

**Hegel, The Sacrifice of Personality and Marriage**

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**August 2006**

## Abstract

My dissertation aims to reconcile a tension in Hegel's thought between his condemnation of social practices founded on the alienation of 'personality', and his rejection of the concept of the 'person' as a conceptual foundation of society and endorsement of 'the sacrifice of personality' as a basis for marriage. Reconciling this tension is essential in clarifying Hegel's account of marriage. My dissertation, therefore, focuses on the nature and role of the 'person' in Hegel's philosophical system. I start by examining his rejection of this concept as the basis for society in 'Absolute Freedom and Terror' and 'Legal Status', in the *Phenomenology of Spirit*. I then analyse Hegel's reasons for condemning sacrifices of personality, including suicide, martyrdom, slavery and dependence on others for moral and spiritual guidance. This forms a foil against which I consider his account of marriage and the way in which it is presented as a 'sacrifice of personality'. I separate the account of sacrifice from his 'justification' of the sexual division of labour and evaluate different ways in which the 'sacrifice of personality' might be understood. My intention is to develop an account of marriage which coheres with the central Hegelian concepts of recognition and freedom; and his claims about the value and limitations of 'personality'. I suggest that a coherent account can be given which distinguishes between illegitimate 'sacrifices of personality', such as slavery, and legitimate 'sacrifices', in which many key qualities of 'personality' are retained. Finally, I apply this idea of legitimate 'sacrifice' to the 'ethics of care' approach to moral decision making. I suggest that this account of Hegelian marriage has the potential to ground a modified 'ethics of care', in which some relationships are valued as sources of identity and normativity, whilst other relationships can be criticised as damaging and illegitimate normative sources.

## Acknowledgements

I am grateful for the opportunity to research and write this thesis at the Philosophy Department at the University of Sheffield. The encouragement I have received from the staff and my fellow students has been evident throughout this period. In particular, I wish to thank Peter Carruthers for his interest and Christopher Hookway for his help in clarifying my ideas. I have also benefited from Jennifer Saul's inspirational and rigorous lectures on Feminism which, combined with her chairing of the lively postgraduate seminar, enabled me to think through, discuss and present many issues contained in this thesis. My supervisor, Robert Stern, introduced me to the challenging and addictive study of G W F Hegel. He has offered steady support and has been remarkably generous with his time. His meticulous care, constructive criticisms and suggestions have significantly improved my work. I would also like to thank him for his patience, encouragement and optimism whilst I developed these ideas.

I am also indebted to Carine Carson, Nick Clarke, Helen Saunderson, Susan Watt and Elizabeth Willan for their friendship, good sense and tolerance. Finally, I would like to thank my family, especially Jane, Mark and Alice for their hospitality whilst I completed the thesis; my brother, grandfather and father for their cheer and confidence in me; and my mother for her practical help and unstinting support for all of my endeavours.

# Hegel, The Sacrifice of Personality and Marriage

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## Hegel's Works

Hegel's work are cited by either page (p) or paragraph (§) number.

When I cite Hegel's remarks (Anmerkungen) to his paragraphs, I indicate these by 'R' after the paragraph number (e.g. PR, §162R). When I cite Hegel's additions (Zusätze), I indicate these by 'a' after the paragraph number (e.g. PR, §162a).

When I refer to a paragraph *and* its accompanying remark or addition, a comma is placed between the number and the letter to mean 'and' (e.g. 'PR, §162,a' refers to paragraph 162 *and* the addition to paragraph 162).

- DV            *Hegel's Political Writings* (1964). Translated by T M Knox. Oxford: Clarendon Press. Cited by page number.
- EG            *Hegel's Philosophy of Mind* (1971). Part 3 of the Encyclopaedia of the Philosophical Sciences. Translated by William Wallace and A V Miller. Oxford: Clarendon Press. Cited by paragraph number.
- EN            *Hegel's Philosophy of Nature* (1970). Part 2 of the Encyclopaedia of the Philosophical Sciences. Translated by A V Miller. Oxford: Clarendon Press. Cited by paragraph number.
- ETW          *Early Theological Writings* (1948). Translated by T M Knox. Chicago: University of Chicago Press. Cited by page number.
- PhG          *Phenomenology of Spirit* (1977). Translated by A V Miller. Oxford: Oxford University Press. Cited by paragraph number.
- PR            *Elements of the Philosophy of Right* (1991). Edited by Allen W Wood; Translated by H B Nisbet. Cambridge: Cambridge University Press. Cited by paragraph number, except for references to the Preface or endnotes which are cited by page number.
- SS            *System of Ethical Life and First Philosophy of Spirit* (1979). Edited and translated by H S Harris & T M Knox. Albany: State University of New York Press. Cited by page number.
- VA            *Aesthetics: Lectures on Fine Art* (1975). 2 Volumes. Translated by T M Knox. Oxford: Clarendon Press. Cited by page number.
- VG            *Lectures on the Philosophy of World History: Introduction* (1975). Translated by H B Nisbet. Cambridge: Cambridge University Press. Cited by page number.

- VPG *Philosophy of History* (1956). Translated by J Sibree. New York: Dover Publications. Cited by page number.
- VR *Lectures on the Philosophy of Religion* (1895). 3 Volumes. Translated from the Second German Edition by Rev. E B Speirs & J Burdon Sanderson. London: Kegan Paul, Trench, Trübner & Co.; Paternoster House. Cited by Volume and page number.
- WL *Science of Logic* (1929). 2 Volumes. Translated by W Hegel Johnston & L G Struthers. London: George Allen & Unwin. Cited by Volume and page number.

## Introduction

In this thesis I examine the tension and possible means of reconciliation between Hegel's claims that personality is inalienable and his presentation of marriage as founded on the 'sacrifice of personality'. In particular, I am interested in how this 'sacrifice' should be understood and what legitimises this sacrifice in the case of marriage when he condemns it in other cases such as slavery, suicide and dependence on priests. In focussing on his account of this sacrifice I hope to clarify the nature of Hegel's conception of agency within marriage.

I focus on his account of marriage in the *Philosophy of Right*, rather than the different account that he gives in the *Phenomenology of Spirit*. This is because marriage in the *Philosophy of Right* is presented as part of the 'Rational State', in which genuine freedom can be attained. There is no such claim about the account of marriage in the *Phenomenology of Spirit*.<sup>1</sup> Both accounts of marriage present the relationship as something that ought to be valued by the participants as a means of actualising themselves. However, his account of the recognition between marriage partners in the *Phenomenology of Spirit* is radically different. In the *Phenomenology of Spirit*, a marriage partner recognises the other agent as a token, a bare individual of the universal type 'man' or 'woman'. In this conceptual framework, such recognition is much less valuable since one's partner is regarded as interchangeable with another: 'the particular individual is ... a contingent element which can be replaced by another individual. In the ethical household, it is not a question of *this* particular husband, *this* particular child, but simply of husband and children generally.'<sup>2</sup> The difference between his two accounts of marriage can be explained by reference to the dialectical structure of his work. The account in the *Phenomenology of Spirit* is set in the context of Ancient Greek society in which he believed there was perfect harmony between the bare individual and universal aspects of the agent but no recognition of the agent as a *particular* individual in any of the structures and institutions of that conceptual framework. In contrast, the later account of marriage that I am focusing on in this thesis, is set in the Rational State and as such the individual, particular and universal

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<sup>1</sup> 'The way in which the antithesis is constituted in this ethical realm is such that self-consciousness has not yet received its due as a particular individuality.' PhG, §464. I briefly describe this society in more detail in chapter two under the heading, 'Ethical Harmony and Hegel's Account of Ancient Greek Society'.

<sup>2</sup> PhG, §457.

aspects of the agent should be recognised. As such, this account can be considered more definitive of his views on marriage.<sup>3</sup>

Hegel's account of marriage is strictly monogamous and heterosexual. It is also notorious as one in which there is sexual division of labour such that women are confined to the role of wife, parent and primary caregiver to their children, and homemaker. In contrast, men are to conceive of themselves as husbands and parents but have the additional responsibility of head of the family and as such supplement their identity as family member with an identity based on their employment outside the family structure in Civil Society or State institutions. Hegel's justification of this imbalance is grounded in the idea that men and women have different, but equally valuable characteristics, and therefore can only find fulfilment and freedom in occupying different, gender-based roles. My thesis will primarily focus on his account of 'sacrifice of personality' that Hegel insists is the true foundation of marriage, which I believe is separable from his account of the sexual division of labour.<sup>4</sup> I will, however, discuss the sexual division of labour and the role of the head of the family.

My project of reconciling these claims of inalienability and sacrifice, is shaped by two considerations. I am trying to develop an account that coheres with the other claims that Hegel makes about recognition, freedom and human agency. In other words, I am aiming for an account that could be termed 'Hegelian', even if some features are different to those he explicitly endorses. In addition, I am aiming for an account of 'the sacrifice of personality' which does not legitimise the exploitation of one agent by the other or self-neglect in the pursuit of caring for another. I think this is compatible with Hegel's philosophical system and would retain the concern for welfare and respect as an agent which are integral to being a person. As part of this process, I do argue that the sexual division of labour cannot be retained. I also argue that ruling out exploitation and self-neglect requires us to conceive of the 'sacrifice of personality' and the identity of 'marriage partner' in a particular way.

I think such a reconfiguration is important for a number of reasons. Firstly, there are elements in his account of marriage which I believe are indefensible today, in particular the sexual division of labour in marriage. Secondly, reconfiguring his

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<sup>3</sup> There may also be evidence that Hegel values the marital relationship far more in his later work in PR since in PhG the marital relationship is less important for an agent's identity and actualisation than the relationships between opposite sex siblings; PhG, §457.

<sup>4</sup> For a discussion that focuses on Hegel's sexual division of labour, the extent to which he actually promotes and undermines essentialism about gender-based characteristics and which roles in the Rational State are assigned by birth, see my MA dissertation: 'Woman, Photosynthesis and the Sexual Division of Labour' (unpublished).

account increases the likelihood that Hegel's account of identity, recognition and freedom can be more widely appreciated, without being 'tarred' by their association with such indefensible elements. Finally, Hegel does not present a systematic account of the family as a part of the Rational State. His fullest account of marriage and family is presented in the *Philosophy of Right*, however he acknowledges that it will be changed by its interaction with Civil Society and by the dialectical revelation that both institutions are integral to and grounded on the State itself. This dialectical presentation means that Hegel does not give us an account of the fully developed 'family institution' in its entirety. Therefore, to some extent speculative reconfiguration is necessary to anticipate and work through these changes. My reconfiguration is motivated by all three of these issues.

Some may consider this project misguided in the extent that it takes 'Abstract Right' or the 'sacrifice of personality' seriously. This criticism either focuses on the impossibility of there being a society which was only founded on and only recognised agents as 'persons' or the inappropriateness of understanding Hegel's account of marriage as founded on the 'sacrifice of personality', because no agent is ever just a person.<sup>5</sup> I am not committed to the possibility of an agent's identity or a society ever being adequately expressed by thinking of agents as persons. However, in order to really understand Hegel's account of marriage it is necessary to study the text closely and as far as possible to take it at face value. I do recognise that the sections I focus on are part of a dialectical argument and this is why it is important to focus on the details and work out what transition Hegel is pointing to when he claims that marriage is based on 'the sacrifice of personality.' I believe there is real work to be done to understand what is preserved and what is lost of personality in the concept of the agent as marriage partner. Hegel does not set out a fully-fledged picture of the family once the dialectic is complete and the Rational State underpins all social relationships. It is therefore necessary to use what he does say about marriage to piece together a more rounded account than he provides.

A related criticism that is more pertinent to this project, is the extent to which Hegel's work is incoherent in his presentation of women as simultaneously persons and yet non-persons.<sup>6</sup> They must be persons insofar as they are able to consent to marriage and thereby 'sacrifice their personality' and they are also referred to as owners of

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<sup>5</sup> This point was raised in several guises at the Hegelian Politics of Gender Conference: Spirit-Nature-Law, University of Jyväskylä, Finland, December 2003, where I presented an earlier version of chapter 4.

<sup>6</sup> For a discussion of this in Hegel and Kant's accounts of marriage, see Pateman (1996).

property, a medium through which an agent's personality is recognised.<sup>7</sup> However, his commitment to the two sexes having 'complementary' capacities and virtues and his claims that women are 'passive' and lack 'the knowledge and volition of *free universality*', a key insight in being a person, strongly suggest that he does not conceive of women as actual persons.<sup>8</sup> At best, women are potential persons: 'piety ... is therefore declared to be primarily the law of woman, and it is presented as the law of emotive and subjective substantiality, of inwardness that has *not yet* been fully actualised.'<sup>9</sup> Clearly this is a problem for his account of marriage since if women are not persons they cannot consent to be married in the way Hegel envisages. I will be setting this issue to one side in this thesis, since my project is focussed on whether the idea of 'sacrifice of personality' can be reconciled with his commitment to personality being inalienable at all. Moreover, as part of this reconciliation I argue that it is necessary to reject Hegel's account of sex-based characteristics and this incoherence in his project is thereby resolved, albeit at a cost. Lastly, Hegel is consistently unclear about the capacities of women and despite his explicit claims about complementary characters it is clear that he does think both men and women are 'spiritual' (*geistig*) beings.<sup>10</sup> As such, their capacity for freedom and rationality cannot be arbitrarily limited in the way he attempts to in his account of complementary characters and the sexual division of labour.<sup>11</sup>

Throughout this thesis I have used 'they', as both a *singular* and plural third person, gender-neutral pronoun. This approach has also effected my use of 'their', 'them' and 'themselves' which I also use when referring to a single agent in the third person. My reason for this is that it appears to me to be the least distracting way that my account can be gender-neutral in the language it uses when it refers to phenomena which are not gender specific. As such, I do not use 'he' as a sex-indefinite pronoun, as still recommended by some grammarians, or the disjunctive 'he or she', or the alternate use of 'he' or 'she' in different sections and paragraphs.<sup>12</sup> I hope this is not distracting to the current reader. I would also like to draw attention to my use of the term, 'agent',

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<sup>7</sup> PR, §162 & PR, 167; PR, §172R.

<sup>8</sup> PR, §166.

<sup>9</sup> PR, §166R, my emphasis.

<sup>10</sup> PR, §166: 'The *one* (sex) is ... spirituality which ... And the *other* is spirituality which ...'

<sup>11</sup> For more discussion on this see my MA dissertation: 'Woman, Photosynthesis and the Sexual Division of Labour' (unpublished).

<sup>12</sup> For a fascinating discussion of the initial and continued acceptance of 'they' as a singular pronoun in the English language; the Eighteenth Century prescriptive grammar movement, culminating in an Act of Parliament against this use of this pronoun; and the socio-political background to this change, see Bodine (1990). I thank Jennifer Saul for bringing this article to my attention. Also see Saul (2003), p170-196.

which I also use, not only to avoid giving a misleading account of gender-specificity where there is none intended, but also as a neutral term to refer to the individual self in an attempt to avoid using terms such as ‘person’ or ‘individual’ which have a distinct meaning in Hegelian philosophy. Terms such as ‘personality’ and ‘personhood’ should therefore be understood to be referring to Hegel's concept of the ‘person’. My thesis draws on a broad range of his philosophical works particularly the *Phenomenology of Spirit* and the *Philosophy of Right*. My thesis treats Hegel's philosophical works as a coherent and consistent body of work and I indicate where there are significant changes in his thought that affect the issues being discussed.

Chapter one has two sections. In the first section I outline key Hegelian concepts including: the dialectic method and his account of freedom in connection with his theories on recognition, ‘*Bildung*’, emotion and the role of philosophy. In the second section of this chapter, I set out Hegel's concept of the ‘person’, its dialectical development and its connection to private property.

The second chapter considers Hegel's treatment of the concept of ‘person’ in two sections of the *Phenomenology of Spirit*: ‘Absolute Freedom and Terror’, with its connections to the French Revolution; and ‘Legal Status’, which can be linked to Hegel's conception of Imperial Rome. I argue that these two sections should be understood as a rejection of the concept of ‘personhood’ as the basis for an account of a society in which agents can be free.

Having examined the reasons for rejecting the concept of the agent as a ‘person’ as a basis for his ‘Rational State’, I re-examine the concept of the person in chapter three. In this chapter I draw out the nature of the relationship between an agent’s personality, their body and their biological life. I argue that Hegel’s claim that an agent should take possession of their body does not mean that the body is fungible property and that he should be understood as claiming that the agent has inalienable right to life and their use of their body. I extend this discussion with a detailed consideration of the social structures that he condemns because they undermine or fail to acknowledge an agent’s ‘personality’ and the rights outlined above. The fact that his condemnation remains even when it is the agent themselves who ‘chooses’ to sacrifice or alienate their personality, as in voluntary slavery or suicide, reveals that the agent has only limited property rights in their own body and life. An agent should not be deprived of their body or their life, and these should not be impaired; but the agent also has a duty to preserve and respect their own life. Thus, Hegel’s endorsement of the Kantian maxim,

‘to be a person and respect others as persons,’ entails that an agent must treat themselves in a particular way.<sup>13</sup>

In chapter four I examine the tension between Hegel's commitment to personality being inalienable and his equally explicit commitment to marriage being founded on the ‘sacrifice of personality’. I consider two different strategies by which this tension might be resolved. The first strategy takes ‘sacrifice of personality’ literally and considers whether reciprocity of sacrifice might legitimise the sacrifice of personality in the case of marriage, whilst ruling it out in the cases of slavery. Reciprocity is suggested as the legitimising criterion because of its central role in *Phenomenology of Spirit* prior to the Master/Slave Dialectic and in Hegel's mature discussion of marriage in the *Philosophy of Right*. However, I argue that this strategy is unsuccessful and fails to do justice to the dialectical presentation of Hegel's system. In contrast I argue that the idea of ‘sacrifice of personality’ must be understood more liberally, to indicate a transformation of the self-concept of the agent. I present two different models for this transformation from ‘person’ to ‘marriage partner’. In the first model, ‘personality’ is retained as a necessary core identity which is then overlaid by the less abstract identity of ‘marriage partner’. This model is based on Christine Korsgaard’s account of identity in *The Sources of Normativity*.<sup>14</sup> As such, the agent has these two different identities which they can separately valorise and evaluate. In the second model, ‘personality’ does not constitute a central core of the agent or an identity in its own right. Rather, the agent identifies with the role of ‘marriage partner’. The agent views this identity as an expression of self-determination, as a self-willed commitment. In other words, the agent views their identity as marriage partner as a more concrete expression of the capacity which personality valorises as a purely, abstract capacity. The agent identifies with the product rather than the capacity and insofar as this is the case they do not have a distinct identity as person. I evaluate the two different models of transformation presented in the previous section. I consider the nature of the marriage relationship that each model can sustain and the extent to which there has been a ‘sacrifice’. I also consider whether either model preserves a normative standard for the way agents regard and treat themselves. This normative standard is clearly present when the agent is conceived of as a person when they may not act to damage or limit their bodies or their capacities for life or self-determination.

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<sup>13</sup> PR, §36.

<sup>14</sup> Korsgaard (1996).



In the final short chapter I consider an application of this model of transformation in relation to contemporary discussion concerning 'care theory' or 'care ethics'. I suggest that the model of transformation that I outline in chapter four may assist 'care theorists' in their defence of relationships as grounding identities, ethical imperatives and forming an appropriate context for moral decision making. In particular, it will enable them to distinguish between legitimate relationships, that should ground identities and decision-making; and damaging illegitimate relationships that are founded on or further oppression or exploitation and which should not be used as the context for such decision-making.

## Chapter One: Central Hegelian Concepts

This chapter aims to set out the central Hegelian ideas which the rest of the thesis draws on. Section one gives a broad outline of a range of concepts that I will be relying on in subsequent chapters. Section two focuses on Hegel's concept of the 'person'. In this section Hegel's use of the term 'man', for example in 'man's concept', should be understood as referring to adult humans of either sex. The issues of whether Hegel distinguishes between the capacities of male and female agents and to what extent he believes women are or can be persons have been briefly discussed in the introduction and will be discussed again in chapter four.

### Section One

#### Freedom, the Dialectical Method and History

Hegel claims that it is possible for human agents to be free. In his discussions of human agency or 'man's concept' he says that a human agent possesses the potential to be free in virtue of having - or rather *being* - a will. Hegel suggests that freedom is the true state for a being with a will, just as being subject to the laws of gravity is the state for material objects like the human body. 'So ... freedom constitutes its [the will's] substance and destiny' and '[w]ill without freedom is an empty word'.<sup>1</sup> In order to demonstrate that this is a genuine possibility he must present adequate concepts of freedom and the will or human agency.

Hegel uses a dialectical approach to develop concepts of freedom and human agency. The dialectic is the logical development of new concepts from an existing set of concepts. Concepts are presented as though they are coherent and comprehensive accounts of phenomena such as agency and freedom and it is against these internal standards of coherence and comprehension that the concepts are assessed for adequacy. This internal criticism or 'immanent critique' identifies both what is deficient and what is rational in such concepts and provides the basis for the development of new concepts. New concepts are not merely added to the dialectic; rather they evolve or develop (*Aufhebung*) from the former concepts in such a way that they retain the rational

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<sup>1</sup> PR, §4.R. Also see PR, §7.

elements present in the former flawed concepts.<sup>2</sup> Hegel optimistically claims that this dialectical development will ultimately produce coherent and comprehensive concepts of agency and freedom such that they can be instantiated in society and comprehended through philosophy.<sup>3</sup> Indeed, Hegel claims that freedom is only ‘actual’ if it *is* instantiated by human agents within a society.<sup>4</sup> By ‘actual’ Hegel means that it is a realised possibility *and* also that there is a rational justification for its realisation in that it is the result of the dialectical development of concepts. There is no Platonic mind-independent concept of freedom that exists over and beyond the human realm.

Hegel's approach is also distinctive as he claims that this dialectic is not simply the product of abstract reasoning produced by one individual. Rather he claims that this dialectical process can be seen to have implicitly taken place through history, each stage instantiated in different human societies and cultures over time.<sup>5</sup> Take for example the practice of slavery in Imperial Rome. Hegel understands this society as treating human agents as natural beings who could be assigned status simply according to the dictates of society. As a result some humans could be used and treated as other animals. Humans were not recognised as having the capacity of self-determination simply in virtue of being a human being. Rather, humans were separated into different categories and assigned different rights and liberties according to their status - whether free or slave, male or female. There was no common universal concept of *human* agency.<sup>6</sup> In addition to this instantiation of concepts in the structures and institutions of society, Hegel also claimed that concepts are and must be instantiated in the attitudes and beliefs of the members of society.<sup>7</sup> In particular, Hegel claimed that the concepts of agency and freedom will be evident in an agent's sense of identity or conception of themselves.<sup>8</sup> The art, religion and philosophy of such societies share this conceptual structure and are an important means by which an agent is introduced to and becomes aware of the conceptual structure of

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<sup>2</sup> There is no straightforward way to translate ‘*Aufhebung*’ which carries with it connotations of cancelling or negating, superseding, overcoming or transcending and preserving and merging into.

<sup>3</sup> The extent to which Hegel is consistent on this has been questioned. Robert C Solomon argues for a tension in Hegel's writing between this view and a belief in endless dialectical, historically-embodied change: see Solomon (1983), especially pp14-16.

<sup>4</sup> PR, §107a.

<sup>5</sup> PR, §344.

<sup>6</sup> Arguably the natural conception of the human individual is not a conception of human *agency*. There is a tendency to reserve the term agency for those who perform acts according to their will and this does not apply to slaves.

<sup>7</sup> ‘It is the self-awareness of individuals which constitutes the actuality of the state’. PR, §265a.

<sup>8</sup> See chapter 2 as an illustration of this; where I discuss Hegel's conceptual analysis of Imperial Roman Society, the French Revolution and subsequent Terror based on PhG, §477-526 & PhG, 582-598.

their society. Philosophy is the process by which this conceptual structure is identified, made explicit and comprehended.

Hegel did not just claim however that particular stages in the dialectic can be correlated with particular cultures. Hegel makes the stronger claim that the history of human society displays the rational development of the concepts expressed in the dialectic. In other words, human society has developed and evolved along the lines of the dialectic thereby progressively instantiating in social institutions and practices ever more adequate concepts of human agency and freedom. This progress is not found within the evolution of just one society which can have periods of development and regression; rather throughout history the conceptual insights of one society have been adopted and further developed by another society, such that there is continuous progression in different cultures throughout human history.<sup>9</sup> Hegel's historicist views are perhaps most famously expressed in the Preface to the *Philosophy of Right* in which Hegel rejects an atemporal approach to philosophy. He claims that every individual is 'a child of his time' and cannot assume a standpoint that is wholly free of the values and concepts of their society and culture.<sup>10</sup> As such, he claims that wisdom or philosophical insight is only available once concepts have been instantiated in a society. This is the meaning behind the famous quote of the 'owl of Minerva'<sup>11</sup> beginning its flight ... at dusk'. Thus, he claims that philosophical insights are only possible once concepts have become an established part of a way of life.<sup>12</sup>

I accept the claim of the embodied dialectic insofar as I see past societies and practices as presenting philosophers with a wealth of material to draw on and I believe that they offer a concrete exemplification of different conceptual frameworks. I also accept Hegel's claims that the concept of freedom has become more clearly expressed in societies over time and that it is gradually being extended to every human being - a significant achievement. In taking this approach to Hegel's work however I do not see

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<sup>9</sup> Hegel said that conceptual development of freedom through time started with 'the *Orientals* ... [who] only know that One is free, ... such freedom is mere arbitrariness ... The consciousness of freedom first awoke among the *Greeks*, and they were accordingly free; but like the Romans, they only knew that Some, and not all men as such, are free ... The *Germanic* nations, with the rise of Christianity, were the first to realise that man is by nature free, and that freedom of the spirit is his very essence'. VG, p54. Also see PR, §352-358. This is not to say that all modern societies do sustain and protect the freedom of all humans. In some modern societies there is acceptance that freedom can not be restricted to a particular race, colour, sex, etc. however, this is not recognised and protected universally. In addition, the issue of who or what counts as 'human' and therefore who qualifies for recognition from the state as deserving to be free is still a matter of heated debate, for example the abortion debate about the status of the 'foetus' as a full person or a potential person only.

<sup>10</sup> PR, p21.

<sup>11</sup> The symbol of the Roman Goddess of Wisdom.

myself as committed to the doctrine that there has been a *necessary*, linear, and rational development over time in the concepts that underpin human society. In part this is based on my rejection of a metaphysical reading of spirit or *Geist* as a mind-independent power of reason that forces the society to develop into the Rational State. Rather I take from Hegel's system a reading of the dialectic that uses past historical societies to illuminate the logical dialectic that his system traces. I also see the dialectic as an interesting way to investigate the failures of different societies and the conceptual framework they employed.<sup>13</sup> To a certain extent this approach is supported by Hegel himself in his Introduction to the *Philosophy of Right* where he distances himself from the idea that the conceptual development he articulates there is wholly based on the order in which those practices and institutions developed.<sup>14</sup> It is also supported by the practices and institutions he endorses which were not actually part of his society at the time he was writing.

## Two Aspects of Freedom

Genuine freedom has two inseparable components in Hegel's philosophy. The first aspect is substantive or objective freedom. The most important way in which this is instantiated is when an agent identifies with a group such that they see their interests as lying within and promoted by membership of that group. Hegel sees this identity as member as prompting certain actions that might be termed 'duties'. Since the actions spring from an individual's sense of identity, however, such actions are not seen by that agent as imposed obligations or even external rational demands. Rather, such actions are viewed as originating from their conception of themselves and, therefore which are performed in order to preserve their identity. The agent is usually not aware of any discrepancy or separation between their self-conception and any activity that might be deemed appropriate given their role or status within a group. Individuals act for the good of the group and in so doing preserve their identity as group member. Thus, there is personal harmony and also harmony between members. Membership is viewed as a liberating experience and individuals have a sense of the rationality of such identification and commitment. This awareness of the value of group membership may be intuited in

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<sup>12</sup> PR, p23.

<sup>13</sup> Whilst I will refer to the societies in which Hegel claims different concepts are embodied I will not be concerned with establishing the extent to which his portrayals of these societies or cultures is accurate.

<sup>14</sup> PR, §32a.

the form of emotion or known explicitly and comprehended. Hegel valorises both forms of awareness and each has a role within the Rational State. Substantive freedom is essential for the agent to be 'at home in the social world' or '*bei sich*'. By this he means that the agent does not feel any alienation, but sees the social world as expressive of themselves and an arena in which they can realise their potential.<sup>15</sup> Hegel considered this aspect of freedom to be fully developed and actualised in ancient Greek society.

The second indispensable component of genuine freedom is subjective freedom. By this Hegel means making choices or self-determination. Hegel claims this aspect of freedom is a much more recent development of the dialectic. Indeed, it is the importance placed on self-determination that he uses to distinguish between modern and ancient states, institutions and practices.<sup>16</sup> He sees subjective freedom as being implicit within Christianity, particularly Protestantism, but claims that it only became an explicit part of the political-social realm with the French Revolution.<sup>17</sup> Hegel claims that the ability to make choices and see choices as our own is also essential for a modern agent to feel 'at home in the world'. Thus, an agent must see the social world as reflecting their choices and respectful of their freedom of choice.

However, Hegel does not leave this idea of self-determination at this empty, abstract level. He believes this conceptual abstraction is inherently dangerous as an account of society or as a philosophy.<sup>18</sup> Also such a will is not 'actual'. His approach to subjective freedom emphasises the importance of *using* this potential and *making* choices and not valuing the mere potential to make choices. Through self-determination the will takes on a content that it *gives to itself*. As such it is self-bounded. Importantly this means that the will does not will anything that is alien or simply given to it, for example a natural drive or desire. Hegel describes such a will as truly infinite (and as such free), rather than possessing the formal infinity of the pure, empty will.<sup>19</sup> Thus a free Hegelian

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<sup>15</sup> PR, §4. For a detailed discussion of the Hegelian goal of 'being at home in the world' see Raymond Geuss (1999). Geuss outlines and evaluates this Hegelian concept in relation to art which Hegel privileged (alongside religion and philosophy) as a means through which an agent could become '*bei sich*'.

<sup>16</sup> PR, §279a.

<sup>17</sup> On Christianity see PR, §62R; PR, §124R; PR, §185R,a. On the French Revolution see PR, p397; PhG, §582-595 and my discussion of this in chapter 2.

<sup>18</sup> See Hegel's discussion of Kantian philosophy and French Revolution, PhG, 582-631.

<sup>19</sup> Hegel distinguishes between false and genuine concepts of infinity. A false infinity is an endless chain or sequence stretching away from a particular point (like a line). The infinitude of the abstract, pure will is like this since it sees merely an endless list of possible contents it could adopt. Thus, he refers to the infinitude of the pure will as merely formal infinitude. A false infinity suggests an unknowable, unthinkable 'beyond' to which the line extends and continues to extend, etc. Hegel explains his notion of 'genuine infinity' using the image of a circle. The line of a circle is as endless as a falsely infinite straight line since it is without beginning or end. The circle however manages to

agent has made choices to which they are committed, that they see as expressive of themselves and not imposed on them by chance or nature or another agent. Hegelian self-determination is also constrained by the choices that may be legitimately made. As I discuss in chapter three, he believes that there are some ‘choices’ that are wholly irrational such as the decision to commit suicide or become a slave. He also claims there are some choices that a rational agent ought to make. Of particular interest in this thesis, is Hegel's endorsement of the decisions to own property and to marry.<sup>20</sup>

## Freedom and the Rational State

Hegel claimed that his contemporary society was part of the final stage of the logic-driven, historically-embedded dialectic. As such, institutions, practices and events in contemporaneous societies did, at least partially and implicitly, instantiate adequate concepts of both human agency and freedom.<sup>21</sup> Therefore, despite being a ‘child of his time’, Hegel was in a privileged position to articulate a rational conceptual framework for a society that was based on and allowed the expression of the true nature of human agency and therefore genuine freedom: ‘[t]he Idea of right is freedom, and in order to be truly apprehended, it must be recognisable in its concept and in the concept’s existence’.<sup>22</sup> The conceptual framework for such a society is referred to as the Rational State, and Hegel’s *Philosophy of Right* is intended as a dialectical presentation that articulates and justifies this framework.<sup>23</sup>

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express the idea of endlessness without implying an unknowable ‘beyond’ that has not yet been reached. Rather, every point of the line of the circle is known whilst the line is still without beginning or end. Hegel sees the genuinely free will as exemplifying the genuine infinite. The free will can conceive of itself as a being with a particular content. It moves away from this idea when it conceives of itself as an abstract will without any determinate content. It returns to the original idea of itself when it gives itself content and once more takes on an identity as a particularised will. The key difference between the starting point and the final stage is that the content is given to it by itself, by its own willing. WL, Volume 1, pp150-169.

<sup>20</sup> On marriage see PR, §162R.

<sup>21</sup> PR, Hegel's note, pp180/1.

<sup>22</sup> PR, §1a. Also see PR, §66R & PR, §104a. Hegel's references to the ‘Concept’ or the ‘Idea’ sometimes refers to individual concepts and their instantiations such as human agency or freedom, at other times however they seem to refer to a network of concepts and their instantiations, thereby including the concepts of agency and freedom.

<sup>23</sup> ‘The subject-matter of *the philosophical science of right* is the *Idea of right* - the concept ... and its articulation. ‘The Idea of right is freedom’. PR, §1.a. As such, PR is a more focused discussion concerning societal freedom than its discussion in PhG.

Hegel is still misrepresented as a conservative defender of the Prussian State of 1820.<sup>24</sup> The Rational State however is not a pure description of any of Hegel's contemporaneous societies. Rather it is a selective compilation of practices and institutions that were present in these societies. These were selected on the basis that they were grounded in reason and expressed fuller, more coherent and comprehensive concepts of both freedom and 'man'. Hegel combines these practices with contemporaneous ideas such as a bicameral estates assembly, equal access to all civil service and military positions on the basis of ability and therefore the abolition of hereditary posts, public criminal trials and trials by jury. These practices were not part of Prussian society but were advocated by Prussian reformers such as Chancellor Hardenburg and Chancellor Karl Freiherr vom Stein.<sup>25</sup>

The Rational State cannot be described in the form of principles alone since Hegel believed that such a framework uses abstract and therefore incomplete or one-sided concepts of both human agency and freedom. When Hegel outlines the Rational State, in the section termed '*Sittlichkeit*' (ethical life), it is described in great detail and with reference to complex institutions and practices including those of the family, business, trade associations, political representation, army, international relations, etc. What is clear is that membership of this complex society is essential for Hegelian freedom. Importantly, this complex society is not composed of homogenous individuals; rather each individual takes on a particular role or 'station'.<sup>26</sup> There is a wide variety of roles within the state; for instance, politician, farmer, parent, skilled tradeworker, soldier, etc.

In the Rational State, the individual should exercise their subjective freedom and choose a particular role. Since the role is chosen individuals are able to identify with their role and feel 'at home' in fulfilling it: '[f]reedom is to will something determinate, yet to be with oneself (*bei sich*) in this determinacy'.<sup>27</sup> The individual gains a sense of honour or esteem through fulfilling their role: 'the subject must itself be satisfied by whatever activity or task it performs'.<sup>28</sup> Thus, although each individual has a niche, they find their personal freedom through identifying with this role; they enjoy both subjective freedom in their choice of role, and substantive freedom through their identification with

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<sup>24</sup> For a detailed rebuttal of Karl Popper's misrepresentation of Hegel in *The Open Society* (1945) which includes a rebuttal of the claim that Hegel's work is inherently conservative or supportive of totalitarian regimes, see Kaufmann (1951), especially p467, pp470-473 & pp483/4.

<sup>25</sup> See PR, §258 and its endnotes. Also see Pinkard (2000), p494 & pp496/7.

<sup>26</sup> VG, p80.

<sup>27</sup> PR, §8a.

<sup>28</sup> VG, p70.



their role and society.<sup>29</sup> In taking on a particular role and its attendant ‘duties’, the individual becomes part of the rational framework of the Rational State. The rational society is one in which every niche is filled and the concepts developed by the dialectic are completely objective. The individual does not sacrifice their interest in order to be a member of the rational society however; they are not merely means in the instantiation of the Rational State. A modern agent will only be ‘*bei sich*’ if the state respects and allows them to exercise their subjective freedom. Thus, a free individual is someone who chooses, identifies and fulfils a role within the rational society.

Hegel also says that freedom or self-consciousness can only be instantiated by a whole society - not by an individual.<sup>30</sup> One way in which this might be understood is to emphasise the Hegelian idea that freedom involves identification and relationships with others, substantive freedom, and recognition. This would be inaccessible to a solitary individual. In addition the wide diversity of roles shows the wide diversity of roles which an agent might choose and then identify with. A diverse society ensures that freedom is not seen as tied to taking on a particular role or making a particular ‘choice’. A diverse, articulated society does justice to the universal aspect of agency and the diverse contents that the will could identify with and actualise.

### The Need for Recognition, *Bildung* (Education) and Philosophy

Freedom is supported by membership of the Rational State and while this is essential it is not sufficient for freedom. Freedom is not simply a matter of objective status or being a member of a society that is structured in a particular way. If this was sufficient then every child would be fully free and Hegel stresses in many places that this is not the case: the child is merely potentially free. I discuss this in more detail in chapter three.

#### (i) Recognition

Firstly, an agent is only free if their identity as a free-will or agent is recognised or confirmed by other agents. The agent does not initially acknowledge the need for recognition from other agents. Instead the agent tries to sustain and reinforce their

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<sup>29</sup>VG, p55.

<sup>30</sup>Sec PR, §258a & PR, §279R; VG, p123.

identity through their interaction with objects. At an early stage in the dialectic the agent conceives of themselves as an individual, independent, will.<sup>31</sup> The inanimate world appears alien and indifferent to the agent's identity as this will since objects in the world appear to be equally independent entities. In order to ground their identity as a will, the agent must negate the independence of objects. This negation takes the form of the agent acting on their desires in which objects are consumed and destroyed according to the will of the agent. In this way objects are not seen as threats to the agent's identity. This however fails to ground the identity of being a self-conscious will since the will expresses itself merely as a particularised, contingent, desire-driven entity and not simply as a will: '[i]t is in fact something other than self-consciousness that is the essence of Desire'.<sup>32</sup> Furthermore, whilst the alien and independent nature of a particular object is negated this is only a temporary solution. The agent will encounter other objects which appear similarly alien and independent. Hence, the destruction of objects through fulfilling desire cannot ground a stable conception of the self since the world will repeatedly appear as alien and independent. Hegel therefore concludes that the identity of the self as a self-conscious will can only be accomplished on the basis of recognition from other selves or agents: '[s]elf-consciousness achieves its satisfaction only in another self-consciousness'; 'it exists only in being acknowledged'.<sup>33</sup> In receiving recognition from another self my identity is confirmed. Thus, the agent cannot be free and 'at home in the world' in a solipsistic universe.

In contrast to reciprocal recognition, Hegel considers the case of the stoic who conceives of themselves as mentally or spiritually free.<sup>34</sup> As such their self-identity is unrecognisable to other agents. As a stoic the agent withdraws from the world, including all other agents, and only holds their own being, as a will or ego, to be real and absolute. Implicit in the stoic's view is the distancing of the self from the social setting and the belief that the social setting is not the sphere in which they can attain freedom. The stoic sees the world as alien to his sense of self and one in which he cannot be free. Thus, the stoic retreats to a conception of freedom as freedom of thought. As such however the agent's conception of themselves as this individual entity consists solely in their sense of identity and is not embodied or acknowledged in society. He argues that because this identity remains a self-conception unrecognisable to others, it is unstable

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<sup>31</sup> This concept and its response is most clearly found in PhG, §173f. This conception of the agent as an independent will, is at the heart of the concept of personality.

<sup>32</sup> PhG, §175.

<sup>33</sup> PhG, §175 & PhG, §178.

and that the agent is in danger of being conceived of as unfree. Indeed, they experience an inferior kind of freedom: the stoic's 'freedom in thought ... is only the Notion (concept) of freedom, not the living reality of freedom itself'.<sup>35</sup> The agent does not experience complete freedom based on subjectivity in which the will's activity is externalised. The agent also does not enjoy substantive freedom in which the social world is one in which the agent is '*bei sich*'. In more Hegelian terms, the self-identities of the stoic and unrecognised person exist merely 'in concept' as thought or self-conceptions. Once an identity is recognised by other agents it is more than a self-conception because it is shared by other agents. Hegel expresses this as the 'actualisation' or 'realisation' of the concept and as the transition of the 'concept' into 'idea'.

Hegel claims recognition will only be satisfactory if it is reciprocal. The failure of unilateral attempts to secure the recognition of others is addressed in his famous discussion, 'Lordship and Bondage'.<sup>36</sup> In this section, the agent is conceptually incapable of acknowledging another agent as a will or ego since it still conceives of itself as being unique and completely independent. As such the agent seeks recognition from another self without being able to recognise that self as a will or ego. This attempt takes the form of domination. Since the slave is not recognised as possessing a will they cannot be a satisfactory source of recognition for the master (just as a robot is not an adequate source of recognition). Since the slave acts to satisfy the needs of the master the master reverts to the unsatisfactory relationship of desire, albeit through an intermediary.

In the Rational State, recognition between agents is reciprocal and the need for this underpins key institutions such as marriage and corporations or guilds. For example, Hegel endorses marriage because it offers an agent the chance to give complete recognition to another agent whilst simultaneously being recognised as an agent. Recognition is important because it means that your identity as a freewill is no longer something purely private but has become part of the external social world through other agents' acknowledgement of it. It becomes objective, concrete or actual.<sup>37</sup> Secondly, such recognition enables your self-identity to be stable since it is not challenged or

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<sup>34</sup> PhG, §198f.

<sup>35</sup> PhG, §200.

<sup>36</sup> PhG, §178-196.

<sup>37</sup> PR, §331R.

undermined by others and they act so as to sustain it.<sup>38</sup> As such, it contributes towards the agent being '*bei sich*' rather than alienated. If the agent's self-conception is not recognised or is undermined by social interaction they will see the social world an alien and hostile environment which is radically distinct from the agent themselves and where they cannot be '*bei sich*'. Through recognition, the social world is seen as compatible and sustaining my identity as an agent instead of appearing as a realm that is wholly alien to me.

(ii) *Bildung* (Education)

*Bildung* is the second additional requirement for membership of the Rational State for freedom. *Bildung* is a process of development according to the internal principles or nature of an object. For instance, an acorn becomes an oak tree in virtue of its own inherent nature. Although beneficial external conditions influence this development they merely enable the acorn to develop according to its nature or concept. Similarly, Hegel claims that the nature of human agency is such that an agent is primed for development into a 'perfect' or 'complete' human being<sup>39</sup> and that this is in virtue of their inherent nature, given appropriate external conditions.<sup>40</sup> For human agents, *Bildung* means development or education in the broadest sense and includes both practical and theoretical education. As a result, an agent develops into an instantiation of 'man's concept' or a complete, perfect human agent. This concept is not relative to particular individual agents but is the same for all agents in virtue of being willing agents.<sup>41</sup>

The concept of human agency therefore does not function merely as a descriptive term for human agency. It constitutes a normative ideal; the goal to which individual

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<sup>38</sup> VPG, p139.

<sup>39</sup> VG, 48-51 & VG, pp124-129. *Bildung* originated as a religious notion and referred to the ultimate perfectibility of man who was created in the image ('*Bild*') of God. During the Enlightenment this notion was secularised but remained a powerful metaphor for the potential of human achievement.

<sup>40</sup> He expresses this as man being free 'in-himself'.

<sup>41</sup> What is meant by 'man's concept' is difficult to state and could be construed more or less broadly. Potentially it includes spirituality, capacity for rationality or conceptual thought, capacity for self-determination or subjective freedom, capacity for substantive freedom or membership of groups, self-realisation or the capacity to give oneself as 'second nature'. It is also unclear whether Hegel advocates all agents attempting to live one 'type of life' which best fulfils these capacities and become philosophers, rationally comprehending the necessary basis for freedom: or whether agents can actualise their common human essence by instantiating part of the rational society, without comprehending its rational basis in the form of thought but apprehending it in the form of emotion. See the sections on '*Bildung*' and 'philosophy' later in this chapter.

agents should strive to attain if they are to be complete, free and rational individuals.<sup>42</sup> The true concept of a human agent and the goal of *Bildung* are synonymous since *Bildung* aims at actualising what an agent's potential is and the concept of agency is this potential and how it can be actualised. By far the most important background condition for the development of the human agent is the conceptual structure of the agent's society since Hegel claims that this constitutes the upper limit for the agent's conceptual development.<sup>43</sup> Consequently, the Rational State constitutes a necessary background condition for an individual agent to completely develop and express 'man's concept'.

This connection between an individual agent's development and their society is present in the term '*Bildung*' which includes overtones of an agent becoming more 'cultured'. The process of development alters the agent so that they give up their given 'natural' nature and develop a *second nature*. The agent becomes what they will themselves to be in terms of role in society (farmer, soldier, wife, politician, etc.) and the particular abilities they choose to develop. The importance of this second nature is that there is nothing purely 'given' which is then part of an agent's identity. The will has no content that it has not endorsed or given to itself.

Although all agents possess the potential to realise their true nature (and give themselves a second nature) this insight can only be achieved through *Bildung*. Even in the Rational State this process of self-development is not an easy process and is an act of will as it is deliberately chosen.<sup>44</sup> Those agents that are not educated do not know their true nature or identity as willing beings. Consequently, they allow themselves to be treated in ways that are inconsistent with their true identities as willing beings.<sup>45</sup> It is this idea that underpins Hegel's claims that a slave is partly responsible for their own enslavement.<sup>46</sup> Thus, human agents, like human society as a whole, can express superior or inferior concepts of agency and freedom. Agents who fail to completely express the human 'concept' can still be regarded as agents and human, in virtue of their common potential or concept. This includes agents who fail to develop due to adverse external conditions or agents like slaves or children who have yet to undergo the formative process of *Bildung*.<sup>47</sup> Such 'agents' are not free however.

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<sup>42</sup> An agent who instantiates this ideal is free 'for-himself' and if the agent comprehends that they are an instantiation of the concept of human agency then the agent is 'free in-and-for himself'.

<sup>43</sup> PR, §153R, a. Hegel also discusses detrimental and beneficial climatic conditions on the development of an agent into their 'concept', VG, pp192-196.

<sup>44</sup> PR, §166a & PR, §174a.

<sup>45</sup> PR, §107a.

<sup>46</sup> PR, §57a.

<sup>47</sup> VG, p41, VG,p92 & VG, p133.

