material, the everyday is in conflict with an account of capitalist society as a self-mystifying social reality that can only be criticised from the perspective of an independent standard of the good life for humanity.³⁸

Both these studies are led astray, I want to suggest, by a too stark and simplistic reading of the rejection by Marx and other Young Hegelians of their Idealist philosophical heritage. Osborne's highly illuminating discussion fares far better, I think, for attending to the *continuity* in this development, finding in Marx's oblique discussions of the contemporary predicament of philosophy in the notes to his Doctoral Dissertation the clue to a more 'dialectical' account (the overused word is, in this context, quite

³⁶ Mah 1987; Brudney 1998; Osborne 1988.

³⁷ Mah 1987, pp. 41-2.

³⁸ 'Marx's justificatory problem stems from his desire to condemn capitalism while he *both* eschews the kind of abstract theory that claims to penetrate behind the appearances (with respect to human nature) of ordinary life *and* asserts that in ordinary life what human nature currently seems to be is quite different from what it actually is'. Brudney 1998, p. 19.

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appropriate) of how in Marx's own hands philosophy's attempt to become 'worldly' through material mediations results in a fundamental reconfiguration of its own status in relation to 'independent material problems' and to the project of the empirical sciences. He does not, however, home in on the question of political and social forms and institutions in the way that I plan to do. And it may even be that he does not fully recognise the extent to which the development he describes can be understood within an overarching Hegelian narrative. Specifically in this context, I will attempt to show that it is precisely *through Hegel* that we can make sense of the perennially troublesome coexistence in Marx's later writings of a polemical appeal to the material, the empirical, the 'immediate', and an apparent recourse to 'idealist' philosophical figures of critique, essentialism, and teleology.

The young Marx and 'politics'

While this thesis was in preparation a further group of studies appeared which are concerned less with the status of 'philosophy' within Marx's early thought than with that of *politics*. Perhaps most important of these for my own interests and purposes is Warren Breckman's *Marx, the Young Hegelians, and the Origins of Radical Social Theory: Dethroning the Self* (1999),³⁹ which situates Marx within a wider debate over 'personalism' in its theological and political aspects that Breckman takes to be at the heart of the ideological struggle between post-Hegelian conservatism and Young Hegelian radicalism in 1830s Prussia. Breckman provides one of the richest and most comprehensive pictures of the background to Marx's early intellectual activities to have appeared in English, and performs the service of making clear just how much of Marx's early outlook was held in common with others of his generation. Indeed, one of the effects of Breckman's work is to take down our estimation of Marx's originality in these earliest years of his intellectual career: it was no great revolution to transpose Feuerbachian critique from religion to politics, for Feuerbach's project was already politically directed; nor to attack the ideological function of the 'panlogicism' of Hegel's *Philosophy of Right*, already diagnosed by Ruge; nor to make a philosophical commitment to communism in 1843, when

³⁹ Breckman 1999.

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Feuerbach, Arnold Ruge, Eduard Gans and others were already ‘ethical socialists’ of some kind under the impact of Saint-Simonianism and the rise of the ‘social question’ in the 1830s. Furthermore, Breckman’s focus on the vicissitudes of the concept of ‘personality’ picks out a vital strand for understanding how Marx relates to this context, a strand which is close to and in many ways intertwines with the one that it is my concern to trace, as will become apparent in what follows. But ultimately, as will also become clear, I think that ‘personality’ is not the only place one could start – other politico-philosophical motifs such as mechanism, formalism, positivity, abstraction, arbitrariness, dualism, transcendence, and self-consciousness are, arguably, equally pivotal to the intellectual disputes and practical conflicts of this period and could be made the subject of a separate study, while my claim will be that all can be better made sense of within the broader ‘epistemological’ problematic that it will be my aim to reconstruct. Moreover, I think this restricted optic predetermines (or, indeed, has been predetermined by) Breckman’s implied conclusion that the true distinctiveness of Marx’s development was his *illicit* extension of the Young Hegelian critique of Christian and neo-feudal personalism to secular liberal individualism.⁴⁰ Though I do not plan to mount a complete defence of Marx’s rejection of liberalism within this study, I do think that one of the outcomes of my broader reconstruction may be a clearer understanding of exactly why Marx felt that modern market society did indeed reproduce important structural features of a pre-modern traditional order.

Breckman’s return to the origins of Marxist thought is implicitly framed by an equation of the moment of ‘post-Marxism’ with a ‘return of the political’, and means to assess what is at stake in such a shift by inquiring into the moment of the alleged *suppression* of the political dimension in Marx’s early thought.⁴¹ A similar concern with what Claude Lefort has influentially designated ‘the lacuna of the political’ in Marxism animates two recent French studies with more sympathetic intent, Miguel Abensour’s *La*

⁴⁰ See especially pp. 278-308. ‘[I]n 1843, Marx mistook an analogy for analysis. That is, his treatment of the modern state depended on a brilliant extension of the structure of Left Hegelian politico-theological critique into the secular domain of society and politics. Through a curious alchemy, he recast a secular state of affairs, the separation of the modern state from civil society, as itself *theological*’ (p. 294).

⁴¹ Breckman self-consciously writes against the background of a supposed consensus that ‘Karl Marx’s total rejection of the concept of civil society is inadequate to the project of expanding democratic life within complex societies’. Breckman 1999, p. 2.

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démocratie contre l'État: Marx et le moment machiavélien (1997)⁴² and Stathis Kouvelakis's *Philosophy and Revolution from Kant to Marx* (2003).⁴³ Both set out to investigate the now widespread view that Marx's thought in some way effects an overly determinist or teleological closure of what is contingent and contested in social life, and for this reason cannot be wholly absolved of responsibility for its misuses during the twentieth century. The former finds in Marx's early journalism a neo-republican campaign (analysed after Pocock) against the theologico-political legitimations of the Restoration that is simultaneously radicalised and submerged in its passage, through a 'true democracy' upheld against the modern state as such, to an insurgent proletarian politics pitched against the alienated structures of modern civil society.⁴⁴ The latter takes Marx's commitment to revolutionary change and a progressive dialectic of conflict and rupture as the crux of his originality and distinction from his contemporaries, and insists that Marx's notion of 'true democracy' should be taken as a promise of ongoing and open-ended political activity, and not a dangerously naïve utopia of social harmony.⁴⁵ Though their analyses take different directions, both pursue the thought that Marx's vision of the end of the political *state* as an autonomous sphere should not be taken necessarily to presage the abolition of the *political* as such.⁴⁶ Although the present study is clearly written in a different idiom and tradition, and will at various points take issue with the detail and direction of these discussions, my intention is to complement rather than supplant them. One might say that my own way of approaching the same question of 'the political' in Marx would be to ask after the fate in his thought and practice of what Howard Caygill has called the 'aporia' of judgement in Kant, a meditation on the

⁴² Abensour 1997. I am grateful to Sebastian Budgen for allowing me sight of a draft translation by Max Blechman, forthcoming from Verso.

⁴³ Kouvelakis 2003.

⁴⁴ 'As Marx's political writings suggest amply, he was perpetually haunted by the radical instituting power of the political sphere, by its heterogeneity. It seems he could never stop questioning the riddle of the foundation of political community, or of life held in common'. Blechman's translation, p. 15.

⁴⁵ '...the "practice of true democracy" designates an eminently *expansive* process, the self-criticism of civil society understood as inherently political; it is the threshold above which the politicisation of the various social instances and the socialization of the political become coextensive'. Kouvelakis 2003, p. 310.

⁴⁶ Kouvalakis 2003, p. 412, n. 200. Such a reading has also been suggested, again with reference to the 1843 critique of Hegel, by Philippe Lacoue-Labarthe and Jean-Luc Nancy (1997, pp. 114-15).

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production of order with distinctly modern political ramifications,⁴⁷ or of the radically ‘modernist’ problematic of ‘self-determination’ that Robert Pippin and Terry Pinkard have taken to be definitive of the German Idealist tradition in general.⁴⁸

If I seem to be insistently dragging everything back to the Tübingen seminary where Schelling, Hölderlin and Hegel first enthused about the implications of the ‘new philosophy’ in the 1790s, this is not because I wish to reduce everything to a reinvention of the critical project, nor to portray the Hegelian system as a ‘black hole’ in the history of modern thought that subsumes within it all antecedents and, indeed, would-be escapees. And I certainly do not mean to reduce Marx’s originality to naught. There *are* important ways in which Marx breaks radically with the project of German Idealism, and these may well be best characterised as a shift to a kind of ‘materialism’. But as Marx himself stressed as he came to his own ‘settling of philosophical accounts’, this is *not* materialism as we know it – in which ‘the thing, reality, sensibility, is conceived only in the form of the *object*’ – but a materialism totally transformed by a notion of ‘human activity [*Tätigkeit*],’ that had been ‘developed abstractly by Idealism’.⁴⁹ My argument is that until we have fully taken the measure of this tradition and its role in forming Marx’s early thought – and I note here Terry Pinkard’s recent suggestion that as far as Anglo-American philosophical discussions go it may be only now ‘that we are finally in a position to begin assimilating what Hegel has to say to us’⁵⁰ – we will not be able to fully appreciate or evaluate Marx’s distinctive theoretical project. The present study is not intended as a complete or final account of these issues, but as a corrective and prolegomenon.

⁴⁷ Caygill 1989. ‘In the guise of a statement of the aporia of the aesthetic judgement of taste, the third *Critique* offers a meditation on the metaphysical and political crises of modernity’. Caygill 1989, p. 8.

⁴⁸ See Pinkard 2002, and Pippin 1997a, p. 6, which summarises the ‘ideal at the heart of [the] revolutionary aspirations’ of the German Idealists as ‘the ideal of a wholly critical, *radically* self-reflexive or rationally “self-authorizing” philosophy’.

⁴⁹ Marx 1845, p. 421. See Carver 1998, p. 27.

⁵⁰ Pinkard 1994, p. 3.

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4. Organisation of the thesis

The following chapters attempt to throw light on these philosophical interrelationships by tracing the inheritance and development of what I have called a ‘political epistemology’ in Marx’s writings from 1837 to 1843.

Chapters One and Two attempt to sketch the broad philosophical background to this idea, focussing in particular on the parallels and connections between the ‘epistemological’ crises of the modern period and the political philosophy of the modern state. Chapter One begins with the ‘sceptical’ challenge to traditional natural law schemas, and the rationalist rehabilitation of the latter in the neo-scholastic ‘Leibniz-Wolffian philosophy’ of the eighteenth century. This baroque construction forms the towering backdrop to much of what follows, I argue, both in its attempt to marry rationalist and Aristotelian categories and in its alliance with the bureaucratic absolutism of Frederician Prussia. Kant’s revolutionary critique of this edifice is then analysed in its interrelated epistemological and political dimensions. His radically redrawn analysis of human knowledge and agency as founded upon the free spontaneity of self-consciousness both imparts the crucial and revolutionary impetus to subsequent German philosophy, and sets in place some of the defining political dilemmas which shape its developments and debates.

Chapter Two presents a reconstruction of the initial appropriation and immanent critique of Kant’s philosophy by Fichte, and the early Schelling and Hegel. It takes seriously their claims to be ‘completing’ the Kantian revolution, and attempts to trace the path they took through the interstices of Kant’s own system to arrive at a further re-articulation of its key terms. While often regarded as effecting a reversion to some kind of precritical metaphysics, I argue that it should be recognised as, in *intent* at least, a distinctively post-critical and indeed ‘post-epistemological’ attempt to think through the full implications of the all-embracing self-determination of human experience and activity that Kant’s arguments seemed to point to. But this is not an effort that ever arrived at a wholly stable resolution, and the divergent paths of Schelling and Hegel away from this initially shared starting point will stake out the philosophical and political terrain upon which Marx and his radical contemporaries will begin to work out their own intellectual and practical projects.

Chapters Three, Four and Five deal with Marx’s early texts themselves, focusing, respectively, on the writings of his student years in Berlin from 1837-41; his journalistic

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pieces for the *Rheinische Zeitung* of 1842-3; and his 1843 critique of Hegel's *Philosophy of Right*, and associated contributions to the *Deutsch-französische Jahrbücher*. This organisation is intended mainly to allow the clearest possible analysis of these writings by grouping them according to simple continuity of setting and subject matter. It has not been my primary concern to locate 'breaks' or 'turns' in Marx's political and philosophical development during this period, which often seems to be a priority of commentators on these writings. The first and foremost reason why these texts fall into clearly distinguishable clusters is that Marx wrote them in different circumstances, about different things, for different purposes. Discontinuities and deflections in Marx's philosophical outlook can only emerge once we have sought to understand these writings on their own terms.

Chapter Three examines the writings dating from Marx's period at Berlin University from 1837 to 1841 – not to provide a comprehensive account of the state of his thought at this stage of development (such an account would simply not be possible given the paucity of the extant material), but at least to offer textual evidence for the importance of certain issues and themes to him during this time. Early on Marx records his frustration with the split between the empirical study of law as a historical institution and the more theoretical pursuit of its rational and conceptual interconnections, and presents the thought of Hegel as a dynamic reconciliation of these two opposed standpoints. His Doctoral Dissertation on Epicurean atomism strongly suggests an interest in and involvement with the issues raised by Hegel's *Logic*, particularly the 'Doctrine of Essence' that makes up its pivotal middle section. With this in mind I look again at the often-quoted rhetorical declarations, in the margins of the dissertation, of opposition to religion and in defence of the sovereignty of 'self-consciousness'. Rather than delve immediately into the details of Marx's personal and philosophical relationship with Bruno Bauer, which this is usually taken as the cue for, I seek to show how far this can be made sense of as a continuation of (or perhaps recovery of) the original radical Idealist project of recognising the world as 'a product of the freedom of intelligence'. At the same time I warn against assuming that such a standpoint necessarily precludes a serious practical engagement with what a later discourse would label 'the material world', and suggest that such an engagement may already be prefigured in Marx's qualified commitment to the philosophical practice of 'critique'.

Chapter Four, in many ways the pivotal chapter of the thesis, moves on to a study of Marx's political journalism of 1842-3, in which the interlinking of

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epistemological and political themes is most clearly in evidence. I argue that Marx's concept of a 'true state' can be understood by referring back to the original political project of the Prussian Enlightenment, of rationally harmonising 'right' and 'function' by clearly defining society's roles and relationships in a publicly codified system of laws. The impact of post-Kantian epistemological debates can then be seen in the way that this ideal is rethought by Marx as both inescapably inscribed in any practical interaction among free and interdependent beings, yet at the same time always *problematic*, on account of the basic impossibility of ever finally capturing the dynamic interrelations of a 'living' social whole within the finite conceptual determinations of the 'legislative Understanding'. These issues are followed through into Marx's diagnosis of the increasing political conflict between civil society and the Prussian bureaucracy, which I argue can be seen to draw upon the post-Kantian critique of abstract subjectivity positioned over and above an inherently disorganised sensory manifold. Against this background I then argue that we can see Marx's insistence on the foundational role of an inclusive and unrestricted public sphere in constituting an authentic political unity as paralleling the post-Kantian insistence on the priority of Reason as encircling and suspending the limitations and oppositions of the finite Understanding. Finally I suggest that in this light we must be careful how we interpret Marx's appeals to the 'essence' of human nature and social relationships during this period, which now appear to be a strategic and self-critical response to the 'positivist' turn of philosophy and political theory that accompanies the personalism and religiosity of the new regime in Berlin.

Chapter Five turns, with Marx himself, to the question that is inevitably begged by much of the previous discussion – that of Marx's relation to Hegel's own political philosophy, explored primarily through Marx's 'Kreuznach manuscript' of summer 1843 and its critical commentary on key sections of the *Philosophy of Right*. I seek to emphasise the extent to which Marx's critique of Hegel in this text is undertaken from a standpoint that is itself unmistakably informed by Hegelian insights and arguments, and that the thrust of his argument with Hegel's philosophy of the constitutional state is that it ultimately fails *on its own terms*. That is to say, Hegel's constitutional order is diagnosed as fatally flawed by its inherent 'formalism' and 'dualism', terms that strongly echo Hegel's own criticisms of the *Verstandesstaat*, the state based on the Understanding, that he identified with other political philosophies such as those of Kant and Fichte. Moreover, Marx's well known complaints about the 'mystificatory' role played by Hegel's *Logic* in this set up now appear, paradoxically, to turn against Hegel himself his own accounts of

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how the Understanding seeks to ground itself through a spurious metaphysical doubling of its own determinations. Thus the effect of Hegel's *Philosophy of Right* is to bend the key terms of the self-determining Concept back into serving as the underlying foundation of the 'essentialising' activities of the Understanding. It is as an effort to escape this philosophical cul-de-sac that I interpret Marx's turn to the alternative 'anthropological' and 'sensible' paradigm offered by Feuerbach, which I argue should be seen not as a retraction of the post-Kantian project but an attempt to relaunch it from a surer theoretical and practical footing.

A great many questions remain outstanding at this point, and whether Marx's subsequent intellectual efforts succeed in resolving them cannot be determined within the confines of this study. In the concluding chapter I do however seek to give a preliminary indication of how I think the preceding discussion may throw light upon Marx's later writings and investigations, and perhaps even suggest revisions in our interpretation and assessment of them. Stated briefly, my suggestion is that Marx's 'mature' social theory may be based in a transposition of the post-epistemological orientation of post-Kantian discussions into an analysis of the complex and mediated self-determination of society, via the freely purposive and 'materially' productive activities of the individuals who make it up. If we keep this possibility in mind, then, it seems to me, much of what has always seemed most confusing and contradictory in his later work begins to make a little more sense. This does not amount to an adequate exploration of the details of this crucial 'transposition', and certainly not to any kind of defence of its ultimate viability. But my hope is that it does at least give some reasons for thinking that perhaps Marx did not in his later work betray, or forget, or corrupt, all that was most complex, challenging and valuable in the philosophical debates of German Idealism; but that, as he had always claimed, he gave them new life by reconceiving their application to practical social problems and issues that remain, today, still pressing.

A note on translations

I have made use of mainly standard English translations of primary texts, sometimes checking against the German and occasionally modifying where I think a point can be drawn out more clearly, stating where I have done so. In most cases this is restricted to rendering translations of key German terms consistent across texts and authors, so that

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possible continuities of usage may be noted and considered. Thus *Verstand* is rendered throughout as Understanding (not 'Intellect'); *Begriff* as 'Concept' (not 'Notion'); *Wirklichkeit* as 'actuality' (not 'reality'); *Sinnlich* as 'sensible' (not 'sensuous'). This last example provides a good illustration of my purpose – in standard translations Kant and Hegel talk about 'sensibility' but this suddenly becomes 'sensuousness' in Feuerbach and Marx. By rendering these consistent again I do not presume that there is no difference in the way that the word is used, but I want to guard against acts of translation that may prejudge the issue, and obscure important continuities. More controversially, perhaps, I have also retained and in some places re-imposed the old practice of capitalising key philosophical nouns, like 'Reason' and 'Idea' and 'Spirit'. It is true that this can have the undesirable effect of bestowing upon German philosophical prose a tone of metaphysical grandiosity that inhibits an appreciation of its relevance and applicability. But it does have the advantage of drawing our attention to the language within which philosophical inquiry is conducted, which for my purpose is important.

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‘Every society made up of a plurality of individuals is a network coming into effect through their actions ... Their activities must interrelate in order to fit into a society, and must contain at least a minimum of uniformity if the society is to function as a whole. This coherence can be conscious or otherwise but exist it must – otherwise society would cease to be viable and the individuals would come to grief as a result of their multiple dependencies upon one another. Expressed in very general terms this is a precondition for the survival of every kind of society; it formulates what I term “social synthesis”.’

– Alfred Sohn-Rethel, *Intellectual and Manual Labour: A Critique of Epistemology* (1978)¹

‘[W]hat reason quite uniquely prescribes and seeks to bring about ... is the *systematic* in cognition, i.e., its interconnection based on one principle. This unity of reason always presupposes an idea, namely that of the form of a whole of cognition, which precedes the determinate cognition of the parts and contains the conditions for determining *a priori* the place of each part and its relation to the others. Accordingly, the idea postulates complete unity of the understanding’s cognition, through which this cognition comes to be not merely a contingent aggregate but a system interconnected in accordance with necessary laws.’

– Immanuel Kant, *Critique of Pure Reason* (1781)²

¹ Sohn-Rethel 1978, p. 5.

² Kant 1781, pp. 591-2, A645/B674.

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1. Natural law and the sceptical challenge

Politics and knowledge have long been closely interrelated in the Western philosophical tradition, ever since Socrates identified the latter with the 'virtue' that, in an Athenian context, had a primarily civic orientation. But it is in the modern era that this relationship has been definitively problematised. It is a problem that first emerges clearly in the opposition between rationalism and voluntarism within modern natural law.

For the classical tradition running from Plato, through Stoicism, to the Christian natural law of the high middle ages, the problem of political philosophy was conceived as the problem of discovering and operationalising an ideal pattern of social interaction in which human beings' interdependent ends, desires, purposes or needs could fit together in a single harmonious system. That this ideal pattern was usually given some sort of transcendent metaphysical, cosmological or theological status should not distract us from the fact that in none of these theories was it fully detached from what were considered to be the 'true' ends, desires, purposes or needs of the individual human beings concerned, but was expected to converge with them. Any conflicts with the empirically immediate or explicitly avowed ends, desires, purposes and needs of individuals was always thought to arise from a misrecognition, from those individuals in some way not perceiving or thinking through the ties of interdependence that bound them to others.

In the Scholastic fusion of Aristotelianism and Catholicism, law is the rational expression of the natural inclination each created substance has to its own good, inclinations which naturally harmonise into a coherent order in which realises the common good of all. 'The individual is part of a perfect whole that is the community. Therefore law must concern itself in particular with the happiness of the community'.³ God's governance of the universe takes the form of an eternal law that is 'imprinted' on all things 'through their respective inclinations to their proper actions and ends'.⁴ Human reason 'naturally apprehends' its precepts 'as human goods'.⁵ These include self-

³ Aquinas 1988, p. 44.

⁴ Aquinas 1988, p. 46.

⁵ Aquinas 1988, p. 49. '[A]ll the things to which man has a natural inclination are naturally apprehended by the reason as good and therefore as objects to be pursued, and their opposites as evils to be avoided. Therefore the order of the natural law follows the order of our natural inclinations.'

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preservation (an inclination shared by all substances), reproduction and rearing of offspring (shared by all animals), and, for humanity alone, an inclination to 'know the truth about God and to live in society'. From this last are derived the whole system of laws to be followed in pursuit of our ends of knowledge and sociability.⁶ These must be enshrined in 'human law', positive law, 'adopted to bring about peace and virtue among men'.⁷ Like all law, human law 'has as its first and foremost purpose the ordering of the common good'.⁸ This includes the distribution of private property, which is to be understood as the power to 'make use of external things' not 'as his alone but for the community'.⁹ Thus law enshrines and enforces a teleologically structured normative understanding of the world, a rational order which defines what different people and different things are 'for' within a purposive system that unifies their natural goods. That the human mind can get in touch with this intrinsic harmony and discover the proper balance among the different 'goods' of the world's various beings is presupposed. In Howard Caygill's words, 'neither the knowing and acting subject nor its judgements are of particular interest ... speculative and practical philosophy rests on the notion of an objective proportion'.¹⁰

Serious problems with these schemas begin to emerge with the seventeenth century challenge to Aristotelian natural science and the eruption of religiously articulated social and political strife. Hobbes is of course customarily taken as the philosophical figure symbolising this moment where the philosophical pendulum switches back towards an alternative conception of the political, a tradition with precedents set down by Augustine and perhaps reaching back to the Epicureans or the Sophists, which takes the problem of social unity to be less a question of knowledge and truth, and more an issue of will and consent.¹¹ But without denying the fundamental importance of this rupture I want to stress its connection to prior models of political theorising, and focus on the ways in which it can be seen as stemming from an epistemological questioning of

⁶ Aquinas 1988, p. 50.

⁷ Aquinas 1988, pp. 52-3.

⁸ Aquinas 1988, p. 45.

⁹ Aquinas 1988, p. 72.

¹⁰ Caygill 1989, p. 11.

¹¹ See Riley 1982.

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their objects and presumptions.¹² Following recent historical commentary, it is possible to read Hobbes's contract theory as concerned primarily with consequences of sceptical and nominalist challenges to the possibility of definitively identifying the 'common good' of a given multiplicity of individuals, discerning the pattern of interaction that would best harmonise their natures and interests. Though Hobbes is today often taken up in terms of oppositions between the selfish and the altruistic, the private and the social, his argument is formulated as a problem of the *application* of a 'moral' language that all of us share. In Richard Tuck's words, '[i]t was conflict over what to *praise*, or morally to approve, which Hobbes thus isolated as the cause of discord, rather than simple conflicts over *wants*.'¹³ And Quentin Skinner has shown in some detail that what is central in provoking Hobbes's attack is the indeterminacy of Aristotelian virtue terms, whereby the right course of action is determined by 'a mediocrity of the passions' for which no rule can be given.¹⁴

Hobbes's solution to the problem parallels Descartes's efforts to build a post-Aristotelian model for the natural sciences immune to the corrosions of radical doubt (and springs from an original scepticism with similar sources).¹⁵ While appearances might confuse and deceive, the basic mechanical laws of an external world of 'matter in motion' can be deduced with all the precision and certainty of geometry. Similarly, in politics, all can recognise political and social order as a necessary good, and therefore also the means

¹² Thus Patrick Riley portrays the 'ancient conception of politics' as 'dependent on the morality of the common good quite foreign to any insistence on the individual will as the creator of society and as the basis of obligation' which itself 'turned on a view of political life as the highest, most all-embracing end of man, and was, moreover, considered both natural and prior to, ontologically if not chronologically, the independent existence of self-sufficient men'. Riley 1982, p. 3. I think that descriptions like this can put too much distance between us and the 'ancients', or more to the point, obscure the real nature of the 'break' – not so much an abandonment of the presumption of interdependency but an epistemological problematisation of its concrete content.

¹³ Tuck 1989, pp. 55-6. See also Hochstrasser 2000, p. 4: the issue for Hobbes was that there 'were no objective criteria available by which one man's judgement of the law of nature could preferred to another's'.

¹⁴ Skinner 1996. See, for example, Hobbes 1651, pp. 109-10: 'what one man calleth *Wisdome*, what another calleth *feare*; and one *cruelty*, what another *justice*; one *prodigality*, what another *magaminity*; and one *gravity*, what another *stupidty*, &c. And therefore such names can never be true grounds of any ratiocination'.

¹⁵ Tuck 1989, p. 15, p. 53.

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of sustaining it.¹⁶ Disagreement arises about what these means are in given concrete situations, because '[o]ur passions differ, as do our ratiocinations over the best means of satisfying them.¹⁷ Accordingly a system of formal or abstract natural law precepts can be specified with geometric certainty, culminating in the necessity of their specification through application to a given multitude of individuals by a legally constructed sovereign who represents them in their unity. Political society is thus conceived as 'an Artificiall Man ... in which, the *Soveraignty* is an Artificiall *Soul*, as giving life and motion to the whole body ... *Equity* and *Lawes*, an artificiall *Reason* and *Will*'; an artifice akin to the construction of automata ('Engines that move themselves by springs and wheeles as doth a watch'), because its movements and unity are not intrinsic to its matter but are imposed from without by an external purpose.¹⁸ Among its chief tasks is the apportionment of what men may do and use – 'prescribing the Rules, whereby every man may know, what Goods he may enjoy and what Actions he may doe', which men call 'Propriety'.¹⁹ This distributive justice, Hobbes stresses, is not to be seen as 'the distribution of equal benefit, to men of equal Merit' – for merit is known and rewarded by God only. A just distribution is, by definition, that which the state determines.²⁰

Hobbes's rejection of Thomistic natural law is based on his nominalist rejection of the idea of an objective form or proportion underlying any act of purposive unification – a system of laws, like a Universal Name or a work of art like a watch, is an artificial unification of diverse matter. For Aquinas, virtue had been a *habitus*, an ordered disposition of the soul 'which realizes an objective proportion through action'. With Hobbes and modern natural rights theory this is 'translated into the exercise of judgement'.²¹ Hobbesian contract theory does not banish all teleological forms from its

¹⁶ '...all men agree on this, that Peace is Good, and therefore also the way, or means of Peace ... are good; that is to say, *Morall Vertues*'. Hobbes 1651, p. 216.

¹⁷ Hobbes 161.

¹⁸ Hobbes 1651, p. 81. Hobbes of course saw no important difference here from the animals we find in nature – 'seeing life is but a motion of Limbs, the beginning whereof is in some principall part within' – automata of the original Creator.

¹⁹ Hobbes 1851, p. 234.

²⁰ 'Distributive Justice [is] the Justice of an Arbitrator; that is to say, the act of defining what is Just. Wherein, (being trusted by them that make him Arbitrator,) if he performe his Trust, he is said to distribute to every man his own: and this is indeed Just Distribution...' Hobbes 1651, p. 208.

²¹ Caygill 1989, pp. 17-19.

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constructions, but fixes them by reference to the judgement and purposes of the sovereign. All things and all people have ends in the Hobbesian society – only they are not given by their natures, but assigned by the sovereign as means to the ends of the state itself. The intuition of an immanent order in nature and society has been replaced by the necessity of constructing and imposing one from without.

Thus Hobbes represents the first clear unfolding of the political correlates of what Charles Taylor has called the ‘epistemological paradigm’ that he takes to be definitive of the modern era. Just as a ‘representation model’ of knowledge replaces an original Aristotelian account ‘better ... described as participational: being informed by the *eidos*, the mind participates in the being of the known object, rather than simply depicting it’,²² a politics of artificial representation replaces one of differentiated participation. And comparable to the search for ‘certainty’ based on ‘reflexive clarity’ and ‘the strong draw towards distinguishing and mapping the *formal* operations of our thinking’²³ is the concern for security and political stability founded on sovereignty, clear lines of command, and strict procedural rules.

2. Enlightened absolutism and the Leibniz-Wolffian philosophy

In German-speaking Europe the challenge of modern science prompted an extraordinary attempt at an Enlightenment-age modernisation of natural law theory which dominated intellectual life through the eighteenth century and which in important ways remains the intellectual backdrop for the developments that will concern us. This baroque edifice, originating in Protestant universities struggling to reconcile their Scholastic inheritance with Lutheran notions of faith and grace, came to be known as ‘the Leibniz-Wolffian philosophy’, after the great rationalist metaphysician Gottfried Wilhelm Leibniz and his influential successor Christian Wolff. It should be noted that this began life as a derogatory appellation, coined after Leibniz’s death; and though it soon became the accepted wisdom to judge that Wolff had not done justice to Leibniz,²⁴ many scholars

²² Taylor 1987, p. 3.

²³ Taylor 1987, pp. 5-6.

²⁴ See for example Hegel 1823-4c, pp. 348-9; and Heine 2000, pp. 184-5.

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would now argue that his reputation as a mere systematiser of Leibnizian ideas did little justice to Wolff in any case. Doing justice to either is, however, not my primary concern here, but only to sketch some of the features of this theoretical construction that would prove important to subsequent philosophical events. As Thomas Saine rightly notes, although ‘intellectual historians [have] tended to focus on the emergence of the critical Kant as a radical new beginning ... this way of looking at things has greatly obscured our understanding of the development of German intellectual life in the eighteenth century’.²⁵ German Idealist philosophy is very largely concerned with rearticulating (albeit in a radically transformative way) the key elements of Leibniz’s metaphysical propositions; while Christian Wolff is universally credited, even if for nothing else, as the ‘primary creator of a philosophical language that survived in large part into the twentieth century’.²⁶

Both Leibniz and Wolff ‘sought a metaphysical foundation for justice in a reconciliation of philosophical modernism and scholastic metaphysics’,²⁷ constructing a system in which ‘metaphysics, theology and ethics were intimately linked and even interdependent.’²⁸ As Susan Neiman has emphasised, the Leibnizian restoration of Scholastic metaphysics was driven by an insistence on the world’s comprehensive intelligibility and a deep aversion to the arbitrariness that would result from its denial, in both theoretical and practical domains. What is offensive to Leibniz is the inadequacy of both Cartesian mechanics and Hobbesian voluntarism to explain the actual shape of the natural or social world, their insufficiency to determine which among a plethora of logical possibilities is in fact the universe which exists.²⁹ His chief complaint against the

²⁵ Saine 1997, p. 122. As Adorno entertainingly puts it, in Kant’s philosophy rationalism is ‘the Leibnizian or Cartesian roast, while Hume and English scepticism provide the dialectical salt. That is to say, this scepticism is the method through which the critical scrutiny is undertaken, but the empirical strand does not play so very great a role in the plan of the entire system’. Adorno 2001, p. 30. Adorno’s estimation of course inverts the way in which Kant has historically been taken up by English philosophy, and provides a useful corrective to such habits of interpretation.

²⁶ Saine 1997, p. 135. See Blackall 1959, pp. 19–48 for Wolff’s role in setting up the crucial distinctions between terms such as *Begriff* (Concept); *Vorstellung* (Representation); *Verstand* (Understanding); *Vernunft* (Reason); *Grund* (Ground); *Ursache* (Cause); *Kraft* (Force); *Vermögen* (Faculty).

²⁷ Caygill 1989, p. 135.

²⁸ Hochstrasser 2000, p. 161.

²⁹ Neiman 1994, pp. 12–34.

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Cartesians was that a purely quantitative, mechanical account of matter as extension could not explain the observable phenomena of the world we experience, and could not satisfy our demand for an explanation of why empirically observed laws were in fact as they were:

When one pushes forward his inquiry after reasons, it is found that the laws of motion cannot be explained through purely geometric principles or by imagination alone. That is why some very able philosophers of our day have held that the laws of motion are purely arbitrary.³⁰

As Neiman puts it, ‘explanations containing only statements about efficient causes are arbitrary because they operate only in what Leibniz calls “the realm of power”, where causal connections are a matter of simply, brute force.’³¹ This critique is closely paralleled in Leibniz’s analysis of voluntarist natural law theory (Pufendorf appeared sometimes as a proxy for Hobbes), which was that its minimalist principles of social unity left the concrete shape of that unification underdetermined, and so subject to the whim of the legislator. ‘Once the basic structures initiated by human sociability had been superseded, duties would only exist if there were a superior to extract obligation. In civil society there would therefore be no protection against arbitrary and tyrannical behaviour.’³² Leibniz’s insistence was a statement of mechanical or efficient causes does not fulfil the principle of sufficient reason – intelligibility was teleological intelligibility – in the natural and the social worlds, to understand anything, we must know its final cause, we must truly know what it is *for*. Cartesian mechanics under-explains the natural world, and Hobbes’ political geometry underdetermines the social. The remainder (why *these* empirical laws, why *those* civil laws) is inexplicable, arbitrary, a matter of God’s or the sovereign’s unaccountable will.

Leibnizian metaphysics filled this empty space with a new account of the universe as a single coherent system ordered according to a discernable rational purpose. The geometric space and time in which Cartesian mechanics are constructed is itself reduced to a mental form, the subjective medium through which we perceive the substances

³⁰ Quoted in Neiman 1994, pp. 20-21.

³¹ Neiman 1994, p. 21.

³² Hochstrasser 2000, p. 79. See Leibniz 1988, p. 70.

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around us. In themselves, the substances which ground these appearances are not to be understood mechanically, as items of inert matter acting externally upon one another, but as self-determining entities (or ‘monads’) animated by a God-given ‘force’ to develop towards their own ‘perfection’. All was held together by a divinely ordained ‘harmony’, because of the many worlds of substances that *could* exist in accordance with the laws of logical consistency, we could assume that God had chosen to create precisely those whose perfections could best be harmonised. Every true statement about any substance was necessarily contained in the complete ‘concept’ of that substance (known as the ‘subject-in-predicate’ theory of truth), and expands to take in every detail of its relationship to every other substance in the universe. Only God’s reason is powerful enough to embrace the reach of the universe in this way, but our inquiries can aspire to it, and in doing so attain some perception of the rational order within which every substance has its place.³³ With these moves Leibniz erected a three-tiered metaphysic that would be seminal in framing subsequent philosophical discussions: a quantitative, geometric time and space that was the primary mode of the world’s appearance to us; an underlying multiplicity of self-determining substances whose ‘concepts’ were in principle deducible by our rational faculties; and God, whose wisdom had chosen to create these particular substances so as to maximise their harmonious co-existence with one another.

This ingenious reinstating of rational harmony in the universe was carried over seamlessly into ethical and political philosophy. As Patrick Riley puts it, ‘Leibniz’ moral and political perfectionism ... flows from (or at least is congruent with) his metaphysical and theological perfectionism: there is no gap between the theoretical and the practical’.³⁴ The ‘best of possible worlds’ thesis licenses a ‘Thomistic conclusion that we can consider the universe to be like a well-managed organization, with everyone given a task whose execution contributes to the greatest good’.³⁵ Each of us has a natural inclination towards our own perfection, and that it to play our role in developing the common good of the harmonious perfection of all. God is the manager of this organisation, this ‘most perfect republic’ composed of all rational beings, his purpose being to diffuse in it the greatest

³³ Thus it has been suggested that Leibniz uses a metaphysically justified correspondence theory of truth to validate an epistemologically described coherence theory of truth. Rescher 1979, pp. 130-4.

³⁴ Riley 1996, p. 8.

³⁵ Riley 1996, p. 240.

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possible happiness.³⁶ Moreover, contra Hobbes, this harmonious order is in principle accessible to human reason, albeit imperfectly: ‘our own minds give us more direct access to God’s plans for us than the indirect reasoning of the empiricists allows. As we improve our self-understanding – as we perfect ourselves – we will see ever more clearly that we are part of a harmonious whole and can live on harmonious terms with ourselves and others.’³⁷ Insofar as rational souls are ‘images of the divinity itself, or of the author of nature, capable of knowing the system of the universe, and imitating something of it through their schematic representations of it’, our relationship to God is thus as co-reasoners and collaborators, not, crucially, merely the passive material of his divine artifice:

That is what makes minds capable of entering into a kind of society with God, and allows him to be, in relation to them, not only what an inventor is to his machine (as God is in relation to the other creatures) but also what a prince is to his subjects, and even what a father is to his children ...³⁸

And this too is the relationship that should hold between individuals. Indeed, in Wolffian Ethics ‘[w]e are obligated to see others as if they were one person with us’, in politics others ‘are not to be viewed otherwise than as one person, having accordingly a common interest’.³⁹ As Schneewind says, ‘[t]he problematic of conflict is as absent ... The real perfection of any one person is tied to that of all others’.⁴⁰ Leibniz’s ‘Rational Jurisprudence’ was defined as ‘that science which shows how individuals should give way to the good of all if they wish happiness to revert to themselves, increased as by a

³⁶ Leibniz 1991, p. 39: ‘the happy and flourishing state of his empire, which consists in the greatest possible happiness of its inhabitants, becomes the highest of his laws ... the first intent of the moral world or the City of God, which is the noblest part of the universe, must be to diffuse in it the greatest happiness.’

³⁷ Riley 1996, pp. 169–70.

³⁸ Leibniz 1991, pp. 80–81.

³⁹ Schneewind 1998, p. 441.

⁴⁰ Schneewind 1998, p. 439.

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rebound'.⁴¹ In Christian Wolff's own words: 'whoever seeks to make himself as perfect as possible seeks also what others seek and desires nothing at their expense'.⁴²

The Leibnizian notion of a political community is strictly continuous with this ethical ideal: a 'union of different men for a common purpose' which is 'the general and supreme happiness'.⁴³ A political union is distinguished from other social relationships by two defining characteristics: the fact that it is *unlimited*, concerning 'the whole life and the common good', and *unequal*, in that 'one rules another'.⁴⁴ The first stipulation crucially distinguishes Leibnizian politics from any more limited conception of the state's role as being restricted to questions of security or order, and that might have been derived from the traditional natural law distinction between 'perfect' and 'imperfect' duties. Leibniz argued that such a distinction could not be sustained – no clear line can be drawn between forbearing harm to others and actively seeking their good, justice was a 'continuum'.⁴⁵ The second stipulation is a consequence of humanity's imperfections – an 'unlimited and equal' society would be ideal, but unfeasible.⁴⁶ So a sovereign must judge what will best promote the happiness or welfare of all with the aid of a delegated administration of trained officials whose knowledge of society and its multiple relationships of interdependency are the basis for a true insight into the harmony of interests in which the common good consists. As Hochstrasser says, 'the doctrine of self-perfection of the individual within the state or community is used to breath new life into the Aristotelian concept of the potential that lies within the *polis* for development to perfection; but with the difference here that the perfection may be effected through the intervention and direction of state officials and bureaucrats enforcing a concept of duty'.⁴⁷

⁴¹ Quoted in Caygill 1989, p. 110.

⁴² Quoted in Schneewind 1998, p. 439.

⁴³ Leibniz 1988, p. 77.

⁴⁴ Leibniz 1988, p. 79.

⁴⁵ Riley 1996, pp. 183-9; Schneewind 1998, pp. 248-9; Caygill 1989, pp. 125-6. Leibniz can be seen pursuing this argument in Leibniz 1988, pp. 53-57.

⁴⁶ Similar reasons lie behind the institution of private property – communism would be preferable if feasible. But it is still the case that private property is never absolute – distributive justice assigns to each that which it is suitable to assign him for the purposes of the common good. Riley 1996, p. 202.

⁴⁷ Hochstrasser 2000, p. 169.

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The formation of an adequate picture of the social whole is the basis of ‘rational jurisprudence’, which holds out the promise of a ‘gapless legal system which would foresee all possible cases and remove any possibility of sovereign or judicial arbitrariness’, based on a ‘dutch land-chart’ of all possible cases.⁴⁸ But any such map of society’s system of interdependencies remains the possession of the state and its officials, not the people at large. As Howard Caygill writes, Leibniz-Wolffian statecraft

transfers the distinction of clear and obscure perception from epistemology to political philosophy, mapping the distinction onto state and society. The citizens or matter of the state are formed for their common welfare according to the rational judgement of the monarch and his bureaucrats.⁴⁹

According to Wolff, it is the ‘higher faculty’ that can achieve a lucid perception of any perfection, while it is the obscure perceptions of the lower faculty that hinder the systematic exposition of being from logic. Thus ‘the suppression of the lower faculty by the higher in the interest of perfection, has its precise analogue in the suppression of civil society by the rational state in the interest of the *gemeine Beste*’.⁵⁰

Thus an ambitious rationalist epistemology underwrites the ‘well-ordered police state’ of eighteenth century absolutism.⁵¹ The purpose of government was conceived as the ‘legal ordering of social relations’ in rational pursuit of the security and welfare of its subjects. *Polizei*, in Howard Caygill’s account, was the ‘structural principle of the absolutist order ... an active interventionist form of social regulation with a new ordering principle for social relations based on bureaucratic administration, militarization of social relations, and the unity of politics and economics’.⁵² This non-traditional legitimating principle replaced the ‘good old law’ with the ‘common welfare’, and on that basis effected a massive centralisation of state power at the expensive of aristocratic and

⁴⁸ Caygill 1989, p. 110.

⁴⁹ Caygill 1989, p. 106.

⁵⁰ Caygill 1989, p. 136.

⁵¹ Raeff 1983.

⁵² Caygill 1989, p. 120.

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municipal privileges.⁵³ Wolff's philosophy has been widely recognised as a key source for the allied development of the German administrative science of cameralism.⁵⁴ Through his students his influence pervaded the public institutions of Frederician Prussia even while his academic and public reputation was on the wane.⁵⁵ In Mack Walker's account, '[b]aroque metaphysics and cameralist administration intersected, visibly and concretely, at the German universities':

Leibniz' assumption [was] that there was implicit harmony and system among all the phenomena of the world, and that all things would fit together despite superficial diversity if they were fully and truly understood and were not distorted by error and accident. The goal of learning was to attain the grasp and the overview from which the harmony among all the parts could be perceived, and from which the proper role and nature of each part could be understood.

Thus were launched encyclopaedic studies of law and administration which aimed at perfect totalisations of the social world. This linked directly into the administrative ambitions of the state, 'the one secular institution that encompassed the social encyclopaedia of diverse parts'.⁵⁶ Cameralist administration

accepted the existence of all the discrete parts of German civil society, each with a set of detailed qualities and rules peculiarly its own, and worked from the assumption that if all of them could be comprehended at once an essential harmony among them would emerge above their apparent diversity ... the medium of harmony among the discrete parts was the state's fiscal administration, analogously a social abstraction composed of men above and outside the discrete parts of society.⁵⁷

⁵³ 'In eighteenth century Germany rationalism and the *Aufklärung* were intimately connected to the consolidation of a centralized state and the process of modernization and liberalisation "from above" through enlightened absolutism, and thus opposed to the interests and values of the traditional estates.' Toews 1980, p. 22.

⁵⁴ Hochstrasser 2000, p. 169.

⁵⁵ Caygill 1989, p. 100.

⁵⁶ Walker 1971, pp. 146-7.

⁵⁷ Walker 1971, p. 145.

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As Dorinda Outram notes, this was a crucial political phenomenon of the age of enlightenment, because its emphasis on the state as rational and its purposes as socially determined moved political discourse away from older religious and personalist legitimations of monarchical power.⁵⁸ Indeed, not only did the rationalism of enlightened absolutism undercut the traditional and charismatic sources of state authority upon which it rested – the very forces of social, cultural and economic modernisation that it sought to guide and harness had a logic of their own that would ultimately outreach its powers of bureaucratic recuperation. As Marc Raeff points out,

the well-ordered police state tried to have it [both ways]: to preserve the interests of the group, the cohesion of society and the hierarchical structure of the world and at the same time encourage the active, enterprising, unfettered, and creative individual citizen or subject to promote material wealth and progress as well. Perhaps it might have been possible to achieve both goals had the power of the ruler and of the elites remained sanctified by transcendent authority. But this was precisely the Achilles' heel of the system, the point at which the system broke down and ended in failure on its own terms, for it failed to preserve the social, cultural and political status quo of the ancien regime. For us, *sub specie historiae*, it was not a failure, for it released the energies and the dynamic potential of those individuals who shaped the world we call modern today...⁵⁹

⁵⁸ Outram 1995, pp. 103-4: 'however much it emphasised the importance of the strong state, it also included social regulation and *social* welfare among the characteristic and legitimate aims of government, not just the *dynastic* and personal aims with which rulers often approached war and territorial acquisition ... while not anti-religious, it certainly placed great weight on a view of government, and hence monarchy itself, as a machine for producing action and decisions, rather than a location for sacred unifying symbolism'. Indeed, Outram argues, '[a]t a conceptual level, the premises of rationality and uniformity on which many Enlightenment and Cameralist policies were based, was at odds with the intrinsically personal nature of monarchical involvement'.

⁵⁹ Raeff 1983, p. 179.

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3. Kant's Copernican revolution

If the Wolffian police state represented the ultimate modern rationalisation of the natural law tradition, Kant's 'transcendence of the whole debate' between rationalism and voluntarism⁶⁰ effected a revolution that was as much political as it was epistemological. As is well known, it was the scepticism of Hume which Kant claimed awoke him from the 'dogmatic slumber' of decades toiling in the interstices of the Leibniz-Wolffian system. His response was a radical refoundation of the claims of human reason. Kant accepted the sceptical charge that we could not possibly know whether or not there was a harmonious order to the universe, and if so what it was. But he went on to contend that our very natures as beings of reason impelled us to *look for* such an order in the universe, and, through our actions, to strive to *create* it. Leibnizian metaphysics was a dogmatism that 'asserted more than it knew' – presuming that the intimations of order and harmony that flickered through our experience evidenced a dim communion with the mind of the Creator. '[W]e can cognize of things *a priori* only what we ourselves have put into them'.⁶¹ Kant argued that the order of our experience was not a given that we passively reflect, but a demand of our own, a project we drive forward and for which we are wholly responsible.⁶²

The two sources of human knowledge

Kant's primary point of attack on the Leibniz-Wolffian edifice was its assertion of an essential *continuity* in the sources of human knowledge.⁶³ For Leibniz, our knowledge of the substances of the world consisted in an acquaintance with their concept, within which all truths about that substance were analytically contained. Only God's mind could immediately encompass the infinite chain of reasons that determined why each individual thing was as it was; but we walked in His footsteps as we traced and formulated the

⁶⁰ Hochstrasser 2000, p. 5.

⁶¹ Kant 1781, p. 111, Bxviii.

⁶² On this transition see Neiman 1994, pp. 10–34.

⁶³ Guyer 2000b, pp. 40–46.

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patterns of order and regularity we found in our empirical experience.⁶⁴ In this way, Kant charged, the ‘famous Leibniz’ had ‘intellectualized the appearances’.⁶⁵ Kant rejected that the idea that ‘our entire sensibility is nothing but the confused representation of things’, so that the difference between a clearly defined concept and a sensible intuition was only a ‘difference between an indistinct and a distinct representation’. Rather ‘the distinction between sensibility and the intellectual’ was a ‘transcendental’ distinction which ‘does not concern the merely the form of distinctness or indistinctness, but its origin and content’.⁶⁶

This opposition between the ‘two stems of human cognition’ became the opening move in the construction of Kant’s new critical philosophy.⁶⁷ All human knowledge was now said to arise from a primal confrontation between a flux of sensory input and the a priori structures of knowing subjectivity – ‘sensibility’ conceived as ‘the receptivity of impressions’, and the ‘Understanding’ conceived as ‘the *spontaneity* of cognition’.⁶⁸ The sense impressions given by our faculty of intuition are in themselves disorganised, atomistic and unrelated to each other. As Robert Stern puts it, Kant accepts ‘the empiricist reduction of the object to a bundle of intuitions’.⁶⁹ But he went on to argue that they are unified and organised under concepts by means of self-conscious or ‘apperceptive’ *judgements* according to the a priori rules of the Understanding [*Verstand*]. In Kant’s own words:

Combination does not lie in the objects ... and cannot as it were be borrowed from them through perception and by that means first taken up into the Understanding, but is rather only an operation of the Understanding, which is itself nothing other than the faculty of combining *a priori* and bringing the manifold of given representations under unity of apperception...⁷⁰

⁶⁴ Young 1992, pp. 116-17.

⁶⁵ Kant 1781, p. 372, A27 0-1 / B326-7.

⁶⁶ Kant 1781, p. 169, A44 / B61.

⁶⁷ Kant 1781, pp. 151-2, A15 / B29.

⁶⁸ Kant 1781, pp. 193-4, A51 / B75.

⁶⁹ Stern 1990, p. 14.

⁷⁰ Kant 1781, p. 248, B134-5.

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This fundamental act of *unifying a manifold under rules* is at the heart of Kant's epistemology, and is approached via several conceptions so tightly interrelated as to render them nearly synonymous: the synthetic judgement, the transcendental unity of apperception, self-consciousness [*Selbstbewusstsein*] or the 'I think', the spontaneity of the Understanding, even just the unity of a Concept [*Begriff*] as such. Each entails or contains every other, 'analytically', as Kant would say. Experience is constituted by a judgement (or series of judgements) that a mental state 'counts' as an experience that *I* am having of an object, conceived as such according to the rules or 'categories' of the Understanding.

There are some key points worth emphasising about this original moment in cognition – the self-consciousness entailed by the judging activity that turns sense impressions into *experiences*, the knowing subject's implicit claim that there is an 'I', unified and constant, that is having these experiences of that object. First, this 'apperception' is 'pure', distinguished from what Kant calls 'empirical self-consciousness', where I direct my attention to my *self* as an object within experience (as in introspection, for example).⁷¹ Indeed, it is a judging activity that may not necessarily be explicitly articulated as such. But it is necessarily *implicit* in any experience as something that *could* be articulated – an 'I think' which 'must be *able* to accompany all my representations' (my emphasis).⁷² Second, the reason why, even if thus articulated, this self-consciousness could never itself be an *object* of experience is that it is itself the transcendental condition of all such objects of experience. To make *it* an object for me would presuppose a further self-conscious judging, and so on to infinite regress – as if I were trying to physically stand back from myself in order to take a look at myself looking at the world. In Sebastian Gardner's words, transcendental self-consciousness is thus 'the encompassing ground of the world of objects', and so not included *in* that world of objects.⁷³ And thirdly, for the same reasons, this moment is conceived not as an object of any kind but as *act*. It is outside the chain of empirical causes that it itself ascribes to objects of experience, and so can in no sense be seen as merely a reflection or result of the incoming sense impressions. It is for this reason that, in contrast to the essentially

⁷¹ Kant 1781, pp. 246-7, B132-33.

⁷² Kant 1781, p. 246, B132.

⁷³ Gardner 1998, p. 160.

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passive receptivity of intuition, Kant describes the activity of the Understanding as *spontaneous*, ‘unconditioned’ – radically self-determining and without prior foundation.⁷⁴

This spontaneous act of implicitly self-conscious judging is then the ‘first pure cognition of the Understanding ... on which the whole of the rest of its use is grounded’;⁷⁵ ‘the highest point to which one must affix all use of the Understanding’, indeed, Kant says at one point, ‘this faculty is the Understanding itself’.⁷⁶ And as Allison puts it, the self-identity of the ‘I think’ can thus be seen as ‘the form or prototype of the analytic unity that pertains to all general concepts. In fact, it simply is this analytic unity considered in abstraction from all content.’⁷⁷ In Kant’s words, the ‘I think’ is ‘the vehicle of all concepts’.⁷⁸ Primary among these are the ‘categories’, the first pure concepts of the Understanding which Kant argues in the ‘metaphysical deduction’ have to be involved in *any* self-conscious unification of a sensory manifold. The fundamental structure of the objective world is thus inherent in the nature of the subject-object relationship that constitutes it. These categories are, in Höffe’s words, ‘the necessary building blocks of all objectivity’, meaning that, in Gardiner’s, objectivity must ‘assume a particular form, namely that of a world of causally interacting substances’.⁷⁹ The sceptic was right to protest that these categories do not arise from sense impressions, nor can they be justified by simple appeal to them. Rather they are deduced as universal and necessary rules for the understanding, the rules by which a manifold must be unified to sustain the transcendental unity of apperception, to make a unified, potentially self-conscious subject of experience possible. Hence, famously, Kant furnished a rational deduction of the principles underpinning the mechanistic world of modern science.

But this ingenious new justification of the rights of the Understanding was limited in its reach. Because rooted in an analysis of what was needed for a unification of

⁷⁴ ‘...the combination (*conjunctio*) of a manifold in general can never come to us through the senses, and therefore cannot already be contained in the pure form of sensible intuition; for it is an act of the spontaneity of the power of representation, and, since one must call the latter understanding, in distinction from sensibility, all combination is an action of the understanding’. Kant 1781, p. 245, B130.

⁷⁵ Kant 1781, p. 249, B137. On this point see Pippin 1989, pp. 20-22.

⁷⁶ Kant 1781, p. 411, A341 / B399.

⁷⁷ Allison 1983, p. 144.

⁷⁸ Kant 1781, p. 411, A341 / B399.

⁷⁹ Höffe 1994, p. 79; Gardiner 1998, p. 145.

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a manifold of sense impressions under a single self-consciousness, it told us only how experience *had to be* for a finite subject faced with such a manifold. Its results were thus ‘objective’, because they applied universally and necessarily to any possible object of experience. But this deduction told us nothing about how things were in themselves, which exist in an unknowable ‘noumenal’ realm that can only be posited as an empty space behind the phenomenal realm of appearances. The Understanding ‘warn[s] sensibility not to presume to reach for things in themselves but solely for appearances’ by thinking of ‘an object in itself, but only as a transcendental object, which is the cause of appearance (thus not in itself appearance)’. This ‘noumenon’ necessarily ‘remains empty for us, and serves for nothing but to designate the boundaries of our sensible cognition and leave open a space that we can fill up neither through possible experience nor through the pure Understanding’.⁸⁰

This dualism was reinforced by Kant’s critique of what he called the pure ‘Ideas’ of Reason [*Vernunft*]. In Kant’s system Reason was a distinct faculty with the function of unifying and systematising the knowledge produced by the Understanding.⁸¹ Reason relates empirical concepts (like ‘chair’ or ‘table’) to one another and ordering them into hierarchies of genus and species (‘furniture’, ‘chair’, ‘school chair’, ‘this chair’) or condition and conditioned (‘all school chairs have chewing gum stuck underneath, so will this one’) with the presumption that the world should make up such an ordered whole and thus be amenable to organisation in this way.

[W]hat reason quite uniquely prescribes and seeks to bring about ... is the *systematic* in cognition, i.e., its interconnection based on one principle. This unity of reason always presupposes an idea, namely that of the form of a whole of cognition, which precedes the determinate cognition of the parts and contains the conditions for determining *a priori* the place of each part and its relation to the others. Accordingly, the idea postulates complete unity of the understanding’s cognition, through which this cognition comes to be not merely a contingent aggregate but a system interconnected in accordance with necessary laws.⁸²

⁸⁰ Kant 1981a, p. 381; A288-9 / B344-5.

⁸¹ Kant 1781, p. 391, A305 / B362.

⁸² Kant 1781, pp. 591-2, A645/B674.

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But Kant stressed that this presumption of overarching order was strictly subjective, *regulating* Reason's inferential activity, not *constitutive* of objective experience in the way that the categories of the Understanding were.⁸³ This was illustrated by the fact that Reason was ultimately directed towards⁸⁴ and in this sense *projected* the Idea of a 'totality of conditions', and hence also the *unconditioned* as the 'ground of synthesis for what is conditioned'.⁸⁵ Kant related this projection to the traditional topics of rationalist metaphysics: 'the soul' as the subject of all predicates, 'the world' in its complete entirety, and 'God' as the first cause or condition.⁸⁶ Such Ideas, although inherent in the syllogising activity of Reason itself,⁸⁷ and valid and useful as guiding *ideals*,⁸⁸ plainly could not themselves ever be part of any experience.⁸⁹ Indeed, we found that if we attempted to conceive them as if they could be, by applying to them the a priori Categories of the Understanding, we fell into 'antinomies', arriving at statements about them that were opposed or contradictory yet equally well-licensed. Kant's solution to these antinomies in every case was a reassertion of the limits he had set on the reach of the Categories, limits which these antinomies in their way confirmed, to the realm of phenomena and not of things in themselves. Everything within our experience 'has an empirically conditioned existence' and no unconditioned necessity can be contained by it, but 'this is not in any way to deny that the entire series could be grounded in some intelligible being (which is therefore free of every empirical condition, containing, rather, the ground of the possibility of all these appearances)'.⁹⁰ Thus an essential *discontinuity* between the operations of Reason and the operations of the Understanding necessitated and

⁸³ '[S]uch a principle does not prescribe any law to objects, and does not contain the ground of the possibility of cognising and determining them as such in general, but rather is merely a subjective law of economy for the provision of our Understanding'. Kant 1781, p. 391, A306 / B362.

⁸⁴ The 'supreme principle of pure reason' is 'that the series of conditions ... reaches to the unconditioned'. Kant 1781, p. 392, A308 / B365.

⁸⁵ Kant 1781, p. 400, A322 / B379.

⁸⁶ Kant 1781, p. 406, A334 / B391.

⁸⁷ Ideas are 'not arbitrarily invented, but given as problems by the nature of reason itself'. Kant 1781, p. 402, A327 / B384.

⁸⁸ '[I]n a fundamental and unnoticed way, [they] serve the Understanding as a canon for its extended and self-consistent use'. Kant 1781, p. 403, A329 / B386.

⁸⁹ The Platonic echo was thus conscious and apt – see Kant 1781, p. 395, A313 / B370.

⁹⁰ Kant 1781, pp. 547-8, A561-2 / 589-90.

