



Marx's complaints against the Hegelian state spans on various points of detail in the text. On one hand, he attacks Hegel's logic with its own language, showing the (self) contradictions of his categories. On the other (which I guess his main point), Marx complains that Hegel misunderstood state's true reality. Because of Hegel's preoccupation of the logical movement of the mystified and subjectivized idea of the state, the important empirical facts, such as: the real people, king, civil servants, estates with their real interests, capriciousness, and personal choices are all flattened out and absorbed into a rational and logical system.

Although Marx commends Hegel for he correctly identified the crucial conflict between interests of the civil society (which is composed of private citizens) and the universal interest of the state. Marx explains that the precedence of form (the mystification) over the content in Hegel's mind made him resolved the issue only superficially. Hegel formally thought that the interests of the king, executives, estates, and civil society, because of their interactions and mediation with each other, would be subsumed into the universal interest of the state.

Marx, in contrast, thinks that it is not the form of the state that determines the real people; it is rather the real people, with their caprice, choices, birth, and class interests, that determine the form of the state (this anticipates much of Marx's later thinking). He sets the "primogeniture" as an example. The law that bestows right to the first-born to inherit the land is not the highest expression of the state's idea. In Hegel's eyes, the law appeared to be an expression of state's idea, since it made the agricultural class stable and independent from the accidental movement of the business, and made them serviceable for state's universal interest. But for Marx, in reality, it is not the state and its legislation that created such law, it is rather the interest of the civil society, of the agricultural class and its institution of private property, that set the primogeniture right. The primogeniture (and perhaps most of the law even up to now) is the abstract expression of private property on its very root, it is solely interest on its naked form.

Marx's critique here expresses a mixture of realpolitik thinking and a Feuerbachian critique of religion applied in the sphere of the state. He shows the discrepancy between how sweetly political categories are being conceived and what is happening in actuality. The fact is that, following Feuerbach, both religion and the concept of political state are mystification of the real human being. But unlike Feuerbach, Marx starts to move beyond from the pure human mind as the cause of the mystified phenomenon, and starts to point to the form of the material institutions and social agreement (e.g. private property) as also determiners of the mystified state (and this theme anticipates Marx's later analysis of the ideology and fetishisms).

I think Marx favors these approaches, since these are more realistic, empirically and historically accurate compare to Hegel's explanations. This account of Marx argument much favors the empiricist and reflective theory of knowledge side of him. But on the dialectic side, Marx also shows that Hegel's error lies on his neglect of the fact that capriciousness, birth, and self-interests (and those that ground-based factors) have major effects to the constitution of the state. Without these factors, Hegel's dialectical synthesis is incomplete. This limitation on Hegel's explanation is what perhaps pushes Marx to designate an alternative explanation, a higher synthesis that will incorporate those data that Hegel neglected.

Certainly the importance of this text in Marx's entire corpus can't be underestimated. Although the text seems to be

formless and eternally drudging, this can be excused as just a testament of the philosophical side of Marx, scholarly thinking through a painful Hegelian text. As a philosopher, he has already started to recognize the mystifications that appear not only in religion but also in the society. Knowing that, he has also started to unravel its mystery by providing a more \"realistic\" depiction of society, through searching for a more realistic factors and determiners of the social phenomenon.

Marx says that It is not the action of spirit which is fundamental but it is the material labor.

The unfettered mechanism of the market leads to the formation of a class caught in a spiral of poverty. Here instead of agreeing with Hegel that this should be offset by the mediation of a kind of welfare state, Marx says that this contradiction between the property rights of the civil society and the principle of the family can only be abolished by the abolishment of property rights and socializing the means of production.

Third, since the actualization of the volition in a natural existent takes place immediately, i.e., without a medium—which the will requires as a rule in order to objectify itself—then even a particular, determinate end is lacking; no mediation of a particular content, like a purpose in the case of action, takes place, which is evident because no acting subject is present, and the abstraction, the pure idea of will, in order to act must act mystically. Now an end which is not particular is no end, and an act without an end is an endless, senseless act. Thus this whole parallel with the teleological act of the will shows itself finally to be a mystification, an empty action of the Idea. [In fact,) the medium here is the absolute will and the word of the philosopher; the particular end is the end of the philosophizing subject, namely, constructing the hereditary monarch out of the pure Idea; and the actualization of the end is Hegel's simple affirmation.\"

\"Hegel says that the conversion of the sovereignty of the state (of a self-determination of the will) into the body of the born monarch (into existence) is on the whole the transition of the content in general, which the will makes in order to actualize an end which is thought of, that is, to translate it into an existent. But Hegel says 'on the whole'. And the proper difference which he specifies [-namely, immediate conversion of the pure self-determination of the will into a single and natural existent without the mediation of a particular content-) is so proper that it eliminates all analogy and puts magic in the place of the 'nature of willing in general'.

