Hegel’s Institutional Enlightenment: A Study of the Political Institutions in Hegel's Philosophy of Right

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Abstract

Hegel’s Institutional Enlightenment

A Study of the Political Institutions in Hegel’s Philosophy of Right

Darren King Zhuan Nah

2022

This book is dedicated to solving the “Hegelian paradox”. The Hegelian paradox is Hegel’s marriage of a philosophy of freedom with the monarchy, the bureaucracy, and the corporatist Estates – political institutions far removed from what we consider the necessary pillars of a free society. Hegel’s defense of these institutions in the Philosophy of Right and the notable absence of any democratically elected representative institutions in his treatise on the modern state have long been embarrassing for his most admiring students because Hegel’s notion of “concrete freedom” – an idea that champions citizen self-government – seem so at odds with his stated institutional recommendations. Faced with this paradox, many conclude that “Hegel” the political theorist simply betrays in practice those ideals he defended as “Hegel” the philosopher. Of course, if such an interpretation were right, Hegel would not be the first thinker to do so. For that distinction we have Plato. This book, however, challenges this interpretation.

My argument is that Hegel’s thinking on these issues is consistent with his philosophy of democratic freedom when understood in historical perspective. Hegel defended the monarchy, a self-regulating bureaucracy, and a corporatist legislature to counter the dominance of the landed aristocracy because, given historical weakness of the early 1820s Prussian bourgeoisie, strong representative institutions and “democratic”
accountability would have perversely subjected the state to aristocratic interests. I detail this argument in the heart of this book in chapters IV, V and VI where I show how the three key institutions of the Hegelian constitutional state in the *Philosophy of Right* had the very revolutionary goal of challenging the traditional feudal elites.

Such an interpretation of Hegel’s political intentions might admittedly face skepticism. My reading of Hegel faces an uphill battle because most contemporary scholarship simply move past his institutions and concentrate instead on the abstract insights of his philosophy of freedom. This move is very understandable. Few today want to appear to be defending these sorts of institutions in our democratic age. But “piety requires us to honor truth above our friends.” And so, my work aims to help us gain a more accurate understanding about this thinker whose work has done so much to shape contemporary political theory. If this study succeeds only in revealing just the shadow of the truth, I will be glad if a better study should come along and surpass this.
Hegel’s Institutional Enlightenment
A Study of the Political Institutions in Hegel’s *Philosophy of Right*

A Dissertation
Presented to the Faculty of the Graduate School
Of
Yale University
In Candidacy for the Degree of
Doctor of Philosophy

By
Darren King Zhuan Nah

Dissertation Director: Professor Steven B. Smith

May, 2022
To my family
Civil government, so far as it is instituted for the security of property, is in reality instituted for the defence of the rich against the poor.

Adam Smith¹

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Preface

Writing a dissertation on Hegel is admittedly no easy task. While Hegel’s insights are not particularly hard to grasp, his dense language is a huge barrier to entry for all who desire to understand him. Yet, I can think of no other thinker with whom I would rather spend the better part of my graduate career. The intellectual stimulation of understanding Hegel’s thought is unparalleled. No other thinker in my opinion covers such a wide array of topics from politics to art to philosophy to religion so systematically as to provide endless fulfillment for a graduate student looking for an intellectual challenge. I am truly glad to have this privilege to write on him.

But, more importantly, Hegel gave me an excuse to work with so many amazing people I have now come to love and cherish. The following individuals deserve particular mention. First and foremost is Steven Smith without whose guidance and mentorship I simply could not have done this. Second are Bryan Garsten and Hélène Landemore who have, at crucial moments, re-directed my energies most fruitfully. And third involves my friends who read and re-read so much of my work and still chose to be my friends, namely, Stephanie Almeida, Carmen Dege, David Froomkin, Armando Jose Perez-Gea, Alexander Trubowitz and Owen Phillips. My life is richer because of you.

I finally want to thank Yale University, the Baden-Württemberg Fellowship and the MacMillan Center for generously supporting my research. I also want to acknowledge and apologize to my mother, Liew Shiu Lee, my brother, Egbert Nah, my aunt, Liew Shiu Feng, and my grandmother, Wong Phui Heng, for hurling Hegel at them at awkward moments in the day. Forgive me! But I hope this work makes it all worth it.
Introduction

This book is dedicated to solving what I call the “Hegelian paradox”. The *Hegelian paradox* is how Hegel marries a philosophy of freedom with political institutions far removed from what we would consider necessary pillars of a free society: the monarchy, the bureaucracy, and the corporatist Estates. Hegel’s defense of these institutions in the *Philosophy of Right* and the notable absence of any democratically elected representative institutions in his treatise on the modern state have long been embarrassing for his most admiring students. Hegel’s notion of “concrete freedom” – one that champions, as I show in chapter III, the democratic notion of citizen self-government – seem so at odds with his stated institutional recommendations that many conclude that “Hegel” the political theorist, simply betrays in practice those ideals he defended as “Hegel” the philosopher.² Representative of such a view, Allen Patten writes,

> Although the Hegelian state was fairly liberal by the standards of its own time, it is likely to strike most contemporary readers as providing a less than secure basis for individual freedom. It could be argued, for instance, that the state as characterized by Hegel has too weak and unrepresentative a legislature, too enclosed and powerful a bureaucracy, and allows too limited a role for public opinion,

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to be considered the full actualization of freedom. One need not accept all of Marx's criticisms of Hegel to agree with him that the Hegelian state seems better designed to promote the powerful and entrenched interests of civil society than the freedom of ordinary citizens, let alone of the poor and dispossessed. And one need not be a contractarian to think that what is missing in the Hegelian state is precisely the participatory, Rousseauian democratic mechanisms that Hegel explicitly repudiates.3

This book, however, challenges this assessment, especially the critique that what is needed in Hegel’s political thought are those “Rousseauian democratic mechanisms that Hegel explicitly repudiates”.

My argument is that Hegel’s defense of these institutions is consistent with his philosophy of democratic freedom. Hegel defended the monarchy, a self-regulating bureaucracy and a corporatist legislature to counter the dominance of the landed elite because the strengthening of representative institutions and of “democratic” accountability would have perversely meant the subjection of the state to aristocratic interests given the peculiar weakness of the early German bourgeoisie.4 As we will see in


4 Leonard Krieger, The German Idea of Freedom: History of a Political Tradition (Chicago: University of Chicago Press, 1957): 8–45. But see further chapters IV, V, and VI. Michael Albertus, writing on Latin America, notes that “[w]ith the rare exception of more radical forms of popular, majoritarian, or plebiscitary democracy, elites can often block redistribution [or reform] under democracy through direct representation in the legislature, placement in the judiciary, elite capture of elected officials, judges, or
the heart of this book (chapters IV, V and VI), these three key institutions of the Hegelian constitutional state in the *Philosophy of Right* had the very revolutionary goal of introducing and insulating the power of bureaucrats to curb the clout of the traditional elites and their ability to exempt themselves from public accountability and commitment.\(^5\)

It is only by defending these institutions, Hegel thought, could the public interest be advanced within an extremely hostile feudal environment.\(^6\)

This aspect of Hegel’s political thought, however, is hardly touched on in the contemporary scholarship.\(^7\) Most scholars simply lament, like Patten, how we should move past Hegel’s institutions in the *Philosophy of Right* and concentrate instead on his general philosophy of freedom.\(^8\) Such institutional timidity is very understandable. Few today want to appear to be defending these sorts of institutions in our democratic age. But the purpose

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5 By “perversely” in the previous sentence, I mean that in the transition of power to representative institutions Hegel’s situation saw the landed elite “gaming democracy” as it were in their favor. See Michael Albertus and Victor Menaldo discuss this recently in their article “Gaming Democracy: Elite Dominance during Transition and the Prospect of Redistribution,” *British Journal of Political Science* 44(3): 575-603.

6 The landed elite in my account are those who own land and use it as a form of “livelihood”, i.e., “as financial security (e.g., hedge against inflation), as a transfer of wealth across the generations, and as a resource for consumption purposes (e.g., country estates held by urban elites for leisure purposes.” Frank Ellis, *Agricultural Policies in Developing Countries*. (New York: Cambridge University Press, 1992): 196. For a deep treatment of the “political elite” as a concept, see Geraint Perry, *Political Elites* (Colchester: ECPR Press, 2005). For the role of elites during political transitions, see broadly the literature in Ben Ansell and David Samuels, *Inequality and Democracy: An Elite-Competition Approach*. (Cambridge: Cambridge University press, 2014); Daron Acemoglu and James Robinson, *Economic Origins of Dictatorship and Democracy* (Cambridge: Cambridge University Press, 2006); Charles Boix, *Democracy and Redistribution* (Cambridge: Cambridge University Press, 2003).


8 Classic example is Herbert Marcuse who, despite teasing out the radical implications of Hegel’s rejection of the “given”, hardly mentions his institutionalism as being the embodiment of precisely this critical thrust in Hegelian thought in his *Reason and Revolution: Hegel and the Rise of Social Theory* (London: Routledge & Kegan Paul, 1955 (1944)).
of what follows is not to claim that Hegel’s institutions are what we need. Rather, my study wants to revise our first impressions of Hegel’s political thought. 

I. Schema of the Book

To start, I want to present the schema of my argument. In Figure I (below), each box represents an institution in the Hegelian state. Boxes (institutions) that are linked indicate that they are accountable to the box above them. Boxes that are not linked merely indicate that these institutions have no effective veto or say over a policy being considered by the executive branch of government.

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This broad schematic outline shows how the executive power – i.e., the government – has effective lines of control over state officials and the Universal Estate, and has virtual control over the *entire* decision-making process of government. By contrast, the two other institutions of the Hegelian state, the monarchy and the upper and lower houses of the legislature – each representing the noble and bourgeois interests respectively – do not have any *direct* lines of constitutional control over policymaking in government. In other words, the legislature cannot directly interfere with policymaking.\(^\text{10}\) This does not, of course, mean

\(^{10}\) Samuel Huntington argues that in modernizing countries (like Prussia) their legislatures are typically dominated the landed elite and so have “traditionally been the graveyards of land reform measures.” *Political Order in Changing Societies* (New Haven: Yale University Press, 1968): 388-389. A further look back to the time of the Gracchi in Rome confirms this senatorial veto for land reform efforts. See Elias Tuma, *Twenty-Six Centuries of Agrarian Reform: A Comparative Analysis* (Berkeley: University of California Press, 1965). Through malapportionment and other restrictive institutional veto points like bicameralism the landed aristocracy has used legislatures to shield their interests from expropriation and redistribution, for example, in the extreme cases of Latin America; see Richard Snyder and David Samuel,
that they lack other means to influence policy. As we will see in the chapters that follow, this Hegelian schema of insulating the Executive Power from monarchical and legislative control was the result of the Agrarian Estate in 1820s Prussia being the most dominant force in politics. The Hegelian constitution aims to dilute the power of the feudal nobles in government in a society that traditionally has a weak bourgeois and a figure-head monarchy. Indeed, this study will demonstrate why Hegel thought this executive-centric system of government was necessary as well as why this constitutional system is nonetheless not as anti-democratic as it first appears.

This schema also reflects Hegel’s view that the constitution is an organic whole. He calls such political holism “ideality” because all institutions are coordinated to realize “concrete freedom”. Hegel writes,

> The basic determination of the political state is the substantial unity or ideality of its moments. In this unity, the

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11 And I restrict the agrarian estate to the landed elite because the peasantry was politically impotent. Here is Marx reflecting on the French peasantry compared to whom the German serfs were hardly any different: “The small-holding peasants form an enormous mass whose members live in similar conditions but without entering into manifold relations with each other. Their mode of production isolates them from one another instead of bringing them into mutual intercourse. The isolation is furthered by France’s poor means of communication and the poverty of the peasants...Thus the great mass of the French nation is formed by the simple addition of homologous magnitudes, much as potatoes in a sack form a sack of potatoes . . . Insofar as there is merely a local interconnection among these small-holding peasants, and the identity of their interests forms no community, no national bond, and no political organization among them, they do not constitute a class. They are therefore incapable of asserting their class interest in their own name”, in “The Eighteenth Brumaire of Louis Bonaparte,” in *The Marx-Engel Reader*, 608.

12 Insofar as we take a democratic government to be one that is in some sense responsive to and accountable to the public interest.

13 PR, Preface, 15. That is each institution is “ideal” because they are not fixed and self-sufficient.
particular power and functions of the state are both dissolved and preserved. But they are preserved only in the sense that they are justified not as independent entities, but only in such a way and to such an extent as is determined by the Idea of the whole; their source is the latter’s authority [Macht] and they are its fluid members, just as it is their simple self.

(PR §276)

The goal of this book is thus to show that this passage does not reject individual freedom. Rather, it is a repudiation of the traditional elite’s claim to be “independent entities” – i.e., uncooperative, and uncoordinated entities – vis-à-vis the public authority. This anti-elitist thrust of Hegel’s constitutionalism, however, receives hardly any mention in the scholarship.¹⁴ For this reason I want to defend how Hegelian political idealism is an anti-feudalistic creed that forces social coordination upon the noble by rejecting their ability to assert their independence from complying with the dictates of the public interest.¹⁵

Now, before diving into this argument, a few further words are necessary to explain the angle and scope of the chapters that follow. The Hegel that I study here is Hegel almost exclusively as a political theorist.¹⁶ That means that I do not touch on the aesthetic, religious

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¹⁴ Michael Wolff in his study of the Hegel’s political holism does not even touch on this. See his “Hegel’s Organicist Theory of the State: On the Concept and Method of Hegel’s ‘Science of the State’” in Robert Pippin and Otfried Höffe (eds.) Hegel on Ethics and Politics, pp. 291-322

¹⁵ See chapter III.

¹⁶ Dante Geronimo argues that Hegel’s political thought can be interpreted entirely apart from his metaphysical system. This is not a debate I intend to enter. It suffices for me to say that regardless of the relation between his metaphysics and politics, they are both grounded on a practical commitment to
metaphysical and epistemological dimensions of Hegelian thought but focus entirely on how he went about addressing the political problems of social coordination of his day. This political angle does not deny that Hegelian thought is a broad tent that covers a wide array of subjects. But it is clear to anyone with even a basic familiarity with Hegelian thought that all his efforts are guided by the political value of freedom.

Hegelians of all stripes agree that human beings seek to establish a world in which they can determine their own lives, but I claim that this desire for self-determination – also called “autonomy” in the German Idealist tradition inherited from Rousseau – is primarily political since it involves coordinating society to achieve it. To ignore this political lodestar of Hegelian thought would be to transform Hegel into an abstract (not to say, mystical) thinker whose unfair caricature thanks to Marx remains far from the actual concreteness of his thought. Thankfully, inasmuch as Robert Pippin and Terry Pinkard


On the other extreme are scholars like Stanley Rosen who make the false assertion that “Hegel is first and foremost a logician and not a philosopher of history, a political thinker, a theologian, or a Lebensphilosoph”in G. W. F. Hegel: An Introduction to the Science of Wisdom (New Haven: Yale University Press, 1974): xiii. I show why this assertion is groundless.


On studies here see Frederick Neuhouser, Foundations of Hegel’s Social Theory: Actualizing Freedom (Cambridge, MA: Harvard University Press, 2000) and Allen Patten, Hegel’s Idea of Freedom.

In Das Kapital Karl Marx claims to have turned Hegel right-side up. The thrust of the Marxist critique of Hegel is grounded on the latter’s supposed inattention to the material conditions of thought. Focusing on the institutionalist dimension of Hegel’s political philosophy, corrects this distortion.
have shown how all the Hegelese can be distilled into clear and analytical arguments, so too, I argue, should we strive to gain political clarity on what exactly Hegel’s political thought aims to achieve.²¹

In my opinion, Hegel is dragged into debates that have more to do with the problems of our time than his. For instance, as I show in chapter II, one of the strangest debates to which Hegel has been subject is the liberal-communitarian one where Hegelian thought responds to all the ills of bourgeois post-modernity and capitalist consumer culture even though his political experience was one that still grappled with feudalism and the problems of a traditionalist (albeit, modernizing) agrarian society.²² For instance, Steven Smith,

²¹ Robert Pippin and Terry Pinkard have shown that, far from metaphysical, Hegelian idealism can be understood in clear analytical terms. Their argument is basically that all the Hegelese on “Geist”, “Sittlichkeit”, “Absolut”, “Dialektik”, etc. mean that human rationality is social and processual. That is, by the “sociality of reason”, Hegel claims that human rationality is something that we gain and uphold only in community with others and so is not something that exists purely in my individual head or in some other-worldly realm; and by processual, all Hegel intends to convey is that this social dimension of human rationality is something that is acquired through collectively acting and reflection upon how we operate in this world. In other words, Hegelian rationality tells us that human beings are always reflecting upon the practices and norms they use to guide their actions and that these modes of reflection are always done within and are constrained, but not determined, by a social context as human reason always seeks to push past the “given” boundaries within which it operates to be “free”. For Hegel, freedom is consequently the aim of human reason as we collectively learn from the past, deal with the present, and look towards the future. See Robert Pippin, Hegel’s Idealism: the Satisfactions of Self-Consciousness (Cambridge: Cambridge University Press, 1989) and Terry Pinkard, Hegel’s Phenomenology: The Sociality of Reason (Cambridge: Cambridge University Press, 1994). For a criticism of this “non-metaphysical” approach to Hegel, a criticism that does not verge on mysticism but highlights how this makes Hegel comfortable for modern audiences at the expense of historical accuracy, see Frederick Beiser, Hegel (New York: Routledge, 2005), esp. 6-7.

²² Robert Pippin, Modernism as a Philosophical Problem: On the Dissatisfactions of European High Culture (Cambridge, MA: Blackwell Publishers, 1991). Moreover, to preview the penultimate chapter of this book, many have seen in Hegel’s corporatism a way of resisting capitalism’s negative dimensions by fostering communal bonds and welfare provisions against the atomizing effects of the “cash nexus”. Now, it is certainly true that Hegel did reflect on these issues but focusing on these dimensions of his corporatism ignores how the weak legislative institution within which he housed the Estates served the broader purpose of diluting noble power by concentrating decision-making power in the Universal Estate. Or, even more problematic is how contemporary scholars deal with Hegel’s monarchism and their tendency to grade Hegel on whether the institutions he recommends facilitates popular power. And on such a reading, because the monarchy does not allow the people to directly decide, he must be a conservative and an anti-democrat, completely ignoring how the monarchy as Hegel conceives it aims primarily at curtailling the aristocracy. So, is Hegel now, given these considerations, a liberal or conservative? A democrat or an authoritarian?
whose explicitly political Hegel deserves commendation for the lucidity with which Smith explains the dense Hegelese, still frames Hegelian thought in terms with which I disagree, writing

The argument I want to defend in this study is that Hegel provides us with a middle ground between [liberalism and communitarianism]. Like the modern communitarians, he is critical of individualistic and ahistorical conceptions of rights underlying the liberal [bourgeois] polity, but like many liberals in both his day and ours, he is skeptical of any attempt to return to some form of democratic participatory gemeinschaft based upon immediate face-to-face relations…. To this end, he developed a philosophical theory that sought to prove that the liberal constitutional state instantiated in his own day in the most advanced societies of North Europe constituted the legitimate goal of historical aspiration. Instead of rejecting liberalism out of hand, Hegel accepted many of the institution of the modern “bourgeois Christian” world, especially the rule of law and separation of

Clearly the standard ways of interpreting Hegel’s political thought requires some update which I provide in the chapters to come.
civil and political life, as forming the basis of a common culture and a sense of social solidarity.\textsuperscript{23}

As judicious as Smith’s position on Hegel is, especially compared to others, I want to show that the “individual” Hegel historically had in mind was not “bourgeois Christian” Smith and many others assume him to be but rather the aristocratic individual.\textsuperscript{24}

Of course, my approach does not deny that the richness of Hegel’s thought can be mined to address the cultural and social problems of our time. Smith’s efforts on this part to use Hegel to respond to the liberalism and communitarian debate is instructive, but I want to take a different route for unless we get a deeply historical grasp on what exactly Hegel was trying to solve, such attempts to make Hegel into an incisive critic of modern bourgeois liberalism can oftentimes sideline the other ways Hegel can be read. My close study of the three key institutions of the sovereign monarchy, the bureaucratic executive power, and the legislative power in passages §§275-286, §§287-297, §§298-319, respectively in the Philosophy of Right consequently also broadens our perspective on Hegelian thought in addition to being more historically detailed.

Indeed, some may question the exclusively institutional focus of this work. Hegelian thought, as we mentioned above, is a broad tent, so why (they might argue)

\textsuperscript{23} Hegel’s Critique of Liberalism, 6.

\textsuperscript{24} See chapter II where I argue that the “individual” Hegel had in mind is the aristocratic individual. But related to the institutional literature, this focus on bourgeois liberalism ignores a world in which coercion, social hierarchy, and redistributive gains are unevenly distributed and are mediated by politics. It is this perspective – a critique of bourgeois institutionalism – that I seek to import into the study of Hegel. For this see Alexander James Field, “The Problem of Neoclassical Institutional Economics: A Critique with Special Reference to the North/Thomas Model of pre-1500 Europe,” Explorations in Economic History 18: 174-198 and Robert Brenner, “The Agrarian Roots of European Capitalism,” Past and Present 97 (1982): 16-113.
confine an entire study to these institutional issues? But I claim this scope has the broadest and most instructive relevance. These institutions which crown Hegel’s most mature work on politics shows the point where the idea meets implementation. As such, studying them is instructive because we get a glimpse of how Hegel tackles the real-world problem of introducing freedom into a society whose traditional elites still dominate politics. This, in other words, is political philosophy in action and not ideal theory or arm-chair speculation about what the “best constitution” is “in speech”.

Moreover, my targeted approach also helps us revise how some of the greatest and most cherished figures in the political theory “canon” are read. It is remarkable, for instance, how Montesquieu, Rousseau and Machiavelli do not receive their due as institutionalist thinkers. An overemphasis is placed on their religious, moral and social criticisms to the detriment of how they were trying to solve social coordination problems. My work is a contribution to the field in showing how Hegel, whose challenging prose is not only a stumbling block but also a convenient excuse to ignore him altogether, can be both intelligible, enlightening and deeply rewarding.


26 For a defense of realism in politics, see Bernard Williams, In the Beginning Was the Deed: Realism and Moralism in Political Argument (Princeton, NJ: Princeton University Press, 2005).

II. Overview Roadmap

The book has five chapters. In chapter II, I examine who Hegel had in mind when he spoke of the “individual”. I focus on his treatment of the social contract tradition because this tends to be where contemporary scholars read Hegel as responding to modern bourgeois thought. My argument is that Hegel did not identify the radicalism of bourgeois individual as the greatest threat to modern freedom. Rather, he had aristocratic individualism in mind instead. This opening chapter criticizes the liberal-communitarian paradigm within which Hegel is placed, showing how this debate is ahistorical given that Hegel dealt with entirely different problems than that of bourgeois liberalism.

The third chapter examines the democratic core of Hegelian philosophy. I show how Hegel’s notion of “concrete freedom” is related to Rousseau’s notion of the General will and how they both share similar concerns about elite domination and exemption from public commitment. But this chapter shows the fundamental difference between Hegel and Rousseau in Hegel’s defense of reflective thought and reason as opposed to Rousseau’s more parochial and sentimentalist solution to legitimizing social coordination.

The fourth chapter begins my examination of the three key institutions of the Philosophy of Right starting with the monarchy. Chapter four shows that Hegel’s defense of the monarchy seeks to undercut the ability of feudal elites to exempt themselves from public commitment. This was, in some sense, a standard response of absolutist monarchs to the problem of intransigent elites, and I argue that Hegel’s defense of the Prussian monarchy was deeply anti-elitist in this sense and is not inconsistent with the democratic core of his political philosophy.
The fifth chapter then examines Hegel’s bureaucratism. In this chapter I contrast Hegel’s notion of the bureaucracy with Max Weber’s. I show that Hegel defended a corporatist and collegiate form of bureaucracy – basically, a self-regulating bureaucracy – to insulate decision-making power from the aristocracy-dominated legislature. This approach is contrasted with Weber’s notion of a democratically accountable bureaucracy as a response to different historical conditions between Hegel and Weber.

The sixth chapter turns to the Hegelian legislature. Chapter six show how the legislature’s corporatist and passive role in the constitutions served the explicit purpose of diluting noble power. I show that, when placed within the larger picture of how all these institutions work together, the Hegelian legislature has the function of weakening the hold of the traditional landed aristocracy on government.

Finally, the seventh chapter explores the three institutional virtues of organized inclusivity, an autonomous public authority, and publicity which I extract from all the foregoing. This chapter concludes by showing how Hegel has broader institutional recommendations that might help us transcend his time and place.
Hegel and Individualism

II

This chapter examines *who* Hegel meant by the “individual”. My argument is that Hegel did not identify bourgeois individualism as the greatest threat to modern freedom. Rather, he had aristocratic individualism in mind. This chapter also criticizes the liberal-communitarian paradigm within which Hegel is placed, showing how this debate is ahistorical given how Hegel dealt with entirely different problems than that of bourgeois liberalism.
Hegel is widely seen as a thinker who questioned the excessive bourgeois individualism of the social contract tradition. On such an account, his philosophy of freedom (explored further in chapter III) underscores the *constitutive* role government plays in the formation of the modern individual as opposed to the liberal, *instrumental* view of it as merely a tool to secure the pre-political rights of individuals. Hegel is said to oppose the latter view because he thinks that freedom can only be realized in certain types of political community whose institutions enable its enjoyment, and an excessive focus on the freedoms of independent individuals ignores how the constitution of a political community and my belonging to one are central to a my integrated individuality.

But before exploring Hegel’s institutionalism, I want to tackle the current paradigm of reading Hegel as a “liberal communitarian” of sorts. This school of thought mis-identifies “the individual” whom Hegel wants to integrate within the structures of modern society. For liberal communitarians, the *bourgeois individual* and the commercial society he produces is the target of their criticisms because of modern liberalism’s atomistic effects.

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31 See section I below.

32 A reader of Hegel who also challenges this paradigm and with whom I share many similarities – albeit his Hegel is “plebeian” and “populist” – is Domenico Losurdo, *Hegel and the Freedom of Moderns*, trans. Marella and Jon Morris (Durham, NC: Duke University, 2004).
on political life. By contrast, I show that Hegel concentrates instead on the dangers of aristocratic individualism. *I claim that the real target Hegel has in mind when he criticizes the social contract tradition is the feudal noble’s claim to self-sufficiency and exemption from public authority, not the bourgeois modern individual.* I thus claim that only by focusing on the issue of aristocratic individualism can we solve the Hegelian paradox. My reading also shows us how Hegel’s anti-feudalism and his critique of the social contract tradition rejects the domination of the strong over the weak.\(^3\)

To do this, section I below explains the *liberal communitarian Hegel*. This Hegel is interpreted as rejecting the *instrumental* view of government as excessively individualistic and advancing the *constitutive* role it plays in realizing individual freedom. While correct in abstract, this view mistakenly identifies the bourgeois individual as Hegel’s main target. Section II then shows how Hegel’s critique of the social contract theory responds to aristocratic individualism instead. Here I demonstrate how Hegel’s theory of the state is a critique of feudalism in rejecting the powerful individual’s claim to exemption from public authority.

### i. The Instrumental vs. the Constitutive View of Government

The ideas of government offered by the social contract theorists like Hobbes, Locke and Rousseau (via Fichte) are the frameworks within which the liberal-communitarian

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debate occurs, and Hegel’s thought supposedly responds to this debate. The debate centers on whether governments should be viewed as instrumental to or constitutive of individual freedoms. Hegel is said to reject the former when he criticizes the social contract theory, claiming that instrumental understandings of government are insufficient because individual freedom is constituted, rather than restricted, by certain forms of government action. Today, this insight is used to interpret Hegel as embracing a version communitarianism called liberal communitarianism – a position defending free institutions for their role in enabling citizens to be free. Let us explore this debate.

To begin, liberals (like Locke) are said to argue that, since the purpose of government is to secure the pre-political rights to life, liberty and property that each individual “naturally” possesses, governments cannot legitimately trespass these individual rights whose protection and preservation constitute its entire raison d’être. Liberals therefore argue that government powers must be circumscribed by laws and other mechanisms of accountability to ensure that its operations do nothing to endanger the very rights it instrumentally serves to protect. Individuals are thus said to enter a “contract” both with each other and their government, the main condition of which is to secure their

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34 Patten, 104-138. See Philosophy of Right, p. 413 footnote 3 to PR §75.

35 For this distinction I draw heavily on Patten, Hegel’s Idea of Freedom, which we explore further in the next chapter.


individual rights and the breach of which releases the parties from binding commitment since the government is now no longer “legitimate”. Locke writes,

The reason why men enter into society, is the preservation of their property; and the end why they chuse and authorize a legislative, is, that there may be laws made, and rules set, as guards and fences to the properties of all the members of the society, to limit the power, and moderate the dominion, of every part and member of the society… Whansoever therefore the legislative shall transgress this fundamental rule of society; and either by ambition, fear, folly or corruption, the lives, liberties, and estates of the people; by this breach of trust they forfeit the power the people had put into their hands for quite contrary ends, and it devolves to the people, who have a right to resume their original liberty, and, by the establishment of a new legislative, (such as they shall think fit) provide for their own safety and security, which is the end for which they are in society.38

Of course, liberal theory does not deny that there are “recognized” governments in existence whose relationship to their citizens can only be described as predatory. But liberals like Locke are in the business of offering us a standard by which to judge

38 Locke, Second Treatise, chapter 19, § 222.
governments in arguing that governments are justified only to the extent that they serve “to secure these rights” by “deriving their just powers from the consent of the governed”.39

Also, liberals are not opposed to government intervention when intervening prevents greater infringement of individual rights in its absence.40 In fact, liberalism can justify a whole host of restrictions on what individuals can and cannot do (even redistribution) if public inaction results in some individuals having their rights taken away.41 Nevertheless, the liberal attitude to intervention is one of skepticism, placing the burden of proof on the government prove its case under a vigorous framework that defends individuals against the public authority.42 For liberalism, individuals and their rights must always be prioritized over the collective when the two clash. In any case, it is far from evident that liberalism grounds only a “limited” form of government.43 But the main take away is that the liberal theory of government advocates an instrumental view that sees governments only as instruments to secure rights that exist independent of any political arrangement.


42 In American law, for instance, government action is subject to stricter degrees of scrutiny by the court as they relate to “fundamental liberties”. See Laurence H. Tribe, American Constitutional Law, 2d. ed. (New York: Foundation Press, 1988), 251-75.

By contrast we have the communitarian view that sees public authority as constitutive of the rights citizens enjoy. Yet, the communitarian view is different from the collectivist response to the liberal theory of government. Unlike the communitarian, a collectivist argues that, in any dispute between the individual and the government, the former must always yield to the interest of the latter.\textsuperscript{44} On such an account, the interests of the government are closely (or completely) identified with the common good, and individuals have no independent claim apart from what their political communities demand of them. Of course, few in liberal democracies today would advocate such a view and Hegel rejects the collectivist idea of government.\textsuperscript{45} Instead, as distinct from collectivism, the communitarian response rejects only the instrumentalist notion of government by arguing that individuals become “free” persons only under certain institutional and communal arrangements that enable them to enjoy their freedoms and rights. As such, because communitarians think that we become “free” only through the constituting role of certain types of government arrangements in our lives, government action should be seen as enabling freedom rather than restricting it.\textsuperscript{46} This, Steven Smith weighs in, is an advance over liberal theory:

The attempt of liberal theorists to discuss rights and political institutions as if they could be justified on the purely

\textsuperscript{44} Plato, for instance, is one such advocate of this view of government – at least according to Hegel (PR §185).

\textsuperscript{45} The core of the Philosophy of Right is how citizens must have an informed choice, i.e., subjective freedom, and Hegel criticizes Plato, for instance, for denying this in his imagined city (PR §§184-185).