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confirmed their difference of epistemological status. The former referred to unconditioned totalities that were essentially unknowable; the latter furnished objective knowledge, but only of the world *as it appeared to us*. The Leibnizian notion of a harmonious order of substances, knowable in their concepts, as the ground of all appearance is retained, but transfigured, as no longer objectively necessary and rationally intuitable but only an *ideal* of human reason whose reality is unknowable.

The structures of rational agency

Kant's account of the universal faculties of the knowing subject is carried over into his practical philosophy, though with important differences as to their respective standing and interrelation.⁹¹ A division of labour between epistemologists and moral philosophers, and the tendency of the latter to concentrate almost all attention on the various formulations and operations of the Categorical Imperative, has often meant that little notice is taken of this wider 'architectonic', as Kant liked to call it. But as Susan Neiman stresses, 'theoretical and practical reason possess a unified structure and operate according to common principles' – 'in theory and in practice, reason imposes systematic unity by seeking it'.⁹²

Kant himself stresses that 'the concept of freedom ... constitutes the *keystone* of the whole structure of a system of pure reason, even of speculative reason'.⁹³ In Kant's practical philosophy the self-conscious subject again finds itself confronting a disorganised manifold – not of intuitions, but of *needs*. It is often overlooked that Kant has a strong sense of the human being as a being of need, defined by a dependence upon external objects that arises from our essential finitude as strongly as does our cognitive dependence on externally received sense impressions.⁹⁴ But just as our sense impressions

⁹¹ This is made the central theme of the account of Kant's thought in Deleuze 1965.

⁹² Neiman 1994, p. 126; p. 116.

⁹³ Kant 1788, p. 3, 5:4.

⁹⁴ '[S]atisfaction with one's whole existence is not, as it were, an original possession and a beatitude, which would presuppose a consciousness of one's independent self-sufficiency, but is instead a problem posed on him by his finite nature itself, because he is needy and because this need is directed to the matter of his faculty of desire, that is, something related to a subjective feeling of pleasure or displeasure underlying it by which

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do not of themselves constitute knowledge or experience, so our felt needs cannot on their own determine a course of action. “The rational “being of need” naturally desires the satisfaction of those needs and finds in his neediness a ground and guide of action. These needs, however, are inadequate as guides of rational action; for finite reason cannot adequately comprehend them’.⁹⁵ This is the fundamental reason why Kant rejects all ‘eudaemonic’ moral theories built upon pleasure or well-being, and why his ethics are so easily misinterpreted (Schiller was famously the first to do so) as requiring that we act always *against* our own needs and happiness.⁹⁶ This is not the point – rather, just as coherent experience requires that sense intuitions must be actively unified and organised under concepts, so directed action requires the unification and organisation of a manifold of needs into a conscious conceptual order of *maxims* (eg ‘when I feel thirsty I’ll have a drink’). ‘[E]very volition must also have an object and hence a matter’, says Kant, but this matter is not ‘the determining ground and condition of the maxim’.⁹⁷ Rather I must choose to make this matter the object of my action – and this choice must be seen as a spontaneous act, in that it is not *determined* by the object or my need for it. In this way the agent *confers* value on the objects of its choices, rather than responding to value that it finds already in them. This is what Henry Allison calls Kant’s ‘incorporation thesis’: an act of spontaneity ‘which is the practical analogue of the spontaneity of the understanding’ is required for the rational agent ‘to take (or reject) inclinations or desires as sufficient reasons for action’.⁹⁸

is determined what he needs in order to be satisfied with his condition’. Kant 1788, p. 23, 5:26.

⁹⁵ Meld Shell 1980, p. 74. Happiness, the secure satisfaction of our needs, is thus inescapably elusive – ‘less an end for reason than an insoluble problem’. As Kant says, ‘it is a misfortune that the concept of happiness is such an indeterminate concept that, although every human being wishes to attain this, he can still never say determinately and consistently with himself what he really wishes and wills’. Kant 1785, p. 28, 4:418.

⁹⁶ Schiller joked that Kant’s theory seemed to mean we could not take pleasure in doing the right thing, and that authentically moral acts could only be performed ‘with aversion’. See Allison 1990, p. 110.

⁹⁷ Kant 1788, p. 31, 5:34.

⁹⁸ Allison 1990, p. 5. For an expansion of the theoretical-practical analogies, see also p. 40: ‘just as sensible intuitions are related to an object only by being subsumed under concepts, so too sensible inclinations are related to an object of the will only insofar as they are “incorporated into a maxim”, that is, subsumed under a rule of action’.

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Again, just as Kant deduces the pure categories of the Understanding as the necessary supports for the transcendental unity of apperception, the Categorical Imperative is deduced as intrinsic to the constitution of ourselves as unified, self-conscious *agents* – ‘freedom and unconditional practical law reciprocally imply one another’.⁹⁹ To sustain ourselves as rational agents we need to act on maxims that are consistent, lawful, and that means that we must act *as we would have others act* in relevantly similar situations. (A maxim says nothing about the particular *identity* of the agent, only the situation of the agent – which might include the agent’s felt needs – and the action). Thus the law of non-contradiction grounds the demands of morality. ‘The determinations of practical reason can take place only ... conformably with the categories of the understanding ... in order to subject a priori the manifold of *desires* to the unity of consciousness of a practical reason commanding in the moral law, or of a pure will’.¹⁰⁰ To the idea of a will ‘affected by sensible desires’ we must add the idea of ‘a will pure and practical of itself’; this, says Kant, is ‘roughly like the way in which concepts of the Understanding, which by themselves signify nothing but lawful form in general, are added to intuitions of the world of sense and thereby make possible synthetic propositions a priori on which all cognition of a nature rests’.¹⁰¹

The crucial difference from the cognitive dimension is that in its practical application Reason [*Vernunft*] also is ‘constitutive’, not merely ‘regulative’. This is for the simple reason that I should in principle (because ‘ought’ implies ‘can’) be able to act wholly in accordance with reason – whereas the external world I experience may or may not be a rational one. We will return to this point when we examine the ‘real world’ applications of Kant’s practical philosophy. But for now it is important to see that Reason’s *practical* demand is then that the maxims I follow (and so would have others follow) must be consistent with one another *and* add up to a total system that harmonises all my (and so others’) ends. Paul Guyer’s account brings this out well: morality ‘constrains our purposes’ by ‘requiring them to be systematic’, meaning that all agents’

⁹⁹ Kant 1788, p. 26, 5:29. This interrelationship between the authority of practical reason and the necessary structure of any ‘practical identity’ on Kant’s account is vividly brought out by the recent reconstructions of Christine Korsgaard. See Korsgaard 1989 and the further discussion in Korsgaard 1996.

¹⁰⁰ Kant 1785, p. 56, 5:65.

¹⁰¹ Kant 1785, pp. 58-9, 4:454.

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purposes must constitute a ‘systematic sum’ or ‘unity of reason’.¹⁰² This systematic unity of all purposes is what Kant calls the ‘realm of ends’, defined by Guyer as ‘the condition within which all rational finite agents can and do pursue their own happiness within the constraint that each not only recognizes the rational agency of all others as a limit on his own pursuits but also makes the happiness of all his own end’.¹⁰³ The realm of ends is thus an ideal towards which our moral action is directed, and which would be fulfilled if everyone acted according to the moral law. In such a circumstance all would be acting as one – ‘all actions of rational beings occur as if they arose from a highest will that comprehends all private choice in or under itself’¹⁰⁴ – not sacrificing their own ends or happiness for a ‘common good’ that is opposed to them, but pursuing a systematic unity of all ends within which their own ends are satisfied harmoniously with all others. Morality would become ‘self-rewarding’ – all would find happiness ‘in the same measure as he has made himself worthy of it in his conduct’.¹⁰⁵ Again, we can see how closely Kant is following the contours of the Leibniz-Wolffian system, but on a radically different foundation. As John Rawls saw, ‘sometimes Kant takes an idea found in Leibniz and uses it in a very different way’; his idea of the highest good can be seen as a reworking of the Leibnizian idea of the perfect state, akin to his treatment of ‘the highest systematic unity of nature not as a metaphysical truth but as a regulative idea to guide speculative reason in ordering the knowledge of the understanding’.¹⁰⁶ Kant himself says as much:

¹⁰² Guyer 1989, pp. 85-6.

¹⁰³ Guyer 1997, p. 340.

¹⁰⁴ Kant 1781, p. 679, A810 / B838.

¹⁰⁵ Kant 1781, p. 679, A810 / B838.

¹⁰⁶ Rawls 2000, p. 108. Rawls, who embraced ‘the secular ideal of a possible realm of ends that can be (in good part) realized in the natural world’, viewed ‘the idea of the highest good as a Leibnizian element in Kant’s philosophical theology ... which he never reworked so as to make it consistent with his moral philosophy’. The inconsistency for Rawls arises from the fact that as he sees it ‘the content of the moral law (as specified by the CI [i.e. categorical imperative] procedure)’ does *not* enjoin ‘that in a realm of ends people are to act so as to make happiness strictly proportional to virtue’. Rawls 2000, pp. 313-17. This seems to me to miss the point that in a *fully* realised realm of ends (‘in good part’ won’t do, of course), on Kant’s account, happiness *would* be distributed proportionately to virtue, simply because all would be *equally* worthy of happiness (realising the realm of ends ‘rests on the condition that *everyone* do what he should’ – Kant 1781, p. 679, A810 / B838) and the actions of all would effect the maximum systematic

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Leibniz called the world, insofar as in it one attends only to rational beings and their interconnection in accordance with moral laws under the rule of the highest good, the realm of grace ... to regard ourselves as in the realm of grace, where every happiness awaits us as long as we do not ourselves limit our share of it through the unworthiness to be happy, is a practically necessary idea of Reason...¹⁰⁷

Thus in both the scientific and the moral domains Kant drives a wedge into the continuum of Leibniz-Wolffian perception, transforming the principle of harmonious order from a divinely ordained given into self-authorising project of free and rational humanity. From this point of view, full blown rationalism is *heteronomous* – as Susan Neiman puts it, ‘Leibniz is stuck with the fact that reason is *in the world* – to be read off of, rather than put into, the objects of experience’.¹⁰⁸ For Leibniz, to be rational is to submit to a reason that has its seat of authority outside us. Kant’s critical philosophy overturns this theodicy and erects in its place a rational autonomy founded in our own free self-consciousness.

Deducing the Rechtsstaat

The political implications were indeed revolutionary, but in an important sense double-edged. This ambiguity followed directly from Kant’s transcendental bifurcation of the bases of human knowledge and agency. For the Wolffians our cognition of the natural and moral order was more or less clear and distinct, according to the degree of our rational perception. In consequence, the social world was to be ordered by an elite class of bureaucrats in whom such perception was most fully developed. The Kantian philosophy levelled this epistemological hierarchy because it asserted that the systematic order to which Leibniz-Wolffian law attained was a formal projection of rational faculties

sum of happiness. We would not make it our business to administer the right balance of rewards and punishments, but that would be the effect of our actions *in this circumstance*.

¹⁰⁷ Kant 1781, pp. 680-1, A812 / B840.

¹⁰⁸ Neiman 1994, p. 33.

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that were equally present in all rational beings. As Schneewind says, Kant ‘does not abandon self-perfection as a part of morality ... he transforms it’. Morality depends not upon ‘the extent and distinctness of our cognitions’, but upon the committed enactment of a moral law that we all find within ourselves.¹⁰⁹ In Caygill’s account ‘[t]he later German enlightenment rebelled against what Kant cryptically described as the ‘self-imposed tutelage’ of the police-state ... Their insistence on the free political judgement of the citizen replaced Wolff’s view that judgement is the responsibility of the sovereign or *Landesvater*’.¹¹⁰ Thus the paternalism of absolutist bureaucracy was replaced by a free association of equal citizens. As Patrick Riley sees it, ‘Kant’s radical egalitarianism ... leads to a politics not just of “benevolence” but of “universal republicanism” of consenting equal citizens.’¹¹¹ But by the same token the moral *reach* of this association was limited – it could not penetrate to a systematic unification of its citizens’ interdependent needs because any judgement with regard to their satisfaction and harmonisation was inherently problematic and provisional. *Welfare* is then no business of the state. ‘Happiness’, says Kant in the famous political essay on ‘theory and practice’, is ‘unfit to be a principle of legislation’, because from it ‘no universally valid principle for laws can be given’.¹¹² It is inherently contestable and hence politically unstable, a license for tyranny and sedition. ‘The sovereign wants to make people happy in accordance with his concepts and becomes a despot; the people are not willing to give up their universal human claim to their own happiness and become rebels’.¹¹³

Far better, then to ask first ‘what is laid down as right (where principles stand firm a priori and no empiricist can bungle them)’.¹¹⁴ This is the project of Kant’s ‘Doctrine of Right’, which aims to construct a standard for laws and political institutions that is proof against the essential contestability of human need and happiness. The coercive state must be immune from the indeterminacy that afflicts the ultimate ends of practical reason and morality.¹¹⁵ Its powers of enforcement must then rest on principles

¹⁰⁹ Schneewind 1998, p. 529.

¹¹⁰ Caygill 1989, p. 109.

¹¹¹ Riley 1996, pp. 263-4.

¹¹² Kant 1793, p. 297-9, 8: 298.

¹¹³ Kant 1793, p. 301, 8:302.

¹¹⁴ Kant 1793, p. 301, 8:302.

¹¹⁵ Meld Shell 1980, p. 154.

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that are universally necessary in their deduction, and empirically determinate in their application. '[T]he doctrine of right wants to be sure that *what belongs* to each has been determined (with mathematical exactitude)'.¹¹⁶

As Susan Meld Shell's commentary brings out in fascinating detail, the elucidation of this juridical order 'replicates with baroque symmetry the categories and laws governing theoretical knowledge'.¹¹⁷ Just as the a priori categories of the Understanding must make up the basic framework of any unified experience, and are thus legitimately presupposed as universal and necessary laws of the phenomenal world, certain practical rules can be demonstrated as universally necessary conditions for the external coexistence of a number of agents acting in a shared spatio-temporal realm. It is on this basis that Kant provides a deduction of the possibility of private property – not as inherent in any metaphysical or empirical (as in Locke) relationship between agents and the things they use, but transcendently necessary for external action as such.¹¹⁸ Kant holds that 'we must regard our right to use external objects as the condition of the possibility of the inner use of our choice',¹¹⁹ and from this follows the necessity of private property and a 'complete and determinate' division of contract law. These conditions are logically entailed in *any* end formed by *any* individual will – their breach would constitute 'a contradiction of outer freedom with itself'¹²⁰ – entitling us to posit an a priori 'general will' that these rules be instituted and observed. Indeed, according to Meld Shell,

Early drafts of the *Doctrine of Right* suggest a similarity between the function of the united will and that of the 'transcendental unity of apperception' discussed in the Transcendental Deduction of the first *Critique*. Both the *Doctrine of Right* and the

¹¹⁶ Kant 1797, pp. 389-90, 6:233.

¹¹⁷ Meld Shell 1980, p. 136.

¹¹⁸ 'Earlier thinkers associated the right to property with the rational or divine nature of things. According to Roman and scholastic jurisprudence, certain things or kinds of things were held to belong naturally to certain men or kinds of men. Caste, order, class, and all the other divisions of property and society were thought to reflect some natural or divine articulation of the world. According to Kant, on the contrary, the only necessary relations in nature are those put there by man'. Meld Shell 1980, p. 128.

¹¹⁹ This formulation appears in Kant's preparatory notes and is quoted in Gregor 1963, p. 50.

¹²⁰ Kant 1797, p. 405, 6:250.

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first *Critique* ‘deduce’ synthetic unity as necessary to rational possession. By ‘deduction’, Kant means an argument supportive of a claim to property ... Like its epistemological counterpart, juridical possession requires a transcendental synthesis. Juridical synthesis entails a unity not of apperception, however, but of wills. This unity, which Kant calls also the united or general will, confers on men the right to make use of things.¹²¹

This united will is expressed and enforced by a sovereign power that in this way ‘represents’ it: ‘Representation is the outer public reflection through which a people comes to be in becoming known to itself.’¹²² But it is essential to keep in mind the *limited* nature of this united will, this representation of the people to itself. It is *not* a full harmony of ends – but only, as Meld Shell puts it, ‘a collaboration over means’, ensuring that we do not conflict over space and the external things of use.¹²³ The ultimate *ends* of our association remain hidden. The system of right remains at the observable surface of human relations, abstracting from agents’ internal motives and ends, and independent of all difficult judgements as to their happiness. Right applies only to ‘the external and indeed practical relation of one person to another, insofar as their actions, as deeds, can have (direct or indirect) influence on each other’; it concerns a relation among *choices*, not ‘the mere wish (hence also to the mere need) of the other’; and ‘no account is at all taken of the *matter* of choice, that is, of the end each has in mind with the object he wants’.¹²⁴ In Meld Shell’s words, ‘[t]he impersonality of mechanics, as (an external) system of body, is paralleled by the impartiality of right, as an external system of wills. Both abstract from the special experience and perspective of the individual.’¹²⁵ And the principles of this mechanical realm are deducted as the universally necessary precondition for the external coexistence of several agents acting in a shared spatio-temporal realm – ‘by analogy’, Kant says, ‘with presenting the possibility of bodies moving freely under the law of the

¹²¹ Shell 1980, pp. 132-4.

¹²² Meld Shell 1980, p. 166.

¹²³ Meld Shell 1980, p. 131.

¹²⁴ Kant 1797, p. 387, 6:230.

¹²⁵ Meld Shell 1980, p. 125.

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equality of action and reaction'.¹²⁶ The united will yokes us together at the level of our Understanding, but not our reason – it ensures that all agree on property rights, who owns what, but says nothing about the ends to which anything is turned.

Thus we arrive at a reversal of the Leibnizian definition of the state. For Leibniz, as we have seen, the state is 'an unlimited unequal society' – unlimited in its purposes, unequal in its constitutive relationships.¹²⁷ For Kant, we might say, the state is rather an *equal* but *limited* society. He replaces the overweening paternalism of eighteenth century absolutism with a bourgeois republic based on the rule of law and liberal free trade. Our obligations to perfect ourselves and pursue the welfare of others remain, but are transferred to the private sphere, as the 'imperfect' duties of self-cultivation and benevolence treated in the 'Doctrine of Virtue' that forms the second part of the *Metaphysics of Morals*.¹²⁸ In prescribing such duties of virtue the moral law 'leaves a playroom (*latitudo*) for free choice in following (complying with) the law, that is ... the law cannot specify precisely in what way one is to act and how much one is to do by the action'. We must make our own judgements about how to limit one such duty by another 'e.g., love of one's neighbour in general by love of one's parents'.¹²⁹

This social order does *not*, then, contrary to some contemporary invocations of Kant, as such constitute a 'realm of ends', which, as we have seen, would entail a complete unification of all purposes into a systematic unity, and a general will that goes 'all the way down'. Although Kant stresses the difference between theoretical and practical Reason – that the former can only be regulative, while the latter can in principle be *constitutive* – this is not the case where it comes to collective agency. It is the Understanding, not Reason, that *constitutes* the Kantian republic. Reason exercises an unenforced social regulation through publicity, culture, and a loose notion of historical

¹²⁶ Kant 1797, p. 389, 6:233. As Susan Meld Shell writes, '[t]he construction of right as a system of external relations resembles that of physics'. Meld Shell 1980, p. 125.

¹²⁷ Leibniz 1988, p. 79.

¹²⁸ Thus while Kantian ethics might be seen to furnish a basis for socialism, in his own worldview such an orientation sits alongside a restriction of the state to a near *laissez faire* model – as Meld Shell says, Kant is 'moral communalist and economic capitalist'. Meld Shell 1980, p. 135.

¹²⁹ Kant 1797, p. 521, 6:390. Meld Shell writes: '[t]he moral and moralizing function which Rousseau assigned to the political community Kant locates in a moral community which, springing directly from the noumenal personality of the individual, bypasses politics altogether.' Meld Shell 1980, p. 131.

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progress, but is *constitutive* of our actions only at the point that we leave the *Rechtsstaat* behind us. Indeed, in a realised realm of ends the distinction between right and virtue, the juridical order and the sphere of private morality, would in a sense drop away, transcended as no longer relevant.

This remains the utopian vanishing point of practical reason for Kant – utopian though not, strictly speaking, *impossible*, as the more excitable of Kant's early followers would quickly point out. As Matthew Levinger has written, despite that fact that his 'ultimate objective' should have been 'a society of free, equal and self-determining citizens', his 'conviction that human nature possessed elements of radical evil' meant that 'even a fully cultivated citizenry might always need to be constrained by governing institutions'. But others under his influence 'who were more sanguine about the character of humanity, expressed more unambiguously optimistic conclusions about the potential of this educational process'.¹³⁰

Despite what a very great man has said ... life in the state is not one of man's absolute aims. The state is, instead, only a *means for establishing a perfect society*, a means which exists only under specific circumstances. Like all those human institutions which are mere means, the state aims at abolishing itself. *The goal of all government is to make government superfluous*. Though the time has certainly not yet come, nor do I know how many myriads of myriads of years it may take (here we are not at all concerned with applicability in life, but only with justifying a speculative proposition)...

Thus lectured Fichte to excited students in 1794,¹³¹ prompting rumours that he had made the subversive prediction that 'in ten or twenty years there will be no more kings or princes'.¹³² An even younger Schelling would write the following year:

It is difficult not to be enthusiastic about the great thought that, while all sciences, the empirical ones not excluded, rush more and more towards the point of perfect unity, mankind itself will finally realize, as the constitutive law, the

¹³⁰ Levinger 1998, pp. 247-8.

¹³¹ Fichte 1794, pp. 156-7.

¹³² See Daniel Breazeale's introduction to Fichte 1794, p. 139.

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principle of unity which from the beginning was the regulating basis of the history of mankind. As the rays of man's knowledge and the experiences of many centuries will finally converge in one focus of truth ... just so the different ways and by-ways which humans have followed till now will converge in one point wherein mankind will find itself against and, as one complete person, will obey the law of freedom.¹³³

In the meantime, however, just as our dependence upon externally received sense impressions stands between us and our theoretical goal of a completed unity of nature, the obscurity of our interdependence at the level of need stands between us and the consummation of a comprehensive practical unity.

¹³³ Schelling 1795a, p. 68.

2

Revolution unfinished?

‘By the thing-in-itself, which he introduced into philosophy, Kant has at least provided the first impulse which would carry philosophy beyond ordinary consciousness ... but he never even considered clearly, let alone explained, that this ground of explanation lying beyond consciousness is in the end no more than our own ideal activity, merely hypostatised into the thing-in-itself.’

– F. W. J. Schelling, *System of Transcendental Idealism* (1800)¹

‘That the world is a product of the freedom of intelligence is the determinate and express principle of idealism.’

– G. W. F. Hegel, *The Difference Between Fichte’s and Schelling’s System of Philosophy* (1801)²

‘Only that which is the object of *freedom* is called *Idea*. We must therefore go beyond the state! – Because every state must treat free human beings like mechanical works...’

– Anonymous, *The Oldest Systematic Program of German Idealism* (1797)³

¹ Schelling 1800, p. 99.

² Hegel 1801, p. 130.

³ Anonymous 1797, p. 161.

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1. The ‘determinate and express principle of Idealism’

Reconstructing the relationship between the philosophy of Kant and his German Idealist successors can be a treacherous business, plunging us instantly into contests of interpretation that began even as Kant’s works were still being published. In their own writings, Fichte, Schelling and Hegel all seem to alternate between implausibly claiming Kant’s authority for their project, then attacking what many consider to be a ‘straw man’ of their predecessor. Meanwhile would-be defenders of Kant up to the present day have both renounced the illegitimate extrapolations of his thought made by the post-Kantians at the same time as countering negative caricatures by claiming to find in his work the very themes that his successors made it their task to develop more fully.⁴

This much at least seems to be clear. Fichte, Schelling and Hegel all made a clear break with Kant’s philosophy by questioning his cardinal distinction between intuition and concept, the respective moments of passive receptivity and active spontaneity in cognition. But, crucially, they did so by carrying intuition over to the side of spontaneity. Thus Kant’s successors *affirmed* wholeheartedly his account of the active role of the subject in ordering the world cognitively and practically, but felt he had not taken it far enough.⁵ The result was an unsatisfactory half-way house that remained haunted by the ghosts of sceptical empiricism and metaphysical dualism. So whilst for Leibnizian-Wolffian metaphysics all experience and activity was a passive mirroring of the intrinsic order of the universe, and for Kantian epistemology our knowledge arose from an *active* ordering under concepts of the intuitions we *passively* received, for the later Idealists *all* was actively self-determined. This revision produces results that can look very much like some kind of *reversion* to a Leibniz-Wolffian position – would we not expect such to be the effect of revoking the primary move by which Kant broke free of their system, the

⁴ It is a common feature of attempted defences of Kant against the ‘formalism’ charge that they seek to make much of precisely those parts of Kant’s theory that feed directly into Hegel’s own thought.

⁵ The great lesson of Pippin’s commentary is that this is always the most important thing to keep in mind when reading these writers. Especially in the case of Hegel, whenever one reads something that seems completely off-the-wall or over-the-top (which is frequently), it is often worth recalling Kant’s doctrine of the spontaneity of apperception, its apparent modesty and plausibility but also its strange and paradoxical nature, and asking if this might not be a consequences of taking its implications to their logical conclusion.

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transcendental distinction of intuition and concept? But in their own eyes they were merely taking Kant's position to its logical conclusion, by placing the activity of the ordering subject centre-stage. So whilst the post-Kantian reunification of thought and being is open to interpretation as a regression to the epistemological hubris of pre-critical metaphysics, the move can equally be seen from another angle – and this accounts for its continuing contemporary interest – as a strikingly modern (perhaps even, in some respects, postmodern) project of disarming scepticism, transcending the epistemological paradigm, and deconstructing all metaphysical illusions of knowledge as a 'mirror of nature'.⁶ In the words of John McDowell, 'a picture in which reality is not located outside a boundary that encloses the conceptual' need not 'slight the independence of reality' – because it no longer reduces it to mere 'appearance' – nor be 'offensive to common sense'.⁷

For our purposes the most important consequence of this reformulation is the way that the dualism pervading Kant's system is overcome and key elements suddenly converge as if they had been products of an optical illusion, like double vision snapping into focus. Most dramatically, what for Kant was essentially unknowable – the thing in itself, the systematic unity of the universe, God as its ordering principle – now appears to be strictly *identical* with self-consciousness itself. And in like manner, what in Kant's practical philosophy is the unreachable goal of moral action – the highest good, God's reconciliation of morality and happiness – comes within the grasp of human freedom.

The rejection of the concept-intuition distinction remains a highly controversial philosophical move which I cannot go into in depth within the confines of this discussion other than to mark its importance in redirecting the Kantian project.⁸ Essentially, the claim was that the absoluteness of this opposition could not be rendered consistent with Kant's insistence on the spontaneity of self-consciousness. The most obvious anomaly in the Kantian system, highlighted in all textbook introductions, is itself

⁶ A visible line of philosophical descent can in fact be traced here, through the influence of Wilfrid Sellars's avowedly Hegelian attack on the 'myth of the given'. See Sellars 1997, and the 'Introduction' by Richard Rorty. In a very different way, postmodern and poststructuralist appropriations of the later Schelling may also be relevant here – see for example Bowie 1993, Žižek 1996.

⁷ McDowell 1996, p. 44.

⁸ For accounts sceptical of its validity, see Guyer 2000b, and Rosen 1982, pp. 101-121. For a defence, see Pippin 1989, pp. 24-35. For a recent articulation of an essentially similar argument in a more contemporary philosophical idiom, see McDowell 1994.

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an appearance of this problem – Kant seems to want to say that things-in-themselves ‘cause’ our sense impressions, but this would violate his own ruling that causality is a category of the Understanding that has no remit beyond the interconnection of appearances among themselves.⁹ This issue was indeed pivotal in setting off post-Kantian developments, being central to a 1792 critique of Kant’s follower Reinhold known as the ‘Aenesidemus’.¹⁰ This became a ‘launching point’ for Fichte’s reworking of Kant’s account of self-determining subjectivity: if self-consciousness was truly free of empirical determination, then the intuited material it confronts as a limitation on its self-determining activity must itself be ‘posited’ or taken as such as the subject’s own self-limitation. Either the subject was the ultimate determinant of all its experience and activity, or it was not. This can sound like a bizarre argument that the world of experience is some kind of solipsistic dream, but the thought to keep in mind is Kant’s own argument that the sense impressions we receive are insufficient in themselves to provide a determinate experience or knowledge. The Fichtean argument would be that so much is this the case that it really makes no sense to ascribe to them any foundational epistemological role in isolation from their involvement in the activity of self-consciousness. Our intuitions are ‘always already’ conceptualised. In Robert Pippin’s account, this ‘does not at all eliminate the role of the given in knowledge, but it will radically relativize to “thought” the ways in which the given can be taken to be given’.¹¹ For Schelling and Hegel, Fichte’s uncompromising affirmation ‘[t]hat the world is a product of the freedom of intelligence is the determinate and express principle of idealism’.¹²

But though Fichte had in this way asserted that the ‘I’ had to be the *wholly* unconditioned ‘first principle’ of all knowledge and philosophy, ‘positing’ both itself as

⁹ Körner 1955, pp. 41-2; Höffe 1994, p. 67.

¹⁰ See Pinkard 2002, pp. 105-7.

¹¹ Pippin 1989, p. 31. See also Pinkard 2002, p. 119: ‘Fichte does *not* claim that the existence of the world is something created by us’ – we are closer to the spirit of his argument if we say that we cannot become self-conscious without *recognising* an external world.

¹² Hegel 1801a, p. 130. Schelling affirms in the *System of Idealism* that self-consciousness is the ‘highest principle of knowledge’, the ‘fixed point, to which everything else is attached *for us*’, ‘an absolute that is both cause and effect – both subject and object – of *itself*’. Self-consciousness ‘circumscribes the entire horizon of our knowing even when extended to infinity’. Schelling 1800, pp. 16-17.

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subject and an object that limits its pure free activity as the condition of its own self-consciousness, this relationship of mutual dependence and opposition remained in his system as one that could not be overcome. The pursuit of systematic knowledge and the aspiration to moral goodness were then conceived as a necessary but necessarily endless labour of Sisyphus, and the further exposition of Fichte's system from this point forward shadowed Kant's dualism in many respects. In Hegel's own account, Fichte's principle of an original identity in which subject and object are grounded was 'the transcendental principle at the basis of Kant's deduction of the categories', and 'the authentic principle of speculation boldly expressed'. But Fichte's system, like Kant's, steps off from this original unity 'and does not come back to it again', falling into 'the endless chain of finite [acts and objects] of consciousness from which it never reconstructs itself again as identity and true infinity'.¹³ Schelling and Hegel (partly influenced by early Romantic thinkers such as Hölderlin) felt that this remained an unsatisfactory resolution and sought to locate the primary unity of thought and being, subject and object not in a retrospectively deduced premise of philosophy but as the immanent horizon of our most everyday cognitive and moral experience.¹⁴ The 'subjectivity of pure consciousness' arising from Fichte's deduction of the objective world 'provides the key to another form of it, in which the production of the objective is taken as a pure act of free activity'.¹⁵

2. 'Kant's way out of Kant'¹⁶

The clearest way of seeing the course of this immanent critique of Kant and Fichte's subjective idealism is to return to the epistemological architecture of the *Critique of Pure Reason*. It is a well-known consequence of Kant's absolutisation of the opposition between intuition and concept, sensory manifold and spontaneous self-consciousness, that nothing much can be said about how the two are brought together. Surely we do not want the relationship to be an arbitrary one, in which the Understanding simply imposes

¹³ Hegel 1801, p. 81.

¹⁴ On the Romantic revision of Fichte's construction of subjectivity, see Pinkard 2002, pp. 137-44.

¹⁵ Hegel 1801, p. 130.

¹⁶ This phrase is borrowed from Pinkard 2000, p. 160.

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its rules on the sensory manifold in one of any number of different possible ways. But given their radical heterogeneity, how are we ever able to say that a given intuition is 'like', or 'fits', or 'suggests', or in any way relates to a given concept? How do we know that we even have the right set of empirical concepts to hand, that our very linguistic distinctions cut nature at the joints? This is what Robert Pippin has called the problem of the 'guidedness of empirical knowledge' in Kant: so insistent is he that 'the senses do not represent, and are not immediately differentiated' that it becomes difficult to 'describe the fact that empirical knowledge of the external world seems to be directly guided by sensations, that our interpreting faculties are restrained in a way ... by some feature of our sensations'.¹⁷ The nearest Kant comes to an answer in the first *Critique*, in some of the most notoriously obscure passages of the book, is that the 'transcendental imagination' produces 'schemas', mediating 'third things' that are neither conceptual nor intuitive, which somehow relate concepts to the forms of intuition, space and time. Kant describes this mysterious process as 'a hidden art in the depths of the human soul',¹⁸ and his readers have long seen the schematism as an answer that is not answer, an 'aporetic concept' as Adorno puts it,¹⁹ even if necessarily so because of the very dualistic rules upon which his system is built. Deleuze points out that Kant's insistence on the radical discontinuity between Understanding and Sensibility effectively transposes the Leibnizian problem of the 'pre-established' harmony between rational substances and God's harmonious order 'to the level of faculties of the subject which differ in nature'. '[I]n this way the problem is merely shifted: for the imagination and the understanding themselves differ in nature, and the accord between these two active faculties is no less "mysterious".'²⁰

¹⁷ Pippin 1982, p. 44. Adorno highlighted the same problem: 'if a concept is to be true and not just something arbitrary it must necessarily be influenced by the nature of the object to which it refers. Thanks to the total separation of spontaneity and receptivity in the architecture of the work this element of a relation between these two "pillars of knowledge", as Kant calls them, is utterly lost sight of'. Adorno 1959, p. 132,

¹⁸ Kant 1781, p. 273, A141 / B180.

¹⁹ Adorno 1959, p. 131.

²⁰ Deleuze 1965, p. 22.

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Schelling and Hegel²¹ saw this non-solution to the problem of how conceptual form and intuited content are related as pointing to a more radical resolution that would transform the terms of the system, transcending what Hegel called ‘a formal idealism which ... sets an absolute Ego-point and its Understanding on one side, and an absolute manifold, or sensation, on the other side’.²² Upon examination Kant’s self-consciousness, its Understanding, and its concepts, amount on their own to nothing but sheer unity or ‘formal identity’, while the manifold of sensible intuitions is by itself utterly indeterminate, a ‘formless lump’ of which nothing can be said. ‘Identity of this formal kind finds itself immediately confronted by or next to an infinite non-identity, with which it must coalesce in some incomprehensible way’.²³ Nor is it clear what is to be gained by simply bringing the two together, since both are equally without content.²⁴

Their conclusion was that self-consciousness and manifold, Understanding and sensibility, conceptual form and intuited content, cannot be seen as our absolute starting points, but must derive from a more original unity from which subject and object are sundered. Kant himself had tantalisingly suggested that the ‘two stems of human cognition’, sensibility and Understanding, ‘may perhaps arise from a common but to us unknown root’.²⁵ Hegel insists that an inquiry into this common root cannot be avoided: ‘[T]he Kantian forms of intuition and the forms of thought cannot be kept apart at all as the particular, isolated faculties which they are usually represented as. One and the same

²¹ I am here aiming to sketch what seems to have been the basic response to Kant that was shared by Schelling and Hegel in the years around 1800, relying mainly on Hegel’s texts of the early ‘Jena period’ when he was widely seen as Schelling’s philosophical lieutenant. Of course their differences would later become very important, and may even have been presaged even in these early texts, but at a finer level of philosophical detail than I am aiming for here. For such an account see Harris 1983, and Pippin 1989, pp. 60–88.

²² Hegel 1802–3b, p. 78, translation modified.

²³ Hegel 1802–3b, p. 76. See also p. 93: ‘the bond between the binding activity and the manifold, is what is incomprehensible’.

²⁴ Compare Donald Davidson on ‘the very idea of a conceptual scheme’: ‘We cannot attach a clear meaning to the notion of organizing a single object (the world, nature etc.) unless that object is understood to consist in other objects. Someone who sets out to organise a closet arranges the things in it. If you are told not to organize the shoes and shirts, but the closet itself, you would be bewildered. How would you organize the Pacific Ocean?’ Davidson 1974, p. 192.

²⁵ Kant 1781, p. 152, A15 / B29.

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synthetic unity ... is the principle of the intuition and of the Understanding.²⁶ And this original principle is the one that Kant had himself obliquely recognised in positing a role for the imagination in mediating the difference between the two. This, says Hegel, must be taken as the fundamental moment in cognition:

[W]e must not take the faculty of [productive] imagination as the middle term that gets inserted between an existing absolute subject and an existing absolute world. The productive imagination must rather be recognized as what is primary and original, as that out of which the subjective Ego and objective world first sunder themselves into the necessarily bipartite appearance and product, and as the sole In-itself.²⁷

This may seem to suggest again a ludicrous solipsism, as if the entire world of experience is one we merely 'imagine'.²⁸ But what Schelling and Hegel are trying to argue is that we have to think of the frontier of our experience not as a naked confrontation between concepts and sense impressions but as an expansive, productive process or activity which cannot be broken down into pre-existing 'form' and 'content' except by a *post hoc* abstraction.²⁹ 'The true synthetic unity or rational identity is just that identity which is the connecting of the manifold with the empty identity, the I. It is from this connection, as original synthesis that the I as thinking subject, and the manifold as body and world first

²⁶ Hegel 1802-3b, p. 70, translation modified.

²⁷ Hegel 1802-3b, p. 73. See also Schelling 1800, p. 12: 'If we ... suppose ... that the same activity which is *consciously* productive in free action, is productive *without consciousness* in bringing about the world, then our predetermined harmony is real, and the contradiction resolved'.

²⁸ Hegel explicitly says we must resist here our customary association of the term 'imagination' with 'unlawfulness, whim and fiction'. Hegel 1802-3b, p. 73.

²⁹ See also Schelling 1800, p. 135: 'The question as to how our concepts conform to objects has therefore no meaning from a transcendental viewpoint, inasmuch as this question presupposes an original difference between the two. In the absence of consciousness, the object and its concept, and conversely, concept and object, are one and the same, and the separation of the two first occurs with the emergence of consciousness. A philosophy which starts from consciousness will therefore never be able to explain this conformity, nor is it explicable at all without an original identity, whose principle necessarily lies beyond consciousness.'

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detach themselves.’³⁰ This ‘organic Idea’ of productive imagination is at the heart of the processes Kant attempts to analyse but he is diverted into ‘the mechanical relation of a unity of self-consciousness which stands in antithesis to the empirical manifold’.³¹ Kant’s ‘truly speculative idea’³² seems to have gone unrecognised by its own author, passed over – ‘[p]roductive imagination has been allowed to get by easily in the Kantian philosophy’ – because he had mistakenly identified the spontaneous, self-determining moment in experience with only the Understanding conceived in an absolute opposition to its material – in this way making it ‘the absolute of the human spirit’.³³

Kant’s blind spot has a further important consequence for the design of his system. For once this vital function of resolving the opposition of the Understanding to Sensibility has been left to the dark arts of the productive imagination, ‘nothing remains for Reason [*Vernunft*] but the pure emptiness of identity’.³⁴ Reason’s role in Kant’s system seems to be one of adding together the results of the Understanding in the pursuit of a completed whole of experience.³⁵ Again there seems to be nothing to this operation other than the simple pursuit of unity itself – as Pippin puts it, Kant ‘seems to assume that, armed with these general “simplicity” and “unity” rules, “nature”, as investigated determinately by the understanding, will simply “fall into line”, that we will just tend toward some unified, single comprehensive account of the world’.³⁶ Reason in this way adds nothing to the work of the Understanding, and is indeed nothing other than the same principle of formal identity – one infinite totality instead of one finite object. ‘Kant is quite correct in making this empty unity a merely regulative and not a

³⁰ Hegel 1802-3b, p. 71, translation modified.

³¹ Hegel 1802-3b, p. 92.

³² Hegel 1802-3b, p. 71. Hegel says that Kant’s ‘merit’ is to be found ‘in his having put the Idea of authentic *a priori* in the form of transcendental imagination’. Hegel 1802-3b, p. 79.

³³ Hegel 1802-3b, p. 77.

³⁴ Hegel 1802-3b, p. 80.

³⁵ ‘Theoretical Reason ... lets the Understanding give it the manifold which it has only to regulate’. Hegel 1802-3b, p. 81. See Kant 1781, pp. 590-1, A643 / B671: ‘Reason never relates directly to an object, but solely to the Understanding and by means of it to Reason’s own empirical use, hence it does not *create* any concepts (of objects) but only *orders* them and gives them that unity which they can have in the greatest possible extension’.

³⁶ Pippin 1982, p. 214.

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constitutive principle', says Hegel, 'for how could something that is utterly without content constitute anything?'³⁷ But his ultimate argument is that if this seems to be a straightforward procedure, this is because on Kant's own terms the important and difficult work of fashioning a coherent world of objects *has already been done* by the productive imagination, which gives us a conceptualised experience that *already* fits together, like the cut pieces of a child's jigsaw.

Hegel thus rearranges the labels and orders of priority in Kant's system, forgetting the redundant layer of Reason as the *post hoc* ordering of empirical cognitions into a coherent unity, and instead identifying *true* Reason with what Kant obliquely acknowledged as the crucial synthetic activity of the productive imagination. This is, Hegel says, simply 'nothing but Reason itself ... as it appears in the sphere of empirical consciousness'.³⁸ Hegel, then, puts Reason to work right at the ground floor of knowledge and experience, 'as the one and only *a priori*, whether of sensibility, of Understanding, or what have you',³⁹ whereas Kant had 'turned the true *a priori* back into a pure unity, i.e., one that is not originally synthetic'.⁴⁰ Reason is now seen as the original unity of the Understanding and Sensibility, *prior* to any analysis of them into distinct operations.

One of the reasons why it can be difficult to decide whether or not these criticisms hit home is that Kant *seemed* to have come at least some way to recognising these issues himself, certainly by the time of the 1790 *Critique of Judgment*.⁴¹ There Kant looked in detail at the structure of 'aesthetic' judgements of beauty and 'teleological' judgements of natural organisms, but developed out of these analyses a more general account of 'purposiveness' as the principle of *all* 'reflective' judgements by which we seek to form or identify a concept under which a given sensible manifold is to be subsumed. In the process Kant seemed to concede that the Idea of systematic unity that in the first *Critique* guided Reason's *ordering* of the empirical knowledge delivered by the

³⁷ Hegel 1802-3b, p. 80.

³⁸ Hegel 1802-3b, p. 73.

³⁹ Hegel 1802-3b, p. 73. See also p. 82: 'The Idea of Reason occurs in the Deduction of the Categories as original unity of the one and the manifold'.

⁴⁰ Hegel 1802-3b, p. 73.

⁴¹ On the role played by readings of this text in the arguments of later Idealists see especially di Giovanni 1992; Pippin 1996.

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Understanding in fact was involved in the very *production* of that knowledge – in the sense that it guided the very formation and application of the empirical concepts which were its necessary currency. Reflective judgement, in seeking a universal for a given particular, expects that particular to be part of a wider class of things for which rules can be given, and that the world form a systematic whole that our faculties can indeed grasp. This ‘is a principle of Reason ... [that helps us] merely to apply Understanding generally to possible objects of experience, namely, in those cases where we cannot judge determinatively but can judge merely reflectively’.⁴²

Kant develops this thought by reference to the notion of an ‘intuitive Understanding’. Kant had already raised this idea in the first *Critique* precisely to contrast with it what was particular about our own ‘finite’ Understanding – an intuitive Understanding would be one ‘through whose self-consciousness the manifold of intuition would at the same time be given, an Understanding through whose representation the objects of this representation would at the same time exist’. But ‘the human Understanding ... merely thinks, but does not intuit’, and so must passively receive its material through the senses.⁴³ But in developing his account of the role of Reason in reflective judgments, Kant seems to be saying that we have to somehow aspire to achieving this type of Understanding. For cognition to be possible, the ‘particular in nature’s diversity must (through concepts and laws) harmonize with the universal in order that the particular can be subsumed under the universal’. The harmonisation of our own Understanding with nature was ‘contingent’, which is what ‘makes it so difficult for our understanding to unify the manifold of nature so as to [give rise to] cognition’. There can be no determinate principle for achieving this harmony, but we conceive its *possibility* on the model of an ‘intuitive Understanding’ for which the thought of a thing’s possibility (through its universal concept) would at the same time be the intuition of its particular existence.⁴⁴

⁴² Kant 1790, p. 289, 5:405. On Guyer’s reading, here ‘theoretical reason’s positive even if only regulative ideal of systematicity is reassigned to reflective judgment’. Guyer 2000a, p. 64.

⁴³ Kant 1781, p. 250, B138-9.

⁴⁴ Kant 1790, p. 291, 5:406-7.

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[I]t is at least possible to consider the material world as mere appearance, and to think something as [its] substrate, as thing in itself (which is not appearance, and to regard this thing in itself as based on a corresponding intuitive Understanding (even though not ours). In that way there would be for nature, which includes us as well, a supersensible basis of its reality, though we could not cognize this basis. Hence we would consider in terms of mechanical laws whatever is necessary in nature as an object of sense; but the harmony and unity of the particular laws of nature and of the forms based on them are contingent in terms of mechanical laws, and [so] this harmony and unity, as objects of Reason, we would at the same time consider in terms of teleological laws (as, indeed, we would consider the whole of nature as a system).⁴⁵

Thus Kant sails even closer than he had before to the Leibnizian idea of an underlying conceptual order to the universe that our own conceptualised experience must make as if to mimic or mirror. Our cognitive faculties cannot work other than by projecting such an order which they make it their goal to reproduce. We must reflect on the world *as if* this were the case, but of course, Kant always comes back to insist, we cannot possibly know or have any knowledge of such a thing. But, say Schelling and Hegel, all the key features Kant has ascribed to this unknowable intuitive Understanding are in fact features of the productive imagination that his own analysis identifies as the true basis of our experience: ‘the Idea of this archetypal *intuitive Understanding* is at bottom nothing else but the *same Idea* of the transcendental imagination that we considered above’,⁴⁶ which is to say again, that it is what they have designated Reason in its true form.⁴⁷ Kant would resist such an identification – he would have to say that the transcendental imagination works by somehow mirroring the activity of an intuitive intellect which in fact it knows nothing of, or even if such a thing could exist.

⁴⁵ Kant 1790, p. 293, 5:409, translation modified.

⁴⁶ Hegel 1802-3b, p. 89, translation modified. Schelling similarly claimed that Kant was led to the idea of an intuitive Understanding as the overcoming of the ‘utter separation of the Understanding and sensibility’. Quoted in Pippin 1996, p. 142, n. 28.

⁴⁷ ‘These positions adopted in the critical philosophy are on a most subordinate, non-rational plane because they posit human Reason in strict opposition to absolute Reason. All the same, they do rise to the *Idea* of a sensible Understanding, and sensible Understanding is Reason’. Hegel 1801, p. 163, translation modified.

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But it is now becoming far less clear why this principle of purposive systematicity, of a world ordered as if by an intuitive Understanding, must have a weaker epistemological status than the finite and mechanical categories of the Understanding that Kant had deduced as holding ‘objectively’ because they are necessary for any experience to occur at all. Even in trying to hold this line Kant says that this ‘subjective principle that Reason has for our judgment’ is ‘necessary for human judgment in dealing with nature’ and ‘holds just as necessarily for our *human judgment* as it would if were an objective principle’.⁴⁸ It now seems that most of what we think of as everyday experience, and indeed the most basic procedures of scientific inquiry, is in this way radically underdetermined by immediate sensible intuitions, and depend for their conceptual organisation on the intervention of such problematic judgements of ‘purposive wholes’ and systematic order.⁴⁹ Whereas previously it had seemed that the empiricism of the Understanding underpinned and restrained the speculations of Reason, now it seems that Reason itself is what conditions the unification of the Understanding and Sensibility. Intuitions are not anchoring our experience in the way that we might have thought they had done. The Understanding does not deliver ‘knowledge’ that reason then has to organise – we never get hold of anything that is not always already permeated by reason’s judgements of systematicity.⁵⁰

The radical conclusion that Hegel and Schelling drew from this is that we must rethink the whole ‘two worlds’ structure of Kant’s transcendental epistemology. For Kant the ‘thing-in-itself’, as a substance within an overarching systematic unity of the

⁴⁸ Kant 1790, pp. 287-8, 5:404.

⁴⁹ So when Susan Neiman writes that for Kant Reason’s idea of the unconditioned ‘presents the possibility of the systematization of the very basic observation-statements that understanding produces’, in fact we now see that there are no such ‘basic observation statements’ prior to the intervention of Reason – Reason’s idea of the unconditioned is a condition of the possibility of the production of such statements. Neiman 1994, p. 70. Thus Pippin argues that Kant’s objective deduction of the Categories ‘looked at closely, really does not go very far toward explaining many of the aspects of knowledge which we would normally be interested in in a comprehensive epistemology’ – among them theory formation, the determinate system of empirical concepts or ‘natural kinds’, and the relation among various theories in different sciences. Pippin 1982, p. 211.

⁵⁰ In the words of F. H. Jacobi, an important anti-idealist philosopher who concluded from this that Kant’s system collapsed back into absolute subjective scepticism, Kant ‘wanted to underpin reason with the understanding, and then pin the understanding on reason’. Quoted in di Giovanni 1992, p. 422.

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universe, is an unknowable entity existing in an empty 'Beyond' (*Jenseits*), a 'noumenal' space beyond our powers of cognition. At the same time in some obscure way it grounds or causes the sense impressions we receive, which we then bring under concepts that gesture towards this thing-in-itself but which must not presume identity with it. Hegel and Schelling regard this as a pointless and empty 'doubling' of the moments of cognition, that results from the treatment of the Understanding-Sensibility opposition as essential. Kant designates the world we know as mere 'appearance', while insisting that we know nothing and can say nothing of the 'real' world that it is the appearance *of*. This extra noumenal realm adds nothing to the account, say the post-Kantians. There *is* only the world that we experience, the world that we know. Therefore, they argued, we should recognise the 'thing-in-itself' as internal to our own processes of cognition, as nothing other than the principle of our own discriminating activity: 'the in-itself of the empirical consciousness is Reason itself'.⁵¹ Kant's great failure was that 'he never even considered clearly, let alone explained, that this ground of explanation lying beyond consciousness is in the end no more than our own ideal activity, merely hypostatised into the thing-in-itself'.⁵² Our most basic experiences turn on the confident designation of what appears to us *as* the appearances *of* essential substances which we *can* grasp conceptually. 'The assumption that things are just what we take them to be, so that we are acquainted with them as they are *in themselves*, underlies the possibility of all experience'.⁵³ Absolute Idealism thus appeals in some respects (not all, of course) to a kind of everyday common sense.⁵⁴ And upon this recognition, of course, it instantly makes no sense to call it 'internal', because this is a process without an 'outside'. What we are describing is the irreducible role of self-consciousness, or conceptualisation, or Reason, in organising, shaping, forming, and permeating every detail of the world we experience – 'our' world, perhaps, but one we cannot step outside and which it makes no sense to think of as anything other than *the* world. 'In the transcendental intuition [of the unity of subjectivity

⁵¹ Hegel 1802-3b, p. 73.

⁵² Schelling 1800, p. 99.

⁵³ Schelling 1800, p. 10.

⁵⁴ We have 'confidence in the truth' of the 'single items drawn out of the Absolute into consciousness' because we 'have a feeling of the Absolute' attending them; it is only when epistemologists 'take these truths of common sense by themselves and isolate them as cognitions of the Understanding [that] they look odd and turn into half-truths'. Hegel 1801, p. 99.

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and objectivity] all opposition is suspended, all distinction between the universe as constructed by and for the intelligence, and the universe as an organisation intuited as objective and appearing independent, is nullified'.⁵⁵

The danger at this point might seem to be of a cognitive complacency taking hold, of what from a Kantian point of view would seem a too hubristic identification of thought and being which means we lose the *critical* vantage point that Kant's epistemology seemed to have given us.⁵⁶ For did not the opposition of concept and intuition serve a vital function in Kant's account of Reason, requiring us to be forever open – 'receptive' – to the impact of new experience that challenges anything we may think we know? But it now seems that this critical vantage point was an illusion – for experience is never directly determined by sense impressions in the way that we thought it was, but is always already mediated by pre-existing conceptualisations and theories. From a Kantian perspective that might mean that we are 'locked in' conceptuality. But from the new perspective this just means that the 'critical' moment is transferred into a process *internal* to the ongoing activity of conceptualisation and reconceptualisation, and transposed from the opposition of concept and intuition to the permanent generative tension between the 'finite' Understanding and 'infinite' Reason.⁵⁷ It is the function of the former to fix the world as a stable series of identities and oppositions, as Kant's account of the categories had suggested – 'the quite correct meaning that the Understanding expresses the principle of opposition and the abstraction of finitude'.⁵⁸ Reason complements the activity of the Understanding precisely by cutting across and against its work of objectification, forever 'suspending' its definitions and limitations. Kant's antinomies provide a demonstration of this process in abstract form – 'the

⁵⁵ Hegel 1801, p. 111.

⁵⁶ Of course we will later go on to consider the possibility that the development of Absolute Idealism does indeed terminate in an 'uncritical positivism'; my purpose here is to suggest that this is not necessarily predetermined by its revisions to Kant, to help explain why our main protagonists could have, at least initially, taken it up as a philosophically radical project.

⁵⁷ For a reconciliatory reading of Kant and Hegel that makes a similar equation, see Adorno 1963, which suggests that the dualist 'discontinuities' in Kant's system perform a parallel function to the 'negative' moment of Hegel's dialectic that he wishes to preserve. Adorno seems to have thought that Hegel was right to warn against the potential for a priori formalism to collapse into an ideological affirmation of the positive; but warns against a similar corresponding danger in Hegel's confident reach for totality.

⁵⁸ Hegel 1802-3b, p. 79.

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application of Reason as mere negativity to something reflection has fixed'.⁵⁹ But we now see that *any* particular 'fixed' conceptualisation will presuppose a wider network of concepts that ultimately amounts to a provisional idea of the systematic totality of the world. Of course any such idea is incomplete, inadequate – as Kant says, contradictory. But this inadequacy, this contradictoriness, then infects any particular empirical concept that we might want to make use of – the critical opposition of intuition and concept is thus transposed into the contradictory unity of any determinate object of experience. 'Once antinomy is acknowledged as the explicit formula of truth, Reason has brought the formal essence of reflection under its control'.⁶⁰ Thus Kant is right to restrict these determinations of the Understanding to mere 'appearance' in that 'they are nothing in themselves', but he is mistaken in suggesting that Reason can only add them together and speculate vacuously about the unknowable greater 'reality' behind them.⁶¹ Rather, Reason's pursuit of an unconditioned totality is *equally* necessary and constitutive of the world we experience, its orientation to the infinite immanent within it no less than are the limitations of the Understanding.

[T]he Absolute ... is the goal that is being sought; but it is already present, or how otherwise could it be sought? Reason produces it, merely by freeing consciousness from its limitations. This suspension of the limitations is conditioned by the presupposed unlimitedness.⁶²

It is very easy to misread this kind of philosophical rhetoric as an attempt to relaunch the kind of unrestrained, abstract metaphysical speculation that Kant had sought to cut off in the 'Transcendental Dialectic' that makes up the second part of the *Critique of Pure Reason*, 'freeing' consciousness from the 'limitations' of the empirically knowable. But it is crucial to see that this is precisely *not* about reopening an abstract realm 'beyond' empirical

⁵⁹ Hegel 1802-3b, p. 83.

⁶⁰ Hegel 1801, p. 108.

⁶¹ 'The things, as they are cognised by the Understanding, are only appearances. They are nothing in themselves, which is a perfectly truthful result ... But ... Kant regards discursive Understanding, with this sort of cognition, as in itself and absolute. Cognition of appearances is dogmatically regarded as the only kind of cognition there is, and rational cognition is denied'. Hegel 1802-3b, p. 77.

⁶² Hegel 1801, p. 93.

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knowledge, but the dynamic search for systematic unity immanent in the experiential process. Cognitive progress is on this account driven forward not by the unmediated intrusion of new sensible intuitions, but by Reason's undermining of all fixed identities and permanent demand for an ongoing revision of our conceptual schemes in pursuit of a deeper unity and coherence of experience. Indeed, the strong claim for this alternative account would be that it is *Kant's* theory that is more in danger of slipping into an uncritical valorisation of any existing state of empirical knowledge, because it restricts Reason to a secondary and superficial unification of taken-for-granted empirical conceptualisations that it should be its job to problematise at root.

3. The immorality of 'morality'

The Schellingian-Hegelian analysis of Kant's practical philosophy takes aim at the same abstract opposition at its heart: the basic structure of 'formal identity being confronted absolutely by a manifold':

the formal identity is freedom, practical Reason, autonomy, law, practical Idea, etc., and its absolute opposite is necessity, the inclination and drives, heteronomy, nature, etc. The connection that is possible between the two [formal identity and the manifold] is an incomplete one within the bounds of an absolute antithesis ... This formal cognition only brings about impoverished identities, and allows the antithesis to persist in its complete absoluteness. What it lacks is the middle term, which is Reason; for each of the two extremes is to exist within the opposition as an Absolute, so that the middle, and the coming to nothing of both extremes and of finitude is an absolute Beyond.⁶³

The suggestion mooted above that Kant's dualism and relegation of Reason to a secondary, regulative role may in fact act to suppress the critical potential of his commitment to free self-determination is explicit in Hegel's famous critique of the 'formalism' of Kantian ethics. As we have seen, Hegel regards Kant's initial depiction of

⁶³ Hegel 1802-3b, pp. 93-4.

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Reason's *theoretical* use as inadequate, on its own terms redundant and ultimately illusory. In Kant's account 'Reason' refers only to a call for unity as such, an adding together of empirical cognitions delivered to it by the Understanding, but in fitting them together into a systemic order it is on Hegel's description essentially trading on the work that has already been done by the productive imagination. Hegel comments that it would be interesting 'to see how this empty unity, as practical Reason, is nonetheless supposed to become constitutive again, to give birth out of itself and give itself content'.⁶⁴ The answer is that content arises in the very same way.

The fullest and most suggestive account of this process is found in Hegel's early essay on *Natural Law*, in which Schelling's 'methodological corrective to Kant and Fichte' provides 'a point of departure for [the] development of his own conception of philosophy's relation to the problems of *Sittlichkeit* [ethical life]'.⁶⁵ Famously, Hegel here alleged that Kant's Categorical Imperative that 'a maxim of your will must simultaneously count as the principle of universal legislation' delivered no moral content – for 'there is nothing which could not be made into a moral law in this way'.⁶⁶ Defences of Kant usually object that the Categorical Imperative was never meant to deliver content of itself, but be applied as a test to the maxims that we put before it.⁶⁷ But this misses the point of Hegel's critique, which turns on the fact that it is the *form* of lawfulness or consistency that takes the full weight of making any maxim a moral one for Kant. '[S]ince pure unity constitutes the essence of practical reason, a system of morality is so much out of the question that not even a plurality of laws is possible'.⁶⁸

The most important and overlooked aspect of Hegel's argument is its implicit explanation of why Kant's rule *seems* to work – because it trades on the fact that our maxims are always already formulated in a moralised language. In theory we could always redescribe our rule of action such that the contradiction does not arise,⁶⁹ but on the

⁶⁴ Hegel 1802-3b, p. 81.

⁶⁵ Dickey 1987, p. 90.

⁶⁶ Hegel 1802-3a, p. 124.

⁶⁷ See, for example, Neiman 1994, pp. 122-5.

⁶⁸ Hegel 1802-3b, p. 122. See also p. 172: 'In the pure reason of formal thinking, all multiplicity and all possibility of discrimination must disappear, and it is impossible to imagine how such thinking could ever arrive at even a minimal number of rubrics and chapter headings...'

