THE WEAKNESS OF THE LAW:

THE OPPOSITION OF CONCEPT AND LIFE IN HEGEL’S EARLY ETHICS

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In the Preface to his *Phenomenology of Spirit*, Hegel introduces the polemical weapon with which he intends to confront the romantic enthusiasm of his contemporaries in order to vindicate genuine science, or *Wissenschaft.* That weapon, he knows, goes by an unassuming title, the *concept* (*der Begriff*); it is humbled indeed by the grander sounding claims of “the Eternal, the Holy, [and] the Infinite.”[[1]](#footnote-1) Despite the banality we may associate with term, Hegel claims the concept has the merit of being the “sole element of [truth’s] existence”[[2]](#footnote-2) and the “proper element” of science as well.[[3]](#footnote-3) However else the project of the *Phenomenology* may be conceived, it is from one side simply an attempt to justify the sober “labor” of conceptual thinking as against “the genius of profound original ideas and lofty flashes of inspiration.”[[4]](#footnote-4) From this work forward, moreover, the concept figures as an ever-present (if enigmatic) object of Hegel’s consideration. Hegel’s thinking is not only itself conceptually saturated, it is to a large extent devoted to thinking about the concept as such.[[5]](#footnote-5) It is thus noteworthy to discover among Hegel’s early writings a temporary lapse in this devotion. While the mature Hegel is known for his understanding of the reconciliation of concept and being, thought and reality, the young Hegel, particularly in his writings from Frankfurt (1797-1800), insists on the failure on the part of concepts to attain to the reality of “life” (*Leben*), a term of artfrom the period. Typical of his sentiment of the time, he writes, “when life [*das Lebendige*] is conceived in thought or given expression, it acquires a *form* alien to it, a conceptual form [*Form des Begriffs*], while on the other hand, the moral imperative is, as a universal, in *essence* a concept.”[[6]](#footnote-6) Not only do we see here an opposition of concept and life so uncharacteristic of his later thought, but also a reference to what motivates Hegel’s critique of concepts at the time: for Hegel, concepts lie at the heart of *law*, which itself stands against “life.”

To adapt a Pauline phrase, appropriate to Hegel’s Lutheran formation, the concept itself is the *weakness of the law*, according to the young Hegel.[[7]](#footnote-7) Like St. Paul, Hegel wants to point out the basic incapacity of law to do what it purports, but Hegel searches for the flaw in the form of legal thinking itself, which allows him to extend his critique of law even to the apparently autonomous morality of Kant. What Hegel draws attention to at this early stage is the way a concept, as something ideal and universal, is always opposed to the particular and real. Inspired by his friend Hölderlin, Hegel here espouses a philosophy of “unification” that derides any disparity between subject and object, ideal and real. If general concepts constitute the demands of morality, Hegel worries, morality will always be set against our living individuality, our inclinations, our unity with the whole. Hegel discovers that the same disparity between ideal and real that features in legal thinking condemns the Enlightenment morality of Kant as well. Because of its conceptual form, the morality of auto-nomy inherits the same problematic “curse” of the law*.* In place of a morality driven by universal and ideal conceptual norms, Hegel pursues an ethic “raised above morality,”[[8]](#footnote-8) an ethic that refuses to elevate norms over and against life.

From the perspective of Hegel’s development, his Frankfurt period, especially its culminating work, “The Spirit of Christianity and Its Fate,” exhibits an episode of antipathy towards conceptual form that is unrepresentative of his later work. While this is interesting at least as an anomaly in Hegel’s intellectual biography, the episode also helps clarify, by way of contrast, Hegel’s later attitude towards concepts. For it is not by ignoring but overcoming the weakness of conceptual form that Hegel comes to extoll its significance for philosophical *Wissenschaft*, and for “ethical life” (*Sittlichkeit*) in particular. Hegel’s change of attitude in this regard is already on display in his essay on “Natural Law” of 1802.[[9]](#footnote-9) It is here that he sees in the concept no longer a heteronomous power imposed on life, but a power of “absolute negativity,” the unity-in-difference at the heart of genuine science. Here we see Hegel as the emerging “anti-Romantic” that would be on display in the *Phenomenology*’s sardonic castigation of the merely inner and individual, of the ethic that would seek to evade the power of the concept. But Hegel did not attain this faith in the concept without first despairing of it; he was acquainted with the allure of the irrational before his fidelity to thought.[[10]](#footnote-10)

In the following essay, I wish to draw out the meaning and significance of Hegel’s early opposition to the concept in favor of “life,” in particular showing how Hegel’s anti-conceptualism serves his anti-juridical attitude in the “Spirit of Christianity” essay.[[11]](#footnote-11) This helps show how Hegel’s later reversal in his appreciation of concepts, which we will examine in his essay on *Naturrecht,* helps him overcome his opposition to legality as well, reconciling law and life in his developing concept of *Sittlichkeit.*

I. “Positivity” and Conceptual Form

Hegel’s episodic turn against the concept would be motivated by his search for the weakness at the heart of law, which he eventually believed to be present in both juridical and moral contexts. The conceptual form of law itself would show its fault whether the lawgiver was the autonomous subject or the authority of heteronomous, positive law. Clearly, in Hegel’s context, this suggests a direct challenge to the Kantian moral framework, which defines morality as such as an act of self-legislation. However, prior to his move to Frankfurt in 1797, Hegel had taken the Kantian notion of rational, moral autonomy as a key to developing his conception of an acceptable religion and community life.[[12]](#footnote-12) Despite his eventual critique of Kantian ethics, Hegel conceived his project at the time, as he wrote in a letter to Schelling, as a way of applying (*anwenden*) of Kant’s project.[[13]](#footnote-13) The connection between Hegel’s aspirations and Kant’s were nevertheless quite indirect. Hegel was bent on articulating an ideal of ethical community modeled on the Greek *polis*, where the individual was united with the whole, in contrast to the fragmentation of individual and community endemic in modernity; where individual feeling was united to the cult of “folk religion” (*Volksreligion*).[[14]](#footnote-14) The aesthetic and classicist flavors of Hegel’s ideal were not derived from Kant, but from Lessing, Schiller, and Goethe.[[15]](#footnote-15) But Hegel gathered inspiration for his vision from the way Kant united the universal demands of reason to the individual’s practical judgment. Kant seemed to reveal a modern means of regaining the moral reconciliation of part and whole that was felt to be evident in the Greek state.[[16]](#footnote-16) Yet this rational basis of community needed to be supplemented subjectively, by feeling and imagination, which were equally essential to a genuine *Volksreligion.*

In his years in Tübingen and Berne, Hegel’s work focused on whether Christianity was capable of expressing the rational ideal he gathered from Kant, together with the ethical and aesthetic unity he found in classical Greek religion. In general, Hegel sees historical Christianity as falling short of such a rational and aesthetically unified religion. Christianity had become what he called a “positive” religion, not here in contrast to “negative” but to “natural,”[[17]](#footnote-17) as in the distinction between positive and natural law. According to Hegel’s position at the time, a religion is positive to the extent that its doctrines and morals are not prescribed through the autonomy of practical reason but through the enforcement of an external authority. At this stage, Hegel wants to show that the teachings of Jesus can be interpreted innocently of such positivity inasmuch as they prescribe morality alone as true religion, in line with Kant’s arguments in his *Religion* essay.[[18]](#footnote-18) Hegel’s account in “The Positivity of the Christian Religion” (1795) then shows how historical Christianity converted the moral religion of Jesus into a positive one. That is to say that the precepts Jesus taught became accepted not because of their moral value but because it was Jesus who taught them, i.e. by virtue of his authority.[[19]](#footnote-19) Eventually, this made Christianity amenable to the use of the authoritarian apparatus of the state to enforce its doctrines and morals. This downgrades Christianity to the “slavish obedience to laws” that Hegel attributes to Judaism.[[20]](#footnote-20) But this was possible, according to Hegel, only as a betrayal of the anti-positive morality of Jesus.