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A \"CRITICAL revision of Hegel's *Philosophy of Right*\" is how Marx later described the study that occupied him in 1843 and 1844. The title could in fact be extended to the whole of Marx's activity as a thinker; indeed, as an embodiment of his thought it could be used to sum up his life's work. More careful examination will show that this work of revision keeps pace with the course of his development from his first acquaintance with Hegel's philosophy up to the final pages of *Das Kapital*. When we put Hegel's *Vorrede* (the Preface to his *Philosophy of Right*) beside Marx's studies in preparation for his dissertation, it is very much a familiar tune that we hear. I am thinking especially of the central theme, featuring as it does the unsatisfactory character of Plato's philosophy of the state *vis-à-vis* the dawning of subjective freedom and the impending revolution in the world. The subject of Marx's dissertation is directly related to Hegel's *Vorrede*, which took an open stand against Epicurus' philosophy of chance and accident. It is as though Marx was determined from the very start to resist the master to his face by deliberately setting Hegel's major opponent, Epicurus, on a pedestal.

Later on, it looks sometimes almost as if Marx is sticking systematically to the scheme of Hegel's *Philosophy of Right*. His first article on so-called material interests, the article on legislation against wood-stealing, one could regard as commentaries on the first page of Hegel's *Philosophy of Right*, which deals with abstract right, more especially the first chapter on the right to ownership. With proper regard to the order of sequence, the article on the divorce law, written not long after, not only links up in fact with the first chapter of the third part of Hegel's *Philosophy of Right* in which the family—to take marriage for a start—is treated as the main element of the ethical life, but in this article there is even a positive stand taken against the way Hegel deals with divorce.

Next, he appears to make a jump straight to the third chapter on the state; but this leap is really one made by Marx's *Critique*, which in point of fact reverses Hegel's order of sequence. First, he has to settle accounts with Hegel's political theory, before he can get down to the real work, the critical revision of Hegel's doctrine of civil society. But even in following this third chapter Marx seems to be going about it systematically. The first section, on constitutional law, is discussed in Marx's critique of Hegel's constitutional law; in this connection he takes extreme care to pay special attention to Hegel's views on the relationship of the state to religion (which had been passed over in the critique of Hegel's constitutional law), implicitly in the "Introduction" to that critique and explicitly in the article on "the Jewish question". Where the second section on international law is concerned, one need only glance at the list of articles Marx wrote during the eighteen-fifties for the New York *Daily Tribune* to see how radical and how assiduous was his concern with international politics; whilst the final section on world history is in a sense critically remodelled by Marx in his *Critique of Political Economy* (*Kritik der politischen Ökonomie*) and the philosophy of economic history unfolded there.

The second chapter of the third part of Hegel's *Philosophy of Right*, which deals with civil society, is what really continued to occupy Marx for the rest of his life. Once he had discovered in this chapter the central complex of problems raised by Hegel's philosophy of right, it became the lever of his critical philosophy. The article on the legislation against wood-stealing had already penetrated to the core of these problems. The problem of civil society is the real theme of Marx's critique of Hegel's constitutional law; but the philosophical-cum-economic manuscripts of 1844 are likewise impossible to understand without the background of Hegel's views. The same thing is true of the critique of Bauer, Stirner and Proudhon. But it is really from 1847 onward that Marx's life work, the *Critique of Political Economy*, can be summed up under the heading, "critical revision of Hegel's *Philosophy of Right*". The problems raised by civil society, as outlined by Hegel with unprecedented clarity, dominate *Das Kapital*. The deep irony of Marx's relation to Hegel leaps to the fore at the end of his life in one of the last chapters of *Das Kapital*. The theme of freedom in Hegel's *Philosophy of Right*—a note persistently heard in the dialectic of freedom and necessity—breaks through in the vista of the future which Marx outlines, the perspective that sees lying on the far side of the sphere of material production as such, beyond the horizon of the realm of necessity, the realm of freedom. But this vision is fractured by the critical irony of Marx's revision of Hegel's trinitarian speculation; this visionary passage forms part of the forty-eighth chapter of *Das Kapital*, which deals with "the trinitarian formula", that is to say, the *economic trinity*.

