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Irrationality and egoism in Hegel's account of right

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ABSTRACT

Many interpreters argue that irrational acts of exchange can count as rational and civic-minded for Hegel – even though, admittedly, the persons who are exchanging their property are usually unaware of this fact. While I do not want to deny that property exchange can count as rational in terms of 'mutual recognition' as interpreters claim, this proposition raises an important question: What about the irrationality and arbitrariness that individuals as property owners and persons consciously enjoy? Are they mere vestiges of nature in Hegel's system, or do they constitute a simple yet valid form of freedom that is not only a part of Hegel's rational system of right, but its necessary starting point? I will argue the latter: The arbitrary, purely egoist self-definition of property owners is the simplest possible type of freedom for Hegel, which he dissects in order to show how the very arbitrary selfdefinition implicitly relies on an identity between persons, and hence foreshadows the more social forms of freedom Hegel will discuss later in his book. I make this argument by highlighting Hegel's references to his discussion of atoms and freedom in his Logic of Being.

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1. Introduction

While it is generally agreed that freedom is intersubjective and rational for Hegel, the first form of freedom he discusses does not seem to fit this mould, which has not escaped interpreters' attention. The first chapter of Hegel's *Philosophy of Right* is entitled Abstract Right; Hegel primarily discusses the possession and transfer of property by legal persons and interprets this as a particular way to live or 'actualise' freedom within society. Being a legal person is clearly a form of freedom for Hegel and abstract right is part of what Hegel calls 'the rational' social order in the preface to his book (PR 24). And yet, as persons and property owners, individuals tend to be self-concerned, rather than social. And they are free not to be rational, free to buy on a whim. In fact, as I will show, Hegel conceives abstract right primarily but not

exclusively as a sphere for individuals who act in an irrational and egoist manner, and who do not care to give reasons or justifications even to themselves. Axel Honneth (Das Recht der Freiheit, 159) calls this a 'temporary relief from intersubjective obligations for action'; Siep ('Recognition in Hegel's Phenomenology', 115) insists that one cannot link one's respect for another legal person to one's 'evaluation of their wishes and reasons'. Even Robert Williams (Heael's Ethics of Recognition, 138) concedes that 'the intersubjectivity of abstract right is obscure'.

Interpreters have tried to capture the intersubjective dimension of abstract right in terms of 'mutual recognition': when respecting the law and making contracts, so the argument goes, individuals recognize others as persons, property owners and rights-bearers. Recognition, as Williams (Hegel's Ethics of Recognition, 142) puts this famous line of reasoning, introduces 'practical-intersubjective rationality into possession ... In the recognition of my property, the property of everyone is recognized in principle and so secured'. Patten (Hegel's Idea of Freedom, 160) argues that abstract right is intersubjective insofar as property serves as a means of self-expression, which others confirm.

There is, however, a fundamental problem with these accounts of abstract right: legal persons do not usually make contracts and exchange property in order to recognize one another. More often than not, irrationality and egoism are guiding principles in the exchange of property and therefore in the same interaction that also, contradictorily, can be seen as a rational act of mutual recognition. This means that one has to either exclude from personhood proper everybody who is not conscious of mutual recognition and other rational requirements, or propose that recognition is something implicit and unknown to the individuals involved. While Wood and Patten seem to suggest the first line of reasoning (more in Section 2), Franco (Hegel's Philosophy of Freedom, 195ff.) follows the second: he proposes that there are two aspects to individual persons, namely their legal status and their immediate motivations, suggesting that, while the legal framework of personality is rational and social, the motivations of individuals are natural and unformed. Brudner proposes that abstract right is 'overtly' designed for the legal person, but 'latently' a 'manifestation of the dialogical community' (The Unity of Common Law, 156) or, to say the same, 'relationship[s] of mutual recognition' (The Unity of Common Law, 291). Honneth and Pippin also pursue the second option. For Pippin ('What is the Question', 164), the mutual recognition of rights-bearers remains 'opaque' unless it is accompanied by an appeal to their ethical life and the origin of norms in the ethical community. For Honneth, recognizing someone as a person means, in the last instance, seeing her as 'morally accountable' (Kampf um Anerkennung, 192) and as someone who 'could have agreed upon the present legal order' (Kampf um Anerkennung, 184). Both interpreters imply that individuals neither intend nor fully understand legal recognition when they are interacting purely as



legal persons. Only once other parts of Hegel's state are taken into account can one see that legal recognition implicitly occurs during a purchase and lays the basis for other institutions.

I also agree with the second line of reasoning, and I will show in Section 2 why one ought to speak of two perspectives on personality, rather than a broader and narrower sense of a person. In fact, it is part and parcel of Hegel's method that there are two perspectives on personhood: as Brooks (Hegel's Political Philosophy, 31) rightly insists, Hegel's discussion progresses from the simplest possible form of free willing to more complex forms, always presenting the roles and spheres by means of which they can be lived in society. The property-owning person is the simplest role Hegel discusses and it is meant to actualize the simplest form of willing. This form of free willing does not consider its social embeddedness, nor does it contain any general aims or reflection on rational means. (Since Hegel already introduced human rationality earlier in his system - in the section entitled Subjective Spirit - the simple will must be understood as irrational, rather than arational, unwilling rather than unable to engage in rational reflection).

