"Beyond the Sphere of All Manufactured Things": Reflections on Hegel's Idea of the State

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Abstract: This essay offers a brief comment on Hegel's *Philosophy* of *Right*, with special emphasis on Hegel's claim that we must regard the state as divine and its constitution as "beyond the sphere of all manufactured things." This conception of the state is contrasted with social contract theorists and, more specifically, with the so-called "maker's knowledge" principle as it was formulated by thinkers such as Hobbes, Vico, and Marx. The paper argues that Marx's particular version of this principle offers a welcome alternative Hegel's metaphysical conception of the state as "divine."

Keywords: Hegel, Marx, Hobbes, Vico, constitution, state, maker's knowledge, political philosophy

In the *Philosophy of Right*, Hegel writes that our political institutions are endowed with "absolute authority and majesty."¹The state does not appear with all of its imperfections, rather, it is portrayed as the highest manifestation of spirit, or *Geist*. Because Hegel is chiefly interested in rational analysis and not in merely empirical description, he thinks it should be possible for us to examine the state as a thoroughly realized and rational structure, without troubling ourselves to an excessive degree with any of the deficiencies that have afflicted the various states as they are known to us through history. Just as even "the ugliest man" is nonetheless "a human being," so too any empirical state is nonetheless the embodiment of divine purpose: "The state consists in the march of God in the world, and its basis is the power of reason actualizing itself as will. In considering the Idea of the state, we must not have any particular states or particular institutions in mind; instead we should consider the Idea, this actual God, in its own right [*für sich*]."²

On the special occasion of the 200th anniversary of Hegel's *Philosophy of Right* it may seem inappropriate of me to begin on a skeptical note. But anyone who reads this landmark text in the history of philosophy today cannot avoid a simple question: how are we to understand, let alone accept as valid, its fundamental and unmistakable commitment to such an extravagant metaphysics? It is this metaphysical theme above all others that tests the limits of understanding Hegel's philosophy today. And this is the case not only for the interpretation of his political philosophy. Consider, for instance, the fundamental idea of epistemic and metaphysical closure that appears in the well-known concluding section of the *Phenomenology*, "Absolute Knowing," where we learn that once *Geist* has passed through the agonies of its own

1 Hegel, *Elements of the Philosophy of Right.* Allen W. Wood, ed. H.B. Nisbet, trans. (Cambridge University Press, 1991), §258; p. 277. All quotations are to this edition, hereafter abbreviated as PR.

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development it finally achieves its *Vollendung* or completion.³ Such grandiose statements of metaphysical closure may strike us as an embarrassment that we would prefer to ignore. So it is hardly surprising that a great many of the most accomplished scholars who have written brilliantly about Hegel's philosophy today have done so turning down the volume on its most emphatic claim. Much like other contributions in modern philosophy that have adopted the chastened sensibility of a socalled "post-metaphysical thinking" (to borrow a phrase from Habermas), the very best scholarship on Hegel's philosophy today is written in the historically self-conscious idiom of an era that lacks the credulity of the past. Its interpretative approach is not metaphysical but deflationary. The idea of "Spirit" undergoes a reverse alchemy, feudal gold is spun into reliable lead, and spirit turns out to signify little more than the ongoing and collective practice of human reasoning itself.⁴

It is this line of interpretation that I have found most instructive. and it has served as the most reliable guide into the thicket of Hegel's philosophy. But we might still ask whether such a deflationary reading best conveys Hegel's own intentions. After all, when reading Hegel's political philosophy (or *any* works of philosophy) we can pursue two very different strategies of interpretation. On the first strategy we seek to bring past thinkers up to date as if we were refurbishing an old chair: the outmoded or embarrassing parts are replaced with new components that we now find rationally defensible and more comfortable to current needs. We pursue this first strategy in the name of "interpretive charity." But we can also read a work of philosophy in a second and rather different fashion. According to this second strategy, we seek to understand past philosophers on their own terms, honoring what we take to have been their most likely meanings even if we no longer find those meanings worthy of defense. We look upon the outmoded parts not as embarrassments but as provocations: they signal to us that this thinker did not merely think in advance all the things we think now, and they encourage us to imagine that perhaps they have something different to say. This, too, is an instance of interpretative charity, though it is charity of a rather different sort. After all, it is also charitable to recognize that philosophers may have views that are uniquely their own rather than expecting that they subscribe to views that are essentially the same as ours.5