⁶⁹ For a classic formulation of this objection, see MacIntyre 1966, pp. 197-8.

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whole we don't, since we naturally use the language of our community. Right and morality are always already woven into the very fabric of our lives, setting the very terms in which we first understand practical situations. Just as any single empirical concept has no direct or self-sufficient relationship with raw intuition but is already implicated in a wider systematisation of the whole of experience, so there is no description of a situation or act that does not carry with it a whole web of interrelated practical concepts that amount to an operative account of the practical world and our place in it.⁷⁰ In characterising a deposit entrusted to me as 'property' I have already presupposed a moral system which includes the notion of property, and identified the deposit as a particular instance of it. It is someone's property, therefore I must treat it as someone's property. 'In truth, the sublime capacity of pure practical reason consists in the production of tautologies'.⁷¹ To the formally absolute tautology, 'A' is 'A', is 'falsely attributed' the meaning that 'the material [content] of this proposition, namely property, is absolute'.⁷² This illusion, Hegel stresses, is morally *pernicious*, because it positively facilitates 'bad faith' rationalisations of our actions because taking for granted the initial maxim as unproblematic, a 'subterfuge' transforming 'the conditioned and unreal into something unconditioned and absolute'.

The analytic unity and tautology of practical reason is not only superfluous, however, but – in its present application – false, and it must be recognised as the principle of immorality ... [T]hrough this confusion of the absolute form with the conditioned material, the absoluteness of the form is imposed by stealth on the unreal and conditioned character of the content, and this inversion and sleight of hand lies at the heart of the practical legislation of pure reason.⁷³

The Categorical Imperative grants absolute status to the moralised conceptualisation of the practical situation contained in the original maxim, and diverts us from the real moral

⁷⁰ Slavoj Žižek calls this 'the spontaneous ideological narrativization of our experience and activity: whatever we do, we always situate it in a larger symbolic context which is charged with conferring meaning upon our acts'. Žižek 1993, p. 126.

⁷¹ Hegel 1802-3b, p. 123.

⁷² Hegel 1802-3b, p. 126.

⁷³ Hegel 1802-3a, pp. 125-6.

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question about whether the system of moral terms it invokes is itself justified, or whether the conceptualisation upon which our maxim is based is an adequate one. The *emptiness* of practical reason is thus filled in an arbitrary way by particular and partial content upon which is bestowed a bogus moral authority.⁷⁴

Indeed, it seems that Hegel wants to say that *no* maxim can ever be absolutely or finally adequate, just any particular empirical conceptualisation, any finite determination of the Understanding, must be partial and subject to suspension by the true operations of Reason. '[B]efore this formalism can pronounce a law, it is necessary that some material [aspect], some determinacy, should be posited to supply its content; and the form that is conferred upon this determinacy is that of unity or universality ... But every determinacy is particular in itself, and is not a universal; it is confronted by an opposite determinacy, and it is determinate only in so far as it has such an opposite'.⁷⁵ But if one determinacy is raised to the absolute, it is merely a particular set off against other particulars as a false universal; 'matter and form contradict one another (inasmuch as the former is determinate and the latter infinite)'.⁷⁶ A determinate ruling of the Categorical Imperative thus has the same status as any attempt to objectify an idea of Reason; it falls into undecidable antinomies just as did the parallel *theoretical* claims that Kant rejected in the first *Critique*. The real 'interest [at stake]', the question we 'are solely concerned with', is 'deciding which of the opposing determinacies must be posited', and this 'lies outside the competence of this practical legislation of pure reason'.⁷⁷

Interestingly, this argument seems to be unwittingly conceded by one of Kant's most persuasive defenders, Onora O'Neill, who has suggested that the real problem identified by Aristotelian and Hegelian critiques of 'abstract' moral theories is not that

⁷⁴ See again MacIntyre 1966, p. 198: 'The logical emptiness of the test of the categorical imperative is itself of social importance. Because the Kantian notion of duty is so formal that it can be given almost any content, it becomes available to provide a sanction and a motive for the specific duties which any particular social and moral tradition may propose'. Similar issues lie behind G. A. Cohen's more recent complaint that the Kantianism of Christine Korsgaard might license the idealised mafioso's consistently upheld 'code of strength and honour' – though he I think does not appreciate the strength of Kantian arguments that mean there is no going back to simple empiricism. See Cohen in Korsgaard 1996, pp. 167-188.

⁷⁵ Hegel 1802-3a, p. 124.

⁷⁶ Hegel 1802-3a, pp. 126-7.

⁷⁷ Hegel 1802-3a, p. 125.

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‘principles’ as such are a problem, but that they are insufficient, and ‘nearly all writers, whether or not they advocate ethical principles, have offered too meagre and cursory an account of deliberation’.

Situations have no unique descriptions ... Ways of reasoning that assume that ‘the facts’ of human situations can be uncontroversially stated are likely to be dominated by established and often by establishment views. Without a critical account of the selection of minor premises, ethical reasoning may avoid formalism only to become hostage to local ideology ... Outside closed circles there are real and deep controversies about the articulation of cases and examples; even well-established descriptions may be evasive, self-serving or ideologically contentious ... *Every* articulation of a situation privileges certain categories and descriptions, and is incomplete and potentially controversial even among those who inhabit the same circles.⁷⁸

O’Neill puts this forward as a *critique* of ‘situational’, Aristotelian *phronesis*-based alternatives to principle-based moral theories, but the Hegelian charge is that abstract formalism runs the risk precisely of too easily raising contingent, local, partial or self-serving maxims to the level of absolute principle and blocking just such a critique.

Fascinatingly, the alternative O’Neill offers at this point – the critical interrogation of particular moral vocabularies that on her account must supplement the appeal to universal principle – is itself strikingly Hegelian, invoking a process of intersubjective horizon-fusing in terms of the *sensus communis* of Kant’s third *Critique*.⁷⁹ To engage in this process seriously, Hegel would say, is again to overcome the very opposition of form and content, abstract self-consciousness and indeterminate manifold, that repeats itself in Kant’s practical philosophy. Indeed, Kant’s *sensus communis* is most clearly realised in the appreciation of beauty, a moment in which ‘the form of opposition between intuition and concept falls away’.⁸⁰ It was for essentially similar reasons that Schelling argued that the state, as a historical ‘realisation of an objective order of

⁷⁸ O’Neill 1987, pp. 65–6.

⁷⁹ For the importance of this notion for the development of Hegel’s philosophical project see Pippin 1996, pp. 145–153, and Pinkard 2000, pp. 167–9.

⁸⁰ Hegel 1802–3b, p. 87.

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freedom', should be 'like a work of art', a freely achieved harmony of universal and particular, necessity and freedom.⁸¹ 'In his own account of practical rationality', says Franco, 'Hegel tries to bring universal and particular, form and content, into closer conjunction with one another and thus avoid the arbitrariness and subjectivism he associates with the standpoint of reflection'.⁸² Nothing can come of a notion of practical reason that 'abstracts completely from all material [aspects] of the will'.⁸³

Absolute ethical life would be the definitive transcendence of these dualisms – not in a simplistic or oppressive holism but a conception of social life that expects the negotiation of the relationship between the individual and whole to be an ongoing process that cannot be simplistically resolved, and will on the contrary be fatally interrupted, by a crude and unsustainable segregation of Understanding and Reason, right and virtue, security and happiness. The aim, then, for Schelling and Hegel was initially 'to suspend this endless determination and domination in the true infinity of a beautiful community where laws are made superfluous by customs, the excesses of an unsatisfied life by hallowed joys, and the crimes of oppressive forces by the possibility of activities directed towards great objects'.⁸⁴ We thus approach the seemingly utopian suggestion of a secular harmonisation of morality and happiness – but which we now see is based on a not implausible rejection of any morality defined in abstraction from questions of happiness as the matter of the will, and equally of any notion of happiness seen as in opposition to or indeed in any way accessible apart from one's sense of one's place and one's actions in a wider system of morality or 'ethical whole'.⁸⁵

And Hegel is clear that the separation of Right and Virtue is logically connected to the abstract opposition of morality and nature, practical rationality and felt human need, an opposition that permanently cuts off the kind of comprehensive intersubjective harmonisation of ends that a full ethical community would require. It is precisely because practical reason is reduced to 'the negative meaning of annulling the determinate' that

⁸¹ Schelling 1802, pp. 109-10.

⁸² Franco 1999, p. 61.

⁸³ Hegel 1802-3b, p. 124.

⁸⁴ Hegel 1801, p. 146.

⁸⁵ 'If Reason were to arrive at intuition and knowledge that Reason and nature are in absolute harmony and are in themselves blissful, it would recognize its wretched happiness which does not harmonize with morality, as the nothings that they are'. Hegel 1802-3b, p. 95.

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‘infinity becomes fixed and divorced from the absolute’ and gives rise to ‘a difference and multiplicity’. The result is that of two separate sciences – ‘one concerned with the oneness of the pure concept and the subjects (or the morality of actions), the other with their non-oneness (or legality)’. But for Hegel ‘neither legality nor morality is absolutely positive or truly ethical’;⁸⁶ this is a distinction that must be ‘demolished’.⁸⁷ As Franco says:

Hegel emphatically rejects the distinction between legality and morality that undergirds the political philosophies of Kant and Fichte. Natural law is not simply a system of external security, protecting individual rights through the imposition of coercive duties. Nor is morality something purely internal and individual, divorced from the social or political totality. It is against this opposition of a purely external and coercive system of natural law and a purely internal and formal system of morality that Hegel’s own understanding of natural law based on the idea of absolute ethical life is primarily directed.⁸⁸

Thus a ‘system of legislation’ must be the presentation of absolute ethical life ‘in the *form of universality* and cognition ... so that this system perfectly expresses reality, or the living customs of the present’.⁸⁹ The ‘form of the law’ is ‘conferred on a specific custom [*Sitte*]', which thus takes on ‘the universality or the negative absolute of identity’.⁹⁰ And the critique of the Kantian-Fichtean *Rechtsstaat* is of a piece with the epistemological critique of their reduction of Reason to the Understanding.

⁸⁶ Hegel 1802-3a, p. 130-31.

⁸⁷ Hegel 1802-3a, p. 163.

⁸⁸ Franco 1999, p. 195.

⁸⁹ Hegel 1802-3a, p. 162. Montesquieu is praised for recognising that the content of laws arises not from a priori reason nor through unmediated empirical intuition but from ‘the living individuality of a people [*Volk*]’. Hegel 1802-3a, 176-7, translation modified.

⁹⁰ Hegel 1802-3a, p. 176.

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4. The state of the Understanding

The critique of the ‘machine state’ had become a widespread trope of German philosophical discourse at this time.⁹¹ Hegel’s earlier essay on *The German Constitution* had noted the

basic prejudice of those recent theories which have been partially translated into practice that a state is a machine with a single spring which imparts movement to all the rest of its infinite mechanism, and that all the institutions which the essential nature of a society brings without it should emanate from the supreme political authority and be regulated, commanded, supervised, and directed by it.⁹²

The primary target of such passages is usually taken to be the influential eighteenth century cameralist Johann von Justi, who had argued that ‘A properly constituted state must be exactly analogous to a machine, in which all the wheels and gears are precisely adjusted to one another, and the ruler must be the foreman, the mainspring, or the soul – if one may use the expression – which sets everything in motion’.⁹³

The ‘Oldest System Programme of German Idealism’ of 1797, variously attributed to Hegel, Schelling and Hölderlin but safely taken to be a fair representation of the philosophical outlook they originally shared, took aim at this conception, arguing that

there is no Idea of the *state* because the state is something *mechanical*, just as little as there is an Idea of a *machine*. Only that which is the object of *freedom* is called *Idea*. We must therefore go beyond the state! – Because every state must treat free human beings like mechanical works...⁹⁴

⁹¹ For a fascinating account of the development of the organism-mechanism opposition in the political thought of the period – one which, indeed, played a significant part in suggesting the present study’s line of inquiry – see Rosen 1996.

⁹² Hegel 1798-1802, p. 22.

⁹³ Quoted in Outram 1995, p. 96.

⁹⁴ Anonymous 1797, p. 161. For a recent sample discussion of the attribution issues raised by this fragment, see Pinkard 2000, pp. 136-137 and note 33.

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The distinction at work here is between systematic wholes whose purpose is immanent and self-determined, and mechanical orders in which matter is organised as means to an end which is external to and independent of it. The difference between a watch and a tree is that while a watch is indeed organised, its parts related to one another in a purposive system, a tree organises *itself*, its parts actually produce each other as parts.

This argument is now given a new philosophical precision – the mechanistic state is the embodiment of a collective practical subjectivity locked into the limitations and oppositions of the Understanding, externally confronting its ‘content’ of material interdependency and unifying it under mechanical laws:

Reason is bound to find itself most explicitly in its self-shaping as a people, which is the most perfect organization that it can give itself. But the State of the Understanding is not an organization at all, but a machine; and the people is not the organic body of a communal and rich life, but an atomistic, life-impoverished multitude. The elements of this multitude are absolutely opposed substances, on the one hand the rational beings as a lot of [atomic] points, and on the other hand a manifold of material beings ... The unity of these elements is a Concept; what binds them together is an endless domination.⁹⁵

We have already seen above how apt the connection is, given the tight interrelations between Kant’s political theory and his conception of the Understanding as universally and necessarily constitutive of the empirical determinacy of externally related objects. Similar conceptual equations are implicit in Fichte’s construction of *Natural Right*, which Hegel more usually takes as his prime target in his early attacks on abstract right. Like Kant, Fichte conceives the system of rights as a model for the external coordination of outer wills according to necessary and universal laws of freedom. Its necessity and universality is deduced as the logical condition of external agency as such, an individual conscious will acquiring ‘determinacy’ as a *person* through an act of transcendental enclosure that ‘draws a line’ to mark a ‘fixed and unchanging’ sphere of free action.⁹⁶ Securing this sphere requires a unification of wills into a common power that can enforce

⁹⁵ Hegel 1801, pp. 148-9 / p. 114, quoted at Rosen 1996, pp. 147-8, translation modified.

⁹⁶ Fichte 1796a, pp. 55-6. Revealingly, for Fichte the ‘act of drawing a line’ is ‘the original schema for activity in general’.

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a system of positive laws. Any system of such laws must follow with mathematical necessity from the original concept of right to which all are transcendently bound.⁹⁷ They arise from its application to a people's material circumstances and interrelations just as automatically as do empirical cognitions from the application of the categories to the sensory manifold.⁹⁸ Likewise, the *application* of the law to particular cases leaves no room for indeterminacy or contestation.⁹⁹ This rigid determinacy is essential to political stability: 'the slightest influence of arbitrary choice upon law the law makes it unjust and brings the seed of discord and the ground of future dissolution into this union'.¹⁰⁰ But the maintenance of this determinacy necessitates a restriction of the domain of right and the reach of its unification of wills to the material domain of external relations. '[T]he concept of right concerns only what is expressed in the sensible world: whatever has no causality in the sensible world – but remains inside the mind instead – belongs to another tribunal, the tribunal of morality'.¹⁰¹ Thus although the state effects a practical reunification of the reason that nature disperses into separate individuals,¹⁰² this unification cannot be a comprehensive one – '[t]he individual's entire being and essence' does not 'become fully intertwined with the whole', only 'partly so'. He 'does not entirely alienate himself or what belongs to him. For if he did, what would he still possess that the state, for its part, would promise to protect?'¹⁰³

Hegel's rejection of such an account of political association follows his rejection of the account of experience and knowledge with which it is allied. It is based on an

⁹⁷ 'All positive laws stand, either more or less directly, under the rule of right. These laws do not and cannot contain anything arbitrary. They must exist precisely as every intelligent, informed person would necessarily have to prescribe them.' Fichte 1796a, p. 95.

⁹⁸ A people's law 'is given to them by the rule of right and by their particular physical situation, just as a mathematical product is given by the two factors being multiplied; any intelligent being can attempt to find this law.' Fichte 1796a, p. 99.

⁹⁹ 'The civil judge has nothing to do other than to decide what happened and to invoke the law. If legislation is clear and complete, as it should be, then the judge's verdict must already be contained in the law'. Fichte 1796a, p. 95.

¹⁰⁰ Fichte 1796a, p. 99.

¹⁰¹ Fichte 1796a, p. 51.

¹⁰² '[I]n the state, nature re-unites what she had previously separated when she produced several individuals. Reason is one, and it is exhibited in the sensible world also as one; humanity is a single organized and organizing whole of Reason.' Fichte 1796a, p. 176.

¹⁰³ Fichte 1796a, pp. 177-8.

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abstract separation of individuals' outer and inner, material and rational aspects which cannot ultimately be sustained. Once this distinction 'has, in all its unnaturalness, been made basic, there is no longer the possibility of a pure mutual connection in which the original identity could present and recognize itself'.¹⁰⁴ Moreover, this absolute opposition results in a doubling of the founding moment of the political unity, just as the abstract self-consciousness of Kantian or Fichtean apperception is projected into the ghostly 'in-itself' of the noumenal realm that it takes to ground appearances. The limitation of the harmonisation of wills to the external aspect only means that the individual's own transcendental involvement in the united will which grounds the state power is split off as an external force – 'the fixed abstraction of the general will must here subsist apart and far from the individual, and have coercive authority over him'.¹⁰⁵ But in fact the notion that we could in this way be 'coerced' by the state, as itself the unified ground of our own activity, is as incoherent as the notion that our representations could be 'caused' by a noumenal object behind them, when in fact our own self-conscious activity is the ground of all possible causal relationships as well as all particular conceptual determinations. The notion of coercion therefore has no place in any comprehensive account of political association, since once it is 'conceived of [*vorgestellt*] as part of a system within a totality', it 'immediately cancels [*aufhebt*] itself and the whole'.¹⁰⁶

Most practically, the supposed determinacy that this restriction buys is a false one – the relation of the Understanding to intuitions *cannot* be presumed to be automatic and unproblematic, nor can the application of the concept of Right to particular societies and situations be expected to be uncontroversial and secure against arbitrary deviations. Thus he charges that under Fichte's rule 'the Understanding is bound to fall into the making of endless determinations', for in fact an infinite series of actions may be judged necessary for the simple end of maintaining the security of right – 'there is simply no action at all from which the State could not with abstract consistency calculate some possible damage to others'.¹⁰⁷ Thus the *Rechtsstaat* by its own nature falls into its putative opposite, the *Police state* – 'Fichte wishes to see the entire activity and being of the individual as such supervised, known, and determined by the universal and the abstraction to which he

¹⁰⁴ Hegel 1801, p. 144.

¹⁰⁵ Hegel 1801, p. 149.

¹⁰⁶ Hegel 1802-3a, p. 167. See also pp. 132-6.

¹⁰⁷ Hegel 1801, p. 146.

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stands opposed'.¹⁰⁸ Kant, it will be remembered, insisted on the distinction between right and virtue, and the a limitation of the functions of any public coercive power to the former, on the basis that the latter involved imperfect duties and indeterminate notions of perfection and happiness that provided an unstable and potentially tyrannical basis for legislation. Hegel's denial of the ability of the Understanding to relate to the manifold of sensibility in a direct or unproblematic way without the involvement of reason applies equally here – the denial of welfare and happiness as a public function is no guard against the indeterminacy and arbitrariness of the state's application of even its more restricted function of maintaining right.¹⁰⁹ Here, indeed, is the source of the confusion that is often aroused by the authoritarian strains in Kant's political philosophy – once the indeterminacy of judgements as to right and security is admitted, Kant's *Rechtsstaat* begins to look distinctly Hobbesian.¹¹⁰ Again the problem is the attempt to represent the fluid unity of the social by a fixed particular relating externally to the rest – the relation is a necessarily unstable and arbitrary one.

Thus Hegel's rejection of any attempt to limit state power through a right-welfare distinction should not be seen as necessarily illiberal – rather it is based in a persuasive argument that such a distinction does not erect the barriers to tyranny it might pretend to. Right and welfare are inextricably intertwined, just as are the Understanding and Reason – their active articulation is an inescapable and ongoing process in which there

¹⁰⁸ Hegel 1802-3a, p. 171.

¹⁰⁹ This remains a live issue – while the classic liberal argument has always been that the license of tyranny (and in the twentieth century, totalitarianism) is the over-extension of the state's remit from the protection of (negative) freedom and security to the pursuit of its citizens' happiness and moral development, the reality of contemporary 'neo-liberalism' has furnished ample examples of how the supposedly 'minimal' state can pursue a potentially limitless extension of its internal and external power in the name of 'liberty' and 'stability'. See, for example, the 'war on terror', or arguments that have been made in the UK for the introduction of a compulsory 'identity card' system as a necessary *defence*, not restriction, of 'civil liberties'. Entertainingly, Fichte's demonstration of the minutiae of passport regulations from the pure concept of right is precisely what Hegel draws out as an example to prove his general point. Hegel 1801, p. 147, footnote.

¹¹⁰ See, for example, Kant's notoriously absolute refusal of a right to rebellion: 'such procedures, if made into a maxim, make all lawful constitutions insecure and produce a state of complete lawlessness (*status naturalis*) where all rights cease at least to be effectual.' Kant 1793, pp. 81-2.

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are no guarantees.¹¹¹ Indeed there is more danger in attempting to banish the interference of Reason's drive for systematic completeness in the illusion that the determinations of the Understanding are themselves proof against arbitrariness. For Hegel, just as the finite cognitive determinations of the Understanding cannot be absolute and must be subject to a recurrent suspension by the activity of Reason, any rigid system of laws and personal entitlements could never be the true habitat of freedom, for '[i]n a living connection there is only freedom in the sense that it includes the possibility of suspending itself and entering into other connections'. But 'when limitation by the common will is raised to the status of law and fixed as a concept, true freedom, the possibility of suspending a determinate connection, is nullified'.¹¹² Indeed, nothing could more clearly mark Hegel's distance from both the apriorism of Kant and Fichte and the rational jurisprudence of the Leibniz-Wolffian than his declaration that

a perfect legislation, together with true justice in accordance with the determinacy of the laws, is inherently impossible in the concrete realm of judicial authority ... in order that the unity of the judicial view of right and judgement may become organised as a genuine unity and whole within this multiplicity, it is absolutely necessary that each individual determinacy should be modified – i.e. partly superseded as an absolute determinacy with being for itself, which is precisely what it professes to be as a law – so that its absoluteness is not respected; and there can be no question of a pure application, for a pure application would involve positing some individual determinacies to the exclusion of others. But by their existence, these others also demand to be taken into account, so that the interaction [of them all], determined not by parts but by the whole, may itself be a whole. The empty hope and formal conception both of an absolute legislation

¹¹¹ This will remain Hegel's position through to the *Philosophy of Right*, where he makes clear that the tendency of the state's 'police' to overreach itself is an inescapable fact of political life that must be dealt with according to circumstances – 'however troublesome this may be, no objective boundary line can be drawn'. Hegel 1821a, p. 261, § 234. On the general inseparability of 'right' and 'well-being' in the *Philosophy of Right* see Neuhaus 2000, pp. 238-9.

¹¹² Hegel 1801, p. 145.

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and of a jurisdiction unconnected with the inner disposition of the judge must give way to this clear and definite knowledge.¹¹³

Thus the laws of a people must be seen as the conscious conceptualisation and systematisation of their felt relationships of need and interdependence, an infinite totality that cannot every be finally grasped in finite legal determinations but which must be seen as immanent in and driving forward the ongoing process of formulation and reformulation. In an extraordinary passage, the critical moment is finally transposed into *history*:

... if the whole does not keep pace with the growth of the [people], law and custom become separate, the living unity which binds the members together grows weak, and there is no longer any absolute coherence or necessity in the present state of the whole. In these circumstances, therefore, the [people] cannot be understood on its own terms, for its determinacy lacks the life which explains it and makes it comprehensible; and as the new custom likewise begins to express itself in laws, an internal contradiction between the various laws must inevitably arise.¹¹⁴

We can now see that the 'Understanding-State' now denotes not only the inadequacies of Kant's and Fichte's theorisations, but diagnoses the *real* condition into which *actual historical states* must fall once their structures and determinations become fixed and ossified, recalcitrant to Reason's suspension of its necessarily finite and partial articulation of the ethical whole. The forward movement of ethical life is manifested in the conflicts that arise between a people and the laws and institutions which no longer adequately comprehend its real unity. In such a situation the 'laws which organise a whole ... refer to a shape and individuality which were cast off long ago as a withered husk'. Their 'interest extends only to [individual] parts and they consequently have no

¹¹³ Hegel 1802-3a, p. 144.

¹¹⁴ Hegel 1802-3a, p. 176. In reproducing this passage I have inserted 'people' in place of Hegel's potentially confusing use of the word 'individual' – by which he means, as the context makes clear, 'individuality' of a *Volk*.

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living relation [*Beziehung*] to the whole, but constitute an authority and rule which are alien to it'.¹¹⁵

Hegel's claim is now that conventional approaches to the study of law and the state cannot 'distinguish correctly between what is dead and devoid of truth and what is alive', and thus run the risk of 'mistaking the rule of inherently negative laws for the living existence of the organization'.¹¹⁶ The epistemological strangeness of this predicament becomes clear as we begin to consider why. Hegel's presentation of the possibility of a gap opening between a people and its laws is of a society out of step with itself, in some sense internally dislocated. This is an object which cannot be taken at face value – 'the [people] cannot be understood on its own terms'. At such a time 'it is impossible to recognise what is right and what has actuality within a people by looking at its laws'.¹¹⁷ Hegel even says at this point that 'this fundamental *untruth of the whole* ensures that there can be little truth left in the science of philosophy in general' (my emphasis).¹¹⁸ The representation of the 'whole' through the state and its system of laws is no longer adequate; it is not truly the whole but partial, one-sided, a particular alongside other fragmented particulars. But note that there is not at this moment a 'real' whole that we can easily point to – on Hegel's terms, the people is at this moment hidden from itself, indeed, parts of it may 'falsely' identify themselves with partial representations of the whole. And it would run wholly counter to the direction of Hegel's philosophical critique to suppose that he thinks he can erect an abstract standard of 'the people' in their pristine organic life against which the present social reality can be judged. Rather it seems – and this would be the logical implication of his Schellingian anti-epistemology – that Hegel proposes to take the appearance of 'an internal contradiction between the various laws' as the oblique and strictly immanent sign of the confrontation between the Absolute self-determining unity of a people and its fragmentation into externally opposed parts. The more we ponder the implications of operationalising such an account of social conflict and historical change, the more puzzling and fascinating it becomes, paradoxical and perhaps ultimately incoherent, but certainly a radically new

¹¹⁵ Hegel 1802-3a, p. 178.

¹¹⁶ Hegel 1802-3a, p. 177.

¹¹⁷ Hegel 1802-3a, p. 162.

¹¹⁸ Hegel 1803-3b, p. 178. Compare Adorno's famous 'the whole is the false', usually taken to effect a clear break with Hegelian orthodoxy. Adorno 1951, p. 50.

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methodological approach that will take us a long way from the empiricist and formalist targets of Hegel's initial critique.

5. Beyond Reflection

Schelling and Hegel believed that with their new philosophical standpoint they had superseded not just Kant and Fichte, but the modern entire epistemological paradigm, a mode of thought and relation to the world they diagnosed in general terms under the notion of 'Reflection'. Such thought took as its premise the opposition of mind and world, subject and object, knowledge and reality, reflexively examining the former in the attempt to establish the possibility of its adequately mirroring, or grasping, or commanding the latter. But its own dualistic foundation meant that no non-arbitrary relationship could ever be established. The endlessly reproduced effect of such a problematic is a separation of the world into two levels, the world as it 'appears' to us, and the world as it 'really' is, and it is asserted either (sceptically) that we can know only the world's appearances and nothing of its reality, or (dogmatically) that we can gain knowledge of the world's reality by some route other than its appearance to us. Kant's critical philosophy gives the problem its penultimate twist by being dogmatic about the world's appearances and sceptical about its reality – the appearances are held fast to as rigid and unbending, 'objective', yet still only 'appearance', somehow belied by a 'reality' of which we know nothing, only 'subjectively' projected into an unreachable 'beyond' (*jenseits*).¹¹⁹

In place of this dualistic scenario whereby 'subject' and 'reality' stood on either side of a realm of 'appearance', Schelling and Hegel were boldly asserting an identification of the principle of subjectivity with the principle of reality. The projection of a reality 'behind' appearances was meaningless – there is nothing that can be known about it, by definition. Anything that one might say, or deduce, or guess, or posit, or dream about it can only be a transference of something from the world of appearance over into that world of non-appearing reality. On the other side, the positing of an absolute opposition between the subject and what appeared made no sense either. It was

¹¹⁹ Hegel 1802-3b, p. 56.

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a gap that could not be mediated or understood. It downgrades the role of the subject in organising its own experience – this is not to be seen as a hopeful reaching after a real world beyond experience, but simply the movement by which the real world is constituted. Thus the intervening ‘veil’ of appearances is dissipated into an all-encircling subject-determined reality, ‘the Absolute’.¹²⁰ Hopefully the forgoing discussion will have given at least a sense that behind such off-putting language there is a serious and at least potentially cogent argument: developed carefully from Kant’s analysis of the unconditioned act of self-consciousness judgment as the transcendental condition of all experience, and all the paradoxes consequent upon the impossibility of ever containing this moment *within* experience, pushed through to the radical conclusion of a spontaneous and in some sense *rational* activity as originally ‘productive’ of, and actively and subversively immanent *in*, all possible objectivity. As Andrew Bowie says, the Schellingian ‘Absolute’ should not ‘be thought of in mystical terms: it is initially just the result of the realisation of the relative status of anything that can be explained causally’; and ultimately can be seen as exercising a very similar philosophical function as the *différance* of today’s philosophies of ‘deconstruction’.¹²¹ And as Charles Taylor recognises in the case of Hegel, this project represents one of the first great attempts (he cites also Heidegger, Merleau-Ponty, and the later Wittgenstein) to overcome ‘the epistemological construal’ by showing that within its own terms the ‘central phenomenon of experience’ simply cannot be ‘made intelligible’, and in consequence advancing a ‘new conception by reference to ‘what we show to be the indispensable conditions of there being just anything like experience or awareness of the world in the first place.’¹²²

It is crucial to my argument that we begin to see in this philosophical effort at overcoming theoretical reflection the suggestion of a logically allied *political* programme that relativizes and points beyond the modern state form as it is normally understood. The political analogue of a post-epistemological theory of subjectivity and experience is thus a kind of post-procedural, post-institutional politics of collectivity and the common life. Any political theory that is premised on an initial assumed disunity of individuals can

¹²⁰ ‘When Reason recognizes itself as absolute ... philosophy begins where reflection and its style of thinking ends, that is, it begins with the identity of Idea and Being’. Hegel 1801, p. 112.

¹²¹ Bowie 1993, pp. 20-21; pp. 69-75.

¹²² Taylor 1987, p. 9.

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never make sense of the real possibility of political unity, and is doomed to collapse into unstable antinomies of arbitrary tyranny versus rule-less rebellion. Whatever their ultimate role or status, the legal rules and formal institutions of modern political life cannot be doing all the work of maintaining or unifying a social whole, they must at the very least be decentred, reconceived as the expression or reflection or maybe even restriction of a more fundamental ground of self-determining social unification and organisation. For a more recent (and similarly theoretically adventurous) example of an attempt to formulate such an idea we might look to Antonio Negri's distinction of 'constituent' from 'constituted' power, the latter as fixed in the top-down restrictions of legal and constitutional structures, the former as the immanent flux of dispersed social activity upon which all juridical forms are ultimately based, a dependence which it is in their nature to attempt to constrain and deny.¹²³ Constituent power is 'a productive source of rights and juridical arrangement that refuses to close and stubbornly repeats its claims in the face of juridical theory's and political philosophy's attempts to fix it in a final form';¹²⁴ Negri links it historically with the forces of radical democracy and revolution. And it certainly seems that something like this stood at the centre of the German Idealists' initial shared sense of philosophical and historical mission in the 1790s (formed, of course, under the impact of events in France). Schelling, Hegel and Hölderlin identified themselves as an 'invisible church' committed to the historical actualisation of the Kant's 'realm of ends' on earth, anticipating a cultural revolution in which, by John Toews' account, 'the ethic of rational self-determination was to become the collective ethos of an immanent historical community', reconstituting humanity as a 'community of self-legislating moral subjects who would not require the coercive control of political government'.¹²⁵

But to set a task of moving 'beyond reflection' is not to achieve it, nor is it to say how it is to be done, nor is it even to say that it can. Charles Taylor says of the primary 'experience of the world' that must be appealed to as we attempt to step out of the epistemological snare, '[j]ust how to characterize this reality, whose conditions we are

¹²³ See Negri 1992.

¹²⁴ Negri 1992, p. 25.

¹²⁵ Toews 1980, pp. 32-7; see also Pinkard 2000, p. 37.

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defining, can itself be a problem, of course.¹²⁶ For Schelling and Hegel the problem is quite how we are to become conscious or aware or in touch with the Absolute, given that by definition it is prior to and outside all acts of consciousness and awareness. And this problem will quickly lead them in divergent directions. Most revealingly, perhaps, the post-Kantian Idealist movement seems to split exactly down the line it had sought to heal in Kant's own philosophy – with Schelling following a wider Romantic tendency to look for the Absolute in intuition, immediacy, art, myth, religion, history, and the *Volke*; and Hegel finally arriving at his distinctive position with his decisive identification of the Absolute with the Concept, and a seemingly correlated political project mediated through legalism, constitutionalism, and rational bureaucracy.¹²⁷

‘From the Kantian philosophy and its highest completion, I expect a revolution in Germany’, Hegel had written to Schelling in 1795.¹²⁸ Almost 50 years later Bruno Bauer would write in the *Posaune* (a text in which Marx is thought to have had a hand) that for all its latter found respectability and moderation, at heart Hegel's philosophy ‘was revolution itself’.¹²⁹ In the meantime the radical philosophical project that Schelling and Hegel had conceived had, by very different routes, returned both of them to some kind of accommodation with the political and social realities of Restoration Prussia. The attempt of the Young Hegelians to break out of this circle by recovering the subversively critical impulse of the original Idealist programme provided the philosophical context within which Marx would conceive his own theoretical ‘revolution in the revolution’.

¹²⁶ Taylor 1987, p. 9. The most strident of today's anti-epistemologists such as Richard Rorty will insist that we should give up the attempt to say anything about ‘conditions of possibility’ at all. But see Bowie 1993, pp. 75-82 for a discussion of the feasibility of such a self-denial, and whether Rorty himself manages to maintain it.

¹²⁷ Toews writes that Hegel soon began to distinguish himself with his ‘overwhelming emphasis on the state proper, on law, administration and constitutional structures’, while the Romantic strand represented by Schliermacher ‘saw the state simply as the external organizational form of the organic communality of a people (*Volke*) sharing the same language and cultural traditions’. Toews 1980, p. 54; p. 57. On the Hegel-Schelling split see also Lukács 1954, pp. 423-47; Harris 1983; and Hofstadter 1984.

¹²⁸ Pinkard 2000, p. 55.

¹²⁹ Quoted in Rosen 1977, p. 118.

Marx's student writings

Berlin, 1837-1841

'The mistake lay in my belief that matter and form can and must develop separately from each other, and so I obtained not an actual form, but something like a desk into which I then poured sand.'

– Karl Marx, 'Letter from Marx to his Father in Trier' (1837)¹

'...the *practice* [*Praxis*] of philosophy is itself *theoretical*. It is the *critique* that measures the individual Existence by the Essence, the particular Actuality by the Idea. But this *unmediated realisation* [*unmittelbare Realisirung*] of philosophy is in its deepest essence afflicted with contradictions...'

– Karl Marx, *Difference Between the Democritean and Epicurean Philosophy of Nature* (1841)²

1. Law and philosophy

In November 1837 Karl Marx, then a nineteen-year-old undergraduate at the University of Berlin, wrote a long letter to his father which survives today as the first substantial document of his early intellectual development. Obviously such a fragment cannot be made to bear an excess weight of interpretative significance. Nevertheless the letter has proved a useful source of information on Marx's student days as, written at the beginning of his second year in Berlin, it recounts the course of his work and ideas during the

¹ Marx 1837b, p. 15 / p. 11, translation modified.

² Marx 1841, p. 85 / p. 68, translation modified

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previous 12 months. Moreover, the year under review is a pivotal one: for the letter seems to record the moment of Marx's conversion to some form of Hegelianism. As Toews describes, the first Hegelians saw themselves as 'a spiritual community of individuals who had attained a state of being and knowledge that elevated them above the merely finite standpoint of the perceptions, cares, and desires of the empirical ego'; to become a Hegelian was to 'undergo an existential transformation, a philosophical "rebirth".'³ The purple prose in which Marx records this moment customarily opens biographical accounts of his life: 'There are moments in life which are like frontier posts marking the completion of a period but at the same time clearly indicating a new direction'.⁴

But what concerns us is the extent to which Marx's new philosophical identity is formed by and articulated with respect to precisely the kind of epistemological and post-epistemological issues we have been discussing; issues that, moreover, are brought to a head for Marx directly through his immersion in the methodological problems of studying law.⁵ Marx's father, Heinrich, was a prominent practising lawyer in Trier, for many years president of the city lawyer's association, so one can presume that a legal career was a natural choice for his eldest son. However, after spending a year in the Law Faculty at the University of Bonn and transferring to Berlin in October 1836, the young student's evident preference for 'jurisprudence' (*Jurisprudenz*) over 'administrative science' (*Verwaltungswissenschaft*)⁶ had led his father to accept that his best line of advancement would be academic.⁷ This burgeoning intellectual curiosity is described in Marx's letter as he recounts his first semester at Berlin.

³ Toews 1980, pp. 89-90.

⁴ Marx 1837b, p. 10 / p. 9.

⁵ As far as I am aware the only substantial discussion of the methodological and philosophical issues raised by Marx's letter is Kelley 1978, which usefully contextualises it within jurisprudential debates of the time. For a general account of the centrality of legal debates to the philosophical and cultural life of Germany in this period, a result of the centrality of the profession to the development of a public intelligentsia, see Ziolkowski 1990, pp. 68-80.

⁶ Marx 1837b, p. 20 / p. 17.

⁷ See Heinrich Marx's letters to Karl dated 28 December 1836, and 3 February 1837, in Marx and Engels 1975, Volume 1.

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I had to study law and above all felt the urge to wrestle with philosophy. The two were so closely linked that, on the one hand, I read through Heineccius, Thibaut and the sources quite uncritically, in a mere schoolboy fashion, thus, for instance, I translated the first two books of the Pandect into German, and, on the other hand, tried to elaborate a philosophy of right covering the whole field of right.⁸

In Germany during the nineteenth century, as across much of the continent, ‘common law’ (*gemeines Recht*) consisted in the application of Roman law principles derived from the *Corpus Iuris Civilis*, the legal compendium produced in the sixth century on the basis of the writings of the great Roman jurists. These comprise the ‘sources’ to which Marx refers in his letter, including the ‘Pandects’ on which J. G. Heineccius and A. F. Thibaut had both authored standard commentaries. Immersion in such ancient texts was considered necessary – and, indeed, almost sufficient – for a career in Prussian law.⁹ At Berlin, Roman Law was taught by Professor Friedrich Carl von Savigny – Marx attended his lectures on the *Pandects* throughout the winter semester, from October 1836 to March 1837. Savigny was by this time a towering figure in German jurisprudence, as the recognised leader of the ‘historical school’ descended from Gustav Hugo. The Roman jurists thought of themselves as transcribing the *ratio iuris*, or law of reason,¹⁰ and this is how they were read in Europe for much of the medieval and early modern period – it is from this basic conception that the natural law tradition stems. But the historical school was in general a reaction to the lofty ratiocinations of natural law theory, the revolutionary implications of which were still fresh in conservative German minds,¹¹ and

⁸ Marx 1837b, pp. 11-12 / p. 10, translation modified.

⁹ In *The Uses of the Study of Jurisprudence* John Austin reported of the German universities where he had prepared his seminal *Lectures* in the late 1820s, only a few years before Marx arrived at Berlin, that ‘little or no attention is given by the Law Faculty to the actual law of the country. Their studies are wholly or almost entirely confined to the general principles of Law; to the Roman, Canon, and Feudal Law, as the sources of the actual system.’ Austin 1832, p. 381.

¹⁰ See Schulz 1936, pp. 34-6, and d’Entrèves 1970, pp. 36.

¹¹ This agenda is made explicit in the preface to Savigny’s *Of the Vocation of Our Age for Legislation and the Science of Right*, which criticises proposals for codification in Germany which Savigny ties to the ‘many plans and experiments of this kind’ put forward ‘since the middle of the eighteenth century. During this period the whole of Europe was actuated by a blind rage for improvement. But this has provoked a ‘new and more lively love for what is permanent ... An historical spirit has everywhere been awakened, and

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took its lead from Hugo's groundbreaking *History of Roman Law*, which re-situated the definitions and propositions of the *Corpus* in the social and economic life of the Roman civilisation in which they had their meaning.

It seems, however, that Marx was incapable of simply accepting law as a body of positive knowledge to be learned by rote – somehow, in order to make sense of it, he felt he had to think it through from first principles. Marx is not content to trawl through the sources ‘uncritically, in a mere schoolboy fashion’ – which remains Savigny’s final prescription. Marx’s interest in philosophy may already indicate the influence of Eduard Gans, the protégé of Hegel lecturing at the same time in Berlin on criminal law. In 1839 Gans would publish a pamphlet attacking Savigny’s empiricism and uncritical historicism, charging that he had attempted to derive the right of property from the mere fact of possession.¹² This basically Kantian argument¹³ against Savigny may have then motivated Marx’s attempt to devise his own philosophy of right in the winter of 1836-7, and which he explicitly aligns with the approach of Kant and Fichte. This ‘opus’, which according to Marx ran to three hundred pages, is not extant; all we have is Marx’s own report of it in his letter of November 1837. It began with an introduction consisting solely of ‘metaphysical propositions’ – ‘what I was pleased to call the metaphysics of right, i.e., basic principles, reflections, definitions of concepts, divorced from all actual right and every form of right; as occurs in Fichte’.¹⁴ The aim was ‘the formation of the concept of right’. Marx’s description of the main part, which he calls the philosophy of right itself, is more confusing: an examination of the development of ‘positive Roman right’. This was divided into a ‘formal’ and ‘material’ section. The theory of formal right presented ‘the pure form of the system in its sequence and interconnections, its subdivisions and scope’,

leaves no room for the shallow self-sufficiency above alluded to’. Savigny 1814, pp. 20-22.

¹² See Kelley 1978, p. 48; Hoffheimer 1995, pp. 42-6.

¹³ See Kant 1797, pp. 386-7, 6:229-30: ‘the question “what is right?” might well embarrass the *jurist* if he does not want to ... refer to what the laws in some country at some time prescribe. He can indeed state what is laid down as right (*quid sit iurus*), that is, what the laws in a certain place and at a certain time say or have said. But whether what these laws prescribed is also right, and what the universal criterion is by which one could recognize right as well as wrong (*iustum et iniustum*), this would remain hidden from him unless he leaves those empirical principles behind for a while and seeks the sources of such judgments in reason alone...’

¹⁴ Marx 1837b, p. 12 / p. 10, translation modified.

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that is, ‘the necessary architectonics of conceptual formations’. The second ‘described the content, showing how the form becomes embodied in its content’, or, ‘the necessary quality of these formulations’.¹⁵ Marx compares this distinction to that maintained by Savigny in the *Treatise on Possession* (which he had read subsequently), and indeed the project itself sounds not unlike Savigny’s *System of Modern Roman Law* (which was published in 1840, but may be a good indicator of the style of the lectures which Marx heard Savigny give on the subject).¹⁶ Marx illustrates his approach by laying out his division of contracts, ‘the basic plan of which borders on that of Kant’, which indeed it does.¹⁷

But by the time of recalling this in his letter Marx has renounced the entire effort, having seen, he says, the ‘falsity of the whole thing’. ‘[I]t became clear to me that there could be no headway without philosophy’, and he returns again to metaphysical first principles, but soon gives this up completely and seeks comfort in his poetry. The verses which Marx compiled at this point are still with us, and although short on literary merit, do contain an interesting ‘Epigram on Hegel’ which portrays the philosopher as pompous and obscurantist.¹⁸ At this point, according to his letter, Marx ‘had read fragments of Hegel’s philosophy, the grotesque and craggy melody of which did not appeal to me’.¹⁹ The lines,

Kant and Fichte soar to heavens blue
Seeking for some distant land,
But I seek to grasp profound and true
That which – in the street I find

¹⁵ Marx 1837b, pp. 12-17 / pp. 11-15, translation modified.

¹⁶ Savigny 1804, pp. 3-4; p. 71. The *System of Modern Roman Law* seems to retain the distinction – see Savigny 1840, p. 2-3.

¹⁷ See Kant 1797, pp. 433-4, 6:285-6.

¹⁸ ‘Since I have found the Highest of things and the Depths of them also/Rude am I as a God, cloaked by the dark like a God/ ... Words I teach all mixed up into a devilish muddle, / Thus, anyone may think what he chooses to think ... Now you know all, since I’ve said plenty of nothing to you!’ Marx 1837a, p. 576 / p. 644.

¹⁹ Marx 1837b, p. 18 / p. 16.

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have been interpreted as an early formulation of Marx's materialism,²⁰ but as David McLellan points out, this portrayal of Hegel as short-sighted and prosaic can only be negative in intent given Marx's continuing commitment to an idealist romanticism.²¹ It is interesting nevertheless that they suggest that Marx is *aware* of the Hegelian critique of the Kantian-Fichtean projection of a 'beyond' (*jenseits*),²² and indeed that he goes along with the lumping together of the two thinkers – it is between Kant and Fichte on the one side, and Hegel and Schelling on the other, that the important philosophical battle lines are drawn.

In fact these verses, written around March 1837, probably give us Marx at the last moment before the decisive 'break' – in the letter of November he is critical of their pervasive 'idealism'.²³ Soon afterwards he falls ill, and moves to the outskirts of the city, and it is here that he falls 'into the arms of the enemy'. It is now that the definitive inversion of heaven and earth, transcendent and immanent takes place.

A curtain had fallen, my holy of holies was rent asunder, and new gods had to be installed. From the idealism which, by the way, I had compared and nourished with the idealism of Kant and Fichte, I arrived at the point of seeking the Idea [*die Idee*] in actuality [*im Wirklichen*] itself. If previously the gods had dwelt above the earth, now they became its centre.²⁴

It is telling that these lines have confused some commentators into suspecting that Marx here *already* is looking for a 'materialism' beyond Hegelian idealism. For it is true that they

²⁰ Johnston 1967, p. 261.

²¹ McLellan 1970, pp. 65-6. One needs only to recall Kant's opposition of eyes that 'scan the heavens' to the 'mole-like gaze' of the practical empiricist to realise that the same image can be employed with opposite evaluations. Kant 1793, p. 63.

²² See Hegel 1802-3b, p. 56, on Kant, Fichte and Jacobi: 'Reason, having in this way become mere Understanding, acknowledges its own nothingness by placing that which is better than it in a *faith outside and above* itself, as a *beyond* [to be believed in]'.

²³ Marx 1837b, p. 17 / p. 15.

²⁴ Marx 1837b, p. 18 / pp. 15-16, translation modified. Marx also makes the important association of idealism with a 'beyond' in describing his earlier romantic poetry: 'owing to my attitude and whole previous development it was purely idealistic [*idealistisch*]. My heaven, my art, became a world beyond [*jenseits*], as remote as my love'. Marx 1837b, p. 11 / p. 10.

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do seem to point Marx in what would subsequently be seen as a ‘materialist’ direction – away from the construction of abstract principles and for the concrete investigation of society and history. And it is also clear that Marx at this point seems to reserve the term ‘idealism’ for the subjective idealism of Kant and Fichte. But at the same time we must recognise that this turn to the immanent is wholly in accordance with the project of both Schelling and Hegel’s post-Kantian project.²⁵

The impact of Hegel’s vision of Reason’s immanence in the legal forms of the social world is clear as Marx renounces his earlier attempts to draw up a pure metaphysics of right.

[I]n the concrete expression of a living world of ideas, as exemplified by right, the state, nature, and philosophy as a whole, the object itself must be studied in its development; arbitrary divisions must not be introduced, the rational character of the object must develop as something imbued with contradictions in itself and find unity in itself.²⁶

Marx’s earlier separation of ‘the formation of the concept of right’ from the examination of ‘positive right in its conceptual development’ now seems to him hopelessly wrong-headed, as does his analytical separation of the latter into its formal structure and material content:

The mistake lay in my belief that matter and form can and must develop separately from each other, and so I obtained not an actual form, but something like a desk into which I then poured sand. The concept is indeed the mediating link between the form and content. In a philosophical treatment of right, therefore, the one must arise in the other; indeed, the form should be only the continuation of the content.²⁷

²⁵ Teeple contends, implausibly I think, that ‘[i]f Marx had actually adopted Hegel’s idealism he would *not* be able to say that he intended to “seek the idea in reality itself”’. Teeple 1984, p. 8.

²⁶ Marx 1837b, p. 11 / p. 12, translation modified.

²⁷ Marx 1837b, p. 15 / p. 11. Compare Donald Davidson ‘On the Very Idea of a Conceptual Scheme’: ‘We cannot attach a clear meaning to the notion of organizing a single object (the world, nature etc.) unless that object is understood to consist in other

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Marx identifies the fundamental cause of his problems in the terms of a well-known Hegelian slogan: 'the same opposition between what is [*des Wirklichen*] and what ought to be [*Sollenden*], which is characteristic of Idealism, stood out as a serious defect and was the source of the hopelessly incorrect division of the subject-matter'.²⁸

It is striking that Marx appears to triangulate his new position retrospectively as an overcoming of both the empiricism of conventional legal studies and the Kantian-Fichtean formalism of his initial idealism, in this way echoing the narrative of Hegel's *Natural Law* essay.²⁹ Thus empiricism seems to be regarded by Marx as philosophically insufficient, unable to give an account of its own or its object's status. Kantian idealism is ultimately rejected as turning on an incoherent opposition of conceptual 'form' and material 'content' that restricts theoretical and practical success to an impossible 'ought'. And his new outlook is set forth in terms that foreground the abolition of any notion of a 'Beyond' and its replacement with a new principle of immanence.

Of course, we cannot claim to know much of how Marx read Hegel in 1837 on the basis of a few pointed declarations such as this. But even at this stage we can see the broad parameters of Marx's intellectual course being laid down in this dual critique of empiricist historicism and formal idealism. First of all, law itself is decentred. Relations of right and their positive codification are no longer seen as the foundation and truth of the social, but a formalised expression of real human relationships, merely one 'moment' in a larger 'totality'. Secondly, this totality is not static, but assumed to undergo a continual 'development'. If the totality is a complex one, we may assume that this development will be uneven, creating the possibility of spheres and relationships that are out of step with one another. Finally, and most crucially, rational criticism of what exists cannot proceed from a timeless normative ideal against which reality is measured. Any such ideal must be

objects. Someone who sets out to organise a closet arranges the things in it. If you are told not to organize the shoes and shirts, but the closet itself, you would be bewildered. How would you organize the Pacific Ocean?' I think the similarity of the metaphors is not fortuitous – a very similar philosophical point is being made. Davidson 1974, p. 192.

²⁸ Marx 1837b, p. 10 / p. 11, translation modified.

²⁹ Marx claims in his letter to have 'got to know Hegel from beginning to end, together with most of his disciples' while recovering from his illness in spring 1837, and it seems plausible that, as a law student, this would be natural text for Marx to turn to for a possible solution to his problems. The salience of Hegel as a solution to the methodological dilemmas of jurisprudence may also have been a key message in the lectures of Gans, who 'thought he found a way of overcoming the gap between existing law and the philosophical study of law.' Hoffheimer 1995, p. 21.

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fundamentally empty, gaining an illusory substantiality only from an assumed content that fills it arbitrarily – a carefully carpentered desk with its drawers full of sand. Opposition of the rational to the real must be seen in terms of immanent contradictions within that developing reality, grounded in and expressing new forms of life appearing within the dead shell of the old. The old paradox of classical jurisprudence, so offensive to positivism – *lex injusta non est lex*, an unjust law is no true law – is embraced by Marx as the revolutionary dynamic of history itself.

2. Epicurean atomism: objectifying the contradiction

Karl Marx's doctoral dissertation of 1841 on the *Difference between the Democritean and Epicurean Philosophy of Nature* is without out a doubt one of the most difficult texts to understand in his entire corpus. The reasons for this are multiple: the text itself is incomplete, with some chapters and most of an important appendix missing completely; although some of Marx's notebooks are extant, beyond this very little is known about Marx's life and intellectual activities during the period of its preparation; the dissertation itself concerns the teachings of thinkers of antiquity, Democritus and Epicurus, whose own teachings have come down to us only in fragmentary, uncertain, and often inconsistent second hand reports and reconstructions; and the discussion is couched in a dense, intricate and frequently obscure conceptual terminology. Moreover, in addition to the formidable challenges attending any attempt to work out just what Marx is trying to say in this work, further questions then arise as to the assessment of what he might have been trying to do in saying what he says – given that any explicit setting out of his purposes might have been ruled against by considerations of both academic and political propriety.

For these reasons, accounts of Marx's early writings usually focus on marginal elements of the document whose import seems clearer – some highly rhetorical attacks on religion, and some passing comments on the situation of the 'Young Hegelian' school and their relationship to Hegel. Insofar as the main argument of the dissertation itself has been explored, it has given rise to an extraordinarily diverse array of differing interpretations, one might even say, a near-exhaustive matrix of just about every logical possibility. Commentators have produced directly opposed accounts of whether Marx means to uphold the arguments of Epicurus or criticise them, and given reasons (on both

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sides) that he sees Epicurus as essentially a materialist, an idealist, an anti-Aristotelian atomist, a crypto-Aristotelian anti-reductionist, a proto-Kantian, a proto-Hegelian, or a proto-Young Hegelian. Thus it has been suggested that Marx sees Epicurus's emphasis on free will as providing a philosophy of self-consciousness analogous to that of Young Hegelians such as Bruno Bauer, and that he for this reason praises Epicurus,³⁰ or criticises him from a more conventional Hegelian standpoint;³¹ that Marx sees in Epicurus an anti-essentialist, anti-teleological materialism that provides an attractive alternative to Democritus's ultimately idealist teleological determinism,³² or that Marx sees the contradictions in Epicurus as demonstrations of the inadequacy of atomism, compared to an Aristotelian essentialism that Marx prefers,³³ or that he sees Epicurus as attempting to devise a non-reductionist materialism that is akin to Aristotle's and so can be wielded against Hegelian idealism;³⁴ that Marx sees Epicurus as essentially a Kantian whom he criticises from a Hegelian standpoint,³⁵ or that the contradictions in Epicurus are Hegelian rather than Kantian and so for this reason to be welcomed,³⁶ or that Epicurus is an idealist and for this reason preferred by Marx to the materialism of Democritus and Aristotle.³⁷ I do not claim to present here a final resolution to these debates, nor to answer every question that might be asked about Marx's dissertation, and certainly not to provide elucidation of its every aspect or passage. I do however think that if we keep a clear view of what Marx actually does and claims to do in the text, and particularly suspend our demands for answers to questions that it may not have been Marx's intention to provide, then we can draw out some themes and lines of argument that, even if they may not get to the bottom of what Marx was trying to achieve with this piece of work, do at least give evidence of some of the issues and ideas that he was concerned with during his time in Berlin.

³⁰ McLellan, 1970, pp. 83-5.

³¹ Browning 2000; Kouvelakis 2003, pp. 241-2.

³² This seems to have been the basis of Althusser's interest in Epicurus during his later years. See Suchting, forthcoming.

³³ Meikle 1985, pp. 8-9, 15.

³⁴ Burns 2000

³⁵ McCarthy 1997, pp. 27-40.

³⁶ Fenves 1986.

³⁷ Pike 1999, pp. 21-30.

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Marx states explicitly at the outset of his study that it falls broadly in line with Hegel's account, and works within the same general approach.³⁸ But Marx will be able to go into more detail, and as a result bring out the importance of these systems for the overall history of Greek thought in a way that the 'giant thinker' may have overlooked. Given Marx's situation of his text in this way, then Hegel does indeed seem to be the most obvious point of comparison for gaining a perspective on both the presuppositions and the innovations of Marx's contribution. But for these purposes our most useful starting point will not be what we take to be Hegel's positions on 'idealism' versus 'materialism', 'essentialism' versus 'atomism', 'contradiction' versus 'non-contradiction' (and as we shall see, such categories simply cannot capture the complexities involved), but what Hegel actually said about the subject at hand: the philosophies of Democritus and Epicurus.

Hegel's history of atomism

Hegel presents the atomistic theory of Leucippus and Democritus as part of the cycle of early Greek philosophy which traces a dialectic of 'pure thought', moving through the opening categories of his own *Logic*: 'Being' (Parmenides), 'Becoming' (Heraclitus), and 'Being-for-self' [*Fürsichsein*] which with Leucippus 'became the absolute determination'.³⁹ As with all such conceptual staging posts in the historical development of philosophy, the atomic principle 'must from this point of view always exist; the being-for-self must in every logical philosophy be an essential moment'; and yet at the same time 'it must not be put forward as ultimate' as the atomists did.⁴⁰

This limitation is enacted historically by the failings of Leucippus and Democritus to deploy their theory of atoms in explanatory accounts of any actual natural phenomena. The atoms may be thought of materially, but Hegel stresses that the atom is 'supersensible, purely intellectual ... an abstraction of thought'. They are not observable,

³⁸ Marx 1841, pp. 29-30 / pp. 13-14.

³⁹ Hegel 1832-4a, p. 302

⁴⁰ Hegel 1823-4a, p. 302. In the *Logic*, atomism makes an appearance to illustrate the point at which Being-for-self issues into the category of 'Quantity', through the positing or repulsion of 'many Ones'. Hegel 1830a, p. 155, § 98.

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and the philosophy is consequently ‘not at all empirical’ – ‘the atom and the vacuum are not things of experience’.⁴¹ It is ‘the instinct of Reason to understand the phenomenal and the perceptible’;⁴² but it is clear that there is no possibility of ‘getting any further’ on this basis.⁴³ From these two abstract and ultimately empty principles – atoms and the void – we cannot derive anything concrete and determined: ‘Whence comes the determinate character of plants, colour, form?’ All we can ever say is that the atoms arrange themselves in such a way as to produce such effects – this is no explanation but ‘tautological’ redescription. Leucippus and Democritus attempted to resolve this problem by ascribing different shapes and qualities to the atoms,⁴⁴ but this development was ‘inconsistent’ with the atomic principle ‘for as the entirely simple One, the atoms are perfectly alike, and thus any such diversity cannot come into the question’.

Standing at the end of a historical process that the pre-Socratic philosophers mark the beginnings of, Epicurus takes up this theory again, but this time within the general form of the post-Aristotelian systems, with their symptomatic emphasis on moral and theoretical epistemology (‘the criterion’) and its instantiation in the individual subject, resulting in the signature ideal of the *sophos* or ‘wise man’.⁴⁵ This reshaping of the agenda of philosophical thought is an effect of the break-up of the original Greek unity of the individual with their ethical community and natural environment – now inquiry is devoted not to nature as it is in itself, and its reflection in the organisation of the polis, but concerns how we come to have knowledge of the true and the good, and how this principle is realised in the scientific or ethical practice of specific individuals.⁴⁶ As is often pointed out by commentators, the metaphysical principles of Epicureanism are neatly paralleled by what is seen as one of the earliest explicit developments of a ‘social contract’ theory of the origins of political society, and the general recommendation of

⁴¹ Hegel 1832-4a, p. 303.