So, to the very end of his life, Marx remains preoccupied by this task of revision; and so he himself has summed up his life's work. I need only remind you of that one sentence from the *Foreword* of the *Critique of Political Economy* of 1859, which I have already analysed in part in an earlier lecture. In it, he sums up in a single breath his work of revision: his discovery of the roots of legal relations and forms of state in the material conditions of Hegel's "civil society", and the anatomy of those roots in political economy. He could not have made it more evident that the key to his life's work is to be found in the *Critique of Hegel's Philosophy of Right*.

Marx's account does indeed represent a remarkable abridgement of the historical perspective. Hegel's expression *bürgerliche Gesellschaft* (civil society) he traces back to the use of this term in the England and France of the eighteenth century. That is fair enough, in so far as Hegel identified with a tendency already present in modern natural law and in particular took over the term "bourgeois" from Rousseau. However, the radical separation of the terms "state" and "civil society" is Hegel's very own accomplishment; so much so, in fact, that his thinking had a long way to go and to develop before he was at last, in the 1821 *Philosophy of Right*, able to complete the terminological operation. An identification which from classical times had been handed down quite automatically in European thought was now cleft in two, split into two contrasting terms. Neither Marx nor Hegel himself saw the historical originality of this terminological operation in this far-reaching perspective. Marx did have an intuitive sense of the problem presented by the terminological tradition and by Hegel's break with it. In a letter to Arnold Ruge of March 5, 1842 Marx gets to speaking about his recently written article containing the critique of Hegel's natural law in its bearing on constitutional law. He has in view here what in a letter written some weeks later he calls the *Critique of Hegel's Philosophy of Right*, and in a letter dated in August he calls his article tilting at Hegel's theory of constitutional monarchy.

In a previous lecture (part I, chapter 10) I used these letters to show that what Marx did with this article in 1843 was in fact implementing something he had done already in the previous year; so I need not go any further into the history of the matter now. At the moment I am concerned with Marx's own description of his article. In the aforementioned letter of March 5, 1842 he writes: "The crucial thing is the refutation of constitutional monarchy as a hybrid affair, totally self-conflicting and self-eliminating." And then he adds: "*Res publica*, cannot be translated into German." These two observations, taken together, touch the heart of the problems at issue.

In the context of this more far-reaching perspective, which Marx himself points to, Hegel's *Philosophy of Right* and Marx's *Critique* fall into a proper relation to the classical and European tradition, to the as yet unrealized potentialities of the future, and to each other. Time now to go on and follow in its main outlines Marx's *Critique of Hegel's constitutional law*. The first part of my lectures has already thrown some light, up to a point, on the aspect of

the "critique of heaven". At issue now is the theme proper, which belongs to the domain of the critique of earth. Marx's *Critique* does not extend beyond the first section of the chapter on "The State" (*Der Staat*), a section dealing with constitutional law (*das innere Staatsrecht*). This section is subdivided into two: the internal form of government or constitution (*innere Verfassung für sich*) and sovereignty *vis-à-vis* foreign states (*die Souveränität nach aussen*). Of these two, Marx deals here only with the first, the internal constitution.

Marx probably started his *Critique* at this section; but the first page of the manuscript has been lost. On the second sheet, the first of the surviving manuscript, he summarizes the content of this section quite briefly as the argument that concrete freedom consists in the identity of the system of particular interests (*Sonderinteresse*) (of the family and civil society) with the system of universal interests (*allgemeine Interesse*) (of the state). After the term "identity" he adds between brackets *sein sollenden, zwieschlächtigen*. By this, he means to say that the identity postulated by Hegel is not actual but an ideal, something that ought to be but is not (as yet). And furthermore he characterizes this identity as hybrid, a similar appellation to *Zwitterding*, which we were talking about not long ago. Thus, in the very first sentences of his *Critique* Marx puts dynamite under Hegel's whole construction. For in the Preface to the *Philosophy of Right* Hegel expressly and positively takes his stand against every attempt to construct a state as it ought to be (*wie er sein soll*), and made his own philosophy diametrically opposed to it. At the same time, Hegel presents the speculative idea of the state as the conscious identity between subjective form and substantive content. Marx takes a bold and direct stand against both claims—and in such a way that by an apparently quite casual addition (in brackets!) he turns what Hegel actually meant upside down.