### (iii) Philosophy

Finally, and as stated earlier, the agent has to perceive themselves and their social world as expressive of themselves and as an arena in which they can realise their potential i.e. be '*bei sich*'.<sup>48</sup> Hegel arranges the social structures and processes through which this perception can be achieved into a three-fold hierarchy. Hegel claims that, whereas art intuitively expresses the conceptual scheme in images; and religion expresses the conceptual scheme in the form of feeling and representational or picture-thinking (*Vorstellung*); philosophy explicitly presents the conceptual scheme in the form of thought or concepts.<sup>49</sup> Alongside this hierarchy, Hegel claims that this perception can be in the form of feeling or thought. Some feelings are presented as having a cognitive dimension in that they *apprehend* what is rational; whereas thought *comprehends* what is rational about social structures.<sup>50</sup> Thus, agents may value membership of society and its different institutions in emotions such as love, trust, hope and patriotism. They may gain such an appreciation through art or religion, whereas the value of membership is explicitly acknowledged, articulated and comprehended in the form of thought and this is gained through the practice of philosophy.<sup>51</sup>

I focus on *The Philosophy of Right* in my discussion of marriage. In this text, however, Hegel does not set out all the conditions necessary for freedom since it limits itself to detailing only the socio-political framework and does not concern itself explicitly with art, religion and philosophy.<sup>52</sup> Indeed, Hegel does not discuss in detail the extent to which agents need to develop explicit philosophical knowledge of self and society in order to be fully free. At the end of the *Philosophy of Right*, Hegel acknowledges the need for the recognition and articulation in thought of the rationality of social structures by philosophy. What is not clear however is whether *each* agent must do this.

A question to be considered therefore is whether individuals vary in the degree of freedom they enjoy if they lack philosophical comprehension of themselves and society. It might be thought that their freedom is not diminished by this lack, and that

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<sup>48</sup> Hegel claims that almost all agents find conscious satisfaction (i.e. aware they feel satisfied) as citizens although they may not know (in the form of thought) that they are satisfied or be able to explain in conceptual terms why this is the case; PR, p14.

<sup>49</sup> PR, §341.

<sup>50</sup> VG, p25: '[a]ll that is truly *human*, as distinct from animal – feeling, knowledge, and cognition – contains an element of thought'.

<sup>51</sup> On love, see PR, §7a & PR, §158; on patriotism see PR, §268.R. Also see PR, §359. See PR, §147R. on the need for cognition.

<sup>52</sup> PR, §359-360 & endnote. PR§270, especially p292.

membership of society plus the emotional recognition of the value of membership is sufficient. At times Hegel suggests that just as there is a rich diversity of social roles within society, there is diversity in the forms in which it is perceived and this may not limit an agent's freedom.<sup>53</sup> Indeed in his discussion of different roles within the Rational State he explicitly states that agents who occupy some roles will generally reflect less and only have emotional apprehension of the value of membership of society and its institutions. This notoriously involves all wives but also includes all members of the agricultural or Substantial Estate.<sup>54</sup> Furthermore, he refers to philosophy as an 'inner call to comprehend' as if philosophical comprehension was not open to all agents.<sup>55</sup> He also says that the value of a role does not vary despite some involving more comprehension whilst other roles allow the rationality of a relationship to be sensed or intuited: '[t]he religiosity and ethicality of a restricted sphere of life (for example that of a shepherd or peasant), in their concentrated inwardness and limitation to a few simple situations of life, have infinite worth; they are just as valuable as those which accompany a high degree of knowledge and a life with a wide range of relationships and actions'.<sup>56</sup> Finally, although Hegel values comprehension and philosophy and says that this is superior to emotional apprehension, he does not say that these should replace emotional appreciation of the value of membership. Thus, members of the Rational State could be considered equally free regardless of the way in which they recognise the value of citizenship provided that there are *some* citizens who comprehend the value of membership in the form of thought i.e. philosophically comprehend the conceptual structure of society.

However, at other times Hegel seems to insist that all agents need to develop this rational insight into the nature of themselves and their society in order to be free: 'it is only as *thinking* intelligence that the will is truly itself and free'.<sup>57</sup> Hegel claims that such philosophical insight is 'capable of being learned and appropriated by *all*' and that philosophical knowledge should not be seen as 'the esoteric possession of a few

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<sup>53</sup> Think of the rational society as a jigsaw in which every piece needs to be present for the whole picture to be revealed. Thus, just as the puzzle requires all the separate different pieces to be present for the puzzle to be complete, every rational element in the rational society needs to be instantiated. Conversely, each piece of the puzzle is incomplete by itself and only comes into its own once the other pieces are present and correctly assembled and the rational individual only realises his rationality in the rational framework of the Rational State. See PR, §279R. This view of Hegel is held by Michael O Hardimon; Hardimon (1994), p187f; and may also be held by Kimberly Hutchings; Hutchings (2003), p40: 'self-determination is the truth of a complex, mediated and self-reflective whole rather than that of an individuated rational agency'.

<sup>54</sup> On women see PR, §166f. On the Substantial Estate see PR, §203,a & PR, §204a. Also see my discussion of this in 'Women, Photosynthesis and the Sexual Division of Labour' (unpublished).

<sup>55</sup> PR, p22.

<sup>56</sup> VG, p92.

individuals'.<sup>58</sup> Robert Stern points out that philosophy has a role in ensuring our freedom because it enables us to see the world as truly expressive of ourselves and enabling our actualisation.<sup>59</sup> The human agent has the capacity for self-awareness and self-knowledge and these capacities must be developed and used (realised) if the agent is to be free.<sup>60</sup> Hence, the human agent must comprehend their nature or concept since this is part of what it is to be an agent and philosophical insight is essential for self-reflective beings to be '*bei sich*'.<sup>61</sup> In support of this position, Stern uses Hegel's claim that "'I' is at home in the world when it knows it and even more so when it has comprehended it'.<sup>62</sup> Hegel also suggests that philosophical insight is not limited to your role or position in society: 'there is no need to belong to a specific profession in order to know about matters of universal interest. Right is concerned with freedom, the worthiest, and most sacred possession of man, and man must know about it if it is to have binding force for him'.<sup>63</sup> It could be claimed therefore that agents are less free if they lack philosophical insight into the structure of society and practices. If this view is accepted then it is in clear tension with his comments about the limited reflection offered by the roles of farmer or wife. It also raises the issue about the extent to which women are agents in Hegel's eyes since he explicitly states that they are not capable of philosophical comprehension.

## Agency

Central to Hegel's concept of the human agent is the reconciliation of two apparently conflicting insights concerning the nature of the self as both particular and universal. Firstly, the agent recognises that they can conceive of their identity as constituted by certain features, characteristics, desires and ends, either chosen or the product of nature and upbringing.<sup>64</sup> For instance, Jo might conceive of herself as female,

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<sup>57</sup> PR, §21R.

<sup>58</sup> PhG, §13. my emphasis.

<sup>59</sup> See Stern (2002), p12.

<sup>60</sup> The term 'realise' captures the ambiguous nature of an agent's instantiation of their concept in that it implies both the need to make it 'real' (as opposed to merely potential or abstract) and the need to apprehend/comprehend (realise) that they possess such a nature.

<sup>61</sup> Consider his emphasis on the Delphic oracle's pronouncement '*know thyself*'; PR, §343 & endnotes. my emphasis. Also see PR, §279R/p320.

<sup>62</sup> PR, §4a. In this context 'knows' means knowledge in the form of emotion and intuition or awareness and not necessarily philosophical comprehension which is referred to the second half of this quote.

<sup>63</sup> PR, §215a.

<sup>64</sup> 'The concrete person who as a *particular* person, as a totality of needs and a mixture of natural necessity and arbitrariness, is his own end, is *one principle* of civil society'. PR, §182.



as brunette, as a teacher. As such the agent is aware of themselves as a *particular* individual and this particularity serves to distinguish this individual from any other agent. She might use such descriptors to enable others to recognise her when meeting for the first time. She may also see such features as being part of her identity and see their loss as damaging that identity, for example the impact of being sacked from teaching.

Simultaneously however, the agent recognises that regardless of the source of this particularity, they have the capacity to abstract from such determinate features of the self, including age, height, location, ends, desires, etc.<sup>65</sup> Although the agent recognises that these are all features of their particular self they have the capacity to see them as inessential to their identity.<sup>66</sup> The result of such abstraction is that an agent conceives of themselves as a pure will, empty of all content. They are aware of themselves simply as an ego or bare 'I'. In conceiving of themselves as this empty, indeterminate 'I', the agent's identity is based on the formal, *universal* aspect of agency. As this pure will the agent is aware of the diverse contents that the will can take on. This includes the diverse actions that the will could adopt, for example, to scream, jump up and down or ask a class to get their books out; as well as the range of natural features with which the will could also identify, for example, to see themselves as female, or tall, or brunette and to regard such features as part of their identity. This abstract, pure will conceives itself as being infinite and unbounded.<sup>67</sup>

Hegel claims that both of these conceptions of the self are one-sided and as such neither can ground an adequate conception of freedom. This is particularly evident in the case of the universal conception of the self. Corresponding to the universal conception of the self as a pure will is a conception of freedom as requiring the absence of any determinate features or particularity.<sup>68</sup> This account of freedom involves the (false) belief that is only in this pure state that the will is infinite and unbounded and therefore free. This is importantly different from the conception of freedom as the availability of choice as the universal conception of the self regards even particularity arising from personal choice as a limitation on the will: '[t]he particular which the will wills is a limitation ... The fact that the will wills something is the limit or negation. Thus particularisation is what as a rule is called finitude'.<sup>69</sup> Thus the pure will is 'contaminated' if it has any particular aim. If the agent commits themselves to acting in a

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<sup>65</sup> PR, §34 - 35.

<sup>66</sup> PR, §37.

<sup>67</sup> PR, §14 & PR, §185R. See footnote 19 on Hegel's understanding of 'infinity'.

<sup>68</sup> PR, §35.

particular way, whether this action is a relatively simple action such as depressing a particular key on the typewriter, or a more complex series of actions in the pursuit of becoming a better typist, the will is no longer (formally and falsely) infinite. Rather, it is confined to those particular actions. Hegel also suggests that the will's (formal and false) infinitude is lost if the agent identifies with any particular conception of themselves, whether they have consciously chosen that identity or not. The will of an agent who conceives of themselves as a typist but who has made no conscious decision to adopt that identity is just as limited as the will of an agent who consciously chooses to become a typist. In both cases the will has ceased to be pure and empty and has become particularised. As such, the agent is no longer simply a pure individual will but one with a particular character. The infinite will is the most empty, refined and formal conception of the will.

It is the resolution of the universal and particular conceptions of the self which is at the heart of the Hegelian project for freedom. Only a particularised agent can be recognised and therefore at home in the world. However an agent is also a being with the capacity to see itself as separate from any particular content and this must also be recognised. Central to this reconciliation is Hegel's use of the idea of self-determination and the formal institutions which enable such self-determining acts to be recognised. Hegel's conception of self-determination allows the will to take on a content that it chooses. As such the content is an expression of the will and is not seen as a limiting condition on the agent's freedom. Rather, the capacity to take on content enables the will to be an actual will (rather than a potential will) and it also allows the will to be recognised. As such self-determination enables the agent to be free.

Finally, it is important to notice that although Hegel claimed that the dialectic is embodied in social history, Hegel is not committed to ontogenetic development mirroring the logical development of the concepts. Thus, it is not the case that an agent conceives of themselves simply as a particular agent and then develops a different sense of identity based on their capacity for abstraction.

In conclusion therefore Hegel believes that freedom is possible and freedom consists of being '*bei sich*' or at home in the world. This is only truly achieved in a stable way once human agency and the nature of freedom is understood. Thus these concepts need to be developed dialectically. They need to be instantiated in the Rational

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<sup>69</sup> PR, §6a.

State so that freedom and agency are actual and not just possibilities. As part of this instantiation, these concepts also need to be acknowledged in our beliefs and treatment of other agents so that they are recognised and their identities stabilised. Agents themselves need to be educated about the nature of agency and freedom so that they can recognise it and preserve it in themselves and others. Finally, the concepts should be apprehended so that the world, especially the social realm, is understood as something that expresses, respects and sustains our identity as agents and our freedom. Arguably, this apprehension needs to be philosophical knowledge not just emotional appreciation of the value of membership of the state, so that all agents are *'bei sich'*.

## **Section 2: The Concept of the 'Person'**

In this section I am going to focus on the concept of the 'person'. This concept is not straightforward as it changes dialectically. In order to understand the 'sacrifice of personality' that Hegel claims is the basis for marriage it is essential to appreciate what the concept of the 'person' involves.

'Personality' is a conception of human agency which emphasises the capacity to abstract from all particular content and conceive of the self or agent as simply a will or ego i.e. the universal aspect of agency discussed earlier. This conception of human agency is presented as a conceptual advance from the logically prior conception of the human agent as a merely natural being. In fact Hegel sees this as the conceptual advance which marks the beginning of the modern world. As a wholly natural being the individual does not distinguish between the will and its content.<sup>70</sup> Indeed, whilst such an individual may be conscious, it lacks self-consciousness or awareness of itself as an ego or 'I' and consequently has no awareness of itself as a will. As such, the human agent is not fundamentally different to any other animal in that it merely acts on the basis of needs and desires that it finds itself to have.<sup>71</sup> The natural conception of the human agent therefore emphasises the concrete, particular nature of the human individual, with no acknowledgement of the human capacity to abstract from this particularity given by nature.

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<sup>70</sup> See PR, §34a.

<sup>71</sup> PR, §194R.

Hegel does not claim therefore that all individual agents are persons simply in virtue of being born human. The term ‘person’ only applies to an agent who has and employs a capacity for abstraction. ‘Personality begins only at that point where ... (the agent) has not merely a consciousness of itself in general as concrete and in some way determined, but as a consciousness of itself as a completely abstract “I” in which all concrete limitation and validity are negated and invalidated’.<sup>72</sup> In other words this self-conception is vital for an agent to count as a person. Therefore, ‘in so far as they have not yet arrived at this pure thought and knowledge of themselves, individuals and peoples do not yet have a personality’.<sup>73</sup> Hegel refers to such agents as ‘subjects’, who possess merely the potential for personality.<sup>74</sup>

Whilst the conceptual stage of personality recognises both the particular and the universal conceptions of human agency, these are seen as incompatible. As such, personality is the first stage to express the dichotomy between the particular and universal aspects of human agency.<sup>75</sup> Personality privileges the formal, universal understanding of the self as pure will or ego, which is empty of all content. Thus central to the ‘person’ is the ability to abstract from all particular ends, needs and circumstances and conceive of the self as simply the ‘I’ or ego which is empty of all content: ‘the human being can abstract from every content, make himself free of it, ... I can make myself entirely empty ... The human being has the self-consciousness of being able to take up any content, or of letting it go, he can let go of all bonds of friendship, love, whatever they may be’.<sup>76</sup> Indeed, the emphasis on the universal aspect of the will, to the exclusion of any particularity or content makes it impossible to distinguish between individuals.<sup>77</sup>

Ultimately, Hegel claims that this is a poor concept of agency based on abstract and immature thought.<sup>78</sup> Indeed he claims that to describe an agent as a person is

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<sup>72</sup> PR, §35R.

<sup>73</sup> PR, §35R.

<sup>74</sup> PR, §35a. Rather confusingly Hegel also uses the term, ‘subject’ to also denote the conceptual stage that *follows from* (rather than precedes) personality. In the second section of PR, the term ‘subject’ refers to the agent conceived of as a moral being i.e. an agent who is not only aware of themselves as a will and distinct from any particular content (person) but who is also aware of their ability to determine themselves, to give their will a content, to see choices and values as originating in themselves (as ‘theirs’) and to recognise no external source as having authority or imposing obligation on them. See PR, §107a & PR, 136a.

<sup>75</sup> See SS, p211.

<sup>76</sup> PR, note 4, p398.

<sup>77</sup> PR, §209R.

<sup>78</sup> PR, §6 & PR, §207R.

disparaging or contemptuous - as if there is nothing more to be said of an agent.<sup>79</sup>

One explanation for 'person' being an expression of contempt is the minimal recognition that has been given of the agent by the use of that term. It is the minimum that can be said of an agent in the Rational State and equally true of each and every agent. As such, personality may fail to recognise individuals or the particular features of each agent, as if they are not worthy of recognition.<sup>80</sup>

Hegel's most expansive discussion of personality is found in the opening section of the *Philosophy of Right*, entitled, 'Abstract Right'. However, Hegel's concept of the person is not static but develops dialectically. I will separate out three stages in Hegel's account of the 'person'. Of greatest relevance to later chapters is the second conception. In my discussion of this I also explain the role of private property and how this can be acquired and alienated.

#### i) Personality as an Infinite Will

Hegel states that the will of the person is committed to preserving the integrity of the pure will and as such it can take on no positive content. Thus the will's activity is restricted to the cancellation of distinction and particularity.<sup>81</sup> In other words, the formal, universal conception is presented as the true nature of human agency. Correspondingly, freedom is conceived of as the absence of determination. Thus, to be free is to have a will that is not committed or restricted to any particular choice, plan, project, etc. To make a choice or commit yourself to a course of action would be to limit your will to that content. Freedom therefore is only possible given the capacity for abstraction and the ability to be a pure will. In this 'total pure self-reference, (I) ... know myself ... as *infinite, universal, and free*.<sup>82</sup> The agent's particular identity which is a product of nature and not the will is therefore seen as alien to the will and a limit on their freedom. Hence, 'the free spirit consists precisely in not having its being as mere

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<sup>79</sup> PR, §35a & PhG, §480.

<sup>80</sup> It is in this sense that 'person' is used by Miss Ingram to refer to Jane Eyre - a mere 'nobody' whose particular character or desires are beneath her notice, Charlotte Brontë (1988), p191.

<sup>81</sup> Hegel associates this conception of the self with Hinduism. In Hinduism he claims that the conception of the will as an empty abstract 'I' which allows for no distinction between individual agents, is adopted as a theoretical attitude, rather than the basis of activity or actual willing. He claims that a society may attempt to instantiate the conception of the will as an empty universal will, but that such a will can only will emptiness and the destruction of all particularity and distinction. He sees this error-laden conception of agency and freedom as the cause of the anarchic and destructive Terror which followed the French Revolution. See PR, §5 & PR, 149a.

<sup>82</sup> PR, §35.

concept or *in itself*, but in overcoming this formal phase of its being and hence also its immediate natural existence, and in giving itself an existence which is purely its own and free'.<sup>83</sup> Therefore in recognising the formal, universal nature of the self, personality stands opposed to the particularised conception of the human agent.

This concept of human agency is not without its merits. The separation of will and content is the basis for complete self-determination. Importantly, the will is separated and liberated from contingent drives or desires that it has either by nature or habit, not through choice. For example, in his discussions about marriage Hegel claims 'natural' desires and drives are important but should not prompt or validate any course of action. Desires or drives have to be endorsed and considered if they are not to undermine an agent's freedom.

Nonetheless, this concept of agency is flawed in that it refuses to employ this capacity for self-determination and as such it offers an inadequate account of freedom. Firstly, an abstract, empty, 'I' is only a will 'in concept'; it is merely the possibility of willing, rather than an actual will: '[a] will which ... wills only the abstract universal, wills *nothing* and is therefore not a will at all'.<sup>84</sup> The will must have a particular content, will '*something*', to actually perform the action of willing. Stanley Cavell expresses a similar idea in his claim that 'we miss presentness through blindness to the fact that the space and time we are in are specific, supposing our space to be infinite and our time void, *losing ourselves* in space, avoided by time'.<sup>85</sup> Secondly, a purely subjective conception of the person is internally contradictory since it claims that the will is 'infinite and universal'<sup>86</sup> whilst simultaneously restricting it to being no more than a purely subjective phenomenon.<sup>87</sup> This is why Hegel says this concept of will is only formally and not truly infinite. Lastly, the concept of human agents as free wills must be instantiated in society and not just the agent's sense of identity. As a sense of identity the agent's conception of themselves is purely subjective and therefore unrecognisable to others.<sup>88</sup> As such agents stand in danger of being understood as simply natural human animals and not as free wills. To overcome these limitations, personality must take on a tangible form in the external world: 'the person must give himself an external *sphere of*

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<sup>83</sup> PR, §57R. Also see PR, §57.

<sup>84</sup> PR, §6R.

<sup>85</sup> Cavell (2002), p348.

<sup>86</sup> PR, §39.

<sup>87</sup> PR, §35R.

<sup>88</sup> PR, §217a & PR, §331R.

*freedom* in order to have being as Idea.’<sup>89</sup> In this way ‘mere subjectivity of personality’<sup>90</sup> is transcended and ‘the will ... attains a security, stability, and objectivity which form alone can give it.’<sup>91</sup>

## ii) Personality as a Finite but Independent Will

The second conception of the person is one where there is emphasis placed on the independence of the will; its capacity to self-legislate and make decisions for itself without being confined to what is ‘given’ to it in nature or ‘given’ to it by an external authoritative source. This capacity is the key through which Hegel will try to reconcile the universal and particular aspects of agency since the will has the capacity to take on what it wills. Thus, this conception retains the capacity for abstraction but balances it with the need to use the will and determine itself. As such, this will can become actual. In contrast to the previous account, this makes the will finite since it takes on an actual content.

The medium through which the person’s will is expressed and recognised is private property. Private property attempts to address the previously encountered conceptual problems by enabling the will to demonstrate itself as an independent force that can shape the natural world according to an agent’s will and needs.<sup>92</sup> In the *Philosophy of Right*, Hegel focuses on how property enables the will to actualise itself in the social world and the greater recognition this affords. In this section I explain the different ways in which an agent can gain property: seizure, formation and designation. I also explain how goods can cease to be owned by an agent and the distinction between prescription and alienation. As part of this I briefly explain Hegel's account of marriage. As I discuss in chapter four, Hegel explicitly rejects contracts over persons and rejects a contractual account of marriage.

Initially, the institution of private property retains and expresses a high degree of abstraction since there is no requirement to own any particular amount or type of property. However, as I discuss in more detail in chapter three, Hegel is committed to the agent ‘taking possession’ of their own body and spirit in a way which constrains the

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<sup>89</sup> PR, §41. This is also expressed as the person’s existence becoming ‘actual’. (PR, §45); ‘real’ (PR, §39), ‘objectified’ (PR, §46) or ‘rational’ (PR, §41a).

<sup>90</sup> PR, §41a.

<sup>91</sup> PR, §217a. Also see PR, §187R.

<sup>92</sup> VA, pp256/7.

legitimate decisions and actions an agent may take.<sup>93</sup> Therefore, the information presented here also constitutes the background to chapter three in which I discuss ownership in relation to an agent's body and life. Ownership of the self is gained through self-determination, which can be understood as taking possession through formation. Importantly Hegel claims that this property cannot be subject to prescription or alienation. This claim creates the tension which is the main focus of the thesis since it is hard to explain how an agent can 'sacrifice their personality' when it cannot be prescribed or alienated.

Private property involves a person externalising their will through placing it in objects or things such as land or goods. The way in which an agent places their will in property, and thereby take possession of it, is dependent on the sort of thing it is and the social structure in which possession takes place.<sup>94</sup> The mode of possession also affects the degree to which they possess a thing and the extent and stability of recognition that it affords. Hegel discusses three increasingly complex and successful modes through which the agent can 'place their will in objects' and be recognised as a will: physical seizure, giving form to a thing and, finally, designation through recognised signs of possession.<sup>95</sup>

Physical seizure, the first mode Hegel explores, is the weakest form of possession although it requires little institutional support. Ownership merely requires that the agent grasps the object which they consider to be theirs. This mode of possession does not ground the complete ownership of that object 'in its totality' but only the parts or aspects which are grasped.<sup>96</sup> In seizure, the will relates to the object as an external and distinct item and the object thereby retains the appearance of having an independent existence or end. This is clear when putting the object down undermines claims of possession. As

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<sup>93</sup> By referring to body and spirit Hegel simply wishes to refer to the whole person. The phrase body and spirit echoes the religious formula of body and soul. Although spirit ('*Geist*') could be understood as referring to an agent's soul, it can also be understood as mind or intellect, thus avoiding the religious overtones of soul. Hegel rejects dualism as involving an unwarranted and misguided dichotomy between body and the mind/soul.

<sup>94</sup> For instance, in Civil Society, designation is the preferred mode of possession. Ultimately, Hegel claims that property is only a stable institution when the rights of personality are enshrined and objectified in law in Civil Society and the Rational State. See PR, §208; PR, §217 & PR, §261. At first glance the formulation of possession as the 'placing of my will in an object' sounds strange. It perhaps sounds less strange if we consider cases in which we do speak of possession in which the possessed object expresses the will of the possessor, namely in cases where a person is said to be possessed (for example by a devil) or where a country or territory is said to be possessed if it is controlled by a foreign state or ruler (and subject to their will). See PR, §44.a.

<sup>95</sup> PR§54-§58. These are however external expressions that I have taken possession of the object in question i.e. I have placed my will in it. See PR, §64.

<sup>96</sup> PR, §52R.



such, the seized object is not a good medium for the externalisation of the will of the agent.

In contrast an agent who alters the form of an object completely negates any appearance of that object having an existence or end separate to their will. As such the agent completely possesses the object.<sup>97</sup> Hegel rejects the possibility that through formation the agent only owns the form but not the matter which is affected by their will. For instance, he claims that it is irrational to maintain that one agent could be the owner of the furrow, whilst the field or earth itself belongs to someone else since the alteration of the object constitutes the complete possession of the object.<sup>98</sup> Since formation enables the complete possession of the object it constitutes a more stable form of possession in which the object continues to be possessed in the physical absence of the agent or even the thought that an object is theirs: '[w]hen I *give form* to something, its determinate character as mine receives *an independently existing* externality and ceases to be limited to my presence in *this* time and space and to my present knowledge and volition.'<sup>99</sup> In addition to enabling the complete possession of an object, formation also expresses the agents will more completely than seizure.<sup>100</sup> The altered form clearly demonstrates the possession of the object to other agents. Hegel suggests that the altered form functions as a sign to other agents that the object is the possession of the formative agent. Therefore whilst Hegel separates formation and designation as two distinct modes of taking possession, he also claims that formation can be seen as a special kind of possession through designation.<sup>101</sup>

Possession however is insufficient for ownership since the will of the agent is recognised by themselves alone. For possessions to constitute an agent's property they must be recognised as such by other agents. For instance, other agents must not attempt to claim or use them as their own. The recognition of property as 'theirs' is simultaneously the indirect recognition of that agent as capable of placing their will in

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<sup>97</sup> PR, §52.

<sup>98</sup> PR, §52a.

<sup>99</sup> PR, §56.

<sup>100</sup> This is reminiscent of John Locke's claim that mixing one's labour with the world is the origin of private property: Locke (1988), §25f, especially §27 & §32. Hegel seems to share Locke's view that unused property can be claimed by another, *ibid.* §38.

<sup>101</sup> PR, §52a & PR, §58a. In fact Hegel seems to suggest that formation is a superior kind of designation in that the sign which is selected is grounded in the agent's will as opposed to merely social convention. See PR, §56R.

property, a capacity restricted to persons.<sup>102</sup> Thus, the intersubjectivity inherent in property enables the agent's identity as a person to be actualised.<sup>103</sup>

As a person, an agent who is aware of themselves as having the capacity to abstract from any determinate choice, object or feature of my character, I can take different attitudes to my property. Firstly, I can see it simply as mine and as a retainer for my will. It is perhaps when I regard my property in this light that I am most aware of the damage done to me when another agent infringes my property rights.<sup>104</sup>

Alternatively, I can also see the property as distinct from me and subject to my will. As such I am aware that I can use, alter, consume or destroy that thing since it has no will of its own but exists merely to serve my interests, needs, inclination, etc. Hegel emphasises that the complete use of a thing is necessary for true ownership.<sup>105</sup> Finally, I can also see property as alienable from me in that I can withdraw my will from the object and cease to regard it as mine (a process which involves the recognition of a thing as mine, recognition of it as subject to my disposal and ultimately not mine.<sup>106</sup>) The will is independent and as such it is not confined to regarding any particular property as an expression of itself. The capacity for alienating property is therefore important for personality insofar as it reflects the will's capacity for abstraction from particularity. However, Hegel is opposed to the complete alienation of all property since the agent's identity could not then be recognised.

Simply speaking there are two ways in which property may be alienated. Firstly, I can simply give up property without reference to anyone else and without even publicly declaring that I no longer regard a thing as mine. Indeed, Hegel also seems to suggest

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<sup>102</sup> PR, §40R.

<sup>103</sup> See PR, §78, where Hegel distinguishes between possession and property as the 'substantive' and the 'external' aspects of property. Hegel therefore follows Fichte in claiming that possession is turned into property through the recognition of it as mine by other persons. Hegel does refer to the importance of property for an agent's welfare and satisfaction of their needs (PR, §230 & PR, §236,a) but this is not the basis on which the institution is justified. The importance of needs for personality is more evident in the institution of Civil Society.

<sup>104</sup> See PR, §218. It is only within Civil Society that crime concerning another agent's property is seen as damaging to society as well as the particular agent concerned.

<sup>105</sup> Hegel includes the capacity to dispose of property as part of the complete use of an object (PR, §63). In disposal I access the value (universal aspect) of my property. If I am not free to access the value of property I cannot be said to have full use of the thing and therefore do not completely own it. The absence of the right to dispose of that property as I will means that (at most) I have temporary or partial possession of that property which is not true ownership (PR, §62). As such that property cannot objectify my will and my identity as a person. Thus, Hegel objects to serfdoms on the grounds that the serfs do not have complete use of the land and therefore cannot be said to be owners of property (PR, §62R & PR, §63). As such the society which countenances such arrangements does not recognise the person and cannot be said to be fully rational or instantiate freedom.

that I can be considered to have alienated property in the absence of signs to indicate that property is still owned, for instance if I no longer use something or fail to preserve it. These are cases of prescription where property is alienated ‘without a direct declaration on the part of the will’.<sup>107</sup> Hegel does not treat prescription as being particularly significant for freedom since it does not express the will of any agent.

In contrast to prescription, an agent can also alienate property by the ‘direct declaration of the will’. The most significant form of such willed alienation is ‘contract’ in which two agents agree to alienate property in exchange for the property of the other.<sup>108</sup> Contract is significant in two respects. Firstly, in contracting I reinforce my status as an owner of property since I can only alienate what I own.<sup>109</sup> I therefore gain indirect recognition of myself as a person. Secondly, and more importantly, I gain direct recognition of myself as a willing agent and a person: ‘the two contracting parties relate to each other as *immediate* self-sufficient persons’.<sup>110</sup> This recognition is superior to the recognition afforded simply as the owner of property: ‘this relation of will to will is the true distinctive ground in which freedom has its *existence*’.<sup>111</sup> Contract originates with the two arbitrary wills of the agents who wish to exchange property. The consent of the contracting parties to alienate their respective property posits the existence of a ‘common will’ that the exchange of goods should be performed.<sup>112</sup> This common will is the product of the unity of the two arbitrary wills.<sup>113</sup> There is a shared purpose between the two wills such that ‘the one volition comes to a decision only in so far as the other

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<sup>106</sup> PR, §53 & PR, §59.

<sup>107</sup> PR, §65a. Prescription or ‘*Verjährung*’ refers to legal rights which expire or lapse (‘*Verjahrt*’) at a time specified by a statute of limitations specified (‘prescribed’) by law. Hence, ‘a ‘prescriptible’ right is one which will be lost after a certain period of time unless it is renewed, especially a right which will be lost if it is not used for a long time’. (PR, note 1, p411)

<sup>108</sup> Either in the form of bartering or in form of the universal value of property i.e. money. Hegel divides contracts to those which are ‘real’ (bilateral contracts where there is exchange of property so that both agents alienate property and become the owner of the property alienated by the other) and those which are ‘formal’ (unilateral contracts such as gifts of things and objects or services offered without recompense). For Hegel’s classification of types of contract see PR, §80. Real and formal contracts are importantly similar insofar as they involve the deliberate alienation of property by the owner. I will focus on the exchange model of contract partly for reasons of clarity and partly because it is more significant for freedom.

<sup>109</sup> PR, §72.

<sup>110</sup> PR, §75.

<sup>111</sup> PR, §71.

<sup>112</sup> PR, §79R. Hegel uses this to claim that there should be no question as to why I should adhere to the terms of a contract. In contracting I have committed myself irrevocably to performing the actions specified in the contract and it is no longer open to me to choose not to perform such actions.

<sup>113</sup> PR, §76. A common will is importantly distinct from a universal will since its content is still highly particular i.e. created by these particular arbitrary wills and its willed content concerns these particular goods. (see PR, §75 & PR, §81.)

volition is present'<sup>114</sup> however this identity or unity of wills does not eliminate the individuality or separateness of the contracting agents.<sup>115</sup> In addition to this subjective common will, contracts also require the objectification of the common will through performances or signs, particularly in the form of language.<sup>116</sup> In this way a contract becomes actual.<sup>117</sup>

As I discuss in much more detail in chapter three, the amount or nature of property required for personality is not left completely open to contingency, opportunity or the agent's wishes because Hegel claims that all agents should possess their own body, spirit and their attributes; labour, skills, knowledge etc.<sup>118</sup> One reason for this prescription is that the ownership of the body and its attributes is an essential prerequisite for the possibility of entering into contracts concerning individual labour and skills.<sup>119</sup> More importantly, however Hegel claims that ownership of the body is essential for personality and therefore freedom. In particular, self-ownership is bound up with the possibility of self-originating *Bildung* and the possibility of creating a second nature. As such, self-ownership and self-determination promises to release the agent from the conflicting awareness of themselves as a particular, given, natural character and their awareness of their ability to abstract from this character. As such, the concept of the human agent would transcend the dichotomy between the will and its content since the content would be an expression of the will.<sup>120</sup> For instance, although the agent finds itself with a certain desire, they would have the capacity to choose to act upon that desire.<sup>121</sup> This choice thereby transforms the desire into one they have recognised and endorsed. As such the desire is not alien or a threat to their autonomy. 'I' determines itself in so far as it is the self-reference of negativity. As this reference to itself, it is likewise indifferent to this determinacy; it knows the latter as its own and ideal, as a mere possibility by which it is not restricted but in which it finds itself merely because it posits itself in it. - This is the freedom of the will'.<sup>122</sup> Furthermore, the agent would express a

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<sup>114</sup> PR, §74.

<sup>115</sup> PR, §73.

<sup>116</sup> PR, §78.

<sup>117</sup> PR, §78.

<sup>118</sup> Ownership of the body and spirit therefore seems to constitute the bare minimum amount of property that an agent must own in order to be an actual person. If this amount/type of property is sufficient for personality it follows that the poor are still persons.

<sup>119</sup> Although this may sound strange *prima facie*, Hegel claims that right to contract is only possible if the agent owns the items which are to be exchanged, bartered, traded or given.

<sup>120</sup> See PR, §187R, on the importance of education for rendering the subjective will suitable to actualise the Idea.

<sup>121</sup> See PR, §206.

<sup>122</sup> PR, §7. Also see SS, p211 & PR, §34.

much richer conception of the human agent, namely as an actual will, capable of self-expression and not merely an empty, abstract 'I': 'what one is in concept is posited for the first time as one's own, and also as an object distinct from self-consciousness'.<sup>123</sup> Although all persons share the capacity for creating a second nature they will not create the same second nature for themselves. Hegel emphasises that the actual content of an agent's second nature will depend on their contingent and natural (unequal) allocation of talents, skills and disposition<sup>124</sup>, their desires and needs and the particular decisions they make.<sup>125</sup>

When self-determination is first introduced however the resolution of the dichotomy is only an unfulfilled promise. Although the agent is aware of their capacity or choice they still identify more closely with the capacity of self-determination rather than the determinations that are made. This is clear because the conception of freedom is still the absence of determination, albeit refined to the absence of external determination. The concept of human agency is still the person. As yet, there is no indication that as a free-will the agent must take on any particular content. The suggestion that these abilities should be used in a particular way in order to do justice to human agency propels the dialectic to a new conception of human agency, namely the moral agent and from there to the member of institutions in the Rational State and the concept of the person is thereby transcended. How this process occurs and the extent to which Hegel's account of this transition is coherent is integral to the thesis as a whole.

Personality is presented as a source of both rights and duties. For instance, Hegel claims that the person has the 'absolute right of appropriation' or the right to claim any thing as personal property.<sup>126</sup> Similarly, he claims that person possesses the right to make and enter into contracts. Hegel says that the agent is under no *external* obligation to actually own private property or enter into contracts with other agents.<sup>127</sup> Nonetheless without these however an agent would only be a potential not an actual person and therefore could not be free. To avoid this possibility Hegel strikingly claims that as a person the agent has a fundamental duty to '*be a person*'.<sup>128</sup> This duty 'to be person' places an internal obligation on the agent to make their personality actual. This duty

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<sup>123</sup> PR, §57. 'Self-consciousness' is the awareness of the self as 'I'.

<sup>124</sup> PR, §200. Also see PR, §49a & PR, §197a.

<sup>125</sup> PR, §190.a.

<sup>126</sup> PR, §44.

<sup>127</sup> PR, §37a & PR, §38.

<sup>128</sup> PR, §36. The duty to be a person is reiterated in PR, §66R.

arises from the nature of the agent themselves and the need to develop and actualise this if the agent is to be free. As such, Hegel claims that an agent has an *internal* duty to be an owner of property<sup>129</sup> and to contract with other persons<sup>130</sup> since these are essential for an agent to be an actual person. As I set out in chapter three, the concept of the self as a person also grounds the right to life, bodily welfare and self-determination.

### iii) Personality in Civil Society<sup>131</sup>

The final conception of the ‘person’ which I wish to distinguish is the ‘person’ of Civil Society. This subsection is relevant in providing the background information needed to understand my discussions of membership of the army in chapter four.

The ‘person’ of Civil Society is distinct from both the ‘person’ as infinite will and the ‘person as an abstract, finite, independent will’, which is actualised through private property. Although Civil Society involves several other conceptions of agency, personality is its essential basis and where this concept is developed as part of the Rational State.<sup>132</sup> These ‘persons’, are independent in the sense that they are self-interested. Thus, the members of Civil Society relate to each other as self-sufficient individual agents with the capacity and right to determine their way of life. However,

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<sup>129</sup> PR, §36.

<sup>130</sup> ‘Reason makes it just as necessary that human beings should enter into contractual relationships - giving, exchanging, trading, etc. - as they should possess property. As far as their own consciousness is concerned, it is need in general ... which leads them to make contracts; but implicitly they are led by reason, that is, by the Idea of the real existence of free personality ... Contract presupposes that the contracting parties *recognise* each other as persons and owners of property’. PR, §71R. It is passages like these which support my partial agreement with Jeremy Waldron that actual ownership of some property is required by Hegelian ‘persons’; Waldron (1998), p382. The extent to which this requirement is still in force and untransformed in Civil Society is, however, unclear. I would argue that in Civil Society all agents are required to have ownership in their own person which includes their marketable skills. However, it is unclear if Hegel is committed to agents having external property in addition to this.

<sup>131</sup> Civil Society is an institution of the Rational State concerned with the financial and commercial interaction of agents. It operates according to capitalist principles however Hegel does support some state intervention to ensure that basic commodities are within the reach of all agents and to ensure that livelihoods are protected. (PR, §185a & PR, §236. Also see SS, pp168-169. Such regulation will be the responsibility of an independent association created for that purpose however it will also work with and through the corporations and other similar societies.) Although the basis of Civil Society is commercial and financial interaction, Hegel does not appear to restrict the members of Civil Society to those whose occupations are concerned with matters of trade or finance.

<sup>132</sup> PR, §187 & PR, §201a. For instance, in one section Civil Society is presented as the inevitable dependence between agents for the satisfaction of their personal needs. Insofar as agents are presented as animals with needs they could be seen simply as natural human beings as opposed to persons. This conception is not prevalent in Civil Society however since Hegel stresses that human needs and desires are unique since they multiply beyond what is given by nature and are influenced and even created by society. See PR, §109R & PR, §182. The other principle of Civil Society is the inevitable

their identities are not abstract. The agents of Civil Society are those who have employed their right and capacity for self-determination, undergone *Bildung* to greater or lesser degrees and have become concrete, particularised agents.<sup>133</sup> Consequently, members of Civil Society are actual persons rather than the rather empty person of Abstract Right who was presented as though they had yet to make such decisions.<sup>134</sup> Thus, Hegel refers to the agents in Civil Society as ‘concrete’ as opposed to ‘abstract’ persons.<sup>135</sup> To make this distinction even clearer Hegel refers to a member of Civil Society as a ‘bourgeois citizen’.<sup>136</sup>

Corresponding to the concept of the agent as a person is an instrumental conception of society as a means to securing their personality and their rights.<sup>137</sup> Hegel acknowledges that this is partially true and that the value of Civil Society lies in its ability to actualise and protect personality and subjective freedom.<sup>138</sup> In particular Civil Society enables the rights of the person to become enshrined in law: ‘property and personality have legal recognition and validity in civil society.’<sup>139</sup> As such, the rights of personality, such as the right to private property, become actual rather than merely subjective custom or practice.<sup>140</sup> This altered status does affect personal rights in terms of both their form and content. For instance, the laws which are posited in Civil Society will affect modes of acquisition and the form of contracts.<sup>141</sup> The law also determines the conditions under which a personal right is considered to have been violated since the protection of rights is restricted to their having the status of laws.<sup>142</sup> Within Civil Society the person therefore acquires new rights including the right to know and understand the laws,<sup>143</sup> to stand in a

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interdependence between agents for the satisfaction of their needs and desires and therefore Civil Society also involves a hidden universal aspect. See PR, §182 & PR, §183.

<sup>133</sup> PR, §206R & PR, §289R.

<sup>134</sup> Recall that in Abstract Right it was impossible to distinguish between individuals since they were mere wills without content and that as such discussion was concerned with ‘infinite personality in general’, rather than separate, particular individuals; PR, §35. Also see PR, §209.

<sup>135</sup> PR, §181.

<sup>136</sup> PR, §190R. This term and the description of Civil Society does strongly suggest in contrast to my earlier description of Civil Society that it is concerned solely with those agents who are concerned with matters of finance and trade.

<sup>137</sup> PR, §209a.

<sup>138</sup> PR, §206. Hegel also claims that personality presupposes the existence of such an institution as Civil Society since it is only within such an institution that personality can be actualised. See PR, §185R.

<sup>139</sup> PR, §218.

<sup>140</sup> PR, §208.

<sup>141</sup> PR, §217. For example, Hegel states that Civil Society is a necessary pre-requisite for testamentary wills to be recognised as a formal contract. See PR, §80.

<sup>142</sup> PR, §222a.

<sup>143</sup> PR, §215 & PR, §228R. Agents who do not know or understand the laws are in danger of having a serf-like status relative to those who do know and understand the laws. As such they will feel alienated and see the law as a purely external fate rather than recognising it as the rational basis for their agency and freedom.

court of law<sup>144</sup> and to know how the law is actualised or applied in different cases.<sup>145</sup> Agents also acquired the duty to recognise and submit to the authority of courts of law.<sup>146</sup>

Likewise, Hegel develops the right to life into a law which takes priority over external property. The agent only has rights insofar as they are an embodied physical entity or living thing and therefore this existence must be protected and sustained. As such the right to life must be recognised before any rights that apply to the person including the right to private property. Thus, Hegel says that in cases of immediate need an agent may steal to sustain their life; the right of necessity. The loss of their life would completely remove that agent's capacity for freedom and recognition whereas infringing property rights only partially damages the owner's capacity for freedom and recognition.<sup>147</sup> Thus, he claims that the laws of civil society should recognise a distinction between theft to sustain life and theft that is not based on this motive. This right to life also effects punishment since a debtor should not be physically hurt, killed or enslaved in response to his debts. Such punishments far outweigh the particular damage done to other agents since they affect the basis for the offending agent's capacity for freedom.<sup>148</sup>

Within civil society this right grounds a corresponding duty to protect the welfare of the person which is also institutionalised in the form of the 'police' and the 'corporations'<sup>149</sup>: 'the livelihood and welfare of individuals should be *secured* - i.e. that *particular welfare* should be *treated as a right* and duly *actualised*.<sup>150</sup> This more positive duty also arises out a concern for agents as *particular* individuals and is also expressed as the 'right of the subject's particularity to find satisfaction'.<sup>151</sup> This duty arises on the basis of the need to sustain individual life as the locus of the capacity for freedom. It is also based on pragmatic considerations relating to the nature of Civil Society. Since the institution is premised on the notion of agents who have no interest

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<sup>144</sup> PR, §221.

<sup>145</sup> PR, §224.

<sup>146</sup> PR, §221f, especially PR, §221a.

<sup>147</sup> PR, §127.a.

<sup>148</sup> PR, p32. Thus Hegel criticises the law under which in Shylock could remove a 'pound of flesh' from Antonio (*The Merchant of Venice*) and Roman Laws which allowed for enslavement or capital punishment for debtors.

<sup>149</sup> Although there is a degree of overlap between the function of Hegel's 'Police' ('*Polizei*') and the Police in current society they are far from being identical. Hegelian police are responsible for all regulative behaviour in Civil Society as a whole including provision for the poor, the provision of public goods, etc. See PR, note 1, §231. Also see PR, §229R & PR, §230.

<sup>150</sup> PR, §230.

<sup>151</sup> PR, §124a.



beyond their own interests and welfare, Civil Society will only be a successful and stable institution if agents really do find satisfaction through their choices and decisions. Moreover, it cannot concern itself with the welfare of only a few of its members since the interdependence between agents for satisfaction should ensure that personal welfare is inextricably connected to the welfare of all.<sup>152</sup>

This duty to consider the welfare of all agents is not confined to ensuring that particular needs, interests and desires are met but involves providing a suitable framework for individuals to have choices concerning their life activity. For instance, Civil Society is required to provide suitable education for its future citizens.<sup>153</sup> Corporations take this requirement one step further in training individuals for particular occupations.<sup>154</sup> There is also a duty to ensure that choices are protected so that an agent is not forced to take up another occupation because of adverse circumstances. For instance, a court of law should not impound or sell the equipment an agent needs to practice their chosen livelihood to meet that agent's debt. Rather 'a debtor is permitted to retain as much of his resources ... as is deemed necessary to support him, even in his *accustomed* station in life'.<sup>155</sup> This also explains the role of the corporation which has a duty to protect and sustain the agent in times of hardship and unemployment.<sup>156</sup>

Thus concern for the welfare of agents should not be understood as promoting a paternalistic authority intent on ensuring that agents make only those choices which it supports.<sup>157</sup> Hegel's conception of welfare is care for the agent *as an* agent, capable of choosing and realising its ends. As such, Civil Society is under a significant obligation to ensure that the agent has a choice of ends and that there are suitable means to make such ends achievable.

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<sup>152</sup> PR, §183.

<sup>153</sup> PR, §239.

<sup>154</sup> PR, §252.

<sup>155</sup> PR, §127,a, my emphasis.

<sup>156</sup> PR, §252.

<sup>157</sup> Hegel rejects societal frameworks in which 'experts' apportion roles in society as in Plato's *Republic* or frameworks in which role is allocated on the basis of birth and family background as in the Indian caste system. See PR, §206.R.

## **Conclusion**

In this chapter I have introduced the most important Hegelian ideas that I rely on in the rest of the thesis. Of particular relevance is the second section on the ‘person’ in which I distinguish the ‘person’ as an abstract, infinite will; the ‘person’ as an abstract, independent, finite will which is actualised through private property; and the ‘person’ of Civil Society who is independent, self-interested but more particularised and actualised than the previous conceptions. I have also introduced Hegel's account of private property and the different ways in which property can be acquired, lost and alienated. This explanation is most relevant to chapter three in which I discuss ownership of an agent's body and their right to life.

