PART I

The Structure of Hegel's Philosophy of Right

I

Framework and Meaning of 'Objective Spirit': A Conceptual Change in Political Philosophy

Hegel's doctrine of objective spirit poses several difficulties which his interpreters must address before undertaking a closer examination of the philosophy of right which follows from it. There are three chief thematic issues: first, the problem of the concept's structure; second, the problem of its place in the philosophical system; and third, the particularly vexing problem of the history of its evolving role in the diverse periods of Hegel's thinking. The first problem coincides with the question of the concept's intrinsic ambiguity. Here I shall mention only a few of the most important elementary meanings which interact in Hegel's use of the term. Objective spirit is the *supra-individual trans-subjective spirit* which two or more subjects, and, in particular, unions of subjects (families, classes, associations, peoples, etc.) have in common. In this sense it is general spirit (*Encyclopedia of the Philosophical Sciences*, 1st edn (Heidelberg, 1817), par. 399), which – on the model of the general will as not merely the sum of individual wills, but rather a reality penetrating and spreading through them – contains individual 'subjective' minds in itself. However, general spirit, as 'objective', manifests itself in outward appearance, and is thus in contrast to the formula for the general will, which talks about an 'inner' connection of wills withdrawn from time and change. To this extent, it is for Hegel essentially *historical spirit*. Moreover, this outer appearance, as the objectivity or reality of objective spirit, includes further dimensions in which the complexity of the concept approaches equivocation. At one time it can mean the *objective*, that is, *real* spirit; at another time the *objectivizing*, *realizing* spirit; or finally the *objectified*, *realized* spirit. Following Nicolai Hartmann, who took offence at these equivocations, one might speak of 'objective' and 'objectified' spirit.[1]

1 *Das Problem des geistigen Seins*, 2nd edn (Berlin, 1949), pp. 196 f.

The problem of Hegel's systematic use of the concept and the history of its development can be limited to the following propositions. The concept of objective spirit is introduced initially in the *Encyclopedia* of 1817, in connection with the well-known distinction between subjective, objective, and absolute spirit. The distinction is missing from earlier writings. To be sure, Hegel's various early systematic ventures follow the common modern trichotomy of reason, nature, and spirit, as worked out by Descartes and Kant. In these early ventures, however, the philosophy of spirit had not yet been explicitly distinguished, and appeared under such diverse titles as 'the system of *ethical life*', or '*practical philosophy*'. 'Spirit', in this context, was always 'absolute', so that the only distinction which Hegel recognized concerned the 'absolute spirit' itself: in a people it is '*existing* absolute spirit'.[2] A differentiation is first worked out in the *Philosophical Encyclopedia* from the *Nürnberg Propädeutik* (1811–12), even though Hegel was not then in possession of the final concept. This text distinguishes the sphere of *spirit's realization* from that of its *fulfilment* (par. 128); however, it handles the first under the heading of 'practical' rather than 'objective' spirit (par. 173).[3] This is of decisive importance for the concept's structure and for the doctrine of objective spirit's systematic employment. Conceptually, the sketch of the *Nürnberg Propädeutik* still preserves an insight which was gradually lost to Hegel's view as well as to the view of the nineteenth-century tradition of philosophical, historical research shaped by him. This insight is that the 'objective spirit' grew out of and depended on what the tradition called 'practical' philosophy. The considerations which determine the concept's role in Hegel's *Philosophy of Spirit* are not adequate for understanding this connection. Indeed, one might say that they have been a disaster for the correct evaluation of practical philosophy's role in modern thinking. Objective and practical spirit, which were inseparable up to the time of the *Nürnberg Propädeutik*, come to be distinguished. In the encyclopedia system of 1817, the

2 Cf. *Jenenser Realphilosophie* (hereafter *JR*), Vol. II (1805–6), ed. J. Hoffmeister (Leipzig, 1931), p. 272.

3 Cf. Hegel, *Sämtliche Werke*, Jubiläumsausgabe (hereafter *WWG*), ed. H. Glockner (Stuttgart, 20 vols., 1927–30), Vol. III, pp. 200 and 215.

practical becomes a component of subjective spirit, i.e., the doctrine of will in psychology (pars. 368–99). Practical philosophy's slide to oblivion is undoubtedly due to the fundamentally psychological theory of the human sciences, which appropriates both this absorption of practical spirit by the subjective and also the opposition between the philosophy of nature and the philosophy of spirit in Hegel's system. Wilhelm Dilthey, who built his school on this issue, tried to demonstrate that, as early as the seventeenth century, the newly-discovered analysis of consciousness and the anthropological theory of emotions led to the replacement of the 'false dichotomy' between theoretical and practical philosophy by this same opposition.[4] Thus, an interpretation based on the organizational structure of the philosophy of spirit has frequently led to misunderstandings of the young Hegel's writings. On these premises, one cannot even ask why Hegel replaces practical philosophy with objective spirit. Nor is it plausible to ask what this conceptual shift means historically, or why it is only at a relatively late period in his development that Hegel first comes to it. To answer these questions one must travel in the opposite direction, moving from the reconstruction of the idea of practical philosophy in the early Hegel to its dissolution in the doctrine of 'objective spirit' which is based in the philosophy of right. First, I will locate Hegel's place in the quarrel between modern thinking and the tradition to determine the exact point at which he takes an active part in the progress of this continuing debate.

I

The distinguishing feature of practical philosophy as founded by Aristotle, and of its tradition in the Middle Ages and early modern period, was perhaps not so much its theoretical content as the particular form and historical significance which it possessed during these centuries. Hegel pointed this out in his lectures on the history of philosophy, and he also identified the cause of this importance. 'We will not', he says, 'find practical philosophy

4 Cf. *Einleitung in die Geisteswissenschaften*, Vol. 1 (1833), in *Gesammelte Schriften*, 1, 4 (Stuttgart/Göttingen, 1959), pp. 225–378.

conceived speculatively until the modern period.'[5] The stability of practical philosophy follows from its non-speculative nature, i.e., its independence from the premises of 'first philosophy'. For Aristotle and Aristotelian scholasticism, practical philosophy does not depend directly on metaphysics, although it employs metaphysical theorems. This situation changes with the 'modern period', of which Hegel speaks, that is, with the development of natural law during the seventeenth and eighteenth centuries. Here theory permeates the structure of practical philosophy, and practical philosophy advances the same claim to universal validity found in the modern notion of scientific method. Its task, according to Hobbes, is to know the relations of human actions with certainty equal to that in our knowledge of the comparative size of geometrical figures. Just like geometry, practical philosophy should become a deductive a priori science. According to Hobbes, its objects are uniquely suited to this end, since there can be an a priori science from 'first principles' for human beings only with reference to those things which they themselves have produced.[6]

This orientation towards a geometric epistemological ideal grounds the 'speculative' character of modern practical philosophy and is *the first step* towards the critique of its tradition. *The second step* comes from the 'scholastic' character of practical philosophy itself, which at the start of the eighteenth century assimilated the critical principle enjoined on it from without by the methodological claim of a priori demonstration. Christian Wolff's application of this method led