\textsuperscript{46} Waldron, \textit{Political Political Theory}, 23-44.
"formal" grounds of rational agency exhibits, to my mind, an impoverished grasp of human psychology and the developmental structure of moral personality. While the revival of liberalism did much to reestablish the primacy of rights and the dignity of the individual, it paid little attention to the cultural and historical context thin which rights-claims in fact develop. The attempt of contemporary liberal theorists to ground rights in the social contract methodologies of the seventeenth and eighteenth centuries seems to ignore the quite powerful criticisms of those methodologies, most notably by Hegel. So long as the state is regarded as nothing more than an enforcement mechanism for the maintenance of individual rights, liberalism will be un able to speak persuasively about such properly political matters as citizenship and the public good.47

But how are we to interpret Hegel’s advance? There are, I think, two ways to read this. On the one hand, we can read this argument as an extension of Hegel’s idea of a processual and socially dependent human nature.48 We need not explore all the details of Hegel’s anthropology here. It suffices to note that Hegel’s thesis, following Rousseau,

47 Hegel’s Critique of Liberalism, x.

48 Terry Pinkard calls this the “sociality of reason” in Hegel’s Phenomenology: The Sociality of Reason (Cambridge: Cambridge University Press, 1994).
argues that pre-political human beings are not recognizably human because the isolation of a pre-political humans precludes the development of our sociality like language and reason.\(^{49}\) Hegel seems committed to some Aristotelian notion that only “beasts or gods” can live without political community, and so, for human nature to be recognizably human in a meaningful sense, we need to collectively develop such a “human nature” and raise it out of his purely “animal existence” through political arrangements.\(^{50}\)

But, on the other hand, if one is unpersuaded about all this talk about human nature, Hegel can instead be understood in game theoretic terms as laying out the tradeoffs human beings make to subject himself to any form of government. This is because any arrangement of compulsory social coordination will inevitably involve the rule of other human beings whose intentions remain opaque to the pre-political individual. “Each is, to be sure, certain of itself,” Hegel notes of individuals in the state of nature, “but not of the other”.\(^{51}\) But, while Hobbes argues that all human beings would find it “rational” to submit to the Leviathan since the state of war is the “worst of all”, Hegel argues that this universalistic assumption is highly problematic precisely because, in the state of nature, everyone occupies different positions within the Prisoner’s Dilemma.\(^{52}\)


\(^{50}\) Aristotle, *Politics* Bk. I, Ch. III 1253a25-30.

\(^{51}\) PhG §186. The struggle for recognition and the slave-master dialectic, excised of obscurationism and metaphysical mysticism, are basically issues about collective action and solving the Prisoner’s Dilemma.

\(^{52}\) *Leviathan*, xiii, 8-14. Indeed, the entire point about Hegel’s notion of the “cunning of reason” is implicitly to reject this view. Human beings do not directly strive to be member of a state on Hegel’s account. It is true that, for Hegel, it is the “destiny” of humans to be members of one, but this belonging to the modern state is the result not of conscious or rational intention, but of historical processes that are beyond the individual.
Let me explain.

Entering political community requires the sacrifice of some (or all, if we take Hobbes’ argument) of our freedoms in the hope that by binding myself to a collective arrangement I would come to enjoy a greater quality of life under government than outside of it. But the rub is that before I go under government, I have no experience of what it will be like and so will be skeptical that unless all prospective citizens surrender their liberties as well and willingly submit to the same public authority as I would, I cannot be certain of my own safety. For all I knows I might be giving up my liberties and entering a political community in which some have liberty at the expense of mine! In other words, the problem about setting up a government “is to think that men,” Locke retorts, “are so foolish that they take care to avoid what mischiefs may be done them by polecats or foxes, but are content, nay, think it safety, to be devoured by lions.”53

This means that in state of nature no one has an automatic preference to prefer government because I can be assured of my safety only after a government that guarantees my safety has already been established. Or, to put it in social science language, my preferences on how I weigh my options are endogenous to the state I happen to be in. As such, Hegel’s criticism of the social contract tradition can be re-articulated as one in which my willingness to be a member of a free society can only be the result of me already being a member of one.54 The whole state of nature exercise is consequently useless from this

53 Second Treatise §93. Note the Prisoner’s Dilemma with which Locke opens this excerpt. That is it “[a]s if when men quitting the state of nature entered into society, they agreed that all of them but one should be under the restraint of laws, but that he should still retain all liberty of the state of nature, increased with power, and made licentious by impunity.”

54 It is not without reason that Hegel writes in the very preface of the Philosophy of Right that the task of philosophy is not to discover a world beyond but “[t]o comprehend what is”, p. 21.
standpoint because no one in that state would either automatically run away from or submit to public authority. There is just no way to know.

Hence, Hegel argues that free governments do not just secure individual rights. Rather, free governments constitute them and are the pre-existing, enabling state of the world which allow human beings to even think of themselves as free individuals in the first place. The communitarian appropriation of Hegel thus challenges liberalism by offering us a community-centric orientation of how we understand ourselves, as Allen Wood writes:

Hegel leaves the liberal’s state pretty much intact, but his social thought is mercilessly critical of the ahistorical, individualistic and moralistic rationale which liberalism provides for it. In its place, Hegel gives us an alternative interpretation of modern social life… The basic tendency of Hegel’s social thought is to undermine modern society’s liberal self-interpretation… He presents a communitarian rather than an individualistic rationale for modern economic and political institutions and of the freedom they seek to actualize… Without denying the right of persons and subjects, Hegel asserts against liberal orthodoxy the vital necessity for modern humanity of concrete social situatedness and integration… Hegel meant the Philosophy
of Right to afford its readers a joyous reconciliation with the social world around them.55

But what is objectionable here about Wood’s view, however, is how this criticism of the liberal theory takes aim at the bourgeois individual as the main danger to freedom in modern society.

On this interpretation, modern individuals have excessively adopted the mentality of the “bourgeois” at the expense of the “citizen.”56 Because the “bourgeois” is someone whose perspective is confined to his money-making interests, the “citizen” is by contrast someone who cares for the good of the whole political community as Robert Pippin writes,

Hegel’s objections to the deracinating and alienating effects of modern liberal society, his insistence on the character of modern civil society as the key to understanding modern political life, along with his equally strong insistence on the separation of civil (and economic) society from the proper concerns of politics (and the state) and his emphasis on the subjective experience and affirmation of modern citizens as ineliminable in any case for the normative legitimacy of political authority, all together with his appeal to the role of reason in modern societies came to look not like an

55 PR, xxvii-xxix.

56 Hardimon, Hegel’s Social Philosophy, 222.
irrationalist antiliberalism but like a broader consideration of and ultimate defense of liberal democratic society itself. […]

In very general terms, for many, the only modern philosopher who had begun to develop the resources to understand and “theorize” the distinct aspects of the rapidly changing, unprecedented nature of modern society was Hegel. Prepared by attention to Hegel’s historical approach, one might then have the resources to be able to understand the development of liberal democratic society into a mass, anonymously administered, all-encompassing, and soul-deadening consumer [i.e., bourgeois] society.57

On such a view, Hegel’s political thought constitutes a powerful way of criticizing the radical privatism and atomism of the bourgeois whose particularism is portrayed as the main threat to collective political action necessary for upholding a free political community.58

But there are a few issues with this way of framing Hegel. If the main target of this reading of Hegel is to help us prevent our free societies from degenerating into “a mass,


58 Contemporary Hegelianism assumes that the reason why Hegel identifies the political community as necessary for the realization of individual freedom is because “liberals” are too often fond of attributing a sort of radical independence and self-sufficiency to the discrete individuals. That is, modern day Hegelians think that an insufficient attention (mainly driven by Lockean theories of individual liberty) to how our individual freedoms are constituted by our political communities leads us to view community with unwarranted skepticism when our attitudes should be that of embrace and collective solidarity.
anonymously administered, all encompassing, and soul-deadening consumer society” as Pippin had put it, it is unclear that targeting bourgeois individualism as the culprit makes sense. After all, as we pointed out above, liberals (unless one is talking about a strawman) would hardly argue that governments and political communities have no role at all in realizing the freedom of individuals. And even when one starts from a strictly instrumental view of government, there is nothing inherent to such a view that precludes solidarity or collective action or any other form of joint commitment in upholding the institutions of a free society. In fact, it may turn out that self-interest may result in stronger political motivations than an ambiguous appeal to the general will.

Moreover, it is also unclear whether focusing on liberal individualism actually tackles this problem of political apathy given that there is strong evidence that citizen indifference today stems less from individualism than from how public policies, as a result of government institutions being co-opted by elite interests, have for a long time not reflected citizen preferences. As I interpret it, it is highly unlikely that framing Hegel’s constitutive idea of government action as opposed to the instrumentalism of bourgeois individualism would result in anything but abstract moralizing with no traction on the main issue liberal democracies are facing today – namely, how we can realize a government that is not merely a “democracy” in name but one that truly advances the will and interests of the people. And Hegel’s strictures against moralizing in politics corrects our excessive focus on the mistaken ideas people have in their brains and redirects our focus towards how


elites have captured the government process to advance and rationalize their rent-seeking behavior.\textsuperscript{61}

ii. Hegel against Elite Domination

Instead, Hegel’s criticism of social contractarianism rejects \textit{aristocratic individualism}. Hegel’s rejection of the instrumentalist notion government reveals his concern that elite domination directly undercuts the very institutional preconditions necessary for modern freedom. This means that when the modern state is made a tool for the advancement of elite interests, this transforms public authority into the domination of the strong over the weak. Hegel’s insight that political community is \textit{constitutive} of our freedom argues that only when elite domination is curbed can there be a government in the interests of all. And for Hegel, rejecting the social contract tradition is one way of questioning how powerful individuals throughout history have used this tradition to justify their exemption from public obligation by portraying their relationship to the state as one based on individual discretion and private consent. His criticism of social contractarianism has consequently a strong anti-elitist core to it so long as powerful individuals like feudal aristocrats can arbitrarily exempt themselves from public laws.

Hence, whenever Hegel uses the term “individual”, we must understand him to mean mainly \textit{persons who are able to pursue their private interests at the expense of the public good}. Phrased this way, my contention is that Hegel’s criticism, when read against

\textsuperscript{61} PR, p. 16.
the historical situation of 1820s Prussia, is lodged at powerful aristocratic individuals who had an interest in weakening the state to elude public accountability. Hegel writes,

[i]f the state is confused with civil society and its determination is equated with the security and protection of property and personal freedom, the interest of individuals [der Einzelnen] as such becomes the ultimate end for which they are united; it also follows from this that membership of the state is an optional matter. – But the relationship of the state to the individual [Individuum] is of quite a different kind. Since the state is objective spirit, it is only through being a member of the state that the individual [Individuum] himself has objectivity, truth, and ethical life. Union as such is itself the truth content and end, and the destiny [Bestimmung] of individuals [Individuen] is to lead a universal life; their further particular satisfaction, activity, and mode of conduct have this substantial and universally valid basis as their point of departure and result.62

What all the Hegelese about “Union” and the state being the “objectivity, truth, and ethical life” of individuals simply indicate is that freedom is more than just something psychological or in our brains (i.e., a subjective experience), but is something which

62 PR §258
requires certain objective (i.e., mind-independent) institutions (e.g., the state) that prevent others from interfering with my aims and goals in life.\textsuperscript{63} Hence, since the state is something which constitutes individual freedom rather than that which only serves to instrumentally preserve it, his vision of government must guarantee those conditions that enable persons to be free. Hegel thinks that such conditions do not exist when “individuals” treat their relationship to the state as “optional” because, when the state is unable to coordinate powerful interests in civil society to benefit the common good, those living under such a form of government end up being subject to the will of the strong.\textsuperscript{64} As a result, Hegel advances the autonomy of state institutions vis-à-vis individuals and their interests because a strong state can resist the push and pull of particular interests and enable it to set policies for the benefit of all.\textsuperscript{65}

Yet, the relevant question is who and against whose interest Hegel has in mind when he advances a strong, independent state. The liberal-communitarian reading would like to argue that Hegel has in mind the bourgeois private individual, but there are strong reasons to reject this view. Hegel in these passages must be read as arguing for state autonomy from elite individuals whose interests and private power make them particularly subversive of the state’s ability to act in the interests of all. That is, who these individuals Hegel was concerned about were the powerful feudal aristocrats who drove a concerted effort to preserve their power and privileges against efforts by the Prussian monarch and

\textsuperscript{63} We explore this more in chapter III.

\textsuperscript{64} Recall Locke’s retort above.

\textsuperscript{65} The question of state autonomy is detailed in chapters IV and V.
civil servants to realize national policy. Implicit evidence of this feudal struggle against the modern state appears in §75 where Hegel criticizes social contractarianism in government,

The nature of the state has just as little to do with the relationship of contract, whether it is assumed that the state is a contract of all with all, or a contract of all with the sovereign and the government. – The intrusion of this relationship, and of relationships concerning private property in general, into political relationships has created the greatest confusion in constitutional law [Staatsrecht] and in actuality. Just as in earlier times political rights and duties were regarded as, and declared to be, the immediate private property of particular individuals in opposition to the right of the sovereign and the state, so also in more recent times have the rights of the sovereign and the state been regarded as objects of contract and based on a contact, as the result merely of a common will and proceeding from the arbitrary will of those who have combined to form a state. (PR §75)

And Hegel clarifies:

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In recent times, it has become very popular to regard the state as contract of all with all…. This view is the result of superficial thinking… [For] in the case of the state, this is different from the outset, for the arbitrary will of individuals [Individuen] is not in a position to break way from the state, because the individual is already by nature a citizen of it. It is the rational destiny [Bestimmung] of human beings to live within a state, and even if no state is yet present, reason requires that one be established. The state itself must give permission for individuals [Einzelne] to enter or leave it, so that this does not depend on the arbitrary will of individuals concerned; consequently, the state is not based on contract, which presupposes an arbitrary will. … The great advance made by the state in modern times is that it remains an end in and for itself, and that each individual may no longer base his relationship [Beziehung] to it on his own private stipulation, as was the case in the Middle Ages. (PR §75, Addition)

In both excerpts, the reference to “earlier times” and the “Middle Ages” in Hegel’s critique of the “social contract” theory of government is not by accident. Hegel is directly criticizing
how the nobility under feudalism rejected a strong state in advancing their own interests.\textsuperscript{67} That is, feudalism is identified by Hegel as a political system unable to prevent powerful individuals from advancing a discretionary, not obligatory, relationship to their government.\textsuperscript{68}

In fact, no clearer evidence of Hegel’s criticism of feudalism can be found than in Hegel’s discussion of money (PR §299). It is well known to scholars of the period that the rise of money as a medium of exchange radically undermined traditional feudalism.\textsuperscript{69}

Traditional feudalism defined the mode of exchange between the Crown, the lords and serfs in terms of customary in-person contributions like military service and labor. Just as how in times of war the lords must personally show up with their private armies to defend their king, so are the lords’ serfs expected to work directly on the lords’ lands (their demesne) for a specified time in return for protection and access to the manorial “justice” system. The reason why these exchanges were not expressed in money payments but


\textsuperscript{68} And on this front, Hegel is historically accurate. Here is the \textit{Shorter Cambridge Medieval History} defining feudalism “as an arrangement of society based on contract, expressed or implied.” For under feudalism, “[t]he status of a person depended in every way on his position on the land, and on the other hand land-tenure determined political rights and duties. The acts constituting the feudal contract were called homage and investiture. The tenant or vassal knelt before the lord surrounded by his court (curia), placing his folded hands between those of the lord, and thus became his ‘man’ (homme, whence the word homage). He also took an oath of fealty (fidelitas) of special obligation. This of course was the ancient ceremony of commendation developed and specialized. The lord in his turn responded by ‘investiture’, handing to his vassal a banner, a staff, a clod of earth, a charter, or other symbol of the property or office conceded, the fief (feodum or Lehn) as it was termed, while the older word benefice went gradually out of use. This was the free and honourable tenure characterized by military service, but the peasant, whether free or serf, equally swore a form of fealty and was invested with the tenement he held of his lord. The feudal nexus thus created essentially involved reciprocity.” Quoted in Douglass C. North and Robert P. Thomas, \textit{The Rise of the Western World: A New Economic History} (Cambridge: Cambridge University Press, 1973): 9.

\textsuperscript{69} Douglass and Thomas, \textit{The Rise of the Western World}, 38-41.
directly involved the activities of the persons lies in the non-existence of a money-based price-system that could provide information on how much the factors being exchanged were worth on the open market. Therefore, the more cost-effective way of exchange was to confine the decision process to the local, manorial level, i.e., to simply follow customary guidelines on who owed what to whom in terms of concrete services rendered.

However, the rise and expansion of continent-wide moneyed markets of exchange changed the calculus associated with negotiating trade in services. With market prices available, it became easier for lords to simply state an abstract value of money they expect from the labor of their serfs and rely on general price fluctuations to adjust their calculations. Money also allowed the lords to pay what they owed so lords need not personally show up on the battlefield of the king and kings could hire professional military personnel instead, Also, serfs could be efficiently “taxed” in greater amounts because their time could be fully focused on their own plots of land. Thus, “thanks to a market economy,” write Douglass North and Robert Thomas, “governments could now receive taxes in the form of money instead of labor services, and were thereby enabled to hire their own specialized bureaucracies and armies as needed.”

And in a similar vein, Hegel notes, “it is only when these [services] are expressed in terms of money, that [these services] can be determined justly and at the same time in such a way that the particular work and services which the individual can perform are mediated by his own arbitrary will.” (PR §299). That is, the general efficiency of money allowed individuals to be privately engaged in whatever they want to do and allows for the rise of a general framework which supports the price-system, a framework which frees the

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70 The Rise of the Western World, 92.
average person from the dominion of exacting and inequitable personal relationships of concrete obligation by transferring the enforcement mechanisms onto impersonal “invisible hand” forces and a regulatory public authority which is no longer personal in character. Implicit then in Hegel’s defense of “money” is a critique of feudal particularism and how it personalizes human relationships in a way that neither allows equity and personal freedom to arise, and why modern money and the public authority that goes along with it overcame the aristocratic tendency to reduce services owed to the state to matters of concrete and particular discretion.

Yet, Hegel’s evaluation of feudalism is somewhat anachronistic. Hegel mistakenly assumes that, under feudalism, individuals were able to make a distinction between public and private forms of authority, a distinction which simply did not exist under feudal rule.\(^1\) Feudalism, we recall, centers on the lord’s manor.\(^2\) This meant that there is no “public

\(^1\) A distinction that Habermas explains did not exist under manorial rule; see his *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, trans. Thomas Burger (Cambridge, MA; MIT Press, 1991): 6-7.

\(^2\) And, once again, from the *Shorter Cambridge Medieval History* as quoted from North and Thomas, *The Rise of the Western World* (pp. 10-11): The most characteristic version of the manorial village, although narrowest in its distribution, was the English 'manor', which became the most closely organized and most durable of the type. It consisted of two once distinct elements, the economic and the administrative, and thus strove towards two intimately connected aims, the subsistence of the villagers, and the lord's profit and authority. The village community lay at the basis of the whole. In a brief description only an average account, subject to countless irregularities, can be given. The normal villager (villanus villein) would hold a yardland or virgate of thirty acres (or its half, a bovate), distributed in scattered acre-strips in the three or two open fields of the manor, which might coincide with the village or be only a part of it. He followed the manor routine (its 'custom') in the cultivation, the ploughing, sowing, and reaping, of his strips; independent husbandry was barely possible in the open fields. In each year one field in rotation out of the two or three (as the case might be) was left fallow and unenclosed for beasts to graze in; the cultivated field or fields were fenced round. His own livestock up to a stated number were free to pasture in the 'waste'; he had his share of the hay-meadow. Intermingled with the tenants' strips in the open fields lay the strips kept by the lord of the manor in his own hands, his demesne. There was a strong tendency, however, to isolate the demesne in a home-farm. In this connexion arose the greater part of the labour services which the villager owed for his tenement. Each villein household owed week-work (one labourer) of usually three days a week on the demesne farm, which included its share of the ploughs, oxen, and implements for all kinds of work and cartage. The cottars, whose holdings were much smaller, owed of course less labour. At the peak periods of mowing and reaping, boon-work of all kinds was required in addition, and in this the freemen, socagers and others, who occupied their tenements for a rent or other terms implying free contract, took their part. A freeman, however, might hold land on villein tenure, and vice versa. The assarts,
authority” to speak of in the feudal world. To live in a feudal society is to live in a highly personalized, hierarchical and delegated manorial power structure fragmented among privileged individuals bound by oath to serve their superiors in exchange for protection.

In other words, such a system of parcellated authority meant that relationships between superior and inferior were discretionary exchanges between “contracting” individuals. This is why Hegel interprets such a system to be one dominated by private relations, although from the perspective of historical accuracy, it would be completely inadequate to call such relationships “private” since such a term presupposes a “public” realm that did not exist under feudal rule. In any case, Hegel’s identification of the rule of the monarch with “public authority” and the rule feudal lords as “private” forms of authority expresses view that feudalism had a weak political community beholden to elite interests.

or reclamation from the waste, were commonly less burdened with the heavy dues of villeinage. Dues of all kinds, indeed, pressed on both villein and freeman of the manor, render of hens, eggs, special payments, etc. The villein, besides being tied to the soil, was subject to the servile fine of merchet (formariage) on his daughter's marriage and to the exaction of his best beast as heriot (mainmorte) on his death; he paid the money levy of tallage at the lord's will; his corn was ground in the lord's mill; in France the lord's oven and his winepress were seigneurial monopolies. The villein might be selected as reeve or other petty official of rural manorial economy. His condition, however, was mitigated by the growth of the custom of the manor, which at any rate fixed the exactions he laboured under and secured him in his hereditary holding. Like the freeman he attended the manorial court, which declared the custom of the manor and its working. The lord of many manors would send round steward or bailiff to receive his profits and collect produce for his support in those in which he periodically resided. Besides the subsistence of the villagers, in short, their labour was to provide that of the warrior governing class and the allied ecclesiastical dignitaries, to both of whom they owed as a rule what little peace, justice, and enlightenment they had.”

In examining land conflicts in Africa, Catherine Boone argues that in agrarian societies, “political and economic rules overlap and are embedded in each other. This contrasts with the formal separation of political and economic rules that appears in settings where impersonal markets govern access to productive assets, and where the liberal conception of the economy and the polity as autonomous spheres prevails.” Property and Political Order in Africa: Land Rights and the Structure of Politics (Cambridge: Cambridge University Press, 2013): 5.

Anderson describes feudalism as “parcellized sovereignties” in Lineages, 19.

As we explore Hegel’s monarchism in chapter IV.
Indeed, this narrative about feudal rule takes aim squarely at the rise of “noble reaction” in early nineteenth century Prussia. To briefly foreshadow the political drama of chapters IV and V on the monarchy and bureaucracy, Hegel was writing when Prussia saw the resurgence of the landed aristocracy after the failed reforms of progressives like Baron von Stein and Prince Hardenberg. This political return of the traditional aristocracy occurred in the few years after the Prussian defeat at Jena in 1806 at the hands of Napoleon when prior Junker government was momentarily discredited for military incompetence. During this era of Prussian reform, a new breed of men, the bureaucrats – namely, those with university degrees and who tended to share in the professions like the civil service, professoriate (like Hegel), the judiciary, etc.; in short, the Educated classes (Gebildeten) – introduced what they considered necessary reforms into government. For a time, the reformist agenda were successful, but precisely because the source of their power lay not in a democratic or popular movement, but rather, in an abstract appeal to “reason” and in their alliance with the monarchy against the traditional aristocracy, theirs was a short-lived success in a feudal world.76

This a marriage of convenience between the bureaucrats and the Prussian monarchy formed the political framework within which Hegel worked in criticizing the Junkers. Hegel viewed such an alliance as necessary for the advancement of the autonomous state against the aristocratic classes in Prussia. And indeed, such an alliance worked well during the reign of Frederick William III. It can therefore be said that, during the time of Hegel’s scholarly maturation from 1806 to the 1820s, it appears that the Reform Era was poised to usher in a new class of decision-makers committed to efficient administration, technical

76 See Simon, The Failure of the Prussian Reform Movement.
expertise, responsible government, and most importantly, a commitment to keep the landed aristocracy out of power.

Yet, Hegel’s hopes were dashed when the landed aristocracy fought back. Through vigorous local intransigence and a concerted campaign of propaganda involving prominent Restorationist intellectuals and Romantics, the Prussian Junker class opposed every introduction of “rational” reform and every effort to bring “new men” into government. By a war of attrition, the Junkers fought tooth and nail and, in a few years, the Reformers were gradually removed from government or co-opted by their enemies. Hegel’s mature reflections on politics thus coincided with the return of the landed aristocracy in what Hans Rosenberg calls Counterrevolution [ständische Reaktion]:

Directed against centralized absolutism, monarchical or bureaucratic, and against leveling democratization in any form, the "counterrevolution" of the "First Estate," the “ständische Reaktion," as it came to be called, aspired not just to the restoration of the status quo, as of 1806. It aimed at the establishment of a limited monarchy through the partial revival of medieval constitutionalism, of the representative institutions and hoary political valuations of the preabsolutist Ständestaat. In consequence, the country squires, in their fight against bureaucratic rule without

77 Important to note is how the Estates (die Stände) played a huge part in this. We explore the role of representative institutions and conservatism in chapter VI. But see Robert M. Berdahl, “The Stande and the Origins of Conservatism in Prussia,” Eighteenth-Century Studies 6(3) (1973): 298-321.
consent, free competition, and equality of opportunity, called for the restoration of the ancient provincial estates. Presenting themselves as "the most valuable class," they reintroduced into the political debate the idea of having a legal, historically rooted right to co-government and especially to a definite share in legislation. They invoked the Recesses of the Diets of 1540 and 1653 as if they were still current law. They advanced the thesis that old laws could be changed only through "contractual" agreement between the crown and the provincial estates. They questioned the legitimacy of the central government's authority and hence challenged the legality of measures passed by executive decree. They revived the old battle against administrative law.

Special note, as Rosenberg points out, must be paid to how one of the many arguments put forward by the traditional aristocracy was that their relationships to the crown and any form of public authority were to be strictly governed by "contract", implying that their willingness to comply with public law travels only as far as they "consent" to it. This supports my interpretation that the idea of a “social contract” became, in Prussia, an

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78 Note the notion of a social “contract” as central to the reactionary political platform.

79 Hans Rosenberg, Bureaucracy. Aristocracy and Autocracy, 223.

80 Recall the emphasis on “consent” so central to liberalism above.
argument used by reactionaries like Friedrich von Gentz and Justus Möser, to justify a limited feudal government in their interests as Domenico Losurdo notes,

Conservative or reactionary contractualism spreads throughout Europe, and perhaps especially in Germany…. Thus, the anticontractualist polemic [of Hegel] does not have an antiliberal, conservative significance as is commonly believed. On the contrary, in Prussia, those who defend the contract and the necessary respect for the contract are the aristocratic reactionaries, who oppose antifeudal reforms and who hold on stubbornly to the ‘spirit of old Europe.’ … The culture of the time, in fact, often uses the theory of the State in a strongly anti-egalitarian manner, that is, as a private joint-stock company. 81

This context of an aristocratic “battle against administrative law” explains Hegel’s resistance to the liberal theory of the state. His resistance arose not because Hegel was worried that bourgeois ideas would rule or that people would become apathetic or retreat into their private consumerist affairs in civil society. This is especially inaccurate give how, for all practical purposes, the bourgeoisie in Prussia at this time were politically

insignificant and simply unwilling to challenge the prevailing feudal order their trades and industries benefited from.\textsuperscript{82}

Liberal theories of limited government were instead convenient rationalizations for the Junker class to oppose the centralization of government power for the preservation of their special interests. Hegel’s interpretation of feudalism thus coincides with his criticism of the social contract tradition because of his worry that such arguments only advanced the interests of the aristocratic individual at the expense of a much-needed diminution of their power by a strong state. Hegel in fact explicitly argues that under feudalism

[t]he king and emperors were no longer the chiefs of the state, but of the princes, who were indeed their vassals, but possessed sovereignty and territorial lordship of their own. The whole social condition therefore [is] founded on individual sovereignty… for the feudal lords themselves determined how far they were still dependent on the general constitution of the state.\textsuperscript{83}

And as such

\textsuperscript{82} We explain why the early bourgeoisie were so timid in chapters V and VI.

Individuals were therefore obliged to consult for themselves by taking refuge with Individuals, and submitted to the authority of certain powerful persons, who constituted a private possession and a personal sovereignty out of that authority which formerly belonged to the Commonwealth.\textsuperscript{84}

And so,

This is the constitution of the Feudal System. “Feudum” is connected with “\textit{fides}” the fidelity implied in this case is a bond established on unjust principles, a relation that does indeed contemplate a legitimate object, but whose import is not a whit the less injustice; for fidelity of vassals is not an obligation to the Commonwealth, \textit{but a private one – ipso facto} therefore subject to the sway of chance, caprice, and violence. Universal injustice, universal lawlessness is reduced to a system of dependence on and obligation to individuals…. The valor that now manifested itself, was displayed not on behalf of the State, but of private interests. In every district arose castles, fortresses were erected, and that for the \textit{defense of private property}…\textsuperscript{85}

\textsuperscript{84} Ibid, 387.

\textsuperscript{85} Ibid, 387-388, my emphases.
In other words, we see, in Hegel’s own words, that “we find a complete individualization, the loss of all sense of the state, a complete lack of feeling for the state, and a preoccupation with private advantage and fragmentation” under feudal rule.⁸⁶

Clearly, liberal-communitarian interpretations of Hegel are wrong. Hegel makes it explicit that “feudal monarchy” is a regime “in which the relationships covered by its constitutional law [inneren Staatsrecht] have become firmly established as rights of private property and privileges of individuals and corporations.”⁸⁷ Hegel then continues that “since the life of the state is based, under this [feudal] constitution, on privileged personalities to whose discretion a large part of what has to be done for the preservation [Bestehen] of the state is entrusted, the objective aspect of their services consists not in duties but in representations [Vorstellung] and opinions; consequently, the state is held together not by duty but merely by honour.” (PR §273). In sum, only by reading Hegel as rejecting to aristocratic individualism can we gain clarity on why he even wrote the Philosophy of Right.

iii. Conclusion

This chapter seeks to show that the Hegel of the liberal-communitarian debate is not only historically inaccurate but also ignores the real issue of elite feudal domination so

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⁸⁷ And by corporations, Hegel here means those aristocratic estates. In this passage Hegel is talking alluding to Montesquieu.
central to Hegelian thought. Hegel rejects the instrumentalist vision of government advanced by liberalism mainly because such arguments in his time enabled powerful individuals to resist submission to public accountability, law and authority. The rest of the book will further prove this point by examining each of the specific institutions Hegel advances in the monarchy, the bureaucracy, and the corporation which have for long been considered antithetical to the core of his philosophy of freedom.

I hope, however, that by showing how Hegel was concerned mainly with elite domination, and how the presence of elite exemption from public laws and accountability directly poses a threat to the very conditions that are necessary for all citizens to realize a free life, we can begin to understand the ways in which Hegel responded in historically specific ways to the perennial problem of securing autonomy within political communities struggling with unequal power relations. With this in mind, we turn to the democratic core of Hegel’s philosophy of freedom.
The Democratic Core of Hegel’s Philosophy of Freedom

III

This chapter discusses Hegel’s idea of freedom. I argue that his notion of “concrete freedom” is both democratic and institutional. I use Rousseau’s notion of the general will to show its relevance in Hegel’s theory of the state. Hegel idea of freedom is anti-elitist and deeply responsive to historical conditions in early nineteenth-century Prussia.
Hegel idea of freedom suffers from a public relations problem. Setting aside his defense of anti-democratic institutions like the monarchy, the bureaucracy, and the corporation to which we turn later, to argue that Hegel’s philosophy of freedom has a “democratic” core is, for many, a hard pill to swallow. Most readers of Hegel are typical disappointed to discover how all this talk about the rights of individual freedom gets subordinated to the public duties citizens owe to the state as “the actuality of concrete freedom” by which Hegel means that only as subjects of a state do human beings actually become free (cf. PR §258). Such a view of freedom has led critics like Isaiah Berlin to accuse Hegel of advancing a “positive” type of freedom that legitimizes extensive government interference in private life.