In the next chapter I examine passages of the *Phenomenology of Spirit* in which Hegel can be understood to be demonstrating the inadequacies of the concept of the ‘person’ as a basis for a free and stable society.

## **Chapter Two: The Failure of Personality in the *Phenomenology of Spirit***

In this chapter I aim to bring out the reasons why Hegel rejects the concept of personality as the basis of a free, stable society. This rejection of the concept of personality is essential to understanding the social institutions of the Rational State in which the concept of person is often absent. In particular, this chapter should constitute an illuminating background to Hegel's account of marriage, which is infamously based on the 'sacrifice of personality'.<sup>1</sup> His account of marriage that I discuss in chapter 4, requires an understanding not only of what is sacrificed but also why this must be sacrificed. I will therefore analyse Hegel's concept of 'personality' in the *Phenomenology of Spirit*. I will start this chapter by giving an overview of the issues that this chapter covers. In section one I examine 'Legal Status' in more detail and in section two I analyse 'Absolute Freedom and Terror' in greater detail. In each section I focus on why the concept of the 'person' might be thought to underpin an account of a free society before examining the ways in which the society fails because of the nature of 'personality'.

In his system as a whole, Hegel displays an ambivalent attitude to the concepts 'person' and 'personality'.<sup>2</sup> He clearly welcomes a conception of agency that emphasises an agent's will and their capacity for self-determination. This is unsurprising when self-determination is revealed to be a key element in Hegel's account of freedom; subjective freedom. Nonetheless, Hegel aims to show that a society that is premised on this concept of an agent will not be able to respect agents as persons, will be unstable, and will not enable agents to be free. In other words he uses the process of immanent critique to show that the conceptual structure of such a society is not able to do justice to its own claims of respect for agents, stability and freedom. This would therefore support his claims that institutions such as marriage should be based on the rejection of this concept.

I will be looking in detail at two sections in the *Phenomenology of Spirit*, where Hegel demonstrates that 'personality' cannot be the foundation for a society: 'Legal Status' and 'Absolute Freedom and Terror'. Both passages occur within the chapter entitled 'Spirit' and as such concern the conceptual and institutional structure of human society. In keeping with the dialectical structure and immanent critique, both sections

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<sup>1</sup> PR, §162.

<sup>2</sup> J Habermas expresses this as an ambivalent attitude towards 'abstract right'. See Habermas (1974).

appear to be successful solutions to the difficulties of previous conceptual schemes. Very quickly however Hegel turns his attention to the remaining flaws and the failings of these structures. In the *Phenomenology of Spirit*, it is interesting to notice that although societies develop from each other in a dialectical sequence there is only a muted sense of the increased rationality and capacity for freedom offered by each subsequent stage. Instead the emphasis is on the loss of ethical beauty, the antinomies and limitations of each conceptual stage and the increasing problem of alienation.

In both passages, Hegel presents a vision of society in which reliance on the concept of the agent as a person inevitably generates instability and the destruction of society. These are not the only passages in which the concept of the person is present; however they do place personality at the heart of a conceptual scheme of *society*.<sup>3</sup> As such they should be able to illuminate the Rational society or State. A further reason for a close examination of these two passages is that Hegelian personality is described as a modern category and these passages are strongly associated with the two societies in which Hegel claims the modern world originates: Imperial Rome and the French Revolution.<sup>4</sup> Moreover, the two passages can also be sharply contrasted with each other. Whereas ‘legal status’ treats the concept of ‘person’ as an objective legal category and basis for the state; ‘absolute freedom and terror’ uses ‘person’ as both an identity of agents and the conceptual basis for a society. The failure of the concept ‘person’ in both passages therefore comprehensively demonstrates Hegel's rejection of this category as the basis for social institutions which are based upon ‘personality’.

According to Hegel the notion of personality originates in Rome where some agents, in virtue of their status, are recognised through law as distinct right-bearing,

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<sup>3</sup> I will not therefore examine passages in which the concept does not play a significant role, for example PhG, §503. I will also ignore conceptual schemes which do not offer a blueprint for a society. Religious forms of thought such as Christianity, Hinduism and Taoism are primarily concerned with the agent's self-conception and their conception of God, with little reference to the public structure of society (See ETW, p284; PR, §62R & PR, §124R; VR, Volume 1, p346 & VR, Volume 2, pp30/1. Thus, I will not concern myself with the role ‘person’ or the ‘abstract will’ plays in religious forms of thought because I am interested in exploring why Hegel claims personality is an inadequate conception of an agent as the basis for a society, since it is this which explains the need for a different conception of the agent as the basis for institutions such as the family. Nonetheless, it is interesting to notice that during the period of Imperial Rome the purely legal concept of person was balanced with an agent's sense of their own private identity and this may have been based on Christianity in which agents recognise that all human agents should be free and that ‘person’ is not an identity which is constructed and imposed by the state.

<sup>4</sup> The relationship between philosophy and history in Hegel is complex and raises several debates. J Hyppolite neatly expresses the difficulty: ‘it is by no means easy to interpret relevant passages in the *Phenomenology*, for they present an inextricable weaving together of concrete and particular events along with general or universal notions. According to one's temperament, Hegel might be criticised equally for having constructed a logomarchy in which every event of history is reduced to a play of logical opposites or for having contaminated his logic with the accidents of history’; Hyppolite (1969), p36. As noted in the previous chapter I will focus on the conceptual schemes rather than the historical accuracy of Hegel's work.

wills. 'Caesar inaugurated the Modern World on the side of reality' in a society which recognised 'the principle of the *self-sufficient and inherently infinite personality* of the individual ... which arose in an inward form in the *Christian* religion and in an external form [which was therefore liked with abstract universality] in the *Roman* world'.<sup>5</sup> What this means is that in 'Legal Status', 'person' is not an identity that agents necessarily see as expressive of themselves. In this society 'person' is an objective, legal category which is awarded by the state in much the same manner that a society might bestow a knighthood. As such, personality is treated as a matter of status and the arbitrary will of society.<sup>6</sup> It does not extend to all human agents. As a corollary to this public conception of agency, agents may also have a private sense of their identity. However, this society is founded on the atomistic recognition of persons and this private identity is not of relevance to the conceptual structure of the state itself. As such, there is a fixed public/private distinction in 'legal status'. In contrast, in Hegel's account of the French Revolution the 'person' becomes a concept which applies to all agents and which agents apply to themselves. It is seen as the basis of freedom and therefore the basis of a new form of society.

#### Ethical Harmony and Hegel's Account of Ancient Greek Society

There are important differences between 'Legal Status' and 'Absolute Freedom and Terror' however both conceptual schemes are responses to the failure of a previous account of society; the Greek ethical society. Hegel's appreciation of the concept of the 'person' arises from the failure of this Greek society.

In this society agents are presented as 'embedded' in social institutions (such as the family and the state) and no recognition is given to agents as distinct and separate to these institutions: 'in the former [ethical] state the individual was actual, and counted as such, *merely* as a blood-relation of the family'.<sup>7</sup> Not only is there an absence of dissension from group activities, requirements and commitments but an individual's sense of identity consists solely in group membership.<sup>8</sup> Individual agents are not conceived of as separate or separable from the group and would not possess any value if they were to become detached from group identity and activity: 'ethical individuality is directly and intrinsically one with his universal aspect, exists in it alone, and is

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<sup>5</sup> VPG, p318 & PR, §185R.

<sup>6</sup> PR, §40R.

<sup>7</sup> PhG, §477, my emphasis.

<sup>8</sup> PhG, §468.

incapable of surviving the destruction of this ethical power'.<sup>9</sup> There are references to individuality within the Greek community; however, these refer to collective units, particularly distinct families. As such each family is recognised as a distinct, separate entity with its own interests, activities, goals etc. Similarly, Hegel also refers to the recognition of the state as an individual entity composed of its citizens, although this recognition can only be bestowed by another state.<sup>10</sup> Within the Ancient Greek framework therefore 'individuality has the meaning of *self-consciousness* in general, not of a particular, contingent consciousness'.<sup>11</sup> This is the society, referred to in the introduction, in which marriage partners recognise the other as 'man' or 'woman' but do not recognise them as particular individuals: 'self-consciousness has not yet received its due as a particular individuality ... it has the value on one hand, merely of the universal will and, and on the other, of consanguinity'.<sup>12</sup> In other words an agent is recognised either as a citizen or a family member but not as an agent distinct from these institutions.

The identification between the Ancient Greek agents and their group is such that Hegel claims that all actions should be attributed to the group even if they are carried out by individual agents: 'as *this* self (the agent) ... is only an unreal shadow, or he exists merely as a universal self, and individuality is merely the *formal* moment of the action as such, the content being the laws and customs which for the individual, are those of his class and station'.<sup>13</sup> Even in death, the agent is not recognised as a distinct and separate entity. The dead agent is the locus of complex burial rites in which their identity as part of the family is reinforced.<sup>14</sup> '[H]is individuality, his blood, still lives on in the household, his substance has an enduring reality'.<sup>15</sup> Furthermore, even in the absence of such rites the individual agent cannot really be recognised as an individual in their own right since they have ceased to exist: such an agent is a 'departed spirit devoid of a self', 'an unreal impotent shadow'.<sup>16</sup>

The failure of the Ancient Greek society to recognise individual agents as separate to their roles in the family and the state grounds Hegel's appreciation of the

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<sup>9</sup> PhG, §471.

<sup>10</sup> PhG, §475.

<sup>11</sup> PhG, §447. Also see PhG, §476.

<sup>12</sup> PhG, §464.

<sup>13</sup> PhG, §468.

<sup>14</sup> PhG, §452. This custom is integral to Hegel's conception of Greek life and his interpretation of Sophocles' play, *Antigone*, with which the section on ethical life is strongly associated.

<sup>15</sup> PhG, §462.

<sup>16</sup> PhG, §477 & PhG, §45.

concept of the agent as a 'person'. Central to the concept of personality is the notion that an agent is an individual entity: agents 'have the value of selves and substances, possessing a *separate* being-for-self'.<sup>17</sup> It is the idea of the agent as separate and logically prior to society and social institutions that is explored in 'Legal Status' (Imperial Rome). The agent is presented as a self-sufficient atom that is wholly independent of society. The agent is conceived of as wholly separate to the social context that is constructed out of the logically prior concept of individual agent. Society is given a wholly instrumental justification for its existence; to protect the person from any infringements that might be made against them as persons. Society is merely an aggregate of such agents drawn together through the need to protect themselves against each other and to maintain their rights as persons. The agent is concerned to protect their individual existence and are resistant to any social bonds or institutions that would violate their identity as separate and distinct from others. He describes agents of this society as possessing a 'rigid and unyielding' sense of self.<sup>18</sup> Hegel clearly states that the social recognition of an agent as an abstract individual entity first occurred in Rome: '[t]he course of Roman history ... involves the expansion of undeveloped subjectivity - inward conviction of existence - to the visibility of the real world ... The development consists in the purification of inwardness to abstract personality.'<sup>19</sup> As in legal society, the agent is recognised as an abstract will; 'the inherent freedom of the abstract Ego, which must be distinguished from individual idiosyncrasy'.<sup>20</sup> Hegel also refers to the abstract individual of Roman society as a 'person': 'subjectivity ... is further realised as Personality of Individuals - a realisation which is exactly adequate to the principle, and is equally abstract and formal'.<sup>21</sup> I will therefore also use Hegel's discussion of this society in his lectures on the *Philosophy of History* to clarify his more abstract discussion of society in 'Legal Status'.

The law in 'legal society' treats these agents as persons insofar as it is uninterested in what makes them distinct agents (their particular age, height, occupation, etc.). All such agents are all equal in the eyes of the law as they are equally abstract individuals and 'person' is primarily a legal concept which only refers to those agents in society which meet certain legal requirements and who thereby have certain legal rights and duties. Thus, 'personality' is treated as a socially constructed category and it is extended to agents as a socially constructed attribute, like peerages, rather than an

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<sup>17</sup> PhG, §477, my emphasis.

<sup>18</sup> PhG, §478.

<sup>19</sup> VPG, p281.

<sup>20</sup> VPG, p281.

identity based on a capacity for abstraction that all agents possess. Personality is not a concept that the agents necessarily identify with but see this as the identity they have within state institutions and practices consequently, they do not see membership of society as expressive of themselves as agents. Rather membership of society is a necessary evil and agents have an identity as private particularised individuals that society and the law is uninterested in. Therefore, there is a sharp division between the public and private aspects of the agent. As such this society is already presented as one in which agents will struggle to be '*bei sich*' or enjoy substantive freedom.<sup>22</sup>

In contrast, 'Absolute Freedom' (French Revolution) presents agents that identify with the concept of 'person'; this is how they conceive of themselves. Consequently, there is no sharp distinction between the public and private aspects of agency. Agents have a more optimistic attitude towards society and believe its institutions and practices can be altered so that they are expressive of themselves as agents. Thus, agents believe that they can enjoy subjective freedom (qua persons) and that practices and institutions can respect and express this so that they also experience substantive freedom. Thus, they will be wholly '*bei sich*' and free. This attitude and hope is based on the dialectical development that presents 'individual' and 'society' as interconnected concepts. This conceptual structure is an advance on 'Ancient Greek Society' in which there is unity (universal) at the cost of individuality. It is also an advance on 'Legal Society' in which individuality is logically prior and preserved at the cost of genuine unity (universal). In 'Absolute Freedom' the 'individual' (agent) is not seen as logically prior or wholly distinct from the 'universal' nor is the 'universal' prior to or logically distinct from the 'individual'. Rather there is a seamless connection between the two since both are abstract and conceived of as empty of all particularity. There is no way to distinguish between unparticularised agents or persons and this is the basis for a new unified society. This is why Hegel occasionally refers to this period as the real watershed between the ancient and modern worlds. In presenting his discussion of this society it should become much clearer why Hegel rejects 'person' as a concept that can ground a society in which modern agents can be free and therefore why he bases marriage on the 'sacrifice of personality'.

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<sup>21</sup> VPG, pp319-320.

<sup>22</sup> In VR, Hegel notes that his own period and Imperial Rome were 'marked by 'unspiritual subjectivity and subjectivity without thought.''; J N Shklar (1976), p106. This is in keeping with the formal recognition of the person without the self-conscious application of the concept to oneself.



## Section One: 'Legal Status': Personality as a Concept in Law

An important aspect of the conception of the agent in 'Legal Status' is that it recognises agents as *radically distinct and separate* from other objects or selves i.e. as individual entities. As such, it is suggested that it is possible under this new conceptual scheme to refer to just one specific agent, namely '*this*' agent. This is what makes this society a conceptual advance on the Ancient Greek society.

The claim that a society is founded on the recognition of individuality however is liable to be misconstrued. 'Individuality' commonly expresses not only the claim that an entity is distinct and separate to others but also implies that an entity possesses unique characteristics which enables that specific entity, and no other, to be indicated. Hegel refers to the latter aspect of the everyday term 'individuality' as 'particularity'. Importantly, 'Legal Status' concerns the recognition of agents as separate entities but is not concerned with their particularity. As such, the legal society is uninterested in what makes the individuals distinct, for instance their different abilities, desires, needs, interests, goals, circumstances, etc.<sup>23</sup> The term 'person' refers to this conception of the agent as simply an individual entity after all that is particular to that agent has been abstracted. As a 'principle of *isolated* individuality ... the subjective will is merely a formal determination - a *carte blanche* - not including what it is that is willed'.<sup>24</sup> What is 'particular' about an agent is allocated to the private aspect of agents; society is only concerned with the agent's public, abstract identity which is distinct from any distinguishing commitments or characteristics they have.

At this stage in the dialectic, the concept of the 'person' wavers between the pure, infinite will and the finite independent will with the capacity for abstraction described in chapter one. Hegel describes this separate agent or person as 'independent'. The term independence has two main connotations in Hegel's philosophy. Firstly, independence refers to the character of the person's will as separate to any determinate content, particularly 'given' content such as desires or habits. The will is conceived of as prior to and distinct from any content the will takes on and as such it need not (allegedly) retain or take on any particular content in order to exist as a will. This use of the term 'independence' is therefore linked to the formal infinitude of

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<sup>23</sup> PR, §34-35. This section therefore bears some similarities to the opening section of PhG, 'Sense-Certainty', which presents an account of individual objects being picked out simply in virtue of being distinct objects, a 'this', without reference to any of the properties of that object.

<sup>24</sup> VPG, p48, my emphasis. Also see PhG, §477. This concept of the agent has more recently been employed in Contractarian conceptions of society in which agents, stripped of all that is particular to

the will. The other connotation implicit in characterising the person's will as independent is that their will is presented as self-reliant or self-supporting. As such it is claimed that the person is a concept of an agent which can be described without reference to the existence of other objects or agents. A person exercises their will without reference to any other agent or institution. They are therefore self-interested and have not made any commitment to another agent that they must take into account in their decision-making: 'the independent consciousness whose essential nature is to be for itself' which 'does not attach its being to anything that exists'.<sup>25</sup> Thus, an important way in which this independence is evident in the legal society is that agents are not defined in relation to group membership, as is the case in Ancient Greek society. A Greek agent's identity is dependent on other entities because they conceive of themselves as family members or members of this city-state. Their identity will only be fulfilled in a world where there are other agents who relate to them as family members or citizens of a city-state. In contrast, such commitments are unimportant in the legal concept of the agent as a person who is simply defined as a separate, distinct, will. Central to legal society is 'the recognition of the independent dignity of the social unit - not on the ground of the display of life which he possesses - in his complete individuality - but as the abstract individuum'.<sup>26</sup>

As mentioned above, a distinct feature of this society, which ensures that an agent is recognised as an abstract will and not a particularised will, is the public/private distinction. Hegel's characterisation of Roman society emphasises this distinction: the society exhibits 'the extremes of *personal* or private self-consciousness and *abstract universality* ... in which all individuals sink to the level of private persons with an *equal* status and with formal rights'.<sup>27</sup> He also comments on Rome's excessive respect for law and the formal objectification of subjectivity: '[t]he general course of the Roman world may be defined as this; the transition from the inner sanctum of subjectivity to its direct opposite [its objectification in law] ... which ... does not appear as an element of corruption, but is demanded and posited by the principle itself'.<sup>28</sup> Thus the abstract and formal nature of the 'person' supports the public/private distinction.

### Legal Personality, Property Rights and the promise of a new kind of Freedom

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them, agree on the principles on which society should function. For instance Rawlsian agents behind the 'veil of ignorance'; Rawls (1973).

<sup>25</sup> PhG, §189 & PhG, §479.

<sup>26</sup> VPG, p317.

<sup>27</sup> PR, §357. Also see VPG, pp308-9.

<sup>28</sup> VPG, p281.

The focus on agents as distinct from their family and societal roles promises a new kind of freedom, a freedom in which the individual is not 'lost' or subsumed in the social institutions in which they play a part, unlike ancient Greek society. Central to this freedom are rights and the transition of the person as an infinite, pure will to one which is independent and finite insofar as they actualise their rights and become owners of property.

Roman culture's attempts to actualise personality took the form of the (eventual) abolition of class-related privileges and its commitment to identical personal rights for all *citizens* which were enshrined in law.<sup>29</sup> Initially there was also a commitment to a form of democracy in which agents voted according to their class.<sup>30</sup> The Roman society, like the legal society, is described as consisting of separate, independent persons. Together these 'atoms' comprise a society but Hegel emphasises that this society is completely dissimilar to the unity between agents found in the Greek society. The Roman society is an 'unspiritual unity'<sup>31</sup> in which agents have recourse to the state only for the security of their personality.

As explained in chapter one, it is essential for agents to be able to actualise their agency and be recognised. In this society agents must be recognisable as persons so that their identity is stable. As such they are not alienated and so could be free. However, legal society's emphasis on individuality, which excludes any particularisation, greatly restricts what can be said about the legal person and consequently the degree to which a person can be recognised. In contrast to the Greek agent's detailed character comprising the duties and sentiments appropriate to their role in the group, all that can be said of a legal person is that they are an ego from which all content has been abstracted. Hegel thus refers to 'the sheer *empty unit* of the person'.<sup>32</sup> Such an abstract entity cannot be directly recognised by other agents as they can only recognise a particularised entity. For example, an agent in conversation with a 'person' will not directly relate to the other agent as a person. Firstly, the agent does not actually interact with the 'abstract person' but a being with a determinate physical appearance,

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<sup>29</sup> As noted earlier, citizenship and the status of 'person' was not automatically extended to all and women and slaves were automatically precluded from having this status.

<sup>30</sup> See VPG, p297. It is unclear whether the votes of the different classes had equal weight. The text suggests that votes were weighted simply according to the size of the class in question which would suggest that the votes were proportional to the number of voters and were therefore equal. Again, these rights were not extended universally since there were still slaves and women who did not have such rights.

<sup>31</sup> VPG, p307.

<sup>32</sup> PhG, §480.

for example, a human of medium build, red hair, freckles, etc. Secondly, the content of the interaction will particularise the agent. The agent will not be an unrestricted will, but one which has certain beliefs, such as the health-benefits of eating chocolate, or who has committed certain actions, such as having eaten a Mars bar. On both counts, the interaction will present the agent as a particularised entity and this, rather than the personality of the agent, will be recognised. As such, direct recognition from another agent cannot reinforce the concept of the agent as a person.

If the agent's sense of personal identity is to transcend the stoic form of identity then they must actualise their identity and this requires that other agents recognise the person as a person.<sup>33</sup> The person is only recognisable however if the agent takes on a tangible form in the social world and this requires that they take on a particular content. In other words, personality can only be actualised if the self abandons indeterminacy and become a determinate thing. In taking on a particular content the will is no longer abstract and infinite but particularised, dependent on that particular content and finite. As such, the agent will still not be recognised as a person but as a particular, contingent being. The only way that the agent can preserve their identity as a person is to refuse to commit themselves to any particular choice, goal, action or conception of the self. As such, Hegel refers to the person as an essentially negative conception of the self in that its identity consists in its refusal to take on any content.<sup>34</sup> If the agent refuses to be a determinate thing, and holds fast to their identity as an empty, infinite being, their personality is not actual and embodied in the world. As noted earlier, the absence of actualisation confines the agent's personality to the unsatisfactory stoic form of consciousness.

However, the legal society is initially presented as one which can offer recognition for agents as 'persons' without recognising them as particular agents. This is achieved through the medium of rights, particularly the right to property.<sup>35</sup> Ownership creates the opportunity for other agents to respect the property and therefore the rights of others to private property. This respect is the indirect recognition of the owner as a right-bearing person.

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<sup>33</sup> Stoicism is the conceptual position which rejects the possibility of achieving freedom in the material, socio-political world and valorises 'freedom of the mind'. For more detail on Hegel's view of this see chapter one.

<sup>34</sup> PhG, §477. This negative aspect of personality appears to anticipate the paralysis of the beautiful soul. See PhG, §632f.

<sup>35</sup> The passage leaves it open whether the argument is concerned with the specific right of private property or personal rights in general. Nonetheless, it seems clear that in general the rights of the person need to be acted upon if the agent is to be recognised as a bearer of those rights, and indirectly recognised as a person. I will assume however that Hegel is concerned with the right to private property in particular since this fits with his emphasis on the importance of this particular right elsewhere. See PR, §41f.

At this stage though the question whether such rights really offer recognition of the agent as an unparticularised entity re-emerges. It seems possible that far from enabling the recognition of the agent as a person, a system of property will in fact ground recognition of the agent as a being with a contingent character or content. The property of different agents will vary and will be highly contingent given different innate resources and circumstances. If therefore, the agent seeks to define themselves through their property they will be defined and recognised in terms of the particular property they own, for instance as the ‘owner-of-this-red-car’, the ‘owner-of-this-computer’, etc. In other words the actual property that is owned by any agent will particularise the agent and they will lose their character of being an independent, contentless will or ego. As such they have lost their status as a person. Thus, in acting to actualise their status as a person, a being with rights, the agent loses their personality.

Hegel claims however that ownership does not particularise the agent and therefore can ground recognition of the agent as an unparticularised, independent entity and this is because the emphasis is on the *right* to property and not the property itself. Thus, it is not the case that I should be recognised as the ‘owner-of-this-deluxe-mansion’, or the ‘owner-of-this-cosy-cottage’ but simply that I should be recognised as an owner of property. The reason for this is that property is an abstract concept which can apply to any object including objects external to the agent, as in the case of land or capital, or in the form of an agent’s own skills or talents.<sup>36</sup> In addition, property is not a permanent feature of an agent. It can be acquired, exchanged, estranged, etc. As such, what is important in property is that it can be seen as ‘mine’, the object that it refers to is unimportant for the recognition of me as a person. Whilst this indifference to the object owned might be difficult to achieve in the case of direct recognition, it seems achievable in the case of indirect recognition through rights and the law.

The legal society therefore offers the possibility of indirect recognition of personality through the abstract medium of rights, particularly the right to property: ‘abstract personality ... gives itself reality in the existence of private property’.<sup>37</sup> In ‘Legal Status’, agents possess rights simply in virtue of being distinct, separate entities and only such beings possess rights: ‘the right of the person is not tied to a richer or more powerful existence of the individual as such ... but rather to the pure One of its abstract actuality’.<sup>38</sup> This means that rights distinguish persons from non-persons. Furthermore, insofar as an agent’s rights are respected they are acknowledged as

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<sup>36</sup> PhG, §480.

<sup>37</sup> VPG, p281. See PhG, §478, on the importance of recognition in legal society.

persons. For example, insofar as I recognise a chocolate bar as being your property and refrain from eating it, I (indirectly) recognise you as an owner of property, a being with rights and therefore a person. It is important to notice that rights need to ground the recognition of agents as abstract, empty, persons and not the agent as a particularised entity. To enable this property rights in the legal society are the same for all agents regardless of what or how much they own.

The abstract nature of personality ensures that all agents possess the same empty and abstract identity. Although personality emphasises the individuality of the agent, it simultaneously expresses a universal aspect insofar as all persons are simply 'I'.<sup>39</sup> This shared identity grounds equality of rights in the legal society.<sup>40</sup> Hegel does not offer an explicit argument to explain the connection between personality and equality. Indeed, in the *Philosophy of Right*, he simply states that it is uninformative to say that persons are equal, that such a statement is an empty tautology.<sup>41</sup> It might be argued however that the highly abstract and universal nature of personality ensures that it is impossible to discriminate between agents. Furthermore, any discrimination between agents, for example in awarding a select group of agents an additional right, would be to particularise those agents and therefore recognise them as particularised entities and not as persons. Thus, since agents are identical qua persons they each possess the same rights regardless of their circumstances, needs, desires, etc.<sup>42</sup>

### The Failure of Legal Personality

However, Hegel is at pains to explain that this promise of a new kind of freedom is unstable and that such a society is internally flawed by its basis on the concept of the 'person'. The flaws in this concept of agency and society are two-fold. Firstly, by focussing on only public conceptions of agency (through formal rights and the law) without engaging the agent's own sense of their identity, the agent cannot become '*bei sich*' and therefore will be alienated and unfree. Secondly, the emphasis on abstraction

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<sup>38</sup> PhG, §479.

<sup>39</sup> See PR, §35 & PR, §209R. Elsewhere Hegel uses this shared identity of persons to argue that the concept of 'personality' is insufficient for a conception of agency. This inadequacy is revealed in its failure to satisfy the claims that it makes about itself. The claim that it fails to satisfy is the ability of personality to recognise the individuality of the agent such that a specific agent could be indicated: they could be referred to as 'this' agent. This claim fails because personality's abstract nature, common to all agents makes it impossible to distinguish between agents since all are identical. As such it is not possible to successfully refer to just one specific person without reference to any other. Thus, recognition of individuality without reference to what makes individuals distinct or particular is doomed to failure.

<sup>40</sup> PhG, §477.

<sup>41</sup> PR, §49R.

and independence leads to a conflict between the need for other agents and recognition, and the rejection of this need as compromising their identity as an abstract, independent being. These flaws destabilize this society as I explain in more detail in the subsections below.<sup>43</sup> These tensions reinforce Hegel's commitment to develop an account of societal institutions which are not founded on 'personality'.

#### (1) Formality, Alienation and the Absence of Substantive Freedom

Legal society is clearly different from the Ancient Greek society. It is not an organic unity in which agents are only identifiable as members of social groups. Rather, legal society is described as 'a mere multiplicity of individuals' or 'personal atoms'.<sup>44</sup> A further important distinction between these two societies is the extent to which private conceptions of the self play a role in their conceptual schemes. In the Ancient Greek framework an agent's self-conception is important to society. Greek agents identify with their social roles and institutions and they conceive of themselves as members of the social institutions. As such, self-identity mirrors the way in which 'society', in the form of the laws and institutions, might be said to conceive of agents. This is important since this grounds the harmony or absence of alienation that Hegel claims is the inherent and most attractive feature of the Ancient Greek form of life. This harmony and substantive freedom is only possible if self-identity is taken seriously as a component in the conceptual structure of society.

In contrast, legal society, as might be deduced from the title, is primarily concerned with the agent from a legal point of view. As such, the concept of the agent as an individual entity is one posited in the laws of society and agents are recognised as individual entities primarily in the way that the law is applied to them i.e. as right-bearers. The extent to which agents conceive of themselves or other agents as individual entities is unexamined and unimportant in this society. There is no suggestion in this section that 'society' need concern itself with agents' self-conceptions which are beyond the law. The emphasis on the legal status of agents which minimises the role of self-identity reinforces the notion that this society conceives of agents simply as individuals without reference to what makes them *particular* individuals. So it is not the case that legal society does not contain social groups such as families, but that

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<sup>42</sup> PhG, §479.

<sup>43</sup> In PR, Hegel offers more direct arguments about the inadequacy of 'personality' as a conception of the human agent.

<sup>44</sup> PhG, §477 & PhG, §481.

membership of such groups is unimportant from the point of view of law and this society. Similarly, the extent to which there is a sense of identification between agents, a sense of community, belonging or membership is also unimportant in this conception of society in which agents are recognised simply as separate individuals. Moreover, this society cannot recognise these relationships without compromising the formal recognition of the agent as an unparticularised individual.

Self-conceptions are conceived of as part of a private realm beyond the scope of public 'society'.<sup>45</sup> However, this public/private distinction creates great scope for alienation and for an agent to fail to see society as expressive of who they are. As such, they cannot be '*bei sich*'. This dichotomy between public and private conceptions of agency is strikingly brought home in Hegel's discussion of the Roman father. A Roman father may conceive of himself as a loving father, however in law he was the owner of his children, with the right to sell and even kill them.<sup>46</sup> Society and the law do not recognise that father as a loving father and as such that father will be alienated from his society and not '*bei sich*'. This alienation is further reinforced by the purely instrumental justification for belonging to society. 'Membership' of society is endorsed as a framework in which agents could then pursue their interests and enjoy their freedom. If this is the case then agents will not feel fully 'at home in the world' because they will see the private sphere, as opposed to social institutions, as the arena for freedom and self-satisfaction. Society is therefore seen as a necessary evil, an imposition on an agent's freedom that grounds the possibility of freedom from interference from others; but society is not an institution that is welcome in its own right. Thus, Hegel claims that Rome's excessive formality engenders alienation because agents cannot see social institutions and the law as expressive of their self-conceptions.<sup>47</sup>

## (2) The Abstract Will of the Person and Caprice

In 'Legal Status', personality is presented as flawed because the abstract will can not see any content as truly expressive of itself. As such, the will's content is presented

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<sup>45</sup> Such a distinction between public and private is absent in the Ancient Greek society in which self-identity mirrors the public conception of agents. As we shall see, it is also absent in the other passage I will discuss. 'Absolute Freedom and Terror.'

<sup>46</sup> PR, §43R & PR, §180R.

<sup>47</sup> VPG, p312. Interestingly, however, Hegel seems to suggest that the conception of the self as separate and distinct may have been a personal conception of the self which affected all relationships including those in the family. Family relations displayed 'a selfish hardness ... severity, dependence and subordination': VPG, p286.



as a matter of arbitrariness or capriciousness. This flaw is grounded in the will's commitment to preserving its independence and purity: what counts as absolute, essential being is self-consciousness as the sheer *empty unit* of the person', the 'completely empty form of being-for-self'.<sup>48</sup> This commitment ensures that within the legal society, the agent cannot realise their personality in a way that is expressive of themselves as persons nor can they be recognised as persons by other agents. As such, personality cannot be the foundational concept of a society and any attempt to ground a society on the concept of personality will inevitably fail.

Legal Society offers a conceptual advance on stoicism because there are mechanisms (particularly the right to private property) by which an agent can gain recognition. If an agent does not use these mechanisms then their identity is unrecognisable and their freedom is as limited as the stoics' freedom. Within the legal society the person does appear to take on a more stable identity as an owner, but this remains abstract insofar as what an agent owns is irrelevant from the point of view of society or from their own self-conception.<sup>49</sup> Thus, my ownership of a *particular object*, for example a red car, has no significance for society or for myself as a will. But in virtue of what do I possess this red car rather than a different blue car? I cannot see the buying of a red car as a willed choice since I then commit the will to having a particularised content and undermine my identity as an abstract will. Therefore I must see buying the red car as simply the result of arbitrariness, contingency or caprice. There was no reason for me to buy the red rather than the blue car - it just so happens that I bought the red car. Thus, the content of my will 'belongs ... to an autonomous power, which is something different to the formal universal [the bare, pure, formally infinite will], to a power which is arbitrary and capricious'.<sup>50</sup> The will takes on content but since it cannot be seen as expressive of myself this content is inherently alien to me. I must see objects as 'mine' (to be an actual person), yet what I own does not originate in my will. However this price of alienation is one an agent must pay since if they fail to gain property then they fail to actualise their wills since their identity as pure wills are wholly unrecognisable. Thus, the very mechanism which would actualise the person (rights of ownership) reveals personality to be an insufficient conceptual basis for an account of society. (The will has a content, such as ownership-of-a-red-car, that has not been willed by the agent or seen as expressive of the will of the agent).

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<sup>48</sup> PhG. §480 & PhG. §482.

<sup>49</sup> 'The actual content or the specific character of what is mine ... is not contained in the empty form (mine), and does not concern it.' PhG, §480.

<sup>50</sup> PhG. §480.

‘Consciousness of right ... in the very fact of being recognised as having validity. experiences rather the loss of its reality and its complete inessentiality’ since it does not affect the content that the will takes on.<sup>51</sup>

This explanation of Hegel's dissatisfaction with property rights coheres with his discussion of the failings of Roman society where he claims that the actualisation of the agent as a particularised, contingent entity is the inevitable result of such formal, abstract principles. ‘The element of Subjectivity that was wanting to the Greeks, we found amongst the Romans; but as it was merely formal and in itself indefinite, it took its materials from passion and caprice’.<sup>52</sup> ‘[L]egal personality thus learns rather that it is *without any substance* [empty, no substantial content or content of its own], since the *alien content* [what is willed is the product of caprice, contingency] makes itself authoritative in it, and does so because that content is the reality of such a personality’.<sup>53</sup>

This tension, between an agent's need to see what is willed as expressive of themselves and their commitment to keep the will free from particularity, also fits with his discussion of the unsatisfactory nature of interaction between the ruler of legal society and their subjects in which caprice takes the place of a willed content because of the need to preserve wills as abstract.

Although legal society is committed to equality between agents Hegel claims that a totalitarian ruler will inevitably emerge.<sup>54</sup> The primary reason for this is that an atomistic society can only be held together as a society if there is one powerful cohesive force. If this is the case then the rights and law bestowed and preserved by a society will only be present if there is a totalitarian ruler. (This is particularly true, if agents are conceived of as having a private life and interests beyond the scope of ‘society’ ‘who are accordingly held together only by an abstract and arbitrary will of monstrous

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<sup>51</sup> PhG, §480. Also see VPG, pp320/1.

<sup>52</sup> VPG, p419.

<sup>53</sup> PhG, §482, my emphasis.

<sup>54</sup> He makes a similar claim about the transformation of the proto-democracy of Roman society into totalitarian rule. Despite the presence of the Senate, there was totalitarian rule because the Senate was powerless in the face of the Emperor's demands (see VPG, p314). Hegel claimed that totalitarian rule was inevitable and necessary if the aggregate of individuals, with no commitment to each other or the state itself, was to be maintained: ‘the mutually repellent social units can ... be held together only by despotic power’; VPG, p281. The ‘world-wide sovereignty of Rome became the property of a single possessor. This important change must not be regarded as a thing of chance; it was necessary - postulated by the circumstances’; VPG, p309. The position of the tyrant was relatively stable during times of military conflict. Interestingly, Hegel makes the same claim about the stability of tyrants such as Robespierre during the French Revolution in the face of Prussian counter-revolutionary forces. See Pinkard (2000), p200. This also fits with Hegel's ‘appreciation’ of war as a unifying force of a society: see PR, §324.a; Nederman (1987).

power'.<sup>55</sup>) The ruler, like all agents in the legal society, must preserve themselves as an independent, empty will and gain recognition as such in order to be an actual person.

The ruler of society is presented as an occupier of a formalised role which initially appears to preserve the ruler's abstract will as unparticularised. As such, the relationship between ruler and ruled seems to offer the possibility of indirect recognition between the ruler and their subjects as persons. If the ruler respects the rights of subjects especially the right to property then the ruler recognises them as persons. Correspondingly, Hegel seems to suggest that if the subjects obey the commands, laws, and decrees of the ruler then the ruler is also recognised as an abstract will or person.

Once again the commitment to preserving the abstract and empty will undermines this medium for recognition. Despite the conception of the ruler as absolute and omnipotent, the ruler cannot commit themselves to any particular course of action if they are to preserve themselves and gain recognition as a person. The tension between capacity and the need not to employ that capacity results in self-obsession and the inability to make any decision or choice: 'their impotent self-consciousness is the defenceless enclosed arena of ... tumult'.<sup>56</sup> This inability to act ensures that the personality of the ruler is given no opportunity for recognition by other agents. As such, Hegel claims that the bearer of such an impotent will possesses only the potential for personality and is not actually a person.

This worry might be addressed by the suggestion that all that is essential in the behaviour of the ruler is that actions originate in the ruler themselves. That is to say, we might think of the 'acts of the ruler', just as we think of 'property', as an abstract concept which is not tied to a specific content. This is unsuccessful however because as we saw in the case of property rights, this move blocks the particularisation of the agent (the ruler) but reveals that luck, caprice and contingency explain the will's content rather than the action of the will itself. If all that is required is that the will gains content of some sort then there is no constraint placed on this content. There is no need for decisions to be justified or a coherent long-term plan to be executed. Hegel therefore claims that the ruler performs extreme acts that can only be seen as the product of caprice or contingency if the ruler's identity as a pure will or person is not to be undermined.<sup>57</sup> It is plausible that Hegel was thinking of the behaviour of some of the

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<sup>55</sup> PR, §357.

<sup>56</sup> PhG, §481.

<sup>57</sup> PhG, §481.

Roman Emperors which he describes elsewhere as self-indulgent and capricious.<sup>58</sup>

Political decisions were arbitrary and influenced by factions who gained power through flattery and violence and Hegel would claim that this was inevitable given the society's conceptual basis. 'Individual subjectivity thus entirely emancipated from control, has no inward life, no prospective nor retrospective emotions, no repentance, nor hope, nor fear - not even thought; for all these involve fixed conditions and aims, while here every condition is purely contingent. The springs of desire are none other than desire, lust, passion, fancy - in short, caprice absolutely unfettered'.<sup>59</sup>

The only course of action which does seem to confirm and actualise the personality of the ruler and does not demonstrate the incomplete nature of personality is the destruction of anything particularised and structured; for instance, the destruction of particular institutions. In such acts, Hegel seems to suggest that the pure emptiness of the will acts to destroy particularity and that as such the will might be recognised as the pure, independent will of the person. Such a 'self is a mere laying waste of everything'.<sup>60</sup> He claims however that such a course of action is self-destructive and 'is really the abandonment of its own self-consciousness'<sup>61</sup> because such destruction completely rules out the possibility of being recognised and actualised as a self-conscious being or person. The ruler is again reduced to the stoic form of consciousness. Just as in the case of property, therefore, there is difficulty in actualising personality in a way which enables the will's content to be expressive of the agent and yet allows the agent to be recognised as an unparticularised, independent entity.

### (3) Independence and the Need for Recognition

The final problem that Hegel details consists in the impossibility of actualising a will that presents itself as wholly self-reliant and whose existence is held to be independent of the existence of all other entities. According to Hegel, actualisation of an identity requires that an agent is recognised as possessing that identity. As noted earlier, legal status primarily offers indirect recognition through the medium of the law and rights, particularly the right to property. Hegel claims however that the need for even indirect recognition is in conflict with personality's commitment to independence

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<sup>58</sup> VPG, p309f.

<sup>59</sup> VPG, pp315-6. See Hegel's discussion of the relationship between Master and Slave, the impossibility of either achieving recognition as an isolated, separate individual and its conceptual link to stoicism (PhG, §178f and my discussions of this in chapters one and three). The replay of the Master-Slave dialectic in the Roman culture is further reinforced by the development of stoicism in this period, see VPG, p317.

<sup>60</sup> PhG, §482.

and that implicit in legal society is 'the contradiction of a consciousness which is at once independent and dependent'.<sup>62</sup> What this means is that the agent can retain the commitment to independence but will confine their personality to the stoic unactualised sense of their own identity or they can sacrifice the commitment to independence but this will violate the independent nature of personality. Legal society pays lip-service to the notion of reciprocal recognition insofar as the abstract nature of personality ensures that all selves possess the same identity and that this identity is recognised by law. In essence however such recognition is unattainable since persons are unable to recognise the need or value of the existence and recognition of others: 'they exist ... in a merely negative relationship ... to one another'.<sup>63</sup> Again this conceptual tension destabilizes the society.

The main example that Hegel employs to reveal the tension between the irreconcilable commitments to independence and dependence focuses on the figure of the ruler of the legal society. Hegel suggests that a totalitarian ruler has the capacity to become the one true person in the legal society. The ruler stands in a position of power against their subjects and is presented as wholly distinct, separate and independent.<sup>64</sup> Therefore, providing that they are recognised as simply an individual without any vestige of particularity, the ruler has the capacity to be the quintessential person: '[t]his lord and master of the world holds himself ... to be the absolute person, at the same time embracing within himself the whole of existence, the person for whom there exists no superior Spirit'.<sup>65</sup>

Hegel claims however that this claim of complete independence is unfounded and that such independence is unattainable. If the ruler was truly independent of their subjects then the ruler could exist as a person independently of the existence of any other selves. Hegel denies that this is possible and claims that personality of the ruler is only actual given the presence of other selves who acknowledge the personality of the ruler: they 'constitute the real authoritative universality of that person'.<sup>66</sup> The ruler is therefore dependent on the recognition of their subjects and this is contrary to the independent nature of personality. Hegel suggests that the ruler may attempt to become independent of their subjects' recognition by destroying their own subjects.<sup>67</sup> The

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<sup>61</sup> PhG, §482.

<sup>62</sup> PhG, §480.

<sup>63</sup> PhG, §482.

<sup>64</sup> PhG, §481.

<sup>65</sup> PhG, §481.

<sup>66</sup> PhG, §481.

<sup>67</sup> PhG, §482. This is reminiscent of the frustration and actions of the agent in Hegel's discussion of desire which I discuss briefly in chapter one under the heading 'Recognition'. This agent unsuccessfully

absence of other agents however will also frustrate the actualisation of the ruler's personality. In the absence of other selves who acknowledge their personality, the ruler's personality is only a self-conception and is not actual: the truly 'solitary self is in fact, an unreal, impotent self'.<sup>68</sup> As already noted the stoical form of consciousness is an unactualised identity that is unstable and unsatisfactory.<sup>69</sup>

Not only does this dilemma prevent the recognition of the ruler as a person but it also undermines the recognition of the subjects as persons. Clearly, agents are not recognised as persons by the action of the totalitarian ruler even if the ruler claims to acknowledge personal rights. In reference to Imperial Rome, Hegel is at pains to point out that despite an emphasis on individual rights and the preservation of 'all the external forms of the Republic', the Roman state is 'a compulsory condition of subordination'.<sup>70</sup> Roman citizens were only equal insofar as they possessed a uniformly subordinate status in relation to the reigning despot.<sup>71</sup> Agents were not recognised as independent, separate individuals by the Emperor and they possessed no real rights. 'That private right is ... ipso facto a nullity, an ignoring of the personality ... Each person is, according to the principle of his personality, entitled only to possession, while the Person of Persons lays claim to the possessions of all these individuals, so that the right assumed by the social unit is at once abrogated and robbed of all validity'.<sup>72</sup> That is to say the illusion of property rights was maintained but in reality the Emperor could lay claim to any property as he chose. Moreover the right to existence or life was also breached by the ruler. Even if Imperial Rome is not a historical correlate of 'Legal Status', Hegel would argue that a totalitarian ruler is both necessary to preserve this society and its rights whilst simultaneously undermining the possibility of genuine, inviolable, personal rights.

The tension between the commitment to independence and the need for actualisation present in the ruler is mirrored in the interaction between agents in the legal society. The only difference between the ruler and their subjects is that the ruler's sense of separation and independence from other selves takes on a more concrete and actualised form through the imbalance of power. In their identity as persons the subjects also emphasise their independence from other agents. As such, they seek to

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tries to achieve a stable identity without recognition from other selves by acting on objects in the world. To prevent them being independent of their will and a threat to their identity the agent is compelled to utterly negate their independent existence by destroying them. See PhG, §173.

<sup>68</sup> PhG, §481.

<sup>69</sup> Again this is reminiscent of the master/slave dialectic albeit played out in the context of a society.

<sup>70</sup> DV, p196 & VPG, p284.

<sup>71</sup> VPG, p299 and VPG, p315.

<sup>72</sup> VPG, p320.

maintain and actualise this identity without reference to any other agent and they thereby rule out the possibility of receiving recognition.<sup>73</sup> Persons are also unable to recognise the personality of other agents. Although all agents are identical in being 'I's, the person of legal society seeks to deny this similarity because such similarity would undermine their sense of being distinct and separate. The person is therefore unable to offer unsolicited recognition to another agent because this would amount to identifying with the other, thus undermining their personality. In effect therefore persons can only attempt to acknowledge their own identity as persons.<sup>74</sup> Thus, even if the ruler could legitimately accept the recognition of their subjects such recognition would be absent in the legal society. The recognition of the ruler as a person would amount to identifying with them and thereby the subjects would sacrifice their separate and independent identity.<sup>75</sup> In the legal society therefore agents 'withdraw into the certainty of [their] ... own self' and 'exist merely in a negative relationship, both to one another and to him who is [potentially] their bond of connection or continuity [i.e. the ruler]'.<sup>76</sup> The promise of actualised personality that was offered by legal society is therefore revealed to be unachievable.

The legal society is founded on the public conception of the person or infinite, self-reliant will. The passage, 'Legal Status' however reveals that this is a flawed foundation for a society. The agents of society cannot be recognised as persons within this society. They can only be recognised as particularised entities with a willed determinate content or they can be recognised as abstract wills but only insofar as their content of their will is seen as the product of caprice or contingency. There would be totalitarian rule by an agent whose only coherent aim, qua person, is the destruction of the structure of society and who would feel a pressure to destroy their own subjects. Any attempt to act in a more constructive manner lays the ruler open to particularisation and this can only be avoided if they do not see their decisions as expressive of their will. Neither option allows the ruler to be recognised as a person. Hegel adds that the legal society would be disorganised and unstable since the commitment to indeterminacy or the role of contingency will prevent any particular structure being established and

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<sup>73</sup> PhG, §468.