Within Hegel's system, simple spheres and concepts provide the basis for later, more complex ones in the sense of a simple foundation or building blocks; conversely, the complex later spheres, concepts and roles turn out to be the basis of the simpler ones in that they specify their concrete meaning and function, in addition to providing the necessary context. In this manner, personality underlies and prepares for later institutions like citizenship, and one can make a purchase for the reasons that are provided by later, more complex roles, like one's parenthood, citizenship or moral subjectivity. Conversely, later spheres and roles specify the exact meaning, function and, indeed, inherent rationality of abstract right. Franco is right that the legal form of the contract and personality is rational (Hegel's Philosophy of Freedom, 195ff.); but only from the perspective of later institutions, like the courts or citizenship, can a legal contract be understood as both a rational means for protecting one's property and as an act of mutual recognition between persons. In the same vein, Hardimon is certainly right to say that the person is a 'possessor of individual rights', and 'complains' when her 'rights have been violated' (Hegel's Social Philosophy, 149); legal personality provides the 'capacity for rights' (PR §36), as Hegel puts it. However, the full awareness of those rights and the ways for defending them only emerge once one is aware of other institutions like the courts. Rather than persons wanting to recognize one another, to defend their rights or to find rational means for their desires, abstract right should be understood as the state (legislature or government) providing a social, rationally ordered space for behaviour and aspects of individuals that are egoist and irrational. In the beginning of Hegel's book, persons are simple abstract wills that want to have something



and then something else and conveniently find the legal form of property as a aiven.

If there are indeed two perspectives on personhood, however, this raises an important question: What about the perspective besides 'mutual recognition', the viewpoint of individuals acting as property owners and persons, who are, in this role, neither motivated by nor conscious of any recognition taking place? This perspective of egoist persons is rarely analysed in any detail. Critics have voiced many concerns over the theorem of mutual recognition with regard to abstract right. Karin de Boer ('Beyond Recognition', 545) points out that a recognition of equals can occur in private law precisely because it is purely 'formal' (PR §72N) and abstracts from everything else (all interests, personal experiences and motives). Yet, de Boer does not discuss those motives. Stephen Hudson ('The Limitations of Recognition') diagnoses an 'over-application' of mutual recognition; Axel Honneth (Das Recht der Freiheit, 157-72) famously discusses the problems that arise when one insists excessively on the formal property rights one has acquired via recognition. But interpreters do not take much interest in the content that individuals give to this legal form and the freedom they thereby enjoy, the irrational choices they are free to make legally binding with the help of property law.

But are the often irrational choices and egoist desires that motivate a purchase irrelevant? Are irrationality and egoism merely a problematic but tolerated vestige of unfreedom and nature within Hegel's account of right? Or do they constitute a simple yet valid form of freedom that forms an integral part of Hegel's system and argument? I will argue for the latter.

The point is not only that freedom of abstract right must also exist for those acting within this sphere, and therefore from the perspective they inhabit when acting as legal persons. Additionally, Hegel intentionally starts his book with what he considers the simplest problem of freedom and its simplest solution. The first problem of freedom is not that others do not respect your will, but that you do not appear to have a will. You seem to exist merely as a body, a concrete specific entity like a plant that changes due to environmental influences but never of its own volition. The simplest conception of freedom is hence to be able to change because one wants to, in other words: at whim or even on a whim. Freedom consists merely in the fact that you can change, for whatever whimsical and short-lived reasons. And it is because of private property that individuals can change what they have and, hence, who they are on a whim.

Arbitrary self-definition in this sense is not just another random position concerning freedom. It is a common conception of freedom that presents a serious challenge to the more social view Hegel will develop later in his book. It would be surprising, to say the least, if Hegel had failed to notice that he needs to disprove this conception of freedom. And he needs to do so in the manner he always does, namely by analysing its structure and internal contradiction so as to include it as a minor and vet limited element within his overall system. Williams (Hegel's Ethics of Recognition, 138) is thus right to note that Hegel needs to 'move from practical solipsism to intersubjectivity'; Hegel has to prove the need for the more consciously social relations he discusses later in his work from within the perspective of egoist persons. Brudner (The Unity of Common Law, 234) even suggests that this is not only an argumentative requirement, but a substantive one too: the common good and community Hegel presents later in his book is only good if and insofar as it is freely endorsed by individuals and hence arises from their immediate viewpoints. However, while Brudner's internal account of property revolves around his interpretation of the person as a rational agent regarding herself as an absolute end, I argue that someone acting purely as a person chooses irrationally, without considering principles or pursuing any ends. My analysis will show that the very structure of arbitrary, purely self-concerned freedom of the person implicitly requires and implies other persons.

The freedom of the legal person is not primarily a fact Hegel describes, but rather a theoretical demand, which Hegel argues is and, indeed, ought to be acknowledged within the legal order as best as possible. As I will show, Hegel basically interprets the concept of legal personhood as a way to mimic the mind's capacity to infinitely and independently reinvent oneself. Since choosing between given, pre-determined options (for reinventing oneself) would not equate to true freedom, Hegel argues, a person can only be free if all possible options – anything she could have and, hence, be – are taken to belong to her as an internal potential that she can actualize at any time of her choosing. Personhood suggests that farmer, pauper or millionaire, I could be anybody if only I choose to actualize this aspect of me. From this perspective, the function of other persons is not primarily to confirm my possession and rights, but to act as placeholders of what I could be and own in the future. I could own what is his or hers and thereby arbitrarily redefine myself, turning into the owner of the other person's property or, to put it differently, turning into that very person insofar as she is defined by her property. For Hegel, the structure of legal personality thus implies that each person regards all other persons as representing unactualized aspects of herself.

To make this argument I will highlight Hegel's references to his discussion of atomism and freedom in the Logic of Being. One could treat the very fact that there are references to the *Logic* as a partial confirmation of my point in its own right: irrationality can be part of what Hegel calls the 'rational', as I assume, because the term rationality applies to the social order, its coherence and structure, rather than, primarily, the individuals acting within it. A social structure is rational to the extent that it manages to unite different

individuals, groups and their diverse aspects in a coherent, stable and harmonious manner and Hegel's Logic presents basic, increasingly more complex structures, according to which elements can be united coherently. The logical structure of atomism is one simple solution to the problem of how plurality and oneness, diversity and unity can coexist, and it presents one way in which something can be 'free', in the sense of independent or selfdetermining, while also belonging to a whole or context that defines it. If atomistic persons display this structure, this is a validation in its own right.