It seems that what particularly irks people about Hegel is not so much how he subordinates individual rights to public duties. For that we have many more explicitly authoritarian thinkers from which to draw. Rather, his seemingly grotesque argument that such subordination to the state constitutes the essence of “freedom” appears to be nothing short of sophistry. Many simply dismiss such claims as metaphysical in the pejorative sense.

91 Any cursory reading of his work reinforces the popular impression that Hegel’s understanding of freedom is not what the average person on the street typically understands by the word (PR §260). For most people, “freedom” normally means the ability to do whatever one wants without constraints so long as such actions do not affect other people which Hegel directly criticizes pejoratively as “arbitrary freedom”, superficial and philistine. Many thus find his view that “concrete freedom” consists in subordinating individual rights to public authority bewildering like Isaiah Berlin in “Two Concepts of Liberty,” Liberty, ed. Henry Hardy (Oxford: Oxford University Press, 2001): 218-251.
or attribute such views either to Hegel’s political accommodationism and/or the inebriating effects of his metaphysical system and “dialectics” which render him incapable of calling a spade a spade.\textsuperscript{92}

To claim, then, that Hegel’s philosophy of freedom has a “democratic core” appears to go further than what charitable readers have done so far in categorizing Hegel as a “liberal”.\textsuperscript{93} Focusing on how Hegel’s stress on securing “subjective freedom” places constraints on government action, not a few scholars have concluded that Hegel is simply a “standard liberal” (cf. PR §262).\textsuperscript{94} Yet, while such moves certainly bring Hegel closer to our sensibilities, proximity proves disappointing since neither does Hegel embrace the notion of limited government so central to liberalism nor does liberalism itself embrace limited government completely (cf. PR §272).\textsuperscript{95} In fact, Hegel repudiates such constraints on government action, and prefers to see public duties as enabling freedom rather than a mere instrument to preserve it.\textsuperscript{96} Such a view gives governments very wide latitudes (wider

\textsuperscript{92} See the introduction and admirable overview of essays on these topics in Thom Brooks and Sebastian Stein (eds.), \textit{Hegel’s Political Philosophy: On the Normative Significance of Method and System} (Oxford: Oxford University Press, 2017), especially 1-25.


\textsuperscript{94} “Hegel is now more often treated as a progressive, reformist, surely modernist political thinker, if not a standard liberal”, writes Robert Pippin in \textit{Idealism and Modernism} (Cambridge: Cambridge University Press, 1997): 19.


\textsuperscript{96} In war, for instance, Hegel writes, “[i]t is a grave miscalculation if the state, when it requires this sacrifice [of property and life in war], is simply equated with civil society, and if its ultimate end is seem
than what liberals are comfortable with) to interfere in the lives of its citizens in order to advance what the government thinks will realize the “the end of the whole” (PR §278). Thus, to argue that Hegel is “democratic” – i.e., to see him as advocating for the right of the people to self-govern – seems to ask for more than what even a stretched “liberal” reading of Hegel would allow for.

Nonetheless, some scholars stress that Hegel idea of freedom does indeed have a democratic core, or, as Jeffrey Church calls it, Hegel’s “democratic moment.” Frederick Neuhouser, for instance, succinctly captures this insight, writing that “[t]here is nothing intrinsic to these fundamental commitments [of his philosophy of freedom] that accounts for Hegel's skittishness about the masses or for his failure to emphasize that certain kinds of social criticism are compatible with, perhaps even required by, his account of the different forms of practical freedom.” Neuhouser reasons that the “intrinsic” value of Hegel’s project comes directly from Rousseau’s (at first puzzling) insight that citizen

97 The essence of Hegelian political “idealism” consists in Hegel’s rejection of the autonomy of the parts of the state and their subordination to the overriding concern of the public good. This is called “sovereignty” by Hegel where particular interests “are determined by and dependent on the end of the whole” (PR §278).

98 For how Hegel can be read as a “democrat” in ways not dissimilar to my own historically-informed account, see Domenico Losurdo, Hegel and the Freedom of Moderns, trans. Marella and Jon Morris (Durham, NC: Duke University, 2004).

99 But Jeffrey Church denies that Hegel’s democratic moment can be found in the state, confining it merely to the realm of civil society – a view with which I disagree given that if looked at from a historical perspective, it is the state that is ‘democratic’ in Hegel’s thought. Jeffrey Church, “G. W. F. Hegel on Self-Determination and Democratic Theory,” American Journal of Political Science 56(4) (October 2012); 1021-1039. For further, see Alan Patten, Hegel’s Idea of Freedom (Oxford: Oxford University Press, 1999); Frederick Neuhouser, Foundations of Hegel’s Social Theory: Actualizing Freedom (Cambridge, MA: Harvard University Press, 2000); and Mark Tunick, “Hegel’s Claim about Democracy and His Philosophy of History,” in Hegel and History, ed. Will Dudley. Stony Brook: SUNY Press, 2010.

100 Neuhouser, Foundations, 259-260.
fulfillment of their public duties can “realize” freedom when such obligations uphold institutions that prevent elite domination.\textsuperscript{101} In other words, public duties realize democratic freedom only when institutions are guided by some notion of a “general will” that prevents personal domination of the weak to the strong.\textsuperscript{102} It is in this anti-elitist sense that, for Hegel following Rousseau, citizens “have duties towards the state to the same extent as they also have rights” for in performing the former they simultaneously enjoy the latter (PR §261; cf. §155).

This is correct but Neuhouser does not elaborate on which elites Hegel had in mind as threatening to modern freedom. This misinterpretation has consequently made it impossible for scholars like Neuhouser to explain how Hegel’s project ended up defending anti-democratic institutions like the monarchy given the circumstances he faced.\textsuperscript{103} I want to show how Hegel’s idea of freedom is not only democratic but also inherently related to his defense of certain types of historical institutions designed to enforce public duties on recalcitrant elites. Only my interpretation can resolve the paradox into which many scholars like Neuhouser are unable to resolve.

This chapter therefore explores how Hegel’s idea of freedom is both “democratic” and “institutionalist”. By “democratic”, I mean that, for Hegel, every citizen in the modern state must be able to uphold their public duties and view such activities as realizing the conditions enabling their freedom thoughtfully and willingly. And by “institutional”, I

\textsuperscript{101} Neuhouser, 55-81, 114-224.
\textsuperscript{103} Neuhouser, 3.
mean that Hegel concentrates on what types of social institutions allow citizens to affirm such democratic relationships to government. As such, when Hegel argues that modern states are the “interpenetration of the substantial and the particular”, all Hegel is saying is that only where institutions prevent powerful persons from exempting themselves from public duties can every citizen view her membership in the modern state as constitutive of who she is as a free citizen because her public actions uphold the very institutions which secures her against subjection to external wills. Stated thus, Hegel’s idea of freedom is not an esoteric spin on the word, because it is, in practice, very close to what people do when they uphold institutions (even at considerable personal expense) that they think prevents their subjection to the powerful, thereby realizing their freedom in the process.

i. Hegel’s Concrete Freedom

Hegel argues that the modern state is the “actuality of concrete freedom” (PR §260). Let us explore this cryptic phrase. To start, I quote this key passage in §260 where Hegel writes,

The state is the actuality of concrete freedom. But concrete freedom requires that personal individuality [Einzelheit] and its particular interests should reach their full development and gain recognition of their right for itself (within the system of the family and of civil society), and also that they should, on the one hand, pass over of their own accord into
the interest of the universal, and on the other, knowingly and willingly acknowledge this universal interest even as their own substantial spirit, and actively pursue it as their ultimate end. The effect of this is that the universal does not attain validity or fulfilment without the interest, knowledge, and volition of the particular, and that individuals so not live as private persons merely for these particular interests without at the same time directing their will to a universal end [in und für das Allgemeine wollen] and acting in conscious awareness of this end. The principle of modern states has enormous strength and depth because it allows the principle of subjectivity to attain fulfilment in the self-sufficient extreme of personal particularity, while at the same time bringing it back to substantial unity and so preserving this unity in the principle of subjectivity itself. (PR §260)

This is essentially a programmatic statement of the entire Philosophy of Right where Hegel explains why modern states have “enormous strength and depth” unlike previous regimes in Ancient Greece, Rome and feudal Europe, because, only in the modern state do citizens “knowingly and willingly” uphold the state as something constitutive of their freedom. According to Hegel, regimes of the past were deficient in “knowing” and “willing” themselves as members of a higher political community than just the family and civil society. For instance, ancient citizens in classical Greece – so Hegel reasons – grounded
their political loyalties in immediate forms of civic sentiments and attachments, and so did not reflectively upholding their institutions as constitutive of who they are. In the same way, subjects of Rome and feudal Europe were like individuals in Civil Society who tended to view government an alien power opposed to their well-being, and hence, did not voluntarily accept their government’s authority.104

The task of Hegelian philosophy is hence to show how modern citizens are now able to both be conscious of and freely committed to those social institutions that they see constitute them as free citizens. The modern state is therefore special for Hegel because the modern citizen not only knows how her social institutions allows her to enjoy her individual rights, but as a result of such reflective knowledge, she can actually defend the very political framework that constitutes her identity as a free person. As such, when Hegel writes that citizens of the modern state “knowingly and willingly acknowledge this universal interest even as their own substantial spirit, and actively pursue it as their ultimate end”, all he is saying is that citizens of the modern state do not view their public duties like obeying the laws, defending their country, paying their taxes, etc. to the state as a foreign or alien imposition or as a blind habit. Rather they know such commitments as something constitutive of who they are and what they do as citizens of a free state.105

Yet, in characterizing the modern state in this way, Hegel is not of course suggesting that modern citizens do not oftentimes personally disagree with the public

104 The topos of Athenian “autochthony” and their close association of citizenship with kinship, as Josiah Ober notes, show that Hegel may not be too far off in making this comparative assessment. See Josiah Ober, Mass and Elite in Democratic Athens (Princeton: Princeton University Press, 1989): 263.

105 In Hegel’s Idea of Freedom, 164-165.
duties they are obligated to fulfill.\textsuperscript{106} The uniquely Hegelian insight into the “concrete freedom” modern states embody is that whatever modern citizens personally think about their public duties, they will not act in ways to exempt themselves from fulfilling these duties because they understand that only under the condition that all citizens are equally obliged to fulfill them can they be guaranteed that their public institutions realize their personal freedom and prevent their subjection to the private domination of the powerful.\textsuperscript{107}

This is why public duties are so central to Hegel’s notion of Ethical Life (cf. PR §§142-157). This willingness of citizens to set aside their “particular” opinions about their public duties and embrace the “universal” reasons given by public authority are what constitutes the unique “strength and depth” of modern states in their ability to freely bind citizens to laws with the proviso that no citizen is exempt from the laws, especially those most able of exempting themselves.\textsuperscript{108}

To be sure, all this is still very abstract. To make Hegel’s point a little more concrete, I think that we must first take a short detour to Rousseau, because Hegel alludes to the Genevan’s notion of the general will as key to understanding how modern states

\textsuperscript{106} Hegel argues that because human beings are “finite and particular” we will necessarily have differing views on what we consider right and wrong (PR §86). On this front he shares must with Rawl’s notion of the “burdens of judgment” which he, in no way, seeks to excise from politics.

\textsuperscript{107} This anti-elitist insight into the constitutive nature of public duties thus grounds Hegel’s other statements that the freedom in the modern state is “the unity of objective freedom (i.e., of universal substantial will) and subjective freedom (as the freedom of individual [individuellen] knowledge and of the will in its pursuit of particular ends)” in that the state allows for “the self-determining action [of individuals] in accordance with laws and principles based on thought and hence universal” considerations (PR §258).

\textsuperscript{108} In the passages on “The Good and the Conscience” before his transition from Morality to Ethical Life (PR §§ 129-141), Hegel goes through the inadequacy of personal “conscience” to know what is the right thing to do in life. This stress on the vacuity of conscience in practical life is certainly key to Hegel’s philosophical repertoire, but it should not mislead us to the context in which Hegel was writing in that such claims to follow conscience were also strongly advocated by those able to follow their consciences against public authority, i.e., the relatively well off and secured in society.
realize concrete freedom in the sense outlined above.\textsuperscript{109} “As far as the search for this concept [of the state] is concerned,” writes Hegel, “it was the achievement of Rousseau to put forward the will as the principle of the state, a principle which has thought not only as its form (as with the social instinct, for example, or divine authority), but also as its content, and which is in fact thinking itself.” (PR §258) Consequently, our detour to Rousseau will be indispensable in enabling us to see how the modern state enables citizens to embrace their public duties “ knowingly and willingly.

ii. A Rousseau Detour

Rousseau’s contribution to this debate has to do with his notion of a General Will because Hegel’s idea of “concrete freedom” is closely related to it.\textsuperscript{110} For instance, Rousseau’s notion that recalcitrant individuals who do not fulfill their public duties must be “constrained to be free” has elicited the same kind of accusations that, like Hegel, Rousseau too was advancing an esotericism that calls subordination a more “genuine” form of freedom.\textsuperscript{111} Yet, such reactions ignore how Rousseau’s General Will also responds to the failure of instrumentalist notions of government to form stable and free political communities.\textsuperscript{112} Thus, what, at heart, is shared by Rousseau and Hegel is the notion that if

\textsuperscript{109} See Arthur Ripstein’s treatment of this issue, although his point is about how Hegel saw the dangers of arbitrariness in Rousseau’s notion of the general will, whereas I am going to stress their similarities regarding the constitutive effects of universally binding public duties in ‘Universal and General Wills; Hegel and Rousseau,’ \textit{Political Theory} 22(3) (1994); 444-67.

\textsuperscript{110} Neuhouser, 55-82.


\textsuperscript{112} As discussed in chapter [x] before.
citizens only view their public duties as instrumental to their private advantage, then stable political communities – let alone free ones – will be impossible given that citizens will neither knowingly nor willingly perform their public duties whenever to do so ends up being to their personal disadvantage.

Let us review the argument. To recall, instrumentalists argue that citizens fulfill their public duties only because they see them as necessary to advancing their private self-interests. In other words, instrumentalists view public duties a necessary evil of sorts to prevent the dissolution of political society and “war of all against all” in the state of nature. Hobbes’ political thought represents this instrumentalist position well for he thinks that governments are necessary to prevent the state of war when individuals are their own judges on matters affecting others. On such an account, public duties are seen as inevitable and necessary “inconveniences” because war results when social coordination fails. As a result, governments constrain behavior and citizens comply out of self-interested motives to avoid death.

But Rousseau questions if this is the full story. As with Hobbes, Rousseau does accept the premise that individuals shirk contributions to the public good when they are left to their own devices and agrees that governments are necessary both to coordinate behavior to prevent the greater harm of war. Rousseau writes that such threats to political community are an inevitable fact about human individuality given that each person tends to prefer being her own judge as opposed to submitting to public authority. “Indeed, each individual can, as a man,” Rousseau writes, “have a particular will contrary to or differing

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from the general will he has as a citizen. His particular interest can speak to him entirely
differently than the common interest.” Consequently, a person’s individual perspective can
“lead him to view what he owes to the common cause as a gratuitous contribution, the loss
of which will be less harmful to others than its payment is burdensome to him” (SC I, VII).
In other words, both Hobbes and Rousseau agree that all political communities confront
what social scientists call the “free-rider problem” as citizens prefer to “enjoy the rights of
a citizen without being willing to fulfill the duties of a subject – an injustice whose spread
would cause the ruin of the body politic” (SC I, VII).

But Rousseau argues that sustained social coordination over time cannot explained
by appeal to self-interested motives alone. Rousseau incisively points out that it is precisely
because submission to the sovereign’s laws requires individuals to continuously view
compliance as being in their “self-interest” that such a view contradicts itself and cannot
explain why citizens do submit to public authority when, as is so often the case, it is
personally disadvantageous for them to do so. “If one must obey due to force,” Rousseau
writes, “there is no need to obey due to duty, and if one is no longer forced to obey, one is
no longer obligated to do so.” (SC, I, III)114 Rousseau even rejects an appeal to long- and
short-range perspectives of self-interest to explain such behavior arguing that this begs the
question since the instrumentalist must explain not just why citizens prefer to be citizens
because of the greater dangers of rebellion, but rather why citizens still choose to be citizens
even when they could personally benefit by being rebels.115

114 And by “force” Rousseau just means “necessity” – i.e., of avoiding a greater harm to oneself.

115 Some notion of a public interest, of a commitment to commit to public duties, must therefore supersede
the mere coincidence of private interests in such situations. See Brian Barry, “The Public Interest,”
Instead, Rousseau argues that political community lasts only when citizens see their public duties as an affirmation of who they are. Hence, Rousseau contends that why citizens fulfill their public duties even at the expense of their self-interest is because, by doing so, citizens affirm the society through which they become who they conceive themselves to be. As such, the shift to political community transforms how humans view themselves and what they do to realize their new self-conception. While formerly humans in the state of nature were only on the lookout only for themselves, citizens in political community gain a new sense of self through social interdependence and uphold those public duties necessary for securing freedom in relation with others. “This transition from the state of nature to the civil state,” Rousseau writes, “produces a very remarkable change in man, by substituting justice for instance in his conduct and by giving his actions the morality they previously lacked. Only then, when the voice of duty replaces physical impulse and right replaces appetite, does man, who until then had considered only himself, see himself forced to act on the basis of other principles and to consult his reason before listening to his inclinations” (SC, I, VIII).116

Of course, Rousseau’s argument is not that all public duties affirm my sense of self. Some public duties, like those defending slavery, deny all sense of self and do can never

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116 And indeed, this “reason” that man acquires in political community comes to give him “great advantages from it” like having “his faculties exercised and developed, his ideas enlarged, his feeling ennobled, his entire soul so greatly elevated” that “if the abuses of this new condition did not often degrade him beneath the condition he left, he ought to be endlessly thankful for the happy moment that forever tore him away from it, and that, from a stupid and limited animal, made an intelligent being and a man.” (SC, I, VIII) Rousseau concludes that because these public duties constitute who we are as free citizens, individuals will willingly fulfill them even at a personal disadvantage because they view their sense of self to be inherently tied to these public duties.
compel thoughtful obedience (cf. SC, I, IV).\textsuperscript{117} But to determine which public duties deserve our commitment and which do not, Rousseau formulates the General Will which allows citizens to separate good from bad public duties in how they advance freedom.\textsuperscript{118} In other words, for Rousseau, the General Will is a guide that enables citizens to discover what sorts to public duties enable them to be free even while subordinating themselves to a government. This is why Rousseau says that the General Will is a response to “the fundamental problem” of “[h]ow to find a form of association that defends and protects the person and goods of each associate with all the common force, and by means of which each, uniting with all, nonetheless obeys only himself and remains as free as before?” (SC I, VI).

So what is the General Will? Rousseau’s General answer is simply this: freedom and social coordination can only be reconciled when absolutely no citizen subject to public duties are able to exempt themselves whenever they perceive such compliance to be personally disadvantageous. And the reason for this universal criterion of non-exemption stems from the idea that only the equal imposing of public duties on \textit{all} precludes relations of personal domination and therefore allows me to be free. As such, Rousseau’s thought is that citizens of a free state will willingly carry out their public duties only when no citizen obeys a privileged few exempt from public authority as Rousseau writes:

\textsuperscript{117} We will touch on this below.

\textsuperscript{118} This element of social-interdependence is ably discussed by Joshua Cohen, “Review: Reflections on Rousseau”, esp. 284.
The commitments that bind us to the social body are obligatory only because they are mutual, and their nature is such that in fulfilling them one cannot work for someone else without also working for oneself... For in this institution each necessarily submits to the condition which he imposes on the others – an admirable agreement of interest and justice which gives the common deliberations an equitable character that is seen to vanish when discussing any particular affair for want of a common interest which unites and identifies the rule of the judge with that of the party... [Hence] the social compact establishes among the citizens an equality such that they all commit themselves under the same conditions and should all enjoy the same rights. Thus, by the nature of the compact every act of sovereignty – that is, every authentic act of the general will – either obligates or favors all of the citizens equally, in such a way that the sovereign recognizes only the body of the nation and does not single out any of those who make it up. (SC, II, IV)

As such, Rousseau notorious phrase that individuals who exempt themselves from public duties will be “constrained to be free” by the General Will must not be misunderstood to mean the authoritarian negation of one’s freedom to choose.¹¹⁹ For the General Will to

¹¹⁹ “Therefore, in order for the social compact not to be an empty formality, it tacitly encompasses the following commitment, which alone can give force to the rest: that whoever refuses to obey the general will
actually produce freedom, shirking must be disallowed because, if people started to shirk from their public duties, such shirking would actually undermine our ability to be free because these shirkers end up threatening those very conditions that prevent unequal distributions of duties that will inevitably lead to some, i.e., those able to shirk, paying less than their fair share for the benefits of political society.\textsuperscript{120}

This is a crucial point worth stressing for it touches on who are the shirkers Rousseau (and Hegel) has in mind. Stated in the abstract, this “free-rider” problem gives us the impression that the shirker who would, as Rousseau so nicely put it, “view what he owes to the common cause as a gratuitous contribution, the loss of which will be less harmful to others than its payment is burdensome to him,” could be your average Joe. And to be sure, the general problem of shirking public duties that Rousseau and Hobbes tackle is applicable to a wide range of human endeavors from managing household chores among roommates to organizing empires. But when it comes to the political community they had in mind, the generality of this problem cannot be stated in the abstract but must be informed by empirical considerations of who are the shirkers pertinent to the issue. It also does not take much to realize that in most situations, those who shirk their public duties are also those most able to do so with impunity because they have resources, connections, and

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\textsuperscript{120} In many ways, R. R. Palmer judiciously captures the essence of an “aristocracy” as a constituted body of persons who are able to exempt themselves from their public duties. “Aristocracy,” he writes, meant the rule of certain constituted bodies, which claimed sovereignty for themselves, were self-perpetuating in a limited number of families, and denied the right of outside persons, or excluded classes, to have any influence on their policies or their personnel.” \textit{The Age of the Democratic Revolution}, 275.
privileges (either formal or informal) – in short, they have *power* – to gain the benefits of political association without having to pay their fair share.

In matter of fact, the issue of public commitment cannot be discussed without consideration of the highly unequal standings human beings have in society. This, Rousseau points out, is an inevitable fact about social inter-dependence, and the question any political theory of freedom must solve is not to figure out what kinds of political association would best coordinate equals.\textsuperscript{121} To assume such implausibly egalitarian social conditions conveniently avoids the problem altogether when the issue is precisely to figure out how to coordinate individuals already occupying highly unequal positions. For “rather than destroying natural equality, the fundamental [social] pact on the contrary substitutes a moral and legitimate equality for whatever physical inequality nature may have placed between men, and that while they may be unequal in force or genius, *they all become equal through convention and by right.*” (SC I, IX).\textsuperscript{122} Rousseau’s aim of “taking men as they are and laws as they can be” consequently indicate that the General Will aims to restructure how humans have *already* been relating to each other because there is no other standpoint from which human beings can begin from to realize their freedom (SC, I). Or, to show how this connects to Hegel, Rousseau’s project is very close to Hegel’s notion that philosophy must somehow comprehend the *present*, for only by starting from existing relations can we have concrete solutions to concrete problems.\textsuperscript{123}

\textsuperscript{121} This is the whole point of Rousseau’s *Second Discourse.*

\textsuperscript{122} My emphasis.

\textsuperscript{123} In PR §153, Hegel criticizes the pedagogical project of Rousseau’s Emile precisely on this point.
It is for this reason that Rousseau takes the question of elite domination very seriously because he acknowledges that in very unequal societies, especially during *ancien régime* France, public duties were certainly *not* universally enforced and the majority of public contributions fell on the backs of those whose weaker standing in society and lack of noble privileges subjected them to the domination of the powerful. This is why Rousseau argues that only when the powerful are compelled to fulfill their public duties will citizens realize their freedom under arrangements guaranteeing that “they do not obey anyone, but obey only their own will”. It is this constitutive insight Rousseau offers of our public duties that we will now see in Hegel’s notion of concrete freedom.

### iii. Equal Duties and Equal Rights in Hegel

Rousseau’s insight about the constitutive dimension of equal public duties is made the cornerstone of Hegel’s theory of the modern state. The following passage from Hegel on the relationship of duties and rights will illustrate the extent to which many of the themes we discussed above are present in Hegel’s notion of concrete freedom. Hegel writes,

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125 “What, then, precisely is an act of sovereignty? It is not an agreement between a superior and an inferior, but rather an agreement between the body and each of its members – an agreement which is legitimate because it has the social contract as its basis, equitable because it is common to all, useful because it has no object other than the general welfare, and solid because it has the public force and the supreme power as its guarantor. As long as subjects are subjected only to such agreements, they do not obey anyone, but obey only their own will. (SC, II, IV)
In the state, as an ethical entity and as the interpenetration of the substantial and the particular, my obligation towards the substantial is at the same time the existence of my particular freedom; that is duty and right are united within the state in one and the same relation [Beziehung]…. That absolute identity of duty and right … is a single principle for both duty and right, namely the personal freedom of human beings. Consequently, slaves have no duties because they have no rights, and vice versa. (PR §261)

This passage shows that Hegel also views certain types of public duties as constitutive of the freedom in because public duties are linked to the enjoyment of the “the personal freedom of human beings” through institutions that guarantee such rights. Hence, the reason why slaves have “no rights” is because, as human beings owned by others, they have no independent initiative to obligate themselves to anything or anyone. They are prevented from “taking possession of oneself” (PR §57). For Hegel, what distinguishes the slave from a citizen – once again with clear echoes of Rousseau here – is that citizens do have such personal initiative in binding themselves towards those social institutions that enable them to enjoy the rights of citizenship (cf. PR §57).126 This constitutive unity of public duties and rights is consequently something which slaves or any person under forms

126 Another way of putting this is how Hegel thinks to be free requires that the will will itself and all the necessary conditions that allow it to do so: “The will is free only insofar as it does not will anything other, external, or alien (in which case it would be dependent), but wills only itself as will. The absolute will is the will to be free. The will which wills itself is the basis of all right and obligation, and hence of all laws of right, prescribed duties and imposed obligations”. (Political Writings, ed. Laurence Dickey and H. B. Nisbet (Cambridge: Cambridge University Press, 1999): 211).
of coercion do not possess, since their relationship to such institutions preclude the mutual reciprocation of duties and rights through which their freedom becomes real. It is this “unity” of duty and rights that forms the cornerstone of “concrete freedom” in the modern state.\textsuperscript{127}

Indeed, this “unity” of duty and rights is so central to Hegel’s notion of concrete freedom because it implies that, for freedom to be realized, no one, especially the powerful, can be exempt from these public duties. In this vein, Hegel’s thought clearly reflects the constitutive argument of Rousseau’s General Will in that only when the social institutions of the modern state are \textit{universally} upheld will the citizen, “in fulfiling his duties as a citizen,” thereby gain “protection for his person and property, consideration for his particular welfare, satisfaction of his substantial essence, and the consciousness and self-awareness of being a member of a whole.” (PR §261)\textsuperscript{128} “Aristocrats,” by contrast, Hegel warns, “who pay no taxes, stand in the greatest danger of losing their wealth through violence, since they cannot find reconciliation by sacrificing it” to the public interest.\textsuperscript{129}

\textsuperscript{127} This also helps explain why Hegel thinks that the ancient Greeks were not really free because so long as their societies had slaves, only some were free. Thus, the constitutive relationships of public duties to individual freedom remained something confined to a select group of male citizens who did not have a reflective relationship to their governments. For if they had introduced reason to ground the identifications, as opposed to grounding it on their autochthony, they might have, as Aristotle sensed, the exclusive nature of classical citizenship to be logically untenable.

\textsuperscript{128} See parallels with SC II, IV where Rousseau writes that “it is so manifestly false that the social contract involves any genuine renunciation on the part of the private individuals, that, as a result of this contract, their situation actually proves to be preferable to what it had been beforehand, and that, instead of an alienation, they have only made an advantageous exchange on an uncertain and precarious mode of existence for a better and more secure one, of natural independence for freedom, of the power to harm others for their own security, and of their force, which others would overcome, for a right which the social union renders invincible.”

As such, the problem of elites shirking their public duties takes center stage in how Hegel, like Rousseau, is also trying to figure out what political arrangement enables “the existence of the free will” which he calls “Right” (PR §29).130 And to avoid any ambiguity here, all Hegel is saying with “Right” here is that for citizens to enjoy personal freedom they must affirm the necessary conditions which allow them to be free. Hegel’s fancy way of calling such necessary conditions “existence [Dasein]” should not obscure the very plain and simple insight that freedom is not something humans can simply assert or imagine in their heads. Rather, freedom must be something that we do together that results in securing and dutifully binding ourselves to arrangements that enable us to be free.131 Such public commitment is what grounds “Right” for Hegel.

Moreover, it should also not be forgotten that, like Rousseau, Hegel wrote in the midst of a very unequal feudal society.132 In matter of fact, the problems Hegel confronted were even more severe than that of Rousseau’s. Unlike the ancien régime France of Louis XV where the principle of submission monarchical absolutism was (at least in theory) unchallenged by the powerful robe nobility whatever the actual practice of it, Hegel’s Germany experienced the complete dissolution of any semblance of a public authority as the institutions of the Empire became captured by the parochial interests of German lords whose only aim was to carve out greater and greater spheres of exemption from public duties. We will save the historical detail for the chapters to follow, but all we need note for

130 In fact, Hegel references Rousseau and Kant here.

131 The importance of “sociality” for this is highlighted in what reason entails; see Terry Pinkard, Hegel’s Phenomenology: The Sociality of Reason.

our purposes here is that, for Hegel, the issue of what we would call today “state-building,” i.e., of creating a government powerful enough to prevent public duties from being shirked, could not be ignored if the weak in his society are ever to escape the domination of the powerful.¹³³ “This is what equality consists of,” writes Hegel, that “another individual must not hold a privileged position over my existence.”¹³⁴ Hegel’s notion of concrete freedom therefore the deleterious political theory that “membership of the state is an optional matter”, a position which we earlier pointed out was advanced by the aristocratic individual against the state (PR §258).

Moreover, Hegel’s unsparing attack on Herr von Haller’s Restauration, a key work in the aristocratic resurgence against central public authority, in the very beginning of his discussion on the modern state excellently illustrates this concern over elite exemption from public duties (cf. PR §258).¹³⁵ In his savage attack on von Haller, Hegel appears to be disgusted not so much by von Haller’s actual argument but by the nakedness with which he presents it because von Haller drops all pretense in using instrumentalism in defending the “rule of the more powerful”.¹³⁶ Not only does Hegel think this view self-contradictory for all the reasons we stated above, but, given the circumstances when the gravest threat to

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¹³³ In point of fact, it might have been impossible to even form the notion of the “public interest” if there was no public to begin with. Feudal manorial societies simply did not have a public sphere, see Habermas, Transformations.

¹³⁴ This translation comes from Domenico Losurdo in Hegel and the Freedom of Moderns of the Lectures on Hegel’s Philosophy of Right §63, p. 186.