<sup>74</sup> This negative relationship and failure to recognise the individuality of others is also played out at the level of the state which fails to recognise other states as existing in its quest for an empire. As such it undermines the possibility of receiving recognition as an individual state. See VPG, p308.

<sup>75</sup> PhG, §482.

<sup>76</sup> PhG, §477 & PhG, §482. Interestingly, this indifference is briefly mentioned in the master/slave dialectic as one possible outcome of the conflict in which the need for reciprocal recognition is denied and agents 'leave each other free only indifferently, like things', PhG, §188.

maintained. Likewise Hegel maintains that the society could not maintain any plan or course of action. Even if any institution is established or a particular goal is achieved, the legal society is committed to viewing this result as contingent and not expressive of what it should be, namely indeterminate. Consequently, the legal rights which are the alleged medium through which the agent should be recognised as a person are unstable or non-existent.

Thus, insofar as ‘person’ is a purely legal category Hegel rejects it as a basis for societal institutions in which agents can be free. This seems to support his commitment to institutions, such as marriage, as grounded on the ‘sacrifice of personality’ because he sees and presented ‘personality’ as internally flawed.

In the next section, I consider Hegel's discussion of ‘Absolute Freedom and Terror’. This society offers a conceptual advance on ‘legal society’ in the absence of a public/private distinction and the treatment of the concept ‘person’ as a self-conception of agents as well as a legal concept. It therefore promises to be a society in which agents can be ‘*bei sich*’. However, as will be seen below, this society avoids this problem of alienation, but the connection between the abstract will of the person, instability and destruction is further reinforced.

## **Section Two: ‘Absolute Freedom and Terror’: Personality as an Identity and the Basis for Social Institutions**

In this section, I will consider Hegel's rejection of the concept of ‘person’ as a basis for a society when it is employed as a term for an agent’s self-identity as well as the legal conception of the agent and the basis of society. This congruence does enable this society to offer a greater chance for agents to be ‘*bei sich*’ than the society outlined in ‘Legal Status’. My main focus in this section is Hegel's discussion entitled ‘Absolute Freedom and Terror’ which is also in the *Phenomenology of Spirit*, however, I will also use Hegel's discussions of the French Revolution and the Terror with which this passage is strongly associated, to clarify this passage.<sup>77</sup>

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<sup>77</sup> The Terror (September 1793 - July 1794) was the period of the French Revolution in which the ruling Jacobin faction, dominated by Robespierre, ruthlessly executed opponents and anyone else considered a threat to their regime (especially the more moderate Girondists). It ended with the fall and execution of Robespierre, but in Paris alone more than 1,300 people were guillotined in just the last six weeks of its regime. Executions also took the form of drownings on a massive scale. The link between the historical events and this passage are suggested firstly by the fact that the term ‘Terror’ appears in the title of the section and he refers to the bloody aftermath of the French Revolution as the Terror in PR. §5a. Secondly, the Terror exhibited instability of government, death on a massive scale and justice dispensed



Once ‘personality’ is employed by an agent to describe themselves the concept evolves to take on new features. In particular the hallmark of the new concept is that the agent is conscious of themselves as a person: they are *self*-consciously aware of their capacity for abstraction, their identities as wills and their potential to be free. Insofar as the agent conceives of themselves as a person they are aware of the capacity to conceive of themselves without reference to any determinate features of the self, including age, height, location, ends, desires, history, etc.<sup>78</sup> Although the agent recognises that these features can all be attributed to themselves they also have the capacity to see them as inessential to their identity.<sup>79</sup> The result of such abstraction is that an agent conceives of themselves as a pure will, empty of all content. They are aware of themselves simply as an ego or bare ‘I’. ‘[T]he human being can abstract from every content, make himself free of it, ... I can make myself entirely empty ... The human being has the self-consciousness of being able to take up any content, or of letting it go, he can let go of all bonds of friendship, love, whatever they may be’.<sup>80</sup> Consequently, one’s identity as a person is (to some extent) dependent on oneself. Previously, in Legal society, personality was presented as an identity awarded by the state in much the same manner that it might bestow a knighthood. As such, personality has been treated as a matter of status and the arbitrary will of society.<sup>81</sup> Once it is recognised as the product of the human capacity for abstraction however it is (or should be) extended to all agents.<sup>82</sup>

Furthermore, once agents conceive of themselves as persons then freedom becomes a conscious goal. Agents in this society of persons conceive of freedom along broadly existential lines. They need not accept any particular role or characterisation such as might be generated from being in a social environment.<sup>83</sup> For instance, the person need not accept an identity generated by the community, unlike the Greek agent whose identity is grounded in group membership and therefore constructed out of the

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on the basis of suspicion and intention according to the notorious ‘Law of Suspects’. Thirdly, central to the French Revolution was a commitment to the equality of agents conceived of simply as persons, that is independently of any particular features. Lastly a key theme of the French Revolution was the notion that social institutions, including government, should serve the ‘will of the people’ and lacked any independent validity. See J Schmidt (1998) for a fascinating discussion of the inter-relationships between the historical events, Hegel’s discussion of the French Revolution and ‘Absolute Freedom and Terror’.

<sup>78</sup> PR, §34-35.

<sup>79</sup> PR, §37.

<sup>80</sup> PR, note 4, p398.

<sup>81</sup> PR, §40R.

<sup>82</sup> This would therefore imply the illegitimacy of slavery. Hegel unfortunately is not clear on whether an agent is a person if they lack an awareness of themselves as a person. See PR, §35f; PR, §40f & PR, §57f and my discussion on this in chapter three.

<sup>83</sup> PhG, §455.

socially accepted practices and customs which apply to their status.<sup>84</sup> Unlike, the agent in ‘legal status’ their identity as a person is self-generated and acknowledged and not given by the state. Equally, social structures need not be retained on grounds of historicity, tradition, or their reflection of a divinely-ordered hierarchy. The person of ‘absolute freedom’ need not even accept any identity which might be the product of their own past decisions or actions. Hegel thus refers to this society as one in which the agent’s own self-consciousness becomes authoritative since the self-conscious person can reject any characterisation of themselves beyond that of being an ego or will.<sup>85</sup> In this ‘total pure self-reference, [I] ... know myself ... as *infinite, universal, and free*’.<sup>86</sup> Hegel characterises the agents of the French Revolution as ‘human beings, whose essential characteristic is the same, viz. Freedom’.<sup>87</sup> This freedom was unavailable in legal society because agents were not aware of this capacity or, if they were, they did not see it as expressive of their true identity. Furthermore, the only freedom which was available in legal society was relative to an agent’s status and took the form of rights and privileges i.e. seen as granted by society rather than originating in the will of each agent.

The agents in ‘Absolute Freedom’ are also confident that a society can be constructed that coheres with this new identity and freedom. Thus agents aim at nothing less than ‘the revision of its [the state’s] constitution from first principles and purely in terms of thought’.<sup>88</sup> Thus social structures are reconsidered and any given institutions, practices and laws are re-evaluated no matter how traditional their basis. (In contrast consider the Ancient Greek’s Antigone who was obedient to the laws of the family even though she claims they are eternal and asks ‘who knows where the laws come from?’<sup>89</sup>)

A by now familiar consequence of this conception of freedom is that agents see themselves as becoming less free insofar as they limit themselves to a specific choice or role: ‘the individual balks at the notion of committing himself to a particular estate, and regards this as a limitation imposed on his universal determination ... the individual ... see[s] himself as the universal and believe[s] that he would be lowering himself if he

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<sup>84</sup> PhG, §479.

<sup>85</sup> PhG, §483.

<sup>86</sup> PR, §35.

<sup>87</sup> VPG, p444.

<sup>88</sup> Whilst Christianity had flourished under the division between public and private conceptions of the self in Imperial Rome the absence of this division may have contributed to religion playing no significant positive role in the French Revolution. See PR, note 3, p397.

<sup>89</sup> PhG, §437 & PR, §144a.

became a member of an estate'.<sup>90</sup> In other words particularity does not just prevent the actualisation of their identity as a person, it also prevents the agents from being free. The agent thus seeks to actualise themselves as this empty, bare will and seeks to create a society in which all have equal roles in constructing and running state institutions and apparatus. I will start the detailed discussion of this passage with the features of the society that suggest that it offers a conceptual structure for a society in which agents can genuinely become free.

### Personality, Freedom and a United, Harmonious Society

'Legal Status' offers an understanding of what it is to recognise an agent as an individual entity, namely to treat it as wholly distinct and separate. As such the emphasis was on distinguishing the self from other agents and there was no recognition of agents' common identity as persons. The distinction was between myself as an 'I' and other agents, who were simply presented as 'not-I's; there was only a negative relationship between agents. Although other agents were not seen as threats to my identity they were not seen as reinforcing my identity. Indifference, as discussed above, is hardly conducive to overcoming alienation. In addition, the recognition that was offered in 'Legal Status' took place through the medium of rights and the law with no particular reference to the self-conceptions of the agent. As might be expected, this arrangement was also less than ideal in overcoming alienation: the 'human will is emancipated only abstractly - not in its concrete reality'.<sup>91</sup> This is the result of seeing the concept 'individual' as logically prior and distinct from any universal in which all agents participate.

'Absolute Freedom and Terror' addresses both of these issues and therefore constitutes an advance on the 'legal society'. Firstly, central to this stage of 'absolute freedom' is the emphasis on the common identity of persons. As identical 'I's agents recognise that there is nothing which distinguishes themselves from another agent. From this interchangeability of agents, Hegel suggests that agents can harmoniously unite to constitute a collective will, a will of the whole society. This will has the responsibility for determining laws and institutions. Since each agent contributes equally to the formation of this collective will they do not see it as an alien external will but as expressive of their identity as persons. It is expressive of my identity as a person

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<sup>90</sup> PR, §207R.a.

<sup>91</sup> VPG, p333.

precisely because I realise that we are all persons and that the universal will is expressive of this common identity. Consequently, agents do not feel a need to distinguish themselves from other agents and therefore do not see them as alien entities indifferent to their existence. This is possible because the self-conceptions of agents play a central role in this society. Society is shaped according to the collective will that is seen as expressive of the agent's personality and not an alien imposition. Agents conceive of themselves as persons and this is also the public conception of the agent. As such, there is the possibility of a society in which agents 'feel at home'.

Hegel refers to this collective will of the persons which comprise a society the 'universal will'<sup>92</sup> of the 'universal Subject'.<sup>93</sup> This section is rendered particularly cryptic since Hegel does not describe or define the 'universal subject' beyond stating that it is 'pure Notion (*Begriff*)' and 'pure personality'.<sup>94</sup> I believe this is not an oversight, however, but due to the universal will's inherently abstract nature. The universal will is conceived of as independent of nature, society and the divine. Since its content is not based on or derived from any of these spheres the universal will is empty: '[i]t is conscious of its pure personality and therein of all spiritual reality, and all reality is solely spiritual; the world is for it simply its own will, and this is a universal Will [*allgemeine Wille*].'<sup>95</sup> Hence, its complete independence severely limits the extent to which it can be characterised. It cannot be defined in relation to any particular content for any such content is inessential to it; it could have an unlimited number of possible contents. Hegel is forced therefore to define the universal will as simply a pure will or ego since it is pure and unrestricted because it is empty of any determinate content. Clearly, the universal will shares the characteristics of a person. It is not just a question of similarity however, since Hegel describes the universal will as a person. By this

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<sup>92</sup> PhG, §584. I have altered the translation of '*allgemeine Wille*' to 'universal will' rather than 'general will'. This is primarily for reasons of consistency since this will is referred to as 'universal will' in the remainder of this passage. Where I have altered the translation '*allgemeine Wille*' will appear in brackets. It is thought that this passage may be a veiled critique of Rousseau's philosophy, not least because the concept of the general or universal will is a central feature of this passage. This would be to misread this passage, however, because whilst Rousseauian agents conceive of themselves as participants in the general will, they also conceive of themselves as particular agents with their own ends and interests. The Hegelian agents of this passage however lack the second conception. At most therefore, Hegel could be understood to be exploring the notion of a society founded on the general will without one of the most fundamental obstacles to its actualisation in a real society; namely the difficulty in ensuring that agents vote for the good of all and not merely the good of some privileged group. Hegel would be testing Rousseau's assertion that '[i]f there were no different interests, the common interest would be barely felt, as it would encounter no obstacle; all would go on of its own accord, and politics would cease to be an art'; Rousseau (1993), FN, p203. R Wokler argues that Hegel misunderstands and misrepresents Rousseau's position; Wokler (1997).

<sup>93</sup> PhG, §583.

<sup>94</sup> PhG, §583 & PhG, §584.

<sup>95</sup> PhG, §584.

Hegel means to emphasise that the universal will of the society is not an aggregate will (unlike any common will that could be mustered in Legal Status) but somehow indivisible. This indivisibility will only become clear however if we take a closer look at the relationship between the universal will and the wills of the individual subjects within this society.

When the universal will is first introduced it appears to be a conceptual abstraction more empty and refined than even the will of a person. Not only does the universal will lack any determinate content but it is also unconfined to any determinate form because it is not necessarily embodied in any individual or collection of individuals. As such, the universal will is not forced to take on any particular form in the world. Hegel therefore describes the will as a universal which excludes any form of particularity.<sup>96</sup>

This understanding of the universal will does not generate a metaphysical commitment to the existence of a universal subject whose will is the universal will. Rather the universal subject is a conceptual abstraction which a society might employ to describe itself and try to concretise and transform into existence, but one which does not actually exist separately from agents. This highly abstract conception of the universal will would not be actual if it failed to be recognised through taking on a determinate form in society. Thus, Hegel states that the universal will is concretised through the wills of the individuals of society: 'this (universal) will is not the empty thought of will ... but a real universal will [*allgemeine Wille*], the will of all individuals as such ... it is as this genuine actual will that it ought to be, as the self-conscious essence of each and every personality, so that each, undivided from the whole, always does everything, and what appears to be done by the whole is the direct and conscious deed of each.'<sup>97</sup> This relationship between the actions of a group (whole) and the individual agent's responsibility for such action is reminiscent of Ancient Greek society insofar as agents see themselves not as individuals but as carrying out the universal will or law.<sup>98</sup> What makes a person's situation distinct from this is that although their individuality is minimal, the universal will has no content over and above the will of (collective) individuals. This allows persons to shape the universal will unlike the Ancient Greek situation in which the content of the universal was already given independently of the individual agents concerned. Thus the key difference between the ethical Greek society

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<sup>96</sup> PhG, §594.

<sup>97</sup> PhG, §584.

<sup>98</sup> For example, Antigone does not conceive of herself as an individual but as a family member and her actions of those of a family member and not an individual.

and this new account of society is that there is no predetermined particular action that either the agent or the group needs to adopt to maintain their identities. There is nothing 'given' to this will which does not originate in the self-conscious wills of agents.

The common identity of persons ensures that the universal will is not simply an aggregate of individual wills since there is only a limited sense in which persons are individuals. The identity of person does not preserve an agent's individuality since it can be understood to be a universal identity, i.e. one which is common to all. Thus, it might be claimed that persons' wills should be able to harmoniously unite to constitute a universal will. Again, this is not to say that the agents simply passively accept and carry out the universal will because this universal will is nothing over and above its members. Agents, qua persons, conceive of themselves as contributing to and carrying out the universal will rather than as solitary distinct individuals. There is a quasi-democratic arrangement insofar as each individual contributes to the content of the universal will and shapes the content of the universal will. Of course what makes the description of the process as democratic sound strange is that there is no possibility of disagreement but this is due to the minimal individuality of the members rather than the presence of an external will with a substantial determinate content which is imposed on agents. Hence within the society of persons '[t]he antithesis, consists, therefore, solely in the difference between the individual and the universal consciousness; but the individual consciousness itself is directly and in its own eyes that which had only the semblance of an antithesis; it is universal consciousness and will'; '[a]bsolute freedom has ... removed the antithesis between the universal and the individual will.'<sup>99</sup>

Thus, the strengths of this conceptual scheme are grounded in its rejection of an understanding of the universal will as simply as an aggregation of individual wills, insofar as 'aggregation' suggests that the individual wills exist independently and prior to the existence of the universal will. This is misleading insofar as it attributes too strong a sense of individuality to the persons of 'Absolute Freedom and Terror'. In fact, the universal will is indivisible and not reducible to its composite members. This is not because it is some mysterious metaphysical entity over and above the individual wills that constitute it, but because those wills are inherently linked because they are the equally abstract, indistinguishable wills of persons. This allows Hegel to refer to the society of persons as a universal subject with an abstract, indivisible will.

This universal will is as abstract and independent as the will of the person in 'Legal Status'. As such it can take on any particular content. Furthermore, as the will

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<sup>99</sup> PhG. §586 & PhG. §595.

of the society of persons, this will can determine the law, social structures and institutions of society. Social structures are the product of collective human subjectivity and therefore wholly malleable to human ends and needs: ‘the individual consciousness conceives the object as having no other essence than self-consciousness itself, or as being absolutely Notion (*Begriff*)’.<sup>100</sup> This means that agents will not be alienated from the public structure of society because it will be founded on the common will of persons. This conception of society in which agents are conceived of as persons who are capable of collective action offers a unique form of freedom, namely ‘absolute freedom’: ‘[s]pirit thus comes before us as *absolute freedom*. It is self-consciousness which grasps the fact that its certainty of itself is the essence of all the spiritual ‘masses’, or spheres, of the real as well as the supersensible world .... It is conscious of its pure personality and therein all spiritual reality, and all reality is solely spiritual; the world is for it simply its own will, and this is the general will ... the will of all *individuals* as such’.<sup>101</sup> The creative power of human subjectivity to shape the social world is one of the central insights that Hegel attributes to the French Revolution: ‘Anaxagoras had been the first to say that *nous* rules the world. But now for the first time man gets to the point of recognising that thought should rule spiritual activity. So this was a glorious dawn. All thinking beings joined in the celebration of this epoch’.<sup>102</sup> As such, this society, grounded in the concept of agents as ‘persons’, promises complete freedom; subjective and substantive freedom through a social structure chosen, structured and endorsed by agents in which they feel ‘*bei sich*’.

As in ‘Legal Society’ the community of persons must offer a society in which agents’ identity as a person is recognised, respected and therefore stable. The community of persons must therefore be structured so as to recognise and respect agents as identical, independent, unparticularised, agents, i.e. persons. Agents ‘desire to know and find [themselves], not as this particular individual, but only as a universal, and therefore too, would be able to endure the objective reality of universal Spirit, a reality excluding self-consciousness *qua* particular’.<sup>103</sup> This drive for recognition coupled with the commitment to remain abstract wills again leads to the rejection of particularity and destruction that characterised the downfall of ‘legal status’. Before examining the

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<sup>100</sup> PhG, §585.

<sup>101</sup> PhG, §584.

<sup>102</sup> Lectures on the Philosophy of World History (1831); cited by H S Harris (1977), p6.

<sup>103</sup> PhG, §594.

downfall of the society of 'absolute freedom' I will clarify the implicit demands that this conceptual scheme makes on itself.

Firstly, it must be the case that the social structure treats agents simply as persons and not as particularised entities. As such the treatment of one must be identical to the treatment of others. Hegel suggests that such a society must lack or remove any social structure which conceives of agents as particularised entities, for example one which assigns them specific roles within society such as legislator, parent, lecturer, etc. Thus, a society of absolute freedom must offer agents liberation from a 'restricted life' in which the 'activity and the being' of an agent is confined to 'a branch of the whole' and in which they have 'apportioned and limited tasks'.<sup>104</sup> These limited roles are inappropriate to agents with infinite and universal wills and 'personality would have the significance of a specific personality, it would cease to be in truth universal self-consciousness'.<sup>105</sup> The conceptual scheme of this stage in the *Phenomenology of Spirit* appears to ground this freedom because specific social structures have no independent value or importance and are just one of many forms in which the universal will could manifest itself. Social structures need not be respected on grounds of historicity, tradition, or their reflection of a divinely-ordered hierarchy. As such, there is the possibility of eliminating structures which fail to respect agents as persons whilst identifying and establishing those which do. Thus, in the society of absolute freedom agents are offered the opportunity to conceive of themselves not as particularised agents with limited ends, duties and roles but as persons in a community of persons with a responsibility for the whole of society. Hence, 'each individual consciousness raises itself out of its allotted sphere, no longer finds its essence and its work in this particular sphere, but grasps itself as the *Notion* of will, grasps all spheres as the essence of this will, and therefore can only realise itself in a work which is the work of the whole. In this absolute freedom, therefore, all social groups or classes which are the spiritual spheres into which the whole is articulated are abolished; the individual consciousness that belonged to any such sphere, and willed and fulfilled itself in it, has put aside its limitation; its purpose is the general purpose, its language universal law; its work the universal work'.<sup>106</sup>

Secondly, it must be the case that all agents are respected as equal, particularly in their contribution to the universal will. The refusal to become a particularised individual underwrites the claim that agents are all equally and directly involved in the

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<sup>104</sup> PhG, §587 & PhG, §588 & PhG, §593.

<sup>105</sup> PhG, §588.



universal will. Agents cannot be merely represented by another agent in ‘creating’ this will because as such they would be mere particular agents, confined to a limited role and not the work of the whole, the work of the universal. Thus, Hegel speaking for these agents states that ‘[n]either by the mere idea of obedience to *self-given* laws which would assign to it only a part of the whole, nor by its being *represented* in law-making and universal action, does self-consciousness let itself be cheated out of *reality*, the reality of *itself* as making the law and accomplishing, not a particular work, but the universal work itself. For where the self is merely *represented* and is present only as an idea, there it is not *actual*; where it is represented by proxy, it *is not*’.<sup>107</sup> It is only if agents are directly and personally involved in the creation of the universal will that they can be recognised as persons in a society of persons. If they are merely represented then they will not be recognised as a person who has input into the formation of the universal will. They would be seen simply as passive entities with no say in the formation of the will. Furthermore, in differentiating between those who represent and those who are represented, all agents lose their identical, abstract nature and (to some extent) are particularised. In this society, this would prevent any agent from actualising and confirming their identity as persons.

Lastly, agents qua persons are considered to have a sincere interest in the welfare of the *whole community* since their identity prevents them from distinguishing between themselves and other agents, all are simply ‘I’. Agents have a different attitude to each other compared with agents in Legal Society. In Legal Society, agents were indifferent to the existence of others and were only concerned to preserve themselves as a distinct atom. In contrast, in ‘Absolute Freedom’, agents do not see themselves as radically distinct from others. They cannot see themselves as radically distinct. They share an identical nature and it is their acknowledgement of this that gives rise to their hope of a harmonious universal will as the basis of society. Agents cannot care or selectively promote their own welfare or the welfare of a small group of individuals. Such an attitude and behaviour would particularise their wills and articulate the homogenous society into distinct groupings. Given this attitude, agents should not be suspicious of the decisions and actions of others since all should be trusted to promote the welfare without prejudice or favouritism. Thus, Robespierre’s claim to be a ‘voice for the group’ should be accepted by such agents. He should not be seen as a distinct

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<sup>106</sup> PhG, §585

<sup>107</sup> PhG, §588.

individual who might promote the welfare or act in the interests of only a proportion of society.

In keeping with the dialectical presentation of Hegel's system, this society is presented as a conceptual scheme which is stable and one which offers genuine freedom. It putatively offers a genuine conceptual scheme for a society in which agents can be recognised as the entities they are (unlike stoicism). An agent's identity and freedom should not be threatened by the presence of other, independent subjects because they are seen as identical and indistinguishable from itself (unlike the master and slave dialectic or the legal society). Furthermore, it offers an additional conceptual advance on 'Legal Status' because other agents are not indifferent to my identity as a person and so there should be valuable recognition between agents. Finally, private and public conceptions of the self should cohere. As such, an agent's identity should be secure and the agent should not feel alienated from their social world. However, Hegel undermines these promises using the process of immanent critique and claims that these promises cannot be met given the conceptual structure of society. In other words, Hegel believes that the promise of a stable free society cannot be realised and that this can be shown by analysing the conflicting beliefs and commitments present in this conceptual scheme. Once again he attributes the failure of this society to flaws in the concept of the 'person'.

#### The Failure of 'Absolute Freedom' - The Transformation of Freedom to Terror

The first obstacle to the realisation of absolute freedom is the practical problem that not every agent can actually participate in carrying out the actions willed by the universal will. Society would be unworkable if all decrees, all judgements, all laws, etc. required the direct assent of each and every citizen. Furthermore, Hegel seems to suggest that if this was the case then the universal will would not be actualised or recognisable to agents as a universal will. It would appear to be the simply a collection of the arbitrary wills of agents conceived of as individuals rather than as having any universal dimension. The inherent indivisibility and unity of the universal will would not be recognised if it is simply available for recognition insofar as each individual assents to a course of action. Thus, despite his comments about representation and differentiated roles, Hegel states that there must be an agent, or select group of agents, who is responsible for actualising and carrying out the universal will: '[b]efore the universal can perform a deed it must concentrate itself into the One of individuality and

put at the head an individual self-consciousness; for the universal will is only an *actual* will in a self, which is a One'.<sup>108</sup> Hegel refers to this agent or group as the government. This government however does not see itself as having an unlimited mandate for action or as acting unilaterally, rather it sees itself as simply carrying out the universal will.<sup>109</sup> As such, the universal will is embodied as an indivisible will.

The presence of a government however prevents the instantiation of the universal will. Since, all agents are not directly involved in the instantiation of the universal will (i.e. in action) it cannot be held to be a genuinely universal will. Rather it is the will of the government, even if that government believes it is the will of all agents. Insofar as 'all other individuals [non-governmental] are excluded from the entirety of this deed and have only a limited share in it, ... the deed [is not] ... a deed of the *actual universal* self-consciousness'.<sup>110</sup> Direct involvement of all agents is essential for the universal will to be genuinely universal because the conceptual scheme does not allow for indirect involvement as this particularises agents. Hence, Hegel claims that on this conceptual scheme, government will inevitably be seen as a faction. Government 'excludes all other individuals from its act, and ... it thereby constitutes itself a government that is a specific will, and so stands opposed to the universal will; consequently, it is absolutely impossible for it to exhibit itself as anything else but a *faction*. What is called government is merely the *victorious* faction, and in the very fact of it being a faction lies the direct necessity of its overthrow'.<sup>111</sup> Thus the first problem for the instantiation of the universal will is that it both requires and prohibits some form of government.

The second problem for this conceptual scheme is that given the infinite and pure nature of the universal will it simply cannot take on any positive content concerning social structure or law and still be recognised as an infinite, pure will: 'the *universal will* is its *pure knowing and willing* and it is the universal will *qua* this pure knowing and willing'.<sup>112</sup> This means that the universal will is caught in the same dilemma as the will of the person in 'Legal Status'. The universal will can only be recognised if it commits itself to a specific course of action, for example, instituting a particular law. If it does not commit itself to a particular course of action then it is

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<sup>108</sup> PhG, §589.

<sup>109</sup> PhG, §587. An example of this could be Robespierre who was adamant that he was simply facilitating the expression of the universal will and not acting unilaterally.

<sup>110</sup> PhG, §589.

<sup>111</sup> PhG, §591.

<sup>112</sup> PhG, §594.

confined to being the unstable thought or concept of will, rather than an actual will capable of action: ‘this [itself] is its sole object, an object that no longer has any content, possession, existence, or outer extension, but is merely this knowledge of itself as an absolutely pure and free individual self. All that remains of the object by which it can be laid hold of is solely its *abstract* existence as such’.<sup>113</sup> ‘What made the Notion into an existent *object* was its diremption into separate *subsistent* spheres, but when the object becomes a Notion, there is nothing anything in it with a continuing existence; negativity has permeated all its moments’.<sup>114</sup>

Alternatively, if the will commits itself to a specific action and this is seen as expressive of the universal will then the will is only recognised as a particular will, not the infinite, abstract will. If the actions are not seen as expressive, however, then the will is still unrecognised because then it cannot be recognised as the will which chose that act. This is particularly disastrous for the society of persons since the whole structure of society must then be conceived of as the product of contingency and caprice. ‘[I]t [the universal will] cannot achieve anything positive, either of universal works of language or of reality, either of laws and general institutions of *conscious* freedom, or of deeds and works of a freedom that *wills* them. The work which *conscious* freedom might accomplish would consist in that freedom, *qua universal* substance, making itself into an *object* and into an *enduring being*. This otherness would be the moment of difference in it whereby it divided itself into stable spiritual ‘masses’ or spheres and into the members of different powers’.<sup>115</sup>

Like the ruler of ‘Legal Society’, the only action which the universal will can perform, and still be recognised as the infinite, universal will, is the destruction of particular forms of social structures, laws, etc. Thus, whilst it cannot establish any specific form of government, institutions, laws, etc. it can destroy any that exist. Indeed, to be recognisable as the infinite, pure will it must destroy these social structures as its refusal to do so would leave it being defined in terms of those specific structures. Hence, ‘[u]niversal freedom therefore can produce neither a positive work nor a deed; there is left for it only *negative* action; it is the fury of destruction’.<sup>116</sup>

The destructive capacity of the universal will is not only directed towards social institutions and laws. The destructive force is also turned against the individual citizens themselves. Although the individual citizens are stripped of all particular characteristics

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<sup>113</sup> PhG, §590.

<sup>114</sup> PhG, §585.

<sup>115</sup> PhG, §588.

<sup>116</sup> PhG, §589.

which distinguish them, they can still be seen as distinct points of consciousness. There is still a plurality of 'I's even if they are indistinguishable and they are all recognisable as distinct entities in their distinct bodies. As such, the existence of individual citizens also undermines the recognition of the universal will as the universal will, since it is presented as being an aggregate of distinct atoms and not an indivisible, united entity. In effect this is the first characterisation of the universal will which I considered earlier. The original reason for dismissing this characterisation of the universal will was that Hegel expressed the claim that an indivisible universal will could be actualised through the individuals of a society. At this stage however we can understand this claim to be one which is implicitly promised by the conceptual scheme but it is a promise on which it cannot deliver.

Since the universal will requires recognition as an indivisible, united entity it must eliminate the individual, distinct material entities that comprise it. The individual citizens however are already reduced to mere points of self-consciousness, mere 'I's. All that is left to these agents is their lives and bodies. Thus, the universal will can only be true to its nature if it kills the agents that compromise its identity. It demands the 'cold, matter of fact annihilation of this existent self, from which nothing can be taken away but its mere being'.<sup>117</sup> Furthermore, this death can have no positive significance or meaning for the universal will or it will take on a particularised content. The universal will must therefore seek to negate 'the individual being *existing* in the universal. The sole work and deed of universal freedom is therefore *death*, a death too which has no inner significance or filling, for what is negated is the empty point of the absolutely free self. It is the coldest and meanest of deaths, with no more significance than cutting off a head of a cabbage or swallowing a mouthful of water. In this flat monosyllable is contained the wisdom of the government, the abstract intelligence of the universal will, in fulfilling itself'.<sup>118</sup> As in the legal society therefore the government is transformed into a tyrant which actively undermines the possibility of recognising agents as persons.<sup>119</sup>

The final consequence of the impossibility of actualising the universal will is that it withdraws into the realm of thought rather than action. It is only 'real' as a 'concept' or thought. The universal will therefore concerns itself more with thought and intention than with the actual acts of agents. As such, Hegel claims that justice and laws in this society will be dispensed on grounds of intention and suspicion rather than

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<sup>117</sup> PhG, §591.

<sup>118</sup> PhG, §590-§591.

concrete evidence of guilt. 'When the universal will maintains that what the government has actually done is a crime committed against it, the government for its part, has nothing specific and outwardly apparent by which the guilt of the will opposed to it could be demonstrated; for what stands opposed to it as the *actual* universal will is only an unreal pure will, *intention*'.<sup>120</sup> Similarly, '[b]eing suspected, therefore, takes the place, or has the significance and effect, of *being guilty* ... this reality that lies in the simple inwardness of intention'.<sup>121</sup>

These two problems ensure the miscarriage of the promises that this conceptual scheme offered; that there could be a society in which agents were harmoniously united, in which social institutions conformed to human will and which ensured that agents enjoyed absolute freedom. Far from fulfilling these promises, Hegel claims that this conceptual scheme inevitably leads to instability of government, social institutions, and laws; death on a massive scale and justice based on intention and suspicion rather than actual crimes: 'absolutely free self-consciousness finds this its reality quite different from what its own Notion of itself was, viz. that the universal will is merely the *positive* existence of personality ... The universal will, *qua* absolutely *positive*, actual self-consciousness, because it is this self-conscious reality heightened to the level of *pure* thought or of *abstract* matter, changes round into its negative nature and shows itself to be equally that which *puts an end to the thinking of oneself*, or to self-consciousness'.<sup>122</sup> Consequently, this scheme transforms the promise of stable social frameworks, designed to fulfil the human need and potential for freedom, into instability and transforms the promise of respecting persons into their annihilation. Thus, even when agents identify with the concept of 'person' and this identity is recognised by a society, the result is instability and destruction. It is therefore unsurprising that Hegel argues that the Rational State is one in which institutions like marriage are grounded on the 'sacrifice' of this flawed and dangerous conception of agency.

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<sup>119</sup> See Pinkard (2000), p200.

<sup>120</sup> PhG, §591.

<sup>121</sup> PhG, §591.

<sup>122</sup> PhG, §592.

## Conclusion

In this chapter, I have systematically examined the two societies in which the concept of the person is central. Although both societies are committed to the recognition of agents as persons, this is unsuccessful and Hegel claims this failure is inevitable. The main flaw lies in personality's abstract nature and this concept's commitment to preserving this abstraction. The only legitimate aim of such a will is the elimination of particularity. There is a recognition of the need for recognition and a simultaneous rejection of such recognition as an unwanted, particularising dependence which would compromise the identity of a 'person'. It is unsurprising therefore that these societies should exhibit similar destructive patterns such as instability, the use of force against the agents that comprise the society, and the impermanence of social institutions and laws. Since the will cannot take on any legitimate content then what occurs can only be seen as the result of arbitrariness, luck or caprice. Both societies involve the rise of totalitarian rulers in the attempt to unify or express the unity of society. It is unsuccessful in both societies since this is an equally empty will and cannot create particular institutions or practices. Thus, the concept of 'personality' is an insufficient foundation for a society in which agents are genuinely free. Since the concept has been unsuccessfully employed as both a purely formal conception, as well as a private and formal conception of agency, it seems that Hegel is unambiguous in his rejection of this conception of agency as a basis for society.

In the next chapter, the tension in Hegel's attitude towards 'personality' will become apparent as I consider his stark claims that an agent should 'be a person' and should not alienate their personality, despite his rejection of 'person' in the passages analysed above. I will discuss the rights to life and bodily integrity that Hegel grounds in the concept of the person. I will also examine the social institutions and practices that he condemns, such as slavery, and show that his condemnation of these practices relies on appreciating agents as 'persons'. As such, this next chapter will exacerbate the problem of how to interpret Hegel's claims that marriage should be founded on the 'sacrifice of personality'.

### Chapter Three: Personality and Qualified Property Rights in the Body

In this chapter, I focus on the relationship between personality, the body and biological life in Hegel's philosophy. As seen in the previous chapter, Hegel does recognise the limitations of 'person' as a concept of human agency; however, he also explicitly links this concept to some important, inalienable and imprescriptible rights: to life and bodily integrity (as well as the rights to self-determination, private property and contract, as outlined in chapter one). The reason for examining this issue is that it brings out Hegel's appreciation of the concept of the 'person'. As such it highlights the apparent tension in his thought between his rejection of this concept as a basis for social institutions (as seen in chapter two) and his appreciation of this concept and his use of it in condemning certain treatments of agents including slavery and suicide. This tension must be borne in mind when his account of marriage as the 'sacrifice of personality' is interpreted. This chapter will explain why such a 'sacrifice' as required for Hegelian marriage might be considered illegitimate for a Hegelian agent to make.

The four specific issues I wish to examine in this chapter are: the attitude an Hegelian agent should take towards their own life and body; the basis of the rights to life and physical wellbeing and whether they are contingent on the agent conceiving of themselves as a person; the practices and relationships that these rights rule out; and why these rights ground a duty to respect the lives and bodies of others regardless of their self-concept.

As discussed in chapter one, Hegel claims that the person should 'take possession of themselves'. Some commentators, such as Peter Stillman, take this process by which agents take possession of themselves to be the basis for the right to life and physical well-being.<sup>1</sup> However, if this is the case then the rights to life and physical well-being are contingent upon the agent having a certain self-concept and taking a certain attitude towards their own body. In contrast, I argue that this is an inaccurate reading of Hegel's position, although this is difficult to ascertain given the dialectical presentation and his historicism. I argue that Hegel should be understood as claiming that an agent must be seen and treated as the owner of their body, as having rights over their body, *even if* an agent does not take possession of themselves or does not conceive of themselves as a person. Thus, I argue that Hegel's position is that the rights apply to all agents, regardless of their self-concept. It is only if this interpretation



is taken that Hegel's condemnation of practices, such as slavery and dependence on priests, make sense, since in a number of cases he is condemning slavery and dependence in cases where agents lack a conception of themselves as persons. The reason why this is interesting is because it suggests that agents must be regarded and treated in certain ways even if they have deliberately jettisoned a concept of themselves as persons, as in Hegel's account of marriage. If these rights apply to agents regardless of their self-concept it means the 'sacrifice of personality' need not be as extreme as it initially sounds since the rights to life and bodily integrity may still apply. Furthermore, this may enable an account of marriage to distinguish between legitimate marriages and those which are illegitimate because they are damaging to agents' lives, bodily integrity or general well-being. Thus, this chapter also forms the background against which Hegel's account of marriage as the 'sacrifice of personality' must be examined when I focus on his account of marriage in the next chapter.

In section one of this chapter, I examine the attitude that the person ought to take towards their own life and body. As part of this I consider the relationship between agency and life that is expressed in the 'Life and Death Struggle' in the *Phenomenology of Spirit*. I argue that this passage is consistent with Hegel's views expressed in the *Philosophy of Right*, insofar as this passage only condones risking one's life to establish one's identity when the conceptions of agency and freedom are immature and limited. Thus, Hegel is consistent in the value he places on agent's life, bodily welfare and capacity for self-determination.

Since the rights to life, bodily integrity and self-determination are inalienable even for the person themselves, a number of actions are illegitimate actions for an agent to will. Hegel explicitly condemns behaviours and social structures that undermine or fail to acknowledge an agent's 'personality' and the rights outlined above, even when it is the agent themselves who 'chooses' to sacrifice or alienate their personality. In the second section I categorise these illegitimate actions into two types: illegitimate infringements on an agent's independence (external authority); and illegitimate infringements on an agent's capacity to actualise their agency.

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<sup>1</sup> Stillman (1980b), p105 & p110.

In the final section, I consider why an agent should respect the bodies and lives of others even if they do not conceive of themselves as persons.<sup>2</sup> This section is rather speculative since Hegel does not explicitly give such an argument.<sup>3</sup>

### **Section One: Agency as Inseparable to Life and Self-Ownership**

Hegel claims that every person should have property in their own body, its 'internal attributes' and their biological life. From the wholly abstract point of view of the unparticularised will, the body is separate to and therefore external to the will. Hence, it can be regarded as a 'thing' that can be possessed and directed by a will. From this perspective, it is not a self-sufficient, independent entity or 'end in itself' and can therefore constitute private property.<sup>4</sup> Hegel also believes that biological life itself can be considered property from this abstract and formal viewpoint. '*Personality* alone confers a right to *things*, and consequently ... personal right is in essence a *right of things* - 'thing' being understood in its general sense as everything external to my freedom, including even my body and my life. This right of things is the right of *personality as such*'.<sup>5</sup>

This separation between an agent's will and their bodily existence/life is dramatically discussed in the 'Life and Death Struggle', and subsequent 'Master/Slave Dialectic' ('Lordship and Bondage').<sup>6</sup> I believe these passages can be understood as an argument against the futility of trying to conceive of agency as separate to life and the body. In this famous part of the *Phenomenology of Spirit*, I believe he is pointing out the contradictions present in *immature* conceptions of the self as an agent and the freedom that such an agent aspires to. As such, this famous section is the ahistorical account of the failure of these conceptions that he later considers from a societal and more historical perspective in 'Legal Status', particularly in relation to the ruler of such a

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<sup>2</sup> PR, §36.

<sup>3</sup> As Seyla Benhabib points out PR is written presupposing that agents have already achieved a standpoint in which their identities support reciprocal recognition; Benhabib (1984). pp170/1. As such it is not surprising that Hegel does not give an explicit argument as to why one agent should respect the bodies and lives of other agents.

<sup>4</sup> PR, §44.a. It may be that this is all the property that the agent possesses in the fully developed Rational State and this may explain why he does not discuss those who are exceptionally poor in non-bodily goods. Waldron criticises this as a significant flaw in Hegel's theory of private property. Waldron (1998). p343f.

<sup>5</sup> PR, §40R.

<sup>6</sup> PhG, §175f.

society, and in Absolute Freedom and Terror, that I discussed in the previous chapter. In this section of the *Phenomenology of Spirit*, Hegel again emphasises the need for the will to conceive of itself as an embodied will and the rejection of any abstract conception of the will as either infinite or independent of the body. Thus, I believe this section coheres with the views Hegel articulates in ‘Abstract Right’, such that an agent’s body or life itself should not be seen as disposable or alien to the will in the pursuit of freedom.

Prior to the ‘Life and Death Struggle’, the agent conceives of themselves as a unique, abstract, pure will which is distinct from and independent of the given material body and any particularities, such as eye-colour or age.<sup>7</sup> However, they want this identity to be recognisable so that this identity is stable. Such recognition is not obtainable from the external world of inanimate objects when they are consumed or destroyed by the willing agent.<sup>8</sup> So at this stage in the dialectic the agent turns their attention to another agent. Critically, however, the agent does not recognise the other agent *as an agent*. It is caught in a conceptual impasse of seeking recognition to secure its identity, but the conditions under which such recognition has value undermines its own identity. In other words, if the other agent is not recognised as a willing entity then it is not an adequate source of recognition and therefore cannot secure the first agent’s identity. Alternatively, if the agent does recognise the other agent as a willing entity then it undermines its own identity as a unique will; that is independent of all contingent, particular entities. It would reveal itself to be dependent on the existence of other material, particular entities, namely those that recognise it.

This section presents two versions of the life and death struggle which can be distinguished by the way in which each struggle ends. In the first version the agent seeks to demonstrate that it is a pure will which is distinct from and independent of the given material, sensuous body; it is not a mere object. By risking its life it is endeavouring to show that it, as a willing entity, is superior, and separate to biological existence (body/life). The struggle between the two agents could be understood as the result of two agents who both wish to risk their lives to establish their identities as wills

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<sup>7</sup> See chapter one on this conception of the abstract will and independence.

<sup>8</sup> Work is not yet available as a means by which the will can form objects and gain a more stable identity or recognition this way. Moreover, the abstract, empty, pure will could not be completely independent if its identity was grounded on the existence of objects or if its identity required considering its particular past acts of formation. *Bildung* or self-development or formation is equally inaccessible to this conception of agency.

and not mere biological objects. They have the same need for recognition, the same conceptual resources and the same identity as pure wills.<sup>9</sup>

However, as emphasised by Robert Stern, this explanation leaves unexplained Hegel's emphasis on the need for each agent to 'seek the death of the other'.<sup>10</sup> Howard P Kainz argues that the agent is compelled to kill the other agent as a test; to see if the other agent is one who is also a willing entity and therefore an appropriate source of recognition. Thus the compulsion to kill is a test to see whether the other agent is an entity that conceives of itself as an independent will and not a mere biological object that could be consumed or annihilated as in the previous stage of the dialectic.<sup>11</sup> However, I would argue that this compulsion to kill is not a test to see if the other agent has an independent, infinite will. This is because the first agent has not got the conceptual resources to articulate such a test to themselves or the resources to recognise the other agent as a willing subject even if they pass that test. Conceiving of such a test would be to undermine its identity as an independent will, as would recognising the other as a will or as an invaluable source of recognition.<sup>12</sup>

Rather, I believe that this need to take the life of the other agent is based on the agent's own identity as an *independent* will. As such an independent will it cannot seek recognition from another agent without revealing itself to be dependent on that other agent for such recognition. As such, the agent seeks to destroy the other agent as a means of demonstrating its complete independence: 'he [wishes to prove] in the struggle that [all other things are] merely negative'<sup>13</sup>. Thus, the 'Life and Death Struggle' articulates the incoherence at the heart of personality: the need for recognition and the inability to become dependent on another for such recognition without compromising your identity as an independent will or person. If this is the case then

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<sup>9</sup> Thus, the struggle 'prove[s] themselves and each other through a life and death struggle'. Also see Fukuyama (1992), p147f, where he articulates a Kojévian account of this section of the dialectic. He claims that the human need for recognition *as a human*, inevitably leads to a life and death struggle since both combatants wish to establish themselves as human and gain recognition of this. The ability to risk one's life, simply for recognition, is presented as a quintessentially human ability. This ability separates humanity from animals and their instinct for self-preservation (insofar as life is risked) and other 'animal' instincts such as protecting off-spring or defending a territory (insofar as there is no biological advantage from risking one's life in this life and death struggle).

<sup>10</sup> PhG, §187. Stern (2002), p79.

<sup>11</sup> Kainz (1976), p88.

<sup>12</sup> I see Hegel's account of the life and death as distinct from Kojève's account for the same reasons: see Kojève (1969), p7. The agent does not have the conceptual resources to conceive of itself as fighting to secure the recognition of the other agent. Hegel's agent does not 'desire the desire of the other agent' (recognition) but is trying to present themselves as independent of their bodily existence and their need for such recognition.

<sup>13</sup> PhG, §190.

this stage then foreshadows Hegel's later discussions of 'Legal Status' and 'Absolute Freedom and Terror' in which Hegel points out that the only consistent action of an abstract, pure and independent will is the cancellation or destruction of all particularity and dependence. Thus, the Imperial Ruler of Rome is driven to destroy his own subjects so that he demonstrates his independence of them (despite his need for their recognition of him).<sup>14</sup> Equally in Absolute Freedom and Terror, agents are destroyed by the government of the society so that it can be a pure, general will which is independent of particular, living, individual entities (despite the fact that with no living agents there would be no general will).<sup>15</sup>

If the agent in the life and death struggle is successful in bringing about the death of the other agent then it preserves its identity only to lose the opportunity of recognition and a stable identity. Hegel makes it clear that there is no dialectical advance if death results from the struggle.<sup>16</sup> He then considers version two of the life and death struggle in which an agent through fear of death accepts the domination of the other agent. Interestingly, in this second version of the struggle the first agent does not actually kill the other agent. In this second version, there seems to be a tacit acceptance of the importance of life as a medium for agency. Consequently, one agent is not willing to die to preserve their identity as an abstract will, but is willing to accept their dependence on another. Equally, the other agent's compulsion to kill the other agent is tempered as such a move would be self-defeating. There is also a tacit acceptance of the need for recognition, albeit not mutual recognition.