⁴² Hegel 1823-4a, p. 308.

⁴³ Hegel 1823-4a, p. 306.

⁴⁴ Hegel 1832-4a, p. 307.

⁴⁵ Charles Taylor ascribes to the Epicureans and Sceptics of late antiquity a harbinger of the ‘self-defining subject of modern epistemology’ and the modern self ‘defined in abstraction from any order’. Taylor 1975, p. 7.

⁴⁶ Hegel 1823-4b, pp. 234-5. See also Hegel 1823-4a, pp. 474-5. Marx sets down his own version of this narrative in his ‘preparatory notebooks’ – see Marx 1839, pp. 432-441 / pp. 39-47.

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privatism and political quietism as the way to true happiness and fulfilment. This is seen as the basis for their popularity amid the instabilities and disappointments of late republican Rome.⁴⁷ For Hegel, this is part of the transition to the abstract individualism of the Roman Empire⁴⁸ – indeed, with Epicurus we are really dealing not with Greek thought but with a ‘philosophy of the Roman world’.⁴⁹

Epicurus thus stands at a more advanced stage in the historical development of spirit, for Hegel, who has much to say about his ethical principles; but his reversion to the philosophical atomism of Democritus and Leucippus is at this point in time an even more impoverished metaphysical standpoint, and he falls into the same problems. When the time comes to ‘indicate the relation of atoms to sensuous appearance, to allow essence to pass over into the negative’, Epicurus ‘rambles amidst the indeterminate which expresses nothing ... All particular forms, all objects, light, colour, &c., the soul itself even, are nothing but a certain arrangement of these atoms’.

... there is no bridge from this to that, or what results is simply empty tautology, according to which the parts are arranged and combined as is requisite in order that their appearance may be what it is. The transition to bodies of concrete appearance Epicurus has either not made at all, or what has been cited from him as far as this matter is concerned, taken by itself, is extremely meagre.⁵⁰

For Hegel ‘the determination of the atoms, as originally formed in this or that fashion, and having original magnitude of such and such a kind, is a purely arbitrary invention’ making any attempt to apply the Epicurean principle utterly ‘wearisome’. Epicurus’s most famous innovation, the deviation of atoms from the straight line, seems to be regarded by Hegel as just another inconsistency into which he is forced by these problems, along with the ascription of different qualitative properties. ‘Atoms, as atoms, must remain undetermined; but the Atomists have been forced to take the inconsistent course of

⁴⁷ See Godwin 1994, pp. xxiv-xxv.

⁴⁸ For this narrative see Hegel 1956, especially pp. 278-280. For its take-up by Bauer, usually seen as a key influence on Marx’s choice of subject, see Rosen 1977, pp. 149-151.

⁴⁹ Hegel 1823-4b, 234-5.

⁵⁰ Hegel 1823-4b, p. 291.

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ascribing properties to them: the quantitative properties of magnitude and figure, the qualitative property of weight'.⁵¹

Overall Hegel's complaint is that Epicurus's system is ultimately 'devoid of thought' and by definition unable to 'reach the Concept', for 'the philosophic activity of Epicurus is ... directed towards the restoration and maintaining of what is sensuous'.⁵² At a less developed stage in philosophical history, the earlier atomism of Democritus and Leucippus is credited with giving the 'ideal principle' of 'being-for-self' its first clear expression in the form of pure thought.⁵³ But Epicurus's primitive empiricism 'banishes thought as implicit, without its occurring to him that his atoms themselves have this very nature of thought; that is, their existence in time is not immediate but essentially mediate, and thus negative or universal'.⁵⁴

Marx's correction

It is this assessment of Epicurus, as a dogmatic and unsophisticated empiricist who cannot reflect on the status of his atomic principle as a construction of consciousness, that Marx seems to want to take issue with. Marx opens his thesis by drawing attention to the outstanding 'riddle' that while Democritus and Epicurus 'teach exactly the same science', an atomistic metaphysics, they 'stand diametrically opposed' on *epistemological* issues – that is, 'all that concerns truth, certainty, application of this science, and all that refers to the relationship between thought and reality in general'.⁵⁵ Having posed this problem of epistemological discontinuity, Marx returns to the atomistic theories of both thinkers, and argues that the differences between them are not marginal and contingent but of the utmost importance. The interest of Epicurus lies in the fact that his very paradoxes written into his metaphysical model embody or enact the fact that, as Hegel

⁵¹ Hegel 1823-4b, p. 288.

⁵² Hegel 1823-4b, p. 279. See also p. 277: '[I]f existence for sensation is to be regarded as the truth, the necessity for the Concept is altogether abrogated, and in the absence of speculative interest things cease to form a united whole'.

⁵³ Hegel 1823-4a, p. 302.

⁵⁴ Hegel 1823-4b, p. 292.

⁵⁵ Marx 1841, p. 38 / p. 25.

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had pointed out, no 'bridge' can be made from his atomistic principles and the realm of sensible of appearance.⁵⁶ In doing so, Marx says, Epicurus's atom 'objectifies' (*vergegenständlicht*) a contradiction between 'essence' and 'existence', or matter and form,⁵⁷ or the movement by which the atom is necessarily 'alienated' (*entfremdet*) from its 'concept'. It is in the declination of the atom from the straight line that 'the contradiction inherent in the concept of the atom is realised', and the 'essence of the repulsion' is grasped 'in sensible form'.⁵⁸ Similarly Epicurus confronts and squarely affirms the paradox that the atom in its concept must be without qualities, and yet it must take on qualities if it is to acquire an 'externalised existence'.⁵⁹ '[O]nly the atom with qualities is the complete one, since the world of appearance can only emerge from the atom which is complete and alienated [*entfremdeten*] from its concept'.⁶⁰ The Epicurean distinction between atomic 'principles' (*Atomoi archai*) and 'elements' (*atoma stoicheia*) marks opposition between the atom as the indeterminate basis of appearance and as the qualitative element of appearance.⁶¹ And in making time the 'absolute form' of appearance despite its definitional exclusion from 'the world of essence', Epicurus

⁵⁶ Warren Breckman suggests that an influence here may be Feuerbach's 1833 *History of Recent Philosophy*, which argued that 'atomism cannot provide a basis for a metaphysical system, because he could see no way to proceed from the quantitative enumeration of atoms to qualitative universal concepts'. Breckman 1999, p. 266. Certainly this is possible (we know from his notes that Marx did study Feuerbach's *History*), but as we have seen this is a standard Hegelian (and, indeed, Leibnizian) argument against pure atomism and mechanism. Hegel explicitly endorses Leibniz's criticism of modern mechanism along these lines at Hegel 1830a, p. 190, § 121, Addition.

⁵⁷ '[T]he whole Epicurean philosophy of nature is pervaded with the contradiction between essence and existence, between form and matter'. Marx 1841, p. 71 / p. 56.

⁵⁸ Marx 1841, p. 53 / 39, translation modified. It is notable that Marx himself here *dismisses* Bayle's argument that Epicurus posits the declination in order to explain the phenomenon of human freedom, as 'superficial' and 'disconnected'. Marx 1841, p. 48 / p. 35. Therefore I think we must conclude that David McLellan's account misses the point where it states that Marx 'unfavourably contrasts the mechanistic determinism of Democritus with the Epicurean ethic of liberty' and that 'Marx's preference seems to be arrived at solely by comparing their two respective moral philosophies; as philosophers and natural scientists, Democritus is by far the more profound and original thinker'. McLellan 1972, p. 83.

⁵⁹ Marx 1841, p. 54 / p. 4.

⁶⁰ Marx 1841, p. 62 / p. 48.

⁶¹ Marx 1841, p. 62 / p. 48.

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‘makes the contradiction between matter and form the characteristic of the nature of appearance’.⁶²

I think that if we stand back from the detail of Marx’s commentary and focus on what he explicitly presents as the central argument, it is impossible to avoid the conclusion that we are being presented with a variant of the two-tiered structure of ‘Reflection’ and its paradoxes that Schelling and Hegel had diagnosed and that we discussed in the previous chapter. This is already implicit in Hegel’s original account of the atomism of both Democritus and Epicurus, who are seen to posit atoms and the void as the principles ‘behind’ sensible appearances, and, in Hegel’s account, get into similar difficulties when it comes to accounting for their knowledge of such principles or their connection with the appearances they are said to explain or ground. Marx’s strong interest in this issue is suggested by the fact that he seems here to be raising the discussion to a more rigorous level by translating it into the terms of Hegel’s ‘Doctrine of Essence’,⁶³ the middle section of the *Logic* that is precisely concerned with the analysis of ‘reflective’ forms of consciousness and experience. According to Hegel this part of the *Logic* deals with ‘the categories of metaphysics and of the sciences generally’ as ‘products of the reflecting Understanding’.⁶⁴

The ‘Doctrine of Essence’ thus provides the canonical reformulation of the critique of ‘reflection’ and the ‘Understanding’ in Hegel’s mature system, and can be seen as the primary location for the central anti-epistemological and indeed post-metaphysical argument that drives his whole philosophical project. Thus Stephen Houlgate presents it as Hegel’s central *anti-foundationalist* text: Hegel ‘believes that the concept of essence itself undermines the illusion (which it generates) that there is a foundation to being, and so prepares the way for the non-foundational insight that being is itself self-determining reason’.⁶⁵ And as Pippin reiterates, ‘contrary to many popular interpretations of Hegel (the ones with world spirit behind the scenes, pulling the historical strings), it appears

⁶² Marx 1841, pp. 63-4 / pp. 48-9.

⁶³ For Marx ‘the concept of the atom’ is ‘the world of essence’. Marx 1841, p. 63 / p. 48. Compare Hegel 1812, p. 483: ‘essence has passed over into Existence; Existence is essence’s absolute emptying of itself or self-alienation’.

⁶⁴ Hegel 1830a, p. 179, § 114. See also Hegel 1830a, p. 176, § 112, addition: ‘The standpoint of essence is in general the standpoint of reflection’.

⁶⁵ Houlgate 1999, p. 28.

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that the major point of this section is to argue that there is literally *nothing* “beyond” or “behind” or responsible for the human experience of the world of appearances’.⁶⁶

I do not propose here to embark on a detailed tour of the intricate structure of this construction, only to emphasise the general argument that seems to me to be the unmistakable framework of Marx’s analysis of Epicurus. The ‘Doctrine of Essence’ is premised upon the lesson of the previous, first section of the *Logic*, the ‘Doctrine of Being’, that for reality or experience to be determinate it cannot be a matter of simple immediacy (as, for example, given in pure sensible intuition or abstract speculation) but must be organised (in itself, or by us)⁶⁷ into ‘essences’ of which the simple ‘immediacy’ of appearance is the ‘mediation’.⁶⁸ A salient example of this move from simple immediacy to necessary mediation would be Kant’s demonstration of the insufficiency of sense data to determine a coherent experience. And indeed this is the section of the *Logic* that most closely corresponds to the activity of the Understanding as analysed by Kant, whose account of our self-conscious organisation of sensible intuitions into determinate interacting substances (behind which lurk mysterious ‘things-in-themselves’) is a prime case of ‘external’ reflection or ‘essence-positing’ for Hegel. But the same can be said for Descartes’ argument for ‘matter’ as the permanent substance beneath the flux of changeable phenomena, or Leibniz’s argument for the necessity of supplementing simple Cartesian materialism with a higher order of teleological ‘forces’ – the positing of ‘essence’ behind the simple and immediate is a basic move that we find rehearsed in an

⁶⁶ Pippin 1989, p. 206. See also Zizek 1993, pp. 125-161, for a discussion which, in a similar vein, endeavours to show how the ‘Doctrine of Essence’ provides a critique of just the kind of metaphysical ‘essentialism’ that Hegel is often assumed to be propounding himself.

⁶⁷ The discussion of Hegel’s *Logic* is necessarily equivocal about whether it is describing the possible ways in which we as subjects might conceptualise our experience (the ‘path of knowing’), and the necessary interconnections between them, and the possible ways in which the ‘reality’ might be organised *in itself* (the ‘movement of being’). This is because the post-epistemological conclusion it arrives at and is seeking to demonstrate is that there is no meaningful distinction to be drawn between the two. If we don’t keep this end-point in mind, however, it can along the way easily look like either a Kant-style epistemology of necessary categorical determinations or (more notoriously) a divine or metaphysical master plan of everything that exists or happens.

⁶⁸ ‘[W]hen we say ... that all things have an essence, what we mean is that they are not truly what they immediately show themselves to be. A mere rushing about from one quality to another ... is not the last word; on the contrary, there is something that abides in things, and this is, in the first instance, their essence’. Hegel 1830a, p. 176, § 112.

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extraordinary variety of complex and sophisticated ways in the history of modern philosophy. In all cases, however, a two-tiered structure is set up, which Hegel follows through some familiar modulations: 'essence' as the timeless substrate of a thing, persisting through its temporal changes; or as the real truth of a thing set apart from its mere 'semblance' [*Schein*]; or as what is 'expressed' by its necessary 'appearance' [*Erscheinung*]; or as the essential core of a thing amid its contingent 'accidents' or inessential 'properties' or 'qualities'; or as the explanatory 'ground' or 'reason' for observed or external 'existence'.

There is a sense in which Hegel is here describing the necessary moves or structures by which experience, or the world, is organised, conceptually determinate, the way in which the identities of things are fixed: 'an absolute determination of essence must be present in every experience, in everything actual, as in every concept'.⁶⁹ But, as we already saw in the initial early discussion of the 'finite' reflective Understandings, this take on, or aspect of, the world is also necessarily partial, insufficient, problematic. And, again as we saw in the previous chapter, the basic way in which this emerges is when we come to find the *contradiction* inherent in any attempt to fix a thing's identity in this way, to say what anything 'really' is:⁷⁰ 'every determination, every concrete thing, every Concept, is essentially a unity of distinguished and distinguishable moments, which, by virtue of the *determinate, essential difference*, pass over into contradictory moments'.⁷¹ This becomes clear once we look at this basic structure or activity at the generalised and abstract level that Hegel is drawing us to. Dividing any particular thing into an 'essence' and 'appearance' leaves us no way of confidently accessing its essence because it is, by definition, not what appears to us. If to overcome this scepticism we attempt to set up a concept of a thing's essence that we arrive at independently of its appearance, then we have no way of relating the former to the latter, of explaining why it nevertheless appears the way it does, unless we somehow restate the content of the appearance in different terms as the essence, thus producing an empty tautology. Looked at from the point of view of the thing-in-itself, it seems that there is some reason why it cannot simply remain 'in itself', but has to go out of itself, into something that it is not. The relationship between essence and appearance, or essence and existence, is thus always arbitrary or

⁶⁹ Hegel 1812, p. 440.

⁷⁰ Pippin 1978.

⁷¹ Hegel 1812, p. 442.

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contradictory. But it is important to recognise that this is not where Hegel leaves things; this is a contradiction that must indeed be resolved, in the realisation that there *cannot be a direct*, one-to-one relationship between essence and its appearance or existence, between a ‘concept’ and its ‘object’, but that any ‘positing’ or ‘expression’ of essence presupposes or responds to the appearance or existence of *other* essences. This is the conclusion of the ‘Doctrine of Essence’ – that an account of the world as a set of essences that we posit behind appearances or that express themselves in existence cannot ultimately be made sense of on its own terms; rather, we have to see essence-appearance and essence-existence relationships not as independent but as always related to one another within a reciprocal and indeed circularly self-undermining process of conceptual identification or expression. This all-encompassing, unanchored interdependence is what Hegel calls ‘actuality’ (*Wirklichkeit*) as ‘the perfect interpenetration’ of ‘reflection-into-otherness’ and ‘reflection-into-self’,⁷² the point at which we see essence not as ‘behind’ or ‘beyond’ appearance and existence but *in* them, ‘at one with’ them, as the immanent principle of the discerning and organising activity by virtue of which the world has determinacy.⁷³

The overall lesson of the Doctrine of Essence, then, is that ‘essentialism’ – which must be understood as taking in the whole array of possible two-tiered ontologies, epistemologies, identificatory and explanatory structures – is a necessary but also *necessarily inadequate* moment in the conceptualisation or determination of the world by self-consciousness or Reason.⁷⁴ The sign of its inadequacy is the contradictions, antinomies, paradoxes and arbitrariness that it falls into if it takes its determinations as absolute – that is, if it sticks to the view that the world or experience ‘really is’ finally and independently ordered according to the essences it has posited. And these contradictions

⁷² Hegel 1812, p. 480.

⁷³ See again Pippin 1989, p. 211: ‘there are no “essences” beyond or behind the appearances, at least none that can do any cognitive work. There are just the appearances; but the necessary determinacy of these supposedly immediate appearances indicates that essence, or some fixed structure that will allow identification and so determinacy, already “shines through” such appearances, is an inherent, necessary characteristic for illusory being just to be, and so requires its own account. That is, illusory being, immediate appearances, themselves can be said to be determinate only as a moment of the subject’s *self-determining*’.

⁷⁴ ‘Only the *Concept* is what is true, and, more precisely, it is the truth of *Being* and of *Essence*. So each of these, if they are clung to in their isolation, or by themselves, must be considered at the same time as untrue – *Being* because it is still only what is *immediate*, and *Essence* because it is still only what is *mediated*.’ Hegel 1830a, p. 134, § 83, Addition.

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are resolved, or suspended, in the realisation that this distinction of things into two aspects is itself nothing other than Reason's all-determining activity, a realisation that we might then even say was *driven forward* by the unfolding of these contradictions.

A full appreciation of the centrality of this 'lesson' for understanding Hegel's thought has a number of important consequences, some of which we will return to. My concern for the moment is to bring home my suggestion that its articulation is the central issue in Marx's discussion of Epicurus. If this is right, then we would have to conclude that Marx's interest in Epicurus has very little to do with an opposition of 'materialism' and 'idealism' simply conceived;⁷⁵ that any *critique* of 'atomism' is directed less at its mechanistic, anti-organicist assumptions, as Marx's readers usually expect, and more at its implication in a wider problematic of 'reflective' dualist ontologies and epistemologies that would take in *all* 'essentialisms', including simple Aristotelianisms;⁷⁶ and that the interest of Epicurus's 'contradictions' will be in the way they make explicit the necessary aporias and insufficiencies of such accounts, and mark or prefigure their suspension.

We have seen clearly that for Hegel, *both* the early atomism of Democritus and Leucippus *and* the later version propounded by Epicurus fall down in their failure to make sense of the relationship between the atomic principles of the world and the diversity of experienced phenomena. Hegel is forgiving in the former case, for the early atomists are at least credited with formulating the atomic idea in a pure and clear form, in a way analogous to a moment in the Doctrine of Being, and though they themselves recognised the insufficiency of this formulation in their efforts to relate it to phenomenal experience, the time was not yet ripe for any more developed form of thought and scientific investigation to take hold. By the time we come to Epicurus, however, we have

⁷⁵ Teeple concludes from a discussion of Marx's dissertation that '[i]n discovering [the source of human self-consciousness] in the materiality of existence, he situates himself well outside the camps of idealism and Hegelianism ... the salient characteristics of his philosophy in this his earliest piece of work would appear to be directly opposite to those he is commonly assumed to hold'. Teeple 1984, p. 17. But it is clear that insofar as 'matter' appears in Marx's dissertation it is, as it is in Hegel, the abstract opposition of form. See Hegel 1812, pp. 450-1.

⁷⁶ Scott Meikle suggests that Marx's dissertation is about 'the opposition between essentialism and atomism', without mentioning that Marx presents Epicurean atomism precisely in terms of 'essence'. Meikle 1985, pp. 8-9, p. 15. More tellingly for the overall plausibility of his attempt to understand Marx through the lens of Aristotelian essentialism and organicist teleology, Meikle later acknowledges, *parenthetically*, that 'Aristotle considers essences as unities, whereas Hegel and Marx consider them as unities in contradiction', and that '[w]here this leaves us I am not sure'. Meikle 1985, p. 37.

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seen the accomplishments of Plato and Aristotle, a sophisticated theorisation of the relationship between the inner truth of the world and its deceptive appearance, and a response to it that rearticulates the two sides in an extraordinarily productive paradigm for the scientific empirical investigation – both, in their different ways, advanced instantiations of an ‘essence’ logic. Accordingly Hegel seems to view Epicurean atomism as a falling away from this complexity, perhaps on account of its involvement in a general disintegration of the great philosophical and scientific syntheses of the peak of Greek thought into the partial, fragmented, and individualised principles of the post-Hellenic era. Hegel’s presentation of Epicurus as a philosopher who refuses to think seriously about the difference between his atomic principles at what appears suggests that he would view his thought as a regression to a simplistic logic of immediate Being, one that, moreover, asserts that Being is sensibility (not thought, as had the earlier atomists), and incoherently attempts to reduce his atoms to such a form.

Against this background Marx’s partial rehabilitation of Epicurus and argument for his philosophical and historical significance, I would suggest, involves a far more modest revision to the Hegelian narrative than many people have tried to assert, but which is all the more interesting for that. For Marx seems to be suggesting that Epicurus’s very insistence on the objective being of *both* his atomic principles *and* the world of appearance means that the strange dances that he puts his atoms through in order to sustain this connection effectively dramatises or embodies the necessary contradiction of essentialism, the paradox that on its own terms an essence can neither be detached from nor the same as its appearance or existence. Thus while Democritus had stalled at the point of relating his atoms to the phenomenal world, and equivocated as to the epistemological status of the latter, Epicurus sees clearly the contradiction inherent in positing atoms as the essence of what exists and so has his atoms act out this contradiction through their abrupt swerves from their defining course and inexplicable transmutation from abstract, eternal principles into the material substrate of qualitative, temporal existence. It is as if you had asked for a physical demonstration or metaphorical illustration of the conceptual arguments of Hegel’s ‘Doctrine of Essence’, in what Hegel would have called ‘picture thinking’, or as Marx puts it, ‘in sensible form’. In explaining his system Marx calls attention to what he describes as ‘a procedure typical of Epicurus’:

He likes to assume the different determinations of a concept as different empirical existences ... Every moment of the development is at once

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transformed in his hands into a fixed reality which, so to say, is separated from its relations to other things by empty space; every determination assumes the form of isolated individuality... ⁷⁷

Epicurus then does constitute a clear advance on earlier atomism, and perhaps even in some respects on Plato and Aristotle, because of the way he confronts the *necessary contradictoriness* of all essentialism. Marx's suggestion is that insofar as Democritus came up against the contradiction inherent in his determination of atomic principles as the essence of what appears, he equivocated sceptically on the status of those appearances, or weakened his atomic theory to the status of a hypothesis subject to their further empirical investigation.⁷⁸ Epicurus is repeatedly distinguished by his insistence on the *necessity* of the atoms' appearance, and on the equal necessity that it is *contradictory*. 'Epicurus was the first to grasp appearance as appearance [*Erscheinung als Erscheinung*], that is, as alienation of the essence',⁷⁹ and 'the contradiction between existence and essence, between matter and form, which is inherent in the concept of the atom'.⁸⁰

⁷⁷ Marx 1841, p. 60 / p. 46.

⁷⁸ Marx 1841, p. 58 / p. 44.

⁷⁹ Marx 1841, p. 64 / p. 49.

⁸⁰ Marx 1841, p. 61 / p. 47. Of all the commentators Peter Fenves focuses most clearly on this explicitly central theme of Marx's dissertation. But he confuses this by attempting to resolve Democritus and Epicurus into 'proto-Kant' and 'proto-Hegel' respectively, on the basis that the former pursues empirical science and the latter 'affirms contradiction'. This seems to me an unsustainable equation – it is surely only a distorting prejudice of unsympathetic Anglo-Saxon commentary that Hegel renounces any interest in 'the investigation of material conditions and the determination of specific laws which govern matter' in the way that Epicurus does, and whose 'science' consists solely in the construction of a pure 'dialectical logic'. Fenves 1986, p. 433-4. Indeed, Hegel's own comments on Kant's antinomies in the Introduction to the *Science of Logic* suggest that, if anything, Marx is presenting Epicurus as closer to Kant: 'the general idea on which he based his expositions and which he vindicated, is the *objectivity of the illusion* and the *necessity of the contradiction* which belongs to the nature of thought determinations ... This result, grasped in its positive aspect, is nothing else but the inner negativity of the determinations of their self-moving soul, the principle of natural and spiritual life'. Hegel 1812, p. 56. But there are of course numerous irreconcilable differences as well, and it would be wholly contrary to the whole premise of Hegelian history of philosophy to assume that the entire Dissertation is a 'drama Marx creates among the German philosophers as they wear the masks of the ancient Greek atomists'. Fenves 1986, p. 434. I think we do much better by taking seriously what Marx says he is doing in the Dissertation rather than searching insistently for hidden correspondences with debates with which we think we may be more familiar.

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But this does not mean that with this affirmation of contradiction we have reached a final resting point. For there remains the symptomatic anomaly in the Epicurean system in which Marx finds confirmation of his overall interpretation: the 'meteors'. The heavenly bodies give rise to superstitious astrological speculation, arousing popular fears and disturbing the subject's *ataraxy*. Epicurus wants to resist this but cannot account for the meteors within the terms of his own atomistic theory; his response is to insist on a range of possible explanations for the meteors, none of which are pre-eminent. 'The great number of explanations, the multitude of possibilities, should not only tranquillise our minds and remove causes for fear, but also at the same time negate in the heavenly bodies their very unity, the absolute law that is always equal to itself'.⁸¹ Marx argues that the reason the meteors threaten the Epicurean system is precisely because, as matter endowed with individual substantiality, they represent a resolution of the contradiction inherent in the atomic principle. 'In them all antinomies between form and matter, between concept and existence, which constituted the development of the atom, are resolved; in them all required determinations are realised'.⁸² 'Matter, having received into itself individuality, form, as is the case with the heavenly bodies, *has ceased to be abstract individuality; it has become concrete individuality, universality*'.⁸³ Epicurus recognises that 'here his previous categories break down', but he also recognises that any resolution of this contradiction would mean an abandonment of the principle of abstract individual self-consciousness (*abstract-einzelen Selbstbewußtsein*) – and this is why he must dissolve the meteors into a multitude of indifferent possible explanations.⁸⁴

In the meteors, therefore, abstract-individual self-consciousness is met by its contradiction, shining in its materialised form, the universal which has become

⁸¹ Marx 1841, p. 69 / p. 54.

⁸² Marx 1841, p. 70 / p. 55. See also p. 71 / p. 56: 'we have seen how the whole Epicurean philosophy of nature is pervaded with the contradiction between essence and existence, between form and matter. *But this contradiction is resolved in the heavenly bodies*, the conflicting moments are resolved.'

⁸³ Marx 1841, p. 71 / p. 56.

⁸⁴ 'We must avoid the prejudice that investigation into these subjects cannot be sufficiently thorough and subtle if it aims only at our own *ataraxy* and bliss. On the contrary, it is an absolute law that nothing that can disturb *ataraxy*, that can cause danger, can belong to an indestructible and eternal nature. Consciousness must understand that this is an absolute law'. Marx 1841, pp. 69-70 / p. 54.

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existence and nature. Hence it recognises in the meteors its deadly enemy, and it ascribes to them, as Epicurus does, all the anxiety and confusion of men. Indeed, the anxiety and dissolution of the abstract-individual is precisely the universal. Here therefore Epicurus' true principle, abstract-individual self-consciousness, can no longer be concealed. It steps out from its hiding place and, freed from material mummery, it seeks to destroy the reality of nature which has become independent by an explanation according to abstract possibility...⁸⁵

It is at this point, then, that we can see the full force of the connection between the contradictions of atomism and the contradictions of abstract individuality. It is not simply that the atoms provide a vivid metaphor for the atomisation of society into self-sufficient individuals – it is that its *dualistic* conceptualisation of the world is *internally* connected to the historical fact of societal fragmentation and alienation from nature. This is ultimately what Marx seems to find so fascinating and exciting in Epicurus – not just that he sees most clearly the contradictory nature of essentialism, but that he sees the need to hold fast to and defend the necessity of this contradiction *if* he is to preserve the *ataraxy* or independent self-satisfaction of the individual self-consciousness.⁸⁶ 'If abstract-individual self-consciousness is posited as an absolute principle, then, indeed, all true and real science is suspended inasmuch as individuality does not rule within the nature of things themselves'.⁸⁷ The reverse corollary, of course, is that any genuine overcoming or suspension of the dualistic consciousness of reflection and the contradictory logic of the world of essence entails a similar transcendence of the principle of abstract individuality and an attainment of '*concrete individuality, universality*'. But for Epicurus, for whom abstract individuality and atomism are given as absolute, a resolution of their contradiction haunts the system as a threatening 'Beyond', posing a challenge to their status that he must seek to dissolve.

⁸⁵ Marx 1841, p. 72 / p. 56.

⁸⁶ Marx 1841, p. 70 / pp. 54-5.

⁸⁷ Marx 1841, p. 72 / p. 57, translation modified.

3. Religion and self-consciousness

As the embodied resolution of the contradictions of essentialism, the Epicurean meteors exhibit what for abstract-individual self-consciousness is the unacceptable conclusion of the 'Doctrine of Essence': that matter and form, essence and appearance, individuality and universality are ultimately part of an interconnected whole whose ultimate foundation is the Concept, the all encompassing self-determination of thought itself. As we saw in the last chapter, the basic philosophical platform upon which this famous construction has been erected is Kant's account of the spontaneous activity of self-consciousness (*Selbstbewußtsein*) in organising experiences under a conceptual order, minus his insistence on the primary role of sense intuition as in some way providing an external basis for this organising activity. Hegel clearly confirms this continuity in the *Science of Logic* as he introduces his 'Doctrine of the Concept', closely recapitulating the immanent critique of Kant that we previously considered:

The Concept, when it has developed into a *concrete existence* that is itself free, is none other than the *I* or pure self-consciousness. True, I *have* concepts, that is to say, determinate Concepts; but the *I* is the pure Concept itself which, as Concept, has come into *existence* ... It is one of the profoundest and truest insights to be found in the *Critique of Pure Reason* that the *unity* which constitutes that nature of the *Concept* is recognized as the *original synthetic* unity of *apperception*, as unity of the *I think*, or of self-consciousness ... Thus we are justified by a cardinal principle of the Kantian philosophy in referring to the nature of the *I* in order to learn what the *Concept* is.⁸⁸

If we are right that this is broadly the direction in which Marx is facing in his discussions of Epicurus, then his more commonly quoted declarations against religion in the

⁸⁸ Hegel 1812, pp. 583-5, translation modified. Compare this presentation of the Kantian doctrine of apperception by Henry Allison (who holds no brief for Hegel): 'this identical "I think" ... can be regarded as the form or prototype of the analytic unity that pertains to all general concepts. In fact, it is simply this analytic unity considered in abstraction from all content. Consequently, the consciousness of the "I think" is itself the thought of what is common to all concepts ... the doctrine of apperception ... is most properly viewed as a formal model or schema for the analysis of the understanding and its "logical" activities'. Allison 1983, p. 144.

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Dissertation acquire new clarity and force. We see that they arise from a conviction of, not only the incompatibility of religious belief with human self-determination, but from a precise logical analysis of religious belief as itself a necessary function of humanity's misrecognition of its own theoretical and practical determinations as manifestations of an external 'beyond'.

Marx's comments on religion arise in relation to the Appendix to the Dissertation, a critique of Plutarch's attack on Epicurus. Plutarch's argument against Epicurus was that by removing the force of divine reward and sanction from the world, he had left moral men without expectation of reward, and the wicked unrestrained by fear of punishment.⁸⁹ Marx devoted an extra chapter to the argument because 'this polemic is by no means isolated, but rather representative of an *espèce*, in that it most strikingly presents in itself the relation of the theologising Understanding [*des theologisirenden Verstandes*] to philosophy'.⁹⁰ The chapter is lost, but a flavour is given by the preview given by Marx in his Foreword and by some of the notes to the chapter which remain. In his Foreword Marx argues against the practice of bringing 'philosophy before the forum of religion', and quotes Hume on the 'sovereign authority' of reason,⁹¹ Epicurus against popular superstition, and Aeschylus' Prometheus' explicit hatred of 'the pack of gods'. The first, in this context, we might take as similar in thrust to Kant's insistence on the autonomy of reason.⁹² The interest of the second is that it rejects superstition not as irrational but as itself *impious*. The third, Marx himself holds up as an 'aphorism against all heavenly and earthly gods who do not acknowledge human self-consciousness [*das menschliche Selbstbewußtsein*] as the highest divinity'.⁹³ Only a couple of pages of the Appendix itself are extant, along with a few endnotes, but they are highly suggestive. It is clear that Marx's target is Plutarch's justification of 'the terrors of the underworld' as 'the means to reform the evil-doers',⁹⁴ which Marx rejects as essentially a

⁸⁹ See Jones 1989, p. 91.

⁹⁰ Marx 1841, p. 30 / p. 14, translation modified.

⁹¹ '... 'Tis certainly a kind of indignity to philosophy, whose *sovereign authority* ought every where to be acknowledged, to oblige her on every occasion to make apologies for her conclusions and justify herself to every particular art and science which may be offended at her...' Hume 1739-40, p. 298.

⁹² Compare Kant 1781a, p. 643 (A738/B766).

⁹³ Marx 1841, p. 30 / p. 14.

⁹⁴ Marx 1841, p. 74.

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conjured mechanism of external coercion (the first section is entitled 'Fear and the Being Beyond [*das jenseitige Wesen*]'.⁹⁵ But most revealing is a long endnote which cites two of Schelling's earliest essays, 'Of the I as a Principle of Philosophy' and 'Philosophical Letters on Dogmatism and Criticism', in arguing against the notion of an external, objective God, and an extraordinary discussion of the ontological proof which subverts Kant's famous refutation at the same time as arguing that proofs of the existence of God in fact prove the opposite.

Fragmentary as all this is, I think it does give us some important clues as to Marx's thinking beyond his evident antipathy to religion in all its forms. In particular, Marx's appeal to the early Schelling has barely, if ever, been commented upon. Clearly there was easy polemical sport to be had in attacking the most prominent philosophical apologist for theological orthodoxy and political restoration by raising the ghost of his radical youth.⁹⁶ But Marx's usage of these texts seems to imply a deeper identification with the early project of German Idealism, and, moreover, with that project's understanding of itself as a radicalisation of the Kantian theory of self-determining apperception.⁹⁷ As Robert Pippin has most of all emphasised:

For Fichte, Schelling, and Hegel, it was Kant's characterization of the subject as spontaneously apperceptive that, more than anything else, convinced them that Kant had not simply destroyed the classical metaphysical tradition, but had begun

⁹⁵ Marx 1841, p. 102 / p. 88. Marx again cites a key text of the Enlightenment, Holbach's *System of Nature*: 'Nothing ... could be more dangerous than to persuade man that a being superior to nature exists, a being before whom reason must be silent and to whom man must sacrifice all to receive happiness'.

⁹⁶ Marx quips that 'Herr Schelling ... should be advised to give again some thought to his first writings'. 'When the time had already come in 1795' to – as Schelling then put it – 'proclaim to the better part of humanity the freedom of minds', Marx asks rhetorically, 'how about the year 1841?' Marx 1841, p. 103 / pp. 89-90.

⁹⁷ This is reinforced by a letter Marx wrote to Feuerbach in late 1843, urging him to publish a direct attack on Schelling's stand of that time, because, Marx says, Feuerbach is '*Schelling in reverse*'. Quite what Marx means by this in relation to Feuerbach is not wholly clear but it is notable how positively Marx speaks of Schelling's earlier philosophy: '[t]he sincere thought... of the young Schelling for the realisation of which however he did not possess the necessary qualities except imagination'. Marx 1843k, pp. 350-1 / pp. 59-60.

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a new kind of ‘philosophy of subjectivity’, and the a priori restrictions set by such an apperceiving subject for what could count as an object of knowledge.⁹⁸

It is usually assumed that we must look to Bruno Bauer for an understanding of Marx’s appeals to ‘self-consciousness’ in this period, and no doubt his thought is Marx’s most immediate influence and reference point here; but my suggestion is that we cannot understand its real import unless we keep in mind the extent to which Bauer’s ‘philosophy of self-consciousness’ was not a *sui generis* creation from nothing but a deliberate and explicit attempt to recoup the subversive potential of German Idealism.⁹⁹ Detached from this background, quotations of Bauer’s pronouncements in the commentaries often end up sounding like exaggerated slogans in celebration of some vague ideal of individual liberty and freethinking. But I think it is clear that at the root of Bauer’s proclamations that self-consciousness is ‘the all-powerful magician, who creates the world and all its differences’, and so ‘the sole force of the world and history’¹⁰⁰ is the original Kantian idea of self-consciousness as spontaneous, outside and unrestricted by the empirical world we experience, and in some sense the ground or organising principle of that world. Obviously Bauer had his own things to say about this and his own particular uses and developments of it,¹⁰¹ but my attempt to trace these commitments back to source here is offered as a corrective to the common way of dealing with Young Hegelian writers which I think often fails to see the wood for the trees.

This is made clear, I want to argue, by Marx’s treatment of the ‘proofs of the existence of God’. These, he says, can be taken in two ways. Either

- 1 they are ‘mere *hollow tautologies*’, amounting to a statement: ‘that which I conceive for myself in a real way, is a real concept for me’; or

⁹⁸ Pippin 1987, p. 32.

⁹⁹ As is most obviously the objective of his ‘Trumpet of the Last Judgment’ pamphlet, with its mock-outraged insistence that ‘Hegel is not only set against the state, the Church and religion, but opposes everything firm and established, for – as he asserts – the philosophical principle has in recent times become general, all-encompassing and without limit’. Bauer 1841, p. 185.

¹⁰⁰ Quoted at Rosen 1977, pp. 77, 73.

¹⁰¹ For useful accounts of Bauer’s writings at this time see McLellan 1969; Rosen 1977; Moggach 1996; Leopold 1999; Moggach 2003.

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- 2 or they are '*proofs of the existence of essential human self-consciousness [des wesentlichen menschlichen Selbstbewußteins], logical explanations of it*'.

An attempt to reconstruct what Marx may have in mind here will be easier if we take these in reverse order.

God as the reality of self-consciousness

Marx's claim that the classic rationalist proofs for the existence of God boil down to a proof for the essentiality of human self-consciousness invokes a central premise of the whole German Idealist movement, which, particularly in its more radical expressions, saw this as one of the most important achievements of Kant's first *Critique*.¹⁰² Though we may not be in the habit of formulating the point in this way, it is clear that the effect of Kant's critique of rationalist theology is to re-construe the notions of unconditioned totality upon which its proofs of God were based as 'ideals of reason' projected by our own self-conscious theoretical relation to the world.¹⁰³ Especially if we join the post-Kantians in dropping the distinction between the organisation of our own experience according to Reason and the organisation of the world as it is 'in itself' then we arrive at a direct identification of self-consciousness and Reason (and in Hegel's final formulation, the 'Concept') with what we had always thought of as 'God'. This was, wrote Schelling in the first of the essays quoted by Marx (both date from 1795), 'a philosophy which asserts as its highest principle that the essence of man consists of freedom and only freedom, that man is not a thing, not a chattel, and in his very nature no object at all',¹⁰⁴ but in this 'languid age' its full implications had yet to be clearly developed and pushed forward by those who, like he, identified themselves as 'true friend[s] of critical philosophy'.¹⁰⁵

¹⁰² In the words of Heinrich Heine's *History of Religion and Philosophy in Germany* of 1834, '[t]his book is the sword with which deism was executed in Germany'. 'As a result of his argument, this transcendental ideal being which we have hitherto called God is nothing but a fiction'. Heine 1834, p. 203, p. 208.

¹⁰³ See especially Kant 1781a, pp. 551-563, A567-91/ B595-619.

¹⁰⁴ Schelling 1795a, p. 68.

¹⁰⁵ Schelling 1795b, p. 156.

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‘Of the I as a Principle of Philosophy’, sets out to provide ‘an exposition of Kant’s philosophy based on superior principles’ to those advanced by those less imaginative followers who ‘have comprehended the letter but not the spirit of their teacher’.¹⁰⁶ Schelling sets out to identify the self-evident starting point of all human knowledge – that which ‘should reign – in the entire cosmos of our knowledge – as original ground [*Urgrund*] of all reality’. This principle must be wholly independent, and in no need of any other principle to be known – therefore ‘the principle of its being and the principle of its being known must coincide ... Its assertion must be contained in its thought; it must create itself through its being thought’.¹⁰⁷ It must be outside the usual chain of conditions or experienced objects, or otherwise it would be dependent and so not furnish the ultimate ground that is sought.¹⁰⁸

The chain of our knowledge goes from one conditional [piece of] knowledge to another. Either the whole has not stability, or one must be able to believe that this can go on ad infinitum, or else there must be some ultimate point on which the whole depends. The latter, however, in regard to the principle of its being, must be the direct opposite of all that falls in the sphere of the conditional, that is, it must be not only unconditional but altogether *unconditionable* ... whatever is a thing [*Ding*] is at the same time an *object* of knowing, therefore a link in the chain of our knowledge. It falls into the sphere of the knowable. Consequently it cannot contain the basis for the reality [*Realgrund*] of all knowledge and knowing.¹⁰⁹

¹⁰⁶ Schelling 1795a, p. 67.

¹⁰⁷ Schelling 1795a, pp. 71-2.

¹⁰⁸ Andrew Bowie has suggested that this core insight of German Idealism can be compared to ‘the initial thesis of Thomas Nagel’s *The View from Nowhere* ... namely, that subjectivity cannot be understood in the same manner as the world of objects, because that which understands objects cannot have the same cognitive status as what it understands’. Bowie 1993, p. 15. Bowie presents this as a Fichtean idea but of course its basis lies in Kant. Thus Sebastian Gardiner (with no thought of trying to read the stronger theses of later idealism back into Kant) says that in the first *Critique* self-consciousness appears ‘as the encompassing ground of the world of objects’, though not included in it. Gardiner 1998, p. 160.

¹⁰⁹ Schelling 1795a, p. 72-3.

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It is for this reason that Schelling rules out 'God, insofar as some define Him as an object' since as object God 'would fall into the sphere of our knowledge; therefore He could not be for us the ultimate point on which the whole sphere depends.'¹¹⁰ It is this argument that Marx quotes as a decisive argument against the notion of an objective God. Ruling out also the subject conceived as an item within empirical consciousness, Schelling concludes that only the 'absolute I' can serve this epistemological function, as 'that which furnishes validity in the entire system of my knowledge':¹¹¹ 'My I contains a being which precedes all thinking and imagining. It *is* by being thought, and it is being thought because it *is* ... It produces itself by its own thinking – out of absolute causality'.¹¹²

This essay thus presents a seminal statement of the Kantian account of transcendental apperception and its role in providing the basis for the 'determinate and express principle' of German Idealism that 'the world is the product of the freedom of intelligence'.¹¹³ The absolute is that which binds all such particulars together into a unified experience, and so cannot be any one of those particulars, is indeed related negatively to them. Schelling goes on to note that were we to equate this absolute I with God, then indeed would could say that God was 'the real ground of my knowledge', but only insofar as God is denied as an object, and identified with human self-consciousness. And he goes on to observe in a footnote that for this reason the 'ontological proof of God's existence' is not a 'deceptive artifice' but a deception that is 'quite natural' – 'For, whatever can say *I* to itself, also says *I am!*' Thus the ontological proof is correct insofar as it is taken to prove the absolute I, but not insofar as it is intended to prove 'an objective God' – for 'an ontological proof for the existence of an object is a contradictory concept'.¹¹⁴

Though this radical identification of God with the 'absolute I' would become less prominent in the further development of German Idealism, a clear continuity can be traced, such that it is quite possible to see why it might be seen to remain as its

¹¹⁰ Schelling 1795a, p. 73.

¹¹¹ Schelling 1795a, p. 76.

¹¹² Schelling 1795a, p. 75. Hence Schelling's famous declaration few pages later: 'The beginning and the end of all philosophy is *freedom!*' Schelling 1795a, p. 82.

¹¹³ Hegel 1801a, p. 130.

¹¹⁴ Schelling 1795a, p. 76.

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subterranean principle. Thus in the introduction to Hegel's *Science of Logic* we are told that 'logic is to be understood as the system of pure reason, as the realm of pure thought. This realm is truth as it is without veil and in its own absolute nature. It can therefore be said that this content is the exposition of God as he is in his eternal essence before the creation of nature and a finite mind'.¹¹⁵ Clearly there is an essential ambiguity here, an instability that will in due course become important to us, as to whether the effect of this move is to turn God into human reason or turn human reason back into God. But it is clearly open to being pushed in a humanist, anti-theological direction in the way that the Young Hegelians sought to. Later on in the *Logic* it becomes clear that the Concept at the heart of this 'system of pure reason' is 'none other than the I or pure self-consciousness', which, after we have corrected the abstraction with which Kant initially formulated this idea (in the manner set out in the Jena writings and discussed in the previous chapter), we can see is 'the ground and source of all finite determinateness and manifoldness'.¹¹⁶

My suggestion, then, is that in making this equation of 'God', as constructed by rationalist theology, with 'essential human self-consciousness', Marx aligns himself very clearly with the radical Idealist identification of spontaneous apperception as the most fundamental ordering principle of our world, and so the 'truth' of all theological and metaphysical speculations as to the absolute 'beyond' or 'behind' phenomenal appearances.

God as practical reality

Marx's other interpretation of the proof for the existence of God, as a tautologous assertion that what I take for reality has a real effect on me, is 'something that works on me', can be seen as returning to the other side of Kant's treatment of religion – his reinstatement of its principles as 'postulates of practical faith'. This was seen by many radical thinkers of the period as Kant's ironic *betrayal* of his original critique of theology. As Heine has it, with the distinction of practical from theoretical reason, 'as with a magician's wand, he revived the corpse of Deism, which theoretical reason had killed'.¹¹⁷

¹¹⁵ Hegel 1812, p. 50.

¹¹⁶ Hegel 1812, p. 589.

¹¹⁷ Heine 1834, p. 212.

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And this precisely was the initial reaction of Schelling and Hegel to what they saw as the compromising of Kant's initial programme of subordinating everything to the immediate consciousness of freedom during their student days at the Tübingen seminary.¹¹⁸

Schelling famously wrote to Hegel in 1795 that although '[w]e expected everything from philosophy and believed that the shock it imparted ... would not fade so soon', now '[e]very possible dogma is now stamped a postulate of practical reason'.¹¹⁹ As Dieter Henrich has set forth, the attempt by theologians at the Tübingen seminary to accommodate Kantian philosophy with orthodox church doctrine was accelerated with the publication in 1792-3 of Kant's *Religion within the Boundaries of Reason Alone*, which accepted a role for religious belief and institutions in strengthening humanity's resolve to live up to the demanding requirements of the moral law of pure practical reason. Gottlob Storr, who taught Schelling, Hölderlin, and Hegel, used this as a basis for arguing that this logically extended to a general moral duty to uphold religious belief as the means by which the moral law gained practical force, and that this meant supporting and participating all the institutions and rituals of the Church and seeking to strengthen conviction in the truth of its revealed doctrines.¹²⁰

Heine's *History of Religion and Philosophy in Germany* records that this 'proof of the existence of God which Kant allowed to stand, namely, the so-called moral proof, was overthrown with great éclat by Mr. Schelling'.¹²¹ Schelling's argument can be found in the other essay quoted by Marx, the 'Philosophical Letters on Dogmatism and Criticism', which attacks those 'who can believe that Kant could deem any knowledge which he though impossible in theoretical philosophy possible in practical and thus, in practical philosophy, could again place the supersensible world (God, etc.) as something *outside* the I, as an *object*'.¹²² Marx quotes Schelling's insistence that 'if you assume the idea of an objective God, how can you speak of *laws* brought forth by reason *from itself*, whereas autonomy can pertain only to an *absolutely* free being?' Schelling's text continues from this point:

¹¹⁸ See Pinkard 2000, pp. 33-38, and Heinrich 1986.

¹¹⁹ Quoted at Henrich 1986, pp. 48-9.

¹²⁰ Henrich 1986, p. 47.

¹²¹ Heine 1834, p. 235.

¹²² Schelling 1795b, pp. 99-100.

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In vain you imagine that you can save yourself by postulating that idea merely *practically*. Because you assume it merely *practically* it threatens your moral existence all the more certainly with extinction. You indict reason for not knowing anything of things in themselves, of objects of a supersensible world. Has it never occurred to you, ever so dimly, that it is not the weakness of your reason but the absolute freedom in you which makes the intellectual world inaccessible to every *objective* power; that it is not the limitation of your knowledge but your unlimited freedom which has relegated the objects of cognition to the confines of mere appearances?¹²³

Thus it seems that for Schelling the argument for positive religion on the basis of Kant's practical postulates could not go through, because its effect was to objectify the intrinsic morality of human self-consciousness as an external force *outside* human freedom. This is the very precise sense of Kant's argument that the institutions of the church might give 'practical force' to the moral law – it becomes a practical force *in the empirical world*, and hence a force that acts *upon* us, not, as it should be, *from within* us. It is essential to see that this involves no departure from Kant – the extra 'practical force' that positive religion gives to the moral law is *not* a force that comes from God or from any other source outside humanity itself – it is, strictly on Kant's terms, nothing but our own moral commitment imagined as a force from outside. Since with Kant 'we enter the supersensible world only through the reestablishment of the absolute I, what can we expect to find there other than the I? therefore, no God as an *object*, no not-I at all, no empirical happiness, etcetera, but only pure, absolute I!'.¹²⁴ Thus Schelling attempts to bring Kant's argument back to its original radicalism: the content of all religious belief is only the mistaken objectification of humanity's own inner morality.

Humanity ... has long carried all the fetters of superstition, and she might after all find in herself what she has sought in the objective world. She might thus return, from a boundless straying in an alien world, to her own, from lack of self to selfhood, from the vagrancy of reason to the freedom of will.¹²⁵

¹²³ Schelling 1795b, p. 195.

¹²⁴ Schelling 1795b, p. 100.

¹²⁵ Schelling 1795b, p. 195.

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This is the liberation that Kant's philosophy of self determination promises: 'glad to have penetrated the mystery of our spirit ... the just becomes free by himself, while the unjust trembles by himself in fear of a justice which he did not find himself and had to assign to another world'.¹²⁶

Further evidence that this may be the inner sense of Marx's rejection of Plutarch's arguments for religious belief may be gained from his preparatory notebooks, where he argues that such a belief is nothing other than an externalisation of our own moral sense, an identification of it with a being outside us, which entails that we identify only with our *immoral* part, and moreover that this part only acts morally for the selfish, immoral reason of avoiding punishment. '[T]he essence of the empirically evil', says Marx, is that 'the individual shuts himself off from [*verschließt*] his eternal nature in his empirical nature', but this is precisely what happens when the individual 'shut[s] his eternal nature out of himself, to apprehend it in the form of persistent isolation in self, in the form of the empirical, and hence to consider it as an empirical god outside self'; and henceforth is only 'concerned with what is evil and what is good for him' as such an empirical individual.¹²⁷ But as he stresses in his Foreword, this recognition of religious belief as the misplaced effect of our own moral freedom does not mean that, *in its practical reality*, it is any less of a real force, just as Kant had suggested it needed to be. 'In this sense', says Marx, '*all gods*, the pagan as well as the Christian ones, have possessed a real existence. Did not the ancient Moloch reign? Was not the Delphic Apollo an actual power in the life of the Greeks?'¹²⁸

The extraordinary twist that Marx puts on this argument is to turn it back against Kant's classic argument against the ontological proof using the example of money, that while 'a hundred actual talers does not contain the least bit more than a hundred possible ones', he would rather have 'a hundred actual talers' than 'the mere concept of them'.¹²⁹ Marx points out, in effect, that this is a poorly chosen example, because in fact 'talers' are themselves only concepts that are *represented* by the pieces of paper Kant is counting.

¹²⁶ Schelling 1795b, p. 196.

¹²⁷ Marx 1839, pp. 448-9 / p. 56.

¹²⁸ Marx 1841, p. 104 / p. 90, translation modified.

¹²⁹ Kant 1781a, p. 567, (A599 / B627), translation modified.

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Kant's example might have enforced the ontological proof. Actual talers have the same existence that the imagined gods have. Has an actual taler any existence except in the imagination, if only in the general or rather common [*allgemeinend oder vielmehr gemeinschaftlichen*] imagination of man?¹³⁰

In fact, it has to be said, Kant himself elsewhere recognises that money is not a straightforward empirical object but a concept of *practical* reason; indeed, he will come to say, money is a necessary and *a priori* concept of *Right*, something that can 'be resolved into pure intellectual relations' as that which '*represents* all goods' and is 'the universal *means by which men exchange their industriousness with one another*'.¹³¹ Clearly some fascinating parallels and interconnections are here suggested, between Kant's deduction of the system of right from pure practical reason, and Marx's later critique of the fundamental categories of political economy. But there is no reason for supposing this is yet high on Marx's agenda, and this is not the place to explore them.¹³² Marx's point here is simply that practical concepts or ideas, whether or not they are illusory or ungroundable from a 'theoretical' point of view, such as Moloch or money, have their 'actuality' in their practical force, and particularly at the point at which they become collectively institutionalised and so beyond the powers of any single individual to revise or challenge.

Bring paper money into a country where this use of paper is unknown, and everyone will laugh at your subjective imagination. Come with your gods into a country where other gods are worshipped, and you will be shown to suffer from fantasies and abstractions. And justly so.¹³³

Thus although Marx here again affirms that '*That which a particular country is for particular alien gods, the country of reason is for God in general, a region in which he ceases to exist*', the important effect of this argument to explain the apparent plausibility of proofs of the

¹³⁰ Marx 1841, p. 104 / p. 90, translation modified.

¹³¹ Kant 1797, pp. 434-6.

¹³² I have begun to do so elsewhere, in 'Kantian right and the Marxist theory of exploitation', unpublished paper presented at the Nuffield Political Theory Workshop, February 2001.

¹³³ Marx 1841, p. 104 / p. 90.

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existence of God is precisely that in a country that is *not* the country of reason, the illusory hypostatisations of our own free and rational nature do indeed have an ‘actual existence’ in the social institutions through which we give them practical force. We begin to see, then, that there is a very precise sense in which Kant’s critique of rationalist theology has to be translated into *practical critique* – even after we have recognised the ontological proof as a misrecognition of our own activity in constituting the world *in the theoretical domain*, God quite literally *continues to exist* in the practical domain until in the same way we have recognised that the practical ordering of the world is our own activity and task. And this, crucially, is something that can only be realised collectively, by reclaiming the common agency that we have deposited in institutions such as religion and that each of us as individuals faces as an actual practical force acting on us from the outside. Recognising this illogicality in the structure of our practical world will not be enough. The point is now to change it.¹³⁴

4. Young Hegelian criticism

These then seem to be the most important influences on Marx’s thought at this stage in his life: a reading of Hegel’s doctrine of the immanent rationality of the real that is brought back to its most radical origins in the early Idealists’ transformative development of the Kantian theory of the self-determining apperceptive subject. The target of his critical energy are the dualisms and contradictions that ensue from our misrecognition of our own role in determining our world, both epistemologically and practically, and the superstitions and mystifications that follow from the placing of its determination of the world in an external principle beyond our own experience and activity.

The strong indications that Marx’s interest in Epicurus is framed by the post-Kantian critique of reflection and its contradictory logic of ‘essence’ throw a new light on

¹³⁴ My point is not that even in this earliest of texts Marx was already a Marxist, and had already seen the way through to what is customarily taken as the moment of his decisive break with his philosophical heritage, the *Theses on Feuerbach*. Rather I want to point out that this project is already clearly inscribed at the very heart of this heritage, in Kant’s own arguments for the necessity of the practical postulates, which precisely define the nature of this project even if as a kind of photographic negative. My suggestion would be that this is pretty close to what Marx means when he says that it fell on ‘Idealism’ to develop the ‘active side’ of the true outlook, although ‘abstractly’.

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those marginal notes to the Dissertation where he discusses the contemporary predicament of philosophy.¹³⁵ Many commentators have seized upon these lines because they seem to provide an unusually clear and simple methodological statement from Marx, setting out his commitment to a philosophical praxis of 'critique'. But the simplicity here may be misleading.

As has been widely noticed, Marx seems to be suggesting an analogy between the dissolution of Greek philosophy after Aristotle and the fragmentation of German philosophy after Hegel's own systematic resolution of reason and reality. An 'inner self-contentment and completeness' is broken as 'naïve uncritical trust' in the 'ready-made science' bequeathed by 'The Master' becomes impossible. Science is once again (as it was for Hegel) 'not something received, but something in the process of becoming'. Hegel's final statement may indeed have been the supreme philosophical expression of its time (Marx refuses to account for its shortcomings as cynical 'accommodations'), but history is on the move again. The separation of 'philosophy' and 'the world' appears subjectively in the 'individual self-consciousnesses' of philosophy's 'intellectual carriers', as a 'double-edged demand, one edge turned against the world, the other against philosophy itself' – the familiar dilemma between critical distance and grounded practicality. But this 'diremption of individual self-consciousness in itself' in turn produces 'two opposed philosophical trends'. The first Marx calls 'the *liberal* party', whose act is 'critique, hence precisely that turning-towards-the-outside of philosophy', seeing 'an inadequacy in the world which has to be made philosophical'. The second side is '*positive philosophy*', which 'knows that the inadequacy is immanent in philosophy' and seeks to uphold the realities of the world against it.

It is clear that Marx's allegiances are with 'critique', the progressive philosophical practice which he counterposes to the brute empiricism of positive philosophy.

It is a psychological law that the theoretical mind, once liberated in itself, turns into practical energy, and, leaving the shadowy empire of Amenthes as *will*, turns itself against the reality of the world existing without it ... But the *practice* [*Praxis*]

¹³⁵ Marx 1841, pp. 84-7 / pp. 66-70.

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of philosophy is itself *theoretical*. It is the *critique* that measures the individual Existence by the Essence, the particular Actuality by the Idea.¹³⁶

But it must be noted right away that Marx immediately goes on to say that ‘this *unmediated realisation* of philosophy is in its deepest essence afflicted with contradictions, and this its essence takes form in the appearance and imprints its seal upon it’.¹³⁷ Marx’s identification with the standpoint of ‘critique’ is clearly not a straightforward one. There has been a tendency of commentators to simply uphold this definition of critique as a handy statement of Marx’s philosophical method, and either ignore or downplay his immediate qualification of it.¹³⁸ Peter Osborne has shown, however, that it is precisely this consciousness of the contradictory dynamic of the Young Hegelian project that sets the scene for Marx’s subsequent theoretical and political entanglements. Osborne notes that in general Young Hegelian criticism ‘exploited the distinction within Hegel’s ontology between the essence or concept (*Begriff*) of a particular historical phenomenon, and the phenomenal fullness of its concrete historical existence (*Existenz*)’ and in this way ‘reaffirmed the *anticipatory* function of philosophy’ against Hegel’s ‘Owl of Minerva’.¹³⁹ But Marx sees here that the simple assertion of Idea against reality attempts a ‘realisation of philosophy’ that is too immediate – it is his distinctive awareness of the need for philosophy to become ‘worldly’ and so ‘seek out material mediations for the process of its realisation’ that opens the way to his subsequent adventures.¹⁴⁰

¹³⁶ Marx 1841, p. 85 / p. 68, translation modified

¹³⁷ Marx 1841, p. 85 / p. 68, translation modified

¹³⁸ See, for example, O’Malley 1969, pp. xxi-xxii. Another clear case is Teeple 1984, where it is claimed that the whole approach of Marx’s thought is just this notion of ‘critique’, which is then distinguished from the ‘idealist’ versions of Plato or Hegel in that while for idealists ‘essence’ is ‘metaphysical’, ‘transcendent’, ‘a priori’, ‘hypostatized ideal’, for Marx it is based in the ‘mental activity of abstraction’ from the ‘empirical examination of existence’. It seems to me that this immediately begs all those questions that Hegel’s ‘Doctrine of Essence’ opens up, and that Marx must at least have been aware of. Teeple 1984, pp. 23-4, p. 263.