¹³⁶ Losurdo points out that von Haller was deeply influenced by the rise of “Social Darwinism” during this time. It should be also noted that von Haller’s thought occurred during an inversion of purpose regarding “nature” in politics; for when before, the invoking the state of nature (Rousseau) sought to discredit the current status quo, now, as Burke shifts the paradigm, “nature” is used to justify the status quo and reject equality. Hegel and the Freedom of the Moderns, 60.
modern freedom at the time were the German nobles agitating for anything that would help them shield themselves from public commitment, von Haller’s argument was also deeply irresponsible.\textsuperscript{137} Such injudicious exercise of giving philosophical and theological legitimation to nobiliary intransigence at the expense of the public good could not have been more infuriating to Hegel, and it was in a similar vein that also goads Hegel to accuse the Romantics and Christian nationalists of abetting reactionary aristocratism when what was really needed was for strong government to force elites to contribute to the public good.\textsuperscript{138}

In fact, such concerns with elite exemption from public duties can also be read in passages scattered across Hegel’s many treatments of, for instance, the “individual” in the family and civil society who must “pass over of their own accord into the interest of the universal” and “knowingly and willingly acknowledge this universal interest even as their own substantial spirit, and actively pursue it as their ultimately end” (PR §260). Unfortunately, this concern with elite domination does not figure prominently in many current discussions of Hegel with many scholars only confining themselves to explaining why Hegel rejects standpoint of the family and bourgeois in civil society as insufficient for public life without explaining who Hegel had in mind when he discussed them.\textsuperscript{139} Such scholars typically argue that, for Hegel, the family is insufficient to form the basis of

\textsuperscript{137} See Hans Rosenberg, \textit{Bureaucracy, Aristocracy and Autocracy} for the history of the period.


\textsuperscript{139} See, for instance, Siegfried Blanche, “Natural Ethical Life and Civil Society: Hegel’s Construction of the Family” and Rolf-Peter Horstmann, “The Role of Civil Society in Hegel’s Political Philosophy” in Robert Pippin and Otfried Höffe (eds.) \textit{Hegel on Ethics and Politics}: 183-207, 208-238, respectively.
political community because it is the site of “immediate universality” – i.e., its members are tied together by bonds of pre-reflective love and affection for each other – and so their bonds cannot be extended beyond the confines of blood relations and be the basis of an entire political community that requires more than just love and sentiment to bind people together. They also argue that the bourgeois in civil society is likewise insufficient for public life because the bourgeois’ strict concern with economic activities narrows her perspective to the interests of her trade and industry.¹⁴⁰

To be sure, these explanations are not incorrect, but they completely ignore how Hegel frames his rejection of these perspectives in considering elite exemption from public duties. For instance, the criticism of the bourgeois can be easily translated into the all-engrossing particularity of the aristocratic individual who cares only for his estate, his privileges, and his welfare at the expense of the public good. As a matter of fact, there is much evidence to suggest that the distinction between bourgeois and landed aristocracy were already beginning to blur in Hegel’s Germany as more future-oriented nobles became bourgeois as they adapted to new realities.¹⁴¹ Textual evidence also suggests that Hegel’s defense of the nuclear family had in mind how public duties were regularly evaded, not to say endangered, by the presence of powerful and extended aristocratic families who acted like mini-states (Hegel calls them “gens” which is oftentimes translated “nation” or “clan”). Few scholars note how Hegel lauds the nuclear family as a form of “liberation” because it permits individuals to escape these powerful familial networks, thereby allowing

¹⁴⁰ Manfred Baum, “Common Welfare and Universal Will in Hegel’s Philosophy of Right” in Robert Pippin and Otfried Höffe (eds.) Hegel on Ethics and Politics, pp. 124-149.

¹⁴¹ See Rosenberg.
individuals to decide for themselves what they want to do with their lives in stark contrast to the constraints aristocratic houses impose on its members. In short, Hegel’s mind was always thinking about how the powerful have consistently used their networks, privileges, and power to take care of themselves first at the expense of the public good.

Such concerns come out even more explicitly when we deal with them monarchy and bureaucracy below. In chapter III and IV we will take time to separately consider these two institutions in depth, but before concluding this chapter, I want to offer the following remark Hegel made of Cardinal Richelieu’s foreign policy to help me clinch my case. I bring this remark up in response to many scholars who read Hegel as the defender of Protestantism. Of course, there is no doubt Hegel celebrates the freedom of thought and conscience inaugurred by the Protestant Reformation. But in celebrating this spiritual achievement, Hegel was not blind to the political problems Protestantism as a political

142 The modern family, Hegel writes, “entails the complete foundation of a distinct and actual family, in comparison with which what is called the family in a general sense – i.e., the stirps or gens – becomes only an abstraction which grows ever more remote and less actual as one generation succeed the other” (PR §180). And earlier, Hegel notes that “The ethical dissolution of the family consists in the fact that the children are brought up to become free personalities and, when they have come of age, are recognized as legal [rechtliche] persons and as capable both of holding free property of their own and of founding their own families – the sons as heads of families and the daughters as wives. In this [modern] family they now have their substantial determination and in relation to it, their original family recedes in importance as merely their original basis and point of departure, while the abstract category [das Abstraktum] of the kinship group has even fewer rights.” (PR §177)

143 In the Philosophy of History, Hegel considers the monarchy a positive force: “This subjection to the Head of the State of that intermediate power which laid claim to positive authority was now accomplished, but this did not involve the emancipation of the subject class. This took place only at a later date, when the idea of right in and for itself arose in men’s minds. Then the sovereigns relying on their respective peoples, vanquished the caste of unrighteousness; but where they united with the barons, or where the latter maintained their freedom against the kings, those positive rights or rather wrongs continued.” (45) Tocqueville candidly writes, “Nations that turn toward democracy habitually begin to increase the attributions of royal power. The sovereign inspires less jealousy and fear than the nobility… English aristocracy made an extraordinary move: it led the democratic classes of society to believe that their common enemy was the sovereign, and in this way it became the representative of those classes, instead of their main adversary.” (Quoted in Losurdo, 115).
theory brought to Germany in allowing Cardinal Richelieu to play German prince against prince to the benefit of France.

Hegel shows this in how he interprets the Peace of Westphalia (1648) as a strategic move which allowed the French monarchy guided by Richelieu to consolidate political power at the expense of the Holy Roman Empire. In this peace agreement, Hegel understood how Richelieu exploited the idea of “sovereignty” to fragment Germany in ways that made national social coordination impossible. It was also a hypocritical move on Richelieu’s part given that Richelieu simultaneously denied sovereignty to the French nobility because he wanted to create a strong centralized Bourbon state. This was the political genius of Richelieu which built a unified France at the expense of a fragmented Germany as Hegel writes,

Through the *Peace of Westphalia* the Protestant Church had been acknowledged as an independent one – to the great confusion and humiliation of Catholicism. This peace has often passed for the palladium of Germany, as having established its political constitution. But this constitution was in fact a confirmation of the particular rights of the countries into which German have been broken up. It involves no thought, no conception of the proper aim of state…. In the peace in question the establishment of a complete particularity, the determination of all relations on the principle of private right is the object manifestly
contemplated – a *constituted anarchy*, such as the world had never before seen; – i.e., the position that an Empire is property a unity, a totality, a state, while yet *all relations are determined so exclusively on the principle of private right that the privilege of all the constituent parts of that Empire to act for themselves contrarily to the interest of the whole, or to neglect that which its interest demands and which is even required by law* – is guaranteed and secured by the most inviolable sanctions… This constitution, which completely terminated the career of Germany as an Empire, was chiefly the work of Richelieu…

This notion of how Germany was reduced to a “constituted anarchy” by the Peace of Westphalia and the power of Richelieu’s foreign policy directly touches on the issue of free-riding that Rousseau says any political community must overcome if it is to avoid public duties from being left up the personal discretion of those *capable* of shirking their responsibilities. For what, in effect, Richelieu did to Germany was to permit the German nobility to view their relationship to the Empire as “optional” in the instrumental sense outlined above. By entrenching, German political relations that “are determined so exclusively on the principle of private right that the privilege of all the constituent parts of

144 *The Philosophy of History*, 456, my emphasis. Hegel then goes on to note that Richelieu “Romish Cardinal though he was” had no bones about advancing “religious freedom in Germany” so long as such a policy was “with a view to further the interests of the [French] State whose affairs he superintended” and led him to adopt “the exact opposite of that policy which he promoted in the case of its enemies; for he reduced the latter of political impotence by ratifying the political independence of the several parts of the Empire, while at home he destroyed the independence of the Protestant party.”
that Empire” are allowed “to act for themselves contrarily to the interest of the whole, or to neglect that which its interest demands and which is even required by law”, the German imperial state could no longer coordinate its elites, leading to the complete private domination of the common people of Germany not only to their petty princes but also devastatingly to a foreign power. No wonder Hegel laments such an unfortunate state of affairs and hails a strong modern state as a decided “advance” over the conditions of the Middle Ages.

Lastly, this realization of how public duties realize freedom is shown also in Hegel’s idea of “patriotism”. Hegel argues that patriotism occurs only when citizens of a free state understand that by upholding the very social institutions which prevent their subjection to the powerful can they realize their freedom. Such insight is “truth” for Hegel because to will freedom must also involve willing all the consequent commitments that enable us to be free– an indispensable perspective that those who think public duties only as a necessary inconvenience fail to realize in their personal insistence on what only benefits themselves.

The political disposition, i.e., patriotism in general,” Hegel concludes, “is certainly based on truth (whereas merely subjective certainty does not originate in truth but is only opinion) and a volition which has become habitual. As such [patriotism] is merely a consequence of the institutions within the state, a consequence in which rationality is actually present, just as rationality receives its practical
application through action in conformity with the state’s institutions. – This disposition is in general one of \textit{trust} (which may pass over into more or less educated insight) or the consciousness that my substantial and particular interest is preserved and contained in the interest and end of an other (in this case, the state), and in the latter’s relation to me as an individual \textit{[als Einzelnem]}. As a result, this other immediately ceases to be an other for me, and in my consciousness of this, I am free. (PR §268).

But while Hegel and Rousseau agree on many points regarding how citizens relate to their public duties, there is one fundamental difference that sets Hegel apart from Rousseau, namely in how Hegel grounds patriotism in human reason and thinking, and not, as Rousseau does, in the parochial and unreflective attachments one has to the political community. On this front, it is rather strange how Rousseau’s deeply rationalistic General Will ends up defending a form of civil religion, showing how Rousseau was deeply skeptical that the average person could ever attain that rational perspective which by contrast Hegel thinks all humans can achieve. Rousseau’s thought seems to be that, during political association, unless citizen identities are somehow reinforced by a form of “civic religion”, human reason and critical thinking are insufficient to ward off the slow and creeping doubt that the sacrifices made for the public good may occasionally outweigh the intangible benefits citizens derive from affirming institutions that keep them free. He writes,
Each individual, appreciating no other plan of government than that which bears on his particular interest, has difficulty perceiving the advantages he is to derive from the constant privations imposed by good laws. In order for a nascent people to be able to appreciate sound maxims of politics and to follow the fundamental rules of statecraft, the effect would have to become the cause: the social spirit that is to be the work of the institutions would have to preside over the institution itself, and men would have to be prior to the laws what they are to become through the laws. Hence, therefore, since the lawgiver can use neither force nor reasoning, he must of necessity have recourse to an authority of a different order which might be able to motivate without violence and persuade without convincing. This is what has at all times forced the fathers of nations to resort to the intervention of heaven and to honor the gods with their own wisdom, so that peoples – subject to the laws of state as to those of nature, and recognizing the same power in the formation of man as in that of the city – obey with freedom and bear the yoke of public felicity with docility. (SC II, VII)
This position is unacceptable to Hegel, because, as he points out in his discussion of Antigone and the Greeks, unreflective public commitment is even more fragile than the threat of force in compelling citizens to obey.\textsuperscript{145} The danger inherent to Rousseau’s position is that such irrational commitments do not allow citizens to really think for themselves and secure on their own initiative what they need to prevent the threat of elite domination. In fact, centering a civic religion in public life might lead not only to a profound sense of alienation because humans are “thinking beings”, but also to the dangers of a priesthood – a danger Hegel in his discussion of Socrates also points out as real in the primitive political world of Ancient Greece.\textsuperscript{146}

Nonetheless, Hegel’s rejection of unreflective attachments does not deny the role of pre-reflective habit in political life. Hegel only rejects exclusively grounding our political attachments in parochial sentiments, a position which Steven Smith recently describes as “nationalism”.\textsuperscript{147} Put this way, Hegel argues against Rousseau that no recourse to divine authority is needed so long as the pre-reflective habits of a political community are capable of being rationally explained and justified. It is only this process of discovering the “rational” in “the actual” that can offer a more solid foundation for political commitments as human beings are educated to think about why they do the things they do.

Undoubtedly, Hegel’s rationalist insight certainly raises the question of what sorts of habits and institutions in history are capable of offering norms and reasons for their

\textsuperscript{145} For the issues Hegel identifies as problematic with Antigone and the Greeks, see Pinkard, *Hegel’s Phenomenology: The Sociality of Reason*, 135-186, where Pinkard lucidly explains the dense Hegelese.

\textsuperscript{146} In PR §270 Hegel also talks about why the state and secular reasons must trump religious ones.

justification – a topic that would take us too far afield from our present purpose and is admirably discussed by Steven Smith.\textsuperscript{148} Hegel undeniably argues that only those institutions and habits which arise out of a Judeo-Christian context allows “personal freedom” to become a bedrock political principle underlying the purpose of our political duties.\textsuperscript{149} But Hegel’s theologically-inflected language should not distract us from the universalism of Hegelian thought.

What we need to keep in mind here is that, for Hegel, because \textit{all} human beings are “\textit{thinking beings}”, \textit{all} human beings are able to comprehend such political affirmations in a language that can transcend the boundaries of the particular region out of which freedom arose. \textit{It is therefore precisely because Hegel grounds such understandings in the universal nature of reason, and not in the parochial identities or shared civic religions of a particular community, that Hegel’s, not Rousseau’s, idea of “concrete freedom” has a better claim to be “democratic” in the sense that it is a publicly accessible standard of reason in allowing all human beings to actively pursue the kinds of collective arrangements that realize freedom.}

To sum up, Hegel’s theory of the state argues \textit{that only when the institutions of the political community prevent elite domination by subjecting all, especially the powerful, to equal duties can citizens regard their public commitments as essential to securing their personal freedom}. Hegel differs from Rousseau in viewing such constitutive bonds as grounded not in the unreflective sentiments, traditions and civic religion of a parochial

\textsuperscript{148} Steven Smith, \textit{Hegel’s Critique of Liberalism}, 165-231.

political community, but in the universal capacity for rational thinking in every human beings. Such emphasis on rational reflection thus extends Hegel’s democratic credentials even further than Rousseau’s precisely because Hegel’s vision is universalistic. And now, having explained what Hegel means by “concrete freedom” and how it is to be realized, we can now turn to why Hegel defended seemingly anti-democratic institutions like the monarchy, the bureaucracy, and the corporation in the chapters that follow.
Hegel and the Monarchy

IV

This chapter explains Hegel’s defense of the monarchy as check on the powerful elites in Prussia. I argue that, far from a conservative or reactionary defense of the Prussian state in the early 19th century, Hegel’s monarchism responded to the problem of feudal resurgence, failed reform and the impossibility of democratic politics. By defending a constitutional, hereditary and bureaucratic monarchy, Hegel wanted to subdue the Prussian nobles to strong centralized and professionalized government.
Nothing seems more incongruous with (or even repulsive to) our liberal and democratic sensibilities than Hegel’s defense of hereditary monarchy as the cornerstone of the modern state. “The development [Ausbildung] of the state to constitutional monarchy,” Hegel claims, “is the achievement of the modern world, in which the substantial Idea has attained infinite form.” (PR §273) How a philosopher of freedom arrives at such a conclusion demands explanation. Nonetheless, in the contemporary scholarship, most scholars end up qualifying Hegel’s monarchism, portraying it as a benign institution like the British monarchy, rather than explaining why Hegel defended it in the first place.151 And even then, scholars disagree on whether Hegel’s monarchism is as benign as others claim despite the fact that Hegel explicitly repudiates the divine right of kings to rule as advocated by his contemporaries like von Haller and other Restorationists, evincing how the mere fact of his monarchism elicits rather uncharitable knee-jerk reactions (cf. PR §§219-258).152

Thankfully, there has been progress away from viewing Hegel as attempting to “deduce” monarchy from his “metaphysical” or “dialectical logic”.153 One can now read him “non-metaphysically” by focusing on the problem of “sovereignty” to which his

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monarchism responds. But we still need an explanation on why Hegel defended the monarchy – an explanation that pierces through the veil that has for so long shrouded this aspect of his political thought in mystery. I hope to tackle this issue front and center.

Such attention is needed since most treatments (even sympathetic ones) regretfully conclude that his political views are largely dated and inapplicable to modern conditions. But this judgment ignores how Hegel’s defense of a hereditary constitutional monarchy responds to the problem of powerful elites in society. This anti-elitist interpretation of Hegel’s monarchism features little in scholarship which remain too embroiled in speculative issues about his liberalism – an approach that completely ignores the problem of elite domination Hegel actually faced in a feudal Prussia, especially after the failed reforms of 1806-1819. As such, my account demonstrates why Hegel thought only the installation a strong monarchy could overcome the problem of resurgent nobiliary domination in Metternichian Europe. Of course, my argument does not suggest that Hegel’s policy prescriptions, especially given the historical development of German


156 Simon, Prussian Reform Movement, 197-228.
imperial (and bureaucratic) power in 1848 and 1871, correctly *addressed* this issue of powerful elites. But Hegel’s monarchism nonetheless *identified* a very serious issue in Prussia – that, as a largely agrarian and feudal society, aristocratic domination was a constant threat, and in no way could modern representative or elective institutions work unless these feudal elites (the Junkers) were subdued by a strong monarch.\textsuperscript{158}

Thus far from being an “authoritarian” or a “conservative” defender of the Prussian monarchy (terms inapplicable given the problems he confronted), I argue that any discussion of Hegel’s monarchism must consider how powerful elites pose a constant threat to modern public law and freedom.\textsuperscript{159} To demonstrate this, section (I) sets out the Hegelian paradox of a philosophy of freedom married to a politics of monarchy. Then section (II) explains why Hegel defended the monarchy in early 19\textsuperscript{th} century Prussia. This allows me to show in sections (III), (IV), and (V) how his constitutional monarchy differs from the other types of monarchies he labels “feudal”, “elective” and “absolutist”. I conclude in section (V).


\textsuperscript{158} For the state of German socio-economic development during this time and how it changes, see Tom Kemp, *Industrialization in Nineteenth-Century Europe*, 2\textsuperscript{nd} Edition. New York; Routledge, 2013[1969]: chapter 4.

\textsuperscript{159} For an incisive critique of the problematic dichotomies often put to Hegel’s work, see Losurdo who writes, “Hegel is subjected to questions which he himself had already considered poor and misleading due to their imprecision and formal abstractness,” in his *Hegel and the Freedom of Moderns*, 71.
i. The Hegelian Paradox

The Hegelian paradox we recall is how Hegel marries a philosophy of freedom with institutions like the monarchy. Let us re-trace his argument. Hegel argues that the state embodies “concrete freedom” (PR §260). By this Hegel means that the modern state allows citizens to enjoy their individual rights by affirming their public duties to such a state. Additionally, Hegel argues that modern citizens live in unique political communities whose binding rules and procedures allow citizens to avoid domination to private or foreign wills and know this to be the case. As such, public duties to the modern state like obeying the law, paying their taxes, and fighting for the country are seen by their citizens as necessary activities that constitute who they are. For this reason, modern citizens do not view the state as an alien or foreign imposition, but as the embodiment and guarantor of their “personal freedom” (PR §261). This is what Hegel means when he writes that the modern state is “the interpenetration of the substantial and the particular” with the “substantial” meaning public duties, the “particular” referring to individual rights, and “interpenetration” naming the process through which citizens advance the latter by affirming the former (PR

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161 For this connection with non-domination to foreign wills in Hegel, see Neuhouser, *Foundations of Hegel’s Social Theory*.

162 This is the substance of the passage: “In the state, as an ethical entity and as the interpenetration of the substantial and the particular, my obligation towards the substantial is at the same time the existence of my particular freedom; that is duty and right are united within the state in one and the same relation [Beziehung]... That absolute identity of duty and right ... is a single principle for both duty and right, namely the personal freedom of human beings. Consequently, slaves have no duties because they have no rights, and vice versa. (PR §261)
Indeed, the thesis of Hegel’s *Philosophy of Right* explains why only this process allows modern citizens to realize their freedom “knowingly and willingly” (cf. PR §260).

Such an emphasis on the subjective ability of citizens to freely affirm their rights through their public duties consequently places Hegel in the category of thinkers who base the legitimacy of the state on the consent and participation of the governed. Rejecting other forms of legitimation like tradition, religion or charismatic authority in politics, self-legislation, self-direction, and self-consciousness – i.e., *freedom* – is at the heart of Hegel’s political philosophy of “reconciliation”. This is why in chapter II I argued that the Hegelian political project defends the “democratic” idea that modern governments must involve the subjective consideration of all those affected by their policies.¹⁶³

But what disappoints students of Hegel is how his theory of political institutions ends up in the need for a monarchy (PR §§273-286). Far from a Rousseau or a Kant, Hegel concluded that to be “free”, not a democracy or a republic, but a monarchy is needed to embody a political community’s ability to decide its own destiny. Hegel defends this by offering reasons that Marx claimed was almost “mystical”.¹⁶⁴ Others, however, have pointed out that Hegel’s monarchism is only formal in an attempt to qualify his monarchism – and, by “formal”, they mean that Hegel’s monarch is just one part of a bigger interdependent whole involving the royally appointed council of ministers, the expert bureaucracy of the executive branch, and the legislative assembly of Estates to formulate, initiate and execute government business (PR §§275, 279-80, 283). The purpose of these

¹⁶³ Jeffrey Church, “G. W. F. Hegel on Self-Determination and Democratic Theory,” *American Journal of Political Science* 56(4) (October 2012); 1021-1039

qualifications is to claim that the Hegelian monarch does not really have any power but is so dependent and constrained by his ministers, bureaucrats, and the legislative Estates that his only job is to “dot the ‘i’s” and say “I will” (PR §280).

But, even when one accepts that Hegel’s monarch is rather benign – a claim many dispute\textsuperscript{165} –, one is hard-pressed to understand how all this monarchism relates to freedom at all. If Hegelian freedom is all about publicly affirming social institutions that citizens choose for themselves (a point Pippin and Pinkard instructively highlight), monarchy in whatever form clearly contradicts this.\textsuperscript{166} There seems to be no way the “average” citizen in the Hegelian state can participate in politics at all and, to put it in T. H. Marshall’s terms, the Hegelian citizen may have civil and social rights, but nowhere does Hegel gives him those key political rights to participate in government to realize his freedom.\textsuperscript{167}

In fact, not only does Hegel categorically repudiate elective monarchy, but he also makes the ministers of state entirely responsible to the monarch alone, leaving no room for actual ministerial responsibility to the one body, the Legislature, where it could plausibly be argued that the citizens’ voice is “represented”. Indeed, some point out that, compared to his 1817/1818 Heidelberg lectures, Hegel removes the Legislative veto from his 1820 Berlin work!\textsuperscript{168} And adding salt to injury, Hegel finally suggests that the only way for

\textsuperscript{165} See footnote 3 above.


ordinary citizens to participate in public affairs is to pay their taxes and die in wars (PR §§299, 324)! Such views make Hegel no less an anti-democrat than Plato whose shared notions of “positive liberty” (so Isaiah Berlin claims) can also be interpreted as yet another contrived attempt to justify the domination of “the few” over “the many”.\textsuperscript{169}

Given all this, it is unsurprising that some view Hegel’s rather uncharitable comments on the “rabble” (Pöbel) as indicative of his real thoughts on democracy (PR §§244, 279). For instance, Alan Patten, after having identified the democratic core of Hegel’s idea of freedom, concludes in a tone of regret that “what is missing in the Hegelian state is precisely the participatory, Rousseausian democratic mechanisms that Hegel explicitly repudiates”.\textsuperscript{170} To Patten, this makes Hegel a “conservative political thinker’ whose skepticism of the masses and the French Revolution led him to repudiate in practice his theory of freedom, a position shared by Frederick Neuhouser who is only slightly more sympathetic in arguing that Hegel’s institutionalism “is not essential to his most fundamental [democratic] theoretical commitments”.\textsuperscript{171} In other words, scholars simply distance themselves from Hegel’s monarchism. For instance, Steven Smith writes, “Hegel’s conception of the monarchy is still the most vulnerable part of his politics” because “[m]odern states have, on the whole, been able to retain their sovereign majesty without the institution of a monarchy”.\textsuperscript{172} Michael Hardimon only restates this by

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\textsuperscript{170} \textit{Hegel’s Idea of Freedom}, 200.

\textsuperscript{171} \textit{Foundations}, 259-260.

\textsuperscript{172} Smith, \textit{Hegel’s Critique of Liberalism}, 155.
concluding that “[v]irtually no one today finds Hegel’s arguments for [the monarch] to be compelling”.  

Such conclusions are unwarranted because we can resolve it by reading Hegel’s monarchism in his historical context. But moving on, I reject attempts to read Hegel’s monarchism as a kind of “liberalism” instead. \(^\text{174}\) This argument makes the case that liberalism can justify his marriage of a philosophy of freedom with anti-democratic politics. Liberals like J.S. Mill have similarly been in this business for a long time and Hegel is no different according to them. \(^\text{175}\) To them, there is nothing strange with a “liberal” Hegel demanding the emancipation of the individual from traditional and religious sources of authority while simultaneously arguing that this effort be led by the “educated” whose greater insight enables them to use freedom “responsibly”.

This means that modern liberal politics rejects ancient direct democracy because the complexities of modern government cannot allow for the active political participation of its entire adult population. Hegel’s distinction between the “bourgeois” and the “citizen” consequently requires a “moderate” form of government that safeguards economic and civil liberties against the majoritarian rule by constraining the latter. “From [Hegel’s] standpoint,” writes Hardimon, “the task of modern political philosophy is to show how it is possible for ordinary citizens to lead a general life given that the modern political state requires a bureaucracy and given that ordinary citizens do not want to lead intensely


political lives.” In other words, modern citizenship promises a private life but does not guarantee a public life as Benjamin Constant might put it.

But “liberal” readings of Hegel’s political thought do not answer why Hegel defended monarchy because, if modern “liberal” governments cannot rely on direct democracy, Hegel could have easily opted for representative democracy instead. Liberal readings simply cannot explain Hegel’s subordination of the legislature to the “sovereign” monarch and executive branch of government because this constitutional arrangement ends up advocating for a constitutional arrangement that is anathema to the vision of limited government so central to liberalism.

ii. Hegel in Preußen

To solve this, I argue that Hegel’s monarchism arose from the peculiar circumstances of early 19th century Prussia that made representative democracy an impossibility. Because Prussia was defined by (1) an absence of an independent middle class and (2) the domination of feudal elites in Prussia, Hegel could not support democracy and had to defend monarchy instead. Let me explain. On point (1), when Hegel was writing, Prussia did not have a strong entrepreneurial and progressively inclined “middle class” that drove democratic progress. This is important,

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176 Hardimon, Hegel’s Social Philosophy, 222.
177 In Germany, Kemp writes, “there was little in the way of nondependent middle class engaged in trade and industry. Merchants and guild masters of the traditional type accepted their position within a stable order, dependent on the favours of the local court or lord and upholders of the existing regulations. The urban middle class was weak because towns were few in number and small in size, administrative centers with some commerce and a little industrial production rather than economic growing points. The middle class in towns of this type had its centre of gravity in the professions and in the service of the state; it
because in the widely used Nisbet translation of Hegel’s _Philosophy of Right_, Hegel is made to argue that the civil servants of the modern state must be drawn from the “middle class”. The Nisbet’s translation in PR §297 reads,

> Members of the executive and civil servants constitute the bulk of the middle class [des Mittelstandes], which embody the educated intelligence and legal [rechtliches] consciousness of the mass of the people. (PR §297)

This is historically inaccurate given that Prussia was still a largely feudal society at the time.\textsuperscript{178} A reader sensitive to the history would detect that the German _des Mittlestande_ cannot be translated to “middle class” because a _Stand_ (Estate) is not a class. An estate refers to what Max Weber would call a social _status_ group oriented around a way of life and an “honorable” existence (as defined by the peers of such a group) that is radically different from a “class” which centers its identification on one’s relation to economic

\textsuperscript{178} To be sure, it is true that, in the “bourgeois” revolution of 1848 (when Marx wrote), Germany experienced progressive demands “from below” rising from its “middle classes” in the sense of the petite bourgeoisie. But we must be aware that, in any interpretation of Hegel, the 1820s is not the late 1840s when the forces of capitalism and industrialism were already rapidly transforming German society and giving birth to the bourgeois “middle classes” in ways Hegel only vaguely anticipated. We must keep this in mind because all manner of misleading comparisons can only result when we ignore this historical fact and begin equating the members of the Mittlestande with the petite bourgeoisie of independent craftsmen, traders and urban shopkeepers in the 1820s. For this issue see André Liebich, ‘On the Origins of a Marxist Theory of Bureaucracy in the Critique of Hegel’s Philosophy of Right,’ _Political Theory_ 10(1) (1982): 77-93, especially 78-81.
processes. This is why one can be a poor noble. The fact that Hegel separates the "educated intelligence and legal [rechtliches] consciousness" of the people from the "intermediate estate" whose main life is in "trade and industry" clearly show that, in early 19th century Prussia, the Mittlestandes only referred exclusively to the educated strata of society. These were the individuals who possessed university degrees (like Hegel) and whose status came from being "dependent on the state" as lawyers, civil servants and university professors (cf. PR §§250, 306-311).

This historical absence of the bourgeois middle class cannot be ignored. Prussian history is characterized by how the bourgeois and urban elements of its society were deliberately crushed by the landowning aristocracy so Hegel could not possibly had in mind the bourgeoisie when he wrote of the "educated class" of civil servants in the modern state. In Western Europe, democratic initiatives traditionally came from the bourgeoisie

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179 See essay by Max Weber, ‘The Distribution of power within the Community: Classes, Stände, Parties by Max Weber”, trans. Waters et al., Journal of Classical Sociology 10(2) (2010): 137-152. It is also what Eric Mitnick has called an identity based on an “ascriptive right” – i.e., a form of entitlement assigned on the basis of membership in an ascriptive (i.e., criteria of identification beyond one’s control) defined group. See Eric Mitnick, Rights, Groups and Self-Invention (London: Ashgate, 2006).

180 One should note that oftentimes the nobility in some feudal societies were explicitly barred from engaging in economic activity lest doing so would risk their titles. It is, of course, questionable whether they did in practice refrain from business. Nonetheless, the point that status groups like Estates and economic groups like classes do not necessarily overlap stands. The literary trope like (that in Giuseppe Tomasi di Lampedusa’s The Leopard) of rich businessmen (Sedara) marrying their routurier daughters (Angelica) to titled, but impoverished, young noblemen (Tancredi) clearly demonstrate the point that economic class cannot be simply equated with one’s Stand (Estate). Read Tomasi di Lampedusa. 2007. The Leopard, trans. Archibald Colquhoun. New York: Pantheon Books.


182 For this, see F. L. Carsten, “The Great Elector and the Foundation of Hohenzollern Despotism”, The English Historical Review, 65(255) (1950): 175-202, especially 195. And Kemp also writes, “[o]ver much of Germany, however, the eighteenth and early nineteenth century saw little change. Many towns had not outgrown their medieval walls and in them life had changed but little. Artisan industry prevailed, still dominated by guilds. Production was for exchange with the surrounding countryside or to meet the needs of the local court, nobility and patrician middle class. Lack of transport facilities perpetuated the isolation of
in civil society; in Germany, their absence must have consequently meant that the bourgeois-democratic route was impossible for Hegel.\textsuperscript{183} Walter Simon notes,

Historically it is customary to regard the bourgeoisie as bearers, and not the opponents, of political and social progress in Europe. \textit{This relationship did not hold true in Prussia}. There the bourgeoisie, having never been the partners of absolute monarchy, had never acquired the confidence to express opinions about public affairs; and compared to the middle class in Britain, France, or the Netherlands, the bourgeoisie in Prussia, because of the backwardness of the country’s economic development, were in any case even numerically negligible. There was, in fact, nothing in Prussia that could be called ‘public opinion,’ nor were there even leaders who attempted to shape one.\textsuperscript{184}

Hence, Simon concludes,

\textsuperscript{183} Rosenberg writes that in Prussia “throughout the confusing years of Reform, the struggle for predominance remained almost altogether the internal affair of the upper ten thousand. Popular excitement and direct action from below – the widespread desertion of peasant-serf solders and isolated local peasant revolts, had practically exhausted themselves by the end of 1807… Although awakening from their stupor in regard to civic life, the perplexed Prussian people were still divided into myriads of unconnected social and regional groups and, politically, an amorphous, inarticulate mass.” \textit{Bureaucracy, Aristocracy, Autocracy}, 204.