This alternative resolution is possible because one agent through the fear of death gives up his identity as an *independent*, abstract will. He has negated himself but in such a way that he remains alive. Thus, as Kainz says, the second agent becomes 'an echo' of the first agent as a willing entity: 'self-consciousness proceeds to search out a special kind of individuated 'living' object – namely, *another self-consciousness which will negate its own distinct 'given' existential orientations as its (the first self-consciousness) own bidding*. Here will be an object which will not really be an object in the sense of an opposed, external thing; but will *give nothing but an echo of one's own subjectivity*'.<sup>17</sup> The second, defeated agent offers a means by which the first

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<sup>14</sup> PhG, §482.

<sup>15</sup> PhG, §590-591.

<sup>16</sup> PhG, §188.

<sup>17</sup> Kainz (1988), p85, my emphasis. The 'master' is like Narcissus who only wants to recognise himself and yet this limits the quality of 'recognition' that can be gained by such a process.

agent's will can be actualised and recognised in a way that is less threatening to the first agent's identity as an independent, abstract will. As a defeated will that can still act in the world, the slave seems to offer a superior form of recognition to the master than the master agent could achieve when only interacting with inanimate objects.<sup>18</sup> The defeated agent becomes an extension of the first agent's will and yet is not wholly destroyed by the process. The defeated agent's identity as an independent will has been lost because he does not choose what he wills (his actions are determined by the victorious agent) and because he has fully accepted his dependence on biological life and on the will of the victorious agent who can kill him. Consequently, the identity of the victorious agent is no longer as threatened by depending on the existence and recognition of the defeated agent. The defeated agent offers the facsimile of subjectivity and recognition.<sup>19</sup>

As the life and death struggle is the product of immature conceptions of the self and freedom there is no lasting requirement for the agent to risk their life in order to be secure in their own identity or to be free. Risking one's life is an inadequate mechanism which is only appropriate when more sophisticated ways of conceiving of yourself and others are not available. Hegel does say that risking life (at least at this stage in the dialectic) is essential in order for the agent to *conceive of themselves as a person*.<sup>20</sup> To be a 'person' is to conceive of yourself as an abstract will independent of your body and its particular attributes. However, being a 'person' is not the ideal conception of the self as an agent that should be aspired to. Hegel can say that *this* self-conception (personhood) is most vivid to the agent if they risk their life and it is one way in which

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<sup>18</sup> This seems to be different to Kojève's account of slavehood in which the slave 'bind[s] himself completely to his animal-life ... is *merely one with the natural world of things*'. Kojève (1969), p16, my emphasis.

<sup>19</sup> Famously, this facsimile of recognition is revealed as worthless to the master who cannot value such recognition from the slave unless simultaneously recognising the slave as a willing agent, capable of bestowing such recognition. In contract, by accepting the 'limited' identity of an embodied being the slave's self-concept is the groundwork for the subsequent value Hegel places on formation; see the discussion of property and *Bildung* in this chapter and in chapter one.

<sup>20</sup> PhG, §187. This idea is not systematically present in his work although it does occur elsewhere for example, VG, pp60-61: 'if [the work which men take in order to satisfy their needs] leads them to go to sea, the relationship is changed. Those who sail the seas will and can profit in the process; but the means they employ entail the exact opposite – i.e. *danger* – of the result they intend: the relationship is reversed, in that they *thereby place their lives and property at risk*. This invests their employment of such means with courageous quality, and *gives the individual a consciousness of greater freedom and independence* ... The sea awakens men's courage; those who sail on it to earn their livelihood and wealth must earn them by hazardous means. They must be courageous, and they must *put their lives and riches at stake and treat them with contempt*', my emphasis. Notably, danger is mentioned in connection with livelihoods based on the sea in PR, §247, but there is no connection made with an agent's awareness of their capacity as a subjective will or freedom. This is also true of his discussion of soldiers and war. PR §324-§328R. Also see chapter 4 for a brief discussion of the army in the Rational State.

the agent can become aware of their subjectivity. However, this need not commit him to saying that all agents must risk their lives in order to be free providing they have a more sophisticated conception of themselves as agents and more sophisticated means for the recognition of this identity. Hegel anticipates this in his discussion of mutual recognition prior to the life and death struggle, in which risking life or fearing death are not central.<sup>21</sup>

What this stage in the dialectic does reveal is the need for an agent's identity and freedom to be conceived of in relation to, and not in opposition to, bodily existence. A second key insight, particularly once the master-slave dialectic is considered, is the need for mutual recognition between agents who can thereby enable identities to be secure and for each agent to be '*bei sich*' and achieve substantive freedom. This section highlights this by default in the way it demonstrates the lack of substantive freedom in a situation where mutual recognition does not take place.

However once the need for particularisation and embodiment is recognised through the dialectic, it is no longer appropriate to consider the will as distinct from biological life, the body or its internal attributes. From this point on they are regarded as wholly internal to the person and not mere 'things' that can be considered as separate to their will.<sup>22</sup> A person's independence of will is qualified by the need for life and the body; and this dependence is no longer regarded as 'threatening' to their identity just as the concept of the person 'evolved' to accept and depend on the institution of private property. There is an unbreakable connection between an agent's freedom as a free will and their physical freedom: 'my body is the existence of freedom' and that 'the spirit is ... affected if ... the *existence* of the person is subject to the power of another'.<sup>23</sup> If an agent is physically confined they are not capable of being recognised by others as free wills<sup>24</sup>: '*I am free for the other only in so far as I am free in my existence*'.<sup>25</sup> As noted in chapter one, the wills of confined agents are not actual and such agents only have the potential for freedom, rather than freedom itself.<sup>26</sup> Freedom therefore requires that the free will of the agent is objectively expressed in the physical freedom of the agent's body.

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<sup>21</sup> PhG, §180 – §184 & PR, §328R. Also see Stern (2002), p81.

<sup>22</sup> PR, §70.

<sup>23</sup> PR, §48R.

<sup>24</sup> PR, §331R.

<sup>25</sup> PR, §48R.

<sup>26</sup> PR, §22R. Also see PR, §48R; PR, §10a & PR, §21a.

This dialectical shift, which allows agents to depend on their embodiment, is also present in 'Abstract Right'. This explains Hegel's changing account of the way in which the agent acquires this property in their own body. At one level, the willed ownership of the body and its attributes by a live agent is presented by Hegel as almost a foregone conclusion since they are alive in their body to start with. This immediate possession is superior to that of an animal however since they also have a capacity to damage or even destroy their own body, i.e. self-harm and suicide: 'as a person, I ... possess *my life and body*, like other things, only *in so far as I so will it*'.<sup>27</sup> This capacity ensures that at a basic level the agents can be said to will their continuing existence insofar as they do not employ their capacity to bring about their own death. They own their bodies by default since they do not act to destroy themselves. Through this destruction the will could show the separation of body and will and the superiority of the (infinite, wholly abstract) will over the body which is not an 'end in itself'.

Hegel's attitude to this immediate possession of the body is ambivalent. He claims that this immediate possession is sufficient for ownership of the body.<sup>28</sup> That is to say, he claims that there is an obligation for other agents to respect my body as 'mine' simply insofar as I am in immediate possession of it or alive: '*for others*, I am essentially a free entity within my body while I am in immediate possession of it (i.e. alive)'.<sup>29</sup> This immediate possession of my body and spirit grounds a right to life, unique to human agents.<sup>30</sup>

More than life, however, this immediate possession of the body curtails the use that can be made of my body by myself or any other agent. It should not be 'misused as a beast of burden'.<sup>31</sup> It is also on this basis of this link between agency and the body that he criticises the use of caryatids in architecture since they misrepresent human beings (though the portrayal of the body) as entities which can be enslaved and used to carry

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<sup>27</sup> PR, §47.

<sup>28</sup> Joan B Landes describes Hegel's attitude to the body as complex but claims that Hegel defends the idea that persons must *achieve ownership* of their own body since it cannot be regarded as automatic; a gift from God or nature; Landes (1981), p9. I agree with this but argue that it is not necessary to achieve this *in order to* attain the rights to life and bodily integrity.

<sup>29</sup> PR, §48. He repeats this idea in his discussion of the human form in VA, p434.

<sup>30</sup> PR, §47a. This right like any other can only be held by agents. Again this right is not absolute but will be dialectically modified within the Rational State itself.

<sup>31</sup> PR, §48R. However, his principle definition and objection to slavery is not the use of the human body as a 'beast of burden', although the potential for this is a reason he would appeal to against the legitimacy of slavery. See PR, §67a: 'The Athenian Slave perhaps had easier tasks and more intellectual [*Geistigere*] work to perform than our servants normally do, but he was nevertheless a slave, because the whole scope of his activity had been alienated to his master'.



burdens.<sup>32</sup> Hegel claims that this symbolic or representative role of the human body is not arbitrary and that its physical form alone is the best physical expression of the will, unlike the physical form of any other animal.<sup>33</sup> This is partly because of the human body's supreme and special ability to express the feelings and thoughts of the agent, particularly through the eyes, hand and the capacity for speech.<sup>34</sup> The human form is also superior to those of other animals because of the body's ability to act and therefore further instantiate the will. Even if they lack an appreciation of themselves as a will, an agent's actions will reveal this capacity insofar as they can affect and shape natural objects according to their needs or desires.<sup>35</sup> This should induce other agents to treat all 'human-shaped agents' in a different way to other natural objects that they can shape or dominate, since 'human-shaped agents' should be recognisable as potential willing entities.

However, Hegel also states that there is a need to transcend immediate ownership of the body because in its immediate and natural condition the body does not express man's true nature as a free-will. As such, immediate possession of the body and spirit cannot be the conceptual ground for genuine freedom. Ownership of the body and spirit is gained through *Bildung*.<sup>36</sup> *Bildung* enables the agent to transcend their natural condition by distancing themselves from their natural 'given' character. The agent develop a new character for themselves composed of the habits and customs they themselves cultivate through education, study, habituation, training, etc.<sup>37</sup> Furthermore, this mediated ownership of the body is superior to immediate possession since formation enables a more complete and stable form of ownership: [t]he more I appropriate this form, the more I come into *actual* possession of the thing ... The training (*Ausbildung*) of my organic body in various skills, like the education of my

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<sup>32</sup> VA, p657.

<sup>33</sup> VA, p434 & VA, p78.

<sup>34</sup> VA, p706 & VA, p434. On the human hand in relation to taking possession of property, see PR, §55a: PhG, §315. On the voice, see VA, p922 & EN, §351,a: 'The voice is the closest to Thought; for here pure subjectivity becomes objective, not as a particular actuality, as a state or a sensation, but in the abstract element of space and time'. On language, see PR, §164. On habituation and training of the body see PR, §197,a & EG, §409-§410a.

<sup>35</sup> The value of labour as an expression of the will is strikingly brought out in the figure of the slave in 'Lordship and Bondage', PhG, §178f. Also see his brief discussion of the actions of children that alter the world, VA, p31.

<sup>36</sup> It is notable that the term '*Bildung*' is etymologically related to '*Bild*' which denotes a sign or image. Thus, through a process of self-development and education the human body and its actions constitute a superior image or symbol of the agent's will. I have found no reference to Hegel highlighting this link although he does exploit etymological links elsewhere. For example, see his discussion of the alienation of property, PR, §65f.

<sup>37</sup> SS, p211.

spirit, is a more or less complete penetration and taking possession thereof; the spirit is what I can appropriate most completely'.<sup>38</sup> As such, the body of the educated agent is a better expression of their will. Formation or *Bildung* enables the body to successfully carry out the agent's volitions; the educated or skilled person is one who achieves their aim or goal in activity. 'In this way an aptitude shows the corporeity rendered completely pervious, made into an instrument, so that when the conception (e.g. a series of musical notes) is in me, then without resistance and with ease the body gives them correct utterance'.<sup>39</sup> Hegel contrasts this with uneducated, clumsy agents who fail to achieve their goals because they have failed to take adequate possession of their body and it therefore is inadequate to carry out their volitions.<sup>40</sup> This increased mastery over the body makes it 'increasingly difficult for the agent or anyone else to view his body, especially in action, without taking into account its essentially will-governed character'.<sup>41</sup> Although it is perhaps less evident to others, this mastery is not restricted to the body but also evident in theoretical endeavours.<sup>42</sup> Even after this process of *Bildung*, the will is not literally and mysteriously present in the actual flesh of the agent rather Hegel's claim is that the body and will are in accord with one another so that the body expresses the will of the agent.<sup>43</sup>

Notably, however, the need for a superior form of possession is *not* to reclassify the body as the private property of the agent since this is achieved by immediate possession, i.e. being alive. Furthermore, this immediate possession does not seem to require that the agent consciously identifies themselves as a will or conceives of their body as their own private property. Thus, agents must be regarded as owners of their own bodies and lives. *Bildung* and formation are important so that the agent is more evidently their own person and for the agent to be more '*bei sich*' since their actions are more recognisably their own.

I believe the following extract is an apt summary of Hegel's attitude to the relation between the will, life and the body. 'Life as such, then, is for spirit partly a

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<sup>38</sup> PR, §52R. Also see PR, §57. See chapter one, on different modes of taking possession.

<sup>39</sup> EG, §410. Also see PR, §197a.

<sup>40</sup> PR, §197a. Also see PR, §187a.

<sup>41</sup> Waldron (1998). p363.

<sup>42</sup> PR, §197.

<sup>43</sup> Thus, although Hegel places great value on the *symbol* of the human body he rejects any attempt to 'read' an agent's will or character or future actions from particularities of their physical features because the will does not literally shape the body. For his rejection of physiognomy and phrenology; see PhG, §309f, EG, §411 & EN, §333a.

*means*, and as such spirit opposes it to itself; partly spirit is a living individual and life is its body; and again, this unity of spirit with its living corporeality is born from spirit itself as an *ideal*. None of these relations to spirit concerns logical life and life is to be considered here neither as instrument of a spirit, nor as a moment of the ideal and of beauty'.<sup>44</sup> In other words, from a purely abstract point of view, life and biological existence can be considered as separate to the will and purely a means or instrument for the will's embodiment. However, this is a one-sided and limited perspective. The living body can also be seen as the inseparable manifestation of the will or spirit, but again this is one-sided. The living body is not wholly inseparable or identical with the will or spirit since it has capacities that cannot be expressed in one purely physical, isolated object. This is particularly evident in cases of immediate possession when the agent is uneducated and their body and its actions do not reflect their volitions. This lack of congruence between body and will prevents the embodied will being a moment of the ideal or of beauty. Equally it prevents the body from being a perfect symbol of the will.<sup>45</sup> Nonetheless, there is a special connection between body and will that should be respected as the embodied will is the basis for expressions of what Hegel considers ideal or beautiful, paradigmatically, the actions and relationships in the Rational State. Thus an agent cannot be said to have no ownership of their body although the extent to which this is obvious to others depend on the degree of *Bildung* an agent has undergone.

## **Section Two: Qualified Property Rights in Life and the Body**

Despite his condemnation of other restrictions on ownership of private property, Hegel qualifies the person's property right in their body by claiming that this property is essentially inalienable. Biological life and the 'internal attributes' of the person also constitute inalienable property. Thus it would appear that transferability is not essential for something to constitute private property.<sup>46</sup> Hegel's attitude to alienable property might be likened to that of a property lawyer, where transferability is the hallmark of private property; whereas his attitude to inalienable property is that of the tort lawyer

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<sup>44</sup> WL, Volume 2, p403.

<sup>45</sup> EG, §411.

<sup>46</sup> Waldron (1998), p369.

and where the hallmark of private property is that damage to it makes someone liable to pay compensation.<sup>47</sup>

This restriction on alienating the body comes out of the nature of personality within the discussion of Abstract Right.<sup>48</sup> Hegel states that there is a duty to both ‘*be a person and respect others as persons*’.<sup>49</sup> Based on this very abstract guideline he claims that, ‘[t]hose goods, or rather substantial determinations, which constitute my own distinct and the universal essence of my self-consciousness are therefore *inalienable*, and my right to them is *imprescriptible*. They include my personality in general, my universal freedom of will, ethical life, and religion’.<sup>50</sup> This quote involves two important claims. Firstly, my right to be a person and to be treated as such is not something that can be given up and transferred to another person, either with or without my consent, as it is inalienable. Thus Hegel rules out the idea of a person with rights over another person and distances himself from this Kantian concept.<sup>51</sup> Secondly, he claims that this right to be treated as a person is imprescriptible (unlike rights to property that can be lost through inaction or after a period of time<sup>52</sup>). Hegel explains that ‘prescription is based on the assumption that I have ceased to regard ... (a piece of property) as mine.’<sup>53</sup> However he suggests that this is not something that other agents can assume with regard to my attitude to my own body or talents. As discussed in the first section, I cannot lose this right through a mistaken self-conception wherein I do not recognise my capacity as a freewill or through a failure to actualise this free will. This would suggest that talented agents who are ‘couch-potatoes’ cannot lose their self-ownership and be available to be owned by any agent other than themselves. Similarly, an agent who is no longer capable of regarding themselves as a person, for instance through having senile dementia, cannot be rightfully enslaved. This accords with Hegel's claim that whilst the agent is alive, other agents should treat that agent as being

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<sup>47</sup> See Munzer's brief discussion of the hallmarks of private property, Munzer (1994), p281. Also see PR, §77R; PR, §96, & PR, §98 on compensation.

<sup>48</sup> It is not a restriction that is imposed by the fully developed, Rational State, unlike family testamentary trusts, etc.

<sup>49</sup> PR, §36.

<sup>50</sup> PR, §66, my emphasis. I understand ‘personality in general’ to mean the concept of person as explained in chapter one with the abstract capacity to be a bare, indeterminate will as well as the capacity to particularise and actualise this through property and contracts. I take Hegel's reference to ‘universal freedom of will’ to be an emphasis of the abstract capacity to be a bare, indeterminate will. Notably, this quote moves beyond the concept of personality to include ethical life and religion which are commitments beyond those discussed or grounded in the abstract and unsublimated concept of personality.

<sup>51</sup> PR, §40R.

<sup>52</sup> PR, §64.

<sup>53</sup> PR, §64a.

in immediate possession of their body and spirit. The reason for this as discussed in previous sections, is that you cannot meaningfully separate the agent, qua will, from their body. Such a distinction would be empty and unjustifiable since the will, without a body, is merely a potential will (at best) and not something actual that can be recognised. Consequently, he claims that an agent should not be conceived of as having ceased to regard their body as their own. Therefore their right to their body, their life and their talents are imprescriptible.<sup>54</sup>

Nonetheless Hegel recognises that this mutual recognition of persons is an ideal situation and one whose normative force can only be made explicit in the context of modern, contemporary, rational society. There have been many societies in which agents have not been recognised and respected as persons and Hegel attributes this to a lack of insight into the nature of agency. In connection to this, he claims that the agent themselves is partly responsible if, consciously or unconsciously, they allow themselves to be treated in a way which does not respect them as persons.<sup>55</sup> He claims that inappropriate behaviour (whether by the self or others) or inappropriate social structures stem from a failure to appreciate that the agent as a being with a free-will regardless of social or racial status. Thus, what the agent is ‘in itself’ is not reflected in what it is ‘for-itself’ i.e. the way in which the agent is conceptualised and recognised.<sup>56</sup> His historicist leanings are again evident when he claims such behaviours and social structures are *valid* relative to their particular society and the conceptual scheme that grounds them but claims that ultimately they will be recognised as essentially wrong and irrational.<sup>57</sup> He recognises the essential rationality of respect for persons in his claims that social practices that do not respect agents as persons are illegitimate and not binding regardless of their origin.

### Illegitimate Treatment of Persons

Personality can be infringed in whole or in part. The behaviours and social structures that infringe personality in ‘its entire extent ... (include) murder, slavery and religious coercion’.<sup>58</sup> There are two main ways in which personality can be infringed.

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<sup>54</sup> PR, §48,R & PR, §70.

<sup>55</sup> PR, §57a.

<sup>56</sup> PR, §26; PR, §57,R & PR, §66R.

<sup>57</sup> PR, § 57R; VG, p184; VA, p212.

<sup>58</sup> PR, §96.

Firstly, personality is infringed when the means by which personality is actualised (private property, including the body) is restricted or damaged. As such, what is damaged is the extent to which the will is actualised. Secondly, personality is infringed when there is an external source of authority which gives content to the agent's will. Hegel disapproves of this since it denies that the agent has a will of their own. Notably, the quote above suggests that personality can be damaged in 'its entirety' by either type of infringement.

#### Infringements on Personality - Means of Actualisation Restricted or Damaged

Hegel is highly critical of any restrictions placed on the right to property since it is incompatible with the nature of personhood and prevents the actualisation of an agent's will.<sup>59</sup> Without this actualisation the agent remains an unrecognisable will and cannot achieve the freedom to be '*bei sich*'. It is on this ground that he criticises Plato's commitment in the *Republic* to communal property (at least amongst the guardians and auxiliaries).<sup>60</sup> He also condemns any system in which anyone is disqualified from owning property or which places restriction on the freedom of ownership. For example, he claims that family testamentary trusts, entailments and hereditary rents, taxes or tributes are incompatible with the concept of personality insofar as they limit the agent's ability to alienate and enter into contracts regarding pieces of property.<sup>61</sup> He is particularly critical of social positions being akin to private property in which an agent's social position is the result of the family they were born into rather than individual talent, education and efforts.<sup>62</sup> Thus for Hegel it is important that every person has some private property and that the right to alienate i.e. dispose of this property should be unrestricted.

Hegel is also vehemently opposed to behaviours and social practices that contravene an agent's *inalienable* ownership of their body. He regards it as an untenable position to maintain that damage to the body does not damage the agent

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<sup>59</sup> PR, §46a & PR, §49a.

<sup>60</sup> PR, §46R.

<sup>61</sup> PR, §46R; PR, §62R & PR, §63a. He acknowledges however that while entailed property cannot be legitimate in Abstract Right there may be cases where such trusts are legitimate, namely in the 'higher spheres of right', paradigmatically the State. In fact Hegel endorses limitations on the ability of agents to dispose of their goods. See PR, §180.R & PR, §306.

<sup>62</sup> VA, p211. Also see PR, §291 and PR, note 1. p468, for an example of his claims that positions in government and the civil service should be the result of effort and ability not an inherited right or property.

themselves.<sup>63</sup> He states that if the agent is murdered that their ‘will’s existence and determinacy in general is infringed throughout its entire extent’ just as much as in the case of slavery or religious coercion.<sup>64</sup> Likewise, suicide is condemned as irrational and illegitimate act for a person. Although suicide is physically possible and something a person can contemplate (unlike animals), he suggests that it is internally incoherent act for a person. The suicidal agent wrongly regards themselves simply as a will and their life/body as something completely external and disposable to that will. ‘The *comprehensive* totality of external activity, i.e. *life*, is not something external to personality, ... The disposal or sacrifice of life is ... the opposite of the existence of *this* personality. I have therefore no *right* whatsoever to dispose of my life’.<sup>65</sup> If the right to commit suicide were to be a legitimate right of persons, Hegel claims that it would have to be a coherent possibility that the agent could ‘stand above themselves’ and give themselves this right.<sup>66</sup> That is they would have to be able to be a person without their life and their body. Suicide is an incoherent act because it posits an invalid distinction between the agent as a will and the agent being alive. He says that when it is mistakenly regarded as socially acceptable or honourable in certain circumstances it reveals that society does not understand the value of life or truly respect agents as persons.<sup>67</sup> Just as slavery may appear valid in a particular social framework that does not recognise the true nature of agency, so suicide may appear valid within a particular framework. Hegel however straightforwardly condemns any rational basis for a right to commit suicide.

Hegel is equally critical of martyrdom which he considers a ‘violence against what is inherently rational and moral ... This sort of renunciation must appear to us as immoral and contrary to religious feeling because it rejects, demolishes, and tramples underfoot what it absolutely justified and sacrosanct’.<sup>68</sup> He recognises that deliberately sacrificing your relationships, goods, physical well-being and life for the sake of an ideal is a physical possibility for an agent and one that they can contemplate. Hegel believes martyrdom mistakenly appears a rational choice for the willing agent based on their false belief that it is not possible to gain full satisfaction in an earthly life as a

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<sup>63</sup> PR, §48R.

<sup>64</sup> PR, §96.

<sup>65</sup> PR, §70.

<sup>66</sup> PR, §70a.

<sup>67</sup> VG, p185. Also see VG, p189, for his brief discussion on the practice of ‘suttee’ (whereby the wives of a man who dies feel under an obligation to also die) which Hegel considers extremism and also a failure to treat life as valuable.

member of society and that there is a non-earthly afterlife, in which true satisfaction can be achieved. '[T]hey despised the mundane joys and earthly blessings they had to forgo and found ample compensation in heaven ... Heaven stood so close to the cycle of Christian feelings that the renunciation of all joys and goods could seem no sacrifice at all'.<sup>69</sup> This may be because their contemporary society was not fully rational and did not therefore offer genuine satisfaction for the agent who could not be '*bei sich*' in such a world, however, it is a false attitude that can occur even in a relatively rational society. Like suicide, martyrdom is grounded on a mistakenly abstract understanding of the will; that views life and the body as somehow dispensable to itself. It is another manifestation of the mistaken belief that freedom involves the sacrifice of all particularity, in this case the agent's humanity.<sup>70</sup> Martyrdom is not essentially rational and will no longer appear rational once agents are recognised as persons.<sup>71</sup> As persons, they value and recognise their own bodies as the way in which their will is manifested and recognised in society. Equally, he argues that the idea of renunciation must also be developed into a mediating force and not an end in itself. As such, some degree of sacrifice can enable the agent to access a higher realm of freedom but this cannot be accessed by a complete sacrifice of natural impulses, relationships, goods and life.<sup>72</sup>

#### Infringements on Personality - External Sources of Authority

Hegel views slavery as inconsistent with the concept of the agent as a person. This is because in slavery the agent is treated as a being without a will; a natural object or thing that can be shaped, directed or destroyed according to the will of another agent (the master).<sup>73</sup> As such, the agent is not treated as owner of their life and body and there is no guarantee of respect for the welfare of these. Hegel condemns slavery as essentially irrational and unjust regardless of how this relationship originates; including 'physical force, capture in time of war, the saving and preservation of life, sustenance, education, acts of benevolence, the slave's own acquiescence'.<sup>74</sup>

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<sup>68</sup> VA, p547.

<sup>69</sup> ETW, p162.

<sup>70</sup> VA, pp544 -547. Also see VA, p587.

<sup>71</sup> VA, p191.

<sup>72</sup> VA, p507/8.

<sup>73</sup> PR, §67a.

<sup>74</sup> PR, §57R.



It is important to notice that he also uses the term ‘slavery’ metaphorically to refer to any situation in which the agent is not treated as a being with a will or treated as something that another person has rights over. This includes the position of children under the Roman law in which children were a possession of their father. He could legally sell or even kill them and they were consequently in the position of slaves.<sup>75</sup> In contemporary society he criticised any contract that gave another agent complete or even extensive use of your body and spirit.<sup>76</sup> If another agent had complete use of another agent’s body and internal attributes then, given Hegel’s claim that the complete use of a thing constitutes ownership, there would be nothing left over for that other agent to own and they would be a slave.<sup>77</sup> It is on these grounds that Hegel states that the relationship between a serf and their master is essentially unjust and a form of slavery in which the labour and skills of the serf are irredeemably at the disposal of the feudal landlord.<sup>78</sup> Strikingly, Hegel also considers polygamy to reduce women to the role of slaves in relation to their husband. In an earlier work, he also refers to the husband as a slave if his wife is adulterous and he remains married to her.<sup>79</sup>

Hegel also appeals to the inalienability of personality to criticise practices that undermine or hinder the personal capacity for self-determination, such as those which promote blind obedience or are based on superstition. The self-determining agent has the right to their opinion concerning their family, their livelihood, moral and religious issues, as well as state matters. Practices that illegitimately involve the alienation of personality involve ‘giving power and authority to others to determine and prescribe what actions I should perform ... or how I should interpret the dictates of conscience, religious truth, etc.’<sup>80</sup> This is a key reason for his criticism of the role of priests in Roman Catholicism.<sup>81</sup> Self-determination is essential to the person since it is only

<sup>75</sup> PR, §40R; PR, §43R; PR, §174a; PR, §180R.a.

<sup>76</sup> PR, §61; PR, §67R.a.

<sup>77</sup> PR, §67.

<sup>78</sup> VA, p212 & PR, §66R. Notably, serfdoms were only abolished in Prussia in the first half of the nineteenth century. See VG, p184.

<sup>79</sup> PR, note 1, p440 & ETW, p217.

<sup>80</sup> PR, §66R. Also see PR, §270R. There is a difficulty in identifying to what extent Hegel claims that the choice of religious and moral values is an attribute of the ‘person’. These are abilities and rights that develop out of the agent’s capacity for self-determination, a capacity that is acknowledged in the conception of the human agent as a person. Nonetheless these cannot straightforwardly be attributes or rights of the person since this would blur the distinction between the concept of the person and later concepts of the self as a moral agent and as an ethical agent.

<sup>81</sup> VR, Volume 1, p254: The Roman Catholic Church ‘demands unconditional surrender to the Church in everything.’ Also see PR, §66a & PR, §270; PhG, §227f & PhG, §542f (although in this later passage Hegel is examining a misrepresentation of faith and its relationship to rationality). This rejection of the role of priests also found expression in at least one of Hegel’s public speeches as Rector of the University

though this formative process that the agent can begin to transcend the dichotomy between their will and its content and become an actual will. To give someone else the power to decide these issues is to reduce yourself to the level of a slave, an unwilling thing who follows the dictates of another willing being. Hegel is consistent on this issue throughout his career: '[t]he right to legislate for one's self, to be responsible to one's self alone for administering one's own law, is one which no man may renounce, for that would be to cease to be a man altogether. But to prevent a man from making this renunciation is not the state's business, because it would mean compelling him to be a man and would be an act of force' and this would be contrary to '*man's inalienable right to legislate for himself out of his own heart*'.<sup>82</sup>

Since ownership and use of the body and its attributes is essential in enabling the agent to be a person Hegel claims that there are restrictions on the agent's ability to enter into contracts concerning their body or its internal attributes. These restrictions apply to donations or gifts, as well as to contracts where the body or its attributes are exchanged for either particular goods or money.

Hegel's account of donations as formal contracts greatly restricts the activity of the person. This position seems to go beyond the more standard objection that the disposal of the body or its attributes constitutes its commodification which is alleged to be incompatible with human worth or dignity. Hegel's position takes questions concerning the disposal of the body beyond the realm of the market. The claim that an individual may not choose to give their body or its attributes away seems to be in tension with his account of marriage as the 'sacrifice of personality' and also in conflict with his account of membership of the army which Hegel also deems a legitimate activity for an agent despite the risk to their life and bodily integrity.<sup>83</sup>

This position, however, does not rule out all contracts concerning one's body, knowledge, talents etc. The agent can legitimately enter into contracts concerning their labour or their internal attributes providing 'the object of the contract is an *individual external thing*'.<sup>84</sup> For instance, a legitimate contract between a garden-owner and a gardener should concern only such things as timed periods of the gardener's time and

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of Berlin, where he allegedly 'described the corruption of life: through the *destruction of conscience and responsibility* due to an obtuse, immature obedience, which in its lack of independent thinking left all responsibility for its actions to the priests'. Stepelevich (1992), p681. Stepelevich also argues that Hegel rejects Roman Catholic Christianity because such obedience and passivity is not merely due to the role of the priests but also due to their beliefs about transubstantiation in the Eucharist; *ibid.* p682f.

<sup>82</sup> ETW, p145. my emphasis.

<sup>83</sup> I discuss both of these cases in the next chapter.

skill, or particular tasks such as pruning the cherry tree. Thus, ‘intellectual accomplishments, sciences, arts, even religious observances (such as sermons, masses, prayers, and blessings at consecrations), inventions, ... (can) become objects of contract ... knowledge, science, talents, etc. are of course attributes of the free spirit, and are internal rather than external to it: but the spirit is equally capable, through expressing them, of giving them an external existence and *disposing* of them ... so that they come under the definition of *things*’.<sup>85</sup> Illegitimate contracts are those which do not have such limits and would involve the agent having no future access to their ability, skill or labour. In place of rights to certain periods or time or skill, illegitimate contracts claim rights over persons.<sup>86</sup> It would therefore be illegitimate for an agent to simply buy the gardener’s life-long services along with their garden. Since rights over another person cannot be acquired legitimately, all such contracts which attempt to do so are illegitimate and therefore not binding on the individuals concerned.<sup>87</sup>

Hegel is also critical of ‘criminal contracts’ as failing to respect personality. For example, ‘if someone has agreed to devote his ethical life to robbery and murder, this is null and void in itself, and anyone is entitled to revoke such a contract’.<sup>88</sup> This quote occurs between a discussion of slavery and religious authoritarianism. There are at least two reasons why Hegel might condemn such contracts as failing to respect agents as persons. Firstly, Hegel may see such a contract as illegitimately appointing an external authority for your ethical behaviour. As such, it is to abdicate responsibility for your actions that should stem from your own will.<sup>89</sup> Secondly, the example seems to be a case where a contract covers the whole of the agent’s time and activity. As such the contract would be illegitimate for granting another agent a right over a person and reducing them to the level of a slave. There could be an additional third reason in the fact that the contract covers *criminal acts* rather than any other type of activity. Indeed, it specifically mentions the crimes that most undermine the actualisation of personality,

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<sup>84</sup> PR, §75. Also see PR, §43R & PR, §65.

<sup>85</sup> PR, §43R.

<sup>86</sup> PR, §40R.

<sup>87</sup> PR, §66a & PR, §77. This claim seems to lie behind his assertions that in addition to the will of the master, the will of the slave is also responsible for their enslavement. See PR, 57a. Similarly he claims that only those who will to be coerced can be coerced into anything. See PR, §91a. This rejection of rights over persons coheres with his rejection of the Kantian account of marriage as granting rights over one’s partner (see chapter four) and his rejection of the Roman father’s rights of enslavement, life and death over his children (see chapter two) although in this latter case it is less clear that these are rights over *persons*.

<sup>88</sup> PR, §66a.

namely murder (contrary to the idea of the embodied, recognisable will) and robbery (contrary to the system of private property and an actualised will). However, this may be to read too much into the example. This third reason would mean that Hegel condemns the contract because of the effect it may have for others; whereas in the case of slavery and religious authoritarianism, Hegel's objection is based on the impact of these situations on the agent themselves. Equally, there does not appear to be any suggestion of Hegel offering a Kantian argument in which the criminal agent incoherently values and acts out of their personality whilst simultaneously devaluing and undermining the personality of others.

### **Section Three: Duty to Respect the Lives and Bodies of Other Agents**

Does an account of inalienable rights cohere with Hegel's account and treatment of slavery?<sup>90</sup> Does he think that slavery can be criticised even if an agent lacks a sense of themselves as a person?

Hegel claims that a person who conceives of themselves as a free will can not be truly enslaved. He claims that even if physical force or circumstance leads an agent to act according to the will of another agent they can mentally distance themselves from these acts and not see them as expressive of themselves.<sup>91</sup> In other words, they can retreat to an inferior, stoical sense of freedom in which the agent is mentally free regardless of their physical condition or actions. Hegel does not see this as desirable since such a will is unactualised. Nonetheless, it is superior to enslavement and identification with the position of a slave. This is why Hegel claims that even contracting yourself into voluntary slavery does not have any binding force and can be instantly annulled because it can be shown to be ineffectual by the agent's retreat to a stoical account in which they are 'free' from the dictates of the master.<sup>92</sup>

However, what about enslaving agents who lack this self-conception? Hegel does not set out his reasons for condemning slavery in any great degree of detail. At times he simply states that slavery 'ought not to exist' as it is 'unjust in and for itself,

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<sup>89</sup> See PR, §66R.

<sup>90</sup> I have chosen to discuss the account in relation to slavery as this is one of the infringements of 'personality' or 'agency' that Hegel is most outspoken about.

<sup>91</sup> PR, §48R & PR, §91.

<sup>92</sup> PR, §66a. Also see VA, p211.

for the essence of man is freedom'.<sup>93</sup> In other words, since an agent is a being with a free will (at least potentially) then any behaviour which fails to respect this is unjust. It is a 'wrong which I and the other party have done to my concept and reason in treating the infinite existence of the self-consciousness as something external, and in allowing it to be so treated'.<sup>94</sup> The irrationality then lies in the inaccurate picture it relies on and presents of human agency. Is it then unjust because there is failure to treat the agent as they ought to be treated i.e. as a free agent? If so, the illegitimacy of slavery does not depend on the agent conceiving it to be a wrong which is done to themselves.

The role that self-conception seems to play in revealing slavery to be wrong or inappropriate, however, is striking. Hegel states that 'the basic principle of all slavery is that *man is not yet conscious of his freedom*, and consequently sinks to the level of a mere object or worthless article'.<sup>95</sup> This coheres with his claims that the wills of slaves, the superstitious and children are 'objective wills' which '*lack the infinite form of self-consciousness*'.<sup>96</sup> 'In this sense, every will whose actions are guided by an alien authority ... is objective and 'the will of the slave, (is one) which does not yet know itself as free and is consequently a will with no will of its own'.<sup>97</sup> The slave may recognise that they can affect and shape natural, physical objects but, insofar as they fail to realise they can give their will its own content, they are unfree and enslaved.<sup>98</sup>

But these quotes do not legitimise enslaving such agents. It is simply the acknowledgement that the agent themselves lacks an insight which is fundamental to them becoming free and not that this insight means that the agent can be 'owned' by another agent. Hence: 'it is the sensation of freedom alone which makes the spirit free, although it is in fact always free in and for itself'.<sup>99</sup>

However, Hegel also states that slavery should not be considered absolutely contrary to right, as this is one-sided and mistakenly presents a human agent as free *by nature*.<sup>100</sup> This would seem to support the view that an agent does not 'own' themselves until they conceive of themselves as a person and therefore slavery in such

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<sup>93</sup> VG, p184. Also see VG, p115: 'individuals have infinite worth ... A consequence of this is that the individual personality is recognised as infinite, as absolutely self-conscious and free ... the principle that the human being, as a human being, has infinite worth'.

<sup>94</sup> PR, §66R.

<sup>95</sup> VG, p183.

<sup>96</sup> PR, §26. Ethical wills in Ancient Greek society are also described as objective wills insofar as they 'find themselves' to have a particular set of values, duties and allegiances which ground their actions.

<sup>97</sup> PR, §26a. Also see VG, p48.

<sup>98</sup> PR, §21R.

<sup>99</sup> VG, p48.

<sup>100</sup> PR, §57R.

cases is not wrong. In order to cohere with what he says elsewhere, I think this quote must be understood as Hegel reinforcing the idea that a human agent must take possession of themselves and their capacities through *Bildung*. They must recognise themselves as a being with a free will, who can create a 'second nature' for themselves and as such be free. Individual effort is required for an agent to become free; it is not an automatic, 'natural' process. However, this need not be interpreted to mean that an agent can be enslaved if they have not yet developed a second nature. Rather, Hegel is emphasising that without this second nature, an agent cannot be free and recognisably their own person. Thus, slavery can only *seen* to be 'absolutely contrary to right' once the agent develops this second nature.

Therefore, Hegel must argue that agents should be treated as potential persons even if they lack this conception of themselves (for example the children under Roman law). Hence, '[c]hildren are free in themselves ... they do not belong as things either to others or to their parents'.<sup>101</sup> Although their will has an external authority (their parents<sup>102</sup>) this diminishes with age and an education (*Bildung*) which enables them to determine themselves. This is in contrast to an education which 'crushes (a child's) capacity for free choice and decision' which would reduce and maintain them in the position of slaves.<sup>103</sup>

His commitment to historicism further confuses this issue since he cannot advocate the immediate abolition of slavery or wholly condemn the authority of 'spiritual leaders'.<sup>104</sup> Thus, he approves of the actions of Jesuit and Roman Catholic priests in South America who started by 'impressing them (the South American Indians) with their spiritual authority' before 'allocating them tasks ... and prescribing their daily duties for them as if they were minors'.<sup>105</sup> What must make this acceptable in Hegel's eyes was the (alleged) South American Indians' ignorance of the nature of agency. As such, this spiritual leadership was a temporary measure, as in the education of children, so that the South American Indians could gain an understanding of their nature as free wills through the tasks and education that the priests would provide. 'They chose the most appropriate way of bettering them, treating them much as one

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<sup>101</sup> PR, §175.

<sup>102</sup> PR, §107a.

<sup>103</sup> ETW, p115, where Hegel is criticising the indoctrinating and 'enslaving power of the church' in education.

<sup>104</sup> VG, p184.

<sup>105</sup> VG, p164f. Hegel also claims that at least one clergyman used to ring a bell at night to remind them to perform their 'matrimonial duties'!

would treat children'.<sup>106</sup> Hence, if a society does not yet have a rational structure, the social practices and behaviours that Hegel condemns in theory are temporarily valid practices but must be gradually eliminated so as to establish a free, rational society.

Therefore, slavery in all forms is irrational as it is an unstable relationship based on a mistaken conception of the human agent as something which can be wholly shaped, directed or destroyed according to the will of another agent (the master). This is unstable because once the human agent understands their own true nature they take possession of themselves and their attributes, including their capacity to determine themselves. Even if this capacity is smothered by the actions of the master and remains latent they are no longer enslaved since they can retreat to a stoical account of themselves and freedom. It is only appropriate to be an external authority to another agent insofar as you are enabling them to identify and develop their own capacity for self-determination. Insofar as an agent prevents another from developing and using their capacities they are acting illegitimately.

But what is the source of a person's duty to respect the personality of others?<sup>107</sup> Why should I regard another agent as a potential person, whose welfare and life I cannot infringe? The basis for the claim that other agents ought to respect my body as 'mine', regardless of my self-concept, is unclear and Hegel does not explicitly address this.<sup>108</sup>

Prima facie, it might be argued that the extension of this right to other agents, regardless of their self-concept is grounded on agents' need for recognition. As such, I may only gain valued recognition from another if I value them as a source of recognition. Thus, I value the personality of others because this is the means by which I gain recognition as a person, and the way I respect your personality is to respect not just your external property, but also your body and your life. But this instrumental argument only works *if* both agents already have a sense of themselves as persons. If an agent lacks a conception of themselves as a person they cannot be a valued source of recognition for an agent who does have such a conception. In which case, why would I recognise the merely potential, personhood of another? This argument could be adapted and claim that the duty to respect the lives and body of others is a way of encouraging

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<sup>106</sup> VG, pp164/5. Also see PR, §93 & PR, §174a. I am not committed to this being a legitimate extension of Hegel's argument but trying to render his different comments on slavery coherent.

<sup>107</sup> PR, §36.

<sup>108</sup> Jeremy Waldron leaves this as an 'obscure' aspect to Hegel's discussion on property. Waldron (1998), p362.

other agents to think of themselves as persons; as willing entities who need a working body to actualise their will. As such, it increases the likelihood that there will be others to give an agent recognition. However, it is not clear that such passive respect (without explicitly teaching an agent that they are/have a will) will enable another agent to realise they are a person, particularly if they have been conditioned to think otherwise.

An alternative basis for an argument which would give the duty a non-instrumental status, could be grounded on the identical or universal nature of agents, once they are conceived of as persons rather than particularised agents. As such the argument claims that it is a contradiction to see my personality as a source of rights and duties whilst failing to see that the personality of others entitles them to the same rights and duties.<sup>109</sup> This argument is supported by the highly abstract nature of personality; the pure, simple 'I'. Although this identity emphasises the individuality of the agent it simultaneously expresses a universal aspect insofar as all persons are simply 'I'. As such it is perhaps irrational to act as though there is a qualitative difference between one agent and the next with respect to personality and the rights and duties which attach to this identity. Thus, once an agent realises the dependence *their* will has on their life and their body, they have no justifiable basis but to extend it to other persons and respect their lives and bodies.<sup>110</sup> Again, however, this argument does not seem to justify treating agents as persons, if they lack a conception of themselves as persons. Why should an agent see the similarity between themselves and another agent?

An argument against the mistreatment of all agents who lack a sense of themselves as persons, could be derived from the emphasis Hegel places on the human form as an unconscious symbol of the individual will.<sup>111</sup> 'For ... the human body express[es] only the concrete spirit and its inner content, and the spirit therefore remains with its whole self in this its real embodiment which thus is no mere symbol or external sign'.<sup>112</sup> Hence, even if an agent fails to recognise themselves as a will, their body should induce in others a sense of that agent's potential as a willing or spiritual being. This would explain the value he places on the human form in art and his criticism of inappropriate portrayals of the human form. As well as criticising the use of caryatids, Hegel criticises the use of the human form to portray wholly abstract ideas or

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<sup>109</sup> As such it is reminiscent of Korsgaard's reworking of Kant's argument that to treat my identity as a person as a source of value, I must also value personality in others, Korsgaard (1996), pp131-145.

<sup>110</sup> This seems to be the argument for the universal application of rights in 'Absolute Freedom'. See chapter two.

<sup>111</sup> See VA, p353.

<sup>112</sup> VA, p340.



characteristics or *mere* natural features: 'it is properly below the dignity of the human form to be used as an expression for this kind of subject-matter'.<sup>113</sup> Instead, the only subject-matter that Hegel deems appropriate to be represented by the human form is 'free, spiritual subjectivity'. This reasoning may also explain why children (who have the human form) should be regarded as 'free in themselves ... they do not belong as things either to others or to their parents' despite lacking a sense of themselves as a will or having taken fuller possession of themselves through *Bildung*.<sup>114</sup>

This is a strange argument, however, since it requires other agents to recognise the human form as a symbol and the need to look beyond the physical form and apprehend the will or potential will inherent in that form. That this insight is not automatic is supported by the many cultures, documented by Hegel, which did not treat the human being as a free agent simply in virtue of being human and having this particular physical form. Such an insight is also lacking in his famous life and death struggle. However, as discussed earlier, this argument is supported by the way the human body is able to act and manipulate objects in its environment. He also claims that the insight of the way in which the human body is connected to and represents the will, is one that an agent can and should have once they are properly educated. 'It is part of education, of *thinking* as consciousness of the individual in the form of universality, that I am apprehended as a *universal* person, in which *all* are identical. A *human being counts as such because he is a human being*, not because he is a Jew, Catholic, Protestant, German, Italian, etc.'. <sup>115</sup> It is noticeable that Hegel is using the term 'human being' here in a way which would imply the embodied human will, rather than any more abstract concept of agency.

If this argument is accepted, then the biological human being, regardless of their self-concept, should be treated as a potential willing agent and not a mere natural object. However, Hegel's historicism acknowledges that this insight will only be gained and instantiated at a particular moment in time. Prior to this, the failure to acknowledge another human being as free in themselves has a temporary, excusable, validity. Moreover, the agent cannot simply accept this low level of 'ownership' but must employ their capacities, through *Bildung*, to transform themselves into an actual agent. As such, they will be genuinely free and less liable to be taken to be a being that can be enslaved.

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<sup>113</sup> VA, p340, my emphasis.

<sup>114</sup> PR, §175.

## Conclusion

In this chapter I hope to have shown that Hegel argues that all agents (actual and potential) have imprescriptible and inalienable rights to life and physical well-being, in addition to the rights to private property, contract and self-determination that I discussed in chapter one. A Hegelian agent should not see their body and life as fungible private property, although they should see their life and body as something they can determine and shape according to their will. This process of *Bildung* is important but is not the basis of the rights to life and physical well-being.