Hegel’s criticism of religious positivity has been detailed elsewhere[[21]](#footnote-21) and is not here our main concern. What is significant for us is the way Hegel begins to articulate the problem of positivity philosophically, after having first shown it in its historical and theological dress. The philosophical critique of positivity can be seen in the last writings from Hegel’s stay in Berne and early pieces from Frankfurt. The philosophical basis of his early critique of positivity was derived from Kant’s notion of autonomy, but Hegel had so far practically assumed the correctness of Kant’s position. What was needed was a way of legitimately distinguishing moral from legal, and hence positive, demands. Kant himself justifies the difference in terms of the “determining ground” of the will:

It is now clear that those determining grounds of the will which alone make maxims properly moral and given them a moral worth—the immediate representation of the law and the objectively necessary observance of it as duty—must be represented as the proper incentives to action, since otherwise *legality* of actions would be produced but not *morality* of dispositions.[[22]](#footnote-22)

That is, legality of action is possible through external conformity to an objective moral standard that does not derive from the pure subjective representation of duty as its determining ground. For Kant, the demands of morality are not heteronomous because they come from our own representation of the demand, rather than from, say, incentives of avoiding punishment.

This helps show how a law could be “positive” or authoritarian in a way morality might not be. However, despite Hegel’s general appreciation for Kant’s morality, the basis of the Kantian position still depended on the strict separation of feeling and inclination from morality, which never suited Hegel’s own convictions. Thus, Hegel begins to justify the distinction of morality and legality in his own way early on in his stay in Frankfurt, in a fragment from July 1797. He attempts to articulate the problem of positivity again, now with reference to the conceptual structure of practical reason.[[23]](#footnote-23) Though still rooted in his Kantianism, Hegel now makes use of a recognizably Fichtean notion of practical reason.[[24]](#footnote-24) Fichte had emphasized the difference between theoretical and practical reason as a difference in the relation to an object posited outside the self. Theoretical reason was “objective” because of the resistance offered by its objects, while practical reason involved the pure subjective activity of the self in its “striving.”[[25]](#footnote-25) Hegel uses this distinction to diagnose religious positivity: “A faith is called positive in which the practical is theoretically present – the originally subjective is only established as something objective…”[[26]](#footnote-26) In brief, the positive in religion is a theoretical usurpation of the role of practical reason; it thus involves a confusion concerning the distinctive nature of practical concepts. Hegel explains that a theoretical concept is constituted by having an object as something opposed to it, a non-I, which it attempts to subsume; the concept is supposed to establish a unity between subject and object that is not, *ex hypothesi,* originally present. Practical reason, however, is a pure activity, a unity without opposition: “Practical activity acts freely, without the union of something opposed, without being determined by this – it does not bring unity in a given manifold, but rather is the unity itself…”[[27]](#footnote-27) Accordingly, practical *concepts*, unlike theoretical ones, have no object to master, no manifold to subsume besides the activity of the acting I itself.[[28]](#footnote-28) The object that practical concepts *seem* to have is “a certain determination of the I…determined in opposition to it, considered as an accident of the I…”[[29]](#footnote-29) Such a concept is nevertheless merely the “reflected activity” of the I, not an alien object. The opposition suggested by such a concept is an illusion of the reflection itself; unity in the practical concept is primary.

Positivity, as Hegel now argues, results when the object of a practical concept, which is really the acting I itself, is taken to be an object outside the I, cognized quasi-theoretically as “something given, something objective [which] maintains its power, its force, its effectiveness only through an object awakening reverence or fear, before which we decay and must be subjected…”[[30]](#footnote-30) The moral law, for example, becomes positive in this manner when it is not represented as derived and legitimated from autonomous reason itself but thanks to an historical accident, perhaps imagined as the effect of a kind of miracle like the revelation at Sinai.[[31]](#footnote-31) Our inability to cognize the cause of this revelation, if interpreted theoretically, leads us to suppose an objectivity “that cannot be comprehended [*begriffen*] by us.”[[32]](#footnote-32) Legal authority is subsequently required to create a “false synthesis”[[33]](#footnote-33) between this object and ourselves as its subjects. Yet this is not due to the real transcendence of the law as a genuine object, but by our failure to recognize the activity of our own selves.

The moral law, then, interpreted in Kantian and Fichtean terms, is here what can save religion from authoritarian positivity, for moral concepts are expressions of unified self-activity. There are thus reasons pertaining to *conceptual form* for making the distinction between moral and positive laws that Hegel had used in his early writings. Legality, especially in religion, is simply morality turned positive, imperative form represented as a transcendent object in opposition to the activity of the self. It is thus capable of being turned on the subject or on a community with commanding authority. But *moral* law is innocent of such positivity for Hegel at this stage; it is only thanks to the autonomy of the moral law that a sphere of life can be carved out in freedom from positivity. The practical concepts responsible for moral law are the product of living activity. As Haering writes, commenting on this period, “Thus for [Hegel] the practical concept is in fact not only ‘living’, the concept being simply adapted to the living unities of life, but at the same time it is that to which the practical sphere, according to the meaning of its own kind of actuality, is particularity suited.”[[34]](#footnote-34) Thus, as Hegel initially articulates the philosophical critique of positivity, the concepts of practical reason stand in his service; they are not yet ‘the weakness of the law’ but the expression of freedom.

II. Hölderlin’s Opposition to the Concept

So far, Hegel’s opposition to legality is limited solely to *positive* law, and here the critique is held off from the law-like principles of morality, which are supposed to constitute the content of religion. Thus he sees the need to preserve a *right* for the moral law: “The 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 cease to be a man altogether.”[[35]](#footnote-35) Positivity is the usurpation of the right of self-legislation, while self-legislation constitutes the essence of morality. Later on in Frankfurt, however, Hegel endeavors a much more radical critique of law than the Kantian tradition provided him. Rather than simply putting positive law in its place, outside of morality and rational religion, Hegel now turns against the very form of law implied in the dictates of morality. Now it is not just the law that can be enforced by external authority, but even the *nomos* of rational autonomy that falls under censure. What led Hegel to such a radicalization?

It is now established that the key philosophical influence on Hegel during his stay in Frankfurt was his friend Hölderlin, whose significance as a philosopher as well as a poet has been increasingly recognized.[[36]](#footnote-36) According to Terry Pinkard, Hegel’s time with Hölderlin in Frankfurt would be the most significant intellectual friendship of his life.[[37]](#footnote-37) Dieter Henrich emphasizes that it was under Hölderlin’s influence that Hegel came to turn away from his own Kantianism, which he then came to see as incapable of attainting to the Greek ideal of unity that had been his more fundamental concern all along.[[38]](#footnote-38) We have already seen how, early on in Frankfurt, Hegel begins to turn from his Kantian vocabulary towards a more Fichtean one that had also been adopted by Schelling and Hölderlin. Moreover, Hegel begins to assimilate Hölderlin’s romantic tone[[39]](#footnote-39) and finds in his thinking a new expression of his aspiration, which in turn provides him with a new critical resource as he returns to his ethical and religious occupations.