Since I am unable to defend this interpretation of Hegel's *Logic* in any detail here, I will have to rely on a weaker claim, however. It is clear that the references to the Science of Logic are in the very least of heuristic value as clarificatory interpretative aids, specifying the structure of legal personality. By drawing on those interpretative guidelines I can show that irrational and arbitrary choices are not simply a meaningless or problematic remainder of nature within the legal order for Hegel. On the contrary, they constitute a simple yet structured and sensible form of freedom that has very specific flaws, which Hegel analyses so as to show the need for more social types of freedom he discusses later in the book.

There are of course others who use the *Logic* for interpreting abstract right: Steinberger (Logic and Politics, 116, 118) uses logical meta-concepts to formulate imperatives for persons; Brooks (Hegel's Political Philosophy) rightly insists on the interconnectedness of Hegel's system; and Brudner (The Unity of Common Law) develops his own Hegelian theory of (common) law based on Hegel's dialectic and the concept of spirit. None of them discusses Hegel's Logic of Being or explores the arbitrary, egoist or irrational ways in which decisions of purchase are often made. The argument I am proposing is thus original and fills an important gap in the analysis of recognition, reason and personality in Hegel.¹

My argument develops as follows: In Section 2, I confirm the view of others that there is a second narrative about abstract right, besides mutual recognition. Sections 3–5 then trace Hegel's analysis of the structure of legal personality and the freedom it provides: Section 3 expounds the specific form of 'unfreedom' that personality is meant to address; Section 4 presents the solution provided by the property-owning person; Section 5 discusses how, according to Hegel, personhood and private property rely on a hidden identity between persons. In Section 6, I confirm this interpretation by discussing Hegel's conception of legal wrong and show how abstract right points toward more explicitly social spheres, which Hegel discusses subsequently.

¹Interestingly, Wallace ('Hegel's Refutation', 160) interprets Hegel's logical discussion of atomism in terms of an argument against egoism and for transcending one's limited human existence so as to unite with God. I have sympathy with this application of Hegel's Logic, but his philosophy of religion is not my concern here.



2. Irrationality and atomism: abstract right besides mutual recognition

Before discussing Hegel's analysis of the irrational freedom persons enjoy, I need to confirm the assumption that Hegel's notion of a person includes those who buy and sell irrationally and purely out of egoist desires.

Some interpreters suggest that Hegel endorses a narrow notion of personhood proper. Allen Wood (Hegel's Ethical Thought, 94, 107) maintains that abstract right provides a sphere for egoism and arbitrary choices. However, personality, strictly speaking, requires both an educated self-possession i.e. the opposite of irrational arbitrariness – and seeing oneself as a member of a community of persons – i.e. the opposite of egoistic self-centredness (Wood, Hegel's Ethical Thought, 96-7). For Patten (Hegel's Idea of Freedom, 156, 160), persons express themselves in their property, like 'sculptors'. Patten thus presupposes a personality in the strong sense of somebody who has a character, projects and intentions that are proper to her. He implicitly excludes from personality those who act on desire, whim or fancies, since these motives are not deep defining characteristics of the person, the enacting of which would amount to her self-expression.

These interpretations do not only contradict Hegel's holistic approach (which would suggest that Hegel discusses the broad phenomenon of personhood, rather than one very particular instance). Such accounts are also at odds with private property law, as it existed in Hegel's time; and it is usually assumed that Hegel wanted to encompass this actual existing law within his philosophy (see also Siep, 'Vernunftrecht und Rechtsgeschichte'). To be a person or to have property - in the legal sense - you need neither educate yourself, nor express anything fundamental about yourself in your property (beyond a short-lived change in your whim).

Most importantly, as mentioned above, Hegel explicitly defines the first and simplest form of willing in a way that renders it incapable of mutual recognition or self-expression. Hegel introduces the simplest form of willing by referencing the simplest and first part of his Logic, namely the Logic of Being: 'The will is in the form of immediacy, of being' (PR §34A). The will is 'immediate' in two senses: First, when willing in this way, one regards oneself as completely independent from anybody or anything beyond oneself. In Hegel's words, the will, in its 'immediacy', is opposed to an 'external, immediately given reality' (PR §34), which is the 'negative' (PR §34) or opposite of the individual will. Hegel notes that the will is in the form of 'being, unmoved and unrelated to others, immediate' (PR §34N). The simplest type of willing is thus unsocial, atomistic and, in fact, egoist, in the sense that what the will wants, its wishes and desires, do not (typically) involve others.

Second, the simplest type of willing is 'immediate' in the sense of internally undifferentiated: The will is 'pure inwardness without internal opposition' (PR

§34A); 'the will is not yet filled' (PRV21 58), it is 'empty' (E3 §488). In a note, Hegel says the will lacks 'any content of its own' (PR §34N), and suggests that it, hence, takes its content from somewhere else, namely 'subjective needs' and the 'external world' (PR §34N); the will 'simultaneously encounters this content [it wants] as an external world immediately confronting it' (PR §34).