In the next section Hegel goes more deeply into the relation between family and civil society, on the one hand, and the state, on the other. There are two sides to that relation. As contrasted with the spheres of private rights and private welfare, the state is, on the one hand, an *external* necessity and a higher authority, to whose nature the laws as well as the interests (*Interessen*) of this private sphere are subordinate and on which they are dependent. But, on the other hand, the state is the *immanent* end of this private sphere and draws its strength from the unity of its own universal end and aim with the particular interest of individuals; individuals have obligations towards the state to the degree that they have rights as well.

Marx begins his *Critique* with an analysis of the relation between *external* necessity and *immanent* goal. Hegel classifies under external necessity both being subordinate to the state and being dependent on it. The former, the subordination of the private sphere, is obviously an external necessity. But about the condition of dependence Hegel is less clear. Hegel illustrates this by a specific reference to Montesquieu's notion that the parts—the laws concerning the rights of persons—are dependent on the whole, on the state. This reference to Montesquieu, however, relates to an *immanent* dependence. Even so, Hegel subsumes this immanent dependence at the same time under the relation of *external* necessity. Only so is it to be understood why in case of conflict the laws and interests of family and civil society must defer to the laws and interests of the state. It is not empirical conflicts, however, that Hegel has in view; what concerns him is a fundamental dependence in virtue of which the sphere of family and of civil society is subordinate to the state as a "higher authority". The union of the private sphere with the sphere of the universal, the state, is therefore an external, enforced union; the identity is a seeming identity, leading to internal discord. That is why Hegel describes this aspect as an *external* necessity; it is the aspect of alienation (*Entfremdung*) within the union.

Over against this, Hegel sets the other aspect, the state as the *immanent* end of the private sphere, in other words, as a union of the universal end and the particular interests of individuals, expressed in the unity of duties and rights. But in the opposition between the two aspects, between external necessity and immanent end, there lies an antinomy which Hegel is unable to resolve.

As Hegel envisages it, the state as the ethical universe, as the interpenetration of the substantive and the particular, is in itself the union of my obligation to the substantive and the embodiment of my particular freedom; in other words, the union of my duty and my rights.

In the next section (262), which as we shall see Marx treats as being of fundamental importance, Hegel explains things in more detail. The actual idea, that is, mind, divides itself in the plane of its finitude into two ideal spheres of its concept, family and civil society, in order that out of the ideality of these two spheres it can be for itself infinite, actual mind. To that end, the actual idea, *quaminde*, assigns to these spheres the material of this its finite actuality, that is, human beings *en masse*, so that the function assigned to the individual is visibly mediated (*vermittelt*) by circumstances, caprice and his own choice of his situation in life.

This section Marx translates into prose, as he ironically says, and then analyses. If it is indeed circumstances and individual caprice that form the state's point of contact with family and civil society, then evidently the reason (rationality) of the state (*Staatsvernunft*) has no bearing on this assigning of the material of the state to the spheres of family and civil society. The state simply emerges from these spheres in an unconscious and arbitrary fashion. Family and civil society appear as the dark element of nature whence the light of the state is kindled.

Hegel makes it look as though the actual idea, mind, sets to work in accordance with a definite plan, and divides up into finite spheres in order eventually to return into itself. Just at this point Marx puts his finger on Hegel's logical, pantheistic mysticism. What is in actuality the assigning of the material of the state by circumstances and caprice, is expressed by speculation as manifestation, as phenomenon, appearance. The actual mediation by circumstances and caprice is only the appearance of a mediation, which the actual idea performs with itself and which goes on behind the scenes. The actuality is not expressed as what it is in itself, but as a different actuality. Common empiricism has not its own mind but an alien mind as its law, whilst conversely the actual idea has as its embodiment (*Dasein*) not an actuality developed out of itself but a common empiricism.