The key to Hölderlin’s philosophical vision of the time, and thus his influence on Hegel, was his conception of the metaphysical priority of unity. He was a proponent of what Henrich has called “unification philosophy” (*Vereinigungsphilosophie*).[[40]](#footnote-40) Besides its connection to the revival of Spinozism in Germany, the motivation for “unification” comes in as a response to the ostensibly absolute separation of subject and the unknowable object in Kant’s philosophy. Whereas the presupposition of such separation appeared to have priority in Kant, Hölderlin supposed (with Fichte) that it is only as a severance of an original unity that the subject-object distinction is possible in the first place. But whereas Fichte posits the original unity entirely on the side of the subject, Hölderlin seeks an overreaching unity beyond the subjective “I.”[[41]](#footnote-41) It was as an expression of this original unity that Hölderlin adopted the term “being” (*Seyn*) in his philosophy. As he writes on the flyleaf fragment “*Über Urtheil und Seyn*,” he means by *Seyn* that wherein “subject and object are absolutely, not just partially united [*vereiniget*], and hence united so that no division can be undertaken, without destroying the essence [*Wesen*] of the thing that obviously does not obtain through an artificial connection, but is more original than any relating...”[[42]](#footnote-42) As the primordial unity, *Seyn* was then used to convict whatever could sever such unity. The opposite side of the fragment lays blame on the act of judgment (*Urtheil*): “*Judgment*: is in the highest and strictest sense the original sundering of Subject and Object most intimately united in intellectual intuition…the *Ur-Theilung* [‘original division’].”[[43]](#footnote-43) So far, this is in keeping with Fichte’s treatment of theoretical reason that posits an object outside of itself. Yet unlike the fragment we discussed above, Hölderlin does not spare the practical judgment from this critique: “…in practical *Urtheilung*, it [the ego] posits itself as opposed to the *Non-ego*, not to itself.”[[44]](#footnote-44) In other words, for Hölderlin there is a underlying ground[[45]](#footnote-45) of both knowledge and practical activity that exists in the unity of subject and object; as soon as something—say, a duty or aim—becomes an *object* of practical judgment, this unity has already been destroyed.

It is no surprise, then, given that judgments are seen as a synthesis of concepts, that Hölderlin takes aim at concepts themselves. Though the primary material available on this subject is inadequate to reconstruct Hölderlin’s view in detail, we do have evidence of his view of concepts from the period in a letter to his half-brother Karl Gok. There, Hölderlin speaks of the way principles of reason are all “related to the *general* conflict in the human being, that is, to the *conflict between the striving for the absolute and the striving for the limitation*.”[[46]](#footnote-46) The principles of reason, however, demand that this opposition be unified. Accordingly, “every unifying [*Vereinigung*] of the conflict must produce a result, and these results of the general unifying of the conflict are then the general concepts of the understanding, e.g. the concepts of substance and accident, of action and reaction, duty and right etc.”[[47]](#footnote-47) Thus, Hölderlin sees general concepts as resulting from unifications made necessary because of drives conflicted between limitation and the absolute. Like the judgment itself, then, a concept is the site of a unification, but it is a derivative unification, one which, moreover, pastes together pieces already torn asunder. The concept is a symptom of prior disunity rather than a sign of *Ur-Einheit.*

Hölderlin’s nostalgia for the experience of unity uncorrupted by conscious knowledge,[[48]](#footnote-48) however it may strike the contemporary reader, undoubtedly captivated the imagination of Hegel. For Hölderlin seemed to give a metaphysical picture to suit the dream of ethical unity that so inspired Hegel. Moreover, given that this ideal of unity was believed to be *actual* in the experience of intellectual intuition—the ‘epistemological’ correlate of *Seyn,* for Hölderlin—it seemed possible to hold up this absolute unity as a genuine touchstone. Accordingly, Hölderlin’s concept of being shows up in one Hegel’s sketches from 1798, as he again attempts to define the concept of positivity, here with the first notice of an opposition to Kant as well.[[49]](#footnote-49) Likewise, in the piece that will presently occupy us, “The Spirit of Christianity and Its Fate,” Hegel re-introduces Hölderlin’s concept of being along with the parallel notion of life (*Leben*)[[50]](#footnote-50) to redirect his critique of law towards the very heart of (Kantian) morality as well.

III. The Concept as Weakness of the Law

Hegel’s essay ostensibly aims to give an account of Jesus’ life and teachings, which are suspended thematically between the ill-fated tragedy of Judaism and the Christian comedy of errors. The key to Hegel’s understanding of Jesus lies in his interpretation of the Sermon on the Mount in terms of an Hölderlin-style unification philosophy. It is in attempting to account for Jesus’ claim to fulfill but not abolish the Mosaic law that Hegel introduces his new critique of the concept as an interpretive key. Namely, in Hegel’s view, the conceptual form of law inherits the Christian critique of the Judaic law.[[51]](#footnote-51) Just as St. Paul can be seen to give a new foundation for Jesus’ critique of law with his notion of the “flesh” (*sarx*), Hegel gives a ‘romantic’ foundation for the critique of the law in the repudiation of the abstract universality of the concept.

The target of Hegel’s critique at this stage is simply the way a concept emblemizes the opposition between universal and particular, ideality and reality. It is this opposition that attains practical actuality in law: “Since laws are unifications of opposites in a *concept*, which thus leaves them as opposites while it exists itself in opposition to *reality*, it follows that the concept expresses an *ought*.”[[52]](#footnote-52) Here we are reminded of Hegel’s earlier criticism of theoretical concepts, which had espoused that such concepts are likewise unifications of opposites, viz. the I and the non-I. Practical concepts had been spared from being considered in this way, but here Hegel understands the conceptual “ought” of the law to set the individual in contradiction with a universal standard outside of him: “For the particular—impulses, inclinations, pathological law, sensuous experience, or whatever else it is called—the universal is necessarily always something alien and objective.”[[53]](#footnote-53) In the law, the duty, as something universal, is supposed to stand in *contradiction* to the individual as embodied by the person. And it is conceptual form that gives the law such universality.