¹³⁹ Osborne 1989, p. 114.

¹⁴⁰ Osborne 1989, p. 139. See also Kouvelakis 2003, p. 239: ‘it is here that we find Marx at the furthest possible removed from any Young Hegelian temptation to take a narcissistic pleasure in the critical act. The transition towards philosophy’s “truth”, the realization of that “truth”, entails an experience of its loss: philosophy is dissolved into the network of its mediations’. Heinz Lubasz has presented the socio-economic concerns of the journalism of the subsequent year as evidence that ‘Marx set out from a problematic at

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The only qualification to be made to Osborne's account is that, despite its emphasis on dialectical continuity, it may yet underplay the extent to which these moves are already prefigured in Hegel's own thought. In this context it is noteworthy (and has, so far as I am aware, never been noted) that Hegel *himself* characterised the standard practice of 'philosophy' in terms very similar to Marx:

... our usual view of the task or purpose of philosophy is that it consists in the cognition of the essence of things. By this we understand no more than that things are not to be left in their immediate state, but are rather to be exhibited as mediated or grounded by something else. The immediate being of things is here represented as a sort of rind or curtain behind which the essence is concealed.¹⁴¹

These lines appear near the beginning of the *Encyclopaedia* version of the 'Doctrine of Essence'. And as we have seen, and as Hegel's language here again suggests, the image of going beneath the appearances to dig out their hidden essence is one that, ultimately, Hegel will suspend, with the discovery that there is nothing and no one 'behind the curtain' but our own selves.¹⁴² The implications of this principle will become clear as we see that the object upon which Marx will train his 'critical' sights after he leaves university is *the state*.

once empirically grounded and rooted in the practical, socio-political issues of the day ... he worked out his own concepts and methods by bringing empirical inquiry, theoretical analysis and value premises to bear on one another *from the first*. This is about right I think, but the fact that this orientation is implicitly signalled in Marx's Doctoral Dissertation means that Lubasz's conclusion from this was 'an attempt from the first to found an empirically grounded and practical science of society, rather than a speculative inversion of a ready-made philosophical world-view' sets up a false opposition. Lubasz 1976, p. 25.

¹⁴¹ Hegel 1830a, p. 176, § 112, addition.

¹⁴² Later Osborne seems to simply identify the method of *Hegelian* philosophy with the measurement of 'reality' against 'the Idea', which suggests that he has not recognised the extent to which Hegel presents this as a partial perspective to be superseded. Osborne 1989, p. 203.

Marx's journalism

The Rhineland, 1842-3

'Every nation in course of time makes such alterations in its existing constitution as will bring it nearer to the true constitution. The nation's mind itself shakes off its leading-strings [its childhood shoes], and the constitution expresses the consciousness of what it is in itself – the form of truth, of self-knowledge. If a nation can no longer accept as implicitly true what its constitution expresses to it as the truth, if its consciousness of Concept and its actuality are not at one, then the nation's mind is torn asunder.'

– G. W. F. Hegel, *Lectures on the History of Philosophy* (1823-4);
quoted in Anonymous, *The Trumpet of the Last Judgement
over Hegel the Atheist and Antichrist* (1841)¹

'Hegel read the Greeks with too much intelligence and lived through his times, the age of the Revolution, with too clear a consciousness not to attain ... the demand for the state in the form of a public, self-determining structure ... Thus, in order to have the state in the form of the state, it is necessary to have all those great institutions, national representation, juries, and freedom of the press – institutions that we Germans still almost totally lack – that raise humans in their total worth and in the full light of public consciousness to creators of their own freedom. At any rate, even if they were somewhat tainted and faded, Hegel assumed all these institutions into his theory of the state ... Hegel knew very well where our German shoe pinched...'

– Arnold Ruge, 'Hegel's *Philosophy of Right* and the Politics of our Times' (1842)²

¹ Hegel 1823-4b, p. 97; quoted at Bauer 1841, p. 184.

² Ruge 1842, pp. 216-8.

4. THE RHINELAND 1842-3

1. Politicising epistemology

An account of Marx's journalistic writing on the current affairs of the Rhineland for the *Rheinische Zeitung* through 1842-3 will be pivotal for the development of the overall argument I am here trying to make. For it is here, most of all, that Marx takes forward what I have argued are the recognisably post-Kantian philosophical concerns of his student days as the theoretical and methodological framework for his engagements with the political and social conflicts of the Prussian *Vormärz*. At the heart of this development, I want to suggest, is an implicit and indeed sometimes explicit equation of political questions about the relations between law and citizen, state and society, with the epistemological questions of the relation between conceptual form and material content, free subjectivity and determinate objectivity, that are the definitive concerns of German Idealism.

The most intriguing and challenging aspect of these texts has always been the unusual way in which the languages of organicism and right, holism and individualism, communitarianism and rationalism run side-by-side throughout. This strange concoction pervades all Marx's articles of this period, which switch from recognisably 'liberal' assertions of individual freedoms and formal legality to rhetorical appeals to the 'spirit' (*Geist*) of the 'people' (*Volk*) and the inner 'life forces' (*Lebensmächte*) of its internal relations. Thus in addition to his well known campaign against censorship and appeals to the principle of publicity, we find Marx in these articles arguing rigorously for the clear separation of church and state and the universal power of human rights discourse;³ for a restriction of the reach of legislation to the sphere of external actions and relations;⁴ for the rule of law and absolute equality before it;⁵ for public trial by an independent

³ 'Ask the Catholic inhabitants of "poor green Erin", ask the Huguenots before the French revolution; they did not appeal to religion, for their religion was not the state religion; they appealed to the "Rights of Humanity", and philosophy interprets the rights of humanity and demands that the state should be a state of human nature'. Marx 1842f, p. 199 / p. 187.

⁴ 'Only insofar as I *manifest* myself externally, enter the sphere of the actual, do I enter the sphere of the legislator. Apart from *my actions*, I have no existence for the law, am no object for it'. Marx 1842a, p. 120 / p. 107.

⁵ 'I do not at all believe that persons can be a guarantee against laws; on the contrary, I believe that laws must be a guarantee against persons ... no one, not even the most

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judiciary before open courts of law;⁶ for a strictly non-consequentialist understanding of punishment,⁷ to be conducted according to a rigid legal tariff.⁸ And then he will say things like ‘the *law* can only be the ideal, self-conscious image [*Abbild*] of actuality, the *theoretical* expression, made independent, of the practical vital forces [*der praktischen Lebensmächte*],’⁹ and is given to metaphorical flourishes such as the following:

In the living organism, all trace of the different elements as such has disappeared. The difference no longer consists in the separate existence of the various elements, but in the living movement of distinct functions, which are all inspired by one and the same life, so that the very difference between them does not exist ready-made prior to this life but, on the contrary, continually arises out of this life and as continually vanishes within it and becomes paralysed. Just as nature does not confine itself to the elements already present, but even at the lowest stage of its life proves that this diversity is a mere sensible phenomenon that has no spiritual truth, so also the state, this natural realm of the spirit, must not and cannot find its true essence in a fact apparent to the senses.¹⁰

This has led to divergent and sometimes confused characterisations of Marx’s thought in this period, as partaking of either of a ‘Kantian-Fichtean’ rationalist liberalism,¹¹ or some

excellent legislator, can be allowed to put himself above the law he has made’. Marx 1842k, p. 243 / pp. 217-8.

⁶ ‘The independent judge belongs neither to me nor to the government ... The judge judges my act according to a definite law. Marx 1842d, p. 166 / p. 154 See also Marx 1842k, p. 260 / p. 234: ‘just as torture has a place in the medieval criminal code as a form of trial, so the public, free trial, in accordance with its own nature, necessarily has a public content dictated by freedom...’

⁷ ‘... expedients are the most active agents in the argumentative mechanism of private interest ... Interest knows how to denigrate right by presenting a prospect of harmful results due to its effects in the external world...’ Marx 1842k, p. 248 / p. 222.

⁸ ‘The problem is to make the punishment the actual consequence of the crime. It must be seen by the criminal as the necessary result of his act, and therefore *as his own act*. Hence the limit of his punishment must be the limit of his act’. Marx 1842k, p. 229 / p. 204. Compare Kant 1797a, p. 473, 6:332.

⁹ Marx 1842m, p. 273 / p. 259.

¹⁰ Marx 1842u, p. 295 / p. 275.

¹¹ See for example Althusser 1964, pp. 223-27, and in similar vein Hirst 1970.

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kind of mysterious regression to classical natural law theory,¹² or an implausible attempt to bind together Kant and Aristotle.¹³

In what follows I want to offer a reconstruction of the political theory and methodology of Marx's writings from this period that I believe can better make sense of these fragmentary and seemingly muddled elements. In sum, my suggestion is that we can see a 'political epistemology' at work in these writings that underpins a close interrelation of the themes of post-Kantian philosophy to the more practical concerns of 1840s Rhenish liberalism. At the centre of this constellation of analyses and arguments is an insight that can perhaps best be pinpointed as an insistent assertion of the simultaneous *necessity* and *inadequacy* of the finite determinations of the Understanding, that is to say, the organisation of the world of experience and practice under fixed concepts or rules. In political terms, this amounts to a commitment to the *necessity* of law and right, understood as the clear public and institutional demarcation of social roles and relationships; and at the same time an awareness of the *insufficiency* of legal form as such for securing the *adequacy* of any such demarcations to the necessarily dynamic and multidimensional nature of the social roles and relationships they refer to. The different directions in which Marx's articles seem to argue may, then, be born not of philosophical incoherence or a tactical eclecticism, but a highly sophisticated awareness of this irreducible tension at the basis of social and political life. Thus Marx's insistence on the importance of legality is an insistence on the necessary mediatedness of social relations, and a campaign against the naïve and dangerous notion that political unity could ever be reduced to a matter of simple feeling, blind trust, instinctive harmony. But he is simultaneously critical of any tendency to think that such an assertion is on itself enough, and identifies the inherent tendency of any fixed system of laws and institutions to degenerate into a *Verstandesstaat*, a dead structure that relates externally, mechanically and arbitrarily to the society which it unifies and organises.

This danger is resisted by Marx through the mobilisation of a vitalist and organicist language that remains the most controversial and, for contemporary readers, indigestible aspect of these texts. I have no wish to downplay the importance of this element in these writings, nor the seriousness with which Marx intended to express it; nor do I expect to be able to finally resolve or dispose of all the problems it raises. But I

¹² Adams 1940, pp. 64-5.

¹³ See Kain 1988, pp. 16-33; and Kain 1992.

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do think that we can at least make it somewhat less alien and *prima facie* preposterous if we recover a sense of the role of such language in German Idealism in signalling the *problematic* nature of the relationship between any finite conceptualisation and the 'whole' of experience to which it must necessarily but provisionally gesture.¹⁴ This problematic relationship is opened up by Kant precisely in his investigation of the teleological judgements by which we conceptualise natural organisms in the third *Critique*, and, as we have seen, the implication of his analysis is that it is a problem inherent in *all* reflective conceptualisations of empirical objects insofar as they necessarily presuppose a provisional estimation of the systematic whole of which they are a part.¹⁵ Hegel reinforces this association in a closely related way when, in the *Science of Logic*, he refers us to our ascriptions of 'livingness' and 'instinctive urge' in things as an illustration of the way in which 'ordinary thinking everywhere has contradiction for its content'.¹⁶ What I think we have to keep in mind when reading this kind of language in these writers is that their intention is not so much to assert, against all common sense and empirical evidence, that inanimate objects and supra-individual collectivities simply *are* organisms in the direct and simple sense that is obviously false. Rather their aim is to point out that careful reflection upon our own structures of judgment would make clear that our 'estimations' of them according to determinate concepts are subject to the same difficulties, instabilities, 'contradictions', even, as is more clearly and obviously the case in our analyses of 'living beings', which according to Kant's argument are always guided by intimations of 'intrinsic purposiveness' and can never be wholly reduced to purely atomistic or mechanical accounts.¹⁷

¹⁴ '[T]he particular can be seen spirually and freely only in connection with the whole and therefore not in separation from it'. Marx 1842d, p. 176 / p. 164, translation modified.

¹⁵ Kant 1790, pp. 283-94, 5:401-410.

¹⁶ Hegel 1812, pp. 440-41.

¹⁷ On this point see also Kolb 1986, p. 62: 'Sometimes Hegel uses images suggesting that the universal is some vaporous force or energy or life circulating through things. Hegel never entirely shook off the rhetorical influence of the romantic images he used in his youth, but he demands that such images be rethought through the logical categories, and not vice versa'. My only qualification to this would be that we remember that, as we saw in Chapter Two, even at the earlier point of Hegel's most wholehearted embrace of the Schellingian fusion of Idealism and Romanticism the epistemological analyses of Kant were never far from the surface.

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Kant himself remarks on the validity of using the category of organism to ‘symbolise’ the notion of a society’s immanent political order: ‘a monarchy ruled according to its own constitutional laws would be presented as an animate body, but a monarchy ruled by an individual absolute will would be presented as a mere machine (such as a hand mill) ... though there is no similarity between a despotic state and a hand mill, there certainly is one between the rules by which we reflect on the two and on how they operate’.¹⁸ If it is then also the case that there is an important similarity between the ‘rules by which we reflect on’ animate bodies and the way in which we might conceive the possibility of a collective self-determination, this would mean that the intended force of this language is thus quite the opposite of what is often feared. For, against this background, the effect of an insistence on the *organic* nature of society is precisely to pose its positive institutionalisation as a *problem*. It is to assert that human relationships are inherently dynamic and open-ended, and that their reciprocal and all-encompassing interrelation is always ultimately beyond our normal powers of cognitive capture, even as we cannot help attempting to project it in any conscious and purposive engagements with others. The fact that we would not today use the language of vitalism and organicism to express such thoughts should not lead us to mistake the potentially subversive intent of their usages in this very different historical and philosophical context.¹⁹ To make this point is not of itself to automatically acquit Marx of the problematic emphasis on collectivity over individuality that some suspect him of. But it is to say that the mere appearance of such language in these texts is not of itself enough to convict him.

¹⁸ Kant 1790, p. 227, 5:352.

¹⁹ In fact it is increasingly being realised today that the problematisation of language and representation that is taken to be a definitively ‘post-modern’ turn of thought can be traced back through the European tradition to the seminal critique of Enlightenment thought found in early German Idealism and Romanticism. See, for example, the discussions in Seyhan 1992, Helfer 1996, Hartley 2003.

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2. The 'true' state

The immediate circumstance of Marx's interventions is the crisis in Prussian liberalism that accompanied the long-awaited accession of Frederick William IV to the throne in 1840.²⁰ An intellectual and reformer, the heir was hailed by many on the Hegelian left as leading protagonist for the next great chapter in the modernisation of the Prussian state. But the new King's prescription for the reinvigoration of the nation turned out to consist in a programme of sentimental paternalism, orthodox religiosity, and medievalist romanticism, and it was anti-Hegelians such as Stahl, Schelling and Savigny who were given academic and administrative promotion while radicals such as Marx had to abandon hope of following university careers. This, combined with an ambivalent and in the event short-lived move in the direction of a more relaxed censorship regime, prompted Marx's turn to journalism in 1842.

The recurrent argumentative motif appearing throughout Marx's articles of the period is an assertion of the 'concept' of the state against its less-than-perfect realisation in the new regime in Berlin, and less-than-adequate comprehension in the theories of its conservative ideologues.²¹ A 'true' state, *ein wahrer Staat*, in Hegelian terms, would be a state fully 'in accordance with its concept', like a 'true' friend or a 'true' man.²² Critique, as we saw in Marx's dissertation, 'measures the individual Existence by the Essence, the particular Actuality by the Idea'.²³ So, he argues against his orthodox opponents, '[y]ou must judge the rightfulness of the state not on the basis of Christianity, but on the basis of the state's own nature and essence'. Moreover, this identification of the state's real essence does not seem to be subject to straightforward empirical rebuttal: 'if some European states are in fact based on Christianity, do these states correspond to their concept and is the "pure existence" of a condition the right of that condition to exist?'²⁴

²⁰ For this context see Brazill 1970, pp. 85–9; Mah 1987, pp. 36–41; Hellman 1990; Breckman 1999, pp. 134–148.

²¹ Stressed by Teeple 1984, pp. 29–31.

²² See, for example, Hegel 1830a, p. 250, § 172, Addition: 'Truth ... consists in the agreement of the object with itself, i.e., with its concept'.

²³ Marx 1841, p. 85 / p. 68. See also Marx 1842d, p. 154 / p. 142: 'We must ... take the essence of the inner idea as the measure to evaluate the existence of things'.

²⁴ Marx 1842f, p. 200 / p. 188. Elsewhere Marx similarly argues against 'making the particular essence of a religion the measure [*Maß*] of the state'. Marx 1842a, p. 117 / p. 105.

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In fact, he notes at one point, 'world history decides whether a state has so greatly departed from the idea of the state that it no longer deserves to exist'.²⁵ And when his newspaper is finally threatened with suppression Marx pleads, somewhat audaciously but not entirely disingenuously, that 'far from intending to attack the basis of the Prussian constitution ... the *Rheinische Zeitung*, on the contrary, was convinced that it was attacking only deviations from that basis [*Basis*]'. While its understanding of that basis 'of course may differ from the current view of the government', it 'nevertheless can quote in its favour both Prussian history and many elements of the present day life of the state as definitively high authorities'.²⁶

Clearly this polemical practice of upholding an ideal standard against which political realities are to be judged raises all kinds of philosophical and methodological questions. As I have already indicated, I think we need to be careful about assuming that we can see easily what Marx is up to here, and that the presumptions at work in this practice of philosophical 'critique' are as simple, or simplistic even, as they may appear to be on the surface. This is an issue I will return to; in the meantime I think we can best make a start by attending to that standard, and examining just what that 'concept of the state' is that sits at the centre of Marx's discourse:

Whereas the earlier philosophers of constitutional law proceeded in their account of the formation of the state from the instincts, either of ambition or gregariousness, or even from reason, but the reason of the individual, the more ideal and profound view of recent philosophy proceeds from the idea of the whole. It looks on the state as the great organism, in which legal, moral, and political freedom must be realised, and in which the individual citizen in obeying the laws of the state only obeys the natural laws of his own reason, of human reason.²⁷

What is most important and distinctive in this vision of the 'true state' is its dual insistence on the organic unity of the *Volk* and the legal form of the *Rechtsstaat*.

²⁵ Marx 1842u, p. 309 / pp. 288-9.

²⁶ Marx 1843c, p. 362 / p. 350.

²⁷ Marx 1842f, p. 202 / p. 189.

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As already indicated, I want to suggest that the holistic and organicist vocabulary need not carry the mystical, metaphysical, or spuriously naturalistic connotations which are often assumed to consign it to the dustbin of premodern philosophical history. All it invokes, in the first instance, is the initially straightforward and, I think, uncontroversial premise of *dynamic interdependence* – that human beings, as we find them at any given point in history, have specific, particular complexes of needs and abilities which intermesh in an overall pattern of differentiated activities through which they reciprocally sustain one another. This is simply what social life *is* – it need not entail problematic claims about ‘society’ as an entity over and above the individuals who make it up, or about human beings having some pre-ordained collectivist destiny beyond the particular needs and purposes they have acquired in the course of their historical development. It is true that Marx will often express this basic premise of interdependence in terms of assertions about human beings’ real or true ‘nature’ or ‘essence’, and I will be returning to the possible significance of his using this sort of language. But for now I just want to suggest that we at least entertain the possibility that despite this unfamiliar mode of expression Marx might not actually mean to assert here anything more than we would quite happily assent to about the basic predicament of social and political life, his own variant, even, of what the Anglo-Saxon tradition of political theory knows as ‘the circumstances of justice’.

It also needs to be stressed that Marx’s organicism betrays no nostalgia for any pre-modern collectivity, nor a dangerous wish to reimpose it. The historicity and dynamism of Marx’s conception of interdependence is made clear by the fact that his language of organism is employed *in direct opposition* to the static immediacy of traditional community: under feudalism, he says at one point, ‘people are put in separate boxes [*Kasten*], and the noble, freely interchanging [*frei in einander überfließenden*] members of the great sacred body, the holy Humanus, are sawn and cleft asunder, forcibly torn apart’.²⁸ And it is manifested more generally as the permanent tendency for human activities to break out of any imposed order of rules or demarcations – Marx’s organicist language in these texts is used always to mark not only the interdependence of all society’s members, the ‘nerves’ that bind them together, but also equally the *fluidity* of their social roles and relations and the *resistance* of these freely formed linkages to any attempt to control or

²⁸ Marx 1842k, p. 230 / p. 205, translation modified.

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shape them from outside. Organisms, we sometimes have to remind ourselves, are messy things, living and dying, consuming and secreting, unruly and a law to themselves – it is this that these writers meant to appeal to *in opposition* to the forced unifications and too-neat systematicity of the ‘machine state’.²⁹

‘In itself’, as Hegel might have put it, we can say that the true state is precisely this self-determining system of functional differentiation that expresses the mutual interdependence of each upon all. But human beings act not on the basis of instinct, habit or immediate desire but on representations, concepts, understandings of themselves and their place in the world. Their sociality is not mere gregariousness – their ongoing production and reproduction of each other’s conditions of existence in society must be carried forward on the basis of internalised conceptualisations of their interdependence, specifying the particular activities they must undertake to sustain the social whole which sustains them. *If* an adequate knowledge on the part of individuals of their concrete interdependencies could be assumed, we would have an ideally smooth-running system of interaction, and all the understandings which the individuals have of themselves as social individuals would seamlessly knit together into a collective understanding of society itself as a differentiated whole. This collective self-conceptualisation by society of its own internal relations, a coherent and accurate understanding of itself on the basis of which it acts to reproduce itself, is what Marx means by *law* in its most ideal sense:

Laws, therefore, cannot prevent a man’s actions, for they are indeed the inner laws of life of his action itself, the conscious reflections of his life. Hence law draws into the background in the face of man’s life as a life of freedom, and only when his actual behaviour has shown that he has ceased to obey the natural law of freedom does the law in the form of state law compel him to be free.³⁰

²⁹ On this point see also Rosen 1996, pp. 136-7, who shows that this transformation of the motif originates with Herder, whose ‘use of the organic analogy represents an almost complete inversion of its traditional meaning: while in earlier uses ... the point of the organic analogy was to vindicate the hierarchical subordination of society to a superior directing principle, for Herder, the characteristic of a living being is its internal unity and its free and uncoerced cooperation’.

³⁰ Marx 1842d, p. 162 / p. 151. The echo of Rousseau is clear and surely deliberate, but it is also worth noting how resonant such rhetoric is of the early utopianism of Fichte and Schelling. See Fichte 1794, pp. 156-7; Schelling 1795a, p. 68.

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This defines the ‘true state’ at the most abstract and utopian level – the social organism as self-reflexive, the relations of organic interdependence amongst its members brought to collective self-consciousness.³¹

Accordingly, Marx places great emphasis upon what we might call the *cognitive* content of law. Law must be ‘the universal and authentic exponent of the rightful nature of things’,³² ‘the ideal, self-conscious image of actuality, the *theoretical* expression, made independent, of the practical life forces [*Lebensmächte*]’.³³ The legislator, says Marx, ‘should consider himself as a naturalist. He does not *make* the laws, he does not invent them, he only formulates them, expressing in positive laws the inner laws of spiritual relations’.³⁴ As my earlier comments will have indicated, I don’t think this needs to be taken as a regression to pre-modern versions of natural law as somehow pre-social, ahistorical, and cosmically ordained. I suggest that we interpret Marx’s talk of the ‘nature’ or ‘spirit’ of things and relations as referring to the place that they hold within an ideally integrated system of collective activity in pursuit of the needs and purposes that individuals, as a matter of historical fact, actually have at any one time,³⁵ in the same way that Hegel – at one level at least – regards a thing’s inner teleological purpose not as

³¹ As Breckman puts it: ‘Marx’s idealist republicanism, like Feuerbach’s and Ruge’s, synthesized Rousseauian and Hegelian elements by identifying the general will with philosophical comprehension of this rational, collective spirit’ immanent in society. Breckman 1999, p. 276. Lubasz also says, ‘fusing Rousseau and Hegel, Marx identifies political rationality with the truly general interest’. Lubasz 1976, p. 30. But see Neuhouser 2000 for an account of Hegel’s social and political theory as *already* a sophisticated elaboration of the basic Rousseauian project of reconciling interdependence with freedom through the realisation of a self-conscious collective agency.

³² Marx 1842k, p. 227 / p. 202; translation modified.

³³ Marx 1842m, p. 273 / p. 259, translation modified.

³⁴ Marx 1842n, p. 308 / p. 288.

³⁵ I am not sure that Philip Kain makes this sufficiently clear when he claims that Marx sees a ‘normative criterion of civil law as rational and rooted in nature’, differing only from the classical natural law tradition in holding that such criteria ‘change through history’ (pp. 29-30). Marx is clear on this in his attacks on pre-modern fetishisations of pre-social nature: ‘*Feudalism* in the broadest sense is the *spiritual animal kingdom*, the world of divided mankind, in contrast to the human world that *creates its own distinctions* and whose inequality is nothing but a refracted form of equality’ – Marx 1842k, p. 230 / p. 205, last emphasis my own. This is made clear in Howard 1972, p. 44: ‘Marx is suggesting that the instinctual traditional rights point to the place which the poor occupy in society; the dialectic demands that what is positively rational in the traditional customs be developed and shown as in fact rational and therefore amenable to being considered a law of freedom.’

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something given by some grand cosmological scheme but as defined simply by the *use* to which it is put within human projects: 'The thing ... becomes *mine* and acquires my will as its substantial end (since it has no end within itself), its determination, and its soul'.³⁶ So if it is right that the ideal of the true state can be understood in terms of an aspiration towards collective self-consciousness; it follows that the problem of law is a problem of knowledge. Hegel had been wholly explicit in making this equation:

To posit something as *universal* – i.e. to bring it to the consciousness as a universal – is, as everyone knows, *to think* ... Thus, the process of legislation should not be represented merely by that one of its moments whereby something is declared to be a rule of behaviour for everyone; more important than this is the inner and essential moment, namely *cognition of the content in its determinate universality*.³⁷

But as soon as we examine further the place of law in the true state, Marx's normative ideal is simultaneously problematised as a utopian goal, while at the same time opens out into a potential framework for theorising real worldly states. Take another example of Marx's repeated lyrical exaltations of this ideal function for law: 'Laws are the positive, clear, universal norms in which freedom has acquired an impersonal, theoretical existence independent of the arbitrariness of the individual. A statute-book is a people's bible of freedom.'³⁸ Here we see law as *positive, codified* law, an authoritative public inscription of society's roles and relationships. It is clear from such paeans where Marx stands on the codification question. But his very language also points to the possible tensions in this moment and the new dynamic it unleashes. Law now begins to take on its own materiality and inertia, independent of the 'arbitrary' will of any single 'individual'. Elsewhere Marx lays great stress on the state's *educative* function:

The true 'public' education carried out by the state lies in the rational and public existence of the state; the state itself educates its members by making them its members, by converting the aims of the individual into general aims, crude instinct into moral inclination, natural independence into spiritual freedom, by

³⁶ Hegel 1821a, pp. 75-6, §44.

³⁷ Hegel 1821a, p. 241.

³⁸ Marx 1842d, p. 162 / p. 150.

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the individual finding his good in the life of the whole, and the whole in the disposition [*Gesinnung*] of the individual.³⁹

The implication, then, is that individuals will *look to* positive law for the knowledge of the whole that they cannot attain alone.

This is the point at which it becomes possible to see how Marx's concept of the 'true' state might offer real cognitive purchase on actually existing states – that it is not simply a matter of measuring what exists against an abstract 'ought' or standard, but makes possible to, as Kouvelakis puts it, 'restrict criticism to the plane of immanence, and to take part in the self-transformation of the real'.⁴⁰ Given that, as a matter of empirical fact, human beings *are* practically interdependent, and that as language-using beings they *do* attempt to coordinate their activities through a shared set of rules and definitions, then Marx's formal definition might be said to be teleologically immanent in the interactions of all actually existing societies. 'State' thus refers more generally to the shared structure of meanings through which any group of human beings understand, and on the basis of which they attempt to realise, their 'natures' as practically interdependent social individuals. It has some claim to be a descriptive or analytic concept that contains its own norm of practical evaluation, since it allows us to conceive of 'states' that perform this function more or less adequately. And in turn this degree of adequacy will have its own immanent effects. For, given the above presuppositions, the main way in which actual states fall short of this internal ideal is not by completely failing to integrate the activities of their members and disintegrating into some pre-social chaos. If it is the case that the individual human beings concerned *are* interdependent *and* broadly 'rule-following', they can be expected to submit themselves to whatever rules and patterns of coordination are in fact available. The greater the mismatch between these existing structures and the real needs that underlie this centripetal force, the more will that state be experienced as oppressive and alien, and the more will the social whole be prone to crises of reproduction.

In fact a very similar set of issues to those with which Marx is here concerned has been more recently raised by James C. Scott's extraordinary book *Seeing Like a State*, which identifies 'legibility' as the central problem of modern statecraft.

³⁹ Marx 1842f, p. 193 / p. 181; translation modified.

⁴⁰ Kouvelakis 2003, p. 239.

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The premodern state was, in many crucial respects, partially blind; it knew precious little about its subjects, their wealth, their landholdings and yields, their location, their very identity. It lacked anything like a detailed ‘map’ of its terrain and its people. It lacked, for the most part, a measure, a metric, that would allow it to ‘translate’ what it knew into a common standard necessary for a synoptic view ... much of early modern European statecraft seemed ... devoted to rationalizing and standardizing what was a social hieroglyph into a legible and administratively more convenient format ... These state simplifications, the basic givens of modern statecraft, were ... rather like abridged maps.⁴¹

Scott, whose first interests are in contemporary human geography and development, argues that this self-understanding of early modern statecraft ‘can provide a distinctive optic through which a number of huge development fiascos in poorer Third World nations and Eastern Europe can be usefully viewed’, by relating them to epistemological questions of the difference between schematic and practical knowledge and ‘the limits, in principle, of what we are likely to know about complex, functioning order’.⁴² My argument is that this is precisely the optic through which Marx will ultimately transform the terms of German Idealist philosophy into a historic analyses of what he would see as the developing fiasco of modern European capitalism.

3. Law and conceptuality

Marx’s view of law as ‘the ideal, self-conscious image of reality, the *theoretical* expression, made independent, of the practical vital forces’ will be much clearer if we keep in mind the legal realities of Germany and the Rhineland in particular at the time he is writing. Historically, German law had been a confused intermingling of local custom with Roman and ecclesiastical canon law. The idea that the historical evolution of this institutional fabric represented in some sense the organic self-articulation of a society’s interdependence was, we should note, the *shared* premise of a number of diverse

⁴¹ Scott 1998, pp. 2-3.

⁴² Scott 1998, pp. 6-7.

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theoretical and political currents, on 'left' and 'right' and drawing from both Romantic and post-Kantian philosophical sources. Thus it was precisely this conception that took pride of place in the legal theory of the Historical School, which saw its historical development as the reflexive objectification of the 'powers and activities' (*Kräften und Tätigkeiten*) of the people as collective subject, their unity and interrelation that is initially experienced as strong immediate feelings towards ones family and patrimonial property but which require 'bodily existence' in rituals and symbols to 'fix their meaning'.⁴³ The development of positive law is thus driven by the need for constant cooperation under shared rules, and can thus be seen as amounting to an immanent and accumulated expression of society's implicit collective agency. 'If we seek the subject in which and for which positive law has its existence, we find the people [*Volk*]. Positive law lives in the common consciousness of the people and we must therefore call it people's law [*Volksrecht*]'.⁴⁴

The enlightened absolutism of the eighteenth century had set itself the task of raising this dense network of legal relations to a clear, systematic and rational form. The long-awaited outcome was the Prussian Legal Code of 1794, in Mack Walker's words, 'a kind of climax of baroque legal theory, Prussian variant':

an effort to capture in coherent legal form all the elements of a whole society, recognizing almost interminable differences of occupation, birth, privilege (that was the baroque part of it); but it founded its categories not on local corporations and clusters of social relations, but on social and legal types marked out and recognized by the state (that was the Prussian part) ... individuals were identified not as community members but as members of the state orders into which the whole society was divided...⁴⁵

This order, in Koselleck's words, 'survived as the basis of the Prussian social constitution until at least the year 1900'⁴⁶ and is worth quoting directly for the clarity and focus it brings to the basic interrelation of 'right and function' that remains at the heart of all

⁴³ Savigny 1814, pp. 24-5 / pp. 5-6, translation modified.

⁴⁴ Quoted in Toews 1989, p. 141.

⁴⁵ Walker 1971, p. 159.

⁴⁶ Quoted at Walker 1978, p. 249.

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philosophical discussion of law and the state in Germany during the period we are concerned with. The Introduction sets out the Code's most basic principles:

- § 22 The laws of the state bind all its members, without distinction of estate [*des Standes*], rank, or sex...
- § 73 Every member of the state is obliged to support the well-being and security of the common weal, in accordance with his estate [*Stand*] and his means [*Vermögen*]...
- § 82 The rights of a person derive from his birth, his estate [*Stand*], and from transactions or circumstances with which the laws have associated certain effects...⁴⁷

The rest of the Code sets out the various estates of civil society, defined by their function in advancing the common good of the state, and specifying the entailed rights accorded to any individual member of the estate: the peasants; the *Bürgerstand*, broken down into artisans, manufacturers, merchants, etc.; the nobility; civil servants; clergymen; schoolmasters; even the Crown. In each case a functional role is described and the corresponding rights defined, amounting to 'a full depiction, in positive law, of a functionally integral society in all its parts'.⁴⁸

Though the most jarring aspect of this scheme to modern readers will be its hierarchical and hereditary structure, it is essential to keep in mind its more formal objective of interrelating legally enshrined individual rights with an overall system of activities harmonised for the greatest furtherance of the common good. In Walker's description it formulates 'a functional distribution of positive rights and status within a system where elaborately differentiated rights of groups and individuals were aligned with their elaborately differentiated roles and functions in the whole society and state'.⁴⁹ As Toews says, 'most of the privileges of the traditional estates were reaffirmed, but they were systematically codified according to general, rational principles; given a functional

⁴⁷ Quoted at Walker 1978, p. 247-8.

⁴⁸ Walker 1978, p. 249.

⁴⁹ Walker 1978, p. 247.

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rather than a customary basis; and relativized within the broader context of the general welfare of the state'.⁵⁰ Indeed, the political force of this act of codification was widely seen even at the time as double-edged. Alexis de Tocqueville mocked the construction as a 'monstrous ... compromise between two creations' – the traditional fabric of social privileges and the French Declaration of the Rights of Man.⁵¹ Walker notes that '[r]eform was implicit in system and generalization'.⁵² As Theodor Ziolkowski puts it, its promulgation

constituted a challenge to tradition simply by the fact of codification, which in effect took the interpretation of law out of the hands of established authority and handed it over to the people. Written in a clear, crisp German – with only one sentence for each of its more than 19,000 paragraphs – the *Allgemeines Landrecht* rapidly permeated the consciousness of Prussian citizens.⁵³

It was this effect that captured the imagination of those who subsequently argued for a rationalisation of Germany's entire legal system, sparking the famous 'codification controversy' of 1814. The key exponent, Anton Friedrich Justus Thibaut, argued that '[a] simple national code of law, executed with German vigour in the German spirit, will be accessible in all its parts to every mind, even the average one, and our lawyers and judges will finally be in a position where the law will be available to them for every case'.⁵⁴ And it was for the very same reason opposed by the jurists, most famously Savigny himself in his 1814 pamphlet *Of the Vocation of our Age for Legislation and Jurisprudence*,⁵⁵ most obviously because of its direct attack on their own role as the authoritative interpreters of the *Volk's* spirit to itself, but also, it needs to be realised, because of a fear that such a project would encourage abstract, ahistorical and overly formal understandings of law and right that become detached from what should be the animating spirit of the people.⁵⁶

⁵⁰ Toews 1980, p. 16.

⁵¹ Quoted at Levinger 1998, p. 253.

⁵² Walker 1971, p. 202.

⁵³ Ziolkowski 1990, pp. 79-80.

⁵⁴ Quoted at Ziolkowski 1990, p. 82.

⁵⁵ Savigny 1814.

⁵⁶ See Toews 1989, pp. 152-53.

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Hegel, of course, had more confidence in the ability of the 'universal class' to keep in touch with the ethical life of the community, and the *Philosophy of Right* is peppered with rebuttals of Savigny on this issue, to the effect that to deny this moment in the self-understanding of a people is in effect to deny the possibility and desirability of *thinking* at all.⁵⁷

This picture is further complicated for Marx's writing by the fact that still operative in the Rhineland at the time a version of the Napoleonic code, a legacy of its subsumption within the post-revolutionary French empire during the early part of the century. As is usually noted, this had advanced the development of a strong culture of modernising liberalism in the province, and had accustomed many to the civil and political rights and freedoms embodied in what were known as the 'Rhenish Institutions'.⁵⁸ In his indispensable history of the region during this period Jonathan Sperber characterises these as 'in effect, a codification of the achievements of the French Revolution':

They included the abolition of the guilds, feudal tenures, and other restrictions on a free market in land, labour, and capital; equality before the law and the abolition of any special privileges of the nobility; a uniform communal administrative system making no distinction between town and country; and civil registration of vital events. Above all, there was 'Rhenish law' [*Remenisches Recht*], a circumlocution for the Napoleonic Codes of civil, commercial, and criminal law. The first, with its regulation of property relations, confirmed the social and economic transformations of the revolution ... the last, with its guarantee of

⁵⁷ See for example Hegel 1821a, p. 242-3, § 211: 'To deny a civilized nation, or the legal profession [*dem juristischen Stande*] within it, the ability to draw up a legal code would be among the greatest insults one could offer to either; for this does not require that a system of laws with a *new content* should be created, but only that the present content of the laws should be recognized in its determinate universality – i.e. grasped by means of *thought* – and subsequently applied to particular cases'.

⁵⁸ See McLellan 1973, p. 2: 'during the Napoleonic wars, together with the rest of the Rhineland, [Trier] had been annexed by France and governed long enough in accordance with the principles of the French Revolution to be imbued with a taste for freedom of speech and constitutional liberty uncharacteristic of the rest of Germany'. Marx himself notes that '[t]he sense of right and legality is the *most important provincial characteristic* of the Rhinelander'. Marx 1842k, p. 262 / p. 235.

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public, oral, and jury trials for felony charges, was a major prop of civil liberties in an age with few other supports for them.⁵⁹

The time in which Marx was writing was consequently filled with ‘endless wrangling over law codes and local government’, as the administration in Berlin sought to replace Rhenish law with the 1794 Prussian code and harmonise the administration of the region with that of the rest of the kingdom, and Rhenish lawyers (such as Marx’s father) spearheaded a movement ‘to defend the use of the Napoleonic Code in the Rhineland and to expand its use to all provinces of the German states’.⁶⁰

Between Wolff and Kant

The case for a close interrelation between these practical legal and political realities and the more abstract philosophical issues with which have up till now been primarily concerned is made by Marx himself, in a polemical defence of the philosophical tenor of his own newspaper’s interventions. He points out that

the Prussian Code was derived from the philosophical school of ‘this [Christian] Wolff’, and that the French Napoleonic Code was derived ... from the school of ideas of Voltaire, Rousseau, Condoret, Mirabeau, and Montesquieu, and from the French revolution.⁶¹

So how does his relation to these philosophical traditions inform Marx’s engagement with these more immediate practical controversies?

Marx draws from the surrounding philosophical tradition a central conception of law and the state as the positive inscription and institutionalisation of a social order that must aim to harmonise right and function, determinate individuality and systematic totality. But the epistemological problematisation of any such conceptual organisation of

⁵⁹ Sperber 1991, pp. 37-8.

⁶⁰ Sperber 1991, p. 71.

⁶¹ Marx 1842f, pp. 201-2 / p. 189, translation modified.

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a whole that has been opened and explored by the philosophy of German Idealism informs a complex awareness of the inherent tensions and instabilities in such an ideal.

We can see this clearly in the way Marx positions himself as a straightforward adherent of *neither* the Prussian nor the 'Rhenish' (read French) legal traditions in his discussion of proposed reforms of laws concerning marriage and divorce. This revision of the 1794 Prussian General Code was Savigny's first major task after being appointed Minister of Justice in charge of legislation in Spring 1842; a new law was drafted by Ernst Ludwig von Gerlach, who sought to reverse what he saw as the excessive liberalisation of the eighteenth century by 'restricting legitimate grounds for divorce to those allowed by sixteenth century Lutheran theology'.⁶² The draft was leaked to the *Rheinische Zeitung* which published it in October 1842, initiating a vociferous public discussion which ultimately forced abandonment of the Bill (this was one of the crimes cited as justification for the forced closure of the paper in spring 1843).⁶³ Marx wrote an 'Editorial Note' on the topic after the newspaper had already published two criticisms of the proposed Bill, one from the standpoint of 'the old Prussian jurisprudence', presumably defending the existing provisions of the 1794 Code against von Gerlach's restrictions, and one from the standpoint of '*Rhenish* jurisprudence', presumably defending the law that had been bestowed by the French. Both, Marx notes, 'agree in condemning the interference of religion in matters of law', but it is not enough in Marx's view to simply insist on 'the secular nature of marriage' in opposition to the 'religious legislator', for this only begs the question of the status of the secular in opposition to the spiritual.⁶⁴

The 'epistemological' dimension of Marx's critique of these standard secular positions is explicit and striking in his explanation of the insufficiency of the 'old Prussian jurisprudence', which, we should remember, he has elsewhere already explicitly identified with the school of Wolffian philosophy:⁶⁵

The general code [*Das Landrecht*] is based on an abstraction of the Understanding [*einer Verstandesabstraktion*] which, being in itself devoid of content, conceived the

⁶² For this background see Toews 1989, pp. 160-1.

⁶³ See the note to Marx 1842n at p. 746.

⁶⁴ Marx 1842n, p. 275 / p. 263.

⁶⁵ Marx 1842f, p. 201 / p. 189.

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natural, rightful, ethical content as external matter which itself knows no laws and then tried to model, organise and arrange this spiritless and lawless matter in accordance with an external purpose. It treats the objective world not in accordance with the latter's inherent laws, but in accordance with arbitrary, subjective ideas and an intention that is extraneous to the matter itself.⁶⁶

Thus Marx rehearses through the epistemological vocabulary of post-Kantianism the standard criticism, made by traditional and liberal elements, of the Prussian Legal Code – that it was the product of a bureaucratic apparatus, external to the social life it sought to map, effectively imposing its structures on this society from the outside.⁶⁷ As Walker recounts,

implicit was the assumption that all the particulars really fit together in some overview. The framers of the Code almost certainly knew better, at least by the time they were done: knew that all the elements of Prussian society would fit together as the Code contemplated only if the state obliged them to, or at least broke existing social patterns in the interests of the Code's. For although the Code was posed as a static legal snapshot of Prussian society, avoiding any suggestion of social or even civil reform, its effort to encompass every aspect of life gave to every general statement, every accommodation of one legal practice to another, the effect of reform if given the force of law and truly administered. For everything to fit the Code, the Prussian civil service had to govern everything so it would fit; and the contradiction of cameralism, between the acknowledgement of diversity and the determination that all must be a piece, lurked in every clause.⁶⁸

But Marx does not in consequence simply transfer allegiance to the 'standpoint of *Rhenish* jurisprudence', which is characterised in his view by 'dualism' and a 'double worldview':

⁶⁶ Marx 1842n, p. 275 / p. 263, translation modified.

⁶⁷ Walker 1971, p. 159.

⁶⁸ Walker 1971, p. 159.

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It is inadequate to divide the essence of marriage into two parts, a spiritual essence and a worldly one, in such a way that one is assigned to the church and the individual conscience, the other to the state and the citizens' consciousness of right [*Rechtsbewußtsein*]. The contradiction is not abolished by being divided between two different spheres; on the contrary, the result is a contradiction and an unresolved conflict between these two spheres of life themselves ... This reveals the basic defect of Rhenish jurisprudence, its dual worldview [*zweispaltige Weltanschauung*], which, by a superficial separation of conscience and the consciousness of right, does not solve but cuts in two the most difficult conflicts, which servers the world of right from the world of the spirit, and therefore right from spirit, and hence jurisprudence from philosophy.⁶⁹

The connection here must be asserted more tentatively, but I want to point out that this critique of what is basically French revolutionary law is broadly similar to what we have seen was the later Idealist critique of Kant's strict separation of right and morality and attempt to control the tyrannical incursions of legislation by defining virtue as beyond its remit. The ubiquitous association by German writers of the time of Kant's philosophy with the principles of the French Revolution⁷⁰ would lead us to expect such a similarity; this would follow the pattern in identifying the *limitations* of that revolution with the limitations of Kant's subjective, dualistic, quasi-secularised philosophy.⁷¹

Marx's point here seems to be, as was Hegel's point against Kant and Fichte, that a simple secularism that merely shunts all difficult questions of 'spirit' into the sphere of individual morality and religion in fact solves no problems – in fact the formulation of law is inseparable from such matters. The alternative 'philosophical' point of view Marx is proposing would not shy away from 'expounding the essence of marriage in and for itself' and hence 'explain how the consistent legislator must necessarily proceed if he is guided by the essence of things and cannot be at all satisfied with a mere abstraction of

⁶⁹ Marx 1842n, p. 275 / p. 263, translation modified.

⁷⁰ Marx himself refers to what was by then a standard linkage in philosophical discussions of the time at Marx 1842g, p. 206 / pp. 193-4: 'If ... *Kant's philosophy* must be rightly regarded as the *German theory* of the French revolution...'

⁷¹ For this reason I think we must slightly qualify Stathis Kouvelakis's implication that Marx shows a total (even if strategic) commitment to 'the achievements of the Enlightenment and the French Revolution'. Kouvelakis 2003, p. 247.

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the determination of this essence'.⁷² My suggestion is that in making such assertions Marx is insisting on the inextricable entanglement of right and function, individual freedom and the common welfare, and the impossibility of satisfactorily enshrining legal protection for vital activities and forms of relationship without inquiring into their place within the wider social whole.⁷³ As Hegel says, 'welfare [*Wohlf*] is not a good without *right*. Similarly, right is not the good without welfare'.⁷⁴ The reason for this insistence in Hegel, in the words of Frederick Neuhouser, is that

only a state of affairs in which the demands of right are in systematic harmony with general well-being can be fully satisfying to reason and hence affirmable by it as good without reservation ... modern moral subjects can recognize as good only what unifies right and well-being in a specific way, namely, by systematically reconciling the personal freedom of all with the well-being of each individual ... given their ineradicably sensuous character, human beings could never be fully reconciled to a morality that claimed supreme authority over their wills and yet made no, or merely a fortuitous, contribution to human well-being.⁷⁵

A system of right, we begin to see, cannot be something that regulates us from the outside, as the rule of our rational part over our lower faculties or an imposition of empty form upon a manifold of felt need. It must be beyond such dualism, simultaneously constituting and raising to clear conceptual form the inherent concrete systematicity of those needs, as the mediation of our interdependence and the means by which we negotiate its constant change and development. This is the practical and political correlate of the epistemological rejection of an absolute opposition of conceptual form and intuited content: no one's 'happiness' or 'well-being' can never be reduced to the sheer satisfaction of their 'material' needs and 'sensible' pleasures – it is

⁷² Marx 1842n, p. 274 / p. 260, translation modified.

⁷³ As James C. Scott recognises: 'the administrative ordering of nature and society' via 'transformative state simplifications' are 'as vital to the maintenance of our welfare and freedom as they are to the designs of a would-be modern despot. They undergird the concept of citizenship and the provision of social welfare just as they might undergird a policy of rounding up undesirable minorities'. Scott 1998, p. 4.

⁷⁴ See Hegel 1821a, p. 157, § 130:

⁷⁵ Neuhouser 2000, pp. 238-9.

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always inextricably bound up also with our *conceptual* sense of ‘who we are’, which itself always involves some sense of ‘our place in the world’.⁷⁶

And, again, Marx poses this necessary ideal of harmonious legislative integration not as a complacent assumption of state infallibility, but precisely as a *problem*. This point can be seen more clearly if we look at Marx’s famous discussion of the debates over woodtheft.

The legislative Understanding

As we have seen, the system of positive laws in a state must adequately reflect the ‘spirit’ of its members’ social life. Again, Hegel’s formulations provide the starting point: legislation must be ‘*cognition of the content in its determinate universality*’; that content exists in the first instance as *custom*, the settled rules and patterns of interaction which coordinate our interdependent needs.⁷⁷ Clearly Marx envisages a similar procedure:⁷⁸ a society’s customs must be ‘formulat[ed] and rais[ed] to a universal level’,⁷⁹ clearly defined and knowable by all. Custom thus provides the material content that must be organised into legal form.⁸⁰ But it is not thereby sanctified – ‘no one’s action ceases to be wrongful

⁷⁶ This is surely plausible – how ever much disingenuous rationalisation might be involved in practice, there is no doubt that we all *like* to think that in some sense we ‘deserve’ or ‘have earned’ our pleasures, and those pleasures in turn, even if solitary, ‘mindless’ and formally within the domain of ‘private consumption’, are rarely wholly independent of some kind of ‘self-image’, an enjoyment of a social status or cultural identity.

⁷⁷ Hegel 1821a, pp. 241-2, § 211.

⁷⁸ ‘At a time when universal laws prevail, rational customary right is nothing but the *custom of legal right*, for right has not ceased to be custom because it has been embodied in law, although it has ceased to be *merely* custom. For one who acts in accordance with right, right becomes his own custom, but it is enforced against one who violates it, although it is not his custom. Right no longer depends upon chance, on whether custom is rational or not, but custom becomes rational because right is legal, because custom has become the custom of the state’. Marx 1842k, p. 231 / p. 206. Compare Hegel 1821a, p. 241: ‘the valid laws of the nation do not cease to be its customs merely because they have been written down and collected’.

⁷⁹ Marx 1842k, p. 232 / p. 207.

⁸⁰ ‘While right comes into existence [*Dasein*] primarily in the form of being posited, it also comes into existence in terms of *content* when it is *applied* to the *material* of civil society –

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because it is his custom, just as the bandit son of a robber is not exonerated because banditry is a family idiosyncrasy'.⁸¹ Inconsistencies and injustices which have become embedded in the life of a nation that cannot pass the bar of reason are filtered out in the process. At the time, the notion of 'customary right' played a key role in conservative defences of aristocratic status – a 'philosopher's stone for turning every sordid claim into the pure gold of right', discovered by 'the learned and would-be learned servility of so-called historians'.⁸² Marx wants to resist this, on the grounds that 'the fact that their content is contrary to the form of law – universality and necessity – proves that they are *customary wrongs*.' As with Hegel, it is not entirely clear how he thinks he can make this distinction, but the implication seems to be that the 'customary rights' of the aristocracy cannot be raised to the form of law because of their attachment to particular individuals in an arbitrary way, primarily birth.⁸³ This is an essentially Kantian operation, testing maxims against the criterion of their fitness to become universal law. But, crucially, the direct application of legal form is not sufficient to get from custom to a system of laws that is the realisation of rational freedom. This is because what is involved cannot be a literal translation but a *judgement* among a range of equally possible interpretations. It is rather like turning a three dimensional object into a flat, two-dimensional representation – everything depends on perspective.

The 'woodtheft' issue was a 'staple of public discussion' in the Rhineland and one of the crucial slow-burning social questions of *Vormärz* era, a consequence of both the increasing commercialisation of land and fuel and the increasing pauperisation of upland peasants. Foresters 'cast an ever more sceptical eye on peasants' traditional rights' to gather fallen deadwood from the forest floors for domestic fuel; while peasants resisted

to its relationships and varieties of property and contracts in their endlessly increasing diversity and complexity...' Hegel 1821a, p. 244.

⁸¹ Marx 1842k, p. 231 / p. 206.

⁸² Marx 1842k, p. 230 / pp. 204-5.

⁸³ Elsewhere Marx remarks those who 'regard freedom as merely an *individual property* of certain persons and social estates' are forced to resort to a 'mystical religious theory of the imagination' because it is 'in itself incomprehensible ... how internal, essential, universal determinations prove to be linked with certain human individuals by external, fortuitous, particular features, without being connected with the human essence, with reason in general, and therefore common to all individuals...' Marx 1842d, pp. 151-2 / pp. 139-40.

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by taking direct action, 'insisting on exercising their traditional rights'.⁸⁴ Sperber warns that in the standard historical versions of this dispute as a straight 'conflict between modernity and tradition', however those terms are loaded, may be a misleading one – the peasants themselves were looking to cash in on rising wood prices, and despite the claims of the landowners to be scientifically enlightened opponents of deforestation, '[t]he peasants' insistence on a mixed-use forest with varied vegetation may well have been environmentally sounder'.⁸⁵ But this would only strengthen our expectation that, despite his following the terms in which the debate is being conducted, Marx has no interest in defending custom for custom's sake, but as, in this case, a mediation of individual and social welfare, an expression of the life of the social organism: 'In these customs of the poor class ... there is an instinctive sense of right; their roots are positive and legitimate'; '... this class feels an urge to satisfy a natural need, but equally ... it feels the need to satisfy a rightful urge'.⁸⁶

But at the same time the landowners are accustomed to being lords of their manor – why should they not withdraw their permission for the peasantry to take away timber that can now fetch a decent price on the emerging raw materials market? Nor can the formal requirements of a legal order help the peasants, since under a universal system of private property rights there is now nothing from a legal point of view that prevents their acquiring forests of their own.⁸⁷ But this only demonstrates the insufficiency of formal universalism as such for the adjudication of such conflicts, and for Marx reveals a

⁸⁴ For this historical background see Sperber 1991, pp. 74-7.

⁸⁵ On this basis Sperber also questions in passing what he takes to be Marx's interpretation of the conflict as 'a struggle of peasants clinging to subsistence agriculture and precapitalist property rights against the incursion of the capitalist market economy'. But this is to read into Marx's article what we might expect him to think given his later social and economic interests. There is nothing in his discussion to suggest that he sees the issue as one of defending traditional communities against the forces of capitalism, which would be bizarre for an editor of an organ of progressive bourgeois liberalism. Marx's analysis is conducted in the rather different terms an opposition between narrow private interest and an expansive notion of the common welfare – the latter being presented as the authentic principle of social and economic modernisation.

⁸⁶ Marx 1842k, p. 233-4 / p. 208.

⁸⁷ Hegel famously ruled that from the point of view of abstract right, 'the *rational* aspect is that I possess property ... What and *how much* I possess is ... purely contingent as far as right is concerned' (1821a, pp. 79-80) and Marx seems to accept this: 'the state cannot and must not say: a private interest, a particular existence of property ... is guaranteed against all contingencies'. Marx 1842k, p. 257 / p. 230.

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dangerous bias that can creep into the process of legal systematisation – ‘little thought is needed to perceive how *one-sidedly* enlightened legislation has treated and been compelled to treat the *customary rights of the poor*’.

Marx presents the social world of the ‘Middle Ages’ as a fabric of ‘arbitrary pretensions’ and ‘accidental concessions’, the poor benefiting from property forms that were ‘indeterminate’ and ‘ambiguous’, ‘a mixture of private and public right’. In the transition to a modern system of rights, the ‘arbitrary pretensions’ are converted into ‘legal claims, insofar as some rational content of right was to be found in those pretensions’ – it is not that legislation ‘abolishes the privileges of property under constitutional law’, but rather that it ‘divests them of their strange [*abenteuerlichen*] character and gives them a civil character’. Similarly, then, the poor’s ‘accidental concessions’ *should* have been converted into ‘necessary ones’, but legislation ‘abolished the hybrid, indeterminate forms of property by applying to them existing categories of abstract civil right, the schema for which was made available in Roman right’. This meant that the ‘dualistic’ and ‘contradictory’ nature of feudal property was resolved to the benefit of one side only (the landlord’s) without compensation for the other (the peasantry).⁸⁸ Marx gives another example in the confiscation of church lands: ‘The monasteries were secularised, and it was right to do so. But the accidental support which the poor found in the monasteries was not replaced by any other positive source of income’.⁸⁹

Here, perhaps, is a first sketch for a theory of the transition from tradition to modernity, or feudalism to capitalism – an early draft, perhaps, of the story of ‘primitive accumulation’ presented in the famous final chapter of the first volume of *Capital*. But the key issue for Marx here is the danger of pursuing rigid one-to-one translations of customary privileges into legal rights without regard for the wider social context in which these practices gain their meaning. Legislation must resolve the vague informalities of feudalism into clear juridical categories and legal entitlements – this is a condition for free, rational subjectivity to become fully developed. But at the same time the legislator

⁸⁸ According to Pinkard this was a recognised problem of liberal reform in Prussia: ‘The result of emancipating the peasants from feudal ties – a reform originally opposed by many elements of the nobility – was that large wealthy landowners simply swallowed peasant land and thereby in many cases rendered the peasants even worse off than they had been before’. Pinkard 2000, p. 423.

⁸⁹ Marx 1842k, pp. 232-3 / pp. 207-8.

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must view particular customs not as simple and discrete, but in the light of their complex role in maintaining the well-being of the whole.⁹⁰

This dilemma expresses, at a specifically political level, the question at the very heart of the Idealist project. And it is here that Marx invokes this philosophical legacy by identifying this problem of ‘one-sidedness’ as one inherent to ‘the legislative understanding’ [*der gesetzgebende Verstand*]:

For the purpose of legislation, such ambiguous [*zweideutige*] forms could be grasped only by Understanding [*Verstand*], and Understanding is not only one-sided, but has the essential function of making the world one-sided, a great and remarkable work, for only one-sidedness can extract the particular from the unorganised mass of the whole and give it shape. The character of a thing is a product of Understanding. Each thing must isolate itself and become isolated in order to be something. By confining each of the contents of the world in a stable determinacy and as it were petrifying the fluid essence of this content, understanding brings out the manifold diversity of the world, for the world would not be many-sided without the many one-sidednesses.⁹¹

Understanding, says Marx, is what gives the world its determinacy, but in doing so is always partial and atomising. The echo of Hegel is unmistakable:

Thinking as Understanding stops short at the fixed determinacy and its distinctness vis-à-vis other determinacies; such a restricted abstraction counts for the Understanding as one that subsists on its own account, and [simply] is ... the

⁹⁰ Heinz Lubasz writes that ‘[t]he notion ... that the state must embrace *the whole* of a nation’s people, which was crucially important to Marx, was no Hegelian notion at all. Hegel was content simply to exclude all those of no estate’. Lubasz 1976, p. 33. Though Marx certainly seems more concerned than Hegel is with the fate of the propertyless, this does seem a bit harsh on Hegel, and, moreover, surely does not permit us to draw the conclusion that ‘the whole’ is not a ‘Hegelian notion’!

⁹¹ Marx 1842k, p. 233 / pp. 207-8, translation modified. Marx’s clear reliance on the post-Kantian critique of the Understanding in this passage been remarked on only once, so far as I am aware, and that only very briefly, in Howard 1972, p. 47: ‘The legislators ... ignore the human relations which compose the object of their legislation, treating that object as a givenness to be analyzed by the Understanding and not by (dialectical) Reason, which could deal with the political content of the material forms.’