\textsuperscript{184} Simon, \textit{Prussian Reform Movement}, 13, my emphasis.
The most striking element in the backwardness of Germany was the virtual absence of a political influential middle class. Since it was the middle class that had prompted political progress and reform in Western Europe, this was a fact of profound importance for Germany. Even a numerically small middle class could have provided leadership for the masses, but there was no alternative source of that leadership.\textsuperscript{185}

Or, simply put, “no bourgeoisie, no [possibility of] democracy” in Germany to quote Barrington Moore’s pithy phrase.\textsuperscript{186}

Thus, only by taking into consideration this absence of a Prussian “middle class” we explain why Prussian reforms had to come “from above”. Only this consideration sheds light Hegel’s almost naïve reliance upon a dedicated and trained civil service to pursue government reforms since they were the only political force advocating for them. And Hegel was not alone. Prince Hardenberg who, with Baron von Stein, led Prussian reforms explicitly advances such considerations imposed by Prussian conditions in his motto of “democratic principles in a monarchical government”.\textsuperscript{187} And the Prussian minister Struensee aptly remarked to a French observer in 1799 that “[t]he salutary revolution which

\textsuperscript{185} Simon, \textit{Prussian Reform Movement}, 237, my emphasis.


you [the French] made from below will take place gradually here in Prussia. The king is a democrat in his way; he is working constantly to limit the privileges of the nobility. In a few years there will be no more privileged classes in Prussia.”

In other words, in Prussia, political initiative simply *had* to come from the monarch given the absence of a bourgeois-democratic revolution.

Moreover, Hegel and his contemporaries did not experience the early 19th century in the same way as Western European counties like England did because of what Reinhard Bendix has called the “demonstration effect”. Bendix’s term indicates that once industrialization and constitutionalism have inaugurated a “modern” regime anywhere in the world (e.g., England and France), the elites of other nations exposed to such developments (e.g., Prussia) will inevitably take preemptive measures to respond to it.

In politically backward regimes like Prussia, their elites were split with the *Mittlestande* seeking further modernization while like the Junkers resisting changes to their feudal privileges. Under such conditions, Hegel witnesses the transformation of Prussian feudalism into *industrial feudalism* as the old elites exploited their historical advantage and adapted to new ways.

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190 Kemp, *Industrialization*, 80.


192 Rosenberg, Bureaucracy, 223: Theda Skocpol notes that “once the Prussian reforms had both abolished serfdom and opened the market for noble estates to all well-to-do investors, Prussian landlords – owners of
This unique circumstance is called "counterrevolution" because it involved old feudal elites attempting to gain a place in the new world. Historically, the rise of the Prussian monarchy – and, by extension, Prussia as a unified state itself – depended upon the suppression of the landed aristocracy and their conscription to serve the state in the military.\(^\text{193}\) In exchange for their compliance, the Prussian aristocracy were granted limited privileges by the monarch in the army officer corps and certain (controlled) positions in the royal bureaucracy so long as they recognized central power in Berlin. This bargain between monarchy and landed nobility broke down under feudalism because while “[t]he subjects of such a Constitution are vassals of a superior prince or seigneur, to whom they have stipulated duties to perform”, as Hegel notes, “whether they perform these duties or not, depends upon the seigneur’s being able to induce them so to do, by force of character or grants of favours”.\(^\text{194}\)

A weak feudal monarch could not compel his feudal elites to do their job and every attempt at securing their compliance only irritated the aristocracy who constantly resented having their representative institutions, the Estates (die Stände), suppressed since these bodies allowed them to collectively resist the king. Faced with this problem, Prussian kings could not afford continued reliance on these feudal nobles especially when faced with

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competitive international military pressures – an issue of central importance if we turn to how Hegel analyzes the “transition from feudalism to monarchy” in his Lectures on the Philosophy of History.\textsuperscript{195}

To solve this, the Hohenzollern monarchs built a powerful standing army to suppress the feudal Estates and staffed the state administration with non-noble civil servants who served at the king’s pleasure. In time, as Hegel notes in PR §295, these Prussian bureaucrats themselves will themselves develop into an entrenched privileged caste opposed to old Junker squirearchy and the monarch himself. But in 1820 these novi homines were instrumental in strengthening the monarchy against the landed aristocracy.\textsuperscript{196} These bureaucrats also rationalized their power by offering a counter-ideology of Bildung that stressed the virtues of their professionalism and dedication to public service to delegitimize noble birth.\textsuperscript{197}

Consequently, when Hegel entered the scene, we must keep in mind that nowhere was the bourgeoisie in sight. Instead, Prussian society was deeply marked by a power struggle involving the king and his cabinet ministers (the monarchy), a bureaucracy that increasingly their self-appointed role as the “universal” custodians of the state (the civil service), and a resentful Prussian landed aristocracy that wanted the return of feudalism. And Hegel defended the bureaucracy and monarchy at this crucial moment against the landed aristocracy.

\textsuperscript{195} The Philosophy of History, 417-427 in which he discusses the general history of feudalism’s demise in Europe.

\textsuperscript{196} See Gillis, The Prussian Bureaucracy in Crisis, for the subsequent history.

\textsuperscript{197} Rosenberg, Bureaucracy, 182-187.
But, to be clear, I am *not* then claiming that Hegel’s monarchism is “populist”. While Domenico Losurdo has made a convincing case that Hegel’s political theory, even his monarchism, is actually “plebeian” in the sense of defending the rights of the poor and the weak against the rich and the powerful, I only claim that because a bourgeois democratic revolution was impossible in Prussia, modern reforms had to come from the educated elite who ally with the monarchy to oppose the landed Junker aristocracy. In other words, I *only* claim that Hegel, as a member of the *Mittlestande*, shared the same preference for monarchy against the feudal elites of his time given his awareness that “democratic” options via “representative institutions” would have increased Junker power.

This unintended outcome of defending representative institutions in Prussia consequently explains why Hegel never conceive of a “parliament” on the English model because the “Estates” in Prussia mainly represented the nobility. Hegel notes that feudal lords tend to “quit their isolated capacity and become members of Estates [or Orders of the Realm] and Corporations” when they realize that “vassals are powerful only by combination as an order” against a prince who tries to centralize power. Hegel argues that these nobles will frame their corporate resistance in the language of freedom –


199 Habermas, *Structural Transformation*, 5-12; see also, Gianfranco Poggi, *The Development of the Modern State: A Sociological Introduction* (Stanford, CA: Stanford University Press, 1978): 36-59. Hegel was thus deeply aware that reviving “representative institutions” in Prussia would only lead to further nobiliary dominance given that the supremacy of the Prussian monarchy rested upon this very suppression of the noble “Estates” (see sections III and IV below).

200 See *The Philosophy of History*, 418-419.
“Resistance to kingly authority is entitled Liberty” – but such language should not distract us to whom these representative institutions work for.201

“The diets, estates, parliaments, and councils all stoutly defended liberty and indeed stood for many genuine liberal ideas,” Palmer echoes elsewhere, “but at the same time they palpably insisted on the maintenance or enlargement of their own [aristocratic] privileges.” And Palmer continues, “[t]he pattern of a conflict between bourgeoisie and aristocracy, or between new men and old hereditary corporate groups, a pattern that can be seen roughly to fit in Western Europe is hard to detect in Germany at the close of the eighteenth century, and invisible further east. Burghers and peasants were too weak to engage in any protracted struggle. Measures taken in their behalf were taken by others.”202 Consequently, because “[t]he conflict was between monarchy, bureaucracy, or the intelligentsia on the one hand, and the conservative interests of the serf-owning nobilities on the other,” this meant that “[t]he democratic principle in Eastern Europe was characteristically upheld, so far as it was upheld at all, by monarchy and its bureaucratic servants or by the intelligentsia either in or out of the government”, not the Estates.203

Put this way, Hegel is like Voltaire who defended constitutional monarchy against feudal aristocracy.204 Voltaire understood clearly that French parliamentary opposition to the Bourbon monarchy of kings Louis XIV and XV cannot be reduced to the rhetorical question of “liberty” versus “despotism”. In a scathing critique of Montesquieu, Voltaire

201 Ibid, 419.

202 Palmer, Democratic Revolution, 477.

203 Palmer, Democratic Revolution, 477.

204 For Voltaire’s similarities with Hegel, see Losurdo, Hegel and the Freedom of Moderns, 72-73.
exposed how framing this political struggle in terms of these abstract concepts actually allowed the Parlements of France to defend aristocratic privileges against the Bourbon monarchs by masking their nobiliary particularism and intransigence as a matter of “liberty,” “right” and “justice”.205 So like Voltaire, Hegel also saw how the Prussian Junkers legitimized their particularism by defending limited government, the Estates, individualism, and even social contractarianism against the king.206 Indeed, only with such historical insight can we rescue Hegel from what Marx in 1843 called “crass liberalism” that only sees “good on the side of representative bodies and every evil on the side of the government” – a view ignorant to how such arguments were instrumental in advancing nobiliary interests.207

By contrast, Hegel clearly understood that there is nothing inherently “good” or “bad” about representative institutions. To make such ahistorical assessments of political institutions without asking who exactly are in them is simply meaningless. We cannot simply equate every representative body like the Prussian Diet or the French Parlements with the cause of “democracy” or “liberty” and every monarchical attempt to undercut their power as “despotism” or “tyranny”. Hegel’s monarchism must therefore be understood as a response to, quoting Hans Rosenberg again, to an upsurge of elite reaction “directed


206 Losurdo writes, “[c]onservative or reactionary contractualism spreads throughout Europe, and perhaps especially in Germany…. Thus, the anticontractualist polemic [of Hegel] does not have an antiliberal, conservative significance as is commonly believed. On the contrary, in Prussia, those who defend the contract and the necessary respect for the contract are the aristocratic reactionaries, who oppose antifeudal reforms and who hold on stubbornly to the ‘spirit of old Europe.’ … The culture of the time, in fact, often uses the theory of the State in a strongly anti-egalitarian manner, that is, as a private joint-stock company” in Hegel and the Freedom of Moderns, 194-195.

207 Quoted in Losurdo, Hegel and the Freedom of Moderns, 45.
against centralized absolutism, monarchical or bureaucratic” that attempted to use these Estates to advance policies “aimed at the establishment of a limited monarchy through the partial revival of medieval constitutionalism, of the representative institutions and hoary political valuations of the pre-absolutist Ständestaat” to serve nobiliary interests. This confirms Jean-Philippe Deranty correct insight into “Hegel’s fundamental belief that the monarch and its people are natural political allies, and that they both have to contend with the median powers in the State, the aristocracy, the lawyers, etc.”

Lastly, my interpretation does not deny the obvious: that Hegel defended the Prussian monarchy. Karl Popper and Herbert Marcuse were intuitively correct to identify Hegel’s defense with support for the Prussian monarchy (albeit in an ideal form). But I find their conclusions that Hegel was either supporting “totalitarianism” (a claim Popper later retracted) or was “betraying his highest philosophical ideas” (a project Marcuse sought to extract from Hegel’s Prussianism) historically inaccurate given the actual political problem Hegel faced. Hegel never enjoyed what successful democratic nations today take for granted and Hegel’s dislike of radical nationalists like Fries amounts to a criticism of their willful ignorance of such realities (cf. PR §273). In no society dominated by feudal oligarchy can the very modern notion of being a “bourgeois” or “citizen” be realized. Only once feudal nobles have been subdued can truly “modern” politics be a reality.

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209 Deranty, “Hegel’s Parliamentarianism” 130, fn. 27.


iii. Hegel and Feudal Monarchy

The following sections show how Hegel’s monarchism (1) rejects the centrifugal tendencies of feudal monarchy, (2) steers clear of the problems associated with elective monarchy, and (3) bureaucratize absolutist monarchy to create a modern state. In this section, I address his rejection of feudal monarchy, leaving points (2) and (3) for the sections (IV) and (V) respectively. To do this, I first clarify Hegel’s use of the term “division of powers” in §272. For Hegel this term does not distinguish between a division of functions and a separation of powers. Hegel advocates the former but sees the latter as inimical to good government and found especially under feudal monarchy.

Let me explain.

The division of functions is not the same as a separation of powers. For Hegel, the division of functions means separately assigning the process of creating, interpreting, and executing laws to distinct branches of government so that no one institution combines these tasks. This means that, in principle, the Legislature strictly creates, the Judiciary strictly interprets, and the Executive strictly executes the laws. But a separation of powers is different because it fragments political power so that multiple units act as their own executive, legislature, and judiciary. This means that to call the various branches of government Executive, Legislative or Judicial is really a misnomer given that each “branch” really acts as its own sovereign. Hegel writes,

When we speak of the distinct activities of these powers [e.g., the legislature, executive, and judiciary], we must not fall into the monumental error of taking this to mean that
each power should exist independently [für sich] and in abstraction; on the contrary, the powers should be distinguished only as moments of the concept. [For] if these differences do exist [bestehen] independently and in abstraction, it is plain to see that two self-sufficient entities cannot constitute a unity, but must certainly give rise to a conflict whereby either the whole is destroyed or unity is restored by force. (PR §272, A)\textsuperscript{212}

This critical view of the separation of powers leads Hegel to reject feudal monarchy. Hegel takes up Montesquieu’s discussion of feudal monarchy to show its inherent defects stemming from the separation of powers pervasive in it (PR §273). Montesquieu, as Hegel acknowledges, is well-known to have identified the principle of “honour” in feudal monarchy. Yet, for Hegel, this stress on “honour” has nothing to do with an ethical virtue of good behavior. Instead, Hegel shows that Montesquieu’s stress on “honour” in feudal monarchy reveals the how the fragmentation of political power within feudal regimes makes government incapable of enforcing the law. “Honour” is therefore necessary in feudal monarchy because all the central governments can do is to exhort nobles to obey its directives.\textsuperscript{213} Feudal monarchy is thus a regime in which the separation of powers allows powerful nobles to evade public duties and laws as Hegel explains,

\begin{footnotesize}
\begin{enumerate}
\item The “two self-sufficiency entities” refers to the Legislature and Executive acting independently of each other.
\item See issue above in section II.
\end{enumerate}
\end{footnotesize}
The fact that Montesquieu recognizes *honour* as the principle of *monarchy* is enough to indicate that the monarchy he has in mind is….*feudal monarchy* as that in which the relationships covered by its constitutional law [*inneren Staatsrecht*] have become firmly established as rights of private property and privileges of individuals and corporations. Since the life of the state is based, under this constitution, on *privileged personalities* to whose discretion a large part of what has to be done for the preservation [*Bestehen*] of the state is entrusted, the objective aspect of their services consists not in *duties* but in *representations* [*Vorstellung*] and *opinions*; consequently, the state is held together not by duty but merely by *honour*. (PR §273)

And he continues,

In the *feudal monarchy* of earlier times, the state certainly had external sovereignty, but internally, neither the monarch nor the state was sovereign. On the one hand… the particular functions and powers of the state and civil society were vested in independent corporations and communities, so that
the whole was more of an aggregate than an organism; and on the other hand, they [i.e., these functions and powers] were the private property of individuals, so that what the latter had to do in relation to the whole was left to their own opinion and discretion. (PR §278)

Hegel had in mind the feudal monarchy of the Holy Roman Empire after 1648. Feudal monarchy arose out of the devolution of Charlemagne’s empire and its defining characteristics had been the administrative reliance upon powerful local magnates (the later derivation of the Roman *latifundia* owners) to run the government.\(^\text{214}\) Such a complex structure of vassalage was necessary at the time given the logistical, technical and administrative challenges confronting the Merovingian and Carolingian kings. But in time, this reliance upon nobiliary delegation for the business of government had profound consequences for the nature of feudal monarchy since delegation also meant that decisive political and bargaining power was concentrated in the hands of the local magnates who wielded nearly absolute powers within their little fiefdoms.\(^\text{215}\)

By relying too much on “privileged personalities” to govern, feudal monarchs effectively made themselves utterly dependent on the willingness of his subordinates to do as he says, turning the delegation of authority into the open contestation for it. Such a power vacuum spelled disaster for the common people when the lords of the realm waged private wars as the English War of the Roses, the French Fronde, and – for the case closest to


Hegel’s own experience – the religious and oligarchic turmoil which tore at the Holy Roman Empire all exemplify what happens under feudal monarchy. Indeed, Perry Anderson calls such feudalism “parcellized sovereignties” because there is no ability for a central power to subordinate local magnates.216 Consequently, Hegel rejected attempts by Romantics at reviving feudal monarchy given how incapable it was of realizing the social coordination needed to meet the challenges of the modern world.217

iv. Hegel’s Rejection of Feudal Monarchy

Yet Hegel’s rejection of feudal monarchy does not make him a defender of royal absolutism. While Hegel’s constitutional monarchy bears many striking resemblances with the absolutist monarchies that replaced feudal monarchy in Western Europe, especially in advocating for hereditary monarchy, this ignores how Hegel constrains the royal will by subjecting it to the bureaucracy.218 But this defense of hereditary monarchy against elective monarchy in PR §281 is interesting because Hegel’s rejection of elective monarchy indicates a progressive mindset. In fact, in Hegel’s time, feudal conservatives were the ones advocating for an elective monarchy while progressives were demanding for a hereditary monarch as Hegel writes,

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One of the more recent achievements of history has been to
develop the monarchic constitution to the point where
hereditary succession to the throne is firmly based on
primogeniture… This achievement is of the greatest
importance for public freedom and for a rational
constitution, although it is very poorly understood… Thus,
the history of despotisms and of the purely feudal
monarchies of earlier times represents a succession of
rebellions, acts of violence by rulers, civil wars, the downfall
of sovereign princes and dynasties, and in consequence,
general devastation and destruction on both internal and
external fronts. The reason for this is that, in conditions such
as these, the division [Teilung] of political business is purely
mechanical, with its different parts distributed among
vassals, pashas, etc., so that the difference [between these
elements] is not one of determination and form, but merely
of greater and lesser power. Thus, each part maintains itself
alone, and in so doing, it promotes only itself and not the
others along with it, and has within itself the complete set of
moments which it requires for independence and self-
sufficiency. (PR §286)
In other words, Hegel states that inherent problem of elective monarchy arises from the fragmentation of power “among vassals, pashas, etc.” that primogeniture solves.

Yet contemporary readers remain puzzled by Hegel’s rejection of elective monarchy since (from their perspective) elections are the only tool the people have to check the royal will. Hegel acknowledges this point of view, writing that “since it is the concerns and interests of the people that the monarch must look after, it can be argued that the people must also be left to choose whom they wish to entrust their welfare to, and that it is from this trust alone that the right to rule arises.” (PR §281)

But Hegel also understood that everything hangs on who are the actual people electing the monarch. On closer inspection, “the people” in section §281 refers only those to the nobility. This interpretation is the most plausible given that Hegel had in mind the elective monarchies of the Holy Roman Empire, Poland and Bohemia where the “electors” were unquestionably their nobilities and not the common people, e.g., the German “Prince-Electors”, the szlachta, and the nobles of Bohemia. Moreover, that Hegel describes such contests as producing “strife of factions round the throne” and the transformation of the political constitution into “an electoral contract [Wahlkapitulation] all clearly show that the problem he had in mind related directly to the way the Holy Roman Empire chose its emperor (PR §§281, 273).

Indeed, Hegel’s characterization of elective monarchy as being “mechanical” requires further comment. In saying this, Hegel is not articulating the Romantic critique of liberalism as “mechanical” when compared to the “organic” Middle Ages. Hegel has his own take on what “organic” means. Instead, Hegel argues that state is like an “organism” in that all of its parts must be coordinated to advance the good of the whole. This is what
he means by political “idealism” in that just as parts of an animal are never independent of each other but are “moments” belonging to the whole creature, so must elites never claim self-sufficiency and exemption from public law and common commitment (cf. PR §276). This Hegelian organic theory of the state thus bears absolutely no relation to that organismism propounded by medieval political theorists, because Hegel wants to challenge the claims of nobles to particularistic independence and autonomy.\footnote{Otto Gierke, \textit{Political Theories of the Middle Ages}, trans. Frederic W. Maitland (Cambridge: Cambridge University Press, 1987).} Hegel writes in his \textit{Lectures},

The monarchical principle… implies supreme authority, but it is an authority over persons possessing no independent power to support their individual caprice; where we have no longer caprice opposed to caprice; for the supremacy implied in monarchy is essentially a power emanating from a political body, and it is pledged to the furtherance of that equitable purpose on which the constitution of a state is based. Feudal sovereignty is a polyarchy: we see nothing but Lords and Serfs; in Monarchy, on the contrary, there is one Lord and no Serf, for servitude is abrogated by it, and in it Right and Law are recognized; it is the source of real
freedom. Thus in monarchy the caprice of individuals is kept under, and a common gubernatorial interest established.\textsuperscript{220}

Hegel’s rejection of “polyarchy” is decidedly not authoritarian. Hegel explicitly rejects any regime that attempts to suppress the individual, and thinks that the modern regime must possess a realm of civil society in which individuals are free to do what they think is in their best interests (cf. PR §206). All Hegel is trying to do in rejecting elective monarchy and in advancing organicism is to tackle the danger of powerful oligarchs pose to the integrity of the modern state (cf. PR §278).

V. Hegel’s Bureaucratic Monarchy

Lastly, I examine how Hegel’s \textit{constitutional} monarchy differs from royal absolutism. Hegel’s argues that the monarchy must be subject to the bureaucracy in government. That is, Hegel requires the monarch’s decisions to be vetted by professional trained civil servants. The purpose of such a bureaucratic arrangement is to ensure that reasonable rules and procedures will be promulgated and that the state be staffed by persons of merit rather than the king’s personal favorites. The Hegelian constitutional state thereby limits the arbitrariness of the monarch through the professionalization of its processes in ways that prioritize skill, technical expertise and acquired talent over the privileges of

\textsuperscript{220} Lectures on the Philosophy of History, 416.
This is what Hegel means by “[t]he state must be regarded as a great architectonic edifice, a hieroglyph of reason which becomes manifest in actuality”.

Hegel’s monarchism therefore corrects for the defects of royal absolutism. Hegel refers to how a “robe aristocracy” developed and captured state functions by transforming their offices into private property in France. Initially, the goal of selling royal offices had the goal of displacing the old warrior nobles with a new kind of aristocracy who depended on the largesse of Louis XIV for their welfare. But because the stability of such a system depended on the arbitrary will of the king rather than any claim to professional expertise or administrative competence, the death of Louis XIV created a power struggle among the nobles. Montesquieu was himself party to this contest when he pursued a litigious path to acquire an official position in government for his own son given the immense benefits of tax exemption holding such offices offered. Hence, what began as a tool for control the nobility under royal absolutism led instead to the rise of a burdensome and parasitic caste of “privileged persons” – a point powerfully stressed by Sieyès later – who jealously guarded their sinecures. This drained the resources of the French state and was the reason why Voltaire objected to the hysterical obstructionism of the Parlements

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222 See Ford, *Robe and Sword*.

223 This was also the policy of the Hohenzollerns in Prussia.

224 Ford, *Robe and Sword*, 106, 244.

And so, while feudal monarchy suffered too many contending centers of power, royal absolutism also fell prey to parasitic elites. Rejecting both outcomes, Hegel’s choice of constitutional monarchy tried to overcome these problems by professionalizing and de-personalizing the state by strictly upholding professional standards of advancement and eliminating the buying and selling of offices (cf. PR §277). Only given such historical considerations can we view Hegel’s monarchism to result from his fear that elites will capture state institutions for their own particularistic gain especially in the absence of a strong bourgeois counterweight.

A critic may naturally argue that a bureaucracy is no more intelligible (or responsible) than arbitrary royal decision-making. But this criticism underestimates the importance – an importance Hegel is trying to highlight – of how having clear and intelligible rules guiding action is a notable advance over the arbitrariness and fragmentary nature of feudal monarchy. In other words, Hegel’s point is that rational and centralized procedures do matter in limiting personal discretion. Also, this form of government did not exist during Hegel’s time. The history of Imperial Germany is the tragic story of how the bureaucracy was infiltrated and captured by the Junkers, and how the monarchy was forced to ally itself with a feudalized bureaucracy against rising popular pressures for reform.

In short, I hope that my historical reappraisal of Hegel’s monarchism shows that, far from espousing anti-democratic politics, no less profound a political thinker as this Swabian academic also resisted elite attempts at defending their privileges at the expense of the common people. Hegel’s methods may have been the victims of historical constraints.

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beyond his own making, but only my historical analysis can help us truly understand why he defended the Prussian monarchy.
Hegel and the Civil Service

This chapter examines the bureaucracy in Hegel’s political thought. I show that Hegel defended a self-regulating bureaucracy with the explicit purpose of excluding the landed aristocracy from government. I also show why Hegel rejected the strict separation of politics and administration which Weber defended.
i. Prelude

I begin this chapter with two excerpts that sketch the problem modern states faced in the power of landed aristocracies. The first is of Don Fabrizio, the prince in Giuseppe di Lampedusa’s novel, *The Leopard*, who declines an offer to be senator in the newly unified Italian kingdom. The second is a tense exchange from the TV-series *Downton Abbey* between the Dowager Countess of Grantham, Violet Crawley, and her daughter, Lady Rosamund Painswick, over whether the British central government ought to manage the local medical establishment that has traditionally been in the hands of the aristocratic Crawley family.227

I.

Now even people here are repeating what was written by Proudhon and some German Jew whose name I can’t remember, that the bad state of things, here and elsewhere, is all due to feudalism; that is, my fault, as it were. Maybe.

Don Fabrizio, the prince, in *The Leopard*.228

II.

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227 An exchange happening in the company of Isobel and Cora too.

Cousin Violet: For years I have watched the government take control of our lives and their argument is always the same: fewer costs, greater efficiency. But the result is the same too: less control by the people, more control by the state, until the individual’s own wishes count for nothing. That is what I consider my duty to resist.

Aunt Rosamund: By wielding your unelected power?

Cousin Violet: You see the point of a so-called “Great Family” is to protect our freedoms. That is why the barons made King John sign the Magna Carta.

Downton Abbey (Season 6, Episode 4)

These excerpts highlight how landed aristocracy resisted incorporation into the modern state. The Sicilian Prince declines the senatorial offer finding it intolerably awkward to take up any position in the new regime dominated by northern bureaucratic and bourgeois interests. Similarly, we find the Dowager Countess framing her aristocratic

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229 For the relation between elites in these societies towards their central government in the time of democratization, see Daniel Ziblatt’s Conservative Parties and the Birth of Democracy (Cambridge: Cambridge University Press, 2017) and Structuring the State: The Formation of Italy and Germany and the Puzzle of Federalism (Princeton, NJ; Princeton University Press, 2006).
resistance against the National Health Service by appealing to the Magna Carta as a precedent for why the aristocracy should be left alone.

In these examples, we find an echo of the political problem Hegel’s’ bureaucratic state confronted in his Prussia. The particular features of the Hegelian bureaucracy – its self-regulating characteristics (section II and III) – result from the attempt of the German bureaucrats to exclude the aristocratic Junkers from government. In what follows, I therefore show how Hegel clearly understood the danger the Prussian Junkers posed to modern government by highlighting the perennial problem all advocates of responsible government face – namely, as John Adams expresses to Thomas Jefferson, the problem of the “aristoi” who are “the most difficult animals to manage of anything in the whole theory and practice of government” because “[t]hey will not suffer themselves to be governed.”

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230 See section III.

Hegel's Bureaucratic State

The Hegelian state is a bureaucratic state. In it, civil servants of the “universal estate” [Allgemeine Stand] are given wide latitude to set government priorities on their own accord. With the monarch’s initiative constrained by his bureaucratic ministers and the direct insertion of the civil service into the corporatist legislature as its own estate [Stand], Hegel clearly intends for the bureaucracy to be the salient force in the direction of public administration (cf. PR §§287-297). This is why the Hegelian state, as Bernard Yack argues, is “the rule of public officials.” Put this way, Hegel’s vision differs from that of Max Weber’s who separates bureaucracy from politics and defends the bureaucrat as mere instrument of politics who executes the will of a parliamentary majority sine ira et studio. By contrast, Hegel rejects Weber’s separation of administration and politics and thinks that modern responsible government can only be achieved when the bureaucracy is insulated


from external political pressures in defending the notion of a self-regulating bureaucracy. Such differences need explanation because Hegel and Weber not only differ on to whom government is ultimately accountable, but also helps shed light on how to evaluate bureaucracy under varying political conditions.

My argument is that Hegel defended a self-regulating bureaucracy to insulate the bureaucrat within in a hostile political climate dominated by, the traditional landowning aristocracy. Unlike Weber for whom the main issue was to bring the state under democratic control, Hegel had to work instead to insulate the state from the landed elites and this entailed rejecting the Junker-dominated representative institutions in giving the bureaucracy its distinctively non-Weberian corporatist and collegiate structure. And by “corporatist”, I mean that members of the bureaucracy constitute one of the three estates who sit in the legislature (PR §250). And by “collegiate” I refer to how the Hegelian bureaucrats “work together in groups” as peers in committee rather than in a military-style hierarchy (PR §289). Hegel thought that these feature where necessary to help the bureaucracy spearhead reform within a hostile feudal environment.

I therefore push back against assessments of Hegel’s vision as naïve. Understandably, that Hegel’s places ultimate accountability within the bureaucracy itself

appears to guarantee no public accountability at all, especially in light of later political developments in Germany.\textsuperscript{237} On such a view, Weber’s notion of a \textit{subordinated} bureaucratic organization (whatever its other problems) appears much more in line with \textit{our} democratic demands since it makes the instruments of the state accountable to “the people”. But this assessment ignores the actual historical constraints Hegel faced.\textsuperscript{238} Instead, my analysis of Hegel’s bureaucratic state offers a more historically accurate reappraisal of the value of his contribution.\textsuperscript{239} To do this, section II lays out the theories of bureaucracy in Hegel and Weber. Section III then explains why contemporary appeals to their philosophies of rationality and attempts at mitigating the anti-democratic thrust of Hegel’s bureaucratism are insufficient. And finally, section IV lays out the historical reasons for why Hegel defended a self-regulating bureaucracy.

\section*{iii. Hegel and Weber: Differences}


\footnote{238 Karl Marx: “Men make their ow history, but they do not make it just as they please; they do not make it under circumstances chosen by themselves, but under circumstances directly found, given and transmitted from the past” in “The Eighteenth Brumaire of Louis Bonaparte” in \textit{The Marx-Engels Reader}, 2\textsuperscript{nd} edition, ed. Robert C. Tucker (New York and London: W. W. Norton & Company, 1978): 595.}

\footnote{239 It is ironic that Weber’ notion of bureaucracy has not been popularly received in the actual practice of German public administration, see Wolfgang Seibel, “Beyond Bureaucracy – Public Administration as Political Integrator and Non-Weberian Thought in Germany,” \textit{Public Administration Review} 70(5) (2010): 719-30.}
Hegel’s and Weber’s visions of bureaucracy differ because Hegel rejects the separation of politics from administration that Weber champions.\textsuperscript{240} In fact, Hegel thinks that an unelected bureaucracy should direct government policy – a view which many today see as undemocratic.\textsuperscript{241} After all, if unelected bureaucrats can set government agenda on their own, how can “the people” hold their governments to account? By contrast, Weber’s strict separation of the two appears more to democratic since it puts representative institutions in charge of the bureaucracy. Stated this way, we might conclude that that Hegel’s vision of a collegiate and corporatist-style bureaucracy is naïve. To challenge this assessment, let us first see the similarities and then differences between Hegel and Weber on bureaucracy.