This appears to be what Hegel means by saying that laws are “unification of opposites in a *concept*.”[[54]](#footnote-54) The conceptual form of law, its universality and ideality, establishes an inner contradiction between itself and individuality. Civil laws put this opposition on display in that they require the force of an “external power” (i.e. sovereignty) to create unity between the law and several individuals. Moral laws, on the contrary, contain an opposition between the self and his duty, but they cannot be externally enforced, since the cleavage is internal to the individual. Kant, as we saw, had made the distinction between the moral and the properly legal along such lines.[[55]](#footnote-55) Hegel acknowledges that we might accordingly expect the critique of law in the Sermon on the Mount to be limited to civil law, perhaps that the moral law “loses its objectivity, its positivity, its heteronomy, and the thing commanded is revealed as grounded in an autonomy of the human will.”[[56]](#footnote-56) This would preserve the Kantian distinction as given. However, Hegel no longer acknowledges the difference between civil and moral law as essential in this regard, for “the man who listens to his own command of duty…carries his lord in himself, yet at the same time is his own slave.”[[57]](#footnote-57) In the obedience to duty, even in the morality of autonomy, “[t]here remains a residuum of indestructible positivity…”[[58]](#footnote-58) The extension of Hegel’s critique of the positivity of civil and religious law to the positivity even of the autonomous moral law could only have been possible by generalizing the basis of the former critique. Moral laws are guilty of the same offense of “fixing oppositions” that is made possible by conceptual form.[[59]](#footnote-59)

Compared to Hegel’s early Kantianism, it is remarkable to observe the severity of his repudiation of concept and duty at once. As suggested, the impulse towards the critique could only come from the metaphysical criterion of unified being that Hegel adopted from Hölderlin, as begins to become clear as he continues:

Since the commands of duty presuppose a cleavage [between reason and inclination] and since the domination of the concept declares itself in an “ought” [*Sollen*], that which is raised above this cleavage is by contrast an “is” [*Sein*], a modification of life…[[60]](#footnote-60)

Concepts sever us from life, Hegel tells us, by promoting an “ought” in distinction from “is,” from *being*. Thus, any morality that takes imperative form is *eo ipso* “alien” to life: “…when life is conceived in thought or given expression, it acquires a *form* alien to it, a conceptual form, while, on the other hand, the moral imperative is, as a universal, in *essence* a concept.”[[61]](#footnote-61) For Hegel this means, for example, that if the teachings of Jesus in the Sermon on the Mount are to be authentic, they cannot be taken as moral imperatives at all.[[62]](#footnote-62) A morality based on imperatives is derived from concepts set in opposition to the form of life.

Hegel’s critique of morality becomes more delicate when he tries to articulate how an ethics of *virtue* does not fail in the same way as the moral imperative, and moreover is responsible for “fulfilling” the requirements of law without acknowledging the authority of law. Virtue promises to provide the basis of a non-conceptual ethic. A virtue, Hegel explains, is “correspondence of inclination with law,” but not in such a way that the law enforces or masters inclination, but rather “such that law and inclination are no longer different.”[[63]](#footnote-63) Accordingly, virtue is an expression of “life.”[[64]](#footnote-64) Hegel puts forward “life” as a complimentary expression for the unity of being[[65]](#footnote-65) and virtue as its ethical expression. Like life itself, virtue does not presuppose an opposition between norm and inclination but simply “modifies” life. It is thus not that life is antagonistic to the dictates of law, but rather, because life (in the form of virtue) satisfies law without subservience to duty, it makes law superfluous. Most significantly, life for Hegel is not realized by the mediation of a conceptual norm.

*Das Leben,* then, even if a vitalist abstraction,[[66]](#footnote-66) becomes the motivating basis for Hegel’s ethics of virtue. Virtue makes an advance on duty by achieving similar ends without introducing abstract universality and possibility. Hegel gives as an example the way a virtue obviates law with what he calls “reconcilability” (*Versöhnlichkeit*)[[67]](#footnote-67) in the context of Jesus’ discussion of the prohibition of murder:

In reconcilability the law loses its form, *the concept is displaced by life*; but what reconcilability thereby loses in respect of the universality which grips all particulars together in the concept is only a seeming loss and a genuine infinite gain on account of the wealth of living relations with individuals (perhaps few) with whom it comes into connection. It excludes not reality but only thoughts and possibility, while the form of the command and *this wealth of possibility in the universality of the concept is itself a rending* [*Zerreißung*] *of life*…”[[68]](#footnote-68)

The prohibition of murder, for Hegel, covers the whole range of particular cases only in “thoughts and possibility,”[[69]](#footnote-69) namely, thanks to the concept. The virtue of reconcilability, by contrast, enters only into the living relations between persons, and requires nothing beyond such immediacy. Despite the partial coincidence of behavior between the *versöhnlich* person and the non-murderer, the difference is essential. The one who obeys the moral command *as a concept* has in fact severed himself from life. Virtue, however, in its displacement of the moral imperative, displaces the concept as well.

Throughout the essay, Hegel will continue to demonstrate the weakness of law thanks to its conceptual form. Of particular interest is his discussion of the role of the concept in punishment and criminal law. While in the sphere of virtue, life stood in contrast to the *form* of law, but not its content, in the case of criminal punishment the concept cancels the very content of life, for the law in punishment (often quite literally) “signals the destruction of life.”[[70]](#footnote-70) As a result, punishment cannot bring about genuine reconciliation in the life of the criminal; it forges a solution on the level of the concept at the expense of reality:

I mean that, since laws are purely conceptual unifications of opposites, these concepts are far from exhausting the many-sidedness of life. Punishment exercises its domination only in so far as there is a consciousness of life at the point where a disunion has been reunified *conceptually*; but over the relations of life which have not been dissolved, over the sides of life which are given as *vitally* united [*lebendig vereinigt*], over the domains of the virtues, it exercises no power.[[71]](#footnote-71)

The concept, in law, is powerless over life but also a power against life, as it enters the sphere of life only as death: the formal universality of the command leads to the loss of life in the case of its transgression.[[72]](#footnote-72) Indeed, a Pauline gloss might suggest that ‘all who rely on the concept are under a curse…’

In additional writings from the period, Hegel uses the same vitalist criterion to reformulate his critique of theoretical in addition to practical and legal concepts. In working out a new preface to his “Positivity” essay (1800), Hegel now suggests that the notion of a rational or natural religion is as problematic as that of a positive religion, for every concept of a rational religion will have to work with a universal and necessary *concept* of human nature. But Hegel claims that this approach is contrary to the purpose of understanding religion and humanity as they actually are:

But the *living nature of man is always other than the concept of the same,* and hence what for the concept is a bare modification, a pure accident, a superfluity, becomes a necessity, something living, perhaps the only thing which is natural and beautiful. …[H]uman manners and characteristics together with the accompanying religion cannot be determined by concepts at all.[[73]](#footnote-73)

While Hegel had criticized the theoretical use of concepts before, simply because it implies the separation of the subject and object of knowledge, here the notion of *Leben* serves as the source of critique. The medium of the concept simply cannot apprehend the matter of life, which is purely “accidental” and unpredictable, in contrast to the cold necessity and universality favored by conceptual thinking. In contrast to abstract, universal “nature,” *life* cannot be conceptually expressed.[[74]](#footnote-74)

IV. Concept and Negativity in *Naturrecht*

Hegel’s critique of the concept in Frankfurt was motivated by a certain understanding of the unity of *Seyn* as absolute, such that any crack in its undivided surface, any *Trennung* or separation, would abolish its right to absoluteness. The moral law, and therewith the ethical concept, was perceived to represent just such a fissure, dividing the subject from himself through the intermediacy of a universal duty. Through its presence in the moral law, the concept was seen to be a source of *positivity*, that is, of nomic authority that would be absent in the kind of aesthetic religion that Hegel attempts to articulate.