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thinking of the Understanding must unquestionably be conceded its right and merit, which generally consists in the fact that without the Understanding there is no fixity or determinacy in the domains either of theory or practice.⁹²

And yet, continues Hegel, 'it is usually said also that the Understanding must not go too far. This contains the valid point that the Understanding cannot have the least word'.⁹³ The determination of the *content* of legislation must be guided by reference to purposes and wholes. If we proceed by converting particular social facts into legal concepts one by one, we are simply applying the *abstract* universal of pure legal form to material particulars as we come across them, creating a series that is arbitrary and inherently boundless.⁹⁴ We will never arrive at the *concrete* universal of a legal system that reflects the social organism as a whole. Legislation must not be anchored in the self-interest of the landowner who fails to appreciate that what links him to the peasant is much bigger than the peasant's momentary intrusion into his private sphere:

Private interest makes the one sphere in which a person comes into conflict with this interest into this person's whole sphere of life ... But the state must regard the infringer of forest regulations as something more than a wood-pilferer ... Is not the state linked with each of its citizens by a thousand vital nerves, and has it the right to sever all these nerves because the citizen has arbitrarily severed *one* of them? Therefore the state will regard even an infringer of forest regulations as a human being, a living member of the state, one in whom its heart's blood flows, a soldier who has to defend his Fatherland, a witness whose voice must be heard by the court, a member of the community with public duties to perform, the father of a family, whose existence is sacred, and, above all, a citizen of the state.⁹⁵

⁹² Hegel 1830, pp. 125-6; §80.

⁹³ Hegel 1830, p. 128, §80.

⁹⁴ Marx 1842k, p. 233 / p. 208. Compare Hegel: 'That logical consistency which Leibniz praises is certainly an essential characteristic of the science of right, as of mathematics and every other science of the understanding; but this logical consistency of the understanding has nothing to do with the satisfaction of the demands of reason and with philosophical science.' Hegel 1821a, p. 34. See also p. 244.

⁹⁵ Marx 1842k, p. 236 / p. 210-11.

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Elsewhere Marx writes: 'the particular can be seen spiritually and freely only in connection with the whole and therefore not in separation from it'.⁹⁶

Clearly, then, the formal rules of the legislative Understanding are an ambiguous achievement of modernity – necessary, but not sufficient, for the adequate cognition of social reality that must be enshrined in legislation. Marx urges his fellow jurists to 'devote their main attention to the *content of the law*, so that we should not be left in the end with only an empty mask. The form is of no value if it is not the form of the content'.⁹⁷ This content must be determined in accordance with a sense of the place of every particular element within a wider systematic totality, thus framing a legal formulation that truly harmonises right and function. This orientation to the whole Marx sometimes describes as the *Gesinnung des Staats*, the state 'disposition' or 'frame of mind', a standpoint that is as much cognitive as it is moral.

4. The state and subjectivity

According to the dominant political discourse of his time it was precisely the role of the government, the 'state' in its narrower sense, to embody this perspective. But for Marx, as we shall now see, any attempt to fix the 'state disposition' institutionally erects an impassable dualism, and can only fall into the same repeated antinomy where an abstract universal simply enwraps what is only one particular opposed to other particulars. The degeneration of Prussian rationalism thus dramatises at a macro-political level the moral pathology Hegel had diagnosed as the secret of Kantian formalism: through its confusion of 'absolute form' with 'conditioned material', the 'absoluteness of the form is imposed by stealth on the unreal and conditioned character of the content'. At the heart of the practical legislation of pure reason lies 'inversion and sleight of hand'.⁹⁸ But though Marx's analysis of Prussia's state institutions and political life is unmistakably conducted through the terms and motifs of post-Kantian philosophy, it is here that we begin to see

⁹⁶ Marx 1842d, p. 176 / p. 164, translation modified.

⁹⁷ Marx 1842k, p. 261 / p. 235.

⁹⁸ Hegel 1802-3a, p. 126.

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Marx part company with Hegel's prescriptions for the constitutional embodiment of the 'true state'.⁹⁹

The 'social abstraction' of the universal class

At the time he is writing, of course, it was widely considered one of Enlightenment Prussia's great achievements to have given the 'state frame of mind' a clear sociological and institutional location, in the bureaucratic class or 'universal estate'. The self-conception of Prussia's official elite as the 'universal estate' is familiar to us from its presentation in Hegel's *Philosophy of Right*,¹⁰⁰ but which was formed by longstanding practices of training and professionalism that had continued through from the rationalist cameralism of the eighteenth century.¹⁰¹ The 1794 Prussian General Code gave civil servants a status only just below that of the traditional nobility, specified their systems of examinations, pensions, protection against dismissal, and special tax status, and 'expressly commissioned [them] to maintain and further the state's security, good order, and welfare'.¹⁰² In the words of one historian of the period, the *Beamten* 'saw themselves as ... as representatives of the universal, of the public interests, as against all the particular self-interests. They regarded themselves as advocates of objective truth, even of reason'.¹⁰³

This cognitive perspective was closely bound up with the very sociological formation of such a 'class'. As Toews suggestively phrases it,

⁹⁹ 'That Marx shared Hegel's *ideal* of the state ... does not mean very much, since he conceived of the *institutions* of the state and their interrelationships in a very different way'. Lubasz 1976, p. 34. This again seems overstated – I think it does matter quite a lot that Marx conceives 'the concept of the state' in a Hegelian way, for it means that his *critique* of its actualisation in Prussia, while differing from Hegel's assessment, is conducted in Hegelian terms – indeed, not only is Marx's idea of a state a Hegelian one, but more interestingly and importantly, his idea of what it is to be a *fallen* or degenerated state, a *Verstandesstaat*, is utterly Hegelian too.

¹⁰⁰ James Sheehan writes that while '[o]ne may well wonder how many people worked their way through the complex skein of arguments and analysis out of which Hegel's *Philosophie des Rechts* is woven', Hegel's text 'captures the assumptions upon which the bureaucracy's claim to power rested'. Sheehan 1989, p. 432.

¹⁰¹ Sheehan 1989, pp. 435-7.

¹⁰² Sheehan 1989, p. 428.

¹⁰³ Nipperdey 1996, p. 282.

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The geographic and social mobility that characterized the experience of these modern elements in the social order was reflected in social attitudes and perceptions that emphasized ... rational detachment from, and active manipulation of, a world whose concrete totality could be divided into uniform abstract parts and ordered according to universal categories.¹⁰⁴

In Walker's description, 'the medium of harmony among the discrete parts was the state's fiscal administration, analogously a social abstraction composed of men above and outside the discrete parts of society'.¹⁰⁵ Its interventions in society were conceived as acts necessary to sustain a natural harmony which only it could adequately perceive.

But this project was a troubled and increasingly unstable one. And the contradiction that historians generally identify as the root of its problems is the epistemological one that twentieth century writers like Hayek put before the ideologues of state planning: how can an overview of the whole possibly be reconciled with the necessary intimacy of acquaintance with the infinite diversity of the parts. In Walker's diagnosis, 'Prussian administration posed two imperatives: first, that public officials know their districts thoroughly enough for their oversight to be genuine, accurate, and inescapable; and second that they be detached from and immune to local influence and obstacles. The two did not fit together well'.¹⁰⁶ The practical consequence is an increasing contestation of the bureaucrats' understandings and interventions from elements within civil society itself. This was the issue of increasing political conflict by the time Marx is writing, and in the Rhineland relations between the bureaucracy and civil society were particularly fraught.¹⁰⁷

¹⁰⁴ Toews 1980, p. 15. See also Nipperdey 1996, p. 282: 'They lived in the world of systematic order and logic, the world of principles and rational reflection, which they had learned at the university. This elevated them above the world of particularist traditions. They lived, not on their background, but through their jobs. The civil servant found his identity in his occupation, his activity and achievement, his intelligence and his insight ... and in his place in the hierarchy of the state service. The civil servant did not inhabit the familiar little world of local everyday life, but the big abstract world of the state, the merciless world of hard law'.

¹⁰⁵ Walker 1971, p. 145.

¹⁰⁶ Walker 1971, p. 158.

¹⁰⁷ Otto Camphausen, a civil servant closely acquainted with the Rhenish business elites who funded the *Rheinische Zeitung*, described a 'fanatical' hostility to the Prussian bureaucracy in the region. Sheehan 1989, p. 616. See also Sperber 1991, p. 39.

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Marx analyses these conflicts in terms that exhibit exactly the same logic as the post-Kantian critique of any dualist epistemology that places subject and object, form and content, conceptuality and sensibility in absolute opposition, a division of the original unity of experience into two halves that can only be empty and indeterminate in abstraction from one another, and whose reunification can only be arbitrary and coercive.¹⁰⁸ According to Hegel, Kant's absolutisation of the abstract 'I' assumes that

the manifold of sensibility, empirical consciousness as intuition and sensation, is in itself something unintegrated, that the world is in itself falling to pieces, and only gets objective coherence and support, substantiality, multiplicity, even actuality and possibility, through the good offices of human self-consciousness and Understanding.¹⁰⁹

In place of this scenario Hegel offers an account of immanent concrete universality that, in Robert Stern's words,

frees the unity of the object from the synthesising activity of Kant's transcendental subject; for, on Hegel's account ... the object does not need to be organized or unified by *us*, because, as the exemplification of a substance-universal, it is no longer treated as reducible to the kind of atomistic manifold that *requires* this synthesis...¹¹⁰

Similarly, in the Rhineland the Prussian bureaucracy found itself confronted by 'a bourgeoisie that saw itself as part of the advanced society of western Europe and

¹⁰⁸ Kouvelakis approaches this central theme of Marx's articles from the point of view of the *Philosophy of Right*, as an investigation of the problem of the 'transition' from civil society to the state. Kouvelakis 2003, pp. 251-6. This is certainly implicit in Marx's texts, and may even have been more to the forefront of his mind than the epistemological issues I am concerned with. But I think that an exploration of these parallels of Marx's political critique with Hegel's critique of epistemology may be one way to help us to see more clearly how it is that, as Kouvelakis says, Marx will ultimately criticise Hegel's political theory *for not being Hegelian enough*. Kouvelakis 2003, p. 265, p. 290.

¹⁰⁹ Hegel 1802-3b, p. 74.

¹¹⁰ Stern 1990, p. 41.

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regarded itself as perfectly capable of running its own – and society's – affairs without bureaucratic direction'.¹¹¹

Marx's description of these problems is prompted most centrally by the failure of the bureaucracy to respond adequately to a worsening famine in the Mosel region following a collapse in wine prices. But he is emphatic in relating this not to any contingent failing on the part of any particular individuals or groups – the problem would arise for 'a government *with the best intentions*' – but as an inevitable outcome of the very structure of bureaucratic rule – as he puts it, 'the principle that the state possesses conscious and active existence in the administration [*der Staat sein bewußtes und thätiges Dasein in der Verwaltung*]'. This produces a dualistic outlook – 'to the official only the sphere of activity of the authorities is the state, whereas the world outside this sphere of activity is merely an object of state activity', with the consequence that 'there are two categories of citizens [*einem doppelten Staatsbürgerthum*] – the active, knowledgeable citizens in the administration, and the passive, uninformed citizens who are the object of administration'.¹¹² What this means, crucially, is that the administration is inherently incapable of being guided by any information received from the 'passive' component of society, of building up an accurate picture of the actual conditions of life of those it rules over.

Presented with memoranda and petitions, officialdom is unreceptive and defensive of its own activities – because any such inputs are by definition a product of private interests, foreign to 'the official understanding', while the state's officials 'consider they are in the best position to judge how far the welfare of the state is endangered and that they must be presumed to have a deeper insight into the relation between the whole and the part than the parts themselves have'.¹¹³ The official on the frontline has conscientiously performed his duties in accordance with the administrative 'principles and institutions'; these latter are not up for question because '[w]hether the administrative principles and institutions are good or not is a question that lies outside his sphere, for that can only be judged in *higher* quarters where a wider and deeper

¹¹¹ Sperber 1991, p. 39.

¹¹² Marx 1843b, p. 345 / p. 310. The young Bismarck complained in 1838 that 'in order to take part in public life, one must be a salaried and dependent servant of the state, belong completely to the bureaucratic caste'. Quoted by Sheehan 1989, p. 433.

¹¹³ Marx 1843b, p. 348 / pp. 312-3.

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knowledge of the *official* nature of things, i.e., of their connection with the state as a whole, prevails'.¹¹⁴

Precisely because these administrative principles are taken as given, unquestionable, the source of the social distress is displaced into a realm *beyond* the state's own domain of responsibility: '[t]he administration ... owing to its *bureaucratic* nature, is *capable* of perceiving the reasons for the distress not in the sphere *administered*, but only in the sphere of *nature* and the *private citizen*, which lies outside the sphere administered'. So it attempts to *mould* civil society to better fit its principles and institutions: '[t]he administration, which considers that the distressed state of the Mosel region is incurable and due to circumstances lying outside the scope of its principles and its activity, advises the Mosel inhabitants so to arrange their life that it is adapted to the present administrative institutions and they are able to exist in a tolerable fashion within them'. The government's response to the crisis, then, is restricted to advice on developing other forms of cultivation and a proposal to limit parcellation of landed property.

An absurd inversion has occurred, through no one's fault. The Mosel inhabitant understandably feels aggrieved:

He feels, sometimes consciously, sometimes unconsciously, that the administration exists for the sake of the country and not the country for the sake of the administration, but that this relationship becomes reversed when the country has to transform its customs, its rights, its kind of work and its property ownership to suit the administration.¹¹⁵

Conscious of their own industriousness and genuine suffering, the private citizens feel 'that *reality* itself has been distorted under the influence of a one-sided and arbitrarily established point of view.' They demand 'that the official who is supposed to be the sole creative force of the state [*der allein staatsschöpferische Macht*] should put an end to his distress and ... prove his ability to remedy the bad situation by his activity, or at least recognise that institutions which were suitable at a certain time have become unsuitable under completely changed circumstances'.¹¹⁶ But the epistemological duality which draws

¹¹⁴ Marx 1843b, p. 345 / p. 309.

¹¹⁵ Marx 1843b, p. 347 / pp. 311-12.

¹¹⁶ Marx 1843b, p. 344 / p. 309.

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an absolute line between the public understanding of officialdom and the private interests of society has resulted in a breakdown of *practical* freedom and responsibility – the administration is incapable of recognising the *source* of social distress in its own principles and institutions, and always ascribes them to the recalcitrance of private interests in society. Meanwhile the private members of society are themselves incapable of doing anything other than railing against these institutions because ‘the sole creative force of the state’ has been placed on the side of the bureaucracy.

This problem of the government’s entrapment in a closed epistemological circle is dramatised even more starkly by Marx’s battles with the censor, who also, in Marx’s own words, is ‘entangled in this dialectic’.¹¹⁷ In presuming to judge the loyal or disloyal ‘disposition’ of journalists and writers, the government *de facto* renounces its own state disposition, because by this very adjudication it defines *itself* as one partial perspective opposed to others in the state:

in a society in which *one* organ imagines itself the sole, exclusive possessor of state reason and state morality, in a government which opposes the people in principle and hence regards *its anti-state frame of mind* as the general, normal frame of mind, the bad conscience of a faction invents laws against tendency, *laws of revenge*, laws against a frame of mind which has its seat only in the government members themselves.¹¹⁸

In its very application of such a law the government reduces itself to that which it claims to prohibit: ‘it forms as it were the *inverted world* to its laws [*die verkehrte Welt zu ihren Gesetzen*], for it applies a double measuring-rod [*doppeltem Maß*]. What for one is right, the other side is wrong’.¹¹⁹

Thus is the true state dissolved by the presumption of its administrators:

The government hears only *its own voice*, it knows that it hears only its own voice, yet it harbours the illusion that it hears the voice of the people, and it demands that the people, too, should harbour this illusion. For its part, therefore, the

¹¹⁷ Marx 1842a, p. 121 / p. 109.

¹¹⁸ Marx 1842a, p. 120 / p. 108.

¹¹⁹ Marx 1842a, p. 121 / pp. 108-9.

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people sinks partly into superstition, partly into political disbelief, or, completely turning away from the life of the state, becomes a *rabble of private individuals* [*Privatpöbel*].¹²⁰

The manifold of private interests

The abstract opposition of state and society reduces the latter to a chaotic mass of conflict and privatism that separates *all* individuals from the collective self-determination that the 'true state' should offer. In consequence, they remain at the level of immediacy, sensibility, material property, which they fail to penetrate beyond to their own involvement in a wider social unity.¹²¹

The child, of course, does not go beyond *sensible perception*, it sees a thing only in isolation, and the invisible nerve threads which link the particular with the universal, which in the state as in everywhere make the material parts into soul-possessing members of the spiritual whole, are for the child non-existent. The child believes that the sun revolves around the earth; that the universal revolves around the particular. Hence the child does not believe in the *spirit*, but it believes in *spectres*.¹²²

¹²⁰ Marx 1842d, pp. 168-9 / p. 156, translation modified.

¹²¹ This critique of 'private interest' seems also to have been a key theme of Bruno Bauer's contributions to the *Rheinische Zeitung* at this time. See Moggach 2003, p. 127; and the summary of Bauer's general argument on p. 12: 'The universal is dispersed into multiple points, at which predatory private interests, both individual and corporate, cluster and oppose each other in order to secure additional advantages. Arrogating universality to itself, the authoritarian state that arises over these rigidly exclusive particulars thwarts and denies the self-activity of its people, and conceals the source of its authority behind a veil of religious sanctification.'

¹²² Marx 1842d, pp. 135-6 / p. 124, translation modified.

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We see this misrecognition played out in the debates over woodtheft.¹²³ In the legislative body, ‘the Rhinelander ought to have been victorious over the estate, the human being ought to have been victorious over the forest owner’,¹²⁴ recognising the ‘invisible nerve threads’ that connect their welfare to that of the peasants, but instead the ‘law-giving forest owner confused ... his two roles, that of legislator and that of forest owner’.¹²⁵ In holding fast to their identity as forest owners, they abdicate their very humanity, ‘enthroning ... the unethical, irrational and soulless abstraction of a particular material object and a particular consciousness which is slavishly subordinated to this object...’¹²⁶ ‘How could the selfish legislator be human when something inhuman, an alien material essence, is his supreme essence?’¹²⁷ The peasants, on the other hand, are described as ‘those whose property consists of life, freedom, humanity, and citizenship of the state, who own nothing except themselves’.¹²⁸ There is thus an internal structural link between the atomism of civil society and the false identification with the immediate, the ‘material’, upon which it rests.

It is notable, however, that Marx always describes the pathology of private interest as not so much a *withdrawal* from totality as a fixation upon a *false* totality. There is no form of consciousness or activity that does not in some way entail an interrelation with one’s social and natural context – the problem of being excluded from the self-conscious activity of the true state is that the gap will be filled by dangerously distorted and partial estimations of this whole and one’s place in it that lead the individual into conflict with others. ‘Private interest considers itself the ultimate purpose of the world’.¹²⁹ This is exactly what occurs in the provincial assembly, where the landowning representatives’ failure to legislate with a sense of the purposiveness of the whole results in laws that are designed to suit their own particular purposes. The gap left by the

¹²³ As Breckman rightly says, Marx treats inherited private property as ‘paradigmatic’: ‘the essence of private property is its abstraction from the community as a presocial right of individuals’. Breckman 1999, p. 276.

¹²⁴ Marx 1842k, p. 262 / p. 235.

¹²⁵ Marx 1842k, p. 252 / p. 226, translation modified.

¹²⁶ Marx 1842k, p. 262 / p. 236.

¹²⁷ Marx 1842k, p. 236 / p. 211.

¹²⁸ Marx 1842k, p. 256 / p. 230.

¹²⁹ Marx 1842k, p. 249 / p. 223.

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absence of a critical teleological reasoning is filled by a reasoning that is brutally instrumental.¹³⁰ Like the child who thinks that the universe revolves around his own physical position in it, the interested legislator judges everything with a view to his own material possessions.

The antinomies of representation

The woodthefts issue demonstrates that the opposition between bureaucracy and civil society will not be solved by representative bodies constituted according to material corporate interests. Marx views the fatal 'introduction of material interests into the law' at the hands of the Prussian forest owners as a logical consequence of the very structure of estates representation in Prussia. As we have seen, it allows the emptiness of an abstract universal – legal form as such – to be substantiated by making one particular – the material possessions of the legislator – the fixed point from which all others are measured: '[I]n accordance with its *function*, it represented a determinate *particular interest* [*ein bestimmtes Sonderinteresse*] and treated it as the final goal [*Endzweck*]'.¹³¹ Representation based on private interest can only fall into mechanical externality, because

for a determinate element [*ein bestimmtes Element*] like landed property everything is external that is not landed property itself. Hence not only the composition of the Provincial Assembly, but its activities also are *mechanical*, for it must treat all general interests and even particular interests different from itself as things extraneous and alien [*Ungehörigen und Fremden*].¹³²

¹³⁰ 'The *utilitarian* [*nützliche*] intelligence which fights for its hearth and home differs, of course, from the *free* intelligence which fights for what is right despite its hearth and home. There is a particular kind of intelligence which serves a particular purpose, a particular matter [*Stoffe*], and there is another kind of intelligence which masters ever matter and serves only itself. Marx 1842u, p. 301 / p. 281. See also 1842k, p. 249 / p. 224: 'Interest does not think, it calculates'.

¹³¹ Marx 1842k, p. 261 / p. 235.

¹³² Marx 1842u, p. 305 / p. 284.

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Marx does *not* oppose the principle of functional differentiation as such – ‘no one would want to *eradicate* the difference between the estates’, rather this difference ‘consists in ... the living movement of distinct functions, which are all inspired by one and the same life’.¹³³ But in explicitly constituting them as particular interests distinct from the state, can only mean that the life of the state does not infuse them, and indeed that it is dysfunctional, ‘because it fosters particular elements which do not find their legitimate satisfaction in the state, and therefore become organised as special bodies alongside the state and have to enter into a contractual relation with the state’.¹³⁴ As soon as the state is seen as something *opposed* to private interests it itself is just reduced to another particular in the play of oppositions. What appear to be private interests should rather be moments in the state’s organisation which lose their distinct objectivity once one takes the state as a whole.

In a true state there is no landed property, no industry, no material thing, which as a crude element of this kind could make a bargain with the state; in it there are only *spiritual forces*, and only in their state form of resurrection, in their political rebirth, are these natural voices entitled to a voice in the state.¹³⁵

But just as a concrete universal can never be attained by adding together more and more particulars, the general interest cannot be arrived at by simply introducing more private interests to the decision-making process. Marx makes a mockery of a liberal proposal to include the ‘learned estates’ alongside ‘industry’ and ‘landed property’, because it only *reduces* what should be the determining universal to just another particular. ‘Not only is intelligence not a *particular* element of representation, it is not an element at all; it is a *principle* which cannot take part in any *compound* of elements, but can only produce a *division into parts* based on itself’.¹³⁶ ‘For intelligence nothing is external, because

¹³³ Marx 1842u, p. 295 / p. 275.

¹³⁴ Marx 1842u, p. 304-5 / p. 283.

¹³⁵ Marx 1842u, p. 306 / p. 285.

¹³⁶ Marx 1842u, p. 304 / p. 284.

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it is the inner determining soul of everything [*die innere bestimmende Seele von allem*]¹³⁷ Here again we see the self-conscious activity without which representation will always be a dead mechanism. Particulars can only ever be external to each other, but the true universal must be the inner determinant of them all.

Marx proposes an alternative model of representation based not on the four estates but on the basis of local and regional geographical constituencies – these are now the ‘true spheres, in accordance with which the state is ruled, judged, administered, taxed, trained and schooled’, these ‘distinctions, which owing to their very essence are dissolved at every moment in the unity of the whole, are free creations of the spirit of the Prussian state’.¹³⁸ But even this, it seems, would not dispose entirely of the general paradox of representation that Marx elsewhere raises:

If, in accordance with the constitution, the province appoints estates *to represent* its *general intelligence*, it thereby totally renounces *all its own judgement* and understanding, which are now solely incorporated in the chosen representatives ... the political reason of the province falls on its own sword as soon as it has made its great invention of the Assembly, but of course to rise again like the phoenix for the next elections.¹³⁹

Still the question raises itself: which is the state? The assembly which determines the universal interest in opposition to the particular interests outside? Or the people which elect the assembly, charging it with legislating on their behalf? The question is not a frivolous one when there is a real conflict between the people and the assembly, on an issue such as freedom of information. Marx diagnoses ‘the old fatal antithesis of the Assembly as something *internal* and the province as something *external*’ as the source of the assembly’s ‘independent ossification in *opposition* to the province’.¹⁴⁰ Again, a perverse inversion has occurred under the cover of a spurious universalism: ‘the rights of the

¹³⁷ Marx 1842u, p. 305 / p. 284. Compare again Hegel 1801a, p. 130: ‘That the world is a product of the freedom of intelligence is the determinate and express principle of idealism’.

¹³⁸ Marx 1842u, p. 296 / p. 276.

¹³⁹ Marx 1842d, p. 150 / p. 138.

¹⁴⁰ Marx 1842d, pp. 150-51 / pp. 138-9.

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Provincial Assembly are no longer *rights of the province*, but *rights against the province*, and the Assembly itself would be the *greatest wrong against the province* but with the mystical significance of being supposed to embody its greatest right'.¹⁴¹

5. Reason and the public sphere

A universally recognised hallmark of German life in the decades between the Restoration and the revolutionary outburst of 1848 was the official stranglehold on the development of any kind of public or political life. The notorious 'Carlsbad Decrees' of 1819 had instituted prior censorship of the press, denied any right of peaceful assembly or collective petition, sanctioned the breaking up of unofficial meetings by the police or even the army, prohibited all political associations and subjected all voluntary association to state approval.¹⁴² In Thomas Nipperdey's account,

The fact that all free movements were suffocated and suppressed meant that no political life, no public life and accountability could come about, no large-scale objectives and no concrete tasks could be undertaken, and there was no free interplay of different forces ... German life was turned in upon itself, into Biedermeier philistinism, into cosiness, sometimes into indolence and resignation, or into crank religions, science, the empire of thought, history and apolitical attitudes...¹⁴³

James Sheehan, also, notes that

Throughout the 1820s and 1830s ... the free and easy flow of news, the clash of opinions about everyday events, and circulation of ideas about politics – all essential elements in the formation of a politically informed public – were severely restricted ... Those interested in current affairs often had to be content

¹⁴¹ Marx 1842d, p. 146 / p. 134.

¹⁴² Sperber 1991, p. 53.

¹⁴³ Nipperdey 1996, p. 249.

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with studying theoretical treatises, reading accounts of politics in other countries, or enjoying ... empty gossip.¹⁴⁴

The very development of a liberal movement in the Rhineland was rendered almost impossible by such restrictions, which, as Sperber says, meant that ‘conflicts tended to remain individual, isolated events without broader implications, as public knowledge of them was limited, and public discussion of them abortive or nonexistent’.¹⁴⁵

This is precisely what Marx identifies as the obstacle to the development of a ‘true state’. It is of the utmost importance to give full recognition at this point to the fact that Marx is identifying the ultimate principle of his political criticism with an activity that, on his own account, is both driven towards systematicity and completeness and yet which is equally inherently open-ended and always unfinished.¹⁴⁶ In this respect it is powerfully resonant of Kant’s emphasis on the political functions of publicity, and his general conception of the sovereignty of public reason and its central role in the advance of scientific progress as the always self-revising development of systematicity and completeness.¹⁴⁷ Marx emphasises throughout the distinctive features of the public sphere created by a free press: the discussion can not be controlled from any one point, there are no barriers to anyone entering it, the door is always open to new ‘facts’ and new ‘judgements’ that might suggest a revision of our previous systematisations, and therefore no such systematisation can ever be taken as final, but always subjected to an ongoing cycle of hypothesis and falsification. The contradiction of censorship is precisely its effort to shut down this process, instantly raising questions as to the status of the presumed knowledge upon which it is based. ‘The true censorship, based on the very essence of the press, is *critique*. This is the tribunal which freedom of the press gives rise

¹⁴⁴ Sheehan 1989, p. 445.

¹⁴⁵ Sperber 1991, p. 53.

¹⁴⁶ ‘Thus, with a lively press movement, the *whole truth* will be revealed, for if the whole appears at first only as the emergence of a number of different, individual points of view which – sometimes unintentionally, sometimes accidentally – develop side by side, in the end, however, this work of the press will have prepared for one of its participants the material out of which he will create a *single* whole. Thus, gradually, by means of a division of labour, the press arrives at the whole truth, not by one person doing everything, but by many doing little.’ Marx 1843b, p. 333 / p. 297.

¹⁴⁷ For an attempt to draw out the political implications of this conception in Kant, see O’Neill 1989, pp. 3-50.

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to of itself. Censorship is criticism as a monopoly of the government. But does not criticism lose its rational character if it is not open but secret, ... if it only exercises criticism but will not submit to it?'¹⁴⁸

Publicity as constitutive

But I think there is good evidence that we should go further than this and assert that Marx seeks to grant to public reason not just the *regulatory* role that Kant sees it as having, in both the epistemological and political domains, but a more radical and primary role in *constituting* the very systematicity of the state. This is suggested both by the emphasis Marx places on the role of public reason in *overcoming* or suspending the distinction between 'state' and 'society', and his implication in numerous places that ultimately it is public reason itself, and not any fixed institution or legal entity, that *is* the 'true state'.¹⁴⁹ Kouvelakis puts this point very strongly:

The free press becomes the organizing centre of the national/popular historical bloc in its struggle for cultural and political hegemony against the forces supporting the *ancien régime*. Accordingly, the aporias of Kant's conception of *Publizität* vanish all by themselves: the expansiveness of the public sphere, the moving spirit behind the democratisation of the social totality, is inseparable

¹⁴⁸ Marx 1842d, p. 159 / p. 147, translation modified. See also Marx 1842a, p. 109 / p. 97: 'Censorship is *official critique*; its norms are critical norms, hence they least of all can be exempted from critique, being on the same plane as the latter' (translation modified); Marx 1842f, p. 188 / p. 176: 'Who is to decide on the limits of scientific research if not scientific research itself?' Compare Kant 1781a, p. 643, A738 / B766: 'Reason must subject itself to critique in all its undertakings, and cannot restrict the freedom of critique through any prohibition without damaging itself and drawing upon itself a disadvantageous suspicion... The very existence of reason depends upon this freedom, which has no dictatorial authority, but whose claim is never anything more than the agreement of free citizens, each of whom must be able to express his reservations, indeed even his *veto*, without holding back.'

¹⁴⁹ Breckman recognises that 'Marx's political journalism in 1842 rehearsed in Idealist terms the critique of the modern separation of state and civil society that was to emerge forcefully in his major works of the next year' – though by 'Idealist terms' he seems to mean simply Marx's rejection of 'materialism', rather than the implicit post-epistemological framework to which he pays little attention. Breckman 1999, p. 277.

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from the 'becoming-state' of the historical bloc, and poles apart from anything resembling the subordination of politics to an external/transcendent principle. At the same time, this expansiveness is a manifestation of the spirit and life of the people as such, of the self-constitution of the people as people: any empirical restriction of this process that would reproduce the distinction between the passive and active citizens becomes inconceivable, and radically incompatible with the very foundations of the *sittliche* state.¹⁵⁰

My suggestion then would be that we can deepen our understanding of what is involved here by relating the role of the free press in breaking through the impasse of Prussian politics to the Hegelian account of the interaction of Reason and the Understanding. Thus it is in the public sphere created and sustained by a free press that the mystifying dualisms and fixed oppositions of the *Verstandesstaat* are overcome and a people recovers its powers of collective self-determination. The free press thus realises a kind of 'intuitive Understanding' by which a people simultaneously knows and creates itself *as* a people.¹⁵¹

Marx proposes publicity as the solution to almost every political aporia and impasse that he diagnoses. The knowledge of the inner essence of social relations that must be inscribed in our legal definitions is to be found in public consensus, 'in accordance with the level attained by science and with the generally accepted views'.¹⁵² The unabridged publication of the Landtag's debates would mean that 'the Assembly, having become an immediate object of the public spirit [*unmittelbar Gegenstand des öffentlichen Geistes*], would have to decide to be an objectification of the latter'.¹⁵³ It is participation in the public sphere that dissolves the fixity of all personalist and possessive

¹⁵⁰ Kouvelakis 2003, pp. 264-5.

¹⁵¹ The discussion in Pippin 1996 is especially relevant here: Hegel's interest in the appearance of this notion in Kant is shown to be related to his interest in Kant's discussion of the *sensus communis* invoked in aesthetic judgements as in fact the principle of *all* cognitive and practical 'orientations' to the world.

¹⁵² 'Certainty that the *conditions* under which the *existence* of an ethical relationship no longer corresponds to its *essence* are correctly registered, without preconceived opinions, in accordance with the level attained by science and with the generally accepted views – this certainty, of course, can only exist if the law is the conscious expression of the popular will, and therefore originates with it and is created by it'. Marx 1842u, p. 309 / p. 289. translation modified.

¹⁵³ Marx 1842d, p. 148 / p. 136, translation modified.

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individualist identifications, for ‘private interest ... cannot bear the light of publicity’.¹⁵⁴ Publicity is the mediating ‘third element’ that can resolve the contradictions of bureaucracy, which pits the administration against the administrated as two abstract universals with only a particular content, independent of both ‘bureaucratic presuppositions [*Voraussetzungen*]’ and ‘private interests’: ‘The free press ... brings the people’s need in its real shape, not refracted through any bureaucratic medium, to the steps of the throne, to a power before which the difference between rulers and ruled vanishes [*verschwindet*] and there remain only equally near and equally far removed *citizens of the state*.’¹⁵⁵ It is the discourse of the free press, indeed, that overcomes the opposition between the dry, procedural formality of the bureaucracy and the *felt* passions and needs of civil society, just as true Hegelian Reason overcomes the abstract opposition of conceptual form and intuited content.¹⁵⁶

In the public sphere, then, the opposition of state and society is effectively *dissolved*, just as the epistemological opposition of the Understanding and its matter is dissolved in the primary and immanent productivity of Reason: ‘[i]n the realm of the press, rulers and ruled alike have an opportunity of criticising their principles and demands, and no longer in a relation of subordination, but on terms of equality as *citizens*

¹⁵⁴ Marx 1842k, p. 261 / p. 234. See also Marx 1842d, p. 177 / p. 165: ‘The press ‘knows no respect for persons, but only respect for intelligence’; Marx 1842m, p. 269 / p. 256: the ‘calling of a Rhineland paper ... is to represent the spirit of the Rhineland, disregard personal considerations’.

¹⁵⁵ Marx 1843b, pp. 348-9 / p. 313. Compare Habermas 1962, p. 24 on the development of the public sphere in the ‘zone of constant administrative contact’ between the bourgeois economy and the mercantilist state. Lubasz says here: ‘It is not impossible that he had at the back of his mind Hegel’s notion of the role of the estates as mediator between civil society and the state ... But the notion of mediation between two estranged parties is at least as likely to have been familiar to him from his study of the law, and was – as it still is – a commonplace enough idea in any case’. Lubasz 1976, p. 38. I would have to suggest in response that the epistemological terms in which Marx sets out this notion of ‘mediation’, and particularly his idea that differences and oppositions ‘vanish’ (*Vershwinden*) within it, points us to a Hegelian reading.

¹⁵⁶ Marx 1843b, p. 349 / p. 313: ‘The attitude of the press to the people’s conditions of life is based on *intelligence* [*Intelligenz*], but it is equally based on *feeling* [*Gemüth*]. Hence it does not speak only in the clever language of judgment that soars above circumstances, but the passionate language of circumstances themselves, a language which cannot and should not be demanded of *official reports*’. The English edition obscures this point by translating *Intelligenz* as ‘reason’, which, according to my argument, Marx would never have opposed to ‘feeling’.

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of the state, no longer as *persons*, but as *intellectual forces*'.¹⁵⁷ This is why it stands in direct opposition to the ossification of the Prussian state. 'Prussia cannot introduce publicity and publicising, for free courts and an unfree state are incompatible. Similarly, Prussia should be highly praised for its piety, for a transcendental state [*ein transzcender Staat*] and a positive religion go together'.¹⁵⁸ To dissolve the opposition of state and society, ruler and subject, in the all-embracing and all-inclusive activity of public reasoning would be to free the social order from all its false objectification and illusory sanctification, collapsing all transcendent and religious principles in the people's recovery of its own free self-determination. The press has set itself 'the task of transforming the mysterious, priestly essence of the state into a clear-cut, secular essence accessible to all and belonging to all, and of making the state part of the flesh and blood of its citizens'.¹⁵⁹

The press is then, more than anything else, the privileged medium of a collective self-consciousness. It is 'the ruthless language and manifest image of the historical spirit of the people [*des historischen Volksgeistes*] ... the tactless, indiscreet speech of the people addressed to itself'.¹⁶⁰

The free press is the ubiquitous vigilant eye of the popular spirit, the embodiment of a people's faith in itself, the eloquent link that connects the individual with the state and the world, the embodied culture that transforms material struggles into spiritual struggles and idealises their crude material form. It is a people's frank confession to itself, and the redeeming power of confession is well known. It is the spiritual mirror in which a people can see itself, and self-examination is the first condition of wisdom. It is the spirit of the state [*der Staatsgeist*], which can be delivered into every cottage, cheaper than coal gas. It is all-sided, ubiquitous, omniscient. It is the ideal world which always wells up out of the actual world and flows back into it with ever greater spiritual riches and renews its soul.¹⁶¹

¹⁵⁷ Marx 1843b, p. 349 / p. 313, translation modified.

¹⁵⁸ Marx 1842c, p. 384 / p. 24.

¹⁵⁹ Marx 1842w, p. 318 / p. 333, translation modified.

¹⁶⁰ Marx 1842d, pp. 144-5 / p. 133.

¹⁶¹ Marx 1842d, pp. 164-5 / p. 153, translation modified.

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It becomes clear that in a sense the press *is* ‘the true state’. Marx describes it as ‘the freest manifestation of the spirit in our day’;¹⁶² ‘a bond uniting the people’.¹⁶³ It is the all-encompassing activity of self-examination and self-determination that suspends and encircles all finite legal and institutional determinations in just the way that the operation of Hegelian Reason or the Concept surrounds and permeates the world of experience.

Publicity as self-development

But if it is right that Marx deploys a conception of publicity that is radicalised along Hegelian lines, we should not conclude from this that thereby presumes some sort of closure or attainable finality that Kant’s conception clearly precludes. For Marx, we remember, the science of legislation must be orientated towards the discovery of a system of laws under which the individual nature of each member of the state can fit together to form a coherent whole. But it is clear from everything he has said that this can never be regarded as a completed project.¹⁶⁴ This was indeed the inescapable reality of cameralist practice: in Tribe’s description,

harmony within the state was ... a condition which was to be permanently and deliberately under construction, an ever-extending and never-ending task ... both present and future are established in a finitude of decrees, actions, and agents; this orientation itself generates the requirement that information on such actions and agents be systematically gathered and collated.¹⁶⁵

¹⁶² Marx 1842d, p. 143 / p. 132.

¹⁶³ Marx 1842d, p. 176 / p. 164, translation modified.

¹⁶⁴ Again Marx seems to be close to Bauer here, who identified the ‘true state’ of self-consciousness as a permanent process of self-suspension and re-instantiation – in Moggach’s account, ‘[t]he state’s universality is its ability to concretize itself in the forms of *Sittlichkeit* or ethical life, but never to rest content with the realization of freedom it has thus secured. It constantly rescinds its products, as mere particularity which cannot manifest the plenitude of its creative power, of its consciousness of freedom’. Moggach 2003, p. 148. See also McLellan 1969, pp. 66-9; Rosen 1977, pp. 110-124.

¹⁶⁵ Tribe 1984, p. 274.

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This bad infinity is now transposed into the free and ongoing expansion of public knowledge and debate. For Marx the press must be allowed to develop freely and organically, 'it should be accorded the recognition that is given even to a plant, namely, that it has its own *inherent laws*';¹⁶⁶ the 'newspaper correspondent can only consider himself as a small part of a complicated body, in which he freely chooses his particular function'.¹⁶⁷ This organic development is a never-ending process of assertion, contestation, refutation, revision, controlled by no one and open to all.

The press is, and should be, nothing but the *public* ... Like life itself, therefore, it is always in a state of becoming, and never of maturity. What it has learned by listening in hope and fear, it proclaims loudly, and it delivers its own judgement on it, vigorously, passionately, one-sidedly, as prompted by its feelings and thoughts at the given moment. What is erroneous in the facts or judgements it puts forward today, it will itself refute tomorrow.¹⁶⁸

One of the interesting things that emerges from Marx's articles on press freedom is a curious phenomenon whereby state censorship was creating a complete imbalance in the newspaper's coverage of foreign and domestic affairs. Heavy restrictions placed on the reporting of Prussia's social problems and internal administration did not apply to developments outside its border, creating a bizarre sense of living in an island of eternal stability surrounded by a maelstrom of unpredictable events. Conservatives were explicit about this ideological effect – it seems that the very notion of 'news' appeared to them disloyal. Marx quotes one German critic of France's comparatively open publication regime: 'Sympathy for the constitution and freedom of the press must necessarily be weakened when it is seen that they are bound up with eternally changeable conditions in that country and with an alarming uncertainty about the future'.¹⁶⁹ But for progressives

¹⁶⁶ Marx 1842w, p. 314 / p. 329.

¹⁶⁷ Marx 1843b, p. 333 / p. 297.

¹⁶⁸ Marx 1842w, pp. 311-12 / pp. 291-2. See also p. 314 / p. 329, where Marx reiterates the need for the elements of the press to be given the opportunity 'of unhampered, independent and *one-sided* development'.

¹⁶⁹ Marx 1842d, p. 170 / p. 158. This provokes one of Marx's most entertaining variations on his recurring astronomical metaphor: 'When for the first time the discovery in the science of the universe was made that the earth is a *mobile perpetuum*, many a

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like Marx, this can only have increased the frustrating sense of winds of change sweeping through Europe that were leaving Germany behind:

... for German newspapers there should exist only a French, English, Turkish, Spanish time, but no German time, only a *German timelessness*. But should not those newspapers be praised, and praised *from the state point of view*, which wrest from *foreign countries* and win for the *Fatherland* the attention, the feverish interest and the dramatic tension which accompany every *coming into being*, and above all the *coming into being of contemporary history*?¹⁷⁰

Pocock has claimed that the necessity for a knowledge and understanding of human history arises in 'the moment in conceptualized time in which the republic was seen as confronting its own temporal finitude, as attempting to remain morally and politically stable in a stream of irrational events conceived as essentially destructive of all systems of secular stability'.¹⁷¹ The political origins of historical materialism would seem to be a case in point. But the crucial message of Marx's thought in this period is that this confrontation with temporality must be a permanent one – for the stability achieved by identifying the universal republic with any particular historical moment can only be illusory. The 'true state' is not a thing; it is a project. It is the ongoing codification of our understanding of a human 'essence' that is itself infinite because always freely developing. The same interest of reason that makes it impossible ever to say that science is complete rules against any declaration that history is ever at its end.

6. 'Critique' revisited: the polemic of essence

The fact that all his arguments lead inexorably to the necessity of an ongoing open contestation of all legal and institutional forms and determinations in an inclusive and

phlegmatic German must have taken a tight hold of his nightcap and sighed over the eternally unchangeable conditions of his Fatherland, and an alarming uncertainty must have made him dislike a house that turned upside down at every moment.'

¹⁷⁰ Marx 1842w, p. 317 / p. 332-3.

¹⁷¹ Pocock 1975, p. viii.

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unrestricted public sphere means we must think again about what we might have assumed Marx meant with his notion of a 'critique' that penetrates to the 'essence' of things.

There is no denying that, as has been clear in the foregoing discussion, this is the language that is constantly deployed in these articles. To offer another example:

[T]he modesty of genius does not consist in what educated speech consists in, in the absence of accent and dialect, but rather in speaking with the accent of the matter [*Sache*] and in the dialect of its essence. It consists in forgetting modesty and immodesty and getting to the heart of the matter. The universal modesty of the mind is reason [*Vernunft*], that universal liberality of thought which reacts to *each thing according to the latter's essential nature*.¹⁷²

But we must pause to wonder what Marx really means in describing such an approach if it is the case, as we have previously suggested, that his thinking is fundamentally informed by a Hegelian account of 'essentialism' as a moment of cognition that is *necessary* but always also *contradictory* and hence never *final*. The lesson of the *Science of Logic* is that we must go beyond the immediacy of Being to attain a determinate experience; but this means that what we take to be 'immediate experience' is itself always already mediated, always already premised upon a prior essentialism that we must suspend and go beyond as the very movement by which our experience and knowledge expands. For Hegel the distinction between appearance and essence, the thing as it is for us and as it is in itself, is a distinction that we make *within* our own experience, a distinction that we make precisely in order to overcome it, as the repeated cognitive manoeuvre by which we extend our world, searching for what is *really* going on beyond what we had initially taken to be going on but which we now designate mere 'appearance'. In the social and political domain with which Marx is here concerned, the implication is that what appears to us as 'immediate', 'given' and straightforwardly empirical, is in fact the product of a prior organisation of our collective life, an institutionalised conceptualisation of our social interdependence, that must be critically reflected upon.¹⁷³ That Marx sees *newspapers* as

¹⁷² Marx 1842a, pp. 112-13 / p. 100.

¹⁷³ See Pinkard 1994, pp. 221-2 for a gloss on Hegel that suggests just this dynamic: 'A form of life ... becomes *Geist*, "spirit", by developing the practices whose function is to

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the privileged medium for this reflection demonstrates that this process is *not* about asserting some purely abstract or philosophically derived standard of 'human nature' or 'organic society' but precisely about looking again at what human beings are actually doing, how their needs are developing and interacting, in all its concrete and 'empirical' detail.¹⁷⁴ The 'discovery' of this new reality will always takes the form of a new essentialism, a new attempt to determine the 'real' behind the standing conceptualisation that has resulted from of any prior positing. But to 'grasp the reality' is always to conceptualise again, to 'petrify the fluid essence' by making a further determination that itself will be 'one-sided' and in need of suspension.¹⁷⁵

This may seem an obscure and perhaps tenuous interpretation of Marx's insistent use of the language of essentialism to describe what he is doing and what we all must do if we are to realise the true 'concepts' of law and the state – certainly he never explicitly explains himself in this way. But I think it begins to make more sense if we consider the philosophical and ideological context of these writings, against which it may look much more like a plausible theoretical *strategy* mounted in response to the 'opposite tendencies' in the dissolution of post-Kantian thought. By the time of Marx's entry into these debates, the philosophical fault-line between Hegel and Schelling that was first publicly opened up with the publication in 1807 of Hegel's *Phenomenology of Spirit* has widened into the outright and total opposition between the young radicals who still claimed Hegel's mantle and the appointed ideologues of the new regime in Berlin who included Savigny,

reflect on what that form of life takes to the "essence" for itself (to be authoritative for it). This type of reflection thereby introduces "negativity" into the form of life in that this type of reflection discovers within the terms that ht form of life has set for itself certain contradictions and incoherences that engender a scepticism about what it had up until then simply taken for granted'.

¹⁷⁴ O'Malley writes that Marx's 'approach to criticism is characterized by his apparent conviction that social reform could be achieved by educating the public, and especially the regime, about the shortcomings of the existing socio-political order by appealing to a philosophical understanding of the nature and purpose of political society'. This might suggest that Marx sees his role as simply lecturing from his philosopher's chair about his theory of the 'human essence' and the 'true state'. But it is clear from the actual practice of his journalism that such notions frame and drive forward an investigation and public airing of the actual social conditions, which are not measured against a timeless standard but are themselves the standard against which institutions are to be measured. O'Malley 1967, p. xvi.

¹⁷⁵ Marx 1842k, p. 233 / pp. 207-8.

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Stahl and Schelling himself.¹⁷⁶ To summarise, we might say that the conclusion of such thinkers was that the inherent instability of subjectivity, the impossibility of its ever attaining a stable unification with its object, could never be escaped and so had in the end simply to be affirmed. We always remain at the level of the Understanding, they implied, with all its inadequacy and arbitrariness, but such was the way of the world and to attempt to deny it was dangerous hubris. This realisation was exemplified at its highest point by Schelling's philosophically motivated turn to theological orthodoxy, which saw the order of the world as a creation of God's inscrutable will, whose operations in the world we could only intuit through the non-conceptual, non-rational medium of mythology and religious revelation.¹⁷⁷ And it found its political correlate in Stahl's insistence on the necessity of accepting the role of a personal sovereign in ordering the social world,¹⁷⁸ an acceptance that Savigny himself had gravitated towards as he lost confidence in the capacity of the *Volk* to organise itself spontaneously.¹⁷⁹ The immense value of Warren Breckman's study of the emergence of the Young Hegelian movement is the clarity with which it brings out this ideological constellation:

Just as Schelling believed that the order of the universe depends on the self-constraint of the spontaneous divine will, so Stahl maintained that the entire institutional and constitutional form of the state is both created and sustained by

¹⁷⁶ In a letter to Feuerbach in late 1843 Marx would describe Schelling's later doctrines as 'Prussian policy *sub specie philosophiae*'. Marx 1843k, p. 350 / p. 59. Heine's *History of Religion and Philosophy in Germany* presents a similar verdict: 'if one sees in Kant the terrorist convention and in Fichte the Napoleonic Empire, in Mr. Schelling one sees the reaction of the Restoration which followed'. Heine 1834, p. 239.

¹⁷⁷ See especially Schelling 1809, and Schelling 1933-7. For useful accounts of Schelling's later period see White 1983, pp. 93-192; Bowie 1989 pp. 91-177.

¹⁷⁸ On Stahl, see Berdahl 1988, pp. 348-71, and Breckman 1992.

¹⁷⁹ For a fascinating account of Savigny's trajectory along these lines see Toews 1989, p. 161: 'The question Savigny faced in 1842 was whether legislation should simply articulate the guiding principles of the common will ... as an "organ" of the *Volksggeist* or rather construct normative standards ... based on transcendent principles, and impose these standards on a recalcitrant population through the power of the state ... Savigny's historical disillusionment and his loss of confidence in the spontaneous operations of the collective communal consciousness had gradually led him to an accommodation with the principles of the new prophets'. Stahl, meanwhile, had no qualms in insisting that '[l]aw was not the articulated letter of the communal spirit, the conscious structuring of spontaneous life-relationships, but a command, backed by punishing, coercive power, to regulate human relations in accordance with absolute norms'. Toews 1989, p. 166.

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the sovereign will. The monarch's authority permeates all political and social institutions but transcends these insofar as monarchic will remains unbounded. In times of conflict, Stahl insisted, the maxim *In dubio pro rege* takes precedent over all norms. Like Schelling, Stahl could account for law only in its *creatio ex nihilo* from a chaos that has no intrinsic order itself.¹⁸⁰

Slavoj Žižek is one contemporary thinker who has suggestively characterised the nominalist radicalism that lies behind this hard-headed political realism: 'the late "reactionary" Schelling is ... not to be easily dismissed: he clearly perceived how, owing to man's original Fall – owing, that is, to his constitutive "out-of-jointedness", loss of the primordial organic unity – the State is a contingent substitute-formation, not a "natural", authentic form of social unity'.¹⁸¹

It would be quite wrong to write off the philosophical interest of these thinkers and the force of their critiques of eighteenth century rationalism and mature Hegelianism which, as is being increasingly recognised today, can be seen as an important starting-point for a whole host of contemporary criticisms of the modern urge to conceptual and teleological closure.¹⁸² Indeed, we can now see clearly how *close* Marx is to their analysis of political realities – both drawing from the same philosophical sources and vocabularies, and differing only that what 'positivism' affirms as the necessary state of things, Marx presents as a critical analysis of a condition to be overcome.

But we can also see why Marx's notion of the 'true state' in some ways *does* involve a qualified and strategic return to and reassertion of the core political ideal of the Prussian Enlightenment, the harmonisation of right and function through a publicly codified system of shared laws. This is not because Marx is unaware of the problems and dangers inherent in this rationalist utopia – it is clear from these writings how sophisticated an understanding of these he has. Rather we have to keep in mind that at this particular moment in time – the moment of Frederick William IV's accession – Marx is confronted with a conscious and deliberate *retreat* from this ideal into a wholly

¹⁸⁰ Breckman 1999, p. 88.

¹⁸¹ Žižek 1996, pp. 41-2.

¹⁸² In addition to Žižek's exploration (1996), see also Bowie 1993, pp. 127-77 especially. The classic account of the pivotal role played by Schelling's later thought in opening out some of the central themes and problems of subsequent European thought is in Löwith 1967, pp. 114-19.

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repressive form of mystically sanctified personalism.¹⁸³ At the time Marx is writing these texts the new Prussian ideology of Schelling and Stahl is declaring: of course positive law is one-sided and coercive; of course society is atomised and conflictual; of course government is manipulative and arbitrary. Such is the human condition as God, and the King, have ordained it, in their mysterious and unaccountable way. Marx wholly concurs with the 'realism' of this description; but he refuses the political closure it entails.¹⁸⁴ In such a political circumstance, the most politically productive act is to demand the impossible. As he had written in his Doctoral Dissertation, while positivism 'knows that the inadequacy is immanent in philosophy', 'only the liberal party achieves real progress', because it 'is, despite its inner contradiction, conscious of both its principle and its goal'.¹⁸⁵

This also, I think, brings us closer to what Marx is trying to achieve with his insistence on the moment of 'essentialism'. Positivism recognises that we can never arrive at a final, real, ultimate essence of things, the ultimate reality must always remain hidden from us, the world will never be fully transparent, that whatever rationale it may have, it will always for us retain an element of contingency and arbitrariness. But the consequence of this acceptance is an abdication of responsibility for the world's organisation to a mysterious and transcendent principle of the 'Beyond', and a deadening sanctification of the given that tries to call a halt to the ongoing movement of experience and knowledge. But as Hegel liked to say of Kant's supposed caution in restricting his claims to 'appearance' alone, this self-denying ordinance itself equates to a stubborn assertion that what we have before us is in fact the absolute, that what the Understanding

¹⁸³ See Nipperdey 1996, p. 281 for confirmation of the historical specificity of this conjuncture: the general tendency of bureaucratisation had meant that 'the sovereign was no longer simply an absolutist ruler. His reign was no longer primarily dynastic and patriarchal, and it was no longer legitimised by tradition and religion alone, but was functional. He was an instrument of the state'. But Nipperdey notes that Frederick William IV's 'very personal style of rule' was an attempt (if ultimately unsuccessful) to break with this trend.

¹⁸⁴ Stathis Kouvelakis also presents Marx as deliberately and self-consciously mobilising the intellectual heritage of the Enlightenment against 'the new face of Wilhelmine absolutism, which had characteristically abandoned rationalist principles (since these might serve as reminders of Prussia's reformist traditions) for the ideal of the Christian state'. Kouvelakis 2003, pp. 248-9. My suggestion is that this is complicated by the fact that *both* Marx and the new conservatives *share* to some degree a *critique* of eighteenth century rationalism developed through and from post-Kantian idealism.

¹⁸⁵ Marx 1841, p. 86.

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is itself the 'essence'.¹⁸⁶ What seemed like a mature downgrading of our cognitive ambitions in fact issues in precisely the kind of dogmatic closure that we might have wanted to avoid. This is why the renunciation of cognitive ambition can easily be the ally – not always, perhaps, but certainly in the situation Marx faces – of political conservatism.¹⁸⁷

Marx explicitly sets out this complicity of sceptical transcendentalism with dogmatic empiricism (or, as he will later call it, the couplet of 'abstract spiritualism' and 'abstract materialism') in an article that deals directly with the Historical School of Law, which he traces back to the pseudo-Kantianism of its founding father Gustav Hugo:

Hugo *misinterprets* his teacher *Kant* by supposing that because we cannot know what is *true*, we consequently allow the *untrue*, if it *exists* at all, to pass as *fully valid*. He is a *sceptic* as regards the *necessary essence* of things, so as to be a *courtier* as regards their *accidental appearance* ... Hugo's *reasoning*, like his *principle*, is *positive*, i.e., *uncritical*. He knows *no distinctions*. *Everything existing* serves him as an *authority* ...¹⁸⁸

Marx describes this as a '*base scepticism*, which, insolent towards ideas but most subservient to what is palpably evident, begins to feel clever only where it has killed the *spirit* of the positive, in order to possess the purely positive as a residue and to feel comfortable in this *animal state*'.¹⁸⁹ The force of this characterisation is precisely to undercut the pretensions of contemporary conservatives (Marx refers to Savigny only obliquely but names Ludwig von Haller, Friedrich Julius Stahl, and Heinrich Leo),¹⁹⁰

¹⁸⁶ 'Kant regards discursive Understanding, with this sort of cognition, as in itself and absolute. Cognition of appearances is dogmatically regarded as the only kind of cognition there is...' Hegel 1802-3b, p. 77.

¹⁸⁷ Pinkard suggests that something similar would have motivated Hegel's hostility to Savigny's historicism: 'Hegel ... had to be struck by the "positivity" of Savigny's views: Expressions of a people's identity simply have to be accepted; there was not going behind them for something deeper or more critical'. Pinkard 2000. In the words of Toews, Hegel's Berlin Inaugural Address of 1818 'insisted that the methodological stance of the Historical School necessarily led to the subjective fantasies of intuitive divination and the impotence and superficiality of passive empiricism'. Toews 1980, p. 62.

¹⁸⁸ Marx 1842g, pp. 204-5 / pp. 192-3.

¹⁸⁹ Marx 1842g, p. 206 / p. 194.

¹⁹⁰ Marx says his unmasking of Hugo's philosophical depravity should 'suffice for deciding whether *Hugo's successors* are *fit* to be the *legislators of our time*' – Savigny had just

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whose mysticism, romanticism and speculation, 'fragrant modern phrases' and 'extravagant unctuousity' shroud the fact that their position derives from the very same unedifying immersion in sensible immediacy.¹⁹¹ The essential point is that 'base' empiricism and pious religiosity amount to exactly the same thing:

If Hugo says that *marriage* and other *moral-legal* institutions are *irrational*, the *moderns* say that these institutions are indeed *not creations of human reason*, but are *representations* of a higher '*positive*' reason, and so on in regard to all the other articles. Only *one* conclusion is voiced by *all* with equal crudity: *the right of arbitrary power*.¹⁹²

I think that if we keep in mind the way Marx draws the philosophical battle-lines of the time the *strategic* political force of his methodological pronouncements against 'appearance' and in pursuit of 'essence' emerge with new clarity:

I must abandon the standpoint which shows me the world and human relations only in their most external appearance [*ihrem äußerlichsten Schein*], and recognise that this standpoint is unsuitable for judging the worth of things ... We must ... take the essence of the inner idea as the measure to evaluate the existence of things. Then we shall less allow ourselves to be led astray by a one-sided and

been appointed Minister of Justice with responsibility for legislation. Marx 1842g, p. 209 / p. 198. The inclusion of the other names makes clear that Marx's target is a wider ideological constellation than the 'Historical School' narrowly defined: Haller was an independent conservative political theorist not normally seen as part of the School; Stahl was by this time espousing a political theory much more Schellingian than historicist; and Leo was a former Hegelian who had renounced philosophy for orthodox Protestantism. For fuller accounts of such figures see Toews 1980, Berdahl 1988, and Breckman 1999.

¹⁹¹ 'At all events, in the course of time and civilisation, this *crude genealogical tree* of the historical school has been shrouded in mist by the *smokescreen of mysticism*, fantastically wrought by *romanticism*, and inoculated with *speculation*...' Marx 1842g, p. 209 / p. 198. According to Breckman, 'where Hugo had merely defended the crude force of historically given facts, the modern Positive Philosophers attempted to legitimise these facts by embracing a transcendent political theology'. Breckman 1999, p. 274.