5 On this second kind of interpretive charity, see the excellent essay by Yitzhak Y. Melamed, "Chari-

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³ See, e.g., the concluding paragraph, where we are told that spirit reaches its *completion* and fully comprehends what it truly is: "Indem seine Vollendung darin besteht, das, was *er ist*, seine Substanz, vollkommen zu *wissen*, so ist dies Wissen sein *In-sich-gehen*, in welchem er sein Dasein verläßt und seine Gestalt der Erinnerung übergibt." Hegel, *Die Phänomenologie des Geistes*, §808; quote from 592. This image of closure strikes me as incompatible with the deflationary interpretations of Hegel's philosophy described below.

⁴ I have in mind the superb interpretative studies of Hegel in the Anglophone world by accomplished scholars such as Robert Pippin, Terry Pinkard, Frederick Neuhouser, and Robert Brandom.

My own understanding of Hegel is not deflationary. Provoked if not even a bit embarrassed by his metaphysics, I nonetheless feel I must take him as his word when he declares that the state is "the march of God in the world." In what follows, I want to explore some of the implications of Hegel's claim that we should regard the state as the highest manifestation of the divine on earth. The claim may very well strike us as intolerable if we pause even for a moment to consider the extraordinary violence that states have visited both upon one another and upon stateless populations across the globe. But even if we disregard all questions of inter-state warfare and persecution we should still find the claim provocative, not least when we examine his remarks on the nature and genesis of political constitutions (§273). I wish to use those remarks to explore some of the further implications of Hegel's metaphysics and to explain why the chasm between Hegel's time and our own may be nearly insuperable.

The passage in question is one in which Hegel lays out his various objections to the tradition of social contract theory, a political theory that sees the state as a thoroughly human artifact, a compact or "covenant" that was brought into being *ex nihilo* at a particular time and place through a discrete act of collective decision.⁶ For the social contract theorist, a constitution is neither sacred nor natural; it is little more than a formalization and elaboration of the procedures to which all signatories of the contract must agree if the state they have made will endure into the future. Citizens may continue to dispute specific matters of policy, but even in the midst of their disagreement they must leave intact the basic procedural structure of the constitution as the stable groundwork for any and all political deliberations. Despite this stability the constitution is seen as a thoroughly *human* institution: *it is something made and not given*.

In §273 of the *Philosophy of Right* Hegel responds to this contractualist principle with a pointed question:

[W]ho *is to draw up the constitution*? This question seems clear enough, but closer inspection at once shows that it is nonsensical. For it presupposes that no constitution as yet exists, so that only an atomistic *aggregate* of individuals is present. How such an Q U E / Volume 8

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table Interpretations and the Political Domestication of Spinoza, or, Benedict in the Land of the Secular Imagination," in Laerke et al. eds. *Philosophy and its History* (Oxford University Press, 2012): 258-277. For a critical perspective on Melamed's argument, see Eric Schliesser, "Interpreting Spinoza: Critical Essays (Review)" *British Journal for the History of Philosophy* 19, 4 (2011): 822-826. For general remarks on the methodological challenges of interpreting past philosophers, see Martin Jay, "Impudent Claims and Loathsome Questions: Intellectual History as Judgment of the Past," in Jay, *Genesis and Validity: The Theory and Practice of Intellectual History.* (Penn Press, 2022), 28-33.