These inalienable, imprescriptible rights do constrain what an agent may legitimately will. They cannot legitimately commit suicide or voluntarily become slaves. Equally, other persons cannot legitimately kill or enslave others, even if they lack the awareness of themselves as a person. In the next chapter, I look at Hegel's account of marriage and examine whether such a commitment is legitimate since it is founded on the 'sacrifice of personality'. I also examine the extent to which the rights of actual or potential persons are preserved in his account of marriage.

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<sup>115</sup> PR, §209R.

## Chapter Four: Marriage and the Sacrifice of Personality

In this chapter I will be trying to resolve an apparent tension in Hegel's thought concerning the inalienability of personality and his account of marriage based on personality's sacrifice.<sup>1</sup> Hegel's views on the 'sacrifice of personality' do seem to be in tension with each other. On the one hand, Hegel endorses the 'sacrifice of personality' as the only suitable basis for marriage.<sup>2</sup> As discussed in chapter two, he is also committed to finding alternative conceptions of agency as a basis for social institutions given his criticism of societies founded on this concept of the person. As might be expected, therefore, Hegel explicitly rejects a contractual basis for marriage that might express and preserve personality within marriage, deeming such theories 'disgraceful', 'crude' and 'debasement'. On the other hand and as discussed in chapter three, Hegel was highly critical of social, moral and religious frameworks that involved the sacrifice of personality itself such as in slavery, criminal contracts, reliance on moral authorities or priests, suicide and martyrdom. Indeed, this is the basis for his criticism of contractual accounts of marriage. A contractual account of marriage involves both partners adopting and endorsing an unacceptable attitude towards their own personality and the personality of the other.<sup>3</sup> Such a contract is in effect a life-long contract over one's

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<sup>1</sup> I am grateful for having had the opportunity to present and discuss the issues in this chapter in two feminism lectures and a seminar at Sheffield University in March 2001. An earlier version of this chapter was also presented and benefited from subsequent discussion at the Hegelian Politics of Gender Conference: Spirit-Nature-Law, University of Jyväskylä, Finland, December 2003.

<sup>2</sup> My discussion will focus on heterosexual monogamous marriage since this is the form in which Hegel discusses it. I am not committed to this being the only legitimate form of marriage, however, there is insufficient space to consider in detail the extent to which Hegel's philosophical system can be adapted to support non-monogamous or homosexual relationships.

<sup>3</sup> For example in PR, §75, §161a and §163R, Hegel explicitly rejects Kant's contractual and rights-based account of marriage as the 'sexual union in accordance with [the moral] law ... the union of two persons of different sexes for the lifelong possession of each other's sexual attributes', Kant (1996), §24/p62; or the means by which 'the sexes possess one another for mutual use of their substance, in that (through marriage) they acquire each other as common property'. Kant (1997), §27:640/p379. This explicit rejection of Kant's account, however, hides a striking similarity in their accounts of marriage as a symmetrical process where an agent *sacrifices yet regains themselves*. This is found in lecture notes made by both Collins, on Kant's lectures on Ethics, and Vigilantus, on Kant's lectures on The Metaphysics of Morals. Thus, Collin's notes state: 'if I hand over my whole person to the other, and thereby obtain the person of the other in place of it, I *get myself back again*, and have thereby *regained possession of myself*, for I have given myself to be the other's property but am in turn taking the other as my property, and thereby regain myself'. Kant (1997), §27:388/p159, my emphasis. Vigilantus' notes read: 'one party is conceding possession of their substance to the other, each of them can only remain free if, in the body of common sexual possession one of another, and in precisely the degree to which each possesses the other, the one who allows the other to have dominium over them at the same time subjects that other to their own possession, so that they *each recoup themselves*. The two of them mutually acquire each other: each becomes dominus of the other and in that case *remains also self-possessing and free*'. Kant, (1997), §27:638/p378, my emphasis. I have found no reference to Hegel having direct access to such lecture notes and so this similarity may be a striking coincidence. However, there is some trace of this symmetry and restoring of self in Kant's published work which may have influenced Hegel: '[t]here is only one condition under which this [natural use that one sex makes of the other's sexual

whole being and as such, Hegel deems it illegitimate.<sup>4</sup> If another agent had complete use of another agent's body and internal attributes then, given Hegel's claim that the complete use of a thing constitutes ownership, there would be nothing left over for that other agent to own and they would be a slave.<sup>5</sup> So, he does not see contractual accounts, such as Kant's account of marriage, as a means by which personality can be preserved and respected. For Hegel, agents cannot meaningfully separate themselves from their body and will, and 'dispose' of themselves or 'give' themselves to another. They do not own themselves as fungible or alienable property. Equally, a person cannot have rights over another person since that person has an exclusive and inalienable right to their own body and its attributes.<sup>6</sup> Yet how can his account of marriage be considered legitimate if it is founded on the 'sacrifice of personality' such that marriage partners do not retain any sense of being a distinct ego? Any resolution to this problem must be compatible with his discussion of slavery and other social structures and roles which he condemns, and other key Hegelian beliefs such as the role of recognition and the nature of freedom.

Equally, I am looking for a way of understanding the 'sacrifice of personality' in a way which does not legitimise all marital relationships. In particular, it must not legitimise marital relationships in which agents are exploited or are neglectful of themselves in their concern for their marriage partner. It should be able to distinguish between 'sacrifice of personality' and the more radical form of self-sacrifice that is self-neglect or self-abuse. The rights to life and physical wellbeing cannot simply be lost in the transition from person to marriage partner.

I think there is good reason to worry that Hegel's account of marriage will not be able to make such a distinction. If agents are persons then he states there is an explicit duty 'to be a person', that is to actualise and protect this identity.<sup>7</sup> As seen in chapter three, a person has a duty to care for their welfare, body and capacity for self-

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organs for enjoyment] is possible: that while one person is acquired by the other as if it were a thing. the *one who is acquired acquires the other in turn*; for in this way *each reclaims itself and restores its personality*'; Kant (1996), §25/p62, my emphasis. Hegel, however, would still reject Kant's account insofar as it talks of rights or mastery over the other agent; secondly, insofar as Kant presents the relationship to be explicable in terms of ownership and property; and, finally, because of the degree of importance that Kant assigns to sexual intercourse within marriage. Sexual intercourse is important to Hegel's account of marriage but he emphasises that it should only be an aspect of this relationship only and not its key focus. See PR, §161,a; §163,a.

<sup>4</sup> PR, §61, §67R,a.

<sup>5</sup> PR, §67.

<sup>6</sup> '[W]hat is supposed to be transferred remains the property of the person, just as, in general, no contract is inherently possible about personal service, because only the product, and not the personality can be transferred into the possession of the other. The slave can become property as an entire personality, and so can the wife; but *this relation is not marriage*. There is no contract with the slave either, but there can be a contract with someone else about the slave or the woman'. SS, p128, my emphasis.

determination since these are the means of the agents actualisation and freedom. This is usually expressed in the form of rights but these are not rights that a person can legitimately give up. Other agents have a corresponding duty to respect persons and as such may not act in a manner which is detrimental to other agent's welfare or capacity for self-determination, for example by trying to enslave them or make them dependent on another for moral or religious guidance. However, if an agent 'sacrifices their personality' at the beginning of a (marital) relationship then it suggests that the previous duties and rights no longer apply and there is no constraint on the relationship to be one in which an agent's welfare is protected.<sup>8</sup>

A second cause of concern, which exacerbates the first, is Hegel's account of marriage as establishing an indivisible unity between the agents' needs and interests through their identification with each other. If this is the case then it might look as though one agent can neglect themselves, providing this promotes the couple's net interests or needs.<sup>9</sup> Indeed, it is difficult to find the language to express this problem of self-neglect and excessive other-regarding behaviour in a framework where two agents have so identified with each other. Insofar as there is identification between the agents then one agent will gain a sense of satisfaction and a reinforced identity through acting in a way which promotes the interest of the other agent. Thus, even self-neglect can be considered 'self-interested' if that agent thereby gains their satisfaction through serving the other. But this will be the case if that agent identifies with the other such that promoting that agent's needs promotes their own. In other words, with identification of interests there is no space to identify actions as simply egotistical or self-interested and those which are altruistic and other-regarding.<sup>10</sup> There is no other-regarding behaviour that is not also self-regarding and vice versa. This difficulty is further heightened if the concept of other-regarding behaviour is conflated with the concept of moral behaviour, such that self-regarding behaviour is viewed as amoral or even immoral. As such concern for the self, whether that self has been 'enlarged' to include the needs of others

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<sup>7</sup> PR, §36.

<sup>8</sup> This concern is reinforced by discussions of Hegel's account of sacrifice and religion in which Jesus' sacrifice is valorised as the exemplification of genuine 'love'. For example, see Stephen Houlgate (2004), pp92-94.

<sup>9</sup> This is a worry connected more generally to the foundation of Utilitarianism; in that once you allow for happiness or welfare to be aggregated across agents then it would seem to legitimise all sorts of horrors being perpetrated on a few to promote the 'utility' of the other agents, providing it raises the net utility of the group. Utilitarianism can and does respond to this concern, but so must Hegel in the case of marriage.

<sup>10</sup> As such I believe S M Okin's account of the Hegelian family as 'characterised by altruism' is inaccurate, Okin (1982), p83.

or not, is automatically placed outside the ‘moral domain’. There is nothing immoral about such neglect of the self under these assumptions.<sup>11</sup>

So, this chapter aims to reconcile the ‘sacrifice of personality’ with what he says elsewhere about personality being inalienable, but in a way which does not legitimise self-neglect in acting to fulfill the needs or interests of their partner. In section one, I present his account of marriage based on his account in the *Philosophy of Right*.<sup>12</sup> In section two, I examine differences between marriage and illegitimate relationships predicated on sacrifice to isolate a criterion that is implicit in Hegel's discussion and which could distinguish between permissible and impermissible forms of ‘sacrifices of personality’. I look at reversibility and reciprocity as possible criteria. This section takes Hegel's language of sacrifice and self-renunciation at face value. As part of this section I also briefly examine whether this criterion can justify other social identities that Hegel endorses in the Rational State which are grounded on the ‘sacrifice of personality’, such as membership of the army. However, I argue that a criterion-based response to these apparently contradictory views is insufficient to resolve this contradiction concerning the inalienability of personality. Whilst the criterion does have textual support, it fails to take into account the dialectical structure and presentation of Hegel's philosophical system; the idea that marriage starts from a conception of the agent as a person but ‘*transcends*’ or ‘*supersedes*’ (*aufgehoben*) this conception of agency.<sup>13</sup> In section three, I argue that ‘sacrifice of personality’ must be understood more liberally; there is no literal sacrifice or self-renunciation. Rather the agent is transformed such that it is no longer appropriate for them to be regarded as a ‘person’ and the agent themselves would reject this identity. Reciprocity is still an important feature of this model. How this transformation should be understood, what if anything is sacrificed and the implications of this are then examined.

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<sup>11</sup> For a discussion of these issues and criticism of these assumptions see Gilligan (1993), especially pxiix. Louden, (1988), especially pp364-370; Nozick (1989); Soble, (1997); especially p77f; Tronto's analysis of Kohlberg's response to Gilligan, Tronto (1993), p87f; Wojtyla (1981). Other discussions relevant to this issue have focused on: whether there is a need for a moral theory to allow for non-moral concerns and interests which may be prioritised over the demands of morality: Foot (2002); Slote (1983), especially the case of the father who lies about his guilty son's whereabouts; Bernard Williams (1981), especially chapters 1 and 2; Wolf (1982); whether moral theories allow for a distinction between what morality demands and what is supererogatory: works previously cited, plus Guevara, (1999); and whether there are moral principles or duties with regard to the self: Chadwick (1989); Dillon (1992); Fletcher (1993); Hampton (1993); Kading (1960); Korsgaard (1996); Mothersill (1971); Murphy & Hampton (1988); Singer (1959); Wick (1960) & (1961). Interestingly, Kierkegaard anticipates and criticises ‘self-neglect’ and ‘will not to be oneself’ and characterises it as a ‘feminine despair’; see Kierkegaard (1980), pp49-67.

<sup>12</sup> The other important discussion of marriage in Hegel's system is in PhG, §464 to §476. However, as explained in the introduction, that discussion is not based within an outline of a societal system that would enable full freedom of the agent, unlike PR. As such, I will focus on the PR's account.

## Section One: Marriage and the Sacrifice of Personality

‘Marriage ... is **personality** or immediate exclusive *individuality* which enters into and **surrenders itself** to this relationship, whose truth and *inwardness* consequently arise only out of the mutual and **undivided surrender of this personality**’.<sup>14</sup> It is founded on ‘their consent to *constitute a single person* and to **give up their natural and individual personalities** within this union’.<sup>15</sup>

‘The family is *nothing more than a single person*; its members have either **mutually surrendered their individual personality** (and hence also their legal status as individuals and all their other particular interests and selfish inclinations), as in the case of the parents, or they do not yet have a personality of their own, as in the case of the children ... They accordingly live in a union of feeling, love, trust and faith toward one another. Within a love relationship, the *individual is conscious of himself through the consciousness of another*; he **renounces his own self, and in this mutual renunciation, each gains not only the other self but also his own self in return, for the latter is united with that of the other** ... The spirit of the – the Penates – constitutes a single substantial being ... and ethical life consists in ... a common sentiment, a common consciousness and a common volition which **are not confined to individual personalities and interests**. [I]n the family, this unity is essentially one of feeling, and it remains on a purely natural plane’.<sup>16</sup>

As can be seen from these quotes, Hegel is explicit that marriage is grounded on the sacrifice of personality which is freely surrendered or renounced by the two people that are to be married.<sup>17</sup> This sacrifice has occurred if they are genuinely in love with each other and this sacrifice is formalised and objectified through the marriage ceremony itself; where each agent consents to take on the role of marriage partner.<sup>18</sup> This sacrifice is such that he claims the married couple constitutes a unity and this unit can be regarded as a corporate person in its own right with all the rights and duties that formally were attributable to a single agent as a person.

However he is equally clear that this is a sacrifice that ought to be made and one that is beneficial to make. He employs terms common to the Romantic philosophers of his day, and presents the relationship between a married couple as one of ‘spiritual

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<sup>13</sup> PR, §163R, my emphasis.

<sup>14</sup> PR, §167. Also see PR, §168.

<sup>15</sup> PR, §162. My emphasis in bold.

<sup>16</sup> VG, pp99/100, my emphasis in bold. The ‘Penates’ were the Household spirits or guardians of the cupboard/food store which were worshipped by the family alongside the lares, spirits or guardians of the hearth, of Ancient Rome.

<sup>17</sup> Also see PR, §40.

<sup>18</sup> I will say more about the nature of this unifying love later in this chapter.

union’: marriage is a ‘sexual tie, elevated ... to a spiritual significance’.<sup>19</sup> The term ‘spiritual’ (*Geistig*), however, is clearly connected with the notion of *Geist* and implies that the union between the married couple is rational and as such it enables them to be free.<sup>20</sup> As such, this ‘sacrifice of personality’ is presented as liberating rather than a limitation on freedom. It is presented as liberating as it is an expression of subjective freedom in the decision to marry.<sup>21</sup> It is also intended to be liberating insofar as it offers an opportunity for substantive freedom. Marriage should enable the agent to feel ‘*bei sich*’ in a social setting and as such the agent feels less alienated.<sup>22</sup> Reciprocal recognition between the two agents is central in achieving this substantive freedom. The account of marriage in the *Philosophy of Right* promises that agents will be recognised not as abstract individuals (as persons) but as *particular* agents. All the ‘detail’ that an agent abstracts from in conceiving of themselves as a person is recognised: particularities about their physical appearance, their characteristics, their beliefs, interests, emotions, plans and projects all become salient to the other agent. Within marriage, one agent will care about the nature of your property and the attitude you take to it as having sentimental or a purely instrumental value; you will not be seen as simply a property owner. As such, one agent is not interchangeable with another; your marriage partner is recognised as a unique individual.<sup>23</sup>

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<sup>19</sup> EG, §518. Also see PR, §161. Anderson (1941), pp308/9: ‘Romantic assumptions about the nature of man are fundamentally the same and in every case the power of love suffuses these instinct-driven individuals and binds them irrevocably together. The uncertainty ... of the period [was] counterbalanced by the super-charged emotionality of romantic love ... [W]rote Novalis ... “unselfish love in the heart and its maxims in the head, that is the sole, eternal basis of all true indissoluble union” ... [and] one “lives in the state in the sense that one lives in one’s beloved”’. Also see, Robert R Williams (1992), pp76-78 on the influence Hölderlin’s philosophy of love and unity had on Hegel; Soble (1997) on union accounts of love.

<sup>20</sup> This distinguishes his account from wholly Romantic conceptions of love in which emotion was exalted above reason.

<sup>21</sup> Hegel emphasises that both persons entering into the marriage must consent to be married. See PR, §76a, §162f and §164.

<sup>22</sup> PR, §149f. Also see PR, §162. Substantive freedom is not simply an instrumental conception of group membership. It is not merely that membership enables the achievement of an agent’s specific interests, for instance in having the time and energy to write a philosophy paper, or go to the gym, whilst a partner takes care of more routine domestic chores. Substantive freedom involves the notion that your interests and welfare qua agent can only be achieved within a group setting since it is only in this context that the self is recognised and can come to feel that it is at home in the world. In fact this good can only be conceived of once the agent has a sense of membership and is within a group context.

<sup>23</sup> As discussed in the introduction, this is what distinguishes his account of marriage in PR from the account in PhG. In PhG, a marriage partner recognises the other as a token, a bare individual of the universal type ‘man’ or ‘woman’. Such recognition is much less valuable since one’s partner was regarded as interchangeable with another; PhG, §457. This aspect of his earlier, and (strangely) more studied, account of marriage further exacerbates the concern that this approval of the relationship itself might condone or even promote an agent staying in a damaging relationship since it is better to be in a relationship than not and the nature of the other that an agent is married to is irrelevant. However, this earlier account of marriage is constrained by its place in the dialectic in which there is harmony between the bare individual and universal aspects of the agent but no recognition of the agent as a *particular* individual in any of the structures and institutions of that conceptual framework. In contrast, the account



As used by Hegel the ‘spiritual unity’ that marriage constitutes. involves both psychological unity and metaphysical unity.<sup>24</sup> It is when this is examined that the nature of the ‘sacrifice of personality’ becomes clearer. By psychological unity the claim is that reciprocal love alters the identity of the lovers so that they no longer conceive of themselves as separate, independent, autonomous agents in relation to one another i.e. persons. Their sense of being a separate entity is replaced by a sense of partnership and a sense of their shared good replaces their prior sense of distinct, individual goods. Hegel claims that marriage involves complete identification between the man and woman. ‘The first moment in love is that I do not wish to be an *independent person* in my own right and that, if I were, I would feel deficient and incomplete’.<sup>25</sup> An agent in love no longer values the conception of themselves as an ‘independent person’. They no longer find this an adequate self-conception. Hegel dramatically expresses this in the claim that lovers renounce their ‘*independent existence*’<sup>26</sup> and ‘natural and individual personalities’.<sup>27</sup> Although love involves a transformation in the lover’s conception of themselves they do not renounce all sense of self. Rather, lovers acquire a new conception of themselves as a partner. As a lover, the agent conceives of itself in relation to another agent, namely their beloved. An agent has their ‘self-consciousness of (their) ... individuality *within this unity* ... so that (they are) ... present in it not as an independent person but as a *member*’.<sup>28</sup>

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of marriage that I am focusing on in the PR is set in the Rational State and as such the individual, particular and universal aspects of the agent should be recognised.

<sup>24</sup> This conception of marriage seems to be one that Hegel accepts on a personal level. In a letter to his fiancée, Hegel expresses these same ideas, albeit in a more poetical medium. The following poem is an extract from this letter dated April 13, 1811; W Kaufmann (1966), p332. He also uses the phoenix elsewhere as a metaphor for the dialectical process in which ever more rational forms of community emerge; VR, Volume 2, p84.

‘Step with me on mountain heights,  
Tear yourself away from clouds;  
Let us stand here in the ether,  
In light’s lap devoid of colour.

.....  
See the alter on the mountain heights  
On which Phoenix in the flames is dying  
To be raised up in eternal youth  
Which his ashes gain for him.

On himself his mind was turned,  
For his own possession he had saved it;  
Now his own existence shall dissolve,  
And the sacrifice has brought him pain.

Infinite he feels a striving that  
Tears him up beyond himself;  
Though the nature of this world should tremble,  
He wants fiery consummation.

Fall thus narrow bonds that keep us separate.  
For the heart’s course is a sacrifice;  
Me to you, you in to me expanding,  
Fire consume whatever keeps us single!

.....  
When the spirit steps on mountain heights  
Nothing of its own does it hold back:  
Living to see me in you and you in me.  
We enjoy the happiness of heavens’.

<sup>25</sup> PR, §158a, my emphasis.

<sup>26</sup> PR, §158a, my emphasis.

<sup>27</sup> PR, §162. Also see PR, §167.

<sup>28</sup> PR, §158.

The metaphysical unity claim is grounded on the psychological unity and claims that lovers do not merely cease to regard each other as distinct entities but that in fact love creates the new entity of 'we' in which the composite individual entities are no longer identifiable as distinct components but are inseparable 'members'. As members of the 'we' the lovers have no distinct, private good but rather a shared interest in their common good. The identification between lovers appears to be complete; they give up all sense of being separate individuals. Thus he claims that 'lovers constitute a living whole' and can only be considered as separate entities insofar as they may die separately.<sup>29</sup> The unification of the couple also extends to their conceptions of their good. As persons they possessed distinct and separate conceptions of their good, such as desires, needs, interests, welfare, etc. However through their love, this is no longer the case. In marriage, lovers only conceive of their common good and therefore neither lover possesses any rights, interests, or desires which are not also held by the other. This enables them to share their property as well as 'sharing ... the whole of individual existence'.<sup>30</sup> Hegel carefully distinguishes the marital relationship from other social ties because in marriage there is no sense in which the agent retains a sense of being a separate self: in political interaction individuals 'can distinguish between their own ego and the universal. Such *independence* is not to be found in the family'.<sup>31</sup> Hegel therefore states that insofar as lovers conceive of themselves as separate entities they are not in love: for 'love is indignant if part of the individual is severed and held back as private property'.<sup>32</sup> Furthermore, Hegel rejects the possibility of employing political terms such as rights to describe the relationship between the lovers because rights are possessed only by persons. Although he does not claim that employing such notions would undermine love, he claims that such terms can only be appropriately applied to 'lovers' if in fact they have lost their sense of unity, are no longer genuinely in love and have reclaimed their identity as a separate person.<sup>33</sup> Rights only apply to the family as a whole as a corporate person. Hegel therefore regards marriage as a relationship which

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<sup>29</sup> ETW, p305. It is striking to notice that again death highlights the agent as an individual. See the earlier chapter in relation to this. Thus Hegel does see the death of one marriage partner as re-establishing the personhood of the other partner. He is not an advocate of suttee as a continuation of the ideal of the couple as one unit, VG, p189.

<sup>30</sup> PR, §163.

<sup>31</sup> VG, p101, my emphasis.

<sup>32</sup> ETW, p316. Hegel also associates unreciprocated love with shame. His account seems to suggest that it is as love seeks to recognise the other agent, but if this is rejected then the recognition or awareness of the other is deflected back to the one who loves so that they have too great an awareness of self. Cavell also sees this association between unacceptable love and shame in King Lear. See Cavell (2002), p296.

<sup>33</sup> PR, §159.

starts from personality and contract but which transcends or supersedes it (*aufzuheben*).<sup>34</sup>

There is no unique point at which this ‘sacrifice of personality’ can be said to have taken place. There are two events that are jointly necessary for the marriage relationship to be fully established. Firstly, the agents must be in love and feel themselves to constitute a psychological unity. Secondly, this relationship must be objectified and recognised and this occurs through the marriage ceremony itself, particularly their voiced, public consent to marry.<sup>35</sup> Their metaphysical unity is further reinforced in Christian marriage services with the Biblical idea that husband and wife become an indissoluble unity: ‘a man will leave his father and mother and be united to his wife, and they will become *one flesh*’.<sup>36</sup> Hegel is not committed to claiming that a marriage must be consummated in order to have fully taken place. In a number of passages he emphasises that ‘natural vitality’ has a place within marriage and that within marriage the sexual relationship is ‘[elevated] to a spiritual significance’.<sup>37</sup> However, he also describes sexual intercourse as ‘an accidental consequence belonging to the *external existence* of the ethical bond, which may even consist *exclusively in mutual love and support*’.<sup>38</sup> Thus whilst sexual activity can be a part of marriage and this is the relationship in which sexual relationships should occur, Hegel is not committed to the belief that sexual activity actualises the marriage itself, in the way that love and the marriage ceremony do.

The order in which I have explained these events need not be their chronological order. Hegel considers arranged marriages and the subsequent development of psychological unity through love, providing both agents freely consent to be married. Indeed, he suggests that arranged marriages could be more ethical insofar as marriage is seen as an objectively valuable experience and not a product of subjective, capricious emotions. As such, it is more likely that the ‘ethical’ or ‘self-conscious’ love that is necessary for the relationship to be supportive of the agents’ freedom will develop.<sup>39</sup> Hegel distinguishes this ethical love from natural love or sexual desire which all

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<sup>34</sup> PR, §163R.

<sup>35</sup> PR, §162. Also see PR, §164: ‘completion of the *substantial* (aspect of marriage) by means of the *sign* - i.e. by means of language as the most spiritual existence of the spiritual - that this bond has been ethically constituted.’

<sup>36</sup> Genesis 2:24. Also see Mark 10:7-8, 1 Corinthians 6:16. Hegel argued that Christianity was the most spiritual (in the sense of rational; *Geistig*) religion and that it expressed the key philosophical insights of his mature system in the form of representations (*Vorstellung*) and emotions. See VG, p51.

<sup>37</sup> EG, §518. Also see PR §161, §163R,a.

<sup>38</sup> PR, §164, my emphasis.

<sup>39</sup> PR, §161.a.

animals experience and Platonic love, which is the awareness and valuing of the other agent but which is not expressed in ‘natural’ forms of desire or emotions. He also emphasises that ethical love is distinct from romantic love because this exalts the particularity of the two agents and their subjective emotions for each other which considered by themselves are ephemeral, capricious and transient. Ethical love involves the awareness and valuing of psychological unity, in the form of feeling, which finds expression in ‘natural love’ (sex). ‘[R]ightfully ethical love (from which) the transient, capricious, and purely subjective aspects of love (have been) ... excluded’ ... ‘[I]t springs ... from an inclination which is known and from the free ethical life of self-conscious will’.<sup>40</sup> In other words, in ethical love, the agent must intuit or sense the value of their marital relationship and see this as important. They should not see their marriage relationship as transient sexual desire or the contingent product of chance meetings or ungovernable emotions such that they can only hope it lasts. Nor should they think that there is only one perfect other agent through which they can achieve this relationship.<sup>41</sup> Just as he dismisses utopian thinking in the construction of an ‘ideal state’, so he emphasises the important of entering into and valuing current relationships unfettered by abstract and unrealisable possibilities.<sup>42</sup> The other agent must be valued as someone that you love but the relationship itself must also be valued and appreciated: ‘[T]he ethical aspect of marriage consists in the consciousness of this union as a substantial end’.<sup>43</sup> However, he does not advocate arranged marriages over non-arranged marriage. This is because he argues that non-arranged marriages can also be recognised by the lovers as an opportunity for substantive freedom and not a wholly contingent, arbitrary use of their ability to determine themselves and, unlike arranged marriages, they are more expressive and supportive of the modern principle of subjectivity.

This sacrifice of personality and consequent unity does not remain at the level of subjective feeling. The new identity of family member is objectified and hence recognised and stabilized within society. In addition to the marriage ceremony itself,

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<sup>40</sup> PR §161a & VA, pp463/4.

<sup>41</sup> PR, §162R: ‘in those modern dramas and other artistic presentations in which love between the sexes is the basic interest, we encounter a pervasive element of frostiness which is brought into the heat of the passion such works portray by the total *contingency* associated with it. For the whole interest is represented as resting solely upon *these* particular individuals. This may well be of infinite importance for *them*, but is of no such importance *in itself*’. PR, §162a: ‘In modern times ... the subjective origin [of marriage], the *state of being in love*, is regarded as the only important factor. Here, it is imagined that each must wait until his hour has struck, and that one can give one’s love only to a specific individual’.

<sup>42</sup> PR, pp20-23.

<sup>43</sup> PR, §163.

the unity of the married couple is also objectified through the communal ownership of property: 'abstract property contains the arbitrary moment of the particular need of the *single individual*; this is ... transformed (in the family), along with the selfishness of desire, into care and acquisition for a *communal purpose*'.<sup>44</sup> It is lastingly objectified in the couple's biological children who constitute a concrete, indivisible manifestation of their parents' union. The final objectification of family unity is the representation of the family in commercial and political interaction by only one member of the family, referred to as the Head of the family. This is only possible given complete identification and the resulting absence of any division of interests.<sup>45</sup> It is the Head of the family who is active within at least one of the other central institutions of the Rational State, namely Civil Society.

In addition to their identity as partners, husbands and wives are also implicit members of the Rational State itself since marriage is a key institution of the Rational State and Hegel recognises the public role it plays, particularly in its preparation of citizens, through their experience of substantive freedom in the family. Equally, Hegel presents the family as underpinned and shaped by law, for example in its concern for the welfare of members of the family and the provision of education for children. The family is not an inviolable, private realm in Hegel's Rational State.<sup>46</sup>

## **Section Two: Legitimising Marital 'Sacrifices of Personality': Reversibility and Reciprocity**

What does the 'sacrifice of personality' mean if it is taken literally? It cannot be taken to mean a 'sacrifice' in the sense of giving up the infinitude of the will i.e. that I have made a commitment such that my will is no longer wholly abstract and empty of determination. Sacrifice, understood as the loss of infinitude, was not condemned by Hegel as an illegitimate treatment of a person in 'Abstract Right'. Moreover, such a 'sacrifice' is unavoidable if the will is to be actualised and this was already considered in relation to making any commitment such as taking on ownership of a particular piece of property. As such the loss or sacrifice of 'infinitude' is a necessary step in *becoming*

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<sup>44</sup> PR, §170. Also see PR, §169. Property is integral to the identification of the family as a corporate person. See the discussion of personality and property in chapter 2.

<sup>45</sup> Hegel acknowledges that such a transformation is ideal and that the State must act to ensure that family members are protected in the event that the head of the Family acts purely to promote their own interests. PR, §171, §180, R, a, §240.

<sup>46</sup> See my 'Hegel and the Subordination of Women' (unpublished) in which I argue that Hegel does not employ the Sentimental Family or Romantic Public/Private Distinction in order to legitimise the subordination of women.

an actual person. Hence, giving the will a determinate content is not a ‘sacrifice of personality’ as presented in marriage or slavery or martyrdom. Equally, the ‘sacrifice of personality’ in marriage is not to will the destruction of an agent’s body or life, unlike suicide or martyrdom. As such, marital ‘sacrifices of personality’ does not lead to non-existence. You might worry though that the protective rights against an agent’s body and life have been sacrificed in entering a marriage based on Hegel's account and I will examine this later.

So, in what sense have the agents in marriage made a ‘sacrifice’? What has been lost in the transition from ‘person’ to ‘family member’ or ‘marriage partner’? I believe that ‘sacrifice of personality’ involves the idea that an agent gives up or accepts a limitation on the *independence* of their will. As such, the agent can no longer be conceived of as an exclusive, self-sufficient individual; an identity based on the *distinction* between one agent and another. The agent must see themselves as dependent on another; in relation with another. This dependence effects the content of their will and the agent’s capacity for self-determination. As a being who is dependent on another, the agent cannot unilaterally decide what to do. Thus, in Hegel's account of marriage, a partner can no longer be wholly self-regarding but gives up their right to hold and pursue their own ‘particular interests and selfish inclinations’.<sup>47</sup> They are committed to sharing decision-making, goals and action with another agent: ‘the sharing of the whole of individual existence’.<sup>48</sup> A partner cannot use their property to further their needs alone or dispose of it without consulting their partner. They must take into account the needs, interests and desires of their partner. If this sharing of decision making and use of resources does not follow then the agent cannot be recognised as a partner; an agent cannot be a partner in word only but must act accordingly. The needs and desires of the other agent are congruous with and inseparably connected to the other agent’s own needs and desires since Hegel describes being in love as a process of identification between the agents. As such, an agent who acts to promote the welfare or desires of their marriage partner will be promoting their own insofar as their needs and desires cannot be distinguished.

Thus, I would like to claim that the ‘sacrifice of personality’ in marriage refers to the loss of independence that the agent’s will enjoys as a person. By this I mean that the will may no longer make decisions in a wholly self-referential manner but must take another agent’s views into account. This may look like an infringement on an agent’s

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<sup>47</sup> VG. pp99/100.

<sup>48</sup> PR. §163.

capacity for self-determination and this is the 'sacrifice'. But this absence of independence is also found in the reliance on a priest for moral guidance, adhering to excessive or criminal contracts and slavery itself. What legitimises this sacrifice of independence only in the case of marriage?

### Criterion of Reversibility

It might be suggested that marriage is legitimate and different to illegitimate sacrifices because the sacrifice is reversible insofar as the agents can reclaim their independence and identity as persons. This occurs at the dissolution of the marriage, through separation, divorce or death. Hegel's account of marriage does make allowance for divorce when at least one partner is no longer in love with the other. He says divorce is regrettable and something that should not be readily available within the Rational State. However, he says separation and divorce cannot be prevented by law since feeling is not subject to the law.<sup>49</sup> At the point of dissolution it once more becomes appropriate to talk of the rights of the individual such as the right to a share in the previously communal property: 'they become like self-sufficient persons'.<sup>50</sup> Moreover, Hegel accepts the use of marriage settlements as legitimate ways of providing for the wife in the event of divorce or death.<sup>51</sup> She will regain her right to the property she owned prior to her marriage, providing this had been set up before the marriage. Property that is under a marriage settlement must be held intact for the wife and this may undermine and be in tension with Hegel's idea of wholly communal property in the family since the Head of the family does not have the right to alienate this property. I think Hegel could coherently allow the use of marriage settlements providing the *use* of this property is communal and is still regarded as a family resource such that there is no unilateral and purely selfish (independent) use of such property

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<sup>49</sup> PR, §159a & PR, §163a. Again this reinforces the idea that emotion is a necessary condition of a genuine marriage; the ceremony alone is not enough to generate a marriage for all time. Hegel therefore avoids the unintuitive idea that it is illegitimate for one partner to unilaterally decide to leave the other or the even more unintuitive idea that the departed partner can be retrieved by the other. In contrast, Kant is explicit about his commitment to any steps to preserve marriage as a permanent relationship and he sees this as entailed by his account of marriage. This is because of the role life-long marriage has in licensing the reciprocal use of the self and another without reducing either to a mere 'means' of sexual gratification but 'ends in themselves'. Thus, Kant claims that 'if one of the partners in a marriage has left or given itself into someone else's possession, the other partner is justified, always and without question, in bringing its partner back under its control, just as it is justified in retrieving a thing', Kant (1996), §25/p62. This makes marriage look particularly unappealing. Also see Dan Moller (2003) for a discussion of whether it would be rational to enter into marriage if it is regarded as a permanent commitment given the risk of ending up in a loveless relationship.

<sup>50</sup> PR, §159. Again this is in keeping with his view on suttee.

<sup>51</sup> PR, §172R, a.

during the marriage itself. As such, it need not undermine the communal identity of the family.<sup>52</sup> Nonetheless, such provision also supports the idea that the sacrifice of personality is reversible even to the extent of providing the property necessary to 're-actualise' the identity of person.

However, the reversible nature of the sacrifice of personality is not sufficient to make it an adequate criterion for legitimate sacrifices. Whilst this criterion rules out martyrdom and life-long slavery it does not rule out a temporary period of slavery. Slavery for a pre-defined period might occur in response to a debt which would be considered redeemed once the period of slavery was complete. Even if the slave voluntarily entered into slavery for the rest of their lives, Hegel is adamant that the slave has a right to free themselves and become a person. Thus, slavery is a mistreatment of an agent and a failure to recognise them as a person but this does not eliminate their potential for personhood. Since Hegel condemns slavery, even though it is clear that 'personality' or the capacity for this has been suspended and not eliminated during the period of slavery, the sacrifice of personality in marriage cannot be legitimate just because it is reversible.<sup>53</sup> Such a criterion would also license slavery, excessive contracts, or periodic dependence on others to direct your spiritual or moral behaviour.

### Criterion of Reciprocal Sacrifice, Dependence and Recognition

Hegel seems to claim that what makes the 'sacrifice of personality' in marriage legitimate is that it is performed to an equal degree by both agents entering into marriage and the subsequent recognition of the other agent as a partner. This is the criterion that is anticipated in the prologue to the life and death struggle as the way through which recognition may be gained without this struggle and its unsatisfactory outcomes.<sup>54</sup> Reciprocity is also prominent in Hegel's discussion of marriage in the *Philosophy of Right*. Hegel emphasises that marriage is founded on the mutual and equal sacrifice of personality and the equal recognition of the other agent as a partner. Thus, the first moment in love, is that an agent no longer conceives of themselves as an independent person, they have lost, or sacrificed or alienated this conception of

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<sup>52</sup> Again, the hallmark of such property seems to be the legitimacy of a claim for compensation if it is damaged and not whether it is transferable. However, see ETW, p308, where he expresses the need for communal property in more detail and the undermining effect non-communal property has on a relationship.

<sup>53</sup> PR, §3.

<sup>54</sup> PhG, §177-184.



themselves. However, their sense of self is restored by the recognition that is given to them by their partner: ‘the second moment [in love] is that I *find myself in another person*, that I *gain recognition* in this person, who *in turn gains recognition* in me’.<sup>55</sup> ‘Finding myself in *another person*’, means that an agent recognises themselves in the recognition of their partner; their identity is confirmed and stabilized by the other’s regard. This process relies on seeing the other agent as a will, not a mere object that an agent can mould or shape according to their will. In order to receive recognition I must be willing to give it; this is the fundamental basis for interdependence.<sup>56</sup> This recognition cannot be the recognition that was given to a person, since this recognition was mediated through property and contracts. The form of recognition in love is presented as more immediate. Furthermore, this recognition is not simply the recognition of an agent as a willing agent, but encompasses their particularity as well.<sup>57</sup> The reciprocity of this process adds another layer to this recognition and further builds inter-dependence between agents, rather than dependence. Take the case of Alex and Denise who are in love and are planning to marry. Denise is recognised by Alex insofar as Alex recognises Denise as a being with a will, with particular qualities and interests, who is also a source of recognition of Alex’s will and particular qualities. The recognition that Denise gives Alex is therefore a particularity that Alex recognises; Alex recognises that a feature of Denise is that she is in love with him. Thus, Alex can only conceive of himself as a partner insofar as Denise shares and ‘reflects’ this identity in her recognition of him. In contrast, the master does not ‘find themselves *in another person*’ because they are not prepared to acknowledge that there are any other independent, willing agents or persons. Thus, in love or marriage, both agents start by recognising the agency of the other agent. They both give up their personality by taking on the role and identity of partner. Finally, both recognise this transition in the other. As such, each is recognised and recognising. The agent is dependent on the other to confirm their identity but no more so that the other is dependent on it. As such there is interdependence of identity. This interdependence is reinforced by interdependence in relation to fulfilling their needs through the communal use of the property.

The need for reciprocal and equal degrees of sacrifice, dependence and recognition appears to underpin Hegel's rejection of non-monogamous marriage arrangements, such as polygamy or polyandry, as irrational and unethical. Ethical marriage is one in which ‘personality or immediate exclusive *individuality* ... enters

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<sup>55</sup> PR, §158a, my emphasis.

<sup>56</sup> This is the insight that is lacking in the agents in the life and death struggle. PhG, §186.

into and surrenders itself to this relationship, whose truth and inwardness consequently only arise out of the *mutual* and *undivided* surrender of this personality'.<sup>58</sup> He compares non-monogamous forms of marriage to be equivalent to enslaving the one who gives up their personality to gain only partial recognition from the other.<sup>59</sup> He even likens a cuckolded husband to a slave.<sup>60</sup> If reciprocity of sacrifice and recognition is what legitimises marriages then the husband's position of 'slave' is because he has sacrificed his identity as a person and is recognising his wife as a partner but is not gaining equal recognition in return. As such he is not gaining the recognition appropriate to a willing being. He is the equivalent of a slave because he is reflecting the subjectivity of his wife (master) but not being recognised as a subjective being himself (slave). The criterion of equal sacrifice and equal recognition would rule out the sacrifice of personality involved in becoming a slave since such a relationship is founded on inequality. Slavery involves one agent taking on a lower status and not gaining recognition for themselves as a willing being with the capacity for free subjectivity.

The first problem with this criterion is the degree to which Hegel undermines the equality of the partners in his presentation of marriage and the family. Hegel insists that the husband *must* be the Head of the family and as such he has additional identities, responsibilities and freedoms outside of the family.<sup>61</sup> In contrast the wife's identity is wholly grounded in the family. This inequality undermines the equality of recognition that is afforded to men and women in marriage, just as it does in polygamy, polyandry or adultery. As such, it would undermine the legitimacy of the marriage commitment if reciprocity is the basis of its legitimacy. Why does Hegel license such an imbalance? His argument could be reconstructed as follows. In modern societies families are not self-sufficient units and the satisfaction of their needs requires interaction with other individuals or families. Furthermore, the family owns communal property which must be administered. These aspects of family life go beyond the family into Civil Society. Consequently, at least one member of the family must represent the family in Civil Society and Hegel insists that there must only be one and that this should be the husband. As such, the husband takes on the role of representing the family within Civil

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<sup>57</sup> PR, §168a.

<sup>58</sup> PR, §167, my emphasis.

<sup>59</sup> Note 1 to PR, §167.

<sup>60</sup> ETW, p217.

Society and addressing its needs by interacting with others in Civil Society. There are several issues that needs explicating here: why should this head of the family be male?; what is the man's identity in Civil Society?; and why should there only be one 'head of the family'? I will argue that the role of role of the head of the family is incompatible with the criterion of reciprocal sacrifice, dependence and recognition.

It is notable that Hegel does not make the general claim that someone must represent the family and the husband is one possible candidate. Rather Hegel makes the stronger claim that the husband is the *only* possible representative of the family.<sup>62</sup> Therefore, man is both head of the household and participant in Civil Society. Hegel does try to justify this position by appealing to *Geschlechtscharakter*, i.e. the view that men and women have distinct, complementary abilities and natures, which makes women incapable of holding the position of the head of the family.<sup>63</sup> I do not think that this doctrine has any credibility today. Some contemporary theorists might argue that there are different 'male' and 'female' virtues or approaches to moral decision making. However, very few of these theorists are essentialists about such differences and, even if they are essentialists, they do not see this as imposing a *limit* on the achievements or roles that can be filled by men or women.<sup>64</sup> I will not go into this issue any further here but will consider this aspect of Hegel's account of marriage to be indefensible and one which must be expunged from any credible reworking of his position.<sup>65</sup>

However, even if the position of the head of the family is not restricted to being a 'male' role, there will still be asymmetry of sacrifice and recognition in such a marriage. One agent will be head of the family and have additional roles and identities which are reinforced by recognition from other agents. They may be a member of the

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<sup>61</sup> PR, §171.

<sup>62</sup> PR, §171, my emphasis.

<sup>63</sup> For an excellent discussion of *Geschlechtscharakter* and its development in nineteenth century Germany, see K Hausen (1981). Also see my 'Women, Photosynthesis and the Sexual Division of Labour' (unpublished) where I discuss whether this sexual division of labour in the family is an integral and necessary part of Hegel's systematic philosophy and the extent to which he is committed to these distinct natures being innate or the product of society.

<sup>64</sup> For example, Carole Gilligan (1993), especially p2; Nel Noddings (2003), especially p97 & p123, who argue for a 'feminine approach' to moral decision making, grounded in 'care'. But their accounts are neither grounded in essentialism about female or male attributes, nor grounding a restriction on women or men's abilities or roles. An exception to this view is Doyle (1999) who argues that embracing gender-differentiated roles in marriage, in which one agent, the husband, makes the decisions on behalf of both partners, is liberating. I am grateful for having had the opportunity to present and discuss a Hegelian critique of her work at The Centre for Gender Studies in Europe, Sheffield University, December, 2001. For other exceptions see Saul (2003), p202.

<sup>65</sup> If this feature of his account is removed it also raises the possibility that his account can support same-sex marriages since there are no exclusively 'male' or 'female' roles that must be occupied by agents with that specific gender. However, there would still be Hegel's claim that the marriage partners should have their own biological children to objectify the relationship to consider but I do not think this presents an irresolvable problem.

Substantial Estate (primarily involved in agriculture), a member of the Estate of Trade and Industry and a member of an appropriate corporation, or a member of the Universal Estate whose bureaucratic role is the smooth running of the Rational State as a whole.<sup>66</sup> Regardless of the Estate to which they belong, the head of the family will have this identity in addition to their identity as head of the family and marriage partner. In contrast, the agent confined to the position of family member, passive membership of the state and (at best) vicarious involvement in Civil Society.<sup>67</sup> There is gross inequality in their levels of dependence. The agent who is head of the family is not as dependent on their partner for recognition of themselves as a willing agent since they also gain recognition of this from others in Civil Society. In contrast, the other agent is almost wholly dependent on the marriage partner for recognition.<sup>68</sup> This situation cannot be legitimised by the criterion of equal and reciprocal sacrifice, dependence and recognition. If Hegel's account of marriage is taken at face value then regardless of sexual difference, both agents are equals as they enter the marriage relationship. This is no longer the case within the relationship, as outlined above, and so it does not seem a legitimate sacrifice for the agent to make.

Hegel presents the roles of head of the family, custodian of the family resources and actor in Civil Society as inter-dependent roles. Civil Society is initially presented as the institution in which agents are recognised *as persons* and as noted earlier, a fundamental way an individual can gain such recognition is through controlling property. Thus, the management of family property grounds the head of the family's activity in Civil Society. Correspondingly, their participation in Civil Society reinforces

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<sup>66</sup> PR, §203 – §205. Corporations are similar to medieval guilds in that they are associations of individuals who have their means of employment in common, for instance, craftsmanship, manufacturing, commerce, etc. They are likened to 'second families' in PR insofar as membership alters the identity of agents so that they consider themselves to be members and insofar as the corporation has a duty of care towards its members. The extended family takes on a similar role in the Substantial Estate and the nature of the Universal Estate is such that it also has a similar impact and attitude towards those employed in this Estate. See PR, §250f.