Hegel's basic point is straightforward: The will lacks its own content in the sense of any general principles, aims, projects or values, the expression of which would amount to its free self-expression. Hegel explicitly distinguishes the simple will from the one he discusses in the next chapter called Morality (PR §35A). Hegel uses the term morality in the 'wider sense', derived from the French, and it includes anything 'mental, intellectual' or 'internal to the will' that the will wants to externalize or express (E3 §503), such as purposes (PR §§115–118) and intentions (PR §§119–128). The simple will, on the contrary, lacks anything internal; it is perfectly 'empty' (E3 §488) and, hence, 'filled with an external object' (E3 §488). In other words, when actually engaging with the world, the simplest type of willing consists in nothing but wanting or desiring a specific given thing and then some other thing, or a change to such an entity. As Hegel puts it, the simplest type of free willing has the form: 'I want this or that' (PR §35A, §35N) and I do not want to be limited in my free will (PR §35N). (It may be helpful to note that willing and wanting are not distinguished in German, which makes it seem rather likely that the simplest form of willing is 'I want this'.)

Abstract right is primarily intended as a sphere for actualizing this simple, unsocial and egoist type of willing. It ought to be apparent that such a simple will is incapable of understanding the full meaning and role of abstract right, which implies that its full meaning can only be appreciated from the perspective of someone who is inhabiting or aware of later spheres of Hegel's state. In fact, Hegel seems to suggest exactly that in the following passage:

For their consciousness, it is need in general, goodwill, use, etc. which leads them to make contracts; but 'in itself' they are led by reason, that is, by the idea of the real existence of free personality ('real' in the sense of 'present only within the will'). Contract presupposes that the contracting parties recognize each other as persons and owners of property; since it is a relationship of objective spirit, the moment of recognition is already contained and presupposed within it.

(PR §71, original emphasis)

What leads to the contract, from the perspective of the individuals involved, is their needs or desires to acquire something; additionally, there is another perspective, which considers abstract right as part of 'objective spirit' or the state. Here, presumably one considers personality and private property insofar as they are a precondition for – and conditioned by – other social institutions discussed later in Hegel's work, such as citizenship, the judiciary or morality. The distinction of viewpoints is reminiscent of Hegel's Phenomenology, where he

comments on what is happening 'for us or in itself' (PhG 93), i.e. what only 'we' - the philosophers and readers - know, within the narrative of what consciousness believes itself to be doing, the narrative 'for consciousness'.

Critics may interpret the above passage differently and claim that individuals make a contract as a rational means to satisfy their arbitrary or natural aims, rather than out of irrational motives, as I argue. However, Hegel's wording suggests that there is no reason involved from the point of view of the individuals acting as persons, not even a formal means-ends rationality; in a parallel passage in a lecture, Hegel specifies that 'it is a matter of arbitrariness to make a contract with another' (VLNS §32). More importantly, as shown above, the simple will of someone acting purely as a person lacks any content or, indeed, internal distinctions; hence the distinction between means and ends is also lacking. There is 'no distinction as yet between the will and its content' (PR §34A), i.e. the will does not distinguish itself, in its own mind, from its desire, which is a prerequisite for considering different means for realizing that desire. (The only surprising element in the cited passage is Hegel's reference to goodwill, which picks up on the previous sentence where he notes that property can be transferred as a gift. This is, of course, true as a matter of fact. Hegel may be suggesting that, in rare cases, the simplest will can also take the form 'I want to give - rather than have - this or that'; alternatively, he may have someone in mind, who besides being a person also inhabits another role such as being a parent. In any case, this is certainly not behaviour that Hegel considers typical of legal personality).

In the remainder of the article, I will explore the perspective of individuals acting as persons. Hegel, of course, insists that the particular needs, desires and fancies are irrelevant in respect of both right and the freedom of persons (PR §37; §106A). However, as the rest of this article will show, the primary freedom individuals consciously enjoy as persons consists in the fact that you can change what you own, and that you can do so an unlimited or infinite number of times and on the basis of your will alone (which, at this point, is nothing more but an irrational, unprincipled choosing between desires and things to own, a wanting of this and then a wanting of that). This is a simple yet valid form of freedom for Hegel.

3. The problem of freedom: external things defining who one is

Hegel starts his discussion of legal personality by describing the contradiction or problem that personality is meant to solve:

The person contains the unity of the infinite and the utterly finite, of the determinate limit and the completely unlimited. The supreme achievement of the person is to support this contradiction, which nothing in the natural realm contains or could endure.

(PR §35A)



Hegel frequently emphasizes the importance of his Logic for his conception of willing (PR §§2, 7), and his wording suggests that, within the structure of free willing, there is a contradiction that displays a pattern best described in terms of the Logic of Being as that between the finite and the infinite, the limited and the unlimited.

What do the finite and the infinite mean in Hegel's logical sense? The basic difference between the finite and the infinite is the one between being related to and defined by something else and being exclusively related to and defined by oneself. Under the header Finitude, Hegel proposes that a thing could be nothing but its qualities understood as its relations to and distinctions from other things. ('Something is what it is by virtue of its quality' (E1 §90A); 'Quality is [...] a relation to another' (E1.17 §42)). In Hegel's terminology, things are nothing but their own 'limit' or what they are not (WL1 139/ 129, 121/114; see also E1 §92A); a liquid is nothing but a non-solid. And yet, Hegel goes on to say, a thing 'ought' to be more than its qualities or 'limit'; hence, the limit is a 'barrier' to be overcome (WL1 144/133).

The upshot of the logical discussion is that things can be neither identical to their qualities (in the sense of their distinctions from other things), nor a substrate underlying them (WL1 143/132). Rather things need to be infinite, i.e. only defined by themselves, their qualities that only count as their own internal differences and aspects (WL1.12 98; WL1 180/162), which are not distinguished from other things (E1 §96A). Infinite means literally without an end or limit; if something is only related to and therefore defined by itself (WL1 166/150), it is unlimited both in the sense of not defined by others and not limited to being one particular entity in distinction from something else. (Hegel calls the infinite 'absolute' (WL1 149/137), since what is not related to others and is not conceived as existing beside anything else could very well be all there is in the world.) Hegel links the notion of true infinity to that of freedom: 'As a relation to itself it is infinite self-determining' (WL1 183/164). The thing is only defined by itself and hence, in this abstract sense, self-determining.