⁶ For an excellent explanation of Hegel's critique of social contract theory and a defense of Hegel's characterization of the state as divine, see Frederick Neuhouser, *Foundations of Hegel's Social Theory: Actualizing Freedom* (Cambridge, Mass: Harvard University Press, 200), esp. Ch. 6, "Hegel's Social Theory and Methodological Atomism," pp.175-224.

aggregate could arrive at a constitution, whether by its own devices or with outside help, through altruism (*Güte*), thought, or force, would have to be left to it to decide, for the concept is not applicable to an aggregate.⁷

Hegel poses this guestion in order to demonstrate that the contractualist theory of the state involves a bad and infinite regress. The legitimacy of any constitution depends upon some prior norms of legitimacy that preexist its founding. There must have been a unified body that had already agreed upon its unifying principles, or it would not yet have been a unified body at all; it would simply be the "aggregate" as it existed in the pre-political state of nature. It follows that any normatively binding political arrangement must presuppose one that came before it. "But if the above question presupposes that a constitution is already present, to draw up a constitution can only mean to change it, and the very fact that a constitution is presupposed at once implies that this change could take place only in a constitutional manner."8 This line of reasoning moves Hegel to conclude that the contractualist idea of an *initial* or *founding* constitution is incoherent. Rather, a certain structure of obligation or constitutionality must be understood as antecedent to our current political situation. In a very important sense a constitution is therefore something that is given and not made. Now, for Hegel, to say that the constitution has a given or non-artifactual character is just to say that the constitution should be seen not as human but *divine*:

But it is at any rate utterly essential that the constitution should *not* be regarded as *something made*, even if it does have an origin in time. On the contrary, it is quite simply that which has being in and for *itself*, and should therefore be regarded as divine and enduring, and as exalted above the sphere of all manufactured things.⁹

Needless to say, this conclusion will strike many readers as unwarranted. But permit me to entertain a charitable interpretation. It is plausible to think that our fundamental agreement upon matters of constitutional procedure must always be antecedent to our particular debates over policy. At least in this sense, we can understand why Hegel might insist that we must *not* think of constitutions are things that are simply "made" in the same way that other more everyday things are made, such as tables, or chairs, or even particular laws. The above passage seems to be motivated by a rather straightforward intuition: If we really believed that the

7 PR § 273, p.311-312.

8 PR § 273, p.311-312.

 $9\ PR$ § 273, p.312. My emphasis on the last sentence.

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constitution were a mere artifact in this rather banal sense of "making," we would always feel tempted at any moment in our political deliberations to declare the constitution null and void, and we would be plunged back into a pre-political state of nature where no rules would retain their validity. A state that could not inspire us with a more durable sense of obligation to its basic constitutional procedures could not be a state at all.

This intuition goes at least part of the way toward explaining what Hegel may have meant. Still, this explanation is not entirely satisfactory. When Hegel tells us that the state should be seen as divine and exhalted above the sphere of all manufactured things he has is mind a far deeper and more significant insight into the nature of constitutional agreement. He means to say that we must regard the constitution not as an accidental but essential feature of the state (unlike, say, a particular law that is made by an act of legislature). But no essential feature of the state can be understood as something that was brought into being through the will of particular individuals at a discrete moment in time. If the state truly is "the march of God in the world," then its essential features must be justified before the court of reason or spirit, and it cannot suffice to report facts about their empirical origin. Hegel's point, in other words, is that political philosophy must concern itself primarily with questions of rational validity and not with questions of mere genesis. This is why he appears to find it irrelevant that the constitution has its origins in time. Social contract theorists, he suggests, are looking at the state in the wrong way: they wish to ground its validity with reference to facts about its origin rather than exploring its intrinsically rational structure. It is in this sense that Hegel wants to say that constitutions are divine and should be exalted above the sphere of all manufactured things.