Much would have to change in Hegel’s appreciation of the concept before he could speak the *Phenomenology* of the concept (however poetically) as “the simple essence of life, the soul of the world, the universal blood, whose omnipresence is neither disturbed nor interrupted by any difference...”[[75]](#footnote-75) The change in tone is so drastic we may think Hegel is simply changing the subject. Here, however, I wish to show briefly how the seeds of Hegel’s conceptualist turn can be seen in his essay from 1802, “The Scientific Ways of Treating Natural Law, Its Place in Moral Philosophy, and Its Relation to the Positive Sciences of Law” (hereafter, *Naturrecht*), published in the journal he edited with Schelling. Hegel introduces here the theme of *negativity* that dominates his later thought, and he interprets conceptuality in terms of that theme: the positivity of the concept in the sense above is taken equally to be a negativity. If we recall that the positive was introduced in contrast to the natural, signifying the “false synthesis” of law with its subjects, we can see that the intent is not paradoxical. For what gives law its positive fixity and authority, its un-naturalness, is its *negative*, domineering relationship to subjects. As he writes at the end of the essay, “what we have so far called positive has in the event turned out to be the negative considered in itself…”[[76]](#footnote-76) So this is not a case of reversal but indifference.

Accordingly, the negativity of the concept, and thus the formal universality of law, is criticized for the same reason as the positivity of legal duty. In this essay, too, it is Kantian and Fichtean ethics that are condemned for their pure conceptuality. In contrast to empirical methods for establishing the science of law (which are also criticized in turn), Hegel takes Kant and Fichte to task as “formalists,” who uphold purely unified rational principles of duty over and against the multiplicity of sensible experience.[[77]](#footnote-77) According to Hegel’s characterization “formalism asserts its formal principles as *a priori* and absolute, and thus asserts that what it cannot master by these is non-absolute and accidental…”[[78]](#footnote-78) Here again, it is the pure ideality of *conceptual form* that is codified in law:

The absolute law of practical reason is to elevate that specification [of the will] into the form of pure unity, and the expression of this specification taken up into this form is the law. If the specification can be taken up *into the form of the pure concept*, if it is not cancelled thereby, then it is justified and has itself become absolute through negative absoluteness as law and right or duty.[[79]](#footnote-79)

Hegel retains the view that a Kantian ethic poses a contradiction due to the universality of its form in contrast to the specificity of the content demanded by the action. The formalist method posits the “absolute concept” as a *negative absolute* since it exists solely in its opposition to the empirical subject.[[80]](#footnote-80)

Thus to speak of the concept as “negative” so far implies nothing better than “positive” did in Frankfurt. However, the innovation of Hegel’s thinking in Jena lies in his refusal to give such a one-sided account, in favor of a systematic view that takes in the whole. The negative relation of concept to life, of universal form to individual matter, is one of many systematic relations that must be held in tension if there is to be a science of law. In particular, the antagonism on the side of the absolute and “ideal” concept is met by an antagonism on the side of the “real” individual, who just as falsely asserts a negative counter-absolute, as in liberal social contract theories of the state.[[81]](#footnote-81) Rather than demand that one side of the antagonism cede to the other, Hegel now suggests that an ethical whole contains both the moment of the universal’s privilege, in the *law*, and the moment of the individual’s living virtues, in *morality.* Hegel calls the systematic unity of such ethical relations *Sittlichkeit,* “ethical life.”[[82]](#footnote-82) This whole is an absolute not by being an undifferentiated unity, but by preserving unity in its differentiating negativity:

Since real absolute ethical life, united in itself, comprehends infinity (or the absolute concept), pure individuality *sans phrase* and in its supreme abstraction, it is directly the ethical life of an individual. Conversely, the essence of the ethical life of the individual is *the* real and therefore universal absolute ethical life; the ethical life of the individual is one pulse beat of the whole system and is itself the whole system.[[83]](#footnote-83)

This kind of systematic holism is of course not surprising to find in Hegel, as it stands in continuity with his later presentation in the *Philosophy of Right.*[[84]](#footnote-84) However, from the side of Hegel’s early thought, this is a remarkable development. The inclusion of “the absolute concept” within the “ethical life of an individual” would not have been possible in his early opposition of life and concept. All the more remarkable is that Hegel does not gain conceptuality in *Sittlichkeit* by denying the kind of opposition he had earlier noticed, but by realizing the way that life or “reality” is itself posited through the negation of the concept:

…for precisely because the absolute concept is its own opposite, the being of difference is posited along with its pure unity and negativity. In other words, the cancelling posits something that it cancels, the real; and so there would be an actuality and difference which ethical life cannot surmount.[[85]](#footnote-85)

In other words, the negativity of the concept necessarily includes the reality of what it negates as different from it; this establishes a relation from the side of the individual (the real) that will constitute the side of morality in ethical life. In realizing that the “real”side of the relation is posited just as negatively[[86]](#footnote-86) vis-à-vis the concept, however, Hegel sees the tension introduced by the individual to depend equally on the conceptually universal. Hegel thus overcomes the romantic preference for the immediate and sensuous; he comes to affirm the legal and institutional in their own ‘right’.[[87]](#footnote-87) Moreover, the ethical task of the individual is now conceived as overcoming the opposition of her negative relation to the universal in education, the reunification of the individual with the universal: “The living being under this form of the negative is the budding [*Werden*] of ethical life, and *education* [*Erziehung*] is by definition the emerging progressive cancellation [*Aufheben*] of the negative or subjective…”[[88]](#footnote-88) Negativity is both the mode of the individual’s unification with the whole and what is gradually overcome when that unification begins to emerge.

Hegel’s use of organic language to describe his concept of ethical life shows how he has reconceived life from being a pure, inexpressible unity to a unity that contains the negative moment of the concept within it.[[89]](#footnote-89) He continues: “Thus the absolutely ethical has its own proper organic body [*organischen Lieb*] in individuals, and its movement and vitality in the common being and doing of everyone is absolutely identical as both universal and particular.”[[90]](#footnote-90) Hegel will in fact interpret the positive (and thus *merely* negative) as the part of the law that does not reconcile individual and universal, and thus stands outside this living unity. This means that Hegel does not yet expect a full reconciliation of the concept and life. But “life” is no longer the dream of uncontaminated particularity, nor does it serve as a byword to conceptuality. Hegel refuses to set individual morality apart from its connection to the legal order; he affirms the higher unity of *Sittlichkeit,* in which the formal negativity of the concept is converted into an “absolute negativity”[[91]](#footnote-91) that preserves living individuality in its constant tension with the universality of law.

V. Conclusion

In the foregoing, I have attempted to shed light on an important sub-plot in Hegel’s early development: his conversion from being a Kantian complacent with conceptual form to a quasi-Romantic, extolling the excess of life over and against conceptual form, followed by his approximation to his later position in *Naturrecht*, where the negativity of conceptual form begins to be appreciated, along with the systematic connection of individual morality and legal authority. This development shows that the privilege Hegel grants to the concept was not granted innocently, that it came with a genuine appreciation of the tension between reason and life. He came to realize that this tension cannot be made into an absolute opposition, that instead the sides of the opposition are constituted in their relation and are thus only absolute in their relation.