Hegel calls the family and civil society the two ideal spheres of the concept of the state. The term "ideal" implies that the division of the state into these two parts is necessary, belongs to the essential being of the state. In other words, family and civil society are actual parts of the state, are actual, mental existences of the will; they are "embodiments" of the state, modes in which it exists, they comprise the state. They are the initiative-takers, the motive force. Yet Hegel puts it precisely the other way round. As he represents it, family and civil society are the passive object of the idea; it is not their own life-process which combines and unifies them into the state, but it is the life-process of the idea that has made them distinct. They are the finite being of the idea; they owe their existence to a spirit that is not their own, they are defined by a third factor, and are not self-defined. That is why they are defined as "finitude", as the finiteness inherent in the actual idea. The end of their existence is not that existence as such; but the idea separates these presuppositions from itself, "so that on the basis of their ideality it can be for itself infinite, actual mind"; that is to say, the political state cannot be, apart from the natural basis of the family and the artificial basis of civil society. For the political state they are a *conditio sine qua non*. Thus the condition (*Bedingung*) becomes the conditioned (*Bedingte*), the determinator (*Bestimmende*) is posited as what is determined (*Bestimmte*), the productive factor (*Produzierende*) is presented as the product of its product (*als das Produkt seines Produktes*). The actual idea only descends into the "finiteness" of family and civil society in order, through the supersession of that finitude to enjoy and engender its own infinity. "To that end" (that is, in order to attain its goal) "the idea assigns to these spheres the material of this its finite actuality" (this? what actuality? surely these spheres are its "finite actuality", its "material"), "human beings as a mass (the material of the state here is 'human beings, the mass, the multitude')", it is they who constitute the state, its existence is here formulated as an act of the idea, as a "distribution" of its own material; the fact is this, that the state emerges from the mass, in its existence *qua* the members of family and of civil society; speculation formulates this factum as an act of the idea, not as the idea of the mass but as the act of a subjective idea, which is distinct from the fact itself) "so that this assigning to the individual (before, it was only a question of assigning individuals to the spheres of family and civil society) appears to be mediated through circumstances, caprice and so forth".

The choice of this section is the more striking because of the connection Hegel himself made with a section in the chapter on civil society, to which he explicitly refers in a bracketed addition. Marx was not concerned with that reference, because the chapter in question lay outside the frame of his *Critique*. Hegel refers us to a section (185) which I have already had occasion to consider earlier. In it, he outlines the physical and moral corruption to which civil society is prey, torn as it is between the extremes of unrestricted luxury and bitter poverty and wretchedness. He compares this degeneracy with the period of decline in ancient Greece, and affirms that the principle of self-subsistent, inherently infinite personality has an intrinsic connection with the Christian religion and extrinsically was developed in the Roman world: a principle that had brought Plato's philosophy of the state to an impasse. We have seen that this section is really a more detailed working out of a central theme which Hegel had already broached in the *Vorrede*. Running right through the *Philosophy of Right*, therefore, is a thread linking up with the section (262) in which Marx claims to have uncovered the very core of Hegel's whole philosophy.

First, let us take a closer look at the formal aspect of Marx's analysis. There is, first of all, the peculiar character of Hegel's speculative method, which one can recognize in every part of his system. In the four subsequent sections (263 to 266) Hegel argues that mind is not only, as substantive universality, the external necessity of the private realm but equally, as being conscious of itself as its own end, the inner freedom of the private realm. Marx comments that evidently the transition from the realm of family and of civil society to the political state does not derive from the special nature of the family and so on, from the particular nature of the state, but from the universal relation of necessity and freedom. It is exactly the same transition which is effected in Hegel's logic from the realm of essential being to the realm of the concept. In natural philosophy the same transition is made from an origin in inorganic nature to living nature. It is always the same categories that furnish the soul now for this realm, now for that. It is simply a question of finding abstract characteristics that correspond to the special, concrete ones.