Hegel's claim is nonetheless puzzling and raises a number of questions. Before raising any further objections however, I wish to note that it contrasts rather sharply with what is known as the principle of "maker's knowledge." This principle asserts that because the human or political world was made by human beings, it follows that human beings can know it; or, more accurately, they can rediscover everything about it that they put there in the first place. In this respect the humanly-made world should be distinguished from the world of nature. The natural world, because it was made by God, can only be fully known by God alone. The human world was made by human beings, so we are the ones who can best understand its essential character. The maker's knowledge principle was given its canonical formulation by Giambattista Vico in his *La Scienza Nuova*, where he writes that

this civil world has certainly been made by men. Hence, these principles can be discovered, because they must be discovered, within the modifications of our own human mind. [...]The following must induce wonder in anyone who reflects upon it: all the C R I T Q U E /

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Volume 8 Issue 2 philosophers have so studiously pursued science of the natural world (since God made it, only God has science of the natural world) and have given no care to meditating upon this world of nations—that is, the civil world—about which, since men have made it, men can pursue science.¹⁰

The theme of maker's knowledge as articulated by Vico suggests that political philosophy can proceed by means of an analogy: just as nature can be known by God because God made it, so too the human or "civil" world can be known by human beings because it was made by them. For Vico this analogy serves as the warrant for a "new science" that will investigate not the mysterious principles of nature but the far less mysterious principles that underwrite the cultural and political world. These principles are intelligible to the human mind because we were the ones who fashioned them.

In his remark that we should see the constitution as "exalted above the sphere of all manufactured things," Hegel does not mention Vico (whose name appears nowhere in the *Philosophy of Right*). Nor does he specify which philosopher in the social contract tradition he has in mind. But it seems plausible to understand the remark as a rejoinder to Thomas Hobbes, who endorses a standard version of the maker's knowledge principle in the famous opening lines of *Leviathan*:

NATURE (the art whereby God hath made and governs the world) is by the art of man, as in many other things, so in this also imitated, that it can make an artificial animal. For seeing life is but a motion of limbs, the beginning whereof is in some principal part within, why may we not say that all automata (engines that move themselves by springs and wheels as doth a watch) have an artificial life? For what is the heart, but a spring; and the nerves, but so many strings; and the joints, but so many wheels, giving motion to the whole body, such as was intended by the Artificer? Art goes yet further, imitating that rational and most excellent work of Nature, man. For by art is created that great LEVIATHAN called a COMMONWEALTH, or STATE (in Latin, CIVITAS), which is but an artificial man, though of greater stature and strength than the natural for whose protection and defense it was intended; and in which the sovereignty is an artificial soul, as giving life and motion to the whole body [...]

Hobbes anticipates Vico in drawing out an analogy between divine and human creation. Just as God has created nature, humanity has

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¹⁰ Giambattista Vico, *The New Science*, Jason Taylor and Robert Miner, eds and trans. (New Haven: Yale University Press, 2020); quote from §331.

likewise created the state as an "artificial man." Hobbes pursues this analogy as far as it can go.¹¹ He lists all of the various constituent parts of the state (magistrates, and so forth) which resemble the various natural organs of the human being as these were created by God. Among these organs are "the pacts and covenants, by which the parts of this body politic were at first made, set together, and united." Even the original covenant by which the state was founded is analogous to "that fiat, or the Let us make man, [that was] pronounced by God in the Creation."¹²

Although Hobbes was by no means the first theorist in the social contract tradition he nonetheless provides us with a helpful illustration of its basic themes. For the contractualist the state is *non-natural*, an artifact that is willed into being against the background of natural and non-artifactual conditions. Hobbes describes the state of nature as a condition that is wholly lacking in normative orientation. Incidentally, this is one of the major points of disagreement between Hobbes and Locke, who, unlike his predecessor, wants to insist that certain normative commitments are still binding in the state of nature. Unlike Locke, Hobbes is a thoroughgoing non-normativist about pre-political humanity: there are no rules for human conduct other than the rule of absolute self-preservation that inheres in the state of nature itself. In all other respects the state of nature is one that lacks all standards or measure: it even lacks a common standard of time. In the state of nature we are portrayed as purely atomistic and violent creatures who look upon one another as mere competitors for life and feel unconstrained by any further bonds of solidarity or obligation. Whether this state of nature ever actually obtained is irrelevant to Hobbes' argument. The state of nature is logically presupposed once one says that Leviathan is a purely human construction that grants us safety and moral obligation only by lifting us free of our pre-political existence. Hobbes therefore describes Leviathan as an "artificial man."