What does Hegel mean with reference to the will then? The contradiction between infinity and finitude of the will is the contradiction between the concept of the free will and its existence in an actual human being. Hegel does not yet talk about the (legal, property-owning) person here; he is speaking of a natural individual, a hypothetical, socially undefined human being. The free will can only exist within finite individuals and their particular bodies, wishes and acts. 'Particular willing constitutes the existence of freedom' (PRV21 59). The problem is that the concept of the free will and the individual are opposites at this point, which is why the concept of willing can only be actualized by the individual in a very flawed, in fact rather unfree, manner.

The concept of a free will was defined in a negative way, in Section 2, by saying that the will is unsocial and empty – lacking any larger aims. Hegel now defines the free will in a more positive manner. Using logical terminology, Hegel proposes that the will needs to be infinite, 'what is without a barrier' or pure 'unlimitedness' (PRV21 59). 'The will [...] only wants itself, abstractly' (PR §34N). At this point, the free will is only the demand that nothing but the will shall define the will; how the will shall define itself is not given. 'Only the will is the infinite, what is absolute as against everything else', not 'relative' (PR §44A). Hegel clearly uses the terms absolute and infinite in the logical sense of being purely self-related, rather than 'relative', i.e. related to something else that defines and limits you.

The individual in whom the free will exists is neither unlimited nor undefined, however. 'I am a this, something completely determinate: of such and such an age, height, in this room and whatever other particular things I happen to be' (PR §35A). As noted, Hegel is referring to a natural, hypothetical and socially undefined human being. Such an individual is 'determined' or defined as the one who exists in this body, in that space. And, this individual is finite, rather than 'infinite' like the free will. '[A]s a this, I am completely determined and finite (in terms of internal arbitrariness, drive, desire, as well as in terms of immediate external existence)' (PR §35).

Why does being defined by her arbitrariness, drives and external existence make an individual finite? The clue is that, while they 'completely determine' the individual, they are not her own free will. The individual is finite in the logical sense of being defined by something other than herself, i.e. her will. That the will is defined by something other than itself is a necessary implication of Hegel's proposition that the will is completely empty at this point, only wanting itself and its own unlimited freedom. Therefore, as already mentioned in Section 2, whenever it wants something specific, the will wants to have or change some externally given entity.

That the will is 'completely determined' in its existence thus refers to its being 'completely defined by something other than itself', 'completely unfree'. I only exist externally and for other living beings as the one who has this body, these natural characteristics and wants and acts towards these particular things – and therefore, precisely, not as a free will. Hegel proposes that human beings could exist for other living beings in the way a plant does, namely, as a unique individual that can be distinguished by visible characteristics from any other of its species.

To exist as a free will, however, a human being has to be 'more' than her immediate, finite existence: she has to display the possibility of also being different. A free being can change (what she has, where she is, etc.). In principle, she can do so an infinite number of times, where the changes depend on herself alone. Since there is nothing essential about the will yet, the enacting of which would amount to a self-expression, free willing



merely consists in the fact that you can infinitely redefine yourself. The problem is that, while you may be able to redefine yourself, one or several such changes do not show that you can do so infinitely and that the changes issue from yourself alone (a chameleon changes its colour a great number of times, but it does not have free will either).

4. Personality and property: idealizing external things

In order to solve this problem, Hegel starts considering the notion that individuals are capable of abstracting, in their own minds, from their external characteristics. In logical terms, the free will is an 'ought' or 'bad infinity' at this point (see also WL1 152/139): individuals 'ought' or are 'supposed' to be free in their own minds, insofar as they abstract from the world. But the will is not, in fact, free and defined by itself; it remains defined by the world, as an abstraction from it. The will is defined as something 'subjective' (PR §39) as opposed to objective nature. Using logical terminology, Hegel describes nature as a 'barrier', an external definition of the will; and he proposes: 'Personality is that which acts to overcome this barrier and to give itself reality' (PR §39).

Nature limits the will in the sense that external things, given specific desires and characteristics define the individual. As we have seen, the problem is not so much that the things somebody wants, has or acts upon define her, but that she seems to be nothing but someone who has, wants or has acted on those things. A free will, on the contrary, has to exist as the infinite possibility of having or being whatever it likes. This is achieved by appropriating natural things as property. In Hegel's terms, the 'barrier', which is one's definition by nature, is thereby overcome: I 'demolish the barrier, and I do this only by making the barrier my own, taking the alienness away from it' (VRP3 198). In his Logic, Hegel calls this 'transferring the limit from its externality into oneself' (WL1.12 98), turning the properties that define a thing into internal moments or aspects of that entity.

Through property ownership, I turn natural things and my bodily abilities into my property, and my desires of use into my right, turning what defined me from without into aspects of me, something that counts as nothing but 'mine'. Just as in the Logic (WL1 178/160), Hegel describes this development as 'idealism': Hegel says that '[t]he free will is thus the idealism, that does not believe that the things, as they are, are what is in and for itself' (PR §44A). The natural things I have or want are the qualities that define me. But I do not believe that they are in fact what they seem to be, namely given, external and natural things that limit and define me. Rather, they are taken to be ideal; their particular and specific nature is 'something that does not count' (RPV21 58). 'The substance of the thing is what it is for me' (RPV21 68). Something that has only internal distinctions that exist 'for it', rather than 'for others'



is called a being-for-oneself in the Logic. And Hegel calls 'a being-for-oneself the abstract principle of all self-determination' (VLM 93, §49).

