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HEGEL'S CRITIQUE OF LIBERALISM AND NATURAL LAW: RECONSTRUCTING ETHICAL LIFE

ABSTRACT. This essay considers the evolution of Hegel's political and legal theory with respect to the emergence of a classical liberal society and modern natural law. I argue that Hegel abandoned his early concerns which focused on a revival of the Greek polis and ethics over legality and refocused his efforts at reaching a modern form of ethical life predicated on the acceptance of classical liberal society and modern natural law. I try to argue that Hegel wanted to achieve a present-day communal ethics without abolishing the modern individual subject endowed with "rights". However, I seek to draw attention to Hegel's criticism of empirical individualism and social atomism.

INTRODUCTION

Georg Wilhelm Friedrich Hegel's philosophy of law and politics is important in today's age of social breakdown and alienation because it attempts to reconcile modern individualism and subjectivity with the need for community and ethical life. Indeed, Hegel perceived as far back as the late 1700s that the advent of modernity, with its rise of the individual subject, private property, modern commerce and the market, would endanger the need for community and a political practice based on social ethics and public participation. The task that Hegel confronted throughout his philosophical career consisted in creating a space for community and social ethics while preserving the legal rights of the liberal individual subject. In attempting to accomplish this task throughout the different phases of his intellectual development, Hegel gave a substantial degree of importance to the public sphere of society and the state. This aspect of Hegel's theory has often subjected it to accusations that it is a point of departure for the rise of fascism and authoritarian totalitarian regimes. Hence, Hegel's legal and political thought is often compared with and equated to positivist legal
thought. It is my position that such views are inaccurate and fail to do justice to the diversity and complexity of Hegel’s thought. While it is true that Hegel became more conservative with age, he did not abandon the concepts of freedom and subjectivity he had recognized and expounded as a young man. In many ways, Hegel was an heir of the Enlightenment notion of reason and individual freedom.

In this paper I will analyze key aspects of Hegel’s political and legal thought by considering how it evolved from the late 1700s to his mature work, the *Philosophy of Right*. A primary objective of this task is to show that the basis for Hegel’s thought is to be found in his support for human reason, freedom, and modern reflective subjectivity, concepts that transcend abstract individualist theories of freedom (i.e., the negative freedom of liberal political theory) and that also refute authoritarian and totalitarian misinterpretations of Hegel’s political and legal philosophy.

I.

The early Hegel was influenced by Immanuel Kant’s ethical and social theory. Kant had emphasized the primacy of the moral subject by positing the subject’s ability to legislate moral precepts, i.e., the categorical imperative. Hegel, while recognizing the importance of Kant’s concept of the individual subject in philosophy, went further than Kant by recognizing the social, non-individualist aspects of society within which the individual is irrevocably situated. Hegel gave more importance to the social and historical context within which particular individuals are situated than in attempting to derive moral and ethical prescriptions from a hypostasized concept of the isolated, pre-social, abstract individual moral subject of liberal political theory. Hegel transcended Kant’s thought in this respect because he realized that a moral and ethical regeneration of modern commercial society, characterized by the ascendancy of the isolated and abstract egotistical

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2. Ibid., p. 7.