With this insight into the purely artificial character of the state, Hobbes joins Vico and a long line of thinkers who have endorsed the maker's knowledge principle. For Hobbes this principle has important implications for how he thinks about both the purposes and limits of sovereignty. In the state of nature human beings are overwhelmed with mortal fear for their lives; they therefore fashion Leviathan and surrender themselves to its absolute power for the purposes of their own security. Seen from one perspective, the authority of the state they have created is absolute. Seen from another perspective, however, the authority of the state is conditional upon its continuing to fulfill the basic purposes for which it was initially made. Insofar as citizens have created Leviathan

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¹¹ On Hobbes and maker's knowledge, see the superb discussion by Victoria Kahn "Hobbes and Maker's Knowledge" in her recent book, *The Trouble with Literature* (Oxford, 2020).

^{12 &}quot;Introduction" in Hobbes, Leviathan, 9-10.

only for their own protection, they can rescind the compact if Leviathan does not fulfill this essential requirement. Implicit in the principle of maker's knowledge, then, is the further principle that what humans have once made they can also remake or even *unmake*. And what is true of the state is true *a fortiori* of its constitution: since we are its authors, we also possess the capacity to re-write it. What seemed to be merely a principle of epistemology turns out to have some important implications for understanding both the nature and the limits of political obligation.

Hegel is a relentless critic of the social contract tradition, but he is no less critical of the maker's knowledge principle that underwrites that tradition. He cannot accept the view that any constitution could be simply brought into being against the background of merely natural conditions. He appeals instead to *spirit* as the prior and higher condition of normativity that must always precede and thereby make possible any particular political event. By spirit he means the rational and holistic principle that underwrites all our political arrangements. Spirit, however, is something deeper than human agency even though it works toward its self-actualization through human agency. Spirit is always prior to our self-created normative orders. This is the deeper reason why Hegel a) rejects as nonsensical the question of who might have originally drawn up a state constitution, and b) insists that citizens should regard the state constitution as divine and as beyond all manufactured things. But Hegel's conception of the state as non-artifactual or exceeding human powers leaves us with a serious question: What role remains to humanity in the making or unmaking of our political life?

To shed further light this question, I would like to turn to a social theorist who inherited a great many of his foundational philosophical insights from Hegel but strongly resisted Hegel's idea of the state as non-artifactual and divine. In the Introduction to the "Critique of Hegel's Philosophy of Right" (written in 1843 and published in 1944 in the Parisbased Deutsche-Französische Jahrbücher) Karl Marx wrote: "It is the immediate task of philosophy [...] to unmask human self-alienation in its secular form now that it has been unmasked in its sacred form. Thus the criticism of heaven is transformed into the criticism of earth, the criticism of religion into the criticism of law, and the criticism of theology into the *criticism of politics.*¹¹³ Composed at an early phase in his career when he had not yet liberated himself from the spell of the young-Hegelians, these lines provide us with a programmatic statement of what Marx considered the necessary path for modern philosophy after Feuerbach. The critique of religious consciousness and its dissolution into human consciousness that was Feuerbach's chief achievement (especially in The Spirit of Christianity) was a necessary but not sufficient condition for

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¹³ Karl Marx, "Introduction" to "Contribution to the Critique of Hegel's *Philosophy of Right*" in *The Marx-Engels Reader.* Robert C.Tucker, ed. (Norton): 53-65, quote from 54.