The move towards personhood and self-determination thus consists in establishing a distinction between someone as a property-owning person and her having particular pieces of property at present. In other words, the point is to take the present things she has, which define her as one (shortlived) instance of her infinite capacity of property ownership. The particular pieces of property define this person in this moment in time, but they do not really define her. Rather, they are only ideal moments of a much broader personality. Property transforms things from being concrete, thereby defining individuals and presenting a physical resistance to their wills, into a mere sign of someone's ownership. While there are different forms of appropriation, the aim is always to 'annihilate' or 'consume singularity' (PR §61N), as Hegel puts it, to prove that the particular natural aspects of an object do not count. Therefore, 'the appropriation through signalling is the most complete of all. [...] The concept of signal namely means that the thing does not count as what it is, but what it signifies' (PR §58A; see also §59, §104).

Private property thus brings with it both the negative freedom to own or acquire anything one fancies without being defined by it, and the positive freedom that anything I own counts as nothing but an actualization of my internal aspects, one instance of my infinite capacity for property ownership.

5. Persons as identical atoms and the freedom of turning into any other person

Interpreters agree that other persons have an important function for the freedom of the first person. Williams (Hegel's Ethics of Recognition, 142) states, for example, that 'recognition justifies my possession'; others strengthen my property status by acknowledging it. Patten assumes that other persons, by not interfering with my property, assure me that it is in fact me who expresses myself in my property (Patten, Hegel's Idea of Freedom, 160). The problem is the following: these approaches suggest that personal freedom is inherently limited – to the private sphere and one's present property. Yet, as shown above, Hegel's point is that personal freedom is infinite and unlimited. Hegel's famous formula for freedom is 'being with oneself in the other', which clearly suggests that others are involved in one's own free relation to oneself. However, if the above argument is correct, other persons must participate in my freedom in a different manner (i.e. other than merely respecting my current property). The self-relation that characterizes a person is not that which exists between a particular human being and her particular things. Insofar as a specific piece of property is concerned, an individual is precisely not in a selfrelation to that object, but in an other-relation and accordingly not completely free. As a particular, often physical entity, the thing is necessarily something other than the will, something that to some degree resists the will (and this remains true even in artistic self-expression).

As established in the previous section, I am free and self-related in my property only insofar as a particular piece of property counts as 'what is abstractly mine' (PR §104), an instance of my infinite potential for property ownership. The self-relation that characterizes personality for Hegel is the one between the unlimited capacity for property ownership and a thing that counts as a short-lived instance of this capacity. The freedom of the legal person thus relies on the fact that her property can change – and this is the reason other persons come into play.

Hence, I want to propose the following: to be free, a person needs to be 'infinite' in both the qualitative and quantitative sense of Hegel's Logic. She needs to be able to change an unlimited number of times and to be completely self-related in those changes, with the change of her pieces of property depending on herself alone, being nothing but an expression of a change in her fancies. While the quantitative aspect, the fact that you can change your property, already depends on the existence of other property owners, it is the second aspect that involves other persons in your freedom in a deeper sense. If changes of your property ought to be due to nobody else but you, then you must have within you the possibility of being all other persons. All other persons are ideally you – their current property status represents your own unactualized aspects.

This is a novel interpretation, which only becomes evident in tracing Hegel's logical reasoning about persons: the famous formula of abstract right is: 'be a person and respect others as persons' (PR §36). In one of his lectures, Hegel adds to this:

that is: let him be for himself [für sich sein]. As such the human being is the brittle atom, he has no breadth on the basis of which a communality of one to the other, a positive relationship could come about.

(VRP3 195)

Hegel thus describes the person as an 'atom' (PR §167; E3 §523) and a beingfor-oneself (PR §35A), both of which are topics of the Logic of Being. Moreover, Hegel repeatedly calls the relation between persons 'repulsion', again using a logical term:

As I am a person, i.e. the infinite relation of myself to myself, I am the absolute repulsion of myself from myself. I have my realization only in the existence of other persons; only therein am I a real person for myself.

(E1.17 §405, see also E3 §490)

Hegel clearly proposes that I am self-related in relation to other persons because they are me, that is, me 'repelled' from myself. 'The person, differentiating herself from herself, is related to another person ... Their identity that is in itself attains existence in the transfer of property' (PR §40). The person differentiates herself into many persons and the many persons are therefore identical.

Hegel's proposition is indecipherable unless one consults his Logic of Being. I have introduced Hegel's argument above up to the point where he proposes the definition of a thing that is 'infinite' and 'free', in the sense that its particular present state counts as nothing but one of its many, short-lived aspects, which can easily change and, hence, do not truly limit or define it. After re-defining the infinite thing as an 'atom' (WL1 205/182) or 'one', Hegel argues that the internal distinction between the thing and its present state or properties cannot be maintained unless the internal difference becomes externalized (VL 123; WL1 187/167f), unless the atom 'repels' itself into many atoms (VL 123; WL1 188/ 169, 194/173). Hegel thus introduces a relation between things or atoms that are separate and yet numerically identical (WL1 187/167), like the units of matter (E1 §97A). The many 'ones' are also just one 'one' (WL1 194/173). Only now that there are many 'ones' can the two facets of the 'one' be distinguished: insofar as the 'ones' are different, one 'one' is defined as against the other 'ones'; this is its limited and particular present state. Insofar as the 'ones' are one and the same, however, there are no other 'ones' that could limit it. It is thus purely selfrelated, undefined and 'infinite', when relating to the other 'ones'. In line with his previous argumentation, Hegel describes the relation between the 'ones' as freedom, the one's 'own self-determining' or 'unity with itself [...] degraded to a relation [to an external other]' (WL1 183/137).