Just as Hegel "dissolves" religion into philosophy (which supersedes it), so does he "dissolve" civil society into the state. In the former case he is cancelling out a contrast that does not actually exist; in the latter case he is

"moderating" a real opposition. Marx demonstrates this by analysing Hegel's construction of the legislature, the central, mediating principle of constitutional monarchy. Here again we are dealing with a compound affair. In the legislature are unified: (1) a representation of the principle of monarchy, "the Executive"; (2) a representation of civil society, the "estates" elements; (3) further to that, the one extreme as such, the principle of monarchy, whilst the other extreme, civil society, is not as such subsumed in it. In this procedure the "estates" element is first of all made the opposite extreme to the principle of monarchy: that is, it takes the place of civil society. For it is only in the representative body of the estates that civil society organizes itself so as to assume a political existence. The "estates" element is the transubstantiation of civil society into the political state. Indeed, civil society is the "unreality" of political existence, so that the political existence of civil society entails its own dissolution, whereby civil society is parted from itself.

The legislature is the political state *in toto*. The inner contradiction, therefore, of the legislature brings to light the inner contradiction of the political state as a whole. The political state merges, is resolved, into the legislature. Within the legislature totally discrepant principles collide. In Hegel's construction this contrariety appears as the opposition between the principle of monarchy and that of the "estates" element. In fact, however, it is a question of the antinomy of the political state and civil society, the intrinsic contrariety in which the political state is in conflict with itself. The legislature embodies the revolt against this internally conflicting structure of the political state.

To this analysis Marx appends a conclusion which he again puts in parenthesis, as it were, in order to indicate that its proper place is in the critique of Hegel's logic. For that very reason it is important to reproduce his conclusion here. Hegel's chief mistake, that conclusion says, is that he interprets the contrariety of the appearance (*den Widerspruch der Erscheinung*) as a unity in essence, in the idea (*Einheit im Wesen, in der Idee*). The phenomenal contradiction does indeed have something more profound as its essence (*ein Tieferes zu seinem Wesen*), namely, an essential contradiction (*wesentlichen Widerspruch*), just as for instance in this case the contradiction inherent in the legislature (*Widerspruch... in sich selbst*) is only the contradiction in the political state and thus also that which civil society evinces with itself. (*Widerspruch... mit sich selbst*).

The vulgar critique falls into an error opposite to Hegel's, that is, into a dogmatic one. It criticizes the constitution, for instance. It points out that the various organs of state authority are opposed to one another, and so on. It finds contradictions everywhere. This is still a dogmatic critique which *combats*, more or less as the people used to do who exploited the "one and three" contradiction in order to wipe the floor with the dogma of the Holy Trinity. Over against that, the true critique shows the inner process, the history of how the Holy Trinity came into being (*innere Genesis*) within the human brain. It describes the "act of birth" (*Geburtsakt*). Thus, a truly philosophical critique of the existing constitution not only shows that contradictions exist, but also explains them, comprehends their genesis, their necessity. It grasps them in their peculiar significance. However, this process of understanding consists not as Hegel supposes in detecting here, there and everywhere determinable instances of the logical notion (*die Bestimmungen des logischen Begriffs*), but in grasping the distinctive logic of the distinctive object (*die eigentümliche Logik des eigentümlichen Gegenstandes zufassen*).

It would be a serious mistake to regard Marx's *Critique of Hegel's Philosophy of Law* merely as a sample of "Hegel critique"; for the confrontation with Hegel entails the confrontation with the political state. Marx expressly makes this point—and does so in connection with his analysis of the duplicity of Hegel's construction of the legislature, which comes out particularly in the bogus position of the "estates" element as the political representation of civil society. "The function of the estates element," Hegel declares (section 301), "is to ensure that the 'public cause' will come into existence in it not only implicitly (*an sich*) but also explicitly (*für sich*): that is to say, the element of subjective, formal freedom, the public mind as, empirically, a common pool of the ideas and opinions of the many." Marx points out the extraordinary contempt which Hegel displays here for the "spirit politic" where he comes across it in an actual, empirical form—the same Hegel who has such enormous respect for it as "ethical mind". The fact is, the "public consciousness" is here simply equated with the empirical, general pool of the opinions of the many, the totality of views and ideas to be found among the mass. That is the enigma of mysticism. The same fantastic abstraction which identifies the state's consciousness with the completely inadequate form of the bureaucracy unblushingly admits, on the other hand, that the empirical "mind of the state" is simply a pot-pourri of the ideas of the mass. Because he gives the actual content of freedom a mystical basis, therefore the actual subject of freedom assumes a purely formal significance. The division between "in itself" (*an sich*) and "for itself" (*für sich*), between substance and subject, is abstract mysticism.