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the realization of human freedom. A further step was required: political institutions, Marx believed, were now to be unmasked as the alienated expression of material life. No elements in social reality would remain immune to philosophical criticism or political action and eventually "all the conditions of human life" would have to be reorganized under the aegis of social freedom. It could no longer be assumed that political institutions are "external to man"; it was necessary to see them as "created by human society."¹⁴

Marx never resolved his fundamental ambivalence regarding Hegel's philosophy. On the one hand, he embraced the dialectic as the key to social criticism; on the other hand, he rejected the conception of spirit that had furnished the metaphysical support for Hegel's system. In the preface to his *Contribution to the Critique of Political Economy* (1859) Marx recalls that in his earlier 1844 critique of Hegel's political philosophy he reached the conclusion that "legal relations as well as forms of state are to be grasped neither from themselves nor from the so-called general development of the human mind, but rather have their roots in the material conditions of life."¹⁵ Hegel, he grants, had been among the first philosophers to recognize the significance of these material conditions. In the *Philosophy of Right* they appear under the name of "civil society." But Hegel saw civil society as subordinate to the state, whereas Marx now assigns them the primary role in determining the state's essential character. Pace Hegel, our political arrangements are not grounded in spirit and they cannot be understood "from themselves." They express the wholly non-metaphysical and material conditions of society itself. In considering Hegel's contribution to political philosophy Marx reaches a twofold conclusion: on the one hand, he agrees with Hegel that the contractualist theory of the state is mistaken: the state is a thoroughly historical institution that has emerged gradually over time. Social contract theorists are guilty of "Robinsonades," stories that imagine our political and social world if it had been erected *ex nihilo* upon purely non-political foundations in a pure state of nature just as God once called into being the entirety of nature itself. On the other hand, in rejecting the illusion of a pre-political condition Marx strives for greater consistency. Unlike Hegel he refuses to see the state as something that is exalted above the humanly-made world. Marx therefore endorses the maker's knowledge principle even while he rejects the contractualist theory of the state.¹⁶ In Marx's philosophy "society" assumes the role that was played in Hegel's philosophy by "Geist." To say that political institutions are

14 Marx, "Introduction," 64, my emphasis.

15 Marx, "Preface" to Contribution to the Critique of Political Economy (1859), in Tucker, 4.

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¹⁶ On the comparison between Vico and Marx regarding the principle of maker's knowledge, see Terence Ball, "Vico and Marx on 'Making' History" in his *Reappraising Political Theory: Revisionist Studies in the History of Political Thought* (Oxford)

"created by human society" is simply to say that *we have created them ourselves.*

From a Marxist perspective, Hegel's metaphysical derivation of the state as the highest embodiment of *Geist* must appear as vet another instance of alienation. Its chief effect is to obscure from us the fact that the state is not a divine but a worldly thing that is born from and reflects the conflictual interests of human beings. In characterizing the state as divine, Hegel masks these material interests and leaves us with the impression that the state enjoys a kind of metaphysical independence in relation to the material conditions from which it has sprung. But this makes the state into a fetish. In what is perhaps the best-known passage from Capital, Marx seeks to dispel this quasi-theological illusion: "In order, therefore, to find an analogy, we must have recourse to the mistenveloped regions of the religious world. In that world the productions of the human brain appear as independent beings endowed with life. and entering into relations with one another and the human race."¹⁷Two hundred years since the publication of Hegel's *Philosophy of Right*, this critique retains its merit. No less than any other element of our social world, the state is a merely human artifact that is perennially made and remade according to our social interests. But these interests have never been as exalted or as universal as Hegel supposed. When the state is brought down from heaven to earth, the metaphysical claims of spirit are thereby unmasked; civil society displaces *Geist* as the key to political explanation, and the spectacle of endless warfare between states is robbed of its illusory majesty.

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¹⁷ Marx, Capital, Volume One; quote from Tucker, ed. 321.

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