If Hegel's legal reasoning is analogous to that in the *Logic*, he is assuming that the person is supposed to contain an internal distinction, yet her facets cannot truly be distinguished – unless one introduces numerically identical, vet separate, others.² The person is someone who owns particular pieces of property that define her, yet she is supposed to also be a property owner and free will in general, such that her current property is only one of many instances of her infinite capacity to define herself. It is this distinction that requires a relation to identical, yet separate, persons for Hegel: the person is a particular person and property owner insofar as she owns her property rather than his or their property. This is rather straightforward. But additionally, Hegel suggests that the person is infinite, completely self-related and free insofar as all other persons are also her.

What exactly does this mean? In what sense are persons identical for Hegel? In the Logic, Hegel references both Kant and Leibniz to explain the rather unusual notion of numerical identity that is at play. The reference to Kant's discussion of matter (and the forces of repulsion and attraction) allows for imagining persons as dispersed units of the same person, despite

²Andrew Chitty has shown that while for Fichte human beings must recognize one another as separate and equal, Hegel proposes that the recognizing parties become 'numerically identical' – while also remaining distinct (Chitty, 'Identity with the Other').

their different qualities, with all changes of the person being due to herself alone (just as matter changes only according to its own laws). Hegel's discussion of Leibniz's self-representing monads (WL1 179f./161; 190/171) is, however, even more helpful: All monads contain all possible properties – and yet they contain only some properties in a clear or actualized form. Hegel argues that the monads should be understood as related to one another; in fact, their relation should be understood as a self-relation (WL1 179/161). The many monads are also just one monad. Hegel is thus proposing that other monads that have other properties represent unactualized aspects or properties of the first or, indeed, to the first. Similarly, others count as nothing but unactualized aspects of the first person; others represent her own internal, yet unactualized, potential, what she could have, who she could be, but has not yet chosen to actualize.

While the parallels to the *Logic* allow for slightly different interpretations, the key point is clear: As a person, I can only be free and also a specific defined individual, if other persons are me - or, in the very least, if I regard them as me, nothing but placeholders for aspects of myself that I have not chosen to actualize. This conception is fitting since the simple will does not yet positively contain others (as is the case when wanting a family, for example); others only feature as a possible boundary or limit to the will. Consequently, for the person to be free in an unlimited manner, as Hegel demands, others cannot count as actual, independent, other human beings that define her or can resist her desire to change. Rather, others must count as mere vehicles for her will and its changes; they must be placeholders for her future qualities, representing unactualized options that are inherent in her own potential (rather than given by something or someone else, which would again be a limit on her freedom).

One must bear in mind that Hegel is not concerned with concrete property relations here (see Brooks, Hegel's Political Philosophy, 34). Rather, as noted, Hegel construes the concept of legal personhood as a way to mimic the mind's capacity to constantly reinvent oneself, a vehicle for actualizing the complete independence of being whoever one wants to be, whenever one wants to be so. While circumstances will necessarily limit this freedom, it is important for Hegel that the legal order acknowledges the idea that every individual is a free will in general and, as such, in principle never bound to being the particular person he or she is and always free to be somebody or, in fact, anybody else of her choosing. Personality allows for and encourages the conception that I have everything within me and I am the only determinant of my will.

6. Legal wrong - injuring oneself in other persons

The last topic of Abstract Right is called 'Unrecht' or legal wrong. Continuing with his focus on private property, Hegel primarily discusses the appropriation of what belongs to somebody else (including their body); he distinguishes



three types of misappropriation: unwitting misappropriation, fraud and violent crime.

Hegel famously describes the legally wrong act as an offence against oneself. Crime and legal wrong happen in the will's 'own self-relation', in fact, as Hegel puts it, when the will 'as a particular will' is 'different from and opposed to itself as the will which has being in and for itself (PR §40; see also §97A).

If the above interpretation is correct, crime will have to be wrong for Hegel on the grounds that a criminal act toward another is as such also an offence against oneself, because, in itself, other persons are also me – or, in the very least, because I necessarily regard them thus. Interpreters usually take another approach, highlighting Kantian formulations in Hegel's discussion: Criminal intentions establish a universal law under which the criminal herself is subsumed (thus implicitly wanting the same done to her); or, inversely, as Wood (Hegel's Ethical Thought, 114) puts it, the criminal act 'revokes my own claim on the right that is violated'.

While there are certainly passages in which Hegel makes such Kantian claims (PR §100A; PRV21 94), this cannot be the complete picture. First of all, one of the three forms of legal wrong does not involve any intention to do wrong at all. Additionally, as already mentioned, Hegel discusses subjects and their intentions primarily in the next chapter called Morality. In fact, toward the end of his discussion of 'legal wrong', Hegel suggests that crime has not yet been discussed in the sense of an infringement of universal laws:

Right, whose infringement is crime, has admittedly appeared up till now only in those shapes which we have considered; hence crime likewise, for the moment has only the more specific meaning associated with these determinations' [Hegel's handwritten addition: namely, in relation to property as in a singular thing and the body, parts of the same, life].

(PR §95)

Hegel considers crime in the same manner that legal relations have been discussed up to this point, i.e. in terms of immediate interaction between two persons, their exchange, their concrete pieces of property and bodies.

I therefore agree with Brooks ('Hegel on Crime', 207) who criticizes standard interpretations of legal wrong, and claims: 'Hegel's thief is a thief because he seeks to possess something now; the thief is not making any claims about the property rights of all in general – because they are not his concern'. If this is so, one's 'will in itself' that is injured by the wrong act cannot refer to the universal implications of one's intentions. When acting purely as a person actualizing her simple will, the criminal does not formulate any general intentions that could be the basis for (possibly problematic) universal laws.