While this is an important story to tell in light of its role in leading to this quintessentially Hegelian position, the story may also help clear up the “concept of the concept” as it appears in Hegel’s later thought. For the Hegelian “concept” (*der Begriff*) is often treated as a pure neologism, a surreptitiously named metaphysical entity or principle, that has little, even nothing to do with concepts as we normally understand them.[[92]](#footnote-92) Undoubtedly, this reading is not groundless, and much would have to be said to make sense of Hegel’s often strange remarks on the concept. However, the story we have recounted here helps illustrate the way the concept becomes a thematic issue in Hegel’s thought and so contributes to a clarification of its significance for him. Our story shows that the concept became thematic for Hegel not as an *ad hoc* theoretical insertion, but as the object of critique, in particular because of the perceived cleavage concepts open up in the subject of practical reason. When we see this position begin to be reversed in *Naturrecht*, it is still within the context of considering the role of the concept within practical reason, with reference to abstract forms of thought. Were this not the case, Hegel would have no grounds for his critique against the formalist position. Even if he there begins to speak of the concept with characteristic dramatics, his thought is clearly bound to the consideration of concepts as formal elements of human reason. The transformation will be significant, but also one of degree, when he later extolls the concept as “the *logos*, the reason of that which is, the truth of what we call things”[[93]](#footnote-93) and “what *is* in and for itself.”[[94]](#footnote-94) The concept thus changes in Hegel’s thought from ‘the weakness of the law’ to the fabric of the absolute, but it is the concept in a commensurate sense that undergoes this transformation. This, at least, is the story we have begun to tell.[[95]](#footnote-95)