<sup>67</sup> Thus he claims that the wife is confined to the role of wife and mother and her identity as a will is only recognised within these roles. Indeed, Hegel refers to marriage as a woman's Estate, PR, §166 & §326R. Thus, 'a girl loses her honour in [the act of] physical surrender [fornication], which is not so much the case with a man, who has another field of ethical activity apart from the family. A girl's vocation consists essentially only in the marital relationship'. PR, §164a, my emphasis. Hegel exploits etymological relationships in making this point; linking a woman's honour (Ehre) with matrimony (Ehe). Krell (1996), p92. In further support of this connection, Krell (ibid., p92) cites Hegel's handwritten notes to PR, §162, written during the time he was lecturing on PR: 'He [man] is to make her into a woman [Frau]. She is to receive from him as the man [or husband] her dignity, value, joy and happiness as a wife [Ehefrau], insofar as she becomes a woman [Frau]. Love – she recognises the basis of her interest in the man; this is pre-eminently the girl's sensibility'.

<sup>68</sup> It could be argued that some recognition may come to an agent in this position if they have a child. However, such recognition will only be valuable once the child is themselves an adult and this recognition will also be offered to the other parent and therefore cannot correct for this imbalance.

their role as head of the family, since their work makes a further contribution to the maintenance and well-being of the family.

Some feminist critics of the Hegelian account of the family, such as Heidi Ravven, Carla Lonzi and Carole Pateman have interpreted this to identify an even greater inequality in his account.<sup>69</sup> The female agent ‘gives up her personality’ in committing herself to the relationship and without the opportunity for other relationships commits herself to only the identity of marriage partner. In contrast, the male agent ‘gives up his personality’ only in relation to the female agent and continues to actively express and gain recognition of his personality in civil society and (potentially) the State itself. Her ‘sacrifice of personality’ is complete and affects every aspect of her life; his ‘sacrifice’ is partial and only occurs in relation to his marriage partner. I think this is a misreading of Hegel which arises from his dialectical presentation of Civil Society and his use of the term ‘person’ for both the individual agent and the corporate family. Although Hegel introduces Civil Society as the institution of single agents and ‘persons’, he quickly complicates this by introducing more corporate bodies, such as the extended family in the Substantial/Agricultural Estate and the corporations in the Estate of Trade and Industry. I would argue that the family is another such corporate body (a corporate person) that interacts in Civil Society. As such, the agent who interacts there does so in their character of family member, who is caring for the welfare of their family. They are not making decisions which are only self-referential or self-regarding. Thus, there is only ‘the superficial [aspect] of lordship. The husband is master and manager, [but] not a property owner as against the other members of the family. As manager he has only the appearance of free disposal’.<sup>70</sup> Thus, there is only the illusion that he retains his personality in his actions in Civil Society in a way which is unaffected by his marriage commitment.

However, even if this criticism is founded on a misreading of Hegel and neither agent retains their ‘personality’, it does not eliminate the basic inequality in the levels of dependence one agent has on the other. As such, this does not seem to be a legitimate relationship for a person to form. To enable it to be a legitimate relationship, the role of the head of the household must be dismantled or shared. So, on the basis that symmetrical and reciprocal sacrifice, recognition and dependence makes it legitimate to form a relationship grounded in the ‘sacrifice of personality’, the role of head of the family needs to be expunged along with his commitment to *Geschlechtscharakter*. It

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<sup>69</sup> Ravven (1996), especially p236-240; Lonzi (1996), p290; Pateman (1996), especially pp213/4.

<sup>70</sup> P127, System of Ethical Life. Also see PR, §181.

might be a concern that what is distinctively Hegelian about his account of marriage is lost through this process; however, not removing these features leaves the tension in Hegel's account in relation to 'personality' unresolved.<sup>71</sup>

A second concern is that this criterion for legitimate sacrifices will be limited to the case of marriage. *Symmetrical* and *reciprocal* sacrifice, dependence and recognition are not found in other relationships in the Rational State. Yet despite this there are very few 'persons' (as understood in 'Abstract Right') in the Rational State since most have given up this identity and have identities grounded in their family and their profession. This is unsurprising given his rejection of socio-political structures that are based solely on 'personality'.<sup>72</sup> One of the most dramatic examples of asymmetrical sacrifices of personality in the Rational State is membership of the army. Membership of the army is an interesting case to examine since it shares with marriage the features of complete sacrifice and the alleged legitimacy of this sacrifice, but it is not based on symmetrical sacrifice.

Hegel believes all members of the Rational State have a duty to defend their society if it comes under attack. However, he also claims that there should be some agents who are dedicated to the defense of their society. These soldiers thus constitute the Military Estate whose duty is 'to sacrifice itself' and where the 'individual merely counts as one among many'.<sup>73</sup> The appropriate attitude of soldiers is one of valour. Hegel distinguishes between 'true valour' and valour that is based on honour because honour involves a concern for the self as a unique individual. As such, an agent who is valorous based on their sense of honour, is one who has not sacrificed their identity as a unique individual – as a person - and who has not become an integrated part of the army.<sup>74</sup> Hegel places value on the increased mechanisation of warfare insofar as it becomes harder to view your own or the enemy's army as a collection of discrete agents.<sup>75</sup> Again, therefore the agent's identity and interests become 'united' with others.

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<sup>71</sup> It can be argued that Hegel is committed to there being a unique head of the household as a unifying figure, just as he is committed to the idea of constitutional monarchy as a unifying and stabilising figure: PR, §275a & PR, §279. This structural commitment therefore may go deeper than his commitment to *Geschlechtscharakter*. Nonetheless, its retention does cause problems for the resolution of the relation of 'person' to the 'marriage partner'.

<sup>72</sup> See chapter 2 for a discussion of this in relation to the French Revolution and Ancient Rome.

<sup>73</sup> PR, §327a.

<sup>74</sup> VA, p557f.

<sup>75</sup> PR, §328R. Also see PR, note 1, p474.

‘The significance of valour as a disposition lies in the true, absolute, and ultimate end, the sovereignty of the state. The actuality of this ultimate end, as the product of valour, is mediated by the *surrender of personal actuality*. This phenomenon therefore embodies the harshness of extreme opposites: *alienation itself*, but as the existence of freedom; the supreme self-sufficiency of being-for-itself, which at the same time *exists in the mechanical service of an external order*; *total obedience and renunciation of personal opinion and reasoning*, and hence *personal absence of mind*, along with the most intense and comprehensive presence of mind and decisiveness at a given moment; the most hostile and hence most personal action against individuals, along with a completely indifferent or even benevolent attitude towards them as individuals’.<sup>76</sup>

It is notable that joining the army potentially involves a ‘sacrifice of personality’ in two senses. Just as a member of the Roman Catholic congregation must accept the authority of the priest, so the soldier must accept unquestioningly the authority and commands of superior officers. The soldier must aspire to ‘personal absence of mind’. Such authorities can direct behaviour and yet Hegel condemns one form of obedience and not the other. This imbalance of authority coupled with the number of obedient agents to those in authority cannot be justified by any appeal to symmetry in sacrifice, dependence and recognition. Moreover, the role of soldier may involve an additional sacrifice of personality once the agent has become a member, insofar as they have agreed to and may be commanded to risk and potentially lose their life. How can it be legitimate for an agent to become a soldier given this anticipated duty? How can an agent legitimately form a contract to become a soldier that involves risk to their lives? I do not believe this can be answered simply using the criterion of reciprocal sacrifice, dependence and recognition.

There are two possible responses to this. It could be argued that marriage is unique in being licensed by the criterion of reciprocal sacrifice, dependence and recognition and therefore we should not expect this criterion to also legitimate other relationships in the Rational State. Alternatively, it could be argued that the criterion itself is insufficient to explain what legitimises this ‘sacrifice of personality’ and that a common justification underpins all such sacrifices of personality that are needful in taking on roles within the Rational State. I think my final concern below points to the need to rethink the criterion of reciprocal sacrifice, dependence and recognition to try and find a broader account of when it is legitimate to ‘sacrifice one’s personality’.

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<sup>76</sup> PR, §328, my emphasis.

My final concern is focused on this approach to distinguishing between legitimate and illegitimate grounds for ‘sacrifice of personality’ and the literalness with which I have tried to approach the ‘sacrifice of personality’. Why is it permissible to ‘sacrifice your personality’ in a reciprocal relationship when it is not acceptable in a unilateral relationship? Marriage is based on or originates in a contract (although it should ‘transcend this standpoint’). Hegel establishes in the section ‘Abstract Right’ that contracts are only established between persons and that they are only legitimate if they apply to external aspects of the person that they own, such as their property, or their work for a specific period of time or on a specific task. However, the person does not have a right to dispose of their entire body or working-life in a contract. He condemns these as illegitimate along with voluntarily becoming a slave and suicide. The agent cannot distinguish between themselves and their will in this way such that it can be ‘given over’ to another agent. If ‘sacrifice of personality’ is taken as a genuine sacrifice then it does appear to be an invalid contract to form. On the face of it, an agent should not contemplate entering into the marital relationship considering their inalienable personality, no matter what the apparent benefits are in terms of recognition and stability of identity.

### **Section Three: Transformation not Sacrifice**

The criterion-based solution is problematic and may be too simple a response. The dialectical presentation of Hegel’s system means that the idea of ‘sacrifice of personality’ is not a clear cut matter. The phrase, ‘sacrifice of personality’, implies that at one moment an agent has particular property, qualities, and identity, and that at another moment this is no longer the case. This understanding of ‘sacrifice of personality’ uses the conceptual apparatus of Abstract Right in which the agent either is or is not regarded as an independent, self-determining being, with rights, including the inviolable rights to life, private property and contract. Thus, slavery, martyrdom, dependence on a priest, etc. are all illegitimate forms of sacrifice at this level because the agent is no longer identifiable or treated (by themselves or others) as a free, rational, self-determining being with an inviolable right to life, property, self-determination, etc. Equally, however, the marital commitment to another person such that you do not uniquely self-determine your actions, strive to fulfill your unique goals or ambition, or control your own private property can also be seen as an illegitimate sacrifice from the



standpoint of Abstract Right. Thus, from this standpoint there is a contradiction for Hegel to say that some sacrifices are illegitimate whilst the marital relationship is not. If marriage originates in a contract along the lines of those discussed in Abstract Right then it is an illegitimate one.

However, if the dialectical nature of the argument is appreciated it could be possible for Hegel to argue that personality has not been ‘sacrificed’ but that this identity as a person has been transformed or sublimated (*aufgehoben*) into the new identity as marriage partner. This line of thought requires marriage to be importantly unlike other sacrifices of personality such as voluntary slavery and suicide and to somehow preserve personality or at least the valuable qualities of this identity. If this is the case, then it is no longer clear cut or literally true that personality has been ‘sacrificed’. This reading treats the language in which he explains the nature of marriage as hyperbole since there is no literal sacrifice or self-renunciation. Such hyperbole would be in keeping with some of his other dialectical transitions in which a stark contrast is at first presented and then gradually revealed to be less dramatic a contrast that is originally implied.<sup>77</sup> Instead, talk of a ‘sacrifice of personality’ is a dramatic way of drawing attention to the radical transformation required in our (the reader’s) conception of agency to adequately comprehend the new conception of agency as marriage partner or family member.<sup>78</sup> It is a way of highlighting the difference between this new concept and the concept of the agent as a person. This could enable entry into marriage, the army and other relationships in the Rational State to be legitimate without contradicting himself when he condemns voluntary slavery, suicide etc. which do not offer legitimate transformations of personality. Equally, it may allow the protection of the agent’s body, welfare and capacity for self-determination to be preserved in some form other than rights, within the framework of marriage.

This still does not let Hegel off the hook, however. Firstly, the nature of this transformation or sublimation needs to be examined. In what sense has ‘personality’ been preserved in this identity? To what extent is ‘sacrifice’ an appropriate term for this transformation from person to partner? In my discussion of this I will also consider what justifies the marital-form of ‘transforming personality’. Can Hegel still distinguish between the marital form of transforming personality and other forms he

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<sup>77</sup> For example, Civil Society is initially presented as a wholly atomised society of persons in which there is no identification and every agent acts in a self-interested fashion. Once he introduces the three Estates including the extended family and the corporations, however, Civil Society is far from atomistic and bears little resemblance to its initial presentation.

previously considered illegitimate, such as slavery? Connected to this is the question whether this transformative account legitimises all marriages, regardless of the way the partners treat themselves or each other. Does it offer some way in which there is a normative standard for the way the partners must regard themselves and each other? If not then it is worrying to see ‘sacrifice of personality’ as hyperbole because it may mask real sacrifice, exploitation and the conditioning of agents to be wholly other-regarding. I will discuss the models in relation to a case study presented by Jean Hampton in which a wife and mother, Terry, neglects herself through meeting the needs and interests of her husband and children.<sup>79</sup>

In the remainder of this chapter I will examine two alternative models of this transformation in relation to these questions. I will first consider a model in which personality is retained as a ‘core’ identity alongside the agent’s identity as marriage partner. Arguably, Christine Korsgaard and Jean Hampton both endorse this model and view it as a way of limiting the ‘sacrifice’ of agency that comes from entering into intimate relationships. This is a valuable model to look at because it offers a clear structure which aims at reconciling a ‘personal’ and ‘marital’ identity within an agent, in a way which would not legitimate self-neglect. However, although this model coheres with some of Hegel’s account of agency, I believe it departs too far from central Hegelian concepts to constitute a viable account of Hegelian marriage. The second model is a variation on this first model. It suggests a model of agency in which key qualities, which were valued in the identity of the ‘person’, are preserved within the identity of ‘family member’ or ‘marriage partner’, without there being a ‘core’ identity of personhood within each agent.

#### Model One: Personality as central core of the new identity of marriage partner

In *The Sources of Normativity*, Christine Korsgaard endorses a view of agency that treats agents’ reflectively-endorsed, practical identities as sources of normativity. The practical identities she considers include: being a family member, a member of a community, a citizen, a member of a particular profession or craft, adherent of a particular religion, etc.<sup>80</sup> Like Hegel, she judges such identities to be sources of norms and values. However, at the heart of all these contingent, practical identities, Korsgaard

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<sup>78</sup> Stanley Cavell attributes a failure to appreciate that a loving relationship does not imply loss of self or annihilation to King Lear and this is what motivates Lear’s rejection of Cordelia and her love for him. See Cavell (2002), p298.

<sup>79</sup> Hampton (1993).

argued that there is a key-stone identity of being a ‘moral agent’. She explains this as an agent’s ‘human identity conceived as a form of normative practical identity’<sup>81</sup> or ‘[y]our identity *simply as a human being, a reflective animal who needs reasons to act and to live*’.<sup>82</sup> This is the Kantian conception of the agent, in which each agent is ‘a member of the party of humanity, or a Citizen of the Kingdom of Ends’.<sup>83</sup> ‘To value yourself just as a human being is to have moral identity as the Enlightenment understood it ... [and] valuing humanity in your own person rationally requires valuing it in the persons of others’.<sup>84</sup> Korsgaard develops this as the core identity which can rationally reflect, endorse or reject other contingent identities; it is the capacity for self-legislation but in the form of identities and commitments, not just universal moral laws.<sup>85</sup> This core identity shares the key features of the abstract, willing, self-determining and rational agent that Hegel refers to as the person, whose personality is inalienable. Korsgaard argues that all agents should have this particular self-conception, which she claims cannot be denied or alienated ‘unless we are prepared to reject practical normativity, or the existence of practical reasons altogether’.<sup>86</sup> Thus, she claims that the normative force of all other practical identities is grounded in the normative force of this identity and this is the inalienable source of personal ‘integrity’ and dignity.<sup>87</sup> She claims that an agent who fails to recognise and appreciate this core identity whilst acting on the basis of a contingent practical identity is in a ‘reflectively unstable’ position and should be ‘condemned as insufficiently reflexive’.<sup>88</sup> On this model, the agent’s overall identity might be likened to a set of matryoshka dolls with identities ‘nesting’ inside of each other; with the most important, abstract and universal in scope at the core, and other identities which are more concrete and have a more restricted scope in the interactions they effect overlaid on top of this core.

This model of the self seems a possible clarification of Hegel's account of the transformation of the self into the marriage partner, providing his talk of ‘sacrifice of personality’ is not taken too literally. As such, the transformation would mean the

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<sup>80</sup> Korsgaard (1996), p101 & p120.

<sup>81</sup> Korsgaard (1996), p125.

<sup>82</sup> Korsgaard (1996), p121, my emphasis. Her preference for the term ‘human’ rather than the term ‘person’ as the central Kantian conception of agency is shared by Hill (1992). See chapter 2, especially p39. Hill also discusses apparent inconsistencies in the attributes of the ‘human’ in Kant’s philosophy.

<sup>83</sup> Korsgaard (1996), p129.

<sup>84</sup> Korsgaard (1996), p121.

<sup>85</sup> It is a ‘conception which identifies us with the source of ... reasons ... it makes us laws to ourselves’. Korsgaard (1996), p113; with the capacity to test maxims and transform them into universal laws. *ibid.* p113; ‘where one’s identity is one’s relation to humanity itself’ *ibid.* p117.

<sup>86</sup> Korsgaard (1996), p125.

<sup>87</sup> Korsgaard (1996), p256. On dignity and humanity as an end in itself, see Hill (1992), chapter 2, especially p47f.

additional identity of 'partner' being adopted which would 'mask' the agent's identity and actions as a person in relation to their partner. This new, contingent and local identity would be a source of norms in the treatment of the other partner and would guide and set a standard of appropriate behaviour that would express, reinforce and objectify that identity: for example, spending time communicating and working alongside one's marriage partner, supporting and relying on support when appropriate, etc. On the whole, these would not be perceived by the partner as arduous duties or necessary tasks insofar as they have genuinely adopted the role of partner as part of their identity. There may be occasions when the behaviour does not come 'naturally'. In such cases, the agent has to consciously choose to act in a way to reinforce or undermine their identity. According to Korsgaard this identity overlays the identity of the agent as a moral agent such that the marriage partner does not regard the other person as simply another 'person' or 'human', and does not act on the basis of their 'moral identity' in relation to their partner. However, this core identity would be the basis for interactions with strangers. On this model, there is no 'sacrifice' of identity or capacity as personality is preserved in relation to other agents and is clearly latent in relation to one's marriage partner. However, there is 'sacrifice' to the extent that the agent can no longer be wholly self-regarding, but must be actively involved in promoting the interests of another agent.<sup>89</sup> Moreover there is 'sacrifice' of independence to the extent that decision-making, at least on significant issues that effect both partners, must be shared and each must be willing to listen and accommodate the views and wishes of the other in coming to that decision. However, can this model legitimise this 'sacrifice' without licensing the forms of sacrifice that Hegel condemns?

Korsgaard plausibly believes that her account of identity as the source of obligation commits her to the view that any practical identity, even that of the slave, which is incompatible with the necessary identity of 'moral agent', has normative force until the agent themselves rejects it. Rational reflection will reveal this incompatibility and the priority of the necessary identity as 'human agent'. However, until this happens and the agent rejects the practical identity of slave, the slave identity has normative force for the agent: 'there is a real sense in which you are bound by a law you make for yourself until you make another'.<sup>90</sup> However, this model would clearly rule out rationally adopting or endorsing practical identities such as that of the slave. Given the

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<sup>88</sup> Korsgaard (1996), p128 & p250.

<sup>89</sup> Under the identity of 'moral agent' the commitment is to respect the humanity in all other agents as ends in themselves. This can be interpreted as more than a duty of non-interference, but it is non-specific in terms of whose welfare or ends I promote. See Hill (1992) chapter 2, especially p42 & p44.

structure of the self as a series of nested identities and the priority of the identity qua 'human or moral agent' the agent cannot rationally endorse any practical identity that is incompatible with this core identity. This core identity is the valorisation of the self's capacity to self-legislate and take on practical identities. As such, an agent cannot simultaneously value this identity and endorse an identity that disvalues it insofar as it rules out any further expressions of the core identity. In identifying with the role of a slave the agent cannot and must not regard themselves as a self-determining being; yet identification with such an identity is only possible given the capacity for self-determination.

Being able to coherently reverse or retract a commitment to a practical identity seems to be a hallmark of legitimate practical identities. Reconsider the case of the slave again. The contemplation of alternative roles is an act which places value on and expresses the core identity and which *as a slave* the agent has no authority to access and utilise. Thus, the fact that the practical identity of slave cannot be coherently retracted is an indication of the incoherence of adopting this practical identity in the first place. Thus, becoming a slave is contrary to the value of humanity, in the agent's own person, just as being an assassin (which is the case that Korsgaard discusses) is incompatible with the necessary extension of the regard for humanity in the self, to other agents. Equally, enslaving others or being a 'master' will be a reflectively unstable position for the same reasons that becoming an assassin would.<sup>91</sup> She classes agents who deliberately ignore or subordinate the value of this 'moral identity' in the others, as 'evil' and presumably she would have to say the same about the equivalent treatment of the self, though she does not explicitly address this.<sup>92</sup> Thus far, this model seems compatible with Hegel's approval of sacrifice in marriage but not in the form of slavery or excessive dependence on another agent through an excessive contract or for moral guidance.

How does this model treat the commitment to be a marriage partner? *Prima facie*, this model does permit the commitment to the practical identity of marriage partner.<sup>93</sup> As such, the agent ceases to regard the other agent simply as another human or person. Both agents cease to be wholly self-regarding in the pursuit of their desires, needs and hopes in the way that Hegel outlines. Another advantage of this model is that each agent must view and treat themselves and the other as a self-determining being

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<sup>90</sup> See Korsgaard's discussion of the 'Mafioso' (1996). p257.

<sup>91</sup> Providing her argument that valuing my identity as a human commits me to valuing the humanity in other agents is successful.

<sup>92</sup> Korsgaard (1996). p250.

who can retract their commitment to the practical identity as marriage partner. As such, this model cannot legitimise having an identity that is wholly other-regarding such that the agent can neglect themselves in the promotion of the needs and interests of others. This 'core identity' thus constitutes a limit of the caring identity and behaviours that an agent may legitimately take on.

The core identity as 'moral agent' or 'person' does not only mean that they must care for themselves physically, but also requires that the capacity for self-determination is not damaged by the new identity or behaviour appropriate to it. I would argue that if an agent did not actively contribute to the plans and projects that the 'couple' share then their capacity for self-determination would be damaged. They would become conditioned into taking on a passive role if they had not already done so. If this is true then on this model, the agent as marriage partner, must be an active contributor to the desires, needs and hopes of the 'couple' and cannot simply passively adopt and promote those contributed by the other agent. Insofar as an agent does not do this they have failed to respect and preserve their core capacity for self-determination; a person or 'moral agent'. This failure of reflective endorsement indicates the inappropriateness of taking on the identity of 'marriage partner' if it is understood as a wholly passive role.

Jean Hampton comes to a similar conclusion.<sup>94</sup> She is also committed to the Kantian notion of the person as an essential conception of agency, and claims that respect for this identity grounds a duty to the self such that an agent has a moral responsibility to care for themselves as an end in themselves.<sup>95</sup> Like Korsgaard, this is not a description, but a normative account of how fully reflective agents should conceive of and value themselves. She claims that the agent ought to value themselves as a rational and autonomous being and that this value is intrinsic and equal to that of any other agent. The duty to take on and respect this identity takes priority over

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<sup>93</sup> Korsgaard (1996), p126.

<sup>94</sup> My discussion draws on her general discussion of appropriate treatment of the self, Hampton (1993). However, her earlier work with Jeffrie Murphy on resentment, as appropriate as a defence mechanism against inappropriate treatment of the self given the self's intrinsic worth, is also relevant, Murphy & Hampton (1988). Of particular value is the distinction she uses between forgiveness and condonation, based on the work of Kolnai (1973/4). Condonation involves the wronged agent accepting the wrong done to them, repressing their resentment (which protects the agent's self-esteem against the inappropriate treatment that the wrong constitutes), and acting towards the wrong-doer, as if the wrong had not happened. She warns that chronic condonation can undermine an agent's sense of worth such that they acquire a 'servile mentality', Murphy & Hampton (1988), p40. This could be applied to the case of 'Terry' insofar as it seems she fails to see a wrong in undertaking other-regarding care which is significantly detrimental to her.

<sup>95</sup> She argues this conception of the agent can be considered limited insofar as 'it is unable to pick out and require the beneficent involvement in others' lives'. However she argues this is a particular interpretation of Kant which can be challenged and this identity can be supplemented by incorporating additional practical identities, that are consistent with the core identity of 'human agent', such as marriage partner, as Korsgaard does. Hampton (1993), p145.

commitments that come out of that agent's relationships with others and constitutes a limit on acceptable treatment of an agent by themselves or others. She, like Korsgaard, claims that this value cannot simply be aggregated or the value of one agent's 'personhood' be simply 'set against' the 'personhood' of others in any utilitarian moral calculation to determine appropriate action.<sup>96</sup> Hence, action that damages one agent's welfare cannot be justified just because such an action could promote the welfare of another agent or agent. Equally, care for the self should not be simply motivated by instrumental attitude towards the self; for example, self-care as motivated to equip the agent to be a more efficient carer.

Take the case of Terry that Hampton discusses. Terry is pregnant with twins and her welfare, and the welfare of the unborn children, suffered after she became exhausted meeting the needs and desires of her existing children and husband. Her marriage was described by a friend of hers as loving and caring. Terry and her husband considered Terry to have primary responsibility for the childcare and the housework; whilst her husband was responsible for providing an income for the family. He worked long hours in a demanding job whilst she looked after the housework and raised their two children who were not yet old enough to go to school and were 'lively, challenging and unruly'.<sup>97</sup> Her exhaustion was cited as key in the death of one unborn child in the womb and the premature birth of the other, resulting in medical complications for the child. Her response or her husband's response to the situation is not given. On this model of the marriage partner, in which an agent retains a 'core' identity of a person, it would not be appropriate for Terry to care for herself simply to be a better carer for her children or her husband. Thus, Hampton claims that '[i]f this conception of our value is adopted, one must respect the value not only of others but also of oneself, and must therefore reject any roles, projects, or occupations which would be self-exploitative' and 'service to others is only morally acceptable when it arises from authentically defined preference, interest, or project undertaken by one who pursues her legitimate needs as a human being, and who accepts a Kantian conception of human value'.<sup>98</sup> Unlike Korsgaard, Hampton discusses relationships in which an agent identifies with another such that it 'unifies the one who serves with the one who is being served. The love ... is not a feeling (although a feeling may often accompany it), but a point of view, a way of conceiving of oneself in connection to others ... [T]hose who experience such love are so unified with those whom their acts are attempting to benefit that what they regard

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<sup>96</sup> Hampton (1993), especially p146f.

<sup>97</sup> Hampton (1993), p135.

as good for themselves is what will be good for those with whom they are unified'.<sup>99</sup> She allows that in this situation, an agent may devote themselves to a life of service to the one they love. However, she claims that such devotion must be genuinely and freely chosen ('authentic') and 'performed in a way that fully recognises one's own worth and distinctiveness' i.e. preserves the respect for themselves as a person.<sup>100</sup>

In the case of Terry, both Korsgaard and Hampton would argue that her neglect of herself and her prioritising of others' needs and wishes ahead of her own are contrary to the duty she owes to herself. She has failed to show respect for herself and treat herself as an equally valuable 'person' whose welfare should be as great a priority as the welfare of those she cares for. The claim is not that she ought to look after herself for the sake of the unborn children or so that she has more energy to devote to caring for her existing children and her husband. Rather, it is a duty 'she owes herself' and this duty should take priority over any perceived duty to care for her husband and children. She cannot rationally endorse an identity as a person and an identity as a wholly other-regarding wife and mother. So, although, Korsgaard would argue that her identity as a wholly other-regarding wife and mother has normative force for her until she rejects it, her position is reflectively unstable and illegitimate from a rational point of view.

There are many advantages to adopting this model of transformation. It offers an account whereby an agent can legitimately take on the identity of marriage partner and its concomitant normative claims, without this new identity legitimising any negative impact on that agent's welfare, interests, desires and their capacity for self-determination. As such, it would preserve the inalienable rights to life, use of the body and self-determination that I discussed in chapter three, although these could not be presented in the language of 'rights' within marriage. In addition, this model would initially seem to offer the agent a structure in which they can experience both subjective and substantive freedom through the different practical identities that an agent would have. Despite these advantages, however, this model is not one which I am going to endorse as a model for transformation from Hegelian 'person' into a Hegelian 'marriage partner'. This is primarily because this account of the agent as possessing a series of overlapping but not interacting practical identities is inconsistent with many key beliefs

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<sup>98</sup> Hampton (1993), p148 & p156.

<sup>99</sup> Hampton (1993), p158. Korsgaard (1996, pp126-128) does briefly consider close personal relationships and considers that they can form a 'unity of will' but she stops short of claiming there can be the degree of unity of interests and needs that Hampton explicitly considers.

<sup>100</sup> Hampton (1993), p160. It is questionable how stable this position is, as I discuss in the next subsection.



that Hegel is committed to. I will briefly consider these key beliefs here before turning my attention to an alternative model of transformation.

### Hegelian Grounds for Rejecting Model One

As noted at the beginning of this section, this model requires the ‘sacrifice of personality’ to be construed liberally, which some may think has already moved this account too far from the Hegelian account of marriage. However, this option was chosen because it was not possible to legitimise the ‘sacrifice of personality’ literally given Hegel's previous discussions on personality being inalienable. In addition to this move, this model limits the way we understand Hegel's account of love and marriage as forming a psychological unity between two agents. This model can allow for a degree of unity but each agent must also remain their own person and concerned for their own welfare and capacity for self-determination. Again, ‘psychological unity’, like sacrifice, seems hyperbole given this limitation. In fact the extent to which there can be unity is undermined by the preservation of personality as an underlying, unchanged identity.

A central problem arises with Hegel's commitment to recognition and the role this plays in creating and sustaining identities. This first model of transformation considers each agent to have a valued sense of being a person alongside a valued identity as a marriage partner. However, one agent cannot recognise the other agent as both of these and the agent cannot valorise their identities without this recognition. Within the Hegelian framework, recognition as a person requires access to private property and rights, such as the right to form contracts, so that the agent is recognised as a single, self-sufficient, independent willing entity; whereas recognition as marriage partner requires the absence of these so that the agents’ interdependence can be recognised. Clearly, this cannot be achieved simultaneously. This is Hegel's point when he claims that talk of rights only become appropriate when the marriage has broken down and at least one agent no longer sees themselves as a marriage partner.

In addition, I would argue that this problem cannot be addressed by diversifying an agent’s sources of recognition to sustain both identities; so that an agent’s marriage partner recognises the agent as a marriage partner, whilst wider society recognises the agent as a person.<sup>101</sup> Firstly, this is because the objectification of the ‘person’ identity in wider society will impact on the way in which the agent is perceived by their

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<sup>101</sup> Such a distinction would ground a fixed public/private distinction which Hegel rejects as engendering alienation in his discussion of ‘legal status’; see chapter two.

marriage partner. If agents are to be recognised as persons in wider society they must have their own property which they acquire and dispose of solely with regard to themselves and without consideration of their husband or wife. However, this act can be seen as undermining their identity as marriage partner since there is neither common property nor a common commitment to use it for the welfare of both.<sup>102</sup> Secondly, insofar as the agent conceives of themselves as a person they will reject the dependence of their identity on their marriage partner and see it wholly as a limitation. Insofar as this is seen as a limitation that is simultaneously desirable (as a source of recognition) and undesirable (as a limitation) the agent is in the position of the agents in 'Legal Status' or 'Absolute Freedom and Terror'. Hegel argued that this society was marred by passion, caprice, instability and destruction because of the incoherence that lies at the heart of personality which is the need to be recognised and yet be independent of the need for such recognition. Lastly, this model of the agent as a person with regard to their wider society is inconsistent with Hegel's commitments to the other institutions of the Rational State, especially the army, in which agents' personality is not preserved and recognised.

Moreover, Korsgaard's retention of the 'moral agent' as a core identity is necessary in her account of agents and morality, since it is only this identity which is the source of morality. Whilst other practical identities ground obligations they are not *moral* obligations.<sup>103</sup> In contrast Hegel sees the family, and other institutions of the Rational State, as forming an ethical framework. All aspects of human life and all inter-relationships have a moral dimension for Hegel. So he need not retain a 'core' of personality in order for agents to be moral.

Finally, this model reverses the value that Hegel places on the identities of person and marriage partner. This model places supreme value on the core identity of being 'human'; a self-legislating being that 'values itself just as a human being'.<sup>104</sup> In contrast, Hegel sees this identity as limited and as offering a poorer account of freedom than that of marriage partner.

In conclusion, this model does not offer sufficient transformation to sustain an account of marriage that is grounded in but 'supersedes contract'.<sup>105</sup> Personality is to a degree repressed or 'sacrificed' in the extent to which it is acted upon or expressed, but

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<sup>102</sup> This reinforces my earlier agreement with the feminist critique of Hegel that if the husband merely gave up his personal independence with regard to his wife and yet retained it in relation to his other interactions it would be an unstable position and consequently an unstable marriage.

<sup>103</sup> Korsgaard (1996), p115 & p117.

<sup>104</sup> Korsgaard (1996), p121.

<sup>105</sup> PR, §163R.

it not ‘sublimated’ into a new form. It is not the transformed, unified, harmonious account of the agent or marriage that Hegel aspired to. However, I hope this first model will act as a foil against which the second model can be more readily understood. I will continue to use Hampton’s case-study of Terry to show that the second model does not legitimise an agent taking on, or interpreting an identity, as one which is wholly other-regarding to the detriment of their own well-being.

### Model Two: Transformation of the Abstract Will of the Person into the Particular, Particularising Will of the Marriage Partner

I will start by giving an overview of the features of this model of the transformation of personality into marriage partner before examining the features in more detail. The central difference between the previous model and this second model is that the agent does not retain their sense of being a person as a discrete, ‘core’ identity that underpins the more ‘concrete’ layer of being a marriage partner. On this model, abstract personality is not a valued identity for the marriage partner and they would see it as contrary to their sense of being a marriage partner. As such the degree of ‘sacrifice’ or ‘transformation’ is much greater than the first model. However, I would argue that this ‘sacrifice’ is still distinct from the literal sacrifice of personality that I considered initially, insofar as many of the key qualities of personality are preserved in this second model of being a marriage partner: the capacity to be recognised and give recognition as a will, and the capacity to abstract from and evaluate one’s commitments. However, these qualities are retained as a particular, particularising will and not the abstract, empty will of the person. This conception is made possible because of the interdependence between the married partners. This second model will not legitimise the forms of sacrifice that Hegel condemned, such as slavery, because the role of a slave does not allow for qualities of personhood to be retained even in a transformed manner and this is because of the lack of interdependence and recognition found in the relationship between master and slave.

As a marriage partner, the agent’s identity and decision-making is interdependent with their partner. Thus there are two features which distinguish this marriage partner from a person and which I explain in more detail below. Firstly, the marriage partner’s identity is not abstract but particularised. What I mean by this is that their identity is grounded on their distinct and unique interests, needs and features rather than simply their identity as an empty will with certain rights. Secondly, the agent is no

longer independent, in the sense of self-regarding, in the choices they make. Why is this commitment to marriage a legitimate transformation to undergo given these consequences?

What enables this to be a legitimate transformation is that becoming a marriage partner can be seen as the agent actualising their potential for self-determination and through this gaining a richer identity and higher quality recognition. Insofar as they make a commitment to be a marriage partner, they particularise themselves but since this particularisation is self-given it is no longer seen as a limit on an agent's freedom. The initial renunciation of one's identity as a person can be seen as an agent's own action insofar as they endorse it as expressive of themselves. Love, therefore, can be expressive of the capacity to be self-determining.<sup>106</sup> An agent can regard their love for another agent as something that is theirs and is expressive of themselves, as something they welcome. In contrast they can view it as unwelcome, as something alien which they do not see as expressive of themselves. This will depend on their second order beliefs and desires concerning the nature of love and who they love. Of course, this could develop into an infinite regress in which the extent to which the second order desires are 'chosen' can be challenged. However, Hegel's account of freedom does not rely on the existence of freely-made choices which 'come out of the ether' and are uncontaminated by prior beliefs and desires. He rejects this abstract possibility and account of freedom as choice. But he does think that the will can choose to identify itself with a particular desire or commitment and endorse it. Thus the attitude of the agent to their first order beliefs and desires is critical as to whether their love is an extension of their freedom or a limitation. Love is not expressive of the self if it is simply given to it as a natural drive or desire that is passively received. However, it is expressive of the self if it is endorsed (and then objectified in a way which makes this love recognisable to others). Moreover, even if the agent has limited direct control over this emotion they do have the indirect capacity to allow it to develop or not, be expressed and find out whether it is reciprocated or not and even whether to act on reciprocated love in making shared decisions including their joint consent to be married or not. Thus, to the extent to which an agent can welcome it or not and allow it to grow and be objectified or not, love for another can be regarded as a content that the will gives to itself and thus self-determined.

But what distinguishes this from the identity of the slave? Surely becoming a slave is also a way in which an agent could particularise themselves. If an agent

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<sup>106</sup> VG, p46 & p70.

conceives of themselves as slave does this make it an acceptable transformation? I would argue this is not the case and the reason for this is because the identity of marriage partner retains transformed qualities of personhood whilst the identity of slave does not. As such the slave cannot coherently endorse their new identity as expressive of themselves.

The difference arises because the identity of marriage partner is interdependent with another agent and not dependent, like the slave. This grounds two important differences. Firstly, this interdependence enables the marriage partner to be recognised as a (particularising) will, albeit a will which has made a (particularising) commitment. A marriage partner must recognise the other agent as a will for it is only then that they can be an adequate source of recognition. As such, this recognition requires agents to be able to take on new interests and needs so that they can be seen as particularising wills. As a will the agent can coherently endorse their new identity as marriage partner. Secondly, this interdependence enables the marriage partner to be recognised as a particular agent; a unique individual with specific interests, plans, projects and needs, hopes and fears and physical characteristics. As such, a marriage partner is not regarded as an agent who is interchangeable with another. These aspects combine so that marital recognition must appreciate an agent as a particularised, particularising, will. Thus, interdependence does not require the complete, literal 'sacrifice' of personality and all its qualities but its transformation so that an agent identifies with a particularising commitment they have willed; to be a marriage partner. This can be viewed as a 'sacrifice' since the 'personal' qualities are altered and constrained by this commitment. However, they are not eliminated.

Thus, what makes the 'sacrifice of personality' in marriage legitimate is that reciprocal 'sacrifice' of independence creates interdependence and it is the nature of this interdependence that both legitimises the 'sacrifice' and also undermines the extent to which there is a literal 'sacrifice'. Interdependence does not wholly eliminate independence, unlike slavery or dependence on a priest which are examples of complete dependence. In these 'sacrifices' one agent's will is imposed on a wholly passive being. For example, the content of the slave's will is given by the master. This cannot be the case in marriage since the will cannot be wholly passive if a partner is to be an appropriate source of recognition for the other. In the next subsections I will further clarify the nature of this 'sacrifice', the personal qualities that are preserved and the benefits of this 'sacrifice' or transformation. Finally, I will reconsider the case of transforming personality as a soldier.

## Interdependence and Recognition as a Particular, Particularising Will

The marriage partner has given up their independence as a person. By this it is meant that they acknowledge that they are not self-sufficient in meeting their needs. They acknowledge their dependence on their marriage partner. However, their independence is 'sacrificed' or exchanged for interdependence between the partners since both agents 'sacrifice' this independence in relation to each other. Both agents need recognition and are willing to give recognition and this is a virtuous circle since being recognised enables an agent to be a source of recognition for the other.<sup>107</sup>

This interdependence does have an effect on the way the agents exercise their will. They can no longer act in a unilateral or self-referential manner, but must take the other agent into account in their joint decision making and willing. To this extent there is a 'sacrifice'. What has been altered by marriage is that decision-making takes place within a different context so that there is bilateral decision making in which the needs and views of the other agent must be taken into account. What I consider doing (willing) does not just consist in considering my (narrowly conceived) interests and needs but those of my partner which appear to me as things I should be prepared to act to promote. There is no distinction between my interest and theirs when I consider what I should do or how I should act. This is because I have endorsed this unification of our interests through my commitment as a marriage partner: *I* have chosen to include their interests and needs in *my* decision making. But this decision making cannot successfully take place within my own mind. To be sure of accurately incorporating and responding to the interests and needs of one's partner the decision-making has to also take place between the two agents in the form of joint, shared discussions of the issues at hand.<sup>108</sup> But this is not the unilateral process found in the case of master and slave, an excessive contract, dependence on a priest or moral counselor. In these cases an agent's actions are determined without any contribution from themselves and they are not in a position to endorse them as their own. The relationship between marriage partners is a process of negotiation in which both agents actively contribute to the shared interests.

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<sup>107</sup> Thus reciprocity is important in legitimating 'sacrifices of personality' but not as a literal sacrifice. Reciprocity is important so that the new identity *preserves* qualities of personhood.

<sup>108</sup> See Danby (2004), pp26-27, on discussion between adults as a vital 'intersubjective space' where connections and relationships are actualised.

## Recognition as a Will

Marital recognition requires that the other is also recognised as an appropriate source of recognition. This is only possible if the agent is recognised and recognises the other as a will. An agent cannot unilaterally act on their will if they are a marriage partner but they must be able to express their capacity to be a will if it is to be recognised. A central way in which an agent's will can be expressed and recognised is through that agent actively contributing to negotiations and decision making with the other agent. This requires both agents to be able to actively contribute to such discussions. In the event that an agent becomes passive in such discussions they cease to be recognised as a will and as such cease to be a valued source of recognition. At this point the passive agent has illegitimately reduced themselves, or been reduced, to the equivalent of a slave, a dependent being whose actions are 'given' to them by their marriage partner.

## Recognition of Particularity

Recognition between persons is of value; however, it does not enable an agent to be recognised as a unique individual. Indeed, it cannot do so and this is because the 'person' is such an abstract concept that one agent has the same features as another; they are interchangeable. In contrast, the recognition between marriage partners is a bilateral recognition of agents' particularity. It takes these features to be important and of interest; this recognition is a way of valuing the other agent with all their features that makes them that unique agent. Thus, what makes marital recognition satisfying is precisely this sense that the other agent is a particular individual and that *as a* particular individual they are recognising you in your particularity. It is therefore an invaluable source of self-esteem.<sup>109</sup>

Thus, the recognition in marriage requires that agents are uniquely particularised and not identical to their partner or any other agent. Moreover, this appreciation of an agent as a particularised will is more than appreciating that agent as they are now. It also appreciates the possibilities they may explore and take on as a particularised and

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<sup>109</sup> See Christopher Bennett's detailed discussion of the value of this recognition, its support for the self-esteem of agents and the sustaining influence this has on an agent's capacity to pursue their interests, projects and conception of the 'good life'; Bennett (2003). However, the model under discussion here is distinct from the account of marriage that he discusses insofar as this model emphasises the transformative effect love and marriage have on an agent's identity and consequently their interests and projects.

particularising will. Thus, particularity and the capacity to particularise the self is not given up in marriage but must be preserved and valued *if* there is to be this valued, marital form of recognition. As argued above, neither agent can accept a submissive role in which they passively ‘receive’ and act on the ideas, interest or projects of the other. Marital recognition requires both agents to be active contributors to the shared interests and plans.<sup>110</sup>

If recognition is understood in this way it does complicate Hegel's account of marriage as a union between the two agents. Marriage cannot be understood simply as a ‘merger’ in which an agent’s unique static particularity is exchanged for the ‘couple’s particularity’. Consider the marriage between Mr Blue and Ms Yellow. If Hegel’s account of marriage is understood as a straightforward unity in which unique particularity is lost then the result is Mr and Mrs Green. However, if this resulted then Mr Green cannot truly recognise Mrs Green as a particular will since to all intents and purposes she is not a distinct, particularised willing agent. Likewise, Mrs Green cannot recognise Mr Green. Moreover, this loss of particularity reduces the value of recognition since to all intents and purposes Mr and Mrs Green are interchangeable and not recognised as unique beings. It is the conceptual equivalent of Narcissus staring into the pool, in love with his own reflection who is lovingly gazing back. Once agents become ‘reflections’ of each other then they cannot truly recognise the other, *as another agent*. If this is the case then they cannot be an adequate source of recognition.

Consequently, the recognition that is required between marriage partners is a bifocal recognition that sees the agent as a unique, particular, particularising agent *and* sees the agent as being particularised through their commitment to a relationship in which sharing interests and decisions is required. Mr Blue must see his wife as Yellow *and* as committed to making decisions with him and vice versa. In order for this particularity and particularisation to be preserved, expressed and recognised the agent must have and be able to acquire new interests. This is one form in which their

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<sup>110</sup> I think this is one way of understanding Robert R William’s point that Hegelian freedom requires joint action and that such freedom is to be achieved by ‘allow[ing] the other to *be* and *go free*’: Williams (1992), p159. Also see Williams (1992), p149. This need to be a particular agent in order to be a source of valued recognition for others is also present in Neera Kapur Badhwar’s work on friendship; see Badhwar (1987), especially p18. On this second model, Hegel's insistence on monogamy rather than polyandry or polygamy could be retained as a practical guideline to ensure that each agent gains recognition as a particular, particularising will and is therefore encouraged to be an active and equal participant in matters that effect them both. This is far more difficult to ensure in relationships in which three or more agents are involved. Thus, it is more likely that in these relationships the welfare and interests of one agent are not given as great a priority as those of another agent. As such their position



‘independence’, previously grounded in the identity of a ‘person’ is preserved. Agents must be active, particularising wills who can contribute new ideas and interests. Moreover, the recognition that the agent’s particularity receives is valuable in enabling an agent to feel ‘*bei sich*’ and for them to believe that their particular features and interests have worth.

This activity of particularisation is not unconstrained since the pursuit of new ideas and interests must be coordinated and shared to ensure unity is preserved and not just particularity. Thus, Blue and Yellow must ensure that they are particularised agents, recognise each others particularity and that this process of particularisation does not destabilise the marriage itself. This coordination of interests need not entail one agent giving up their interests to enable the other to pursue their interests; indeed this would be to undermine recognition. However, the other agent must at some level be involved in the interest. They need to be able to discuss it and share the joys and disappointments that the interest has brought to their partner. To the extent that agents’ interests become incompatible the marriage is not sustainable; but the goal of the agents should not be to develop such incompatible interests, although this may happen, but to develop and sustain interests. Equally, experiences, education and interests of one agent may outpace those of the other and again this will destabilise the marriage insofar as it will inhibit the other agent’s ability to share that interest, as Hegel himself considers. Interestingly, his example presents a situation where a woman’s education and interests surpass those of her lover: ‘[i]f, for example, a lackey with only a lackey’s education and skill falls in love with a princess or a lady of high degree, or she with him, such a love affair is only absurd and ridiculous ... in this instance it is not the difference in birth which really separates the parties, but the whole range of higher interests, broader education, aims in life, and modes of life which cut a lackey off from a woman highly placed in class, means and social position. If love is the *one* point of union, and does not draw into itself the remaining scope of what a man has to experience in accordance with his spiritual education ... it remains empty and abstract, and touches only the sensuous side of life ... To be full and entire, it would have to be connected with the entirety of the rest of the mind, with the full nobility of disposition and interests’.<sup>111</sup> So,

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would be more like the position of a slave in their acceptance of projects and plans to which they have not actively contributed or endorsed.