¹⁹² Marx 1842g, p. 209 / p. 198.

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trivial experience, since in such cases the result is indeed that all experience ceases, all judgement is abolished [*aufgehoben*], all cows are black.¹⁹³

Thus Marx deliberately invokes the terms of Hegel's break with Schellingian immediacy, as an ultimately empty conception of the Absolute which itself collapses into a formalism that is arbitrarily applied to the given.¹⁹⁴ Even more striking in this context is his attack, a few lines after this passage, on official censorship as 'the polemic of a worldview of semblance [*Schein*] against the worldview of essence'.¹⁹⁵ If Marx has taken anything from Hegel, he must surely see these two worldviews as interdependent, that there will always be an appearance against which the worldview of essence will have to polemicise.

Two important and interrelated points seem to arise from this discussion, one epistemological or methodological, the other political. The first is that Marx's frequent deployment of essence-appearance or essence-existence dichotomies should *not* be taken to mean that he ultimately subscribes to the dualist ontology this would seem to entail. Rather, just as Hegel sees such a distinction as a necessary and recurrent *moment* in the

¹⁹³ Marx 1842d, p. 154 / p. 142. See also Marx 1842u, p. 295 / p. 275, translation modified: 'one would have to demand of the author that he should make a more thorough study of nature and rise from the first sensible perception of the various elements to a rational perception of the organic life of nature. Instead of the spectre of a chaotic unity, he would become aware of the spirit of a living unity...'

¹⁹⁴ Hegel 1977, p. 9: '...this formalism maintains that such monotony and abstract universality are the Absolute ... Dealing with something from the perspective of the Absolute consists merely in declaring that in the Absolute everything is the same, against the full body of articulated cognition, which at least seeks and demands such fulfilment, to palm off its Absolute as thee night in which, as the saying goes, all cows are black – this is cognition naively reduced to vacuity. The formalism which recent philosophy denounces and despises, only to see it reappear in its midst, will not vanish from Science, however much its inadequacy may be recognized and felt, till the cognising of absolute actuality has become entirely clear to its own nature...' There is a long story concerning whether or not Hegel actually meant to target Schelling with these lines or, as he subsequently claimed, only his less sophisticated 'followers'; but the important point for us is that this is how it was generally seen at this time. See for example Strauss 1837, pp. 10-12: 'In this opposition of his system to Schelling's, especially in that point of contrast which is designated by the *Phenomenology*, Hegel's system moves in the direction of critique ... the denial of the *Phenomenology* is the most decisive mark of Schelling's standpoint ... Since from the Schellingian perspective, the absolute is a philosophical immediate, it follows that the immediately given must also be an absolute for it theologically ... As a consequence, philosophy must not take a step above and beyond sacred history and dogma in order to find the truth.'

¹⁹⁵ Marx 1842d, p. 154 / p. 142.

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ongoing process of Reason's self-determining organisation of a world of experience, Marx sees it as a necessary moment in our own self-determined organisation of our social world. An orientation towards essence is precisely how we break the hold of the given, the immediate, the array of finite conceptual determinations which are only ever the result of a previous round of essence-positing. And in penetrating to the essence we are never deferring to the authority of something beyond our world but rediscovering our own self-determined authorship of its order. This circular dynamic is dramatised by the *practical* importance of countering the fixity of any particular institutional determinations by confidently reaching beyond them to the 'truth' they may occlude or obstruct. A retreat from this ongoing project is what paradoxically results in the closing down of political possibility and a treatment of our institutions as if they had been decreed by some force above and outside of us.

The more straightforwardly political consequence of this is that, as Marx's commitment to press freedom makes clear, we should not assume that his invocations of 'the people', its 'spirit', and the immanent social order that our institutions must reflect, mean that he thinks one could ever arrive at a final identification of this 'absolute' of social life that would bring this process to a close. His insistence that we keep up the pursuit is precisely what keeps the process open – an abandonment of the search brings with it all the negative consequences that would follow from presuming that we had found it. Such an argument is so out of step with today's theoretical climate that we tend to assume that Marx's references to essences and totalities, human natures and social organisms, is a problem, at best an embarrassment,¹⁹⁶ at worst the philosophical seed of twentieth-century totalitarianism.¹⁹⁷ Huge issues are raised here and I do not claim to

¹⁹⁶ This was obviously the attitude of Althusser, but even Stathis Kouvelakis, whose aim is to rescue the Young Marx from Althusser's condemnation, assumes that he must work against the grain of this philosophical discourse: 'All things considered, we can only affirm that Marx, although he falls back on the dialectic of existence and the human essence, nevertheless consistently avoids (although his recourse to this dialectic would normally lead him to do precisely the opposite) anything resembling a systematic treatment, full-scale depiction or positive representation of the concrete universality that he now projects beyond the horizon of civil society and the political state'. Kouvelakis 2003, pp. 313-4.

¹⁹⁷ This is plainly Warren Breckman's worry: 'in challenging the sovereign discourse of their day, in aiming to dethrone the self, the left-wing Hegelians faced the constant temptation to substitute one form of "embodiment" for another, to replace democracy's indeterminate and contestatory interactions with a more certain form of unity. For the

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have settled anything definitively in this regard. All I wish to indicate at this point is some generally overlooked circumstantial evidence – a bit of philosophical context which could be relevant, and the known facts about Marx's actual political practice at this point in his life – that might lead us to reconsider this assumption, and entertain the possibility that just maybe Marx's polemicising on behalf of the 'worldview of essence' has a political function that is precisely what many of today's theorists hope to achieve by renouncing it.¹⁹⁸

Young Hegelians were quick to identify a human essence in which all humans share and to posit a vision of radical collectivisation that would secure both ... the conditions for individual self-realization and the perfectibility of the species'. Breckman 1999, p. 302.

¹⁹⁸ To take just one of many possible examples, see Laclau and Mouffe 1985, pp. 95-6: 'In order to place ourselves firmly within the field of articulation, we must begin by renouncing the conception of "society" as founding totality of its partial processes. We must, therefore, consider the openness of the social as the constitutive ground or "negative essence" of the existing, and the diverse "social orders" as precarious and ultimately failed attempts to domesticate the field of differences. Accordingly, the multiformity of the social cannot be apprehended through a system of mediations, nor the "social order" understood as an underlying principle. There is no sutured space peculiar to "society", since the social itself has no essence'. I think that if we look past the terminology then it is at least arguable that, paradoxically, this describes something very close to the political-theoretical stance that the young Marx wants to maintain, precisely through his orientation to essence, organism, and totality. The key difference would be his questioning of his desirability of 'placing ourselves firmly within the field of articulation', as Laclau and Mouffe understand it, rather than keeping open its necessary and productive tension with the possibility of 'mediation'. In Marx's times the theorists who had abandoned this idea and placed themselves 'firmly within the field of articulation' were precisely those who sought to *suppress* the precariousness of the social order and secure its 'domestication' of 'the field of differences'.

5.

Marx contra Hegel

Kreuznach, 1843

‘The origin of the supreme authority is, from the practical point of view, not open to scrutiny by the people who are subject to it; that is, the subject should not be overly curious about its origin ... these are pointless questions that threaten the state with danger if they are asked with too much sophistication by a people who are already subject to civil law ... A law that is so wholly inviolable that it is a crime even to doubt it or to suspend it for an instant is represented as coming, not from human beings, but from some kind of highest perfect legislator. That is the meaning of the statement, “All authority comes from God”, which is not a historical explanation of the civil constitution, but an Idea that expresses the practical principle of reason that one ought to obey the legislative authority that now exists ...’

– Immanuel Kant, *The Metaphysics of Morals* (1797)¹

‘To be radical is to grasp the root of the matter. But for man the root is man himself.’

– Karl Marx, *Contribution to the Critique of Hegel’s
Philosophy of Law: Introduction* (1844)²

1. The ‘demiurge’ reading

Hegel’s *Philosophy of Right* is a notorious exemplification of his claim in the *Encyclopaedia* that ‘Logic’ is the ‘animating soul’ of ‘all other philosophical sciences’, whose concern is ‘only to [re]cognise the logical forms in the shapes of nature and spirit, shapes that are

¹ John Ladd translation, Kant 1797d, pp. 123-4, 318-9.

² Marx 1844a, p. 182 / p. 177.

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only a particular mode of expression of the forms of pure thinking'.³ It is extremely difficult to decide how to take this claim and the many like it that run through the text of the *Philosophy of Right*. Certainly language like this can give the impression that Hegel's speculative logic functions for him as the pre-existent divine blueprint into which all the world must be seen to fit, an 'underlying' metaphysical order or ontological principle from which everything emanates, and whose 'dialectical' conceptual transitions are the inner force driving the development of everything towards its final reconciliation with the Absolute in the Idea.⁴ And this, in fact, is how Marx here characterises Hegel's philosophical operation in his critical notes on the *Philosophy of Right*:

Hegel's purpose is to narrate the life history of abstract substance, of the Idea, and in such a history human activity [*Thätigkeit*] etc. necessarily appears [*erscheinen*] as the activity and product of something other than itself ... it is very easy to fasten onto what lies nearest to hand and prove that it is a *real* moment of the Idea.⁵

This is the diagnosis that Marx held to throughout his career. It may even be that our own ways of approaching Hegel have been definitively shaped by statements such as the following, from the much-quoted 1873 Postface to the Second Edition of *Capital*:

For Hegel, the process of thinking, which he even transforms into an independent subject, under the name of 'the Idea', is the creator [*Demiurgos*] of

³ Hegel 1830a, p. 58, § 24.

⁴ Charles Taylor tends to present Hegel like this: 'absolute idealism is related to the Platonic notion of the ontological priority of rational order, which underlies external existence, and which external existence strives to realise ... Because he sees the world as posited rational necessity, as the external manifestations of the Idea, the concepts which are true of it ... provide the ground plan according to which it was posited'. Taylor 1975, p. 110.

⁵ Marx 1843h, p. 98 / p. 40, translation modified. See also Marx 1843h, pp. 64 / p. 11: 'It is always the same categories which are made to supply now one sphere and now another with a soul. The problem is merely to discover the appropriate abstract determinants to fit the individual concrete ones'.

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the real world, and the real world is only the external, phenomenal form of ‘the Idea’.⁶

Marx indeed refers in this passage to having ‘criticised the mystificatory side of the Hegelian dialectic nearly thirty years ago, at a time when it was still the fashion’. This would seem to point us toward the 1843 critique of the *Philosophy of Right*,⁷ and the ‘Introduction’ to it published in 1844. It is possible that Marx may also have had in mind the critical discussion of the *Phenomenology* that can be found in the ‘Economic and Philosophical Manuscripts’, but this in any case can plausibly be seen as a continuation and development of the same basic argument.⁸ And though we should not necessarily take this as absolutely the final and only word on the matter, it does confirm that Marx, at least, continued to regard his critiques of the early 1840s as definitive of the relation of his later thought to that of Hegel.

Despite the canonical status and undoubted seriousness of these charges, I want to suggest that, ironically, we cannot really understand the force of Marx’s critique of Hegel unless we recognise that at some level this *cannot have been Hegel’s intention*. For surely the whole thrust of Hegel’s critique of essentialist metaphysics and dualist epistemologies would seem to run against such a construction – of a ‘transcendent’ Absolute or ‘underlying’ logical order to the world, behind or ‘beyond’ what we find in our experience, and relegating empirical reality to its contingent, imperfect and superficial ‘appearance’ or ‘expression’.⁹ As we have been seeing, this aspect of Hegel’s thought has

⁶ Marx 1867a, p. 102.

⁷ This case was first pressed by the Italian Marxist theoretician Galvano della Volpe: ‘The most important of the two works in our view is the *Critique of Hegel’s Philosophy of Law*, even if till now it is incomparably less well-known ... than the *1844 Manuscripts*, despite the attention drawn to it by Marx in 1873 ... Subtract thirty from 1873 and you have the exact date, 1843’. della Volpe 1955, pp. 161-2.

⁸ Marx writes there that ‘[i]n the *Phenomenology* ... the uncritical positivism and equally uncritical idealism of Hegel’s later works, the philosophical dissolution and restoration of the empirical world, is already to be found in latent form’. Marx 1844c, pp. 384-5 / pp. 403-4.

⁹ As Pippin says in attempting to dislodge the hold of readings such as Taylor’s: ‘much of the standard view of how Hegel passes beyond Kant into speculative philosophy makes very puzzling, to the point of unintelligibility, how Hegel could have been the post-Kantian philosopher he understood himself to be; that is, how he could have accepted, as he did, Kant’s reservations about the fundamental inadequacies of the metaphysical tradition, could have enthusiastically agreed with Kant that the metaphysics of the

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begun to come through more clearly in recent commentaries: Robert Pippin's insistence that for Hegel 'there is literally *nothing* "beyond" or "behind" or responsible for the human experience of the world of appearances';¹⁰ or Stephen Houlgate's that Hegel's *Logic* must be seen as a radically *anti*-foundationalist text;¹¹ or even Slavoj Žižek's suggestion that Hegel's arguments there *already* 'articulate in advance the motif Feuerbach, young Marx, and Althusser proclaim as the "critique of speculative idealism"'.¹² And indeed, my claim here will be that Marx's *critique* of Hegel can be plausibly read as an attempt at a transformative recovery, in the practical and political dimension, of the radical anti-foundationalist impulse which originally motivates his philosophy.

To make sense of this paradox, we have to recover our sense of how Hegel arrived at such statements as that 'Logic' as the 'pure forms of thought' is the 'animating soul' of all other sciences. This, as we saw in Chapter Two, was by way of an *acceptance* of Kant's assertion of the self-determining spontaneity of self-consciousness, and a *rejection* of his absolute oppositions of conceptual form and intuited content, as incompatible with that spontaneity. The result was, first, that we had to begin to think of experience as in some sense wholly determined by the self-conscious activity of the subject, and, as an immediate consequence, that it then made no sense to talk as if there might be something beyond experience that could act on it from the outside. The Kantian philosophical project, of attempting to lay bare the necessary and universal structures of that self-conscious activity, continued; but with the radical difference that this was no longer an attempt to transcendently determine the possible ways in which the subject can relate to a world outside it, but rather amounted to an account of the possible ways the world could be structured, maybe even, the ways in which the world structures itself. This is why, in Pippin's words, 'the *Logic* not only represents thought's articulation of itself, but,

"beyond", of substance, and of traditional views of God and infinity were forever discredited, and then could have promptly created a systematic metaphysics as if he had never heard of Kant's critical epistemology. Just attributing a moderate philosophical intelligence to Hegel should at least make one hesitate before construing him as a post-Kantian philosopher with a precritical metaphysics'. Pippin 1989, p. 7.

¹⁰ Pippin 1989, p. 206.

¹¹ Houlgate 1999, p. 28.

¹² Žižek 1993, p. 138.

in being such a self-articulation, determines comprehensively any possible actuality'.¹³ The details of this argument and, even more so, the way in which Hegel actually cashes it out with his own system of necessary inter-conceptual relations, are of course highly complex and controversial, and I cannot undertake to work through all the issues raised within the confines of this discussion. Our primary purpose is to try to understand how it is that, on Marx's reading, somewhere along the way Hegel's philosophical project has fallen away from the revolutionary insight from which it was developed, so that in its final 'mature' applications it has begun to exhibit all the problems and negative consequences of the metaphysical dualisms it had originally set out to displace. What most concerns Marx, and what will here concern us, is the political dimension of this degeneration. But to understand this we first have to suspend Marx's final judgment on the matter and look at what it is Hegel may have been trying to do with the *Philosophy of Right*.

2. The *Philosophy of Right* as political epistemology

The idea of a universal and necessary 'logic' of political institutions will hopefully by now look like it has some kind of *prima facie* plausibility. If political institutions are the external armature of some kind of collective agency, and collective agency may be said to follow certain basic rules as the condition of its possibility, and that these rules are basically the same as the rules by which individuals count as agents, and that these rules in turn are closely related to the rules by which conscious experience and knowledge is possible, then we may indeed expect to find echoes of a transcendental 'logic' in the ideal and actual shapes of political institutions. The minority of commentators who have actually tried to make sense of the role of Hegel's *Logic* in structuring the *Philosophy of Right* (most stick to the ethical theory and political sociology) have in fact tended to come to an account that is quite close to this.

Thus Frederick Neuhouser proposes that 'we think of the Concept ... as a highly abstract account of the kind of inner articulation required of a self-conscious being,

¹³ Pippin 1989, p. 180.

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whether individual or collective, in order for it to be a whole, fully integrated subject'.¹⁴ The aim of the *Philosophy of Right* is then to set out the necessary structures of a collective, self-conscious agency. In Peter Steinberger's description: 'given certain premises regarding individuality, society, and human reason, Hegel seeks to deduce in general terms the conceptually correct forms of our living together'.¹⁵ Crucially, for Hegel this can not be secured by appeal to emotional ties or a pre-discursive felt unity with the social whole, as romantic or Schellingian conservatives might have had it. Because of the very nature of subjectivity and agency, any such unification must be conceptually mediated – as Pinkard puts it, '[w]hat unites us in the political life of the state is not a kind of fusion, a submersion of individual identity into some organic whole, but a general commitment to a way of life based on rational, coherent, principles'.¹⁶ And this raises the possibility that there may be certain fundamental practical concepts by which we regard or relate to ourselves as that collectivity, and by which we regard or relate to each other as members within it. These shared concepts would define the most basic 'kinds' of social roles, activities and relationships that would be the necessary conceptual form of any shared social world, in the same way as the transcendental categories of epistemology define the basic and universal kinds of objects, events and relations that could form part of a coherent experience. This is how Pinkard accounts for what he calls (following Klaus Hartmann)¹⁷ 'social categories':

a social category ... is an expression of a basic form of unity among people – a structure of mutual acknowledgement – in which various moral principles (rights, duties, and virtues) are embodied and which explains their possibility ... Such categories are both the result of human interaction (they have their 'form of appearance and actuality' in individuals) and are independent of individuals in that the rights, roles, duties and virtues found in them are independent of the individuals choosing them ... The articulation of such categories is thus the articulation of the practical Idea, of the moral world of a culture. They constitute the way in which we conceive and think of the moral world to ourselves. As

¹⁴ Neuhouser 2000, p. 134.

¹⁵ Steinberger 1998, p. 204.

¹⁶ Pinkard 1988, p. 146.

¹⁷ See Hartmann 1976.

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social categories, they structure not only the shared understandings that we have of this moral world; they also structure our own sense of identity and of what would be the good life...¹⁸

This I think begins to make clearer sense of Hegel's proposition that his philosophy of 'Right' develops as the universal and necessary conceptual form of 'the will which is free in and for itself'.¹⁹ The intrusions of the *Logic* into the philosophy of right thus only make explicit what we saw to be implicit in Kant's *Doctrine of Right* – the system of right is the set of interconnected practical concepts that are entailed by and necessary for any instance of rational agency and which define the conceptual structure of the unified will upon which social coordination or harmonisation is based.

The difference from Kant, as we have already seen, is that the doctrine of 'Right' cannot be kept absolutely separate from the doctrine of 'Virtue'; the two must be united in 'ethical life'. And this produces a radically different system of 'right', as the most basic set of articulated practical concepts that integrate the concerns of 'abstract right' and 'subjective morality', defining the minimal necessary structure of realised 'ethical life'. Ethical life, says Hegel, is 'the *Idea of freedom* as the living good which has its knowledge and volition in self-consciousness, and its actuality through self-conscious action'.²⁰ The most basic social categories of this system are, for Hegel, the family, civil society, and the state.²¹ In Pinkard's words, each of these social categories 'is an expression of a basic kind of unity among individuals that gives content to their willing'.²² Family, civil society and state constitute different ways in which social activities and interactions can be given a clear institutional determinacy. Hegel's presentation of these three spheres and their interrelation makes it clear that he sees important parallels with Intuition, Understanding and Reason as the three levels of the Kantian epistemological architecture, and the Doctrines of Being, Essence and Concept that explore the interdependent moments of

¹⁸ Pinkard 1988, p. 139.

¹⁹ Hegel 1821a, p. 67, § 34.

²⁰ Hegel 1821a, p. 189. § 142.

²¹ Hegel 1821a, p. 62, § 33.

²² Pinkard 1988, p. 141.

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his own post-Kantian, post-epistemological ‘Logic’.²³ Thus the family and civil society are necessary spheres of ethical life just as immediate unity and ‘division and appearance’ are necessary components of self-conscious knowledge or agency; while the political moment of the state unifies and encircles them both, revealing them to be not self-sufficient in themselves, but necessary levels of a self-determining whole. Hegel’s original critique of the *Verstandesstaat* might be said to find its final result in this crucial argument for the insufficiency of civil society and the necessity of the transition to the state proper. Hegel describes civil society as ‘the *external state*, the *state of necessity* and of the *understanding*’.²⁴ The market mechanism and its administrative enforcement means that a common good is arrived at as the condition of each particular interest. ‘But this unconscious necessity is not enough’, says Hegel – it must become ‘a knowing and thinking [part of] ethical life’ through the corporation and its engagement with the explicitly universal interest of the state.²⁵ As Steinberger says, the ‘external state’ of civil society

overlooks the sense in which society, properly conceived, cannot be merely external to, and only protective of, the individuals that comprise it. Just as the logic of the Understanding overlooks the necessary interconnectedness of otherwise finite forms of thought, so the political theory of accommodation [that is, ‘society as a merely contingent or convenient concatenation or juxtaposition of individuals’] fails to see that society cannot be a mere aggregation of discrete atoms.²⁶

As the final institutionalisation of a rational and unified will, recognised as such by all its individual members, the state is thus the vehicle of a collective freedom in which all share and that is restrained only by Reason itself. ‘The state is the actuality of the ethical Idea – the ethical spirit as substantial will, *manifest* and clear to itself, which think

²³ Neuhouser notes that ‘the family, civil society, and the state are ... associated with the Conceptual moments of immediate unity, difference, and mediated unity, respectively’. Neuhouser 2000, p. 135. See also Kolb 1986, p. 59.

²⁴ Hegel 1821a, p. 221, § 183.

²⁵ Hegel 1821a, p. 273, § 255, Addition.

²⁶ Steinberger 1998, p. 204.

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and knows itself and implements what it knows in so far as it knows it'.²⁷ As Pinkard says, '[t]he state ... must be thought of as a moral agent in its own right ... as a single subject, the state must embody a set of coherent principles'.²⁸ These fundamental principles that govern our self-determining collective agency define the *constitution*:

The constitution of a society enables society to function as a coherent whole in terms of a unity of principles, instead of functioning just as a makeshift hodge-podge of individuals locked in a struggle for dominion and mastery ... a constitution creates the possibility of individuals' exercising power over other individuals not through market relations but through relations of justified authority.²⁹

Hegel's constitution, as the crowning section of his *Philosophy of Right*, should then provide a structure in which society's self-determination is consciously embodied, and upon which all subordinate social roles and relationships are dependent, just as the 'Doctrine of the Concept' that makes up the final section of the *Logic* furnishes the means by which we can think the unconditioned organisation of experience by Reason, to which all finite determinations are relativised.

It is important that the philosophical motivation of this project is taken seriously, lest we mistake the force of Marx's critique. For my argument is that we cannot understand Marx's response if we regard it as based on a total rejection of and opposition to the ambition of finding the necessary rational form of our individual and collective freedom, as if that were *in itself* an illegitimate and hopelessly pseudo-Platonic undertaking. As should be clear by now, it is nothing of the sort – it can quite reasonably be seen as a continuation of the Kantian project of defining the universal and necessary structures of a knowing and willing that is spontaneous and self-conscious. As Marx writes:

If by the constitution we mean the universal, fundamental determinants of the rational will, it follows that every people (state) must have this as its premise and

²⁷ Hegel 1821a, p. § 257.

²⁸ Pinkard 1998, p. 147.

²⁹ Pinkard 1998, p. 148.

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that this premise must constitute its political credo. This is actually a matter of knowledge rather than will. The will of a people may not escape the laws of reason [*Vernunft*] any more than the will of an individual. In the case of an irrational people we cannot speak of the rational organization of the state.³⁰

My claim is that Marx ultimately retains something of this Kantian project – not that he does not transform and divert it in unique and fundamental and maybe even problematic ways, but that we will never be able to see what Marx is really trying to do without an understanding and appreciation of this project as a philosophically and historically necessary preliminary to his own. And indeed, I aim to show how Marx begins to approach his own distinctive standpoint on this project by means of an analysis of why Hegel's variant of this project is problematic not so much because of what it attempts, but because of the fact that it fails by its own standards.

3. Hegel's failure

Marx's engagement with the paragraphs on the constitution in Hegel's *Philosophy of Right* is a rough-hewn, fragmentary and incomplete affair, never intended for publication. It follows the order of Hegel's text, interjecting here and there and sometimes with extended excursions on themes as they were raised by Hegel or occurred to Marx in response. At no point is there any attempt to draw these threads together or present a single summary of Marx's argument – indeed, this is not a text that *has* an argument, but consists of a series of comments and elaborations that cut into the argument of Hegel's text. Any bid to draw out the themes of an overall 'critique' is then necessarily tentative and reconstructive.

My interest here is in drawing out what I think are strong indications that Marx views Hegel's political philosophy as ultimately failing to achieve what Hegel must have set out to achieve, and that is open to the precisely the sort of criticisms that Hegel himself levelled at other philosophical constructions, both epistemological and political. Marx is criticising Hegel from a standpoint that is in itself broadly Hegelian, or, perhaps

³⁰ Marx 1843h, p. 120 / pp. 61-2.

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it would be better to say, recognisably shaped by Hegelian arguments and insights. It is customary for explications of Marx's text to give priority to the role of Feuerbach's 'transformative critique' of speculative idealism in supplying the methodology for his reading.³¹ Certainly Feuerbach's arguments are important here, and we will be returning to them. But initially I am adopting a deliberate alternative tactic of attempting to show just how much of what Marx says can be seen as echoing and drawing from 'Hegelian' insights and arguments. My suggestion will be that this enables us to get a much clearer view of just what role Feuerbach's innovations play in the development of Marx's relation to post-Kantian idealism.

There are three steps to my argument. The first is to point out that Marx clearly sees Hegel's constitutional structure in terms similar to those in which Hegel criticised other conceptions that he aimed to surpass: that it is formalistic, mechanical, and arbitrary; as political epistemology, it is a construction that instead of actualising social Reason has reduced it to the level of the Understanding. The second is that Marx's presentation of this structure as inherently self-mystifying is itself an extension of Hegel's own arguments about the interconnected couplet of dogmatic empiricism and vacuous foundationalism that results from any such absolutisation of the Understanding. Thus Marx's most distinctive and direct arguments *against* Hegel are themselves of demonstrably Hegelian pedigree. This, in turn, will help us to make clearer sense of the radical shift in philosophical and political orientation that Marx puts forward as the resolution of this impasse, which appears here in its first guise as 'true democracy'.

A Hegelian Verstandesstaat

A point that emerges very clearly from Marx's notes is that he views Hegel's construction as *dualistic* and *formalistic* in a way that unmistakably evokes Hegel's own criticisms of Kant, Fichte, and other philosophies and political theories of the 'Understanding'. Marx now sees Hegel's own constitutional construction as, to recall the metaphor he deployed at the point of his first conversion to Hegelianism, a carefully carpentered desk which he

³¹ See for example Avinieri 1968, pp. 8-12; O'Malley 1969, pp. xxviii-xxxii.

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must then fill with sand.³² A few lines near the end of Marx's text that do come about as close as anything we have to a summary of his assessment makes this clear:

Hegel only expounds a *state formalism* [*Staatsformalismus*]. The proper *material* principle is for him the *Idea*, the abstract mental *form* of the state as subject, the absolute Idea which contains no passive, no *material* moment. By contrast to the abstraction of this Idea the characteristics of the actual, empirical state formalism appear as *content* and hence the *actual* content appears as formless, inorganic matter [*Stoff*] (in this case the actual man, the actual society, etc.)³³

The state, for Hegel, expresses the consciousness of, and will, to unity on the part of its members. But this unity is already immanent in the subordinate spheres of the family and civil society – the state adds nothing to this, but only brings it to full self-consciousness. But this means that the state as institution embodies nothing but an abstract or empty universality. As Hegel himself said in his original critique of Kant, 'nothing remains for Reason but the pure emptiness of identity'³⁴ – Kant's theoretical reason was a formal principle of unification that in fact added nothing to the content delivered by the interaction of sensibility and Understanding. This is the starting point of Marx's critique of Hegel's polity: '[t]he constitutional state is that form of the state in which the state interest, i.e. the actual interest of the people, is present only *formally*, though as a *definite form* alongside the actual state'.³⁵ The redundancy of Hegel's constitutional form is revealed through the whole series of its institutional 'moments'. The sovereign power, as the moment of decision or will, can only ultimately be an abstract, empty willing. The executive power, as the activity of subsuming particular instances under universal laws, has no basis upon which to do so apart from the empty formalities of its own internal rules and procedures.³⁶ And the legislature, as the power to determine and establish the

³² Marx 1837b, p. 15 / p. 11.

³³ Marx 1843h, p. 186 / p. 125-6, translation modified.

³⁴ Hegel 1802-3b, p. 80.

³⁵ Marx 1843h, p. 129 / p. 69, translation modified.

³⁶ 'Hegel does not expound the *content* of the bureaucracy, but only a number of general determinations of its "*formal*" organization; and it is perfectly true that the bureaucracy is only a "formalism" for a content lying outside it.' Marx 1843h, p. 106 / p. 49.

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universal, can only do so on the premise of an abstraction of all the social elements represented within it from the actual content of their interests in civil society.

All this is a problem because, despite the emptiness of all these moments, these elements of the state are not mere formalities but active and effective forces in society, ruling over, organising and intervening in it. The problem is thus exactly the same as that identified by Hegel in Kant's moral philosophy. As Hegel had continued in *Faith and Knowledge*: '[i]t would be of more particular interest, for another thing, to see how this empty unity, as practical Reason, is nonetheless supposed to become constitutive again, to give birth out of itself and give itself content'.³⁷ In the case of the state's institutions, as in the case of Kantian morality, this can only come about by a surreptitious raising of contingent empirical content to the status of an embodied universality.

the absoluteness which is present in the proposition by virtue of its form takes on a wholly different significance within practical reason; for it is also transferred to the content, which is by nature a conditioned thing [*ein Bedingtes*]. and contrary to its essence, this non-absolute, conditioned thing is raised to [the status of] an absolute as a result of this confusion ... through this confusion of the absolute form with the conditioned material, the absoluteness of the form is imposed by stealth on the unreal and conditioned character of the content, and this inversion and sleight of hand lies at the heart of the practical legislation of pure reason.³⁸

This, Marx seems to be thinking, is precisely the consequence of Hegel's *political* formalism. 'Property, contractual agreements, marriage, civil society appear ... as the *content* within the framework of the political state which functions as the organized *form*,

³⁷ Hegel 1802-3b, p. 81.

³⁸ Hegel 1802-3a, p. 126. A good illustration of my general thesis about how Marx's critique of Hegel has been misread is the way della Volpe seems to have been unaware of the Hegelian origin of this argument: 'the originality of this new, really materialist, kind of critique of all *a priori* lies in its discovery of the effective consequence of any *a priori* abstraction, generic or hypostatic. This is not just the "emptiness" of these abstractions (as in the anti-rationalist, Kantian mould, shared also by Feuerbach), but rather their (*faulty*) fullness, a fullness of un-mediated, or *un-digested*, *empirical contents*, which in turn are transcended by these generic (preconceived or *a priori*) abstractions. This is a faulty fullness, and thus a negative one from the cognitive (and epistemological) point of view, as it involves, we have seen, the presence of circularities or tautologies *of facts*, and hence, *in fact*, basic tautologies, not merely formal or verbal ones'. della Volpe 1955, p. 167.

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as the mere Understanding devoid of any content [*Inhaltlose Verstand*] which defines and limits, now affirming, now negating'.³⁹ The political outcome is an order that is ultimately arbitrary and irrational,⁴⁰ its fixed oppositions generating undecidable conflicts among the state's institutions and with the elements of civil society they confront.⁴¹

So in the monarchy "state-reason' [*Staatsvernunft*] and "state-consciousness" [*Staatsbewußtsein*] is a "single" empirical person to the exclusion of all others; but this personified reason [*personifizierte Vernunft*] has no other content than the abstraction "I will".⁴² As a result 'a part determines the character of the whole. The whole constitution must adapt itself to the one fixed point'.⁴³ The individual in whom the state's agency is embodied is qualified not by any moral attribute or social activity but by the purely physical fact of his ancestry,⁴⁴ and the will of the collective has no substantive content but is defined as whatever this individual happens to think or will at any given time. 'The two moments are the *accident of will*, caprice, and the *accident of Nature*, birth, and so we have *His Majesty the Accident*. Accident is accordingly the *actual unity* of the state'.⁴⁵

³⁹ Marx 1843h, p. 88 / pp. 31-2.

⁴⁰ '[W]henver a determinacy or individual quality is raised to [the status of] something in itself [*zu einem Ansich*], irrationality and (in a moral context) immorality [*Unsittlichkeit*] are posited'. Hegel 1802-3a, pp. 125-6.

⁴¹ 'Hegel presents us with an unresolved *antinomy*. On the one hand external necessity, on the other immanent purpose.' Marx 1843h, p. 60 / p. 6, translation modified.

⁴² Marx 1843h, p. 83 / pp. 27-8, translation modified.

⁴³ Marx 1843h, p. 87 / p. 31.

⁴⁴ The empirical fixation of 'state-consciousness' by hereditary lineage creates the absurdity that '[t]he highest constitutional act of the king ... is his sexual activity; for by this alone does he *make* a king and so perpetuate his own body'. Marx 1843h, p. 100 / p. 44.

⁴⁵ Marx 1843h, p. 94 / p. 36, translation modified. Breckman implies that Marx ignores the 'painstaking mediations in which [Hegel] embedded' his endorsement of personal monarchy, and that his implicit association of Hegel with the Positive Philosophers is 'misguided'. Breckman 1999, pp. 286-7. But as Steinberger points out, 'it is not clear to what extent the monarch in Hegel's state is really a "constitutional" monarch in any meaningful sense' – he is an absolute sovereign, not subject to the law, against whom no rights can be held. Moreover, 'there is absolutely no suggestion that the monarch is a peculiarly rational, enlightened or philosophical individual'. Steinburger 1998, p. 194. Of course this need not necessarily result in a personal despotism, but Marx's point is that Hegel's system must rely on contingent and external circumstances to prevent it. Moreover, Hegel's arguments for the necessity of this supreme moment of unquestionable individual sovereignty as the only alternative to political and social chaos are in essence no different from those of the Positive Philosophers.

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A similar antinomy characterises the attempt to embody the universal interest in the bureaucracy – ‘a pseudo-universal, an illusory universal class ... universality fixed in a particular class’.⁴⁶ But since ‘the bureaucracy is only a “formal system” for a content lying outside it’, it becomes a ‘state formalism’ that ‘constitutes itself as an actual power and becomes itself its own material content’.⁴⁷ That is, because the bureaucracy sets itself up as the universal in opposition to the manifold of interests that make up civil society, there can be no real content to this universal other than the corporate interest of the bureaucrats in maintaining their organisational existence, the structure of which, in their view, secures the universality of its outlook.⁴⁸ ‘The mind of the bureaucracy is the formal mind of the state. It therefore makes the formal mind of the state, or the real mindlessness of the state, a categorical imperative’.⁴⁹ This is an epistemological ‘magic circle from which no one can escape’⁵⁰ linked together by the sheer mechanism of the command structure: each individual bureaucrat ‘acts as hammer on what is under him, [and] he serves as anvil to what is above him’.⁵¹ At the end of this chain is an outright opposition with civil society itself: ‘[t]he “police”, the “judiciary” and the “administration” are not the representatives of a civil society which administers its *own* universal interests in them and through them; they are the representatives of the state and their task is to administer the state against civil society’.⁵² Thus ‘[i]n the bureaucracy

⁴⁶ Marx 1843h, p. 112 / p. 54.

⁴⁷ Marx 1843h, p. 107 / p. 50.

⁴⁸ ‘The universal spirit of the bureaucracy is *secrecy*, it is mystery preserved within itself by means of the hierarchical structure and appearing to the outside world as a self-contained corporation ... Within itself, however, *spiritualism* degenerates into *crass materialism*, the materialism of passive obedience, the worship of authority, the *mechanism* of fixed, formal action, of rigid principles, views and traditions’. Marx 1843h, p. 108 / p. 51.

⁴⁹ Marx 1843h, p. 107 / p. 50.

⁵⁰ ‘Its hierarchy is a hierarchy of knowledge. The apex entrusts insight into particulars to the lower echelons while the lower echelons credit the apex with insight into the universal, and so each deceives the other’. Marx 1843h, p. 108 / p. 51.

⁵¹ Marx 1843h, p. 115 / p. 57.

⁵² Marx 1843h, p. 111 / p. pp. 53-4. See also Marx 1843, pp. 108-9 / pp. 51-2, translation modified: ‘its crass spiritualism is revealed in its wish *to do* everything. That is to say, it makes *will* the prime cause because it is nothing but active being and receives its content from outside itself, and can therefore only prove its own existence by forming and limiting that content. For the bureaucrat the world is no more than an object on which he acts’.

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the identity posited between the interest of the state and particular private purposes is such that the *interest of the state* becomes a *particular* private purpose opposed to the other private purposes'.⁵³

It is to effect a spurious resolution of this conflict that the interests of civil society are 'represented' in the legislative assemblies alongside the monarchy and bureaucracy. 'Because the people appear as *representation* [*Vorstellung*], fantasy, illusion, *representation* [*Repräsentation*] – the Estates, or the *represented* people [*das vorgestellte Volk*], existing as a *particular power* apart from the real power – the real opposition between people and government is abolished'.⁵⁴ But Hegel is necessarily equivocal on the status of the Estates, discussing them 'very much in terms of a "formal", "illusory" phenomenon'.⁵⁵ Since the bureaucracy has already been set up as the unimpeachable guardian of the universal standpoint, the contribution of the Estates is 'partly superfluous and partly suspect ... The civil servants *are able* to do what is best without the Estates, and indeed they *must* do what is best despite the Estates ... The *good will* of the Estates, moreover, is suspect because their actions are rooted in their private standpoint and their private interest'.⁵⁶ The Estates thus oscillate between functioning as 'the people [*en miniature*]' against the government' and 'the government against the people'.⁵⁷ Thus '[i]n the "Estates" all the contradictions of the organization of the modern state are to be found united. They "mediate" in every direction because they are themselves in every sense something intermediate'.⁵⁸

All these entanglements indicate that, in Marx's view, Hegel's institutional 'mediations' fail to genuinely mediate the constitutional form of the state with its social content, resulting in a structure that is unstable, coercive, and ultimately arbitrary. His commentary is clearly informed by his encounters with the conflicts and antagonisms of Prussian political life during his year as a radical journalist. But that should not lead us to see Marx's critique of Hegel as *simply* an assertion of 'hard realities' against Hegel's lofty idealisations. Any such impression needs correction in both directions. Hegel is perfectly

⁵³ Marx 1843h, p. 109 / p. 52.

⁵⁴ Marx 1843h, p. 134 / p. 74.

⁵⁵ Marx 1843h, p. 126 / p. 66.

⁵⁶ Marx 1843h, p. 127 / p. 67.

⁵⁷ Marx 1843h, p. 133 / p. 73.

⁵⁸ Marx 1843h, p. 133 / p. 73.

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capable of perceiving and analysing real social conflicts, and ‘private interests’ masquerading as universal principles, as his lifetime’s writings and active engagement in his society’s political life amply demonstrate.⁵⁹ Marx, on the other hand, is clearly conducting his mental argument with Hegel *in Hegelian terms*, expressing the problems he finds in Hegel’s system as a degeneration of the rational state organism to an arbitrary mechanism, resulting from a fundamental and unbridgeable opposition of form and content that it would have been precisely Hegel’s intention to avoid.

Hegelian mystification

The importance of this point is reinforced if we return now to Marx’s repeated descriptions of Hegel’s system as a ‘logical, pantheistic mysticism’,⁶⁰ which bestows upon its institutional determinations a spurious metaphysical justification by wrapping them up in the speculative jargon of the *Logic*.

an *empirical existence* is *uncritically* enthroned as the actual truth of the Idea. For as Hegel’s task is not to discover the truth of empirical existence but to discover the empirical existence of the truth, it is very easy to fasten on what lies nearest to hand [*die zunächstliegende*] and prove that it is a *real* moment of the Idea. (The inevitable transformation of the empirical into the speculative and the speculative into the empirical will occupy us more later on.).⁶¹

There is a tendency to read these attacks as the beginnings of a materialist critique of ideology, as if it were simply a matter of Hegel ‘dressing up’ the institutions of Restoration Prussia in a lot of metaphysical mumbo-jumbo that must simply be peeled away in order to see the simple and brutal empirical reality. There is a sense in which this *is* what Marx does, but there is a danger in such characterisations in distracting us from

⁵⁹ One should think in particular of Hegel’s own more ‘journalistic’ writings, concrete empirical analyses of specific political situations and conflicts such as his 1817 commentary on the proceedings of the Württemberg Estates. See Avinieri 1972, pp. 72-80.

⁶⁰ Marx 1843h, p. 61 / p. 8.

⁶¹ Marx 1843h, p. 98 / p. 40, translation modified.

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the extent to which Marx's diagnosis is itself a 'Hegelian' argument, turned against Hegel himself.

What I have in mind here is the argument that accompanies and is ultimately an inextricable part of Hegel's critique of the Understanding – that any fixation of its finite determinations can only come via a dualistic mystification, because that fixation must be grounded in a supersensible essence or 'Beyond' that is ultimately nothing but the abdication of self-consciousness's own all-encompassing self-determination in experience. This argument appears throughout Hegel's career, from his early criticism of Kant's absolutisation of the Understanding and consequent doubling of its determinations into an unknowable realm of things-in-themselves that is taken to ground them,⁶² to his later polemical attacks on his positivist and historicist rivals for uncritically affirming the empirically immediate and in the same moment endowing it with an irrational spiritual sanctification.⁶³ And as we have already seen, it is stated in its most general form in the 'Doctrine of Essence' that makes up the middle section of the *Logic*, which shows that the attempt to fix any finite conceptualisation as the identification of a particular 'essence' that anchors or explains a particular 'appearance' is ultimately undermined by a realisation of the dependence of such identifications on a notion of the wider totality that is the product of Reason's own spontaneous self-grounding activity.

This, I want to suggest, is the basic problem that Marx identifies with Hegel's political philosophy, and accounts for the paradox of its appearance as precisely the sort of empty dualism and spurious metaphysical foundationalism that it had always been Hegel's project to avoid. If Marx is right that Hegel's constitutional structure collapses Reason into the Understanding, then by Hegel's own argument, this is precisely the effect that we would expect. It seems to me that Marx's characterisations of this aspect of Hegel's system do, paradoxically, carry suggestive Hegelian echoes:

⁶² 'Kant never seems to have had the slightest doubt that the Understanding is the absolute of the human spirit ... the Idea of Reason is in the end re-established in its purity only to be brought to nought once more and placed in the irrationality of faith as an absolute Beyond which is a vacuum for cognition'. Hegel 1802-3b, p. 77, p. 81.

⁶³ To insist that 'there is *no cognition of truth*, and that God and the *essential being* of the world and the spirit *are incomprehensible and unintelligible*' means that 'only the *untrue*, the *temporal*, and the *transient* enjoy the *privilege*, so to speak, of recognition'. Hegel 1818, pp. 183-4.

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Actuality is not deemed to be itself but another actuality instead. The ordinary empirical world is not governed by its own spirit but by a spirit alien to it; by contrast the existence [*Dasein*] corresponding to the actual Idea is not an actuality generated out of itself, but is just the ordinary empirical world.⁶⁴

empirical actuality is accepted as it is, it is even declared to be rational [*vernünftig*]. However, it is not rational by virtue of its own reason [*Vernunft*], but because the empirical fact in its empirical existence has significance other than itself. The fact which serves as a starting point is not seen as such but as a mystical result. The actual becomes a mere phenomenon [*Phänomen*], but the Idea has no content over and above this phenomenon.⁶⁵

The clearest statement of this general argument occurs, significantly, at a point where Marx is trying to unpick a Hegelian justification for a constitutional ‘mediation’ of what Marx views as actually irreconcilable oppositions – ‘real oppositions’ – between the various arms of government. Marx’s discussion makes clear that he views this as a spurious misapplication of the principle that ‘every extreme *is* its other extreme’,⁶⁶ a principle that *does* have its truth in other contexts. The example he furnishes of extremes that are *not* ‘real extremes’, where the Hegelian principle *does* apply, are the extremes of ‘abstract spiritualism [*Spiritualismus*]’ and ‘abstract materialism’:

the issue turns on the fact that a *concept* (being [*Dasein*], etc.) is viewed *abstractly*, that it is not treated as something independent [*selbständig*] but as an *abstraction* from something else and that only this *abstraction* has meaning; thus, for example, spirit is only an *abstraction* from matter. It is then self-evident that, precisely because this form constitutes its content, the concept is in fact the *abstract opposite*, while the object from which it abstracts (in this case abstract materialism) is in its abstract its real essence.⁶⁷

⁶⁴ Marx 1843h, p. 62 / p. 8, translation modified

⁶⁵ Marx 1843h, p. 63 / pp. 9-10, translation modified.

⁶⁶ Compare Hegel 1830a, p. 130, § 81: ‘each abstract determination of the Understanding, taken simply on its own terms, overturns immediately into its opposite’.

⁶⁷ Marx 1843h, p. 156 / p. 98, translation modified.

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How does all this apply to the question of the constitution? The state is supposed to be the means by which we achieve full self-determination, as the rational structure of our self-conscious collective agency. But we have seen that it is in fact an empty abstraction, existing alongside and in opposition to the rest of our social activity. Because it has no content of its own and sits in a relation of absolute opposition to that which is supposed to provide its content, its institutional organisation of and intervention in society is ultimately arbitrary and irrational. These organisations and interventions are posited as the identification and expression of the underlying truth of the social order, 'behind' its mere appearances. These particular determinations are thus absolutised, insulated from the true self-determination that would come with the realisation of their relativity to the rest of society's activities.

This will be a little clearer if we illustrate the point by again looking at the three key institutions of Hegel's construction. First, the monarchy: Hegel justifies the necessity of this moment on the basis of the fact that the state must act through individuals. Marx agrees – of course 'the state is effective only through individuals' – what he objects to is the connection of 'the activities and agencies of the state' to individuals not through their 'state-like qualities' but their 'physical' being. This implies that the 'essence of the "particular person" is ... his beard and blood and abstract *Physis*' rather than his 'social quality'.⁶⁸ One might have thought that the important thing about a head of state would be their personal characteristics, their political abilities, their connection to the rest of society, but for Hegel's constitution none of this matters – what *really* counts about this individual is their pre-social, biological ancestry. This is the basis of Marx's objection to the hereditary principle in general, which allocates 'social positions and functions' by the accident of birth and so represses the fact that 'a particular birth can become the birth of a peer or a king only by virtue of general agreement'.⁶⁹ But the arbitrary way in which the formal

⁶⁸ Marx 1843h, pp. 77-8 / p. 22.

⁶⁹ Marx 1843h, p. 174 / p. 115. Breckman writes that '[i]nsofar as Marx makes Hegel the representative theorist of the "person *quand même*" [as opposed to the concrete 'social person'] we have an indication of the extent to which he [ie Hegel] had become thoroughly confused with the Christian personalists. After all, it had been the ambition of the *Philosophy of Right* to move from "abstract personality" to a form of "concrete personality" grounded in the complex mediations of family, civil society, and the state'. Breckman 1999, p. 288. On my reading, Marx does not overlook this ambition – his point is precisely that Hegel ultimately falls into contradiction with it, by tying social roles to pre-social determinations.

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state fills key positions and distributes property according the pre-social contingency of male lineage means that ‘the product of the self-conscious species [*das Produkt der selbstbewußten Gattung*] is represented as the product of a physical species [*physischen Gattung*]. Marx offers this as an example of the way in which ‘[a]t every point Hegel’s political spiritualism can be seen to degenerate into the crassest *materialism*’.⁷⁰

A similar paradox afflicts the bureaucracy, which stands apart from and in opposition to civil society and yet must lay claim to special knowledge of the real content of civil society, the universal interest which is immanent in it yet hidden from it. This also results in a spurious dualism:

Hence everything acquires a double significance [*eine doppelte Bedeutung*]: a real significance and a bureaucratic one; in like fashion, there is both real knowledge and bureaucratic knowledge (and the same applies to the will). A real essence, however, is treated according to its bureaucratic essence, according to its otherworldly [*jenseitigen*], spiritual [*spirituellen*] essence. The bureaucracy holds the essence of the state [*das Staatswesen*], the spiritual [*spirituelle*] essence of society, in its possession, as its *private property*.⁷¹

This knowledge must be asserted against the knowledge of private citizens, whose claims must be reduced to the status of a mere show or appearance. ‘Just as this abstraction credits the bureaucracy with an essence alien to it, so it attributes to the true essence the inappropriate form of mere appearance [*Erscheinung*]. Hegel idealizes [*idealisirt*] the bureaucracy and empiricises [*empirisirt*] public consciousness [*das öffentliche Bewußtsein*’.⁷² The bureaucracy’s claim to such exclusive knowledge must be buttressed by its formalities and traditions, its examinations which function as ‘a Masonic rite, the legal recognition of a knowledge of citizenship as a privilege’.⁷³ But in fact, on the inside, there is nothing to the bureaucracy but a ‘materialism’ no less crass than that which it perceives

⁷⁰ Marx 1843h, p. 174 / p. 115, translation modified.

⁷¹ Marx 1843h, p. 108 / p. 51.

⁷² Marx 1843h, p. 124 / p. 65.

⁷³ Marx 1843h, p. 112 / p. 54.

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as the surface of civil society – a corporate defence of fixed institutions and the careerism of individual bureaucrats.⁷⁴

This ‘doubling’ effect is seen again in the way Hegel analyses the participation of ‘private’ individuals in the representative Estates, which results in a ‘*separation and duplication* [*Trennung und Verdopplung*] of the significance of the classes’.⁷⁵ According to Hegel, it is in the Estates that this class ‘attains a *political significance* and function’.⁷⁶ Thus their constitutional organisation brings out of these elements a political content which is different from and necessarily in opposition to their activities and relations in civil society. Again, Marx presents this as a vacuous and contradictory duplication:

It is self-evident that the *private estate* acquires [its political significance] in terms of what it is, i.e. in terms of its *articulation in civil society* (Hegel had already defined the universal class as the class of civil servants...) The Estates are the *political significance of the private estate*, of the unpolitical class – a contradiction in terms. Or, in the Estates as defined by Hegel the *private estate* (and in general the distinctions within it) acquires *political* significance. The *private estate* is an integral part of the essence and the politics of the state. The state therefore confers upon it a *political significance*, i.e. a significance other than its actual significance.⁷⁷

Thus, ‘according to Hegel, class does not retain the significance “already present” (i.e. present in civil society), but instead, when the “Estates” incorporate it into themselves, they affirm its essence and, for its part, once a class has immersed itself in the sphere of politics it acquires its “own” significance, i.e. one proper *not to itself but to the world of politics*’.⁷⁸

It is at this point that Marx’s analysis is generalised to produce the famous assertion that the constitutional state effects a separation of ‘man’ and ‘citizen’, the theme that would be central to Marx’s article ‘On the Jewish Question’ written immediately after his study of Hegel. The individual in general ‘must ... *divide up his own essence*. As an

⁷⁴ Marx 1843h, p. 108 / p. 51.

⁷⁵ Marx 1843h, p. 148 / p. 91.

⁷⁶ Hegel 1821a, p. 343, § 303.

⁷⁷ Marx 1843h, p. 135 / p. 77, translation modified.

⁷⁸ Marx 1843h, p. 148 / p. 91.

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actual citizen he finds himself in a double organization [*einer doppelten Organisation*].⁷⁹ To really understand what Marx is getting at here we need to suspend the usual assumption that in some way Marx is claiming to be able to discern the ‘true’ essence of human beings as social, communal, universal beings that is somehow ‘hidden’ behind or ‘covered over’ by the individualised, competitive, and conflictual ‘appearance’ of civil society.⁸⁰ Marx’s point is rather that this kind of abstract essence-positing *is precisely what the constitutional state does*, in its claim to be able to see past the competing claims and private interests of civil society to the true universal interest, on behalf of which it organises and intervenes in civil society. Marx’s argument is ultimately that this essentialising standpoint is inscribed in the very structure of the modern state, as a constitutional order set apart from and in opposition to society but which must nevertheless claim to be the true and final organising ‘form’ of that society. Such an agency is inescapably committed to making arbitrary judgements about the ordering of that society that must be portrayed as a penetration to its ‘true’ or ‘underlying’ reality, precisely because the ‘private’, ‘non-political’ activities and relationships of civil society itself cannot provide the basis for such judgements and must be relegated to a false or illusory ‘appearance’. Nothing can be taken as it is by the constitution, but as the expression or appearance of something that is its ‘essence’, its ‘real significance’ for the state.

My suggestion, then, is that the implication of Marx’s comments are that it is because Hegel’s state is (despite his intentions) a *Verstandesstaat* that it is caught in a logic of ‘Essence’, forced into justifying its institutional determinations as the expression of a ‘true’ universal that is in some mysterious way beyond or beneath the ‘appearances’ of civil society. This is to say, Marx is *not* rejecting out of hand Hegel’s analysis of political reality in terms of logical categories. On those occasions when Marx gestures obliquely

⁷⁹ Marx 1843h, p. 143 / p. 86, translation modified.

⁸⁰ See for example Brudney 1998, p. 19: ‘Marx is, in the end, committed to the claim that, given what he believes is the essential nature of human beings, and given what he believes is the structure of daily life in a capitalist society, he himself has no resources, within a capitalist society, adequately to justify his own alleged recognition of the essential nature of human beings (and so also no resources adequately to justify his claim about what the activity is through which human beings, in principle, realize their nature).’ My point is that this is precisely what Marx presents as the predicament of *the state* – it must claim to be able to organise and intervene in civil society on the basis of its superior insight into the universal interest and the proper place of particular individuals within it, despite its absolute insulation of itself from civil society as a cognitive resource upon which it might base such judgements.

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towards some notion of what a ‘proper’ analysis of the modern state would look like, it is clear that it would indeed consist in an exploration of the ‘logic’ of the modern state: ‘elaborating the definite idea of the political constitution’;⁸¹ ‘describing the essence of the modern state as it is’;⁸² ‘the discovery of the peculiar logic of the peculiar object’.⁸³ My suggestion is that the kind of analysis Marx has in mind would in many ways resemble a Hegelian analysis of a *Verstandesstaat*, that is, analysis of real states in terms of the epistemological categories bequeathed by the Idealist philosophical tradition.⁸⁴ From this point of view his quarrel with Hegel, put into Hegelian language, would be that Hegel has misidentified and absolutised a *Verstandesstaat* as a state of Reason. This would mean that Hegel has taken the philosophical terms of his analysis of the Logic of the Concept and pinned them to a practical-epistemological structure that in fact follows a Logic of Essence. And *this* would explain why Hegel’s philosophical project has become mangled in such a confusing and paradoxical way – why his argument seems to invite the ‘demiurge’ reading – because he is applying terms like ‘Idea’ and ‘Concept’ to what would be better described in his own terms as ‘Essence’ or ‘Beyond’. As Marx says, “‘Idea’ and ‘Concept’ are here autonomous abstractions”.⁸⁵ It *should* be that the Idea is immanent in experience, just as it should be that self-conscious universality is immanent in social life – but Hegel’s insistence on identifying self-conscious universality with a structure that stands outside social life means that the Idea now appears in his text as precisely the sort of metaphysical construction that he had originally wanted to avoid.

This analysis in turn makes clearer just why the *Philosophy of Right* is so important to Marx. Marx repeatedly emphasises that Hegel’s text is significant not simply as the ideal constitution of a great philosopher but because it furnishes what is in some sense an

⁸¹ Marx 1843h, p. 69 / p. 15.

⁸² Marx 1843h, p. 127 / p. 68.

⁸³ Marx 1843h, p. 159 / p. 101, translation modified.

⁸⁴ Marx 1843h, p. 158 / p. 101, translation modified: ‘a truly philosophical criticism of the present constitution does not content itself with showing that it contains contradictions: it *explains* them, comprehends their genesis, their necessity. It grasps their *peculiar* significance’.

⁸⁵ Marx 1843h, p. 70 / p. 15.

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accurate account of the modern state as it in fact operates.⁸⁶ My claim here is that we should not mistake these statements as merely an assertion that Hegel has simply observed the basic institutional structure of the Prussian state and then couched his description of it in obscure philosophical language in order to endow it with some spurious other-worldly authority.⁸⁷ The significance of Hegel's 'mystifications' goes wider than this – he is not just mystifying a mundane empirical reality, but effectively demonstrating the way in which it necessarily mystifies itself. It is in the very nature of the constitutional state to present itself as the institutional expression of a timeless order that underlies any empirical instantiation and is beyond the power of society itself to revise or amend. Hegel himself acknowledges this as a necessity:

it is at any rate utterly essential that the constitution should *not* be regarded as *something made*, even if it does have an origin in time. On the contrary, it is quite simply that which has being in and for itself, and should therefore be regarded as divine and enduring, and as exalted above the sphere of all manufactured things.⁸⁸

In consequence the constitution lies 'outside the sphere which the legislative power can determine directly' and can only evolve only 'imperceptibly and without possessing the form of change'.⁸⁹ This is why Marx will assert that '[t]he contradiction between the

⁸⁶ For example, Marx 1843h, p. 112 / pp. 54-5: 'Hegel has furnished us with an accurate description of the present empirical situation'; Marx 1843h, p. 127 / p. 68: Hegel is 'describing the essence of the modern state as it is'.

⁸⁷ See, for example, O'Malley 1969, pp. xxxiii-xxxiv: 'It is the philosophical form, not the empirical content of *Philosophy of Right* which is under attack; and Marx is careful to maintain the distinction between the two, form and content, because of his conviction – often repeated in the course of the *Critique* – that within his speculative framework Hegel accurately depicts the existing institutions of political society.' Or Fine 1995, p. 85: 'Marx read Hegel's "dialectic" as no more than an irrational method of rationalising the modern state'. And Rosenthal 1998, pp. 149-50: 'The bulk of Marx's *Critique of Hegel's Doctrine of the State* is devoted to the task of exposing the mystification suffered by an otherwise mundane subject-matter through Hegel's "logicizing" treatment of it ... The outcome of the procedure ... is, in effect, to *justify* the empirical "existents" or, more simply put, *matters of fact* selected for discussion ... This is what makes for the essentially apologetic tendency of Hegel's, and indeed Hegelian, political philosophy'.

⁸⁸ Hegel 1821a, p. 312, §273.

⁸⁹ Hegel 1821a, p. 336, § 298.

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constitution and the legislature is nothing but the *conflict within the constitution itself*, a contradiction in the concept of the constitution' – for Hegel seems here to have abandoned the very project of conscious collective self-determination that his state ought to have realised:

Is it now the case that the dominant moment – in the state which according to Hegel is the highest existence [*Dasein*] of *freedom*, the existence [*Dasein*] of self-conscious reason [*der selbstbewußten Vernunft*] – is not the law, the existence [*Dasein*] of freedom, but the blind necessity of nature? ... Hegel always attempts to represent the state as the actualization of the free spirit, but in reality he solves all difficult conflicts by appealing to a natural necessity antithetical to freedom. Thus the transition from the particular interest to the universal interest is not achieved by a conscious law of the state, but is mediated by chance and *against* consciousness. And yet Hegel aims to show the realization of free will through the state!⁹⁰

This is why Marx asserts the necessity of democracy, as the only possible realisation of the principle of free self-determination that he here clearly recognises as the root of the Idealist project.