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1. G.W.F. Hegel, *Hegel’s Phenomenology of Spirit,* trans. A.V. Miller, p. 43 (HW 3:65). With the exception of the texts from Nohl, Hegel’s German (‘HW’) is referenced to G.W.F. Hegel, *Werke in zwanzig Bänden,* E. Moldenhaur and K.M. Michel (eds.). [↑](#footnote-ref-1)
2. Ibid., p. 4 (HW 3:15); translation slightly modified. [↑](#footnote-ref-2)
3. Ibid., p. 44 (HW 3:66). [↑](#footnote-ref-3)
4. Ibid., p. 43 (HW 3:65). [↑](#footnote-ref-4)
5. Here I assume a greater connection between concepts in general and “the concept” than is common with other interpreters, though I cannot give a full defense of this position here. I will make a few remarks in this regard in the conclusion. [↑](#footnote-ref-5)
6. G.W.F. Hegel, “The Spirit of Christianity and its Fate”, in *Early Theological Writings*, trans. T.M. Knox, p. 213/267. Page numbers from the *Early Theological Writings* are followed by the correlated text in G.W.F. Hegel, *Hegels theologische Jugendschriften*, H. Nohl (ed.). [↑](#footnote-ref-6)
7. Cf. Romans 8:13, and Galatians 3:10-13 for the related notion of a “curse” of the law. [↑](#footnote-ref-7)
8. Hegel, “Spirit of Christianity”, p. 212/266. [↑](#footnote-ref-8)
9. G.W.F. Hegel, *Natural Law*, T.M. Knox (trans.). [↑](#footnote-ref-9)
10. A full developmental history of Hegel’s treatment of the concept of life and the concept itself is given by A. Sell, *Der lebendige Begriff: Leben und Logik bei G.W.F. Hegel*. Sell treats the *Jugendschriften* onlybriefly but nevertheless points to the anomalous opposition of concept and life there as well. See op. cit., pp. 32ff. [↑](#footnote-ref-10)
11. For an alternative account of Hegel’s early critique of law, see D. Loick, “Terribly Upright: The Young Hegel’s Critique of Juridicism”, *Philosophy and Social Criticism*, Vol. 40 no. 10 (2014), pp. 933-956. Loick’s attempt to enlist Hegel against the “pathologies of juridicism” can only be maintained, however, if one separates the early Hegel from his developing appreciation of law and institutional form, something that seems unlikely in the present interpretation. [↑](#footnote-ref-11)
12. Compare D. Moyar, “Rethinking Autonomy in Hegel’s Earliest Writings”, *The Owl of Minerva*, Vol. 41 no. 1-2 (2010-11), pp. pp. 68-69. [↑](#footnote-ref-12)
13. G.W.F. Hegel, *Briefe von und an Hegel, Band I (1785-1812)*, J. Hoffmeister (ed.), p. 16. Letter 8. January, 1795. [↑](#footnote-ref-13)
14. See the so-called “Tübingen Essay” of 1793 for Hegel’s extended treatment of *Volksreligion*. In G.W.F. Hegel, *Three Essays*, P. Fuss and J. Dobbins (eds.), pp. 30-58/3-29. [↑](#footnote-ref-14)
15. W. Kaufmann, “Hegel’s Early Antitheological Phase”, *The Philosophical Review*, Vol. 63 no. 1 (1954), pp. 3-18. [↑](#footnote-ref-15)
16. See H.S. Harris, *Hegel’s Development: Toward the Sunlight, 1770-1801*, pp. 233-234 for more on Hegel’s attempt to reconcile his Kantian and Greek ideals. [↑](#footnote-ref-16)
17. Hegel, “The Positivity of the Christian Religion”, in *Early Theological Writings,* p. 167/139. See also H.B. Acton, “Introduction”, in Hegel, *Natural Law*, p. 15. [↑](#footnote-ref-17)
18. E.g., “[Jesus] undertook to raise religion and virtue to morality and to restore to morality the freedom which is its essence.” Hegel, “Positivity”, p. 69/154. The Kantian categorical imperative is even put on the lips of Hegel’s Jesus in his *Leben Jesu* (1795):“‘To act only on principles that you can will to become universal laws among men, laws no less binding on you than on them’ – this is the fundamental law of morality, the sum and substance of all moral legislation and the sacred books of all peoples. … [M]orality alone is the criterion of what is pleasing to God.” Hegel, *Three Essays*, pp. 115-116/87. [↑](#footnote-ref-18)
19. Hegel, “Positivity”, pp. 72-73/155-156. [↑](#footnote-ref-19)
20. Ibid., pp. 68-69/153. [↑](#footnote-ref-20)
21. See G. Lucács, *The Young Hegel: Studies in the Relations between Dialectics and Economics,* Chapters 2, 5 and 6; Harris, *Hegel’s Development*, pp. 207-231. See J. Goldstein, *Hegel’s Idea of the Good Life*, Chapter 1, for more on the *Volksreligion* ideal behind the critique. [↑](#footnote-ref-21)
22. I. Kant, *Critique of Practical Reason*, Mary Gregor (trans.), p. 125 (Ak. 5:151). Kant’s German is referenced to the *Gesammelte Schriften*, Königlich Prueßische Akademie der Wissenschaften (ed.). [↑](#footnote-ref-22)
23. The fragment is found at Hegel, *Jugendschriften,* pp. 374-375. It is discussed and partially translated in Harris, *Hegel’s Development*, p. 291. See T.L. Haering, *Hegel: Sein Wollen und sein Werk,* vol. 1, pp. 334-361, for a complete commentary. [↑](#footnote-ref-23)
24. The only explicit reference to Fichte from this period in Nohl is p. 361, from a Berne fragment. But Hegel was by now clearly familiar with Fichte’s thought. Hölderlin encouraged Hegel to read Fichte’s *Grundlagen der gesammten Wissenschaftslehre* and *Vorlesungen über die Bestimmung des Gelehrten* in January, 1795 (Hegel, *Briefe,* p. 20, Letter 9). In letter to Schelling, commenting on Hölderin’s enthusiasm for Fichte, Hegel shows that he has begun to read Fichte himself. He credits Fichte as among the “worthy successors” (*wurdigen Nachfolgern*) of Kant, bearing the “fruit” of Kant’s work (*Briefe,* pp. 24-25, Letter 11). Haering shows that Hegel’s concept of the practical here is Fichtean (*Hegel,* pp. 345-346). Compare also Moyar, “Rethinking Autonomy”, p. 78. [↑](#footnote-ref-24)
25. “So far as the self posits limits, and itself within these limits, as we said above, its (positing) activity does not relate immediately to itself, but rather to a not-self that is to be opposed thereto (§ 2, 3). Hence it is no longer pure but *objective* activity (which posits an object for itself. The word *ob*ject (*Gegenstand*) admirably designates what is meant for. … If no rejection or resistance occurs, then there is simply no object of the activity, and no objective activity; on the contrary, the activity, if is indeed to be such is pure, and reverts into itself. …).” J.G. Fichte, *Science of Knowledge,* p. 227 (Part III, § 5). [↑](#footnote-ref-25)
26. Hegel, *Jugendschriften,* p. 374. [↑](#footnote-ref-26)
27. Ibid. [↑](#footnote-ref-27)
28. According to Fichte, it is in practical reason that “all reality” is shown to conform to the self. See Fichte, *Science of Knowledge,* p. 232 (Part III, § 5). [↑](#footnote-ref-28)
29. Hegel, *Jugendschriften,* p. 374. [↑](#footnote-ref-29)
30. Ibid., p. 375. [↑](#footnote-ref-30)
31. “The infinite object, its courses of action are also for the faculty of cognition positive; miracles, revelations, appearances.” Ibid., p. 375. The giving of the “Israelite law” is discussed in the previous fragment, ibid., pp. 373-374. See Hegel’s later telling of Moses’ reception of the law in “Spirit of Christianity”: “The principle of the entire legislation was the spirit inherited from [Moses’] forefathers, i.e., was the infinite Object…” Hegel, “Spirit of Christianity”, p. 191/250. [↑](#footnote-ref-31)
32. Hegel, *Jugendschriften*, p. 375. [↑](#footnote-ref-32)
33. This is Lukács’ apt summation of positivity. Lukács, *The Young Hegel,* p. 154. [↑](#footnote-ref-33)
34. Haering, *Hegel,* p. 348. [↑](#footnote-ref-34)
35. Hegel, “Positivity”, p. 145/212. [↑](#footnote-ref-35)
36. Henrich, for example, gives Hölderlin a priority apart from his more ‘philosophical’ friends in developing a first step in the development of German Idealism outside of the Kantian foundations of the ego. See D. Henrich, *The Course of Remembrance and Other Essays on Hölderlin,* E. Förster (ed.),p. 121. [↑](#footnote-ref-36)
37. T. Pinkard, *Hegel: A Biography*, p. 80. [↑](#footnote-ref-37)
38. Henrich, *Course of Remembrance,* p. 129. [↑](#footnote-ref-38)
39. No technical sense of “romantic” is meant here, only a rough indication of thematic sensibility (i.e., unification with nature, intuitive rather than discursive thinking, the priority of art, etc.). Pinkard cites Hegel’s poem “Eleusis,” written for Hölderlin, as evidence that Hegel “had half-heartedly tried to become a Romantic of sorts.” Pinkard, *Hegel,* p. 77. See F. Beiser, *German Idealism: The Struggle against Subjectivism (1781-1801),* pp. 349-355, for more on the thin line between Romantics and idealists in this era. Kaufmann and Lukács argue against Dilthey’s interpretation of the young Hegel as a Romantic. See Kaufmann, “Hegel’s Early”, pp. 9-15; Lukács, *Young Hegel*, pp. xvii-xx, 110-111. [↑](#footnote-ref-39)
40. Henrich, *Course of Remembrance,* pp. 121-122. [↑](#footnote-ref-40)
41. Beiser, *German Idealism*, pp. 386-391. [↑](#footnote-ref-41)
42. Quoted and translated in Harris, *Hegel’s Development*, p. 515. [↑](#footnote-ref-42)
43. Ibid., 516. [↑](#footnote-ref-43)
44. Ibid. Hölderlin conceived intellectual intuition as a theoretical rather than practical faculty. As he writes in a letter to Friedrich Neithammer in February 1796, “…I want to find the principle that will explain to my satisfaction the divisions in which we think and exist…theoretically, through intellectual intuition, without practical reason having to intervene.” F. Hölderlin, *Essays and Letters*, C. Louth and J. Adler (eds.), p. 68. Letter 34. [↑](#footnote-ref-44)
45. Henrich suggests that in this Hölderlin is still remaining true to the Kantian (rather than Fichtean) notion of an “unknowable ground of knowledge.” Henrich, *Course of Rembrance*, pp. 86-87. [↑](#footnote-ref-45)