<sup>111</sup> VA, p210. Despite the impression that might be given by this quote Hegel rejects fixed class boundaries or social positions which are the product of or assigned at birth, with the exception of first-born sons of the Agricultural Estate and the Monarch. See PR, §291 & PR, §308R; VPG, p62; VA, p209/210. I discuss the reasons Hegel gives for this and his justification for the Sexual Division of

love and marriage should not inhibit particularity, but the development of this requires communication and coordinated pursuit of interests. As Michael O Hardimon notes, this account of marriage does involve a 'radical communalism' in this sharing of interests.<sup>112</sup> Whilst this may not appeal to some today, it is important to note that this 'communalism' does not legitimise the unilateral sacrifice of the self or the complete sacrifice of the capacity for further self-determination or inhibit the self's capacity to become interested in new ideas and projects. This is despite Hegel's presentation of marriage as founded on the 'sacrifice of personality'.

Appreciating the other agent as a particularised, particularising marriage partner, however, does not eliminate the unity between the two agents. The unity is grounded in their bilateral recognition and interdependence and their consequent sharing of decision-making and coordination of this particularisation. Reconsider the case of Blue and Yellow who love each other and are married. What does Blue recognise? Blue recognises Yellow as a particular agent, with needs, interests and commitments and as a being who can and needs to take on new commitments and interests. Blue also recognises that one of Yellow's commitments is to the relationship she shares with Blue. Blue also recognises Yellow as having an interest in promoting Blue's needs and interests insofar as she is committed to the relationship. Yellow reciprocates by recognising the equivalent features of Blue. Blue and Yellow have an equal need to be active participants in their discussions about how best to fulfil themselves as particular individuals through their marriage. As such, it is not possible to describe a marriage partner's identity without reference to the other partner and the relationship they are in. The identity is based on a commitment to the relationship such that they must make decisions jointly, they must coordinate the ways in which they 'particularise' their will and recognise the other as having made the same commitment. This model is therefore distinct from the first model in which there is an individualistic 'core' which is unaffected by the new identity of marriage partner.

### Reflective endorsement

In order to be able to coherently review and endorse a particularising commitment an agent must value their identity as a will; something that can take on and

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Labour in my 'Woman, Photosynthesis and the Sexual Division of Labour' (unpublished). Again, however, this rejection and the quote above, highlighting the impact of disparate educational opportunities, supports the rejection of *Geschlechtscharakter*.

<sup>112</sup> Hardimon (1994), p179/180.

reject different particularised contents. The interdependence of marriage preserves as agent's identity as a will (although as a particularised, particularising will and not as the abstract will of a person). As such, a marriage partner can coherently review their commitment to be a marriage partner, whilst not identifying with this abstract capacity of reflection itself.<sup>113</sup> In contrast, the slave cannot coherently endorse their identity as slave. As a slave, the agent cannot coherently value or conceive of themselves as a will and therefore cannot reflectively endorse their commitment to particularise themselves as a slave. If the position of slave was chosen, there is no possibility of coherently valorising the capacity of self-determination and seeing that capacity as expressed in their new identity, which by its nature is a denial of such a capacity. This is the case even if the work of the slave is based on employing their capacity for reason, since their reason is employed and directed by another agent.<sup>114</sup> Thus, this process of reflection and endorsement further highlights the constraint on the ways in which an agent can particularise themselves because agents must be able to reflect back on commitments made and re-endorse their commitment.

(Re)endorsing a commitment is possible in marriage because the agent is still recognised as a will. But why should an agent endorse this commitment? Why is this a valuable transformation to make? Why should an agent constrain their capacity for particularisation and adopt an identity in which they must take into account another agent's point of view? Answering this question is also important if the transformation is to be seen as legitimate and further answers why the reciprocal literal sacrifice criterion was insufficient to legitimise marriage.

Hegel's contention is that at the heart of the concept of the person is a false belief in the possibility of independence from other agents. He claims that this kind of self-sufficiency is not to be found, not least because of the need for recognition.<sup>115</sup> It is an unstable identity in which the need for recognition and the desire for independence cannot be reconciled. However, there is no unilateral way of escaping this situation and exchanging independence for dependence. The agent can attempt to literally 'sacrifice their personality', for example through slavery, which would be one way of rejecting independence for dependence. However, this literal sacrifice preserves nothing of personality; there is no room for self-determination or further particularisation or the

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<sup>113</sup> Thus this model shares Korsgaard's emphasis on the importance of reflective endorsement. Korsgaard (1996), p91 & pp127/8.

<sup>114</sup> PR, §67a.

coherent appreciation of the particularizing choices that have been made. Such an identity rules out the agent actualising their subjective freedom. Even if the agent does not identify with their position as slave, their conception of freedom is limited to the stoical viewpoint whereby the agent retreats from seeking freedom in the objective world. Escaping from this impasse requires agents to act bilaterally so that their new identity sustains the other and is sustained by it. Being a marriage partner is a more stable identity than being a person because a marriage partner accepts dependence on another. However, this stability is not achieved by the loss of the will itself, unlike slavery.

Secondly, to stay as a person is to limit your freedom; you cannot become fully '*bei sich*' and attain substantive freedom. As a person what I owned was a matter of indifference to myself and other agents; all that is required is that I am a property owner.<sup>116</sup> This limits the extent to which I can be '*bei sich*' since the objects around me do not fully express who I am, my particularity is not recognised or valued. As a marriage partner, however, this is not the case. An agent's particularity is recognised. It is valued by the other agent and as such its value is reinforced for the first agent. As such, the agent can be more fully '*bei sich*' and with the reduction of alienation comes a richer form of substantive freedom.

Thus, as a marriage partner an agent can and should recognise the objective value that the marriage commitment affords in its ability to promote an agent's freedom. This is what I believe Hegel is arguing for in his account of 'ethical love'; the awareness and valuing of psychological unity. This love has a cognitive dimension in the way it recognises the value of the marriage partner in its coherent acceptance of interdependence, and therefore recognition and substantive freedom.<sup>117</sup> Such love is not unconditional but dependent on one's care and the other's care for the self which is reciprocated. The agent should be aware that their sense of self is 'richer' for being in the relationship. This 'richness' comes from having a more secure identity and knowing themselves better through the recognition and attention that each agent gives to the other.<sup>118</sup> This appreciation may use the abstract capacity of a person in this evaluative process but this is not to say that the agent identifies or sees themselves as a

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<sup>115</sup> He also discusses interdependence in the fulfilment of other human needs in Civil Society after his discussion of the family. See PR, §182f, especially §183.

<sup>116</sup> As discussed in chapter two in relation to recognition and property rights in 'Legal Status'.

<sup>117</sup> PR, §161a. & VA, pp463/4.

<sup>118</sup> As such it meets with Hegel's insistence that rational, spiritual beings – agents – should seek to 'know themselves'. PR, §343R: p361 & VA, p489. It also coheres with his valorisation of '*Bildung*'.

person. However, if they reflectively reject their identity of marriage partner they can (re)identify with their identity as a person.

The agent does not reflect and endorse each and every act that is prompted by their identity as marriage partner. However, each act can be subject to reflective endorsement and the agent also renews and reinforces their commitment through their continued observance of the actions appropriate to maintaining that commitment. Paradigmatically, in the case of marriage, the commitment is continually renewed through communication, especially insofar as it involves discussion of hopes, problems, needs, interests and issues that are not discussed with other agents; spending time together; making decisions that benefit the family as a whole rather than decisions that are purely self-interested.<sup>119</sup>

To briefly summarise this model: the interdependence of marriage enables agents to retain an identity as a will. This is not the abstract will of the person who can exercise their capacity for self-determination and action in a wholly self-regarding manner. Rather, agents have employed their capacity for self-determination in order to take on the new identity as marriage partner. They see the new identity as expressive of their will and as such enjoy subjective freedom. As marriage partners, they are recognised as particular, particularising wills. Their capacities for self-determination and action are constrained by the need to coordinate the use of these capacities in relation to their partner. This constraint does not eliminate these capacities and enables the agent to enjoy recognition as a particular agent and as such they are less alienated and experience substantive freedom.

So, does this model license excessive other-regarding conceptions of the identity of marriage partner, as illustrated by Terry, who became exhausted meeting the needs and interests of her husband and their young children? I would argue that this model can distinguish between marriages which are genuinely fulfilling and those which illegitimately involve self-neglect in promoting the welfare of a partner. An agent who neglects themselves, who does not particularise themselves or actively contribute to the discussions and decisions that effect them both is not going to be able to be recognised as a particularised, particularising will or be capable of recognising their partner. Thus, Terry who is wholly absorbed with meeting the needs and interests of others to the point

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<sup>119</sup> Iddo Landau refers to these as love-sustaining acts (2004) and I agree with him that these are hard to specify since they will vary from agent to agent and across cultures. However on this model, communication and joint decision-making are prioritised in a way which they are not in Landau's account of marriage.

of neglecting her own needs cannot adequately be recognised by her husband or consequently, adequately recognise him as a particularised agent. It is in Terry's husband's interest to act to prevent Terry's self-neglect. It is in his interest to ensure she develops her particularity and is an active participant in decisions which effect them both and which must meet the basic needs of them both. However, the value that Terry ought to place on herself is not grounded in instrumental considerations about how to be a better source of recognition to her husband. Insofar as she accepts a passive role in meeting the needs of others and does not particularise herself in a way which respects herself as a particularising will she has given up interdependence for dependence. Dependence is an illegitimate commitment to make since it is a denial of an agent's capacity to be a will. It is illegitimate in the form of slavery and it is equally illegitimate in excessive, other-regarding roles in marriage. Being a source of recognition and recognising another are interconnected. Therefore, both agents must regard themselves as valuable, particularised agents and this identity is reinforced by the recognition of the other agent.

This model, like the first I considered (based on a 'core' identity as a person), requires that some elements of Hegel's account of marriage are rejected, particularly his account of and commitment to the sexual division of labour and the limit imposed on one agent in the roles they may adopt. The model above is inconsistent with an account of marriage which confines one agent to marriage partner and parenting, whilst stating that the other agent must supplement their identity as marriage partner with an identity grounded in their active participation in Civil Society. This restriction imposes a 'self-destructive communalism' that stunts an agent's capacity for *Bildung*, growth as a particular individual and even more importantly, their capacity to reflect on and endorse their commitment.<sup>120</sup> Moreover, this confinement of one agent to a family-based identity undermines Hegel's account of marriage in which genuine recognition between equals is possible. Insofar as one agent has a greater stake in the preservation of the relationship they will be more vulnerable, more willing to compromise their interests and welfare to maintain the status quo and therefore in danger of being a less active participant in the marriage. To the extent this occurs the relationship is more like that of master and slave than between marriage partners. In marriage, both agents must be viewed as particular, particularising wills who are active in their contributions and discussions of decisions and actions.

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<sup>120</sup> The phrase is taken from Ravven (1996), p240.

## Membership of the Army

In the final subsection of this chapter I would like to return to the transformation from person to soldier that Hegel endorses in the *Philosophy of Right*. This transformation appears to constitute a much greater ‘sacrifice of personality’ than the ‘sacrifice’ found in marriage. I argued earlier in this chapter that the transformation into a soldier could not be legitimised if what legitimises such sacrifices is symmetrical and reciprocal sacrifice. This is because becoming a soldier does not take place in a reciprocal, symmetrical relationship, unlike marriage. Moreover, such a transformation may be irreversible in the event that the agent loses their lives acting as a soldier. So what could legitimise the transformation from person to soldier?

Being a soldier, like being a marriage partner, means acquiring a more stable and more determinate identity. The agent no longer conceives of themselves or is seen as an abstract being but takes on a particularised identity. Hegel is clear that membership of the military estate must be chosen by the agent themselves.<sup>121</sup> Consequently, the agent expresses their will in their commitment to be a soldier just as the marriage partner does and so experiences subjective freedom. As a soldier, they can be recognised as a particular, particularising will; a being who has made a commitment and sees it as expressive of themselves. The recognition of this identity will enable the agent to be ‘*bei sich*’ and experience substantive freedom. The soldier, like the marriage partner is not concerned to further their own narrowly-conceived interests but has expanded their interests in their identification with the other soldiers. This is reinforced in Hegel's account of the army in which it is clear that a soldier is no longer self-regarding but conceives of themselves as a member of the group.<sup>122</sup> The recognition of this particularity may be more limited insofar as it is more ‘dilute’ than the recognition found in marriage; however, an agent’s colleagues will not be the only sources of recognition.

The identity of soldier is also one in which an agent’s dependence on another is acknowledged. In fact, it seems plausible to believe that this dependence will be

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<sup>121</sup> PR, §261R: ‘the moment of particularity is also essential, and ... its satisfaction is therefore entirely necessary; in the process of fulfilling his duty, the individual must somehow attain his own interest and satisfaction ... and from his situation within the state, a right must accrue to him whereby the universal cause becomes *his own particular* cause. Particular interests should certainly not be set aside, let alone suppressed; on the contrary they should be harmonized with the universal, so that both they themselves and the universal are preserved’. Hegel refers to membership of the military estate as a ‘Bestimmung’ which can be translated as ‘vocation’ as well as the more neutral ‘determination’ or ‘specification’. PR, §326. Also see PR, p483.

<sup>122</sup> PR, §327a: ‘[n]ot personal courage but integration with the universal is the important factor here’. Also see PR, §328R; VG, p46 & VG, p70.

especially evident in this role because of the nature of warfare and the specialisms that will exist within the army. As such, soldiers will be aware of their identity and their lives as dependent on others. The dependence of the soldier means that an agent can also acknowledge that their identity relies on the recognition of others and vice versa. This acknowledgement of dependence avoids the instability present in an agent who conceives of themselves as a person and who falsely claims that they are independent and self-sufficient.

However, membership of the army has two features which distinguish it from marriage and which makes it a harder transformation to justify and see as legitimate. This means that this transformation requires additional justification, although it does not depart from the model of the agent as a particular, particularising will outlined above in the transformation of the agent to a marriage partner. I try to keep my account within the framework that Hegel sets out but again there is speculation since Hegel does not say a great deal about soldiers.<sup>123</sup> Becoming a soldier must be distinguished from slavery and martyrdom, if Hegel's account of legitimate and illegitimate 'sacrifices of personality' is to be consistent.

One feature that distinguishes the identity of a soldier from that of a marriage partner, is the greatly reduced scope that a soldier has in which to express and gain recognition of themselves as a will. This feature arises because of the hierarchy in an army such that some agents must obey another. There is a distinct lack of opportunities in which agents equally and actively contribute to decision-making, unlike the account of marriage I set out above. The second distinguishing feature of the identity of a soldier is that they must have accepted that there is a risk to their lives in taking on that identity. Consequently, their identity requires them to follow orders, to which they have not contributed and which could result in serious injury or death. How can this be a legitimate identity to take on? I will consider the two aspects of 'sacrifice' separately and examine obedience first before looking at the potential 'sacrifice' of one's life.

The obedience of a soldier is dramatically expressed by Hegel and at first sight it seems as though that agent has completely abdicated all expressions of their will except those given by an authority.<sup>124</sup> If this was the case then the soldier would be no better

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<sup>123</sup> Hegel mainly focuses on war itself and the army is mentioned alongside his discussions on war and its role in relation to the identity of a State. PR, §333-340. The discussions of war and the army also tend to focus on the ethics of warfare and its impact on the identity of the state: Avineri (1961) & (1972), pp194-207; Nederman (1987); Mertens (1995).

<sup>124</sup> PR, §328: 'the mechanical *service* of an *external order*; total obedience and renunciation of personal opinion and reasoning, and hence personal *absence* of mind, along with the most intense and comprehensive *presence* of mind and decisiveness at a given moment'.



than the agent who voluntarily becomes a slave in that their actions are wholly dictated by another.

Firstly, this obedience could be considered legitimate because it is grounded on diversity in different individuals' expertise and therefore some agents must give orders and other agents must obey them if a task is to be completed successfully.<sup>125</sup> This argument is supported by the meritocracy Hegel advocates in relation to positions of authority. As such, a soldier's orders will not be arbitrary but should reflect a superior insight into the actions that are required, since officers will be chosen on the basis of their skills and education for such posts. Equally, a soldier has the opportunity to rise through the ranks so that they are not confined to a role in which they merely receive orders but can have the opportunity to take on roles in which they can interact with others to decide the content of those orders. Thus, the extent to which an agent is restricted in the independent use of their reason and will is not fixed or as extreme as in the case of a slave.

I would also argue that this obedience can only be legitimate if the content of the orders is limited in scope. The soldier cannot be called upon to actually relinquish their conscience and accept the moral code of their superiors without question. If this was implied by Hegel's account of the army then becoming a soldier would be an illegitimate sacrifice as discussed in chapter three. This would seem to suggest that a soldier had the right to refuse to carry out some orders if they considered the actions immoral.<sup>126</sup> If this is the case then the extent of the 'sacrifice' would again be limited and there would be some scope for the agent to still be recognised as a particular, particularising will.

To some extent then obedience may not require the complete 'sacrifice of personality'. However what licenses this identity when it places the agent's life in danger? In relation to this the identity of a soldier and the identity of a slave may seem remarkably similar. Slavery is an identity that offers no guarantee of respect for the

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<sup>125</sup> This appears to be Hegel's argument in VG, pp116-124. On his belief in diversity in abilities due to natural distribution of skills and diverse educational experiences. see PR, §200,R. Also see PR, §277.R on Hegel's commitment to meritocracy; although as noted earlier, Hegel made exceptions in the case of the monarch and farmers in the substantial estate whose roles were filled by birth rather than abilities or skills.

<sup>126</sup> As an illustration of this consider the case dramatised in 'A Few Good Men' in which Col. Jessop commands Pfc. Downey and Cpl. Dawson to give a 'code red' (a punishment beating) to Pfc. Santiago who dies, as an unintended result. Pfc. Downey and Cpl. Dawson are acquitted of murder but dishonourably discharged from the Marine Corps. I would argue that if a Hegelian soldier did not have any right to use their conscience as a soldier but had to accept the morality given to them by the commanding officer then this could not be a legitimate sacrifice of personality in becoming a soldier. It would be the equivalent of the moral or spiritual dependence that Hegel condemns and which I discuss in

agent's body and the uses to which it may be put, or the agent's more general welfare. A stoical slave also fails to see the physical body or its welfare as impacting on who they take themselves to be; a mind who is not and cannot be enslaved. From the viewpoint of both master and stoical slave, the slave's body and welfare do not have an intrinsic value. Along with independence and self-determination, personality was an identity that placed inalienable value on these, a value which is not respected when an agent takes on the identity of a slave. Is this also the case for a soldier? In which case what legitimates a transformation from person to soldier if their life could be forfeit?

As discussed in chapter three, Hegel condemns suicide and martyrdom as illegitimate sacrifices of personality. Suicide is condemned because the agent cannot coherently distinguish between their body and their will such that they can view the body as disposable property. As such, the agent does not have a right to take their own life. Martyrdom is also condemned because the agent mistakenly views their body as separable to their will. Hegel's main criticism of martyrdom, however, focuses on the agent's implicit rejection of the possibility of achieving freedom in the current material, socio-political realm. According to Hegel this is where genuine freedom is to be found and not in some disembodied afterlife or some idealised future state.<sup>127</sup> Thus, an agent cannot simply claim a right to dispose of their life as they see fit and they cannot justify taking on the risk of death because it will enable some ideal to be realised.

Hegel is also clear that the potential sacrifice of one's life as a soldier cannot be justified just because such a role safeguards one's life and property. Firstly, this reasoning exhibits a unilateral concern for the self that is not found in Hegel's account of the soldier whose interests, like the marriage partner, become enlarged and concern the wellbeing of the group as a whole. Secondly, such narrow self-interested reasoning would not support continued membership of the army in a time of war. As Shlomo Avineri succinctly puts it: 'this is pure nonsense; it views the state – and military service – in terms of individual self-interest ... while a true ... [self-interested] view of the matter would urge the individual to eschew military service and betake himself, with his family and property, to a safe shelter'.<sup>128</sup>

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chapter three. For a more detailed synopsis of 'A few Good Men', see:  
[http://en.wikipedia.org/wiki/A\\_Few\\_Good\\_Men](http://en.wikipedia.org/wiki/A_Few_Good_Men).

<sup>127</sup> '[T]hey despised the mundane joys and earthly blessings they had to forgo and found ample compensation in heaven ... Heaven stood so close to the cycle of Christian feelings that the renunciation of all joys and goods could seem no sacrifice at all'; ETW, p162.

<sup>128</sup> Avineri (1972), p195. Also see PR, §324,R & ETW, pp164/5 where Hegel discusses the self-interested view of soldiering resulting in 'cowardice', 'flight, bribery and self-mutilation'. Here Hegel's views on self-mutilation echo Kant's condemnation of this: Kant (1997), pp341/2. Also see Mertens (1995), especially pp673-675.

Given these restrictions, what Hegel must appeal to is that it is legitimate to risk one's life in the defense of the Rational State or embodied freedom itself. As such, the soldier is risking their life for the conditions under which they can realise themselves as free agents, with stable identities and who can particularise themselves. This reasoning is suggested by Hegel's claims about the state being the ground for any realisation of agency or freedom: 'it is only through the state that they attain their truth and actualization. The state is the sole precondition of the attainment of particular ends and welfare'.<sup>129</sup> Hegel also says that 'only an ethical Idea [the Rational State] as something in which *this immediately* individual personality in itself has been submerged, and which is the *actual* power behind the latter, has this right ... death must come ... in the service of the Idea'.<sup>130</sup> Thus, an agent may only risk their life as a soldier in defense of the Rational State itself. Interestingly, Hegel seems to suggest that in dying in defense of a right is to uphold the right itself.<sup>131</sup> Thus, soldiering cannot be justified as a way to safeguard one's life, but it can be justified as a way to safeguard the right to one's life when that right can only be actualised if the Rational State exists. As such, it would seem justified to risk one's life as a soldier to uphold the rights to being a particular, particularising will with a right to life and bodily integrity. This risk of life is distinct from the risk of martyrdom because the risk is to protect existing freedoms and not actualise some future utopia.

This reasoning would also seem to further restrict the orders that an officer could give a soldier and what that soldier would obey. It would have to be clear that the risk to life was encountered in the defense of the *Rational State* and for no other ideal or goal.<sup>132</sup> Equally, it would seem to restrict when the army could legitimately go to war since the legitimate goal must be the protection of the Rational State and not expansionist or other materialistic goals.<sup>133</sup>

If an agent may legitimately risk their life in the service of the state then it would appear that an agent can legitimately become a soldier. Such a role would have to be chosen and the agent would have to gain a sense of satisfaction and pride out of

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<sup>129</sup> PR, §261a.

<sup>130</sup> PR, §70R. Also see PR, §70a.

<sup>131</sup> ETW, p165: 'The sense that in defending one's property one was dying to uphold not so much this property itself as the right to it (for to die in defence of a right is to uphold it) was foreign to an oppressed nation which was satisfied to hold its property only by grace'.

<sup>132</sup> This would seem to rule out the kind of orders I mention earlier in connection to 'A Few Good Men' in which a soldier's life is endangered (and lost) as a punishment for being a 'whistle-blower'. Mertens (1995), pp689/690, questions whether Hegel can allow for disobedience in the case of such orders. I argue that he has to if becoming a soldier is not to be an illegitimate sacrifice of personality.

<sup>133</sup> The extent to which Hegel's system can distinguish between some wars being justified and others being unjustified is challenged by Mertens (1995).

this commitment. The agent could gain this from appreciating the rationality behind the role of the soldier; a role which protects and upholds the rights of agency through its protection of the Rational State. This appreciation, could take the form of an emotion which has a cognitive dimension and Hegel claims this is usually the case. The emotion is patriotism: '[t]his disposition is in general one of *trust* (which may pass over into more or less educated insight), or the consciousness that my substantial and particular interest is preserved and contained in the interest and end of another (in this case, the state), and in the latter's relation to me as an individual. As a result, this other immediately ceases to be an other to me [not alienated], and in my consciousness of this, I am free'.<sup>134</sup>

## **Conclusion**

In this chapter I hope to have shown that there is no straightforward way to reconcile Hegel's claims about the inalienability of personality and his account of marriage as based on the 'sacrifice of personality'. I do not think this sacrifice can be understood literally, even if such sacrifice is reciprocated by another agent, as it is unclear why reciprocity should legitimate such a sacrifice. As such, I believe it is necessary to turn to a more liberal account of this 'sacrifice of personality' in which personality is understood as being merged or transcended (*aufgehoben*) in the new identity of marriage partner. In the first model, personality is retained as a valued, core identity which underpins an agent's identity as a marriage partner. This model can distinguish between those sacrifices of personality that Hegel endorses, such as marriage, as well as those he condemns, such as slavery. It can also distinguish between marital relationships and does not legitimise excessive other-regarding roles within marriage. As such, it preserves, in a different form to abstract right, the protection of the agent's life, body and self-determination which were integral to the identity of the agent as a person. However, this model is incompatible with Hegel's account of recognition and valorisation of the identity as marriage partner over that of the person.

The second model does not retain personality as a core identity. The impotence of personality is 'sacrificed' in becoming a marriage partner. However, this sacrifice is limited and permissible because it is exchanged for interdependence, as

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<sup>134</sup> PR, §268. Also see PR, §268R & PR, §265.

opposed to the dependence of a slave. This interdependence enables the agent to be recognised as a will and as a particularised, particularising will. Such recognition is extremely valuable in enabling the agent to become '*bei sich*' and substantively free. This recognition requires marriage partners to continue to be active, particularising wills within marriage although this must be coordinated so as to preserve the relationship. Interdependence also preserves the will's capacity for reflection that was central to the identity of the person, as an abstract standpoint from which an agent can reflectively consider and endorse or reject their identity as marriage partner. Insofar as the agent endorses their identity of marriage partner they do not identify themselves with their capacity for reflection and do not conceive of themselves as a person. Thus, on this model the agent does not simultaneously value themselves as a person and as a partner. As such their identity can be stabilized by recognition and the agent can be '*bei sich*'.

This model can also distinguish between the legitimate and illegitimate 'sacrifices of personality' in the way that Hegel does. I also suggest that this model can legitimise marriage without legitimising extreme, other-regarding behaviour which is detrimental to the self. Insofar as an agent becomes wholly other-regarding and neglects themselves they have fully sacrificed their independence and become dependent. Their position is the illegitimate one of the slave. As such, this model like the first retains protective measures against the misuse of the agent's body or neglect of their capacity for self-determination, although they are not in the form of rights as they are when they arise out of the concept of the person. To accept this model, however, requires some alteration to Hegel's account of marriage. In particular, the sexual division of labour, the restriction of one agent to membership of the family and the representation of the family by one agent cannot be retained if this model is accepted.

In the final subsection of this chapter I considered this account of transformation from a person into a soldier. This transformation is more difficult to justify. However, I suggest that there is still scope in this new identity for the agent to exercise their will and to be recognised as a will. There is also the recognition of particularity. This discussion also clarified the right to life and bodily integrity and argued this would still constrain the orders a soldier could legitimately be given. However, this discussion also claims that this right to life may sometimes only be upheld by risking one's life and that this could be justified providing the risk to one's life came in defending the conditions for that such rights, namely, the existence of the Rational State itself.

In the next and final chapter I will briefly consider whether the model of transformation that I suggest as a basis for Hegelian marriage can be applied in relation

to feminist 'care theories'. In particular I will consider if this model can help in response to criticisms which suggest that 'care theories' cannot distinguish between exploitative and beneficial relationships.

## Chapter Five: Towards a Hegelian Theory of Care

In this final chapter I would like to explain how I feel this model could be applied to the relatively modern debate concerning 'theories of care', 'ethics of care' or 'care thinking'. By theories of 'care' I mean those accounts that argue for a different way of making moral decisions which is grounded in an agent's relationships.<sup>1</sup> Such an approach is contrasted with a more universal, impartial approach which has been labelled as an 'ethic of justice' or 'justice thinking'; and which treats individuals as distinct and separate to any relationships they are in. The first approach is characterised by contextual thinking, in terms of care, needs and responsibility; more abstract thinking, in terms of rights, rules and principles, characterise the second.<sup>2</sup> In this chapter I wish to make the tentative suggestion that Hegelian thought has the potential to assist 'care' theorists by being able to differentiate between legitimate and illegitimate relationships which should guide the 'embedded' moral decision making that 'care' theorists endorse. I will start this chapter by focussing on the work of Carol Gilligan whose work, *In A Different Voice*, shaped this contemporary distinction between ethics of justice and ethics of care.

Gilligan characterises the ethic of care as 'feminine' insofar as she finds it a more appropriate way to characterise the decision making of women in the studies she has run. However, she states that she is not committed to this being an exclusively 'female' approach or grounded in an essentialist view about women. Rather, she views this approach, if it is more characteristic of women, as a product of their experiences, including greater responsibility for looking after the needs of others, paradigmatically children.<sup>3</sup> She is also not committed to the justice and care approaches being

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<sup>1</sup> I will refer to exponents of 'care ethics', 'care orientations', 'care approaches' as 'care theorists' although this term will, of necessity, be referring to those who understand 'care' very differently to each other. I will not be employing a distinction between 'care' and 'service' unlike some who endorse a theory of care, such as Diemut Grace Bubeck (2002), p163. The distinction is drawn on the basis that 'care' applies to meeting the needs of others that they *could not* fulfil themselves; where as 'service' applies to meeting the needs of others that they *could* fulfil themselves. This is not a distinction I think a Hegelian could endorse since many simple actions that might count as services, such as making my partner a cup of tea in the morning, accumulate as 'care' insofar as these actions recognise them as my partner and reinforce our identities. This meets a need that an agent cannot meet for themselves. In addition if 'care' is the focus, such a distinction leaves out of discussion a lot of what characterises family life, particularly between partners. For an implicit criticism of this distinction and others which categorise actions into 'care' and 'non-care', see Colin Danby (2004), especially pp28/9 & p38.

<sup>2</sup> Gilligan (1993), p73.

<sup>3</sup> Gilligan (1993), p2; pp7-17 on the impact of experiences on both men and women (see especially her references to the work of Nancy Chodorow).

incommensurable or necessarily incompatible in one overarching approach although she does not explore this in detail.<sup>4</sup>

Gilligan sets out a three-stage account of moral development which she argues is an alternative account of moral development, based on an ethics of care. She contrasts this with the six-stage, 'justice' based account offered by Lawrence Kohlberg. (I set out both models on the next page). She claims Kohlberg's model cannot be seen as universal in its application as it is claimed. She criticises it as neglecting and undervaluing an alternative ethics of care approach which she found was used (predominantly by women) in the empirical studies she carried out.<sup>5</sup> Both models of moral development claim the higher levels represent a better way of thinking about and approaching moral dilemmas and that not all agents will achieve the highest level.

In this thesis I am not concerned with defending the care approach as an exclusively 'feminine' approach. I think that this connection between care and women is a cause for concern since it can reinforce a binary account of men and women in which they possess equally valuable, yet different characteristics and virtues; in other words, *Geschlechtscharakter*. Although many feminists have argued that there are distinct virtues that arise from 'women's' distinct experiences, especially mothering, I am concerned that such an emphasis can be used to argue for the sexual division of labour that Hegel endorses and that I reject in this thesis. That of course does not mean that there is not such a connection between women's experiences and these virtues.

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<sup>4</sup> Gilligan (1993), pxxvi, p100.

<sup>5</sup> Saul (2003), pp206-7.



Kohlberg's stages:	Gilligan's Stages: <sup>6</sup>
<p>Preconventional:</p> <p>Stage 1. A person at this stage is concerned only with securing rewards and avoiding punishments.</p> <p>Stage 2. A person is mainly concerned with satisfying their own needs, though gives some thought to reciprocity. ('You scratch my back, I scratch yours'.)</p>	<p>Stage 1. '[I]nitial focus is on caring for the self in order to ensure survival'</p> <p>'transitional phase': previous stage is criticised as 'selfish'.</p>
<p>Conventional:</p> <p>Stage 3. A person takes good behaviour to be that which pleases or helps others.</p> <p>Stage 4. A person considers respect for authority and the maintenance of social order to be central to morality.</p>	<p>Stage 2: '[N]ew understanding of the connection between self and others which is articulated by the concept of responsibility. The elaboration of this concept of responsibility and its fusion with a maternal morality that seeks to ensure <i>care for the dependent and unequal</i> ... the good is equated with caring for others'.</p> <p>'transitional phase': 'the exclusion of herself gives rise to problems in relationships, creating a disequilibrium'. A 'reconsideration of relationships ... <i>in order to sort out the confusion between self-sacrifice and care</i>'. They 'start to scrutinize the logic of self-sacrifice in the service of a morality of care'.<sup>7</sup></p>
<p>Postconventional:</p> <p>Stage 5. A person takes what is right to be upholding the basic rights and values of their society, even when they conflict with the concrete rules or laws of the group.</p> <p>Stage 6. A person is guided by principles they have arrived at through reason alone, which they take to apply to all humanity.</p>	<p>Stage 3: ... focuses on the dynamics of relationship and dissipates the tension between selfishness and responsibility through <i>a new understanding of the interconnection between other and self ... self and other are interdependent</i>'. 'Care becomes the self-chosen principle of a judgement that remains psychological in its concern with relationships and response but becomes universal in its condemnation of exploitation and hurt'. They are 'able to assert <i>a moral equality between self and other and to include both in the compass of care</i>'.<sup>8</sup></p>

<sup>6</sup> Unless otherwise stated the extracts in this table are taken from Gilligan (1993), p74, my emphasis.

<sup>7</sup> Gilligan (1993), p82, my emphasis.

However, the connection between women and a 'care' approach to moral decision making has also been challenged.<sup>9</sup> A number of methodological concerns have been raised against Gilligan's empirical studies. For example, they have been criticised as using a limited sample; biased in the absence of women who have experienced economic hardships or other forms of exclusion; and overly ambitious in trying to 'find a woman's voice at all, given the many differences between various groups of women'.<sup>10</sup> It is also unclear whether her interviews can genuinely test 'moral development' and whether the assumptions made about the nature of morality and what constitutes 'development' can be justified. The interpretation of the results has also been questioned and further studies have been undertaken. What has been uncovered in more recent studies is that the 'only studies that showed a gender difference were those in which the woman participants had received significantly less formal education than the men'.<sup>11</sup> Such data clearly does not support a genuine difference in the approaches either sex makes to moral decision making. In fact, research reveals that both sexes can and often do use both approaches, sometimes in connection with the same moral dilemma.<sup>12</sup>

Despite this I believe the 'care' approach is an interesting approach to moral decision making and the value of this approach is not dependent on its exclusive connection to women. One of the reasons I think this is an interesting approach is that studies support the view that both sexes prefer to think through moral dilemmas in relation to close relationships, such as family relationships, in terms of 'care', rather than 'justice'.<sup>13</sup> However, if a 'care' approach is to be used for moral decision making, then it needs to be able to respond to criticisms raised by Claudia Card and Barbara Houston, and which are supported by the empirical studies of Carol Tavris, that 'caring' can be a 'servile response' to oppression.<sup>14</sup>

Claudia Card has criticised the 'care' approach for potentially offering a blanket approval of relationships that shape an agent's identity and decision making. She is concerned that *simply* valuing the embeddedness of decision making eliminates the possibility of 'identifying moral damage' to an agent's character 'resulting from and

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<sup>8</sup> Gilligan (1993), p90, my emphasis

<sup>9</sup> For a clear summary of these criticisms see Saul (2003), p216f.

<sup>10</sup> Saul (2003), p221 & Tronto (1993), p81f.

<sup>11</sup> Saul (2003), p223.

<sup>12</sup> Saul (2003), p224. Walker et al. (1987), pp850/1. Indeed, this study supports the view that those who scored as 'most morally developed' 'tended to be split in their orientations' (p856). In other words they did not consistently use either a 'justice' or a 'care' approach.

<sup>13</sup> Saul (2003), p225 & pp228/9. Walker et al. (1987), p853 & p856.

<sup>14</sup> Saul (2003), p218. I will be focussing on this criticism although there are others that can be raised. I am not proposing a comprehensive defence of 'care' theories.

perpetuating sexual oppression'.<sup>15</sup> She believes that an approval of relationship-based decision making could endorse a servile mentality in which agents deliberate and act so as to preserve relationships regardless of the value or impact of those relationships on the agents involved. In other words, 'caring' or valuing attachments and affiliations can be a defensive, conditioned response to oppression. As such, we can not simply valorise the product of this oppression (care) if this means we valorise the oppression that generates it. Notably, she does not challenge the idea that 'care' could be a valuable way of making moral decision making or the value of relationships themselves.<sup>16</sup> However, she does want a theory of 'care' to be able to differentiate between caring that does not come from or furthers oppression and 'care' that does come from or furthers oppression.<sup>17</sup>

Barbara Houston shares this concern that valuing embeddedness and relationships for moral decision making might legitimise all such relationships, including those which are oppressive and damaging to agents within those relationships. She warns against 'moral essentialism' in which 'values [such as care] are intrinsically good ... independent of any special contexts in which they occur'.<sup>18</sup> She, therefore, questions whether Sara Ruddick's account of female 'virtues', which develop through women's powerlessness and which include 'appeasement' and 'self-suffering', ought to be seen as 'virtues' despite their potential to promote peace or sustain relationships.<sup>19</sup> She considers it essential that a theory of care 'asserts the worth of the one-caring' and not just 'the worth of the one cared-for'.<sup>20</sup>

These concerns are exacerbated when 'care theorists' focus their attention on the needs of the agent being cared for. One of the reasons for this focus arises from defining 'care' as a *successful* meeting of another's needs and as such a great deal of discussion considers how a carer can best identify and then meet those needs.<sup>21</sup> A second reason for this focus is the degree to which caring is examined in relation to parents and children, particularly young or disabled children. Whilst this is important, a

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<sup>15</sup> Card (1990), p200.

<sup>16</sup> Card (1990), p211.

<sup>17</sup> Card (1990), p215: 'Not every passionate attachment to persons is valuable ... [t]he nature and basis of the attachment matters'.

<sup>18</sup> Houston (1987), p256.

<sup>19</sup> Houston (1987), p250. This is reminiscent of Hampton's discussion of condonation. Condonation, as mentioned in chapter 4, involves the wronged agent accepting the wrong done to them, repressing their resentment (which, according to Hampton, protects the agent's self-esteem against the inappropriate treatment that the wrong constitutes), and acting towards the wrong-doer, as if the wrong had not happened. She warns that chronic condonation can undermine an agent's sense of worth such that they acquire a 'servile mentality', Murphy & Hampton (1988), p40.

<sup>20</sup> Houston (1987), p253.

<sup>21</sup> Danby (2004), pp28/8; Engster (2005); Tronto (1993), pp106-110.

focus on these relationships may skew a definition of care into an account where there is always one agent who is very dependent on another. The concerns raised by Card and Houston are further heightened when ‘care theorists’ appear to offer merely instrumental justification for meeting the needs of carers, in that meeting these needs means the carer can better meet the needs of the agent being cared-for.<sup>22</sup>

Gilligan does not offer a clear account of the ‘caring’ agent which is both connected to others and yet retains a non-instrumental concern for themselves. She leaves it as a, very Hegelian sounding ‘paradoxical truth of human experience – that we know ourselves as separate only insofar as we live in connection with others, and that we experience relationship only insofar as we differentiate other from self’.<sup>23</sup> However, her model does allow for this problem to be expressed. At the very least what is needed is a way to differentiate between relationships which are founded on stage three ‘caring’ on Gilligan’s model, and those relationships which are founded on stage two ‘caring’. At stage two, moral goodness consists in meeting the needs of others without reference to the cost this imposed on the agent caring. Any concern for the self was perceived by the agent as a regression into stage one moral thinking, and ‘selfishness’.<sup>24</sup> In contrast, stage three ‘caring’ holds out a hope of a self who values relationships, but whose own well-being and needs are not sacrificed in order to meet the needs of those they care for. This is not to say that caring for oneself and other(s) will be an easy achievement or that an agent will not face moral conflict in how best to meet everyone’s needs. However, morality cannot demand that one agent’s well-being is sacrificed for the well-being of another. It will be a moral issue whose needs are met and not a presumption that it is moral for one agent to sacrifice their well-being to promote the well-being of another.

I would suggest that my previous discussion on legitimate and illegitimate relationships from within a Hegelian framework could be of assistance to ‘care’ theorists in relation to this problem raised by Card and Houston. Hegel and ‘care’ theorists agree on the value of relationship. Consequently, I would suggest that the first model of the transformation from person to marriage partner that retains a ‘core’

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<sup>22</sup> ‘[T]he one-caring, then, properly pays heed to her own condition. She does not need to hatch out elaborate excuses to give herself rest ... everything depends on the strength and beauty of her ideal, and it is an integral part of her. To go on sacrificing bitterly, grudgingly, is not to be one-caring and, when she finds this happening, she properly but considerably withdraws for repairs. When she is prevented by circumstances from doing this, she may still recognize what is occurring and make heroic efforts to sustain herself as one-caring. Some are stronger than others, but each has her breaking point’; Noddings (2003), p105.

<sup>23</sup> Gilligan (1993), p63.

<sup>24</sup> Amy’s responses illustrate the transitional phase between stage two and three: Gilligan (1993), pp35-37.

identity of personality, would not be attractive to many 'care' theorists who would see this as starting from, retaining and prioritising an individualistic perspective. Thus, Nel Noddings claims that in her 'care' approach, 'relations will be taken as ontologically basic' and Colin Danby criticises other 'care' theorists who emphasise the importance of relationships but whose work 'remains tacitly dependent on an atomistic social ontology, which very seriously limits efforts to explore social connection or think about social institutions'.<sup>25</sup> Similarly, Hegel rejects an individualistic account of social institutions, such as Kant's account of marriage, and the importance that he places on relationships in terms of personal fulfilment and freedom have already been discussed.

Moreover, both Hegel and 'care' theorists reject an explicit theory of justice and rights as appropriate to describing and shaping family relationships.<sup>26</sup> What Hegel's account of marriage and 'care' theorists require is a way of showing how concern for another does not legitimise self-sacrificing behaviour; that is excessive other-regarding behaviour which is detrimental to the self. What both need is a way of showing how there is a room for self-concern as an integral (not contingent) part of moral decision making or the relationships which ground such moral decision making. Moreover this must be achieved *without* having to reject all relationships as infringing the well-being of the self or accepting an individualistic ontology in which personal relationships leave the identity of the self unchanged.

I would suggest, therefore, that 'care theorists' needs to conceive of relationships as grounded on and recognising others as particular, particularising wills. Such relationships need to be grounded on interdependence and should ensure that neither party becomes wholly dependent on the other.<sup>27</sup> This model reinforces the 'care theorist' belief that an agent does benefit from actualising their will and forming a relationship with someone that they can care for. This is actualising their capacity for choice as well as valuing the relationships that agents form. This model also acknowledges that an agent's identity is transformed by this identity and that their interests are expanded to include the needs and interests of the other agent. I believe

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<sup>25</sup> Noddings (2003), p3 & Danby (2004), p24.

<sup>26</sup> Consider Hegel's rejection of talk of 'rights' in the family. The extent to which 'justice' should be retained divides 'care' theorists depending on whether they think 'care' is a complete ethical theory which should be applied to all relationships and institutions since it in some way incorporates the concerns of justice (1993), p9; or whether they think it can and needs supplementing with a 'justice' approach component; Dillon (1992). Held (1995).

<sup>27</sup> It might be argued that this cannot be maintained between parents and children since children are dependent. Whilst this might be the case I would also argue that this dependence should not be preserved but that gradually the child must come to see the parent as a particular will with particular needs and interests that do not focus exclusively on them, in addition to recognising their parent's particularising commitment to them.

Hegel's rejection of any sharp dichotomy between emotion and reason could further benefit 'care theorists'. Hegel's belief that emotion has a cognitive dimension can ensure that the emotional component of 'care' is not considered irrational or arational. The value of relationships need not be expressed in abstract terms to be appreciated by agents in relationships. Equally, recognising another agent as a particular, particularising will need not take the form of abstruse, conceptual reasoning. It can be expressed in the form of emotion and actions that genuinely recognise the other as a unique agent who must preserve their particularity. As such, the model could be extended to relationships between adults and children.

However, by using this model a 'care theorist' could also distinguish between relationships. This model shows that not all relationships are equally legitimate commitments to make or sustain. If the model outlined at the end of chapter four is used then it is clear that the carer must also meet their own needs and their needs ought to be recognised by the one cared-for. This model can distinguish between stages two and three caring on Gilligan's model. Stage two caring is not a legitimate commitment to make as a particular, particularising will since it precludes acting on these capacities and having such capacities recognised. In contrast, this model endorses the commitments and relationships along the lines of stage three 'care thinking'. This is not to argue that this would make moral decision making easy or straightforward but it does not legitimise the complete sacrifice of one agent in order to meet the needs of another agent.

### Rejection of a Dichotomy between 'Care' and 'Justice'

In my suggestion that 'care theorists' might benefit from Hegel's work I am not proposing that a 'care approach' should operate simply in the family whilst a 'justice approach' applies to non-family relationships. One reason for this is that Hegel's system does not support a sharp dichotomy between 'care' and 'justice'.<sup>28</sup> Firstly, the recognition between agents as particular, particularising wills should ensure that concern for the other is integral in their relationship even if this is not expressed in the form of rights. Secondly, Hegel rejects any sharp public/private distinction in relation

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<sup>28</sup> If these principles are left as equally absolute and unmediated then the situation would be the conceptual equivalent of Hegel's account of Ancient Greek society and his discussions of *Antigone* in which the principles of the family and the state conflict and undermine each other. See PhG, §464-476 & VR, Volume 2, p264.

to the family.<sup>29</sup> His account of the family is underpinned by state law which has the right to intervene to protect members of the family. For example, as noted earlier, family property should be communal and every member of the family has the right to be supported by the family resources. Hegel acknowledges that this might not be a perfect arrangement and that some family members, through incompetence or choice, may act so that not all members are adequately provided for.<sup>30</sup> In the event that the needs of family members are not met, Hegel states that the state must assume authority and provide for the members' needs.<sup>31</sup> The State has particular regulative authority concerning the children of the Hegelian family. This regulative authority extends beyond their most basic welfare and needs, to ensure they act on their right to an education.<sup>32</sup> Thus, if the model of marriage partner that I outline at the end of chapter four is used then it must be adapted so that 'care' and 'justice' approaches to relationships could be reconciled without reducing one to the other.

## **Conclusion**

In this chapter I hope to have shown that Hegel's account of recognition and interdependence in relationships is relevant to contemporary debates about how we should think of our identities and commitments. I believe the model I outline in chapter four in which intimate relationships are grounded in interdependence and the mutual recognition of agents as particular, particularising wills is sufficiently robust to distinguish between 'care' relationships which are beneficial and those which are exploitative, damaging and reduce an agent to the position of a slave. However, my suggestions here are suggestive and more work remains to be done to develop and argue for a Hegelian approach to 'care thinking'. Despite the tentativeness of these suggests I believe this chapter shows the fruitfulness of Hegel's philosophy for contemporary feminists today.

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<sup>29</sup> As seen in his discussion of 'Legal Status', see chapter two.

<sup>30</sup> 'This right (of each family member to property held in common) and the control of the resources by the head of the family may, however, come into collision because the ethical disposition of the family is still immediate and exposed to particularisation and contingency'. PR, §171.

<sup>31</sup> PR, §240.

<sup>32</sup> PR§239.a.

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