To start, it is well known that both Hegel and Weber see bureaucracy as a type of organization that institutionalizes impersonal and rational forms of authority and run by the professional civil servant (PR §294).\textsuperscript{242} Rejecting the patrimonial and feudal

\textsuperscript{240} See literature in footnote 7 above.

\textsuperscript{241} Michael Hardimon reasons wrongly for reasons I explain in section II below how this arises necessarily from how the complexity of modern precludes ordinary citizen participation in Hegel’s thought in his *Hegel’s Social Philosophy*, 220-227.

\textsuperscript{242} In what follows I borrow from Brady Bowman’s list but amend it to stress the point about political accountability pertinent to my argument. Bowman sets out the list marking the differences between Weber’s and Hegel’s bureaucratism as follows. First, he gives us the ten criteria Weber lays out of what makes an organization “bureaucratic”: (1) authority is impersonal, (2) offices are clearly and hierarchically defined, (3) each office is legally defined to manage a limited sphere of competence, (4) staffing is contractual and freely entered into, (5) candidates are selected by measurable criteria of technical qualifications, (6) salaries are fixed and clearly defined by rank, (7) office holders usually treat their responsibilities as their sole occupation, (8) there are clear career paths and “promotion” ladders for definite measures of seniority or achievement, (9) offices are not the property of the incumbent, and (10) incumbents are accountable to supervision according to procedures and are protected against arbitrary dismissal. Bowman then finds that Hegel’s bureaucratism fails to secure conditions (3) because the bureaucrat is given wide discretion, (4) since the bureaucracy is an estate, and (10) given that the collegiate nature of the bureaucratic estate allows for discretionary in-group disciplinary measures. I rearticulate this to stress three differences that I call (a) wide discretion, (b) corporatist standing in legislature, and (c)
personalization of pre-modern governmental authority [see Table 1.1 in Appendix], both Weber and Hegel share in the view that bureaucracy is distinctive because it allows for the rule of professionals who (1) are salaried employees; (2) are chosen on the basis of merit; (3) work according to clear and explicitly written rules and procedures; (4) have a well-defined career trajectory and promotions track; and (5) are staffed according to expertise (PR §§274, 277, 288-289, 290, 291, 294).

But while agreeing on these points, Hegel and Weber fundamentally differ on who the bureaucrat is accountable to.

Max Weber defends the strict separation of administration from politics because bureaucrats must be subordinated to the democratic process. That is, in rejecting Imperial German authoritarianism, Weber subordinates the bureaucracy to the “political” organs of government like the legislature that decides state policy through a competitive electoral process. This subordination of the bureaucracy to the legislature upholds, according to Weber, the indispensable “neutrality” of public administration by turning the bureaucrat into just an instrument executing the wish of the party in power. And to us, this collegiate structure of bureaucratic self-regulation. See Bowman, “Labor, Publicity, and Bureaucracy,” 55-62.


On Weber’s view on parliaments, their accountability to the electorate and how they protect liberty as well as secure sites for leadership, see David Beetham, Max Weber and the Theory of Modern Politics (Cambridge; Polity Press, 1985): 95-118.

subordination of bureaucracy to politics is intuitive because we believe that the bureaucracy must to be responsible to “the people” in a democracy.\textsuperscript{247} For bureaucrats to alter or even shirk their duties makes them unaccountable and the people’s ability to govern themselves.

By contrast, Hegel argues that the bureaucrat should direct government policy independent of the political process.\textsuperscript{248} Indeed, one questions whether there is even a distinction between administration and politics in Hegel’s theory of the state given how Hegel gives bureaucrats wide latitudes to set government priorities on their own.\textsuperscript{249} It is true that in some passages Hegel subordinates the bureaucracy to the monarch, but this is a mere formality. As noted in chapter III, the Hegelian monarch has no independent initiative and his civil servants are the actual drivers of the Hegelian state.\textsuperscript{250} This is why Hegel argues that, in the fully developed modern state, who the monarch happens to be does not really matter (cf. PR §§279-280). In fact, Hegel arrangement closely mirrors Prussian political developments as Gianfranco Poggi notes,

\begin{Verbatim}

\textsuperscript{248} Shaw writes that, by contrast to what Hegel calls “subsumption”, such use of professional judgment in the application of universal norms to concrete cases is negatively called by Weber “discretion”, see his “Hegel’s Theory of Modern Bureaucracy”, 383-386.

\textsuperscript{249} PR, preface 21, §260.

\textsuperscript{250} See section [x] of chapter [x] above.
\end{Verbatim}
An essential component [of bureaucratic absolutism in Prussia] was a new body of law – ‘public law’ – specifically concerned with the construction and operation of the administrative system. The system’s members operated not immediately on a commission from the ruler, nor as the direct executors of his personal commands, but rather, under the guidance and control of a body of enacted norms that articulated the state’s power (unitarily conceived) into a number of functions each of which was entrusted to an organ, i.e., a set of coordinated offices empowered to form and enforce authoritative decisions. Each organ possessed precisely delimited competencies, standards by which to evaluate their exercise, and formal and material faculties for operations. The individuals manning such operations were functionaries (Beamte) duly appointed to the component offices of each organ and supposedly trained and tested in the business of those office. … Except at the highest level, where peculiarly ‘political’ decisions were taken on matters concerning the internal and external security of the state or the broader direction of its policy, all individual decisions were to be reached through juristic reasoning – applying general legal provisions to carefully ascertained and documented circumstances…. Thus the state was intended
to operate as the instrument of its own enacted laws, thereby
making its activities systematized, coordinated, predictable,
machinelike and impersonal.251

In essence, Hegel differs from Weber in how Hegel puts the bureaucracy unilaterally in
charge of government and gives it corporatist and collegiate features to carry out its
mission. Let me explain these terms in detail.

By corporatist, Hegel explains that bureaucrats compose one of the three corporate
bodies that sits in the legislature alongside the estates of industry and trade and that of
agriculture (PR § 250). This tri-partite division of society into corporations of civil
servants, businessmen and agrarians in Hegel have been the subject of much speculation,
with some portraying it as reflecting Hegel’s tripartite logic, his dialectical forms of
reasoning applied to society, or simply a rationalization of Prussian feudalism.252 We need
not weigh these speculative reasons for all that concerns us here is why Hegel puts civil
servants in the legislature and gives them a direct role in legislating.253 This horizontal
insertion of the Universal Estate into the legislature and its simultaneous control of the

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251 Poggi, The Development of the Modern State, 74-75.

252 On Hegel’s corporatism see Daniel Lee, “The Legacy of Medieval Constitutionalism in the Philosophy
of Right; Hegel and the Prussian Reform Movement,” History of Political Thought 29(4) (2008): 601-634

253 See Wolfgang Seibel, “Beyond Bureaucracy – Public Administration as Political Integrator and Non-
Weberian Thought in Germany”. For contrasts between European and American notions on this issue, see
Mark R. Rutgers, “Traditional Flavors?: The Different Sentiments in European and American
executive branch of government completely upends the Weberian paradigm.\textsuperscript{254} Hegel’s bureaucracy resembles more (for lack of a better term) a powerful ‘clique’ in control of government than an instrument of parliament as advocated by Weber. And, by collegiate, Hegel emphasizes how the Hegelian civil servant is a member of a group of peers who “work together” – an arrangement that allows them to police their own membership and ability to internally enforce discipline.\textsuperscript{255}

Given these features, we must keep in mind that, unlike the Weberian civil servant, the Hegelian bureaucrat, because of his corporate standing in the legislature and his membership in a self-selected college of peers, remains independent of the political process. “Control”, Jackson therefore concludes, “must come from within the bureaucracy and ultimately from within each bureaucrat”.\textsuperscript{256} Hegelian bureaucracy therefore resembles less a bureaucracy and more a disciplined phalanx of vanguardists working (1) to spearhead progressive reforms, (2) control its implementation, (3) self-determine their own personnel and leadership structure, and (4) prevent competitive political forces from challenging agenda. Therefore I argue that Hegelian bureaucracy is, in short, a \emph{self-regulating bureaucracy}.

\textsuperscript{254} It can even be suggested that, for these reasons, we are not dealing in Hegel with bureaucracy in the strict Weberian sense of an instrument of the public will, and any effort to reduce the Hegelian bureaucracy to this paradigm completely ignores the peculiar and unique features of what Hegel is actually advancing.

\textsuperscript{255} The task of upholding, within these particular rights, legality and the universal interest of the state, and that of bringing these rights back to the universal need to be performed by delegates of the executive power, i.e., the executive civil servants and their higher consultative bodies” who “necessarily work together in groups, and they converge in their supreme heads who are in touch with the monarch himself. (PR §289, my emphasis).

\textsuperscript{256} Jackson, “Bureaucracy in Hegel’s Political Theory,” 149.
iv. Contemporary Assessment of their Differences

To explain these differences, contemporary scholars offer explanations that fall into two broad categories. The first category justifies their differences by appeal to their different philosophies of human reason, and the second category mitigates the anti-democratic consequences of Hegel’s view by appeal to the republican norms embedded within Hegel’s political theory. Neither approach, however, is sufficient. But let us examine these reasons first.

Examining their philosophies of human reason, for instance, Tijsterman and Overeem argue that the reason why Hegel gave such wide political latitude to bureaucrats to determine public agenda is because Hegel has a processual and social understanding of human reason.257 The argument runs this way: for Weber, human reason cannot justify why some people have some goals and others do not. All human reason can do is to help people figure out the means to achieve these given ends that have no inherent logic to them.258 In politics, this means that the priorities of a government are just provisional decisions which the majority of today determined after a competitive electoral process. Consequently, the job of a bureaucracy under such a regime is just to figure out the means to execute this political decision out, not to question the underlying logic of these agendas.259 On such an


account, Weber’s subordination of bureaucracy to high politics therefore flows directly from his instrumental view of human reason – a philosophy that Hegel obviously rejects.260

By contrast, Hegel has a processual and social understanding of human reason that underscores how the ends and means of human agency mutually condition each other in community. His insertion of the universal class directly into the political arena reflects therefore this socially dynamic understanding of human reason because the bureaucrat becomes actively involved in every stage of the processes whose outcome he executes.261 As such, the bureaucrat’s inclusion in the legislature and his collegiate structure directly reflects Hegelian rationality since for Hegel ends and means are synergistic. Or, put differently, the bureaucracy for Hegel is transformed into mini-deliberative bodies tasked with governing the state and using their own “educated” insights to direct policy, serving as literal embodiments of Hegel’s notion human reason in the state.

Yet, as valuable as such philosophic approaches are, such emphasis on their philosophies alone ignores analysis of the political problems they faced on the ground. For instance, Weber’s notion of bureaucracy cannot be read in abstract from his attempt at defending the fragile Weimar democracy.262 But this is not just about historical accuracy. Ignoring the concrete problems they faced fosters an unjustified prejudice against


bureaucracy which might have been necessary under different conditions. For example, as Skowronek reveals about American bureaucracy in the late 19th and early 20th centuries, embracing Weber’s skepticism of bureaucracy and subordinating the state to electoral majorities in Congress might actually undercut, rather than serve, the public good. Skowronek shows how democratic presidents Roosevelt, Taft and Wilson (and progressives like them) nonetheless embraced Hegel’s vision and did well to insulate the bureaucracy from Congressional majorities because they clearly saw Congressional influence as deeply inimical to responsible government. Only an attention to the actual political struggles they faced can help us avoid such prejudices.

The second approach has scholars trying to mitigate the unpalatable aspects of Hegel’s bureaucracy by pointing to the republican virtues he embeds within them. This approach, however, ignores the very purpose for which Hegel designed the bureaucracy. For example, Brady Bowman re-frame the corporatist and collegiate structure of Hegelian bureaucracy as somehow reflecting his commitment to “republican ideals” by which he means the commitment to citizen participation in government. On Bowman’s account,


264 Skowronek, Building a New American State. Robert Cuff also remarks that “[g]iven the American historical context of the 1880s when Wilson wrote “The Study of Administration, it is hardly to be supposed that he would regard the bureaucracy with the same anxiety as Weber. Creation, not control was the central issue; private, not public power, the chief threat to liberty” in his 1978. “Wilson and Weber: Bourgeois Critics in an Organized Age,” Public Administration Review 38(3) (1978): 241. See also Fritz Sager and Christian Rosser, ‘Weber, Wilson, and Hegel: Theories of Modern Bureaucracy’ for further comparisons.

265 Bowman argues that ‘these seemingly pre-modern aspects of the Hegelian state are more rightly to be described as the expression of an allegiance to republican ideals, and that they incorporate a republican
Hegelian bureaucracy realizes Greek ideals of participatory citizenship and the bureaucrat is actually a *citizen* because he is involved with his peers in government. Bowman, in other words, hopes that by interpreting these bureaucratic traits as “republican” Hegel would become more palatable to democracy.

But this attempt is ultimately disappointing given Hegel wanted to exclude, not include, people from government. To portray the corporatist and collegiate nature of Hegelian bureaucracy with republican thought therefore contradicts the very purpose these institutional characteristics aimed at. As we will see in the next section (IV), Hegel’s bureaucracy aimed at *restricting* participation to the educated elements of society. And this is despite the statement that the modern state “guarantees every citizen the possibility of joining the universal estate” since this statement does not specify who gatekeeps the relevant “knowledge *Erkenntnis* and proof of ability” necessary for candidacy (PR §291). In fact, to have possessed an education that qualifies one for bureaucratic office in Hegel’s Prussia already indicates a select group of individuals. Consequently, even the supposedly meritocratic features of Hegelian bureaucracy are deliberately intended to

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principle of publicity that Hegel believed sufficient to safeguard them against most instances of abuse,” in “Labor, Publicity, and Bureaucracy”, 62.

266 Bowman, 55. This is a position shared by Michael Hardimon too in his *Hegel’s Social Philosophy*, 220-227.

267 Bowman, p. 64.


269 This is naturally the case for agrarian and feudal societies like Prussia where the vast majorities of men and women were not literate or were only marginally so. To have a child receive a clerical or juristic education meant an economic sacrifice few poor families could make (which does not mean it is impossible), but it certainly favors certain demographics as opposed to others. In fact, in Hegel’s time, only the nobility had access to these bureaucratic positions, see PR, p. 468.
confine decision-making power only to *some* and not all strata of German society.\(^{270}\) In the end, I think a better approach must focus on what exactly Hegel’s bureaucratism tried to solve.

V. **Hegel’s Bureaucrat in Prussia**

To recap Hegel defends an insulated bureaucracy (1) that controls the legislature and (2) is accountable mainly to itself (PR §289). These features of the Hegelian bureaucracy remove the bureaucrat from external political pressure and allows them to coordinate their actions internally to drive the Hegelian state. Weber’s vision of bureaucracy clearly rejects these features, but I argue their differences stem from the varying political problems each faced. On my account, Hegel defends such a bureaucracy because *only such an enclosed organization could have effectively challenged the landowning nobility to reform government*. This section now proves this claim.

If we return to Hegel’s Prussia and attempted, like Weber, to subordinate the bureaucracy to Prussian representative institutions like the Estates, we would have actually increased the power of the landowning aristocracy at the expense of the modern state.\(^{271}\) We must keep in mind that the Junkers controlled German representative institutions till as late as 1914 – some say 1944 – through patronage, gerrymandering and out-right political

\(^{270}\) It is true that in theory Hegel writes that the civil service is open to talent and merit (PR §308). But we must not forget that, a career open to talent is not necessarily one that guarantees equal access of all to the perquisites of an education that prepares one for it, especially in a highly unequal society as feudal Prussia.

\(^{271}\) See relevant literature cited above in footnote [x], but particularly, Robert M. Berdahl. “The Stände and the Origins of Conservatism in Prussia,” Eighteenth-Century Studies 6(2) (1973: 298-321 and Theda Skocpol, States and Social Revolutions, 104-109. Also see previous chapter [x] on the monarchy.
The German aristocracy were able to hold onto government for so long thanks in part to Germany’s late industrialization that gave the Junkers time to adapt and reform their old ways and benefit from the new. Much of such elite adaptation to industrial society occurred after Hegel died but Hegel nonetheless experienced the dominance of Junker power over government throughout his entire life. As such, when assessing Hegel’s contribution, we cannot ignore the problems of a largely feudal society he dealt with – one that is undergoing a revision of its economic and political structures.

Indeed, a quick glance at Hegel’s thoughts on political economy bears the unmistakable timestamp of the period. Hegel does not speak of concentrated state-led industrial growth that was a major characteristic of Germany’s late industrialization – experiences that, by contrast, form the bulk of Karl Marx’s later reflections. To be sure, Hegel did ‘anticipate’ such a development if all we mean is that Hegel intuited the radical commercialization of feudal society. But nonetheless such insights remain intuitions and

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272 The monarchy was finally abolished in 1918. U.S. occupying forces eliminated the German Junker elite and fostered a new political leadership not dependent on old Junker interests; see John Montgomery, *Forced to be Free: The Artificial Revolution in Germany and Japan* (Chicago: University of Chicago Press, 1957).

273 Germany only begins industrializing after the inauguration of the internal customs union in 1834. For not only was the dominance of the agrarian elite a great inhibitor of wide-scale independent bourgeois development, but so was the unfortunate parcellation of Germany after the Peace of Westphalia (1648) into innumerable petty kingdoms and aristocratic sovereignties with a confusing array of tariff structures and economic regulations – a disastrous outcome that Hegel in many places lamented. It was only after bureaucratic reformers were able to push through schemes for Germany-wide customs unions beginning in 1834 that German businessmen could finally able emerge out from under their feudal minority by tapping into a bigger market of goods and dare to be independent. All this is why, for Hegel’s time, we can say that an independent and entrepreneurial middle class was a product rather than cause of bureaucratically-imposed German economic unification and liberal reforms. For the political economy of Germany during this time, see Tom Kemp, *Industrialization in Nineteenth-Century Europe*, 2nd Edition. New York: Routledge, 2013 [1969]: chapter 4.

Hegel never articulated the problems of a modern industrial society. He never talks about the rise of business magnates that scale their activities to achieve market dominance. Hegel does not talk about how bankers in Germany provided the necessary early capital and corporate advisory functions to seed industrial endeavors. Hegel hardly discusses how labor unions arose to champion a greater say in the investment processes for their constituents. Rather, his idea of commercial society remained largely artisanal and agricultural.

Instead, Hegel’s perspective came out of an environment dominated by three major groups – the Junker nobility who owned vast agrarian estates, the serfs who worked their fields, and the central government in Berlin composed of the Hohenzollern monarchy and its bureaucracy and military growing in power. This indicates the relative insignificance of the urban bourgeoisie in Prussia as is typical of industrial latecomers (similar societal structures can be found in southern Italy, Russia and even some parts of France well into the late 19th century) and very much unlike Great Britain that, being the first nation to industrialize, had a robust bourgeois class that dominated politics and spearheaded reform. By contrast, Continental reforms for modernization came mainly from their

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276 For instance, in stressing the value of the agricultural estate in the legislature (PR §§305-307).


278 The bourgeoisie in England autonomously sought to plough their savings into new capital investments while in other countries like Prussia, such bourgeois-led growth had to be instead created by government initiative. The result of all this is that the laissez-faire ideology of English bourgeois liberalism was rejected by Continental nations who feared that, in the absence of top-down government direction, their infant industries would fail to compete against the first-mover advantages already possessed by British industry. See Kemp, *Industrialization*, 4, 11-12.
central governments which pursued changes that challenged the power of their traditional aristocracies.  

For the most part the bourgeoisie in countries like Prussia were conservative. They could not and did not want to challenge the system of feudal patronage that they still depended on since the bulk of their income came from the expenses of the aristocracy. Since the bulk of a feudal economic surplus was spent by the aristocracy unproductively in luxurious and ostentatious display, this meant feudal commerce found its most lucrative trade in catering to the tastes of the nobility or, as Adam Smith notes, in providing them with their “trinkets and baubles”, not in expanding production for a mass-market.

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279 “One must view the bureaucracy,” Klaus Epstein writes, “as the single most important progressive force in Germany at the end of the eighteenth century… Their motivation was as frequently an idealistic desire to serve mankind as a personal desire to make a career for themselves… Their self-respect required that they view themselves as servants of the law and the general welfare rather than instruments of the king’s arbitrary whim.” The Genesis of German Conservatism (1966): 53. We also ignore the peasantry. In feudal societies, they hardly act as a cohesive political force.

280 This impotence lasted well into the late-19th century as Tom Kemp argues that “[t]he basic reason for this is to be found in the failure of the liberal middle class in 1848 to establish a unified constitutional state. At this stage social development was still too backward to inspire the middle-class leaders of the revolution with either the self-confidence or the social basis in the country which were required for success. Consequently, the old traditional forces were able to re-establish themselves with the help of the military power of which they had never lost grip, at least in Prussia. After a little over a decade, in which Austrian influence in the Confederation remained unchallenged, Prussia under Bismarck staked out a claim for political hegemony in Germany and established it at Austria's expense on the battlefield. Then, with the defeat of the Second Empire of Napoleon III, the new German Empire became the most powerful state on the continent of Europe. This new state, for all its acceptance of universal suffrage and a national parliament, remained an autocracy ruled by the Hohenzollern dynasty, which still rested on the support of the traditional landed nobility of eastern Germany. It incorporated the bureaucratic and militarist traditions of the old Prussia and the conservative forces were given a new lease of life by the way in which unification had taken place”, Industrialization, 95.

281 Adam Smith, An Inquiry into the Nature and Causes of the Wealth of Nations, ed. R. H. Campbell and A. S. Skinner, 2 Vols. Indianapolis: Liberty Fund, 1981 [1776]: 421. “Expressed in another way, it can be said that the European nobility was primarily a parasitic consuming class, it only invested its surplus productively to a very limited extent. Compare this with the situation in England. Involved in estate management, dealing more strictly in rational accounting terms, the landowners not only drew income out of the estate to maintain themselves in the state to which they were accustomed, building stately homes and the like, but they also financed improvements, of which enclosure was the most important, and saw to
Moreover, Prussian urban merchants were deliberately disadvantaged by various inhibitory taxes and tariffs to benefit agrarian interests. This concerted attack on the towns led Barrington Moore to remark that “[t]he weakness of the towns has been a constant feature in German history”.282 In fact, so far were the German bourgeoisie at the time able to challenge the Junker class that they actually sought to ape them in manners and dress.283 Otto Hintze concludes that “[a]t the beginning of the nineteenth century Prussia lacked a compact, responsible, politically active middle class that could stand on an equal footing with the landowning aristocracy.” Instead, “[t]he social forces that could take the part of the Third Estate in Prussia were armed by their education rather than by their wealth, and these forces found their natural center in the organized civil service.”284 An educated elite rather than a commercial one thus used the central government to spearhead what they thought were necessary reforms to change Prussia.

This rise of an educated class to power is explicitly defended by Hegel when he excludes the commercial classes from “die Mittlestande” (PR §297; see Table 1.2 in Appendix for German-English comparison).285 This “middle class” is supposed to be the

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283 See on the Junkers and their pervasive clout, Berdahl, The Politics of the Prussian Nobility.

284 Otto Hintze, “Reform Movements before 1806” in Historical Essays, 84-55, my emphasis.

285 It is true that today the German word includes both educated professionals like bureaucrats, teachers and lawyers and independent businessmen and tradesmen that modern society, the curious thing about Hegel is how he puts the former into the Universal Estate from which bureaucrats are to be recruited while relegating the latter to the “estate of trade and industry” which he considers incapable of ‘universal’ (i.e., public) concerns. Moreover, translating Stand as class ignores how belonging to an estate radically differs
social class from which the Hegelian civil servants are drawn, and Hegel rejects the inclusion of businessmen in this group. Hegel reasons that the narrowness of their views prevents them from devoting themselves to the public interest (cf. PR §§ 230, 234-238, 250-256, 306-308). Whether Hegel is right or wrong here is not important. Instead, crucial is that, for Hegel, the “middle class” refers almost exclusively to the educated stratum of German society.

This stratum is known as the Bildungsbürgertum (e.g., lawyers, professors, bureaucrats, etc.) who worked mainly in the public sector and academia. Hegel thought that these people were indispensable for staffing the modern state with capable professionals trained in legal and other technical disciplines. Additionally, these individuals also carried with them the modern ethos of self-cultivation which reformers like Hegel, Humboldt, Schiller and Goethe idealized. This ethos is known today as Bildung which stressed cultivating the inner “spiritual” qualities of the mind to view things in a ‘universal’ way.\(^{286}\) This ethos also directly challenges feudal ideas about restricting public

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service only to those with noble birth. In a way, the professionalization of government intended to directly challenge both the hold and legitimacy of feudal rule – an outcome Hegel thought was indispensable for the maturation of the modern state.\textsuperscript{287}

And to show the importance of context for Hegel’s prescriptions, we can compare how the Hegelian bureaucracy staffs its offices with how bureaucracies under different conditions like in the United States and Great Britain did it. Most notably, we see that in America and England the lines between public administration and business are more fluid due to the deeper commercialization of their societies. Because either feudalism never existed in America or had long since been dead in England, their elites were primarily economic and urban. Consequently, their governments did not have to fight an agrarian elite but had the primary role of managing economic conflict. This necessitated a more fluid system of recruitment because the government needed business expertise to coordinate the private sector and the private sector wanted public support for its bottom line. As such, as Bernard Silberman points out, Anglo-American individuals find lateral transitions between business and the public sector easier than it would be for Continental bureaucrats.\textsuperscript{288}

This is even reflected in how bureaucrats are chosen in these countries. In the United States, for instance, educated individuals are taught to be “generalists” in school. They acquire “skills” only after they gain full-time employment. This means that Anglo-

\textsuperscript{287} PR §§295, 296, 297.

American education system does not generally act as a dedicated conduit for specific jobs and leaves it up to the individual to choose his or her profession. And such a system makes sense of a dynamic industrialized society which have fluid labor markets. But this is not the case on the Continent where bureaucrats are usually selected at a young age to advance into specialized civil service branches. The only reason why this is the case on the Continent is because of the intense historical struggle Continental central governments had in their fight against their feudal environments.289 These central governments needed individuals who were fully committed to their reformist cause and they had to prevent them from leaving the public service as it were. And the main way they could do this was through incentivizing them from an early age to invest a lot of time and effort into a career path which made it very hard for these bureaucrats to do anything else. Indeed, read against this background, the peculiar features of Hegelian bureaucracy become immensely more intelligible as a way of securing the loyalty of professionals to the central government (see especially PR §297).290

This history of the bureaucracies thus shows varying paths the modern state took.291 Unlike in Great Britain where commercial relations had already co-opted the British aristocracy to “modernity” (whatever their pretensions for the bucolic and pastoral notwithstanding – “[i]n the age of Burke the human symbol of rapid economic success was

289 See chapter [x] on Hegel’s monarchism above, especially section [x].


a canal-building Duke, a member of the ancient governing order, deftly exploiting new opportunities”), by contrast, the Junker ruling class of Hegel’s time still vigorously opposed every effort of the central government in Berlin to alter their traditional privileges.\textsuperscript{292} It was against vigorous Junker opposition that Prussian reformers like Stein and Hardenberg – men with whom Hegel shared many political sensibilities – had to insulate the government if they wanted to get things done.\textsuperscript{293}

Prussia’s defeat by Napoleon at Jena and Auerstadt in 1806 was a military disaster that discredited the strong grip of the Junker nobility into which the Prussian state had fallen since the reign of Frederick the Great.\textsuperscript{294} This opportunity gave the reformers a brief window in which to act. Indeed, Hegel celebrated this defeat which he thought would inaugurate change in Germany and was not mistaken as the Prussian reformers moved quickly to exploit this tragedy.\textsuperscript{295} And these reformers created the insulated bureaucracy

\textsuperscript{292} Anthony Quinton, \textit{The Politics of Imperfection: The Religious and Secular Traditions of Conservative Thought in England from Hooker to Oakeshott} (London; Faber & Faber, 1978): 73.


\textsuperscript{294} Theda Skocpol remarks that as a result of this event “[p]rofessional administrators such as Karl von Stein and Karl August von Hardenberg, and military reformers such as Gerhard von Scharnhorst and August Neithardt von Gneisenau could step to the fore, push aside the debilitated personal controls of Hohenzollern despotism and use the still existing and functioning state organizations to implement limited measures to make the economy and society more flexible supports for military autocracy.” To be sure, in their efforts, “noble titles and prerogatives were not abolished but [they] were rendered legally accessible to born commoners who could afford to purchase the landed estates or obtain the education and patronage necessary for promotions in the bureaucracy or officer corps. Serfs were given their personal freedom. And universal military conscription was begun, a measure that allowed the Prussian armies to expand suddenly and to benefit from the increased enthusiasm of citizens newly benefited by the reforms or aroused to hostility by several years of French intervention and financial exactions. All of these reforms could be implemented from above relatively smoothly because the Prussian state was already so very strong within society, and because the Junkers – whose established economic and status interests were somewhat contradicted by the reforms – were nevertheless in no institutional position to block concerted policy initiatives of the state.” \textit{States and Revolution}, 108.

\textsuperscript{295} As Kenneth Westphal remarks, “Hegel's political philosophy became prominent during a fortunate break in conservative dominance. Conservative forces in Germany were in retreat after the Battle of Jena in 1806.
Hegel envisioned to staff the state mainly with educated professionals as John R. Gillis notes,

During the Reform Era every attempt to extend the principle of monocratic government to the bureaucratic hierarchy failed because of the resistance of the officials themselves.\textsuperscript{296} The principle of collegiate responsibility in decision-making was retained at both the ministerial and district levels, where all matters of importance continued to require the deliberation of the entire membership of the particular unit concerned. All members of the agency involved took part in the discussion of every major question to come before their college, and all shared legal responsibility for the collective decision. The collegiate principle was the symbol of the corporate tradition of the bureaucracy. Though it was less efficient than monocratic organization, early nineteenth-century officials were strongly attached to it for reasons that

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\textsuperscript{296} By “monocratic” Gillis means the kind of strict military-style hierarchy of top-down organization.
were social as well as technical. Collegiate responsibility protected their profession against corruption and the threat of arbitrary intrusions from higher authorities, and officials regarded it as a reinforcement to the corporate morale and professional solidarity they believed to be necessary to the preservation of the honor and prestige of the bureaucratic estate.\(^{297}\)

Hence, Hegel indeed defended “an aristocracy of experts” who are “drawn from the intellectual elite of the nation” as Otto Camphausen, a Rhinelander official had put it.\(^{298}\) And these men genuinely considered themselves “the rightful guardian of the public interest” and felt superior to the landed nobility against whom they directed their reforms.\(^{299}\)

But to criticize Hegel as being undemocratic is to miss the point these reforms served. Hegel sincerely thought that insulating the “Universal Estate” from the landowning aristocracy was necessary given the political problems he faced. Had Hegel \textit{ex hypothesi} advocated Weber’s vision of bureaucracy, this would have increased the power of the aristocracy and imperiled the state in Prussia. In sum, any assessment of Hegel’s

\(^{297}\) John R. Gillis, \textit{The Prussian Bureaucracy in Crisis}, 24-25.

\(^{298}\) John R. Gillis, \textit{The Prussian Bureaucracy in Crisis}, p. 22. “The king, who appears to be the top functionary, invariably selects his aides from the intellectual elite of the nation, recognized as such by means of truly or allegedly rigorous examinations. He allows them great independence, acknowledges thereby their co-rulerhip, and consequently, sanctions a sort of aristocracy of experts who purport to be the true representatives of the general interest.”