46. Letter to Karl Gok, 2 June 1796. Hölderlin, *Essays and Letters*, p. 70. Letter 36. [↑](#footnote-ref-46)
47. Ibid. Compare Fichte’s remark that “all synthetic concepts arise through a unification of opposites.” Fichte, *Science of Knowledge* p. 120 (Part II, § 4). [↑](#footnote-ref-47)
48. Compare Hyperion’s lament at the beginning of Hölderlin’s novel: “O! had I never gone to your [i.e. Germany’s] schools! The knowledge which I pursued down its tunnels and galleries, from which, in my youthful folly, I expected confirmation of all my pure joy—that knowledge has corrupted everything for me.” F. Hölderlin, *Hyperion and Selected Poems,* E.L. Santner (ed.), p. 4. [↑](#footnote-ref-48)
49. See Harris, *Hegel’s Development,* pp. 512-5, for the translation. The sketch is at Hegel, *Jugendschriften,* pp. 382-385. [↑](#footnote-ref-49)
50. These concepts seem to function as near equivalents for Hegel at this stage: “Pure life is *being*.” Hegel, “Spirit of Christianity”, p. 254/303. See W. Dilthey, *Die Jugendgeschichte Hegels,* pp. 59-60, for the connection of *Leben* to Schelling’s philosophy. [↑](#footnote-ref-50)
51. As Loick puts it, “Hegel construes Judaism so as to especially exemplify the flaws he chalks up to Kant and Fichte and reaches for prevailing prejudices in order to lend his criticisms a peculiar luridness.” Loick, “Terribly Upright”, p. 936. [↑](#footnote-ref-51)
52. Hegel, “Spirit of Christianity”, p. 209/264. [↑](#footnote-ref-52)
53. Ibid., p. 211/266. [↑](#footnote-ref-53)
54. Here I differ from Bernstein, who interprets the “unification of opposites” as the opposition between an action and its prohibition: “By saying a law involves a unification of opposites, he means that it brings together an action and its prohibition (or the negation of its prohibition): of the act of killing, do not do it; of making a promise, do not break it. Since a law just is this unifying of opposites, the killing and the not doing it, then it must leave its elements as opposites.” J.M. Bernstein, “Love and Law: Hegel’s Critique of Morality”, *Social Research* Vol. 70 no. 2 (2003), p. 408. Bernstein’s interpretation, however, does not take into account how the law inherits the same kind of oppositions as concepts in general. [↑](#footnote-ref-54)
55. See the passage from the second *Critique* quoted above. Elsewhere, in a context similar to Hegel’s, Kant takes issue with what he sees as the Jewish use of the “good principle” of morality in the service of civil society (based on Kant’s Protestant reading of the Hebrew Scriptures). See I. Kant, *Religion within the Bounds of Bare Reason*, W. Pluhar (trans.), p. 89 (Ak. 6:69). [↑](#footnote-ref-55)
56. Hegel, “Spirit of Christianity”, p. 211/266. [↑](#footnote-ref-56)
57. Ibid. [↑](#footnote-ref-57)
58. Ibid. [↑](#footnote-ref-58)
59. Ibid., p. 210/264-265. [↑](#footnote-ref-59)
60. Ibid., p. 212/266. Translation slightly modified. [↑](#footnote-ref-60)
61. Ibid., p. 213/267. [↑](#footnote-ref-61)
62. As he writes later on in the essay, “Only in name or as a word, can [love] be commanded; it is only possible to *say*: Thou shalt love. Love itself pronounces no imperative. It is no universal opposed to a particular, no unity of the concept…” Ibid., p. 247/296. [↑](#footnote-ref-62)
63. Ibid., p. 214/268. [↑](#footnote-ref-63)
64. “…this correspondence of law and inclination is life…” Ibid., p. 215/268. [↑](#footnote-ref-64)
65. Hölderlin’s influence is clear when Hegel speaks in this context of being (and by implication, life) as “the synthesis of subject and object, in which subject and object have lost their opposition.” Ibid. p. 214/268. [↑](#footnote-ref-65)
66. “Vitalism” is Beiser’s term to characterize one aspect of *Frühromantik* sensibility, which seems pertinent to the young Hegel as well. See F. Beiser, *German Idealism*, pp. 353-353, 365-368, 659 n. 14. [↑](#footnote-ref-66)
67. The term is derived in this context from the Luther Bible: “*Darum, wenn du deine Gabe auf dem Altar opferst und wirst allda eingedenk, daß dein Bruder etwas wider dich habe, so laß allda vor dem Altar deine Gabe und gehe zuvor hin und* ***versöhne dich mit deinem Bruder****, und alsdann komm und opfere deine Gabe*.” Matt. 5:23-24. Emphasis added. [↑](#footnote-ref-67)
68. Hegel, “Spirit of Christianity”, pp. 215-216/269; emphasis added. [↑](#footnote-ref-68)
69. Compare the repudiation of possibility with Hölderlin’s sketch: “There is for us no thinkable possibility, which was not an actuality. For this reason the concept of possibility has absolutely no valid application to the objects of Reason… The concept of possibility has valid application to objects of the understanding, that of actuality to the objects of perception and intuition.” Quoted in Harris, *Hegel’s Development,* p. 516. [↑](#footnote-ref-69)
70. Hegel, “Spirit of Christianity”, p. 225/277. Translation slightly modified. [↑](#footnote-ref-70)
71. Ibid., p. 233/283. [↑](#footnote-ref-71)
72. E.g., “The trespasser has put himself outside the concept which is the content of the law. The law merely says that he must lose the rights comprised in the law; but, because the law is directly only a thought, it is only the concept of the trespasser which loses the right; and in order that this loss may be actualized; i.e., in order that the trespasser may really lose what his concept has lost, the law must be linked with life and clothed with might. … The law cannot forgo the punishment, cannot be merciful, or it would cancel itself.” Ibid., p. 225/277. [↑](#footnote-ref-72)
73. Hegel, Revised introduction to “Positivity”, in *Early Theological Writings,* p. 169/141. Emphasis added. This passage is discussed in detail by Goldstein, *Hegel’s Idea*, pp. 112-117. [↑](#footnote-ref-73)
74. Note, by contrast, Hegel’s later remark in the *Phenomenology*, p. 6: “The power of Spirit is only as great as its expression, its depth only as deep as it dares to spread out and lose itself in its exposition.” [↑](#footnote-ref-74)
75. Hegel, *Phenomenology,* p. 100 (HW 3:132). [↑](#footnote-ref-75)
76. Hegel, *Natural Law,* p. 133 (HW 2:530). [↑](#footnote-ref-76)
77. Hegel seems to maintain roughly the same criticism in his *Outlines of the Philosophy of Right*, T.M. Knox and S. Houlgate (trans.), §§ 134-139 and Remarks. [↑](#footnote-ref-77)
78. Hegel, *Natural Law*, p. 62 (HW 2:443). [↑](#footnote-ref-78)
79. Ibid., p. 75 (HW 2:460). Emphasis added. [↑](#footnote-ref-79)
80. “…the false attempt to exhibit a true absolute in the negative absolute.” Ibid. (HW 2:459). [↑](#footnote-ref-80)
81. See ibid., pp. 90- 91 (HW 2:477-480). [↑](#footnote-ref-81)
82. The place of *Sittlichkeit* within the *Naturrecht* essay is given a fuller exposition by L. Dickey, *Hegel: Religion, Economics, and the Politics of Spirit (1770-1807)*, pp. 205-230. [↑](#footnote-ref-82)
83. Hegel, *Natural Law*, p. 112 (HW 2:504). [↑](#footnote-ref-83)
84. See, e.g., Hegel, *Philosophy of Right*, p. 265 (§ 278, Remark): “The *idealism* which constitutes sovereignty is the same as that in accordance with which the so-called ‘parts’ of an animal organism are not parts but members, moments in an organic whole, whose isolation and independence spell disease.” [↑](#footnote-ref-84)
85. Hegel, *Natural Law*, p. 99 (HW 2:488). [↑](#footnote-ref-85)
86. Ibid., p. 113 (HW 2:506). [↑](#footnote-ref-86)
87. Ibid., pp. 115-116 (HW 2:508). [↑](#footnote-ref-87)
88. Ibid., p. 115 (HW 2:507). Knox’s translation of *Werden* as “budding” here probably over-accentuates the organic potential of the term, but later passages show it to be in keeping with Hegel’s thought. [↑](#footnote-ref-88)
89. This is still interpreted, however, as a kind of *tragic* inclusion, but a tragedy constitutive of what is absolute: “…the tragedy which the Absolute eternally enacts with itself, by eternally giving birth to itself into objectivity, submitting in this objective form to suffering and death, and rising from its ashes into glory.” Ibid., p 104 (HW 2:495). Ironically, Hegel illustrates this tragedy not (as it may appear here) with the death and resurrection of Jesus but with Athena’s establishment of justice from Aeschylus’ *Oresteia*. On the role of Greek tragedy in *Naturrecht,* see K. de Boer, *On Hegel: The Sway of the Negative*, pp. 14-25. [↑](#footnote-ref-89)
90. Hegel, *Natural Law,* p. 115 (HW 2:508). [↑](#footnote-ref-90)
91. Ibid., p. 57 (HW 2:437). [↑](#footnote-ref-91)
92. Recent work adopting such an approach to *der Begriff* in Hegel’s thought, emphasizing its metaphysical rather than epistemological or semantic significance, includes B. Bowman, *Hegel and the Metaphysics of Absolute Negativity,* and J. Kreines, *Reason in the World: Hegel’s Metaphysics and Its Philosophical Appeal.* As Bowman writes, “‘Concept’ denotes a *singulare tantum*, the unique ‘entity’ whose various modifications and degrees of manifestation constitute the whole of reality. Thus Hegel is clearly not using the term ‘Concept’ to mean what we ordinarily mean by it…” Bowman, *Absolute Negativity*, p. 32. [↑](#footnote-ref-92)
93. Hegel, *Science of Logic*, Miller (trans.), p. 39 (HW 5:30). [↑](#footnote-ref-93)
94. Ibid., p. 49 (HW 5:43). Translation altered. The original reads, “*…das Begriff als solcher aber das an und für sich Seiende ist*.” [↑](#footnote-ref-94)
95. Thanks to Greg Trotter for helpful comments and suggestions on an earlier draft of this paper. [↑](#footnote-ref-95)