Brooks' point thus makes my interpretation more plausible and there are other passages that confirm my view: at the end of his discussion of the contract, Hegel refers to the 'in itself' identity between persons. He notes that

persons have 'one identical will' (PR §72) in the contract, which he expands upon in a lecture as follows: 'In themselves they [persons] are identical, but what they do as immediate persons in the contract is the common will mediated by the will of the other' (PRV21 75). In truth, persons do not only want the same; they do not only have the shared will of two distinct persons as appears to be the case in the contract. Rather, they are identical, (aspects of) one and the same will or person. In Legal Wrong, Hegel says that the 'will in itself' is injured by the crime, describing this will as 'the will of the offender, just as much as the will of the injured and of everyone else' (PR §99). Here Hegel clearly links the term 'will in itself' not to my universal principle of action, but to the identity of all wills involved.

While these passages and considerations do not provide a complete proof, they suggest that Hegel has an additional conception of wrong in mind, where others as owners of their particular pieces of property are part of one's own personality and freedom, as unactualized instances of one's will.

It is interesting to note that, at the end of the chapter Abstract Right, Hegel starts to describe legal wrong with concepts from his Logic of Essence: 'Wrong is the illusory being of essence, that posits itself as independent' (PR §83A); [i]llusory being is the untruth which disappears because it wants to exist by itself [für sich]' (PR §82A). Hegel identifies the mistake of the offender, which leads to her disappearance, i.e. to the fact that her acts are being undone, with the illusion of being separate - while essentially, it may be supposed, she is not separate. 'Illusory being' is the term with which Hegel accounts for 'being', and independently existing 'atoms', within his Logic of Essence where he argues that separate 'beings' or atoms are not in fact separate and independently existing; they all have a shared essence. Hegel thus seems to suggest that legal wrong can occur in this form (as an act that presupposes one's indifference towards other persons) because the underlying identity between persons is not known.

7. Conclusion

I do not deny that social embeddedness and reason are important concepts for Hegel and that private property law can also be shown to have rational and socializing functions within Hegel's system. However, by focusing on these concepts from the start, one inverts Hegel's entire argument. The aim of the chapter Abstract Right is precisely to show that the opposites of rationality and civic-mindedness are also partly valid. Hegel is not saying that egoism, irrationality and arbitrariness are bad and that individuals should act differently; it is a legitimate form of freedom not to pursue larger goals, not to search for rational means and not to care about other people's approval. Freedom can legitimately consist in being able to be anybody you want to be, purely on your own whim.

Instead of outright rejecting an egoist and arbitrary personal freedom, Hegel endeavours to integrate this seemingly opposing position within his own and show that social unity is already implicit even within the egoistic and self-concerned perspective itself. Hegel does so my means of an immanent critique of its basic structure. He concludes that (a) contradictorily, personal freedom relies for its appeal on an implicit unity between persons, and (b) it partly consists in a necessary illusion. It is no accident that the pauper to millionaire narrative is so prominent a myth within the market economy; it is implicit in the concept of the property-owning person and the freedom it conveys. Private property not only entitles any person to acquire anything she can; personal freedom also allows you to see yourself as the only determinant of your will, to attribute any change in your property situation to yourself alone. And yet, contradictorily, this self-centred and solitary freedom only functions by suggesting an identity with all other persons.

Because of this contradiction, the freedom of the property-owning person is partly an illusion, a promise that can never be fulfilled: to enjoy this freedom requires not only bracketing economic and other social conditions, but also regarding all other human beings as mere conveyors of what I want or placeholders for what I can become. Each person sees the others as vehicles for her own fancies and arbitrary self-definition and, hence, implicitly requires their cooperation. But persons do not actually cooperate or even truly engage with each other. In fact, they neither formulate stable desires that could be shared by others, nor treat each other as capable of reacting in more ways than the binary 'yes' or 'no' to an offer of exchange.

Hence, it is only fitting for Hegel to suggest, at the end of Abstract Right, that separate persons and their independent freedom are to some extent illusory or untrue, that human beings are not actually separate and independent atoms and that the highest degree of freedom cannot be attained in a solitary manner. Hegel clearly assumes that it is important for the self-perception of the individual to think that she is independent and has infinite potential, that she can be whoever she likes and change at whim and that neither nature nor other human beings truly pose any limit to her self-definition; private property enables this self-conception. However, only once the individual realizes her dependence on and, indeed, enrichment by others do more coherent and less illusory types of freedom become possible, which Hegel introduces later in his book.

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- E1.17 Enzyklopädie der philosophischen Wissenschaften im Grundrisse (1817). [Encyclopaedia of Philosophical Sciences in Outline], Hamburg: Meiner, 2001.
- E3 Enzyklopädie der philosophischen Wissenschaften III. [Encyclopaedia of Philosophical Sciences, vol. 3]. Frankfurt: Suhrkamp, 1986.
- PhG Phänomenologie des Geistes. [Phenomenology of Spirit]. Frankfurt a.M.: Suhrkamp, 1970.
- PR Grundlinien der Philosophie des Rechts, edited by Eva Moldenhauer and Karl Markus Michel, Frankfurt: Suhrkamp, 2000.
- PRV21 Die Philosophie des Rechts. Vorlesungen von 1821/22. [The Philosophy of Right. Lectures from 1821/22]. Frankfurt: Suhrkamp, 2005.
- VL Vorlesungen über die Logik 1831. [Lectures on Logic]. Hamburg: Meiner, 2001.
- VLM Vorlesungen über Logik und Metaphysik. Heidelberg 1817. [Lectures on Logic and Metaphysics]. Hamburg: Meiner, 1992.
- VLNS Vorlesungen über Naturrecht und Staatswissenschaft. [Lectures on Natural Law and the Science of the State]. Hamburg: Meiner, 1983.
- VRP3 Vorlesungen über Rechtsphilosophie, vol. 3. [Lectures on the Philosophy of Right] Stuttgart: Frommann-Holzboog, 1974.
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