\(^{299}\) ‘John R. Gillis, \textit{The Prussian Bureaucracy in Crisis}, 33.
bureaucratism cannot ignore the tough feudal conditions he confronted. I hope that this chapter gives us good reasons to sympathize with Hegel’s attempt at challenging the power of the elites with the limited options he had on the table.
Hegel and the Legislative Power

VI

This chapter explain the Hegelian legislature’s corporatist structure and its passive role in the process of government. I show that these aimed at diluting noble power in government.
In the past few chapters I show that Hegel’s political thought responded to the problem of feudal elites in Prussia. His monarchism and bureaucratism were tailored responses to the historical constraints he faced in a largely feudal country that made democracy impossible.\(^{300}\) The institution to discuss is the corporatist legislature and its place in Hegel’s modern state (PR §§298-319). The Hegelian legislature deserves comment because, at first glance, it appears that Hegel denies the right of “the people” to self-govern.\(^{301}\) After all, if decisions are made primarily by bureaucrats (as we have shown in chapter V) and if the legislature has no power to check the executive branch of government, this arrangement implies that “the people” do not govern.\(^{302}\) Instead, they are led by unelected officials.\(^{303}\) A closer look, however, revises this anti-democratic assessment.\(^{304}\)

To do this, this chapter explains the Hegelian legislature’s corporatist structure and its passive role in the process of government.\(^{305}\) Hegel argues that the Hegelian legislature

\(^{300}\) See chapters IV and V.

\(^{301}\) Jeffrey Church, for instance, locates Hegel’s commitment to democratic self-government entirely outside the constitutional structure and in the economic associations of civil society. I think this view slightly misleading once read in context since the whole constitution is to act as a unit and the main purpose of the entire constitutional structure is to hold back the power of the landed aristocracy. See his “G. W. F. Hegel on Self-Determination and Democratic Theory,” *American Journal of Political Science* 56(4) (2012): 1021-39.

\(^{302}\) In not a few places (like PR §§269, 272, 276, 300, 301, 302) Hegel rejects the notion that powers ought to balance each other. That is, Hegel thinks that introducing many veto points into a political system is a bad idea for this allows elites to slow down or even obstruct necessary reforms. Therefore the monarchy is formal and the legislature institutionally weak vis-à-vis the dominance of the executive. For a good study on veto points and how they affect government policy, see George Tsebelis, *Veto Players: How Political Institutions Work* (Princeton, NJ: Princeton University Press, 2002).

\(^{303}\) As a college and as their own self-selected estate as explained in chapter V.

\(^{304}\) For a study on this, see Jean-Philippe Deranty, “Hegel’s Parliamentarianism: A New Perspective on Hegel’s Theory of Political Institutions,” *The Owl of Minerva* 32(2) (2001): 107-133. In a broader context, the relationship of representative institutions to democracy is not always a positive one. Bernard Manin shows that its history is more complicated – a history that cannot be ignored when reading Hegel. See Manin’s *The Principles of Representative Government* (Cambridge: Cambridge University Press, 1997).

\(^{305}\) Studies on Hegel’s corporatism fail to note the serious extent to which Hegel denies the active participation of the Estates in the decision-making process as I detail below. See Christopher Yeomans,

In other words, Hegel’s legislative Estates monopolize representation of their respective sectors. And their function serves to coordinate these sectors to advance the agenda of the bureaucrats in the Universal Estate. There is consequently little electoral politics in the Hegelian legislature. Moreover, the legislature also cannot formally veto government policy because they have no constitutional leverage to check the bureaucrats. The legislature is an essentially passive body and this is why scholars argue that Hegel denies the right of the people to self-govern.\footnote{Deranty shows the history of this shift in Hegel’s thought in “Hegel’s Parliamentarism”.}

But these peculiar features of the Hegelian legislature actually serves the broader purpose of curbing the power of the landed aristocracy.\footnote{Domenico Losurdo, Hegel and the Freedom of Moderns, 45.} Placing Hegel in his time forces us to confront how these representative bodies exclusive served the interests of the agrarian

nobility. These legislative institutions are the product of a historical struggle of nobles against their central government.

Of course, today, these representative institutions no longer served their historical purposes. But Hegel did not enjoy democratic parliamentarism. As such, confronted with the dominance of the aristocratic estate, Hegel’s proposal that the legislature be divided into three parts dilutes the power of the nobility and concentrates power in the Universal Estate. His rejection of parliamentarism thus demonstrates less his rejection of democracy than his worry about the threat feudal elites posed to modern government. To show this, section I investigates what is Hegel’s view on the legislature. Section II then explains how its structure dilutes the power of the nobility.

i. What is the Legislative Power?

We must start by examining what is Hegel’s notion of the legislative power. For Hegel, the bicameral legislature does not actually make laws. Ignoring this piece of information is where many scholars misunderstand the relationship between the legislature to the executive in Hegel’s thought. For instance, while Michael Hardimon correctly points out that the act of making laws involves not just parliament but also “the crown, the executive, the assembly of estates and public opinion”, he mistakenly argues that the

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310 In PR §298 where Hegel opens the discussion on the legislative power, he speaks of the “peaceful and imperceptible manner” that institutions change over time and how constitutions evolve. We wonder if Hegel would not have been surprised to find out that today the very representative institutions that served nobiliary interests became the bedrock forms of democratic representation in modern popular regimes.
legislature is the body that actually “passes the laws”.\textsuperscript{311} This is mistaken because his intuition that “both executive and the crown are working parts of the legislative machine” should alert him to the passive role the legislature actually plays in the entire law-making process. The reality is that this arrangement concentrates the actual process of law-making in the executive branch while relegating the legislature as a secondary player in the process of lawmaking (PR §300).\textsuperscript{312} Instead, the legislature serves a mainly advisory role of providing decision-makers with information on interests and publicly rationalizing the reasons for a given decision (PR §301).

Let us examine function in detail.

To start, we must take a step back and view the Hegelian constitution in its entirety. Hegel writes

\begin{quote}
[i]n the legislative power as a whole, the other two moments have primary part to play, namely, the \textit{monarchy} as the power of ultimate decision, and the \textit{executive power} as the advisory moment which has concrete knowledge [\textit{Kenntnis}] and oversight of the whole with its numerous aspects and the actual principles which have become established within it, and knowledge of the needs of the power of the state in particular. (PR §300)
\end{quote}

\textsuperscript{311} \textit{Hegel’s Social Philosophy}, 216-218, for Hardimon’s analysis of the Hegelian legislature.

\textsuperscript{312} The executive is charged with “subsumption of particular spheres and individual cases under the universal” and the sovereign has “the ultimate decision of the will” (PR §273).
This passage shows that Hegel assigns the legislature a secondary importance to that of the executive and bureaucratic arms of the government which have, instead, a “primary part” to play in making laws. So even though Hegel writes that the “[t]he legislative power has to do with the law as such”, what Hegel means by this differs from what we assume legislatures do.\footnote{Madison.} For example, in Federalist No. 51, Madison writes that “[i]n republican government, the legislative authority necessarily predominates” – a view that is intuitive \textit{for us} given that we regard the legislature as \textit{the} branch of government representing the “the people” in a democracy.\footnote{Madison, “No. 51” in \textit{The Federalist: The Gideon Edition}, George W. Carey and James McClellan (eds) (Indianapolis, IN: Liberty Fund, 2001: 269.)} But this is not the case for Hegel since he rejects legislative supremacy and locates the public interest in the executive branch.

Instead, the Hegelian legislature acts mainly as an advisory body. Put differently, the task of the legislature is mainly to give advice to the executive power and inform “the people” it represents of government decisions as Hegel continues,

\begin{quote}
The role \textit{[Bestimmung]} of the Estates is to bring the universal interest \textit{[Angelegenheit]} into existence \textit{[Existenz]} not only \textit{in itself} but also \textit{for itself}, i.e., to bring into existence the moment of subjective \textit{formal freedom}, the public consciousness as the \textit{empirical universality} of the views and thoughts of the \textit{many}. (PR §301)
\end{quote}
In plain English, “for itself” simply means that people have become aware of something. And translated into politics, raising the “universal interest” to be “for itself” in the legislature is the process of openly disclosing public decisions so that the people can understand it. As such, “[v]iewed as a mediating organ,” the Estates act primarily as an informational conduit between the government and “the people” (PR §§302, 301). This view of the legislature in Hegel is remarkably at odds with the republican tradition of Madison which gives the legislative body not just advisory but also agential function in government. Hegel gives no indication that the legislature can control the budget or veto government decisions, writing that

In fact, Hegel even argues that the legislature can be dispensable! That is, the strangest thing about the Hegelian legislature is how the bureaucrats have greater insight and therefore do not really have to depend on the legislature for their insight. Hegel writes,

[i]t can be seen with a little reflection that the guarantee which the Estates provide for universal welfare and public freedom does not lie in any particular insight they may possess. For the highest officials [i.e., the bureaucrats] within the state necessarily have a more profound and comprehensive insight into the nature of the state’s

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315 Such awareness may lead to change in practice, but this is not necessarily so. It may only imply a purely cognitive relation to something as when I now gain awareness “for myself” of the virtues of my life-long habit of exercise. This awareness does not necessarily change my continued habit, but it certainly changes the way my mind understands it.
institutions and needs, and are more familiar with its functions and more skilled in dealing with them, so that they are able to do what is best even without the Estates, just as they must continue to do what is best when the Estates are in session.

(PR §301)

Secondary and dispensable are thus the two terms we can use to describe the Hegelian legislature.

So, what explain this?

In chapter V, I reasoned that Hegel’s faith in the bureaucratic establishment is less naïve than it appears. I argued that Hegel’s overarching political goal aims to insulate bureaucrats against the landed aristocracy to modernize government. This same aim is also reflected in how Hegel structures the relationship between the executive and the legislature because he could not advocate for a “Weberian”-style legislative accountability given the noble clout he faced.316

Read with this in mind, the less palatable aspects of Hegel’s thought become more intelligible. For instance, Hegel writes that “[t]o know what one wills, and even more, to know what the will which has being in and for itself – reason – wills, is the fruit of profound cognition and insight, and this is the very thing [Sache] which ‘the people’ lack.” (PR §301)

316 In the above chapters I extensively detail how the weakness of the middle classes was structural in this regard. But also we cannot ignore how the delayed onset of industrialization in Germany meant that the politically active working classes came after Hegel’s death. And far from advocating for democracy, German Imperial politics showed how easily Bismarck was able to co-opt the working classes to deny calls for liberalization and democratization. See Tom Kemp, Industrialization in Nineteenth-Century Europe, 2nd Edition. New York: Routledge, 2013 [1969]: chapter 4 and Charles S. Maier, “Preconditions for Corporatism,” in Order and Conflict in Contemporary Capitalism, ed. John H. Goldthorpe (Oxford: Oxford University Press, 1985): 39-59.
At first glance, this appears to be strong evidence of Hegel’s anti-democratism, and, if it were true that Hegel really thought “the people” incapable of self-government, then my attempt of solving the Hegelian paradox would come to naught. But the objection Hegel puts forth is not because he thinks that the common man is stupid and therefore incapable of managing public affairs. If this were the case, it would not make sense why Hegel then goes on to accord public opinion an important role in subjecting executive decisions to public criticism (PR §§314-320). Hegel in fact argues that the delegates and the representatives of the Estates have important concrete information that the government ought to consider in balancing policy objectives (PR §314). So Hegel is thereby not suggesting that what the Estates offer is inconsequential (PR §§300-301).

Instead, Hegel’s harsh comments about the people must be read in relation to how these Estates were dominated by feudal elites in an electorally non-competitive environment. Hegel is criticizing that it is wrong to assume that, under such feudal conditions, the people’s delegates will act in the interests of the common good if they owed their positions to the structural inequalities of feudalism. (PR §301). In other words, Hegel is criticizing how the representative institutions of his time reflected the power imbalances of a feudal society and so could not be appraised in the abstract. This point deserves further comment because Hegel’s implicit targeting of the land-owning nobility has oftentimes been ignored.

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317 We explore this further below in section II.

318 For my use of the term “instrumentalist” see chapters II and III above.

319 Domenico Losurdo actually resorts to an “esoteric” argument in interpreting Hegel’s text. While the motivation underlying this hermeneutic move is understandable, I think explicit inferences can be readily drawn when one reads Hegel in context in his socio-political environment.
But, my contention is that we must bring in the historical milieu in which he is writing to shed further light on his recommendations.\textsuperscript{320} Historically, we must note that democratic parliamentarianism was unattainable due to feudalism.\textsuperscript{321} After the end of Greece and Rome, the long interlude of feudalism fragmented political authority into innumerable \textit{private} relationships between powerful individuals. Such fragmentation and privatization of political power constrained public agency and led to the delegation of authority from the center to the periphery. Efforts at consolidating power were oftentimes challenged in this anarchic environment with kings competing for power with the very vassals whom he appointed to manage public affairs.\textsuperscript{322} This fluid political dynamic resulted representative institutions when nobles banded together to resist the king and a central authority when the king realized he could only rely on paid staff to do his bidding.\textsuperscript{323}

This fragmentation of political power therefore precluded democratic parliamentarianism as feudal relationships organized the people into contending private fiefdoms (cf. PR §§ 301-302). Many living through feudalism undoubtedly had ideals of a public authority which could do away with this privatization of force. Some had Roman and Greek authority as ideals while others projected their longing into a Kingdom of

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\textsuperscript{320} E.g., Rosenberg, \textit{Bureaucracy, Aristocracy and Autocracy: The Prussian Experience} and Walter M. Simon, \textit{The Failure of the Prussian Reform Movement}.

\textsuperscript{321} It did exist in the classical and ancient world but since the fall of Rome the nature of government rule under feudalism was very different in nature. Hegel details this in his discussion of the transition out of feudal monarchy which I treat in chapter IV. But beyond Hegel see Anderson, \textit{Passages from Antiquity to Feudalism} (London: NLB, 1974) and \textit{Lineages of the Absolutist State} (London: NLB 1974).

\textsuperscript{322} Anderson, \textit{Lineages of the Absolutist State}.

Heaven where one God rules all as Hegel explains about the psychology of the Middle Ages (cf. PhG §§202-230, §§ 381-393).

Hence, in a feudal world, the development of a public authority was constrained by the free-for-all incentives the fragmentation of political authority fostered. Under such conditions, few defended public authority because there was no “king” or “country” as a central reference point. To be sure, there were “knights of virtue” who lived valorous and nobles lives claiming to be in public service to king and country (esp. PhG §386-389). But Hegel satirizes these characters precisely because the ideas they had about the world did not align with the reality of their feudal era. Put simply, under feudal rule, the powerful just did not view – whatever their professions to the contrary – their public duties as realizing their rights and freedoms (as we discussed in chapter III) because they could not do so given the structure of feudal rule that rewarded private rent-seeking behavior.

We can thereby re-articulate Hegel’s statement that the people “do not know their own will” because individuals were unable to invest their efforts into public service. That is, given the historical context of the Ständestaat within which he operated, Hegel’s criticism of “the people” must be read not as an attack on democracy per se, but as a reference to how the representative institutions, i.e., the Estates as traditionally conceived, were not bodies that secured equal public duties for all, but were in fact exclusionary and

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324 Terry Pinkard makes the strive for this public – or “objective” – point of view central to the movement of the Phenomenology in terms of consciousness’ effort to arrive at a world in which this point of view is not in the beyond or in the past but in the present as institutionalized in the modern state in his Hegel’s Phenomenology: The Sociality of Reason.

325 This is a reference to Don Quixote.
nobiliary bodies that fought for discretionary exemptions for aristocrats at the expense of others.\footnote{326}{For a detailed study of the main contours of the Ständestaat as its own peculiar regime, see Poggi’s, \textit{The Development of the Modern State}, 36-59.}

Hegel therefore understood that such a system of \textit{unequal} public duties (as present in feudal Prussia) only undercut the kinds of political relationships he thought indispensable for modern government. Moreover, Hegel was intensely worried that the strengthening representative institutions in any dogmatic appeal to “the people” would have had the perverse effect of securing more benefits for the traditional elite \textit{at the expense of everyone else} because such institutional dogmatism ignores context.\footnote{327}{“Incipient liberalism,” Palmer writes, “was ambivalent, sometimes favoring old estates and constituted bodies as checks upon princely power, sometimes more authoritarian, favoring the princely power against the privileged classes.” \textit{The Age of Democratic Revolution}, 686.} Just asserting – as Hegel argued Fries did – that “the people” should govern through the legislature without attention to the power relations present might lead perversely to the greater subjection of the common man to elite interests (PR §301).\footnote{328}{See also preface of the \textit{Philosophy of Right}.}

\textbf{ii. The Corporatist Legislature}

Hegel’s concern of feudal elites and their clout also ground his defense of a corporatist legislature. It is well known that Hegel structures the legislature to closely parallel the three main social groups of the feudal society he lived in: the feudal nobility and their serfs in the agrarian Estate, the townsfolk of Bürgers in the Estate of commerce
and trade, and the bureaucratic or Universal estate of civil servants employed by the monarch (PR §§250-256, 306-310).

Many reasons are given for this particular form of tri-partite corporatism. Steven Smith, for instance, argues that Hegel’s corporatism serves to instill a sense of collective belonging among their members by providing welfare and overcoming the atomization and apathy of individuals experiencing modernization and the destruction of feudal traditions.329 There is certainly no doubt that Hegel accorded the corporations and the Estates these functions, but Smith does not touch on how the very act of splitting the legislature into three Estates dilute the power of the nobles.330 Nonetheless, the most implausible explanation of Hegel’s corporatism is that offered by Daniel Lee who argues that this arrangement was Hegel’s attempt “to make the mediaeval modern”.331 Lee understates the extent to which Hegel radically challenges to the Estates system operated.

Hence, in this section I finally want to show how Hegel’s corporatism diluates noble power by (1) re-defining corporate membership according to economic, and not status, considerations, (2) making the unprecedented move in allowing businessmen to form their own estate in a society that has traditionally sought to weaken their influence, and (3), by securing the bureaucratic control of government agenda across all levers of power.

329 Smith, Hegel’s Critique of Liberalism, 143-144.

330 What is more, it avoids the problem of parochialism given that these welfare and spiritual functions respond to a peculiar set of assumptions about the “cash nexus” in modern society that may or may not hold true in terms of how market forces interact with political and social relationships.

This dilution of the power of the nobility in the Hegelian legislature cannot be understated. In the Hegelian state, no longer will membership in these Estates be based on noble birth or status. Hegel adopts the modern view that people are categorized according to what they do rather than who they are.\(^{332}\) This also reveals how Hegel is distinctively modern in valuing practical activity over contemplation.\(^{333}\) Marx’s assessment that Hegel thought only ideas matter is therefore incorrect.\(^{334}\) Instead, Hegelian idealism tries to explain how humans gain the concrete \textit{ability} to change their world to realize their agency. This means that, unlike the ancient philosophers who argued that human lives ought to follow objective patterns and purposes in God or Nature, Hegel rejects the \textit{vita contemptative} and defends human agency in creating a world in which we can be free.\(^{335}\) We cannot forget that Hegel’s the slave-master dialect portrays the victory of human labor over idle consumption!\(^{336}\)


\(^{334}\) Losurdo writes that, “[i]n contrast to classical liberalism, classic German philosophy develops within a radically different framework: the social standing of its protagonists is decisively more ‘plebeian’. These intellectuals are not organically tied to the social classes that dominate, economically or politically, the existing society; on the contrary, their relationships with these classes are quite antagonistic and tense.” And as such “Hegel becomes the symbol of the banausic, plebeian intellectual, and indeed, in one of his letters, he did not hesitate to claim that his ‘occupation’, his ‘bread and water,’ was the study and teaching of philosophy”\(^{\text{.}}\) \textit{Hegel and the Freedom of Moderns}, 146-147.


\(^{336}\) Alexandre Kojève picks up on this centrality of labor in Hegelian philosophy in his famous \textit{Introduction to the Reading of Hegel: Lectures on the Phenomenology of Spirit}, ed. Allan Bloom and trans. James H.
As such, the most decisive change to the Estate system proposed by Hegel is the incorporation of the bureaucrats as one of the three main Estates in the legislature. This arrangement alters who gets to advance government policies. We already touched on the horizontal and collegiate structure of Hegel’s bureaucracy, showing how these features insulate the executive power from nobiliary interests. And here we again see how Hegel dilutes the power of the agrarian estate by forcing it to share the legislature with the two other estates of the bureaucracy and the bourgeoise. This is why I argue that Hegelian corporatism dilutes noble power in (1) enabling the bourgeoisie to have a dedicated channel through which they can express their interests in government and so gain some independent political standing in public affairs, and (2) to ensure that the Universal Estate of bureaucrats are able to drive the agenda across all levers of government. Only this bureaucrat directed reform, Hegel thought, could overcome the problem of the landed elite in government.

Articulated differently, Hegel’s corporatism allows the bourgeoisie and bureaucrats to coordinate their actions to advance modern government.337 If we recall the point made earlier about noble dominance in feudalism, the collective willingness to invest and coordinate action for the public good had been absent.338 And indeed, European history is filled with examples of such Pareto-suboptimal situations whenever the landed aristocracy dominated the government. The point then of a legislature structured according to Hegel’s thought is thus to subordinate these noble interests so that the possibility of social

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337 Rosenberg, Bureaucracy, Aristocracy and Autocracy.

338 See chapter III for the collective action logic underlying this outcome.
coordination is enabled. Also, this tripartite corporatism also prevents fringe aristocratic groups from pursuing policies that jeopardize the public good by incentivizing cooperative and moderate behavior.

In any case, Hegel’s corporatist “schema” undercuts the political legitimacy of traditionalism and aristocratism. And Hegel had to find a way to coordinate his society’s interests given the limited tools he had. We must always remember that, in Hegel’s time, the bourgeoisie were not strong enough to pursue reforms on their own.339 It was only in 1848 that the German bourgeoisie became politically salient and active.340 But the fact that Hegel gives the bourgeoisie their own estate clearly show that he intended for such a constitution to enable their participation in government.341

Hence, the point of denying the legislature law-making and decision-making power while also placing the agrarian estate alongside the bureaucratic and commercial estates – in addition to subordinating all of this to the executive power – serves to prevent nobiliary dominance in allowing others to willingly invest in the constitutional order. Therefore I stress that all those “undesirable” aspects of Hegel’s legislative corporatism, e.g., its

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339 Palmer notes that the “prominent elements in the middle class were not lawyers in private practice, nor wealthy men of affairs, with exceptions for trading centers like Hamburg. They were bureaucrats, civil servants, writers, and university professors…. But economically the middle class was weak, since commercial enterprises were local and old-fashioned, or else, as in Prussia, dependent for investment capital and management on the state, so that the material base was lacking for vigorous independent initiative. The middle class, in any even, was not estranged from the monarchies under which it lived. Individualburghers might criticize individual noblemen, but there was no deep feeling against nobility or privilege itself, and the belief continued to prevail (contrary to what happened in France in the 1780’s) that the government would do what it could to uphold middle-class against noble interests. The fact that German officialdom was reasonably honest, trained, and efficient, whatever its less evident shortcomings, kept criticism of it on a moderate plane.” The Age of the Democratic Revolution, 687.

340 Only then did the German middle classes begin to demand effectively for political change and representation.

341 Preconditions like an independent and politically active middle class – let alone, an organized working class – were not yet fully developed in a Prussia whose industrialization only began after Hegel’s death
hierarchical and rigidly structured way of representing “the people”, cannot be understood independent of the actual political struggle between nobility and royal bureaucracy in 1820s Prussia. To chastise Hegel’s corporatist representation as antidemocratic ignores the virtues of such an institutional arrangement in allowing for credible commitment under very trying feudal circumstances.\footnote{For what these peak “delegates” in effect do is aggregate all the interests they represent and relate them to the other major interests so that, in formulating government policy, considerations of interdependence, equity and compromise are stressed in preventing unrestrained, Pareto suboptimal outcomes.}

Furthermore, his corporatism’s stress on the willing and conscious aspect of societal coordination in the legislature shows the deep commitment Hegel has in resisting elite power. Hegel, as shown in chapter III, emphasizes that reason, not sentiment, political attachment. Hegel’s corporatism stresses how legislative proceedings must be available to the public to secure such rational attachment as §314 explicitly states,

\[\begin{align*}
\text{[t]he determination of the Estates as an institution does not require them to achieve optimum results in their deliberations and decision on the business of the state in itself, for their role in this respect is purely accessory (see §301).}\footnote{These references point made above that it is the executive power that is charged with making key decisions in the Hegelian state.} \text{On the contrary, they have the distinctive function [Bestimmung] of ensuring that, through their participation in [the government’s] knowledge, deliberations, and decisions on matters of universal concern, the moment of formal}
\end{align*}\]
freedom attains its right in relation to those members in civil society who have no share in the government. In this way, it is first and foremost the moment of *universal* knowledge [*Kenntnis*] which is extended by the *publicity* with which the proceedings of the Estates are conducted. (PR §314)

Hegel further stresses the crucial role *public opinion* plays in determining government policy, showing in whose interest Hegel thought government should operate. This position was contrary to what the aristocracy wanted given how they systematically shun the idea that their proceedings in the old Estates should be made public.\(^{344}\) Obscurantism and opaque decision-making were highly valued by the nobles who did not like outsiders interfering with how they managed public affairs. Hegel shows his deep resistance to this, writing

> Public opinion therefore embodies not only the eternal and substantial principles of justice – the true content and product of the entire constitution and legislation and of the universal condition in general – in the form of *common sense* [des gesunden Menschenverstandes] (the ethical foundation which is present in everyone in the shape of prejudices), but also the true needs and legitimate [richtigen] tendencies of actuality. (PR §317)

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\(^{344}\) Habermas, *The Structural Transformation of the Public Sphere*, 1-26.
In other words, Hegel defends the pedagogical role the legislature serves in enlightening the public (PR §§301, 315). For Hegel, the informational role of the legislature produces “more rational judgments” in the public sphere (PR §315). Via transparency, “the public”, Hegel writes, “also becomes familiar with and learns to respect, the functions, abilities, virtues, and skills of the official bodies and civil servants” who must defend their program before the major interests of the society they govern.\footnote{Hegel clearly knows that these assemblies are “tiresome for ministers, who must themselves be armed with wit and eloquence if they are to counter the attacks which are here directed against them” (PR §315A).} Hegel concludes,

\begin{quote}
[i]he guarantee [provided by the Estates] doubtless lies … in the extra insight which the delegates have, first of all into the activities of those officials who are less visible to their superiors, and in particular into the more urgent and specialized needs and deficiencies which they [the delegates] see in concrete form before their eyes; and secondly, it lies in the effect which the expectation of criticism, indeed of public criticism, at the hands of the many has in compelling the officials to apply their best insights, even before they start, to their functions and to the plans they intend to submit, and to put these into effect only in accordance with the purest motives. (PR §301)
\end{quote}
This political transparency therefore “provides a signal opportunities for these [civic] abilities to develop, and offers them a platform on which [the civil servants] may attain high honours, so also does it constitute a remedy for the self-conceit of individuals and of the mass, and a means – indeed one of the most important means – of educating them.” (PR §315). For “[i]n a nation where this publicity exists,” Hegel concludes, “there is a much more lively attitude towards the state than in one where the Estates have no assembly or where such assemblies are not held in public.” (PR §315, A).

In the final analysis, his stress that the legislature acts as an informational conduit between the government and public opinion undergirds Hegel’s commitment to rational decision-making, and in some ways, the democratic core of this thought. It shows Hegel to be a firm adherent to the universalistic notion that all citizens have access to and can criticize the decisions and public reasons that affect their lives. Of course, democrats today argue that all this talk about education is meaningless so long as the government can unilaterally drive the policy outcomes it desires.346 Indeed, Hegel hardly specifies what mechanisms there are for the legislature to bring the executive power to effective audit.347 And sadly, the institutional insulation of the bureaucratic power from the legislature played a disastrous role precluding the development of German democratic politics well into the

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346 The constitutional tendencies of an unaccountable executive and a weak legislature are laid out by Adrian Vermuele and Eric A. Posner in *Executive Unbound: After the Madisonian Republic* (Oxford: Oxford University Press, 2011).

347 Deranty, “Hegel’s Parliamentarism”.
20th century. My point, however, is not to defend this outcome, but only to highlight why Hegel argued for the institutions in the way that he did.

348 For the consequent development of this fragile arrangement, see John R. Gillis, *The Prussian Bureaucracy in Crisis, 1840-1960* (1971).
Hegel’s Institutional Enlightenment.

VII

This chapter speculates on the kinds of virtues free institutions need as drawn from Hegel’s political philosophy. I offer the three virtues of organized inclusivity, an autonomous public authority and publicity that modern polities need to realize “concrete freedom”. This conclusion moves us beyond a mere historical appreciation of Hegel into the realm of practice.
This concluding chapter speculates on what insights Hegel’s institutionalism can give political practice. I contend that it gives us the three institutional lessons of (1) organized inclusivity, (2) an autonomous public authority and (3) publicity which I abstract from Hegel’s defense of the monarchy, the bureaucracy, and the legislature in his *Philosophy of Right*. If we look past the specificity of his historical contribution, we see that Hegelian institutionalism aims to create a strong state that enables the freedom of its citizens by curbing elite power, and I identified the aristocratic individual – the oligarch, the feudal elite, or any “privileged personality” – as the real danger Hegel’s political thought contended with. This is what I called in chapter III the democratic core of Hegelian political thought.

Institutional design is therefore important because freedom involves structuring the ways individuals interact with each other so that their inequalities, disagreements and conflicts do not jeopardize the public commitment to freedom.\(^\text{349}\) Hence, how human beings interact with each other involves more than their moral or cultural dispositions. That is, it is not just about the “habits of the heart”.\(^\text{350}\) Rather, Hegel’s institutionalism gives emphasizes the concrete strategies we need to be free.

Unlike his Enlightenment contemporaries who thought of “Reason” as an abstract and universal activity of pure critique (think, especially, of Kant), Hegel argues that human reason is an actual set of procedures, an “existing [vorhandenen] world” of “laws and

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\(^{349}\) Recall Rousseau’s “fundamental problem” which the general will tries to solve.

\(^{350}\) That is, to be rational, it is not sufficient for me to be simply told or scolded into behaving in certain ways. Hegel even goes so far as to suggest that if the direction came from without this demeans and degrades the human being. (PR §§227-228) Robert N. Bellah, et al. (eds.). *Habits of the Heart: Individualism and Commitment in America* (Berkeley, CA: University of California Press, 1996).
institutions”, that help human beings decide. Rejecting abstract reason, Hegel argues that abstract thinking only exposes human beings to irrationalism, e.g., the Romantics like Herder, Hamann, Jacobi, etc. Instead, we need to be thoughtful in exploring what kinds of institutions allow individuals to realize freedom in the contexts that they are in. Hegelian institutionalism is therefore not an ahistorical defense of a set of institutions. Rather, it pays attention to historical context to appraise institutions.

Hence, in this concluding chapter I want to address the “so what?” question. So far I have shown that Hegel’s defense of the monarchy, the bureaucracy, and the corporatist legislature were responses to the problem of feudal elites in a time in Prussian history that made democracy impossible. A skeptic might grant my historical assessment but still question Hegel’s relevance to today. In what follows I want to speculate on some general lessons we can glean from the chapters above. Consequently, section I shows why Hegel rejects abstract ideals and the appeal to personal conscience as insufficient responses to political problems. Section II then turns to Hegel’s institutional focus as a more appropriate response. Section III then lays out the three virtues of Hegelian institutionalism which modern governments must possess to realize “concrete freedom”. These three virtues are (1) organized inclusivity which structures political participation, (2) an autonomous public

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351 PR §§142, 144, 308. See Kant, Critique of Pure Reason; Hegel writes, “A so-called moral person [such as] a society, community, or family, however concrete it may be in itself, contains personality only abstractly as one of its moments.” (PR §279).