4. Democracy

Throughout his commentary Marx insistently returns to a simple but, he thinks, radical truth: that 'people make the state';⁹¹ 'man' is the '*real subject*';⁹² that the 'true ground' of the state is '*actual human beings and the real people*'.⁹³ This primary activity is always what Marx asserts against Hegel's presentation of the state as if it were the realisation of an abstract Idea:

⁹⁰ Marx 1843h, pp. 118-9 / p. 60, translation modified.

⁹¹ Marx 1843h, p. 63 / p. 9.

⁹² Marx 1843h, p. 149 / p. 34.

⁹³ Marx 1843h, p. 87 / p. 31.

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The family and civil society are the preconditions of the state, they are its true agents ... the family and civil society make *themselves* into the state. According to Hegel, however, ... it is not the course of their own life that joins them together to comprise the state, but the life of the Idea which has distinguished them from itself ... the fact is that the state evolves from the mass existing as members of families and of civil society...⁹⁴

Or where Hegel describes patriotism as though it were an *effect* of state institutions, Marx protests that 'the converse is just as true, namely that these institutions are an *objectification* of political sentiment'.⁹⁵ To give a final example, where Hegel describes education as the process by which the state finds its substantiality in 'mind knowing and willing itself', Marx counters that the 'true starting-point' *is* 'spirit knowing and willing itself, without which the "end of the state" and the "powers of the state" would be meaningless figments, inessential or even impossible beings'.⁹⁶

Marx's labouring of this point can sometimes sound strangely reductionist, as if he were some kind of methodological individualist trying to assert that there is no such thing as society, only individuals and their families, and that the analysis of their activities and relationships is empirically straightforward and need not be cluttered by philosophical generalities.⁹⁷ At other times it seems that Marx is simply erecting his own alternative 'demiurge', replacing Hegel's 'Idea' with a similarly abstract and empty 'Humanity' or 'the people' as a metaphysical unity behind and beyond 'empirical' politics and society.⁹⁸ I want to suggest that Marx's intention would have been quite consciously to avoid either of these positions, and to develop an approach to the state that goes

⁹⁴ Marx 1843h, pp. 62-3 / p. 9.

⁹⁵ Marx 1843h, p. 65 / p. 11.

⁹⁶ Marx 1843h, pp. 72-3 / pp. 17-18, translation modified.

⁹⁷ This seems to be the interpretation upon which is premised the argument in Ilting 1984, p. 104: 'In his critique of Hegel, Marx thus adopts the stance ... of an individual living only for the sake of his private interests, and refusing to pay a price for the political guarantees of his rights to freedom'; p. 107: 'Marx assumes that empirical facts have no other significance in their existence than just that they *are* empirical facts.'

⁹⁸ This is suggested in Rosen 1996, p. 178: 'The metaphysical structure of Hegel's philosophy is that of a monistic subject from which the predicates of reality emerge as part of a self-differentiating process. Whether this subject is called the "Idea" or "Man" is not the most important issue'.

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beyond both simplistic empiricism and metaphysical essentialism. Whether he succeeded in doing so – whether indeed such an approach is possible at all – is of course another question. But I think that in order to make any assessment of his attempt we need to try to recapture a sense of that original intention.

There is good textual and circumstantial evidence to suggest that Marx may here be trying to work his way back to a political and social equivalent of something very close to the founding insight of German Idealism: that there is nothing ‘behind’ the order of the world we experience other than ‘our own’ self-determining activity. This would mean that we should not see the unity of society or the state as something that is imposed upon ‘empirical’ individuals from the outside, in a political or a metaphysical sense. For what else is operative in society other than these individuals themselves? At the same time, however, we cannot derive the unity of society or the state from individuals as atomised individuals, as they appear in civil society, but rather must regard them as, in a certain sense, always already social, constituted by their relations to the whole and orientated to that whole in their activities – for if this were not the case then we would not have a ‘society’ to talk about but, as Hegel says, an atomised chaos. Marx’s insistence that ‘the people make the state’ should thus be seen as the political correlate of the post-Kantian identification of Reason with the ‘productive imagination’ or ‘intuitive Understanding’ that is the true synthetic origin of all our knowledge and experience. What Marx is trying to reach for is the immanent self-determination of the social whole, a self-determination that can never be simply located in any of its moments taken in isolation from each other, but which neither should be seen as something acting upon those moments from without. The immanent self-determination of the social whole is then driven forward by the everyday activities of *all* its members, conceived as both origin and agents of the state’s universality. Individuals’ ‘very *social existence* [*Dasein*] already constitutes their *actual participation*’ in the state.⁹⁹ It is by implication a fluid process that always ruptures the fixed demarcations of the Understanding: ‘a rational organism’ in which members ‘mutually maintain themselves only insofar as the whole organism is fluid and each of them is taken up [*aufgehoben*] in this fluidity, in so far as no one of them ... is unmoved and unalterable’.¹⁰⁰ Every role is relative to the activity of the whole – just as every finite conceptualisation turns out to be dependant upon Reason’s

⁹⁹ Marx 1843h, p. 187 / p. 127, translation modified.

¹⁰⁰ Marx 1843h, pp. 96-7 / p. 39

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estimation of the systematic unity of all experience. All ‘political determinations ... are *social products*, born of society and not of the natural individual’.¹⁰¹ All property is established as such ‘by the *will of society*’.¹⁰²

This is then the basis for Marx’s affirmation of democracy as the form of polity in which this constant self-organising activity is brought to full self-consciousness and made the formal principle of an explicit collective agency.

Democracy is the generic constitution ... Democracy is both form and content. Monarchy is *supposed* to be only a form, but it falsifies the content ... in democracy the *constitution itself* appears only as *one* determination of the people, and indeed as its self-determination ... Democracy is the solution to the *riddle* of every constitution. In it we find the constitution founded on its actual ground: *actual human beings* and the *actual people*; not merely *implicitly* and in essence, but in *existence* and in actuality. The constitution is thus posited as the people’s *own* work. The constitution is in appearance what it is in reality: the free product of human beings ... Just as religion does not make men, but men make religion, so the constitution does not make the people, but the people make the constitution.¹⁰³

Democracy is the constitution in which we recognise the reality of our own self-determination, it is the moment of self-consciousness that overcomes the externality of the Understanding.¹⁰⁴

On the face of it, then, Hegel’s refusal of explicit democratic self-determination would seem to contradict the very principle of his political philosophy as an articulation of the rational structure of any free collective agency. But Hegel has good reasons for rejecting the modern form representative democracy. A universal and undifferentiated participation or representation of the state’s citizens simply as citizens can only take place

¹⁰¹ Marx 1843h, p. 174 / p. 115.

¹⁰² Marx 1843h, p. 166 / p. 108.

¹⁰³ Marx 1843h, p. 87 / p. 31, translation modified.

¹⁰⁴ It may be relevant here that Bruno Bauer had in *Das entdeckte Christentum* described self-consciousness as ‘the solution of all riddles’. McLellan 1969, p. 80. According to McLellan the original manuscript of Marx’s 1843 critique shows that he ‘in several places crosses out the term “self-consciousness” which he had originally written and substitutes another term more evocative of practical realities’. McLellan 1969, p. 75.

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on the basis an institutionalised abstraction from the particular content of their social lives and a reduction of their activity to sheer free will or arbitrary decision. The result can only be empty, directionless, possibly terroristic.¹⁰⁵ Similar considerations lie behind Hegel's ambivalence towards public opinion and the role of a public sphere sustained by a free press.¹⁰⁶ To a great extent Marx agrees with these estimations – indeed, they will ultimately become the basis for the Marxist critique of 'formal' liberal democracy, first set out in his essay 'On the Jewish Question', which presents the findings of his Hegel critique in polemical form.

But Hegel's own critique of the abstraction and emptiness of representative democracy points him to what will be the most important conclusion of his engagement with Hegel. Thus he writes that 'where the state organism is purely formal, the democratic element can enter into it only as a *formal* element. However, the democratic element should rather be the real element which confers a *rational form* on the organism of the state as a *whole*'.¹⁰⁷ Therefore, Marx concludes, the full realisation of democracy must be seen as an overcoming of the distinction between the political state and civil society. The endpoint of movements to extend the suffrage is thus seen as the dissolution of the political state itself into a fully politicised civil society.¹⁰⁸

¹⁰⁵ Hegel 1821a, p. 344, § 301: '*The many* as single individuals – and this is a favourite interpretation of [the term] '*the people*' – do indeed live *together*, but only as a *crowd*, i.e. a formless mass whose activity can consequently only be elemental, irrational, barbarous, and terrifying ... The idea [*Vorstellung*] that those communities which are already present in the circles referred to above can be split up again into a collection of individuals as soon as they enter the sphere of politics – i.e. the sphere of the *highest concrete universality* – involves separating civil and political life from each other and leaves political life hanging, so to speak, in the air; for its basis is then merely the abstract individuality of arbitrary will and opinion, and is thus grounded only on contingency rather than on a foundation which is *stable* and *legitimate* [*berechtigt*] in and for itself.'

¹⁰⁶ In public opinion 'the universal in and for itself, the *substantial* and the *true*, is linked with its opposite, with what is *distinct* in itself [*dem für sich Eigentümlichen*] as the *particular opinions* of the many. This existence [*Existenz*] [of public opinion] is therefore a manifest self-contradiction, an *appearance* of cognition; in it, the essential is just as immediately present as the inessential'. Hegel 1821a, p. 353, § 316.

¹⁰⁷ Marx 1843h, pp. 185-6 / p. 125.

¹⁰⁸ '[I]f civil society forces its way into the *legislature en masse*, or even *in toto*, if the actual civil society wishes to substitute itself for the *fictitious* civil society of the legislature, then all this is nothing but the striving of civil society to create a *political* existence [*Dasein*] for itself, or to make its actual existence [*Dasein*] into a *political* one'. Marx 1843h, p. 188 / p. 128.

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Only when civil society has achieved *unrestricted* active and passive *suffrage* has it *really* raised itself to the point of abstraction from itself, to the *political* existence which constitutes its true, universal, essential existence. But the perfection of this abstraction is also its suspension [*Aufhebung*] ... Therefore, *electoral reform* in the *abstract political state* is the equivalent to a demand for its *dissolution* [*Auflösung*] and this in turn implies the *dissolution of civil society*.¹⁰⁹

There are a number of ways in which the epistemological themes we have been tracing through Marx's early writings help us to understand what is involved in this new and in some ways notorious ideal. The first is that they allow us to see more clearly why it is that the simultaneous politicisation/dissolution of civil society involves precisely a suspension of its fixation of all members as abstract individuals relating to one another as external atoms. The social unity that was hitherto opposed on such individuals from outside and above by the external political state must now be immanent in the activity by which they constantly suspend and reform their social roles and identities in free and conscious interaction with one another. This is precisely what Hegel had ruled out from the very first, by beginning his analysis with an individual free will considered abstractly, establishing as a first principle its right to a domain of private property within which its personality can be extended and expressed without reference to any wider social context. But this only means that the immanent universality of civil society operates behind the backs of the individuals who make it up, through the 'external state' that is the market. And this is why the political state, despite being asserted as the moment of explicit and self-conscious universality, can only be a formal add-on, empty and arbitrary. As Marx says, '[t]he *abstract personality* was the subject of abstract right and it has not changed: the *abstract personality* reappears intact as the *personality of the state*'.¹¹⁰ That is to say, the state only repeats at a collective institutional level the formal identity or simple unity that defines the abstract, property-owning individual. Marx's argument here is precisely to avoid the subordination of the empirical individual to the false unity of the state, but rather to recognise the fact that individuals are already socially constituted by the kind of 'intersubjectivity' that Michael Theunissen has argued is systematically excluded from

¹⁰⁹ Marx 1843h, p. 191 / pp. 130-31.

¹¹⁰ Marx 1843h, p. 83 / p. 27, translation modified.

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Hegel's construction.¹¹¹ But there is nothing to suggest that Marx thinks that individual identity, even some form of 'property', simply vanishes in this process, but, like the finite determinations of the Understanding, is recognised as always relative to a larger totality and always subject to suspension and reformation as part of that whole's constant fluid movement.

This relates to the second point, perhaps another way of saying the same thing, which is that we should not expect a level of 'political' organisation to vanish either, but to be decentered, made relative to the intersubjectively constituted social whole and subordinate to its self-determination. Marx raises the idea that 'the *political state disappears* in a true democracy', and affirms that '[t]his is correct in the sense that the political state, the constitution, is no longer equivalent to the whole'.¹¹² I would suggest that we should look upon Marx's conception of the 'constitution' in a 'true democracy' as similar to the status of the Understanding within a post-Kantian conception of experience and knowledge – as necessary, inescapable, indispensable, valuable, but not to be absolutised or mistaken for the fixed and final word. This means simply that nothing can be taken to fall outside the reach of popular sovereignty if social self-determination is to be actual. The question 'does the people have the right to make a new constitution? ... can only be answered unreservedly in the affirmative, for a constitution that has ceased to be the actual expression of the will of the people has become a practical illusion'.¹¹³

And this notion that democracy dispels the 'practical illusion' of any constitution's absolute status is, I want to suggest, the key thought behind Marx's description of it as the overcoming of the beguiling 'duplications' of the social world that takes place at the hands of the constitutional state. 'In democracy', says Marx at one point, 'no moment acquires a significance other than what is proper to it'.¹¹⁴ Against the background of the mystifications of the Understanding that we have been following through his analysis of Hegel's institutions, I think we cannot conclude that such comments are intended to invoke a naïve epistemological simplicity. The point is rather that democracy abolishes the illusion whereby the state and its determinations are fixed and legitimised by implicit or explicit reference to a mysterious principle outside our

¹¹¹ Theunissen 1991.

¹¹² Marx 1843h, p. 88 / p. 32.

¹¹³ Marx 1843h, p. 120 / p. 61

¹¹⁴ Marx 1843h, p. 87 / p. 31, translation modified.

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actual social activity. Rather, every social role or relation is understood to be a moment in that self-determining activity. But this does not mean that society's activity itself is 'simple' or 'transparent' – the point is that it is already a complex network of activities and interactions that mediate individuals' relations to one another and their needs. This is in fact made clear by Marx's discussion of 'representation', not as something to be abolished but to be recognised as implicit in *all* social relationships:

a cobbler is my representative in so far as he satisfies a social need, just as every definite form of social activity, because it is a species activity, represents only the species. That is to say, it represents a determination of my own being just as every man is representative of other men. In this sense he is a representative not by virtue of another thing which he represents but by virtue of what he *is* and *does*.¹¹⁵

The very premise of such passages is precisely the complexity of society and its 'system of needs' – it is precisely because I know nothing of shoe-making that the cobbler acts on my behalf in his workshop.¹¹⁶ The point is not that I understand how he made my shoes, but that I recognise my shoes as a social product, as a moment in society's self-reproduction.

At the same time, however, Marx recognises that overcoming the civil society/political state opposition is not just a matter of consciously recognising its relativity. For it is precisely a function of society's institutional fragmentation that its unification takes place 'behind the backs' of individuals as a force of necessity. The transcendence of this situation can only come about through an achievement of that collective self-determination that would by definition dispel the transcendent objectivity of any institutional framework. True democracy cannot come about by having all this pointed out to us, but must be a hard-won *practical* achievement. The solution of this

¹¹⁵ Marx 1843h, pp. 189-90.

¹¹⁶ See also Marx 1843h, p. 188 / p. 127: 'when we speak of *specific* affairs of state, of a single political act, it is ... obvious that it cannot be performed by *all the people individually*. If this were so it would mean that the individual was himself the *true* society and thus would make society superfluous. The individual would have to do everything all at once, whereas in fact society has him act for the others, just as it has them act for him'.

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riddle, the ‘reclamation of universal reason’, is the ‘task set by history’.¹¹⁷ This intrinsic conceptual linkage between the atomisation of civil society and the abstraction of the political state thus gives Marx the clue to a new historical dynamic that will point him in the direction of a radical new political project.

5. The inverted world

In the ‘Introduction’ to a planned publication of his Hegel critique in which the new focus this practical project is publicly announced for the first time, Marx makes use of a trope that would recur throughout his later analyses:

This state and this society produce religion, which is an *inverted consciousness of the world*, because they are an *inverted world* [*eine verkehrte welt*] ... It is therefore the *task of history*, once the *Beyond* [*Jenseits*] of truth has vanished, to establish the *truth of this world*. It is the immediate *task of philosophy*, which is in the service of history, to unmask self-estrangement in its *unholy forms* once the *holy form* of human self-estrangement has been unmasked. Thus the criticism of heaven turns into the criticism of earth, the *criticism of religion* into the *criticism of right*, and the *criticism of theology* into the *criticism of politics*.¹¹⁸

It is rarely noted that this motif, of an ‘inverted world’ as the symptom of a misrecognition of ‘this world’ as having its truth in a realm ‘beyond’ experience itself has a clear Hegelian precedent.¹¹⁹ It appears in the *Phenomenology of Spirit* at precisely the point in the argument that corresponds most closely to the transition in the *Logic* from the ‘Doctrine of Essence’ to that of the ‘Concept’, from the illusory projections of the Understanding to the self-determination of Reason.¹²⁰

¹¹⁷ Marx 1843h, p. 89.

¹¹⁸ Marx 1844a, pp. 244-5 / pp. 170-1, translation modified.

¹¹⁹ It is pointed out in Rosen 1996, p. 176.

¹²⁰ On this correspondence see Pippin 1989, p. 304, note 35.

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The section, on 'Force and the Understanding', is announced with a characterisation of precisely that 'doubling' effect that we have been noting throughout Marx's analyses of the operations of the constitutional state: 'The true essence of Things has now the character of not being immediately for consciousness; on the contrary, consciousness has a mediated relation to the inner being and, as the Understanding, *looks through this mediating play of Forces into the true background of Things*'.¹²¹ This moment is a necessary move forward from the inadequacy of sense-certainty; but it is also a moment that in turn must be overcome.¹²² The reason Hegel gives is that a conception of reality in this two-tiered sense leads into unacceptable paradoxes. Consciousness seeks to ground its organisation of experience by relating its conceptualisations to some underlying order behind sensible appearance; but this order can be nothing other than the order that is produced by consciousness itself. Hence we must either admit that in truth we know nothing of this supersensible world,¹²³ and that our scientific discovery of 'laws' explaining reality in fact does nothing more than tautologically redescribe this reality,¹²⁴ or assert its relationship to the world of appearance in entirely dogmatic or mystical fashion.¹²⁵

From the idea, then, of inversion, which constitutes the essential nature of one aspect of the supersensible world, we must eliminate the sensuous idea of fixing the differences in a different sustaining element; and this absolute Notion of the

¹²¹ Hegel 1807, p. 86, § 143.

¹²² Pippin's account of Hegel's argument is highly relevant here: 'Hegel's claim here is paradigmatic for much of what he wants to say about the limitations of traditional philosophical reflection, especially for his well-known attack on abstract or formal principles of practical rationality. Such principles either "invert" the real world, attempt to turn it into another, unreal world, or "pervert" it (another meaning of *verkehren*) by judging it to be permanently corrupt'. Pippin 1989, pp. 286-7.

¹²³ 'The inner world is, for consciousness, still a *pure beyond*, because consciousness does not as yet find itself in it. It is *empty*, for it is merely the nothingness of appearance, and positively the *simple* or *unitary* universal'. Hegel 1807, p. 88, § 146.

¹²⁴ 'In this tautological movement, the Understanding ... sticks to the inert unity of its object, and the movement falls only within the Understanding itself, not within the object. It is an explanation that not only explains nothing, but is so plain that, while it pretends to say something different from what has already been said, really says nothing at all but only repeats the same thing'. Hegel 1807, p. 95, § 155.

¹²⁵ 'in order that there may yet be something in the void ... we must fill it up with reveries, *appearances*, produced by consciousness itself'. Hegel 1807, p. 88-9, § 146.

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difference must be represented and understood purely as inner difference, a repulsion of the selfsame, as selfsame, from itself, and likeness of the unlike as unlike.¹²⁶

The climax of Hegel's argument is then the arrival at self-consciousness – at an awareness of our own self-determined activity in constituting the world we experience:

The two extremes [of this syllogism], the one, of the pure inner world, the other, that of the inner being gazing into this pure inner world, have now coincided ... This curtain [of appearance] hanging before the inner world is therefore drawn away, and we have the inner being [the 'I'] gazing into the inner world ... *self-consciousness*.¹²⁷

Marx's redeployment of this motif is not unique – indeed, it seems to have been a staple of Young Hegelian criticisms of religion and politics. Bruno Bauer had argued that the categories of religion 'invert the laws of the real, rational world, alienate the universality of self-consciousness, rend it violently away or bring it back to representation as an alien, limited, sacral history'.¹²⁸ Moses Hess similarly characterised the state and politics as an 'inverted world' in articles written around the same time,¹²⁹ and in a seminal move, extended the analysis to *economic* forms in his essay 'On the Essence of Money', written around the end of 1843 or the beginning of 1844: 'What God is for the theoretical life ... money is for the practical life of the inverted world: the alienated power of men, their reified activity'.¹³⁰ The repeated recourse to this motif provides further evidence that

¹²⁶ Hegel 1807, p. 99. § 160.

¹²⁷ Hegel 1807, p. 103, § 165.

¹²⁸ Quoted in Moggach 2003, p. 36. See also Bauer's *Das entdeckte Christenthum*, in which a chapter on the absurd pointlessness of Christian belief in the miraculous is entitled '*Die verkehrte Welt*': 'The Christian demands water from the stone and gets it. He commands water that it be wine and it is so; iron to not be heavy and it floats; fire that it not burn and he sings a beautiful aria in a glowing oven; the river that it not flow and he walks over its bed with dry feet.' Bauer 1843, p. 77. McLellan suggests a strong influence of Bauer's critique of religion on this passage of Marx's text, but does not trace the relevant motifs back to the common Hegelian source. McLellan 1969, pp. 78-9.

¹²⁹ Kouvelakis 2003, p. 147.

¹³⁰ Quoted in McLellan 1969, p. 157.

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even as the Young Hegelians proclaimed an explicit break with Hegelian idealism, they did so on the basis of reconceived but still recognisably Hegelian arguments. For this reason, an understanding of Hegel's project remains essential to understanding their own attempts at a refoundation upon new ground.

And I think this must apply also to Feuerbach, the most visible and explicit influence on Marx's writings of this period and the author of the very terms through which Marx articulates his 'break' with Hegel. It can I think be plausibly argued that Feuerbach's declarations of his total abandonment of the Hegelian standpoint have led readers to overlook the extent to which his 'anthropological' writings themselves depend upon a redeployment of idealist arguments. In the case of *The Essence of Christianity*, Feuerbach's deliberate and strategic shift of idiom from a philosophical and epistemological register into one of 'psychology' and 'anthropology' has invited readings of his arguments as if they constituted a reversion to some kind of pre-critical empiricism, missing the importance of the Kantian revolution they take for granted, or indeed anachronistically read back into them proto-Freudian notions of 'repression' and 'projection', or quasi-Durkheimian sociologisations of religion.¹³¹ But the argument of the book is much more about relating religious belief to the necessary logical structures of human subjectivity and self-consciousness. As is well known, Feuerbach's argument is that religion is nothing other than humanity's misrecognition of its own 'nature' as an alienated other, but what is often overlooked is that for Feuerbach '[t]his nature is nothing else than the intelligence – the Understanding [*Verstand*]'.¹³² All the philosophical

¹³¹ Daniel Brudney presents Feuerbach's argument as a theory of 'psychological projection' in which God is worshipped as a symbol of our 'collective human capacities' and facilitates a kind of imaginary 'wish fulfilment' – an 'illusory belief ... akin to those investigated by psychoanalysis'. Feuerbach's critique of religion is thus intended as a kind of 'therapy' that will 'preserve the force of the religious impulse' but 'rechannel it to its proper place'. Brudney 1998, p. 32, p. 57. Robert Nola, meanwhile, suggests that 'with hindsight the genetico-critical method can be viewed, in part, as an early exercise in the sociology of knowledge, or, much better, the sociology of belief, in which the origins of beliefs are traced to causes other than their putative objects'. Nola 1993, p. 308. The point is not that Feuerbach's project can't be redescribed in this way, but that this kind of language can occlude the operative premises and structure of his argument – which Brudney and Nola do have some difficulty making sense of.

¹³² Feuerbach 1841, p. 33 / p. 75. Nola writes that on Feuerbach's account 'our essence is very Cartesian: the essential properties of the human species are reason, will, and affection'. The possible relevance of Kantian and post-Kantian discussions of such topics

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definitions of God are attributes of the Understanding: 'that which conditions and coordinates all things', the 'criterion of all reality', the 'self-standing and independent essence', which 'comprehends all things in itself, because it is itself not a thing, because it is free from all things'.¹³³ The content of religion is then filled by humanity's need to fill this empty conceptual space with feeling and personality, so that the imagination produces the conception of a personal God in the image of the individual who loves and forgives all imperfections.¹³⁴ This attempt to fill the abstract, formal, objectified notion of the Understanding with the stuff of intuition, imagination and feeling is the generative contradiction at the heart of religious belief, funning through all its mysterious rituals and doctrines: incarnation, prayer, miracles, resurrection, the Holy Trinity.¹³⁵

I would suggest that in its essentials this argument remains close to that originally mounted by the post-Kantian idealists against Kant's own rehabilitation of religion as 'practical faith', and which we discussed in Chapter Three as a likely source of Marx and Bauer's criticisms of religion in the name of 'self-consciousness'. The most important difference is that Feuerbach now extends this critique to Hegel's own 'speculative' recuperation of religion, with his hypostatisation of human self-consciousness into a quasi-theological Concept that has now detached itself from actual finite subjects:

Why ... dost thou alienate man's consciousness from him, and make it the self-consciousness of a being distinct from man, of that which is an object to him? ... Man's knowledge of God is God's knowledge of himself? What a divorcing contradiction! The true statement is this: man's knowledge of God is man's

is not considered. Appearing in an anthology devoted to *The Age of German Idealism* this is surely missing a trick.

¹³³ Feuerbach 1841, pp. 33-43.

¹³⁴ Feuerbach 1841, pp. 46-7. This shows how Warren Breckman's focus on 'personalism' as the target of Young Hegelian critique may not reach to the most fundamental level of these arguments – it is clear from Feuerbach's exposition here that the attribution of personality to the divine is a *consequence*, necessary but nonetheless secondary, of the objectification and externalisation of the Understanding that is the primary basis of theological belief.

¹³⁵ Feuerbach 1843, p. 213: 'God is universal, abstract Being, simply the idea of Being; and yet he must be conceived as a personal, individual being; – or God is a person, and yet he must be regarded as God, as universal, *i.e.*, not as a personal being ... One half of the definition is always in contradiction with the other half'.

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knowledge of himself, of his own nature ... what presents itself *before* thy consciousness is simply what lies *behind* it...

Thus Feuerbach argues for a turn to ‘anthropology’ precisely on the grounds that it is the basis for reconstructing ‘a true, self-satisfying identity of the divine and human being, the identity of the human being with itself’. Hegel’s theory is *supposed* to achieve such an identity, but because it cannot overcome the separation of humanity and Reason inherent in its very principle, it is ‘in contradiction with itself and with the Understanding, – is a half measure – a thing of the imagination – a perversion, a distortion; which, however, the more perverted and false it is, all the more *appears* to be profound’.¹³⁶

Feuerbach’s subsequent recommendation in the ‘Provisional Theses for the Reformation of Philosophy’ that ‘we need only *invert* speculative philosophy and then we have the unmasked, pure, bare truth’¹³⁷ may not be explicitly intended to evoke the ‘inverted world’ passage in Hegel’s *Phenomenology*, but it is certainly arguable that the principle is closely related. His procedure of responding to an essentialist structure in which ‘the truth of the finite is articulated ... only in an *indirect* and *inverted* manner’¹³⁸ by ‘making the *predicate* into the *subject* and thus, as the subject, into the *object* and *principle*’ need not be taken as a reversion to simplistic or reductive empiricism, nor the erection of just another essentialism with the terms reversed. Rather it seems that this might have appeared as precisely the method by which to overcome the illusory ‘doubling’ to which the Understanding can fall prey and into which Hegel’s own philosophy itself seemed to have fallen. ‘We ... have everything *twice* in the Hegelian philosophy, as an object of the logic and then again as an object of the philosophy of nature and the philosophy of spirit’.¹³⁹ It seems clear that both Feuerbach and Marx saw the solution to this misfiring of the original Idealist intention¹⁴⁰ in a concerted re-siting of its first principle in a more ‘embodied’ understanding of self-consciousness as inseparable from finite individuals:

¹³⁶ Feuerbach 1843, pp. 230-1.

¹³⁷ Feuerbach 1843a, p. 157.

¹³⁸ Feuerbach 1843a, p. 160.

¹³⁹ Feuerbach 1843a, p. 158.

¹⁴⁰ ‘The essence of Hegel’s *Logic* is *transcendent* thinking, the thinking of the human being *supposed outside human beings*’. Feuerbach 1843a, p. 158.

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one cannot separate the absolute spirit from the subjective spirit or essence of the human being without placing us back in the old perspective of theology and deluding us that the absolute spirit is an *other* spirit, distinguished from the human essence, a ghost of ourselves existing outside us.¹⁴¹

And this, also, seems to have been the nature of the Feuerbachian turn to ‘sensibility’ – not a retreat from idealism towards a simplistic empiricism so much as a *repeat* of the Idealists’ efforts to overcome the dualisms of reflection, by reasserting the inextricable involvement of all ‘thought’ with its own sensible content:

The differences between essence and appearance, ground and consequence, substance and accident, necessity and chance, speculative and empirical, do not constitute two realms or worlds of which one is a supersensible world to which essence belongs and the other is a sensible world to which appearance belongs; rather, these distinctions all fall within the realm of sensibility itself.¹⁴²

The development of Marx’s early thought does not stop here (though Feuerbach’s seems to have progressed little further).¹⁴³ As far as we have taken it, his break with ‘idealism’ is on the basis of an alternative conception that remains abstract, unclear, perhaps crude. Its most interesting turns and elaborations are driven by his attempts to turn such arguments to the analysis of particular historical, social, and economic conflicts and dynamics. But we cannot really grasp the meaning of Marx’s subsequent ‘materialism’ until we have fully understood the irony of its inauguration in a strategic inversion of Hegel that was *itself* a classically Hegelian manoeuvre.

¹⁴¹ Feuerbach 1843a, p. 158.

¹⁴² Feuerbach 1843b, p. 59.

¹⁴³ See Wartofsky 1977 for an account of Feuerbach’s subsequent intellectual career.

Conclusion

Marxism and epistemology

‘Capitalism is a contradictory reality for Marx, not because being a reality it must therefore be contradictory – as dialectical materialism would have it, but because it is a capsized, inverted, upside-down reality. I am perfectly conscious that the notion of an upside-down reality appears to jar with the precepts of any science. Marx was convinced of the validity of this notion. I do not say that he was necessarily right. I cannot yet state whether the idea of an inverted reality is compatible with a social science.’

– Lucio Colletti, ‘A Political and Philosophical Interview’ (1974)¹

‘In his search for a concept with which to think the remarkable reality of the effectivity of a structure on its elements, Marx often slipped into the really almost inevitable use of the *classical* opposition between *essence and phenomenon*, adopting its ambiguities by force rather than by merit, and *transposing the epistemological difference between the knowledge of a reality and that reality itself* into reality in the form of the ‘*inside and the outside*’, of the real, of the ‘*real movement and the apparent movement*’ of the ‘*intimate essence*’ and its concrete, phenomenal determinations, perceived and manipulated by subjects’.

– Louis Althusser, ‘Marx’s Immense Theoretical Revolution’ (1968)²

‘Marxism’, understood as the distinctive mode of inquiry and critique that Marx began to develop in the years after 1843, and the many and diverse traditions of commentary and elaboration it spawned, has not been the subject of this thesis. The foregoing discussion

¹ Colletti [1974] 1977, pp. 337-8. Three years after giving this interview Colletti accounted for his abandonment of Marxism by reference to his failure to resolve this problem – Hegel’s dialectic, he had to admit, ‘is right there in *Capital*’ and ‘one cannot do science with the *dialectic*’. ‘The Crisis of Marxism’, in *Mondoperaio* (November 1977), quoted in Arthur 2000, p. 130.

² Althusser and Balibar 1968, pp. 190-1.

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has been restricted to a set of early texts in which we find none of the most distinctive features or concerns of Marx's later writings: his critique of political economy, his focus on class struggle, his advancement of a 'materialist' theory of history, his commitment to a proletarian communist politics. Indeed, it has been a concern of mine to avoid reference to these later themes and to try to guard against 'reading back' into these early texts anything that we know (or think we know) about Marx's greater intellectual and political legacy.

But it is inevitable that any reading of these early writings will be partially informed by questions about the meaning and relevance of the more famous arguments and analyses of Marx's later years. And indeed my hope is that the philosophical excavation conducted here may after all begin to throw some new light on Marx's subsequent ideas. Any attempt to sketch these implications at this point must be highly provisional. I by no means wish to give the impression that I think that the point at which we have ended this story is the point at which Marx is 'set up' for the rest of his life's work, and that there do not remain further developments, redirections, even 'breaks', which will continue to transform in fundamental ways his theoretical and practical project throughout the decades that follow. A full investigation of the fate of the themes of my discussion in Marx's later thinking would require a further detailed study, probably much larger than this one. But in this concluding chapter I do want to set out briefly why I think further investigation of these themes may be interesting and worthwhile.

1. Between 'idealism' and 'materialism'

Where did we leave Marx at the end of 1843? My argument has aimed to show that we can at this point see Marx preparing to relaunch, in a very different guise, what is nevertheless still recognisable as a variant of the post-Kantian project of rendering fully conscious the implications of an all embracing principle of self-determination. Furthermore, I think it is also possible to now see how an essential component of this project will involve a redeployment of the epistemological terms of the original Idealist analyses of the universal and necessary structures of subjectivity and knowledge as the framework for a new analysis and critique of 'social structures' – political, economic, and 'ideological'. In short, my suggestion is that Marx will begin to treat these social

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structures *as* themselves institutionalised embodiments of 'forms of consciousness', the shared forms, that is, through which human beings self-consciously mediate and reproduce their interdependence.

If this is right, then a number of important consequences would follow. One is that however insistently Marx declares his new standpoint to be 'materialist', and however proudly he claims to have left behind his 'idealist' philosophical upbringing, we should not interpret this to mean that his thought ever stops being fundamentally concerned with self-consciousness and subjectivity. Rather the shift of emphasis is to an exploration of how forms of collective self-consciousness and intersubjectivity are embodied or institutionalised in what some might want to call 'material' structures and systems of relationship: positive religion and its organisational existence; the state and its laws, or ultimately the 'economy' and its 'market'. At the end of this discussion it seems possible that all these possible 'objects' of social analysis and critique might be thought of as providing the basic forms and structures by which the individuals of a society conceptualise their practical interdependence, and on the basis of which they act to reproduce and develop that interdependence. And this, I suggest, is at some level how Marx thinks of them.

Following our exploration of the post-Kantian philosophical tradition from which Marx draws in forming this project, a little more can be said about the kind of patterns and dynamics we might expect such structures to exhibit. Perhaps the most important is that where these structures are fixed, beyond the control of those whose activity they mediate, they will follow what we have been designating an 'Essence Logic', the problematic dualistic structure that is the result of any absolutisation of the standpoint of 'Reflection' or the 'Understanding'. This means that they will be experienced by those operating within them as an external or mechanical constraint on their activity, grounded in a transcendent organising principle that is projected into an obscure or hidden realm 'Beyond' their own activity. But in fact, we can further predict, this will be a special kind of illusion – for in truth there is nothing beyond these individuals' activity, and this deeper level of reality can in fact only be empty, or gain its content only through a tautologous or inverted reduplication of that activity.

The overcoming of this illusion would then take the form of a realisation that there is nothing truly constraining individuals' social activity according to a principle that lies beyond it, that there is only that activity itself, and any structures that regulate it are themselves products of that free, ungrounded activity. This is the fundamental and all-

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encompassing activity through which we produce and reproduce ourselves and our social world. Marx will come to emphasise that this activity is a 'material' activity, and will identify it with 'labour' or 'production'. This is his possibly his most important modification of the post-Kantian paradigm, and it is unfortunate that an adequate exploration of this shift could not be kept within the scope of the present study. At this stage I make only two points. One is to point out that in all of Marx's later discussions it is always clear that by 'labour' or 'production' he means self-conscious, conceptually mediated, explicitly purposive engagement with the 'material' or 'natural' world, so that the epistemological issues we have been discussing are never far away. The other is that the story we have been able to tell so far does suggest that Marx's deliberate step outside the established philosophical discourse of German Idealism does now look very much like it may be motivated by a desire to back out of a corner characterised *by Marx* as a relapse into precisely as the kind of arbitrary formalism, mystical dualism and loss of self-determination that it had been the original project of that tradition to overcome.

But the full recovery of the free and self-conscious organisation of our social world through productive labour will take more than a shift of philosophical perspective. As Marx is famous for insisting, it will take action – most importantly, collective action. For we can now see that the ossification the structures by which we understand and act on our interdependence into fixed transcendent orders that seem to constrain our activity from the outside is precisely the consequence of a failure to achieve a fully self-determining and self-conscious collective agency. Insofar as I act only as an individual, then the structures which regulate my social interaction are indeed external forces that lie beyond my power to control or even fully comprehend. The suspension of this objectification can only come about through the realisation of a united subjectivity that can recognise and suspend these structures as only the principles of its own free *self*-organisation. This is precisely the sort of intersubjective self-determination that is blocked by the fragmentation of society into private individuals, looking not to each other but to the transcendent principles of religion, law and the market to mediate their interdependence and embody their common interests. The projected possibility of a final consummation of such a collective subjectivity is without doubt the most utopian and controversial part of this overall picture. But hopefully we can at least see how Marx thought he could point to partial realisations of such a goal in the very interstices of his own fragmented, dualistic, and distorted society: in the free flow of facts and ideas of an uninhibited public sphere; in the mutual acts of 'species recognition' that ground our

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most everyday personal and social interactions; and ultimately in the dynamic and expansive cooperative activity that is the hidden heart of the capitalist production process.

As I have said, an adequate and convincing exploration of how some of the key themes and issues of post-Kantian Idealist philosophy can be seen to persist, in radically altered form, throughout much of Marx's later thought, would take a further study of forbidding proportions. But in the remainder of this chapter I want to make some provisional suggestions as to how I think an awareness of these themes might help us understand the complexities and difficulties of Marx's 'mature' project, and indeed appreciate its continuing relevance.

2. Labour and history

Marx's better known social, political and economic thought is grounded in what he refers to in his 'early' works (of 1844) as humanity's 'species life', and what appears in his later writings as the collective labour process that is taken to lie at the basis of any historically existing society. I am for my present purposes setting aside any exploration of the distinctions there might be between these two conceptions (and other variations that may appear in his writings) for the sake of gaining a clear view of the basic idea that they have in common. This is that human beings depend for their survival and development upon an ongoing process of collective interaction with each other and their 'material' or 'natural' environment. It is his insistent stressing of the fundamentally *social* aspect of this process that he thinks marks him out from most liberal or individualist political and social theories. And it is the fact that this process is naturally or materially bounded that seems to mark him out as some kind of 'materialist'.

But in order to understand how and why arguments and vocabularies of more 'Idealist' provenance find their way into Marx's social theory, we need to keep in mind the fact that for Marx this ongoing process of 'species life' or 'collective labour' is always *conceptually mediated*, and so inherently reflexive or 'self-conscious', and for that reason at some level 'free' or 'spontaneous'. In his original appropriation of Feuerbach's notion of humanity's 'species being', for example, we find numerous statements such as the following:

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The animal is immediately one with its life activity. It is not distinct from that activity; it *is* that activity. Man makes his life activity itself an object of his will and consciousness. He has conscious life activity. It is not a determination with which he directly merges ... he is a conscious being, i.e. his own life is an object for him, only because he is a species-being. Only because of that is his activity free activity.³

Turning to Marx's later writings, a similar meaning might be taken to be behind the famous passage in Volume 1 of *Capital* about the distinction between 'those first instinctive forms of labour which remain on the animal level' from 'labour in a form in which it is a distinctively human characteristic':

what distinguishes the worst architect from the best of bees is that the architect builds the cell in his mind before he constructs it in wax. At the end of every labour process, a result emerges which has already been conceived by the worker at the beginning, hence already existed ideally. Man not only effects a change of form in the materials of nature; he also realizes his own purpose in those materials. And this is a purpose he is conscious of, it determines the mode of his activity with the rigidity of a law, and he must subordinate his will to it.⁴

Quotations such as these have become so familiar that, ironically, it seems little thought is given to the possibility that they might have quite precise philosophical implications. They are merely trotted out every time we want to evoke Marx's rhetorical celebration of 'social labour' as humanity's most important activity. But if we look at the detail of Marx's presentation of this idea it is hard to escape the suspicion that perhaps Marx has not moved all that far away from German Idealist premises – in the 'architect' quote, for example, we see not only a tight interrelation between conceptuality, self-consciousness,

³ Marx 1844c, p. 328. Andrew Chitty has interpreted such passages as meaning that the 'universality' supposedly inherent in humans' species activity turns precisely on the fact that it is conceptually mediated. See Chitty 1993.

⁴ Marx 1867a, pp. 283-84.

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and freedom, but moreover an identification of that free activity with giving a *law* to oneself.⁵

This then raises the further question that there might be more fundamental structures that make possible the self-relating inherent in the labour process, structures that are in some way ‘conceptual’ but may not necessarily be explicitly conscious at all times. According to Robert Pippin, this is precisely the question that motivates Hegel’s most radical developments of Kant’s original theory of apperception when posed in the epistemological context:

when S claims to know P, S must be implicitly understanding himself to be participating in the practice of judgment and justification, and that S must contextually or implicitly understand enough of such a practice to count as participating in it. (Such a reflexive awareness might simply always be implicit and evinced only by what else S can and would do.)

It is this idea of a structured self-understanding logically implicit in all particular acts of judgement that, according to Pippin, licenses the project of Hegel’s *Logic*, as ‘an extremely abstract, ideal account of the various Notions implicitly presupposed by an S self-consciously intending a claim about a *determinate* object, even though any actual S might only have the crudest sense of such presuppositions’.⁶

My suggestion here is that a similar argument might be seen to legitimate a move from the self-conscious conceptuality of all human labour to the possibility of a *logical*

⁵ Imprecise renditions of Marx’s ‘philosophical anthropology’ may be responsible for much (not all) of its notoriety as a dangerously naïve and utopian perfectionism. Many people seem to think that Marx’s view of ‘human nature’ is that we all really enjoy working, and we all really get along with one another, and that if we don’t we are ‘alienated’ or experiencing ‘false consciousness’. I think that a much more minimalist and much more persuasive account of the human condition is consistent with what Marx says and a more likely outcome of his philosophical development: that in a Kantian sense we are necessarily self-conscious and self-determining agents, and that (also in a Kantian sense, in fact) we are beings with needs that depend for their fulfilment upon our and others’ purposive engagement with ‘nature’. My strong claim is that pretty much everything else follows from this. But at least I hope it will be accepted that it is unlikely that Marx would have simply reverted to a simple ‘social instinct’ or ‘political animal’ – type anthropology after all his polemical attacks on feudal fetishisations of natural determinations as reducing social life to a ‘zoology’.

⁶ Pippin 1989, pp. 22-3.

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analysis of the wider social relations and structures that frame and are presupposed by such activity. It would take a great deal of work to elucidate and defend such an argument; right now I merely wish to suggest that maybe something like this is going on when, for example, Marx seems to claim that ‘the labour theory of value’ is somehow inherent in the very *practice* of commodity exchange, *prior to* any conscious formulation of this idea in the minds of those doing the exchanging: ‘by equating their different products to each other in exchange as values, they equate their different kinds of labour as human labour. They do this without being aware of it ... Later on, men try to decipher the hieroglyphic, to get behind the secret of their own social product’.⁷ Or, again, such a relationship seems to be being asserted when Marx makes the parallel claim that certain *juridical* concepts of free and equal personality can be seen as ‘tacitly’ presupposed by agents exchanging with one another, again independently of the extent to which they are explicitly formulated:

... in developed trade, the exchangers tacitly recognise each other as equal persons and owners of the respective goods to be exchanged by them; they *do* this even while they are offering each other their goods and agreeing to trade with one another. This *factual* relation, which first arises in and through exchange itself, later obtains *the form of right* in the contract etc...⁸

It is at points like these that Marx wants to keep faith with his ‘materialist’ supposition that ‘social being determines consciousness’ and not vice versa and in the process appears to want to maintain a quasi-Humean story of concepts and rules emerging as the secondary epiphenomena of pre-existing conventions and patterns of behaviour. This raises some complicated issues;⁹ but the important point for my immediate purposes is that Marx clearly thinks that these rules and conventions, even if unconscious, are

⁷ Marx 1867a, pp. 166-7.

⁸ Marx 1975, p. 210.

⁹ Some of these issues are wrestled with in Chitty 1998. He concludes that although ‘[i]n his keenness to oppose a thoroughly materialist alternative to idealist explanations of social phenomena, Marx does sometimes seem to suggest that human practical activity as such is thought-free’, nevertheless ‘[r]elations of producing-for and transferring-to are relations that involve actions, and human action is always intentional, thus always imbued with thought and so with “forms of consciousness”.’

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nevertheless ultimately susceptible to conceptual expression and so logical analysis, and that their effectivity should not be thought of as if it were a kind of mechanical causation.¹⁰ The characterisation of the capitalist economy as a system of ‘material relations’ is then misleading if we expect as a consequence to be able to study it in the same way that natural science studies its ‘material’ objects. For the fact that these relations are rooted in and characterised by the ways in which human beings spontaneously give a ‘law’ to their own activities mean that we can never reduce their dynamic to laws of simple natural causality.¹¹ Rather, the ‘social forms’ that material relations take on may be systematically related to one another in such a way as to be reconstructed through a procedure of transcendental conceptual derivation, which is to say, that one might seek to set forth their dialectical ‘logic’.¹²

What this points to then is a suggestion that the ‘objects’ of Marx’s social, historical, political and economic analyses are the basic practical concepts through which human beings (explicitly or implicitly) understand, reproduce and develop their ‘material’ interdependence. This, I would argue, is the kind of mediation Marx is drawing our attention to when he says, for example, that ‘[a]ll production is appropriation of nature on the part of an individual within and through a specific form of society’.¹³ Marx’s focus is on the historically changeable ‘social forms’ which guide and underwrite the collective labour process which runs through *all* human history. These social forms should be seen

¹⁰ Such an argument is made in Adorno 1957, pp. 79-80: ‘The person who attributes the conceptual to social reality need not fear the accusation of being idealistic ... The act of exchange implies the reduction of the products to be exchanged to their equivalents, to something abstract, but by no means – as traditional discussion would maintain – to something material ... It is not an illusion to which organizing science sublimates reality but rather it is immanent to reality’. See also Carver 1998, p. 27, for what seems to me a very similar argument.

¹¹ For an attempt to do so see Elster 1985, pp. 18-27.

¹² Elster of course is sceptical of the possibility Hegel’s ‘self-determination of the concept’ according to connections that are ‘neither that of cause to effect, nor that of axiom to theorem, nor finally that of given fact to its condition of possibility’. Elster 1985, pp. 37-8. But I don’t think one needs to be able to defend (or indeed make sense of) every transition in the *Logic* to be able argue that Hegel’s project is rooted in a recognition of real epistemological issues that arise from Kant’s account of the interrelation of sensibility, understanding and reason, and that such issues might similarly arise from the necessity of individuals’ conscious and purposive interactions with one another in a situation of ‘dynamic interdependence’.

¹³ Marx 1857, p. 87.

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as akin to ‘conceptual schemes’ that are expressed in language, ideology and culture, and institutionalised in legal, political and economic structures. Given material embodiment in this way they have a certain inertia or stickiness, which is to say that they do have causal effectivity on the labour process that they seem to ‘channel’.¹⁴ They will appear ‘natural’ or immutable, and stake their claim to legitimacy in a transcendent realm beyond human beings’ productive activity. But ultimately there will be no ‘content’ to this world other than an ‘inverted’ reflection of the productive activities which they organise. This is realised at the point when the momentum of this productive activity runs up against the limits set by such forms and recovers its total self-determination by ‘suspending’ them. ‘Then begins an era of social revolution’.¹⁵

3. Capitalism as a form of knowledge

A clear corollary of the proposal that the objects of social analysis are the historically variable conceptual schemes through which human beings understand their material interdependence is a rejection of a naïve empiricism or positivism that would take these schemes for granted and simply reproduce them as the basic categories of their analysis. At the same time, however, it is still possible that such a positivist approach may produce important and valuable results insofar as it can be seen as precisely that elucidation and ‘raising to consciousness’ of those conceptual schemes that might otherwise have remained implicit and unconscious.

This approach has been characterised by one contemporary Marx commentator, Patrick Murray, as ‘redoubled empiricism’ – ‘wherein the social forms of needs, production, distribution themselves – not just the behaviour of objects already subsumed under forms – along with the powers and interconnections of these forms, are subjects for experience-based inquiry’.¹⁶ This, I want to suggest, is why *Capital* seems at some

¹⁴ See Carver 1988, p. 33: ‘while they were derived (somehow) from deeper elements of conscious behaviour (unspecified), [economic concepts] have a further, distinctly formative effect on human behaviour and individuality. They have a conceptual structure quite independent of the “desires” or “interests” of agents. They almost have agency themselves...’

¹⁵ Marx 1859, pp. 425-6.

¹⁶ Murray 1997, p. 39. See also p. 57.

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points to be a straightforward exercise in nineteenth century political economy, and at other points to offer a *critique* of political economy, a critique of political economy which is at the same time a critique of the capitalist system itself. For Marx, the categories of classical political economy – such as ‘prices’, ‘profits’, ‘rent’, etc. – are precisely an elucidation and extrapolation of the basic categories through which human beings in capitalist society understand and reproduce their material interdependence.

Thus Marx describes ‘vulgar economics’ as ‘nothing more than a didactic and more or less doctrinaire translation of the everyday notions of actual agents of production, giving them a certain comprehensible arrangement’,¹⁷ and remarks that

... vulgar economy feels particularly at home in the alienated outward appearances of economic relations, in which these *prima facie* absurd and complete contradictions appear and that these relationships seem the more self-evident the more their internal relationships are concealed from it, although they are understandable to the popular mind. But all science would be superfluous if the outward appearance and the essence of things coincided.¹⁸

The final sentence of this quotation has frequently been taken as if it were the final word on Marx’s methodology in *Capital*, justifying claims (positive or negative) that Marx’s critique of political economy is based on some kind of ‘essentialism’. I would want to argue instead that an understanding of the ‘Doctrine of Essence’ in Hegel’s *Logic*, and the interpretation I have been offering of the very similar language as it appears in Marx’s earliest writings, suggests that the position may be more complicated than this. It would suggest that Marx is describing the ‘essence logic’ that is *inherent in the structure of capitalism itself*, that is to say, implicitly entailed by the ways in which individuals related to one another as commodity-exchangers. It would mean that we are all being, consciously or unconsciously, essentialists when we engage in this practice, and that it is precisely this that Marx wants to critique and overcome, as precisely the symptom of our loss of social self-determination.

¹⁷ Marx 1894, p. 969.

¹⁸ Marx 1894, p. 817.

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The clearest evidence for this reading is given in the way in which Marx relates to the ‘classical’ economic tradition of Smith and Ricardo, whom he absolves of the superficiality of ‘vulgar’ economists but yet whom he still wishes to go beyond. He recognises that these writers have indeed sought to look behind the surface phenomena of the market to trace the underlying laws that govern its movements. And it was their achievement, of course, to uncover the fundamental determination of value by labour time. Marx, as we know, endorsed this ‘labour theory of value’ as a valid description of the fundamental law of governing the movements of the capitalist economy. But the crucial break he made with Ricardo’s theory, still little recognised or understood, was that for Marx this law has no application or meaning *beyond* the capitalist economy. This comes through clearly in the discussion in *Capital* of commodity fetishism, where Marx refers to Ricardo’s ‘belated scientific discovery that the products of labour, in so far as they are values, are merely the material expressions of the human labour expended to produce them’. But in the same passage he states very clearly that ‘the fact that the specific social character of private labours carried on independently of each other consists in their equality as human labour, and, in the product, assumes the form of the existence of value’ is ‘something which is only valid for this particular form of production, the production of commodities.’¹⁹

Later in the same section, Marx reinforces the point (the emphasis is mine):

Political economy has indeed analysed value and its magnitude, however incompletely, and has uncovered the content concealed within these forms. But it has never once asked the question why this content has assumed that particular form, that is to say, why labour is expressed in value, and why the measurement of labour by its duration is expressed in the magnitude of the value of the product. These formulas, *which bear the unmistakable stamp of belonging to a social formation in which the process of production has master over man, instead of the opposite*, appear to the political economists’ bourgeois consciousness to be as much a self-evident and nature-imposed necessity as productive labour itself.²⁰

¹⁹ Marx 1867a, p. 167.

²⁰ Marx, 1867a, pp. 166-7.

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Thus the ‘labour theory of value’ is in this sense internal to capitalism – for Marx the very concept of ‘value’ is, like the concept of ‘capital’, historically specific. Capitalism is itself considered as a particular, practically enacted conceptual scheme through which human beings understand their collective labour process – it is not Marx who says that the value of a product is determined by its labour-time, but this in a sense is what capitalism as a system says.²¹ The law uncovered by Ricardo is a conscious formulation of the fact that within capitalism individuals effectively recognise the social character of the products of their labour by assigning them a ‘value’ that reflects the amount of socially necessary abstract labour time expended in their production. But as Marx makes clear, this essentialist, dualistic form of self-understanding is a consequence of our surrender of collective control over the labour process itself.

We begin now to see the force and resonance of Marx’s descriptions of capitalism as the ‘the bewitched, distorted, and upside-down world’,²² and of the ‘metaphysical subtleties and theological niceties’ of the commodity as split between its outward sensible appearance and its ‘supersensible’ inner meaning or ‘value’.²³ Remember that the point of Hegel’s chapter on ‘Force and the Understanding’ in the *Phenomenology* is to take consciousness beyond the false objectification of its conceptual schemes to a realisation that the world before it is in many respects a world of its own

²¹ I think this may have been what Louis Althusser was trying to get at when he claimed that Marx’s way of theoretically approaching the ‘structural causality’ immanent in the capitalist system was ‘*to locate in the real itself a distinction which is only meaningful as a function of a distinction outside the real, since it brings into play a distinction between the real and the knowledge of the real*’. Althusser and Balibar 1968, p. 190. It seems to me that Althusser’s highly penetrating investigations of some of these issues were obscured and perhaps derailed by, first, a questionable ascription to Hegel of a ‘Leibnizian’ model of ‘expressive causality’; and, second, a distinction between ‘ideology’ and economic ‘reality’ which created problems when mapped onto this understanding of the capitalist economy as *itself* in some way akin to an epistemological structure. For an argument that Althusser failed to see that Hegel had already arrived at something similar to a notion of ‘structural causality’ beyond traditional ‘essentialism’, see Žižek 1993, pp. 125–64, and Hartley 2003, pp. 84–126. The difficulties that Althusser’s followers got into over the status of ‘commodity fetishism’ can be traced through Rancière 1965, Brewster 1976, and Callinicos 1985, pp. 130–2.

²² Marx 1894, p. 969.

²³ Marx 1867a, pp. 163–4. See also the early drafts of these sections in which Marx talks of this process whereby products of labour take on this ‘two-fold’, ‘sensible-supersensible’ character precisely as an *inversion*. Marx 1867b, p. 140.

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making. In the summary of one Hegel commentator that casually but rather usefully anticipates my suggestion the movement is characterised thus:

Lacking self-consciousness, Understanding is snared by what Whitehead calls the fallacy of misplaced concreteness. That is to say, when it finds certain conceptual devices useful for some purpose it immediately and without further ado takes these for the definitive expression of the real. Understanding ... is still consciousness, focused on its object, not self-consciousness, aware of itself... Not recognizing its own creative activity in its own products, it becomes enslaved to them as if they were independently and eternally given.²⁴

As I have presented it, capitalism is for Marx a logically interconnected set of social forms through which human beings understand and carry forward their collective labour process. It is characterised by a practical and experiential split between the concrete sensible character of individual labours and their products, and the practical valuation of these labours and products as manifestations or bearers of a certain quantity of socially necessary abstract labour time. The lesson of Hegel's 'inverted world' seems to be that we should overcome this two-tiered structure by seeing it as a system of organisation that 'we' as a society impose upon our collective labour process. But this kind of self-conscious, collective subjectivity is *precisely* what is denied us by our situation as atomised, individual commodity producers. *As individuals* we are faced by the rules that coordinate social process as given, pre-existing; as individuals we can do nothing to change them. It is only by exercising conscious collective control over our collective labour process that we can overcome this 'objectivisation' of the economy and dissolve the illusion of its inhuman autonomy.

This is how I read Marx's notorious claim that full socialisation would render social relations 'transparent in their simplicity' – not that everyone would be able to know everything about everything, but only that each would be able to see things for what they are.

²⁴ Westphal 1979, p. 110.

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Let us finally imagine ... an association of free men, working with the means of production held in common, and expending their many different forms of labour-power in full self-awareness as one single social labour force ... The total product of our imagined association is a social product ... The social relations of the individual producers, both towards their labour and the products of their labour, are here transparent in their simplicity, in production as well as in distribution.²⁵

Such a resolution to the argument is precisely what most people now find impossible to imagine. In the light of historical experiences, it is this image that is now widely seen as impossibly utopian, and perhaps dangerously naïve, and for these reasons of little interest to political philosophers. In particular Marx's evocation of communist society as in some way 'transparent' to all its members without the need of political or institutional 'mediations' seems to go against all contemporary awareness of the essential complexity and structural differentiation of a modern polity and economy.

My suggestion, however, is that much of what Marx says along these lines has been misconstrued – that his ideal is not one of unrealistic social simplicity and informational perfection (indeed his own early political analyses militate against such a possibility) but rather the transcendence of a certain basic structure of social agency and knowledge that would be of a piece with the full achievement of a collective self-consciousness. To elucidate Marx's ideal in this way is not to remove all the obstacles that might stand in the way of its attainment; but it does recuperate it at a philosophical level as, for our times, one of the most thoroughgoing and consistent version of the ideal that Robert Pippin identifies as fundamental to philosophical modernity:

As understood by Kant, the early Fichte and Schelling, and Hegel and the left Hegelians, the modern enterprise is ... tied to an essentially practical goal, what one might call a kind of 'metaphysical politics': working out, articulating, helping to defend and so to realize, the possibility of free self-determination, agency,

²⁵ Marx 1867a, pp. 171-2.

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spontaneity, activity, a self-directed 'purposive life', eventually (in Hegel) a necessarily collective agency.²⁶

My modest claim is that if these thinkers' insights can be recaptured and rendered plausible and relevant to our own philosophical and political concerns today, then so, *a fortiori*, can those of Marx. My more ambitious claim would be that it is through Marx most of all that we can understand the ways in which liberal or communitarian formulations of this modern ideal of self-determination are frustrated and undermined by what are widely recognised today as the corrosive and disempowering effects of 'market society' and capitalist 'globalisation'. As long as the need to revive and recover a sense of collective democratic control over our social and economic organisation remains a live issue, then so will the philosophy of Marx prove a living one.

²⁶ Pippin 1997, p. 8.

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