353 Put differently, this element of a willful commitment to the polity is my “right of subjective freedom” which grounds the freedom of modern states, and this is not the result of some underlying moral consensus or some other form of “rich” civic tradition of “culture” which “embeds” me within my community. These are nebulous gestures that fail to appreciate the importance of how procedures – in short, an articulated process of law – incentivizes my willingness to work within the institutions of my polity.
authority that is able to resist elite rent-seeking, and (3) publicity that allows government decisions to be rationally scrutinized by all members in a body politic. Section IV then shows why Hegelian institutionalism is not the same as Madison’s vision of “the separation of powers” before I conclude.

i. Making good decisions and the importance of institutions

Humans want to decide well. The problem, however, is figuring out how.\textsuperscript{354} Institutions are set up by human beings to settle this issue because people need a way to settle disputes collectively on what is the best course of action. This point is worth stressing. If human beings intuitively knew how to decide well, they would not need political mechanisms to settle this issue.\textsuperscript{355} They would simply do it. Madison captures this insight well in writing that “[i]f men were angels, no governments would be necessary” – a point of view that Hegel also articulates.\textsuperscript{356} Indeed, Aristotle incisively points out that figuring out how to decide well is very hard precisely because each human being differs on issues but need to collectively decide on them.\textsuperscript{357} Government is therefore necessary to coordinate our differences for good outcomes.

\textsuperscript{354} PR §§129-140

\textsuperscript{355} “To know what one wills, and even more, to know what the will which has being in and for itself – i.e., reason – wills, is the fruit of profound cognition and insight, and this is the very thing [Sache] which ‘the people’ lacks.” (PR §301).

\textsuperscript{356} Federalist No. 51

\textsuperscript{357} “[S]peech serves to reveal the advantageous and the harmful, and hence also the just and the unjust. For it is peculiar to man that as compared to the other animals that he alone has a perception of good and bad and just and unjust and the other things of this sort; and community in these things is what makes a household and a city.” Politics 1253a15-19.
But historically, this desire has been shaped by the contexts and interests at play. Hegel’s idea of “Ethical Life” acknowledges that “laws and institutions” in place shape how we arrive at and justify the decisions we make (PR §§ 144 and 150). Because no one human being is self-sufficient, living in a political community provides human beings with a ready-made stock of insights and procedures that have been handed down through their history to help guide current and future decision-making. This allows individual to access a kind of collective insight so that he does not need to start from scratch every time he is faced with a decision. “In an ethical community,” Hegel writes, “it is easy to say what someone must do and what the duties are which he has to fulfil in order to be virtuous. He must simply do what is prescribed, expressly stated [in the laws], and know him within his situation.” (PR §150) The benefits of Ethical Life are therefore indispensable because individual limitations and our mortality compel human beings to formalize and institutionalize how to coordinate our behavior.

But this naturally raises the issue of problematic histories and institutions. Precisely because our institutions are shaped by historical forces, they have no inherent logic to them, and their value depends on how well they coordinate behavior at any given moment in time. Problematic institutions like serfdom and aristocracy may have been justified as responses to logistical and administrative challenges in the early days of feudalism but they become problematic when they begin to undercut the ability of people to realize good outcomes for all. This is especially true of the institution of slavery that completely denies personhood to the slave.

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358 See generally PR §§142-157.
Indeed, Hegel acknowledges that bad institutions frustrate attempts at good decision-making. As the foregoing chapters have shown, the entrenchment of the landowning elite in representative institutions posed a direct threat to social coordination. Furthermore, Hegel also thinks that bad institutions generate pathologies that alienate people as people retreat from engaging altogether. He narrates, “this tendency to look inwards into the self and to know and determine from within the self what is right and good appears in epochs when what is recognized as right and good in actuality and custom is unable to satisfy the better will.” (PR §138) In other words, Hegel tells us that, whenever we see movements that desire retreat from the world, these desires most likely stem from bad institutions.

Additionally, Hegel also argues that these inward retreats prevent people from correctly diagnosing the problem. In his time, Hegel saw the Romantics, Jacobins, Pietists, and Kantian moralists delude themselves with their intellectual radicalism, ironic detachment and fanaticism into thinking that they can find peace and solace in the realm of abstract thought when the real problem lay in the faulty institutions of their time. Additionally, this retreat inward also generates an unhealthy psychosis as further

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359 PR §§136-137.

360 See PR §140. In many ways, the Romantics, Jacobins, Pietists and other intuitionists would rather that we appeal to a form of immediacy when we make judgments. For them, far from guiding us in making the right decision, institutions distort and mislead. Rousseau very early on articulated this sentiment in the very first line of his Social Contract: “Man is born free and everywhere he is in chains” by which he meant the “chains” of society. I am not saying, however, that Hegel lumps all immediatists as followers of Rousseau. But Rousseau does articulate a very powerful sentiment that rejects the stifling and distorting effect of those societal and political procedures and institutions which keep men “in chains”. Today’s appeal to more “direct” or “open” democracy forms part and parcel of this long tradition of institutionalist critique, one to which Hegel was not alien and whose response pertains as much as it does to us as it did to his time.
detachment from institutional engagement breeds greater pain. The more one retreats the further the solution is obscured by this spiral inward.\textsuperscript{361}

But what is most worrying for Hegel is that this loss of contact with reality causes people to become abstract and arbitrary in how they deal with issues. Because these individuals have retreated from reality, they do not have the touchstone of reality to constrain and verify their thinking. People who turn abstract and inward therefore end up considering only what they want and not how their desires impact other people. And worse, these people end up justifying their arbitrariness by claiming the higher validation of “conscience”.\textsuperscript{362} At this point, when the “I and only I” is right, such a person has lost all sense of community and engagement with others. Whether this person cloisters himself in his castle, retreats behind cryptic writing or runs into the wilderness, Hegel argues that they are all the same – they have lost touch with reality and, consequently, lost all ability to address the root cause of their pain. They are in an endless nightmare of their own making.

Thankfully, most people need to live with others and this attitude of inner retreat cannot sustain itself for most people. Hegel’s idea about Ethical Life is also a realization that eventually these pathologies will be discarded as people gain awareness of the steps they need to take to fix their problems. This fix involves engagement with the world and

\textsuperscript{361} In many ways, the Romantics, Jacobins, Pietists and other intuitionists would rather that we appeal to a form of immediacy when we make judgments. For them, far from guiding us in making the right decision, institutions distort and mislead. Rousseau very early on articulated this sentiment in the very first line of his Social Contract: “Man is born free and everywhere he is in chains” by which he meant the “chains” of society. I am not saying, however, that Hegel lumps all immediatists as followers of Rousseau. But Rousseau does articulate a very powerful sentiment that rejects the stifling and distorting effect of those societal and political procedures and institutions which keep men “in chains”. Today’s appeal to more “direct” or “open” democracy forms part and parcel of this long tradition of institutionalist critique, one to which Hegel was not alien and whose response pertains as much as it does to us as it did to his time.

\textsuperscript{362} See PR §§134, 140
an acknowledgement that government is necessary because “if a good heart, good intentions, and subjective conviction are said to be factors which give actions their value, there is no longer any hypocrisy or evil at all; for a person is able to transform whatever he does into something good by reflection of good intentions and motives [Bewegungsgründe], and the element [Moment] of his conviction renders it good.” (PR§140). In other words, realizing that retreating inward only ends up driving people away and deepening one’s own pain, people will revise their approach, embracing community and social interdependence to change their approach to the world.363

Hegel’s focus on institutions therefore helps us see the institutional reasons for why people think the way they do. Hegel wants to show that it is not by confining ourselves to abstract thought that we can understand, let alone, fix, the world. Abstract thinking only alienates us. This explains Hegel’s criticism of Platonism because building a city in speech and inquiring what is abstract “Justice” is product of a sad reality which the Platonic philosopher fails to address. Indeed, the Platonic move is blind to its own cave of abstract thinking for any flight to the realms of the abstract and the internal for Hegel belies a dysfunctional political reality. And so, Hegel argues, if this is the deeper cause of our pain, we would only be spinning in circles if we confined ourselves to the realm of abstract Reason. Concrete issues demands actual responses – this is what Hegelian institutionalism seeks to achieve.

363 Hegel writes, “a law, in order to be a law, must be more than just a commandment in general (such as ‘Thou shalt not kill’ – cf. Remarks to §140, p. 144), i.e., it must be determinate in itself” (PR §299).
ii. A Process of Law

Hegelian institutionalism consequently reframes how we go about resolving issues in society. And for Hegel, we need to start with the laws and procedures which govern human interaction. Hegel claims that the set of procedures through which laws and legal codes get drafted, amended, interpreted and implemented by an authoritative public body is important because it tells us who runs the show. Questioning this process and learning how we can shape it in the public interest are the first steps towards critically analyzing how we collectively make decisions and realize freedom (cf. (PR §§349, 350). This means that they cannot not simply rely on what is customary or “given” in them:

When customary rights are eventually collected and put together – which must happen at an early stage among a people which has attained even some degree of education – this collection is a legal code; and since it is merely a collection, it will be characterized by formlessness, indeterminacy, and incompleteness. The main difference between this and a legal code in the proper sense is that in

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364 In other places Hegel refers to this as “organized legality” (PR §355) and “a world of legal actuality” (PR §353); but the most striking phrase is “[i]t is the absolute right of the Idea to make its appearance in legal determinations and objective institutions” (PR §350).

365 Hegel calls the transition to a legal order the “actuality of the universal of freedom” that develops out of modern civil society (PR §188).

366 The power of sovereignty, for Hegel is therefore encapsulated in “the moment of ultimate decision as the self-determination to which everything else reverts and from which its actuality originates. This absolute self-determination constitutes the distinguishing principle of the power of the sovereign as such” (PR §275).
the latter, the principles of right in their *universality*, and hence in their determinacy, are apprehended and expressed in terms of thought.

And Hegel continues,

To deny a civilized nation, or the legal profession [*dem juristischen Stande*] within it, the ability to draw up a legal code would be among the greatest insults one could offer to either; for... the present content of the laws should be recognized in its determinate universality – i.e., grasped by means of *thought*… (PR §211)

Only “[b]arbarians are governed by drives, customs [*Sitten*], and feelings” Hegel writes because free human beings have gained an understanding and sense of agency over how they govern themselves (PR §§211, 146-147). Hence, a process of law is fundamentally important because it draws our attention to those institutional dimensions of our lives that guide our collective decisions.

Indeed, laws, Hegel argues, are not just simply *subjective* dispositions in our heads or fetters which keep people hemmed in. They are the indispensable, decision-making procedures out there in the world that create the conditions of civilized life, and this means that the way laws are created, judged, implemented and enforced have an outsized influence in how human beings judge and decide on what is right. In fact, in Hegel’s mind,
for laws to be truly considered laws, they cannot simply be an edict pronounced by some
voice in the desert or some random guy on the street or the result of an opaque and
inscrutable *diktat*. Thus, the process of legislation,” Hegel adds, “should not be
represented merely by that one of its moments whereby something is declared to be a rule
of behavior valid for everyone; more important than this is the inner and essential moment,
namely *cognition of the content* in its determinate universality.” (PR §211) That is, laws
require a whole host of organizations that lay out and articulate these important procedures
necessary for the very existence of a thoughtful human life.

Hence, what characterizes an organized polity is its ability to articulate these
various procedures in clear and meaningful ways. Indeed, Hegel criticizes England’s
system of “common law” because in English courts “judges constantly act as legislators”
– i.e., the rule of precedent and the unwritten laws give immense discretion to English
judges to legislate under the cover of interpreting laws (PR §211). Under such conditions
there are no differentiated and articulated processes that separate judging from legislating,
and this, Hegel thinks, gives rise to an “enormous confusion” in how legislation under
Common Law systems are made and, naturally, gives English elites more cloud in wielding
a system so opaque that only the powerful can operate within it.

One may, of course, disagree with his assessment about English Common Law, but
Hegel’s broader point still stands – i.e., when there are no clearly articulated procedures
that determine who gets to legislate, who gets to adjudicate, who gets to interpret law, etc.,
this opens the door to arbitrariness and subjective caprice that leads to the domination of

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367 See PR §228 on “[t]he right of self-consciousness, the moment of subjective freedom” which is
important through all this.
purely private elite interests in the public sphere.\textsuperscript{368} Feudal governments are therefore the direct antithesis of a politics with an articulate process of law because in such regimes all the functions of law-making mysteriously kept out of public sight.

For Hegel, such societies cannot be truly called modern or free because these oligarchic governments are governed by the arbitrary will of those who hold the reins of government and not by a process that allows those affected by these procedures to recognize their agency in these policies. These pre-modern governments cannot be said to sustain the “\textit{universally recognized, known, and willed}” identification of individuals (PR §209). Instead, such societies are characterized blind obedience, and not by a conscious decision that forms the bedrock of the strength of free states\textsuperscript{369}. Stated differently, an articulated process of law is important because it allows citizens to view their public commitments as constitutive of who they are as free persons.\textsuperscript{370} Hegel writes,

\begin{quote}
When right has come into existence [\textit{Dasein}] in the form of law, it has being for itself; as opposed to particular volitions and opinions with regard to right, it is self-sufficient and has to assert itself as \textit{universal}. This \textit{cognition} and \textit{actualization} of right in the particular case, without the subjective feeling
\end{quote}

\textsuperscript{368} On a very general scale, all polities are sovereign insofar as they unite into themselves under a public authority all of these functions. But, modern sovereignty for Hegel is an articulated process and not an undifferentiated fusion of functions. (PR §275).

\textsuperscript{369} See PR §260.

\textsuperscript{370} This is especially born out in PR §§219-229.
[Empfindung] of particular interest, is the responsibility of a public authority, namely the court of law. (PR §219)

Hence, because laws must not be based on private opinions and special interests, this means that those who are affected by them must be able to confront those with whom they disagree, especially the powerful, to resolve their issues. “The process of law puts the parties in a position of having to substantiate their evidence and their legal arguments [Rechtsgründe], and to acquaint the judge and themselves with the matter [Sache] in question.” (PR §222) Such confrontations cannot be direct because this would lead to conflict as each merely asserts its private preferences and special interests but must be mediated by processes that allow all those involved to reflect and think about the right decision to make.

By contrast, in elite-dominated societies, power imbalances merely lead to violent contests in which one faction tries to destroy another faction to seize the throne and promulgate its law. But modern politics is not just about capturing the throne – this is private feuding and civil war, not public life.371 “Whatever is to achieve recognition today no longer achieves it by force, and only to a small extent through habit and custom, but mainly through insight and reasoned argument.” (PR §316). For Hegel, the whole point of an articulated procedure through which the passage of laws can be commented on, lobbied, disagreed upon, revised, and amended is to create these avenues for constructive, thoughtful investment in the public life.372

371 See PR §281.

372 This may sound common place, but Hegel was arguing against those, like the Romantics, who think that all these are extraneous to civilized life. For them, laws were unnecessary because all one needed to know
iii. The Three Virtues of Hegelian Institutionalism

For these reasons I speculate that there are three Hegelian institutional virtues we can draw on to realize “concrete freedom”. These three virtues are (1) the public sphere must be inclusive, (2) that people must have a structured way to get their preferences across to decision-makers, and (3) that all these procedures produce legislation that is clear, simple and universally known by all those which it affects. In other words, Hegelian institutionalism defends a politics that (α) wants as many organized interests as possible to be present at the public table of legislation, (β) is governed by an overarching autonomous set of state institutions which mediate their interactions to ensure public investment, and (γ) which embodies the principle of publicity so that laws are transparently produced.373 These virtues are what I think we can draw from Hegel’s to realize concrete freedom (cf. PR §§ 142-143, 182-256, 257-320). Let me explain each in turn.

The first virtue that a modern and free process of law needs is that it must include as many organized interests it affects as possible. I call this organized inclusivity. Because what defines modern states is the notion that all members of the polity are subject to the same laws, there must be a way – “an assembly which deals with universal issues” – about the “right” thing to do was to look within one’s self, into one’s heart, to know in the depths of my feeling and conviction what is my own law that trumps what society tells me to do. For Hegel, this is lunacy. Not only is such a way of thinking a pathological response to bad laws, but to think that the only valid laws are those which come from my own heart and conviction destroys any ability for humans to make meaningful intersubjective commitments that transcend the impassioned impulses of the moment.

373 What this section does is give that general rubric for realizing “concrete freedom”. It will explain institutionally why ways of interacting that do not fulfill these criteria generate unsuccessful ways of organizing politics and give rise of those devastating pathologies Hegel hopes to avoid.
through which the various interests in society get to have their say (PR §309). Hegel stresses that this is important because modern states must secure the willing consent of all individuals. If people are excluded from the decisions which affect their lives, this would lead to alienating and destructive pathologies. “Particular interests should certainly not be set aside,” Hegel writes, “let alone suppressed; on the contrary, they should be harmonized with the universal, so that both they themselves and the universal are preserved” (PR §261).

But Hegel argues that there must be a structured approach to how these interests are sat at the table. For him, a crucial function of representation is to filter out those whose interests may be destructive or counter-productive to the common good (PR §311). This sounds hierarchical and elitist, but Hegel’s idea is that we need to insulate the government from radical and fringe pressures (PR §§250-255, 294). In other words, Hegel wants the key decision-makers to have mindset that is willing to compromise and negotiate on issues. This practical attitude allows government to filter out undesirable special interests from influencing public policy.

374 Here Hegel discusses representation and the function of deputies. One may liken this to a national forum.

375 “If self-interest is not part of the process of exploration and clarification, the chances increase greatly of a group’s adopting a version of the common good that does not take everyone’s interests into account.” Jane Mansbridge, et al., “The Place of Self-Interest and the Role of Power in Deliberative Democracy,” Journal of Political Philosophy 18 (1) (2010), 73.

376 For Hegel a minister’s “appointment provides him with resources, guarantees the satisfaction of his particularity (see §264), and frees his external situation and official activity from other kinds of subjective dependence and influence.” (PR §294).

377 One dimensions of institutional design is that people operating through them discover “their essential self-consciousness in [social] institutions as that universal aspect of their particular interests which has being in itself, and by obtaining through these institutions an occupation and activity directed towards a universal end within a corporation.” (PR §264)
Indeed, this gate-keeping function of institutions helps make sure that the decision in place reflect the good of all because these decision-makers must take into consideration the impact of their policies on others.\textsuperscript{378} A good example, I think, of this is when labor unions moderate demands for wage increases in exchange for long-term capital investment promises from business leaders.\textsuperscript{379} Hegel writes that those who sit at the table must have the virtues and dispositions “acquired through the actual conduct of business in positions of authority or political office, and which have proved their worth in practice” by which he means that they have developed through extensive negotiations a sense of responsibility (PR §310).

This leads to the second virtue of Hegelian institutionalism that I call the need for an autonomous public authority. This is necessary because there must be a unified and independent agency which oversees the table and prevents the domination of elites over the rest (PR §§275-281). For Hegel, such a public authority must not only enforce contracts, but must be able to intervene and determine the agenda of legislation with an independent regard to the common good. This is why he defends the self-regulating

\textsuperscript{378} Hegel writes, “The idea [Vorstellung] that all individuals ought to participate in deliberations and decisions on the universal concerns of the state – on the grounds that they are all members of the state and that the concerns of the state are the concerns of everyone, so that everyone has a right to share in them with his own knowledge and volition – seeks to implant in the organism of the state a democratic element devoid of rational form, although it is only by virtue of its rational form that the state is an organism.” (PR §308). In many respects, this echoes some of the concerns deliberative democrats have about ensuring that deliberation is insulated from fringe and radical pressures, creating avenues for more public spirited and impartial ways of deliberation that allows the public to identify with the outcome more readily. See Joshua Cohen, “Deliberation and Democratic Legitimacy,” in A. Hamlin and P. Pettit (eds.), The Good Polity. Oxford: Blackwell, 1989: 17-34; Jon Elster, “The Market and the Forum” in J. Elster and A. Aamund (eds), The Foundations of Social Choice Theory. Cambridge: Cambridge University Press, 1989: 103-32, Bernard Manin, “On Legitimacy and Political Deliberation”, Political Theory 15(3) (1987): 338-68; Cass Sunstein, “Preferences and Politics” Philosophy and Public Affairs 20 (1991): 3-34.

\textsuperscript{379} An example I take from Adam Przeworski, Capitalism and Social Democracy (Cambridge: Cambridge University Press, 1985), 133-204. But it is interesting to note that Hegel writes this about the representatives of the second Estate (PR §310).
bureaucracy in chapter V. Hegel rejects the position of conservatives like von Haller who thought that the state was merely the instrument of the strong to dominate the weak because for modern freedom requires that there be this strong autonomous state to guarantee the subordination of elite interests to the universal good.\footnote{Like the Romantics Novalis and Hölderlin. PR §219.}

Indeed, Hegel warns that fragmented authority only leads to elite domination.\footnote{In some ways this tracks the “republican” concern of non-domination, see Philip Pettit, Republicanism: A Theory of Freedom and Government (Oxford: Oxford University Press, 1999). But this line of thought goes to Rousseau, see Frederick Neuhouser, “Rousseau’s critique of economic inequality,” Philosophy and Public Affairs 41(2013): 193-225.} We must keep in mind that outside the strong state is not the idyll of the state of nature, but the world of feudalism where everything is reduced to private relationships. In chapter III we show how, for Hegel, public commitments are based on constitutive, not instrumentalist, relationships between individuals and their government (PR §§72-75). Such constitutive relationships were impossible in the pre-modern world of feudalism which embodied the horrifying political reality where only private lords, private fiefdoms and their personal serfs existed. “The great advance made by the state in modern times,” Hegel writes, “is that it remains an end in and for itself, and that each individual may no longer base his relationship \emph{Beziehung} to it on his own private stipulation, as was the case in the Middle Ages” (PR §75). In short, only under a strong modern state can we avoid that terrible fragmentation of political life into “a thousand petty fortresses” so characteristic of feudal and neo-feudal societies.\footnote{Phrase taken from Michael Walzer’s Spheres of Justice: A Defense of Pluralism and Equality (New York: Basic Books, Inc., 1983).} Hegel warns,
Thus, the history of despotisms and of the purely feudal monarchies of earlier times represents a succession of rebellions, acts of violence by rulers, civil wars, the downfall of sovereign princes and dynasties, and in consequence, general devastation and destruction on both internal and external fronts. The reason for this is that, in conditions such as these, the division [Teilung] of political business is purely mechanical, with its different parts distributed among vassals, pashas, etc., so that the difference [between these elements] is not one of determination and form, but merely of greater or lesser power. Thus, each part maintains itself alone, and in so doing, it promotes only itself and not the others along with it, and has within itself the complete set of moments with it requires for independence and self-sufficiency. (PR §286)

Yet it would be contradictory for Hegel to support a state that regresses into another oppressive force in modern society.383 Hegel argues that in no way should the modern state develop into its own particular interest. And so, there must be procedures in place that prevent its capture by special interests. This can be assured only with an robust set of

383 This was Marx’s critique of Hegel’s Philosophy of Right; but Hegel anticipates it. “The government is not a party opposed to another party in such a way that both have to fight for major concessions from each other; and if a state does get into a predicament of this kind, this cannot be described as health but only as a misfortune. Besides, the taxes which the estates approve should not be regarded as a gift presented to the state; on the contrary, they are approved for the benefit of those who approve them.” (PR §301)
procedures that ensure transparency and revisability of decisions.\textsuperscript{384} This is the third virtue I call \textit{publicity}.

\textit{Publicity} demands that public decision-making be simple and transparent to \textit{all} those affected by the outcomes so that they can see and act upon the rationale behind the decisions being undertaken (PR §§222-228, 314-320).\textsuperscript{385} This is what human beings require to \textit{willingly} invest in her public life. “The right of the subjective consciousness include not only that of making the laws publicly known,” Hegel writes, “but also the possibility of knowing [\textit{zu kennen}] how the law is \textit{actualized} in particular cases, i.e., of knowing the course of the external proceedings, legal arguments [\textit{Rechtsgründe}], and so forth – \textit{the publicity of the administration of justice}.” (PR §224)

In other words, publicity enables \textit{all} human beings to think about the laws which affect them (PR cf. §315).\textsuperscript{386} Hegel stresses,

Straightforward common sense sees it as right and proper
that the administration of justice should be public. A major
obstacle has always been the high station of those with

\textsuperscript{384} As Amy Gutman argues, “the legitimate exercise of political authority requires justification to those who are bound by it, and decision-making by deliberation among free and equal citizens is the most defensible justification anyone has to over for provisionally settling controversial issues.” (“Democracy, Philosophy and Justification” in \textit{Democracy and Difference}, Seyla Benhabib, ed. Princeton, NJ: Princeton University Press, 1996, 344.

\textsuperscript{385} PR §301, here Hegel calls it “the expectation of criticism, indeed of public criticism, at the hands of the many”.

\textsuperscript{386} Hegel continues that “a primary characteristic of a right is that the citizens should have confidence in it, and in this aspect which requires that justice should be dispensed in public. The right of publicity is based on the fact that the end of the court is right, which as a universal should also come before the universal, and also on the fact that the citizens are thereby convinced that justice [Recht] is actually being done.” (PR §224, Addition [H])
powers of jurisdiction, since they are reluctant to appear before the general public, seeing themselves as guardians of a right to which the laity should not have access. But a primary characteristic of a right is that the citizens should have confidence in it, and it is this aspect which requires that justice should be dispensed in public. The right of publicity is based on the fact that the end of the court is right, which as a universal should also come before the universal, and also on the fact that the citizens are thereby convinced that justice [Recht] is actually being done. (PR §224, Addition [H])

The process of law must thus be separated into clearly delineated categories like arbitration, legislation, interpretation, dispute resolution, execution, and transparently opened up to the scrutiny of the public eye (cf. PR §§225). “[I]t is above all,” Hegel writes further, “from this above that the people can learn the true nature of their interest” (PR §315, Addition [H,G]).

In conclusion, what distinguishes a modern from a premodern society is that citizens freely and rationally view their public commitment as constitutive of their rights and freedoms. “The principle of the modern world,” in short, “requires that whatever is to be recognized by everyone must be seen by everyone as entitled to such recognition.” (PR §317). Of course, this does not mean that I cannot “disagree” with public decisions. I may even be very frustrated that my preferences were not fulfilled by what the government
requires me to do. But the crucial thing is that citizen must come to accept their public duties as something which they cannot exempt themselves from. Throughout this work, I have shown that Hegel had to operate within the peculiar circumstances of early 19th century Prussia. For him, the dominance of the landed aristocracy threatened the realization of the democratic core of his philosophy. Yet my hope is that this is not because he caved in or compromised with the times. Rather, Hegel is, on my account, clearly a defender of democratic ideals very much like our own as he tried to secure them within his own time. Being the defender of the Enlightenment that he was, Hegel strived to realize freedom for those who needed it the most.
### APPENDIX

#### Table 1.1: Differences between the Structure of Feudal Rule and Bureaucratic Rule

<table>
<thead>
<tr>
<th></th>
<th>Feudalism</th>
<th>Bureaucracy</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Decision-Making Structure</strong></td>
<td>Fragmented into competing individual principals who can promulgate and enforce binding ordinances on particular subordinates; personalistic power prevails; defined by “mini-sovereignties”.</td>
<td>Highly centralized into a pyramidal structure in which subordinate ranks must carry out instruction from the top and enforce it for all applicable cases in ways that conform to rational and legal procedure. <em>Hierarchy</em>.</td>
</tr>
<tr>
<td><strong>Agent</strong></td>
<td>Private individuals who own independent means of coercion.</td>
<td>Dependent officials who do not own their offices, but are salaried employees of a centralized state.</td>
</tr>
<tr>
<td><strong>Social Nature of Agent</strong></td>
<td>Nobles who rule by right of hereditary birth, and are hence amateurs, and not “trained” in their jobs. <em>Dilettantism</em>.</td>
<td>Careerists who, whether by merit or other modes of preferment, receive training and expert education for their jobs. <em>Professionalism</em>.</td>
</tr>
<tr>
<td><strong>Procedures</strong></td>
<td>Ad hoc, personalistic, not bounded by clearly defined regulations. By the grace of the lord.</td>
<td>Exacting and formalistic following well-defined mandates with a <em>de-emphasis</em> on personal power and a strengthening of written procedure to ensure that uniformity and standardization throughout all applicable relevant cases.</td>
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<tr>
<td>German</td>
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<tr>
<td>Wenn die bürgerliche Gesellschaft sich in ungehinderter Wirksamkeit</td>
<td>§243</td>
<td>When the activity of civil society is restricted, it is occupied internally with expanding its population and industry.</td>
</tr>
<tr>
<td>befindet, so ist sie innerhalb ihrer selbst in forschreitender</td>
<td>(But see also</td>
<td>– On the one hand, as the association of human beings through their needs is universalized, and with it the ways in which means of satisfying these needs are devised and made available, the accumulation of wealth increases; for the greatest profit is derived from this twofold universality. But on the other hand, the specialization and limitation of particular work also increases, as do likewise the dependence and want of the class which is tied to such work; this in turn leads to an inability to feel and enjoy the wider freedoms, and particularly the spiritual advantages of civil society.</td>
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<tr>
<td>Bevölkerung und Industrie begriffen. – Durch die Verallgemeinerung</td>
<td>§204</td>
<td></td>
</tr>
<tr>
<td>des Zusammenhangs der Menschen durch ihre Bedürfnisse, und der</td>
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<td>Weisen, die Mittel für diese zu bereiten und herbeizubringen,</td>
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<td>vermerht sich die Anhäufung der Reichtümer, denn aus dieser</td>
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<tr>
<td>gedoppelten Allgemeinheit wird der größte Gewinn gezogen, - auf der</td>
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<tr>
<td>Seite, wie auf der andern Seite die Vereinzelung und Beschränkheit der</td>
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<tr>
<td>besondern Arbeit und damit die Abhänhihkeit und Not der an diese</td>
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<td></td>
</tr>
<tr>
<td>Arbeit gebundenen Klasse, womit die Unfähigkeit der Empfundung und</td>
<td></td>
<td></td>
</tr>
<tr>
<td>des Genusses der weiten Freiheiten und besonders der geistigen</td>
<td>§202; see</td>
<td>The estates are determined, in accordance with the concept, as the substantial or immediate estate, the reflecting or formal estate, and lastly, the universal estate.</td>
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<tr>
<td>Vorteile der bürgerlichen Gesellschaft zusammenhängt.</td>
<td>§207 on how</td>
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<tr>
<td>Die Stände bestimmen sich nach dem Begriffe aals der substentielle</td>
<td>individuals</td>
<td></td>
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<tr>
<td>oder unmittelbare, der reflektierende oder formelle, und dann als der</td>
<td>choose their</td>
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<tr>
<td>allgemeine Stand.</td>
<td>estates; and</td>
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<td></td>
<td>the professional divide of “limiting oneself”.</td>
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<td>Paragraph</td>
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<tr>
<td>§205</td>
<td>The universal estate has the universal interests of society as its business. It must therefore be exempt from work for the direct satisfaction of its needs, either by having private resources, or by receiving an indemnity from the state which calls upon its services, so that the private interest is satisfied through working for the universal.</td>
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<tr>
<td>§250</td>
<td>The agricultural estate, in view of the substantiality of its natural and family life, has within itself, in immediate form, the concrete universal in which it lives. The universal estate, by definition, has the universal for itself as its basis and as the end of its activity. The intermediate estate, i.e., the estate of trade and industry, is essentially concerned with the particular, and the corporation is therefore specially characteristic of it.</td>
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<tr>
<td>§290</td>
<td>Members of the executive and civil servants constitute the bulk of the middle class, which embodies the educated and intelligence and legal consciousness of the mass of the people. The institutions which prevent this class from adopting the isolated position of an aristocracy and from using its education and skill as arbitrary means of domination are the sovereign, who acts upon it from above, and the rights of the corporations, which act upon it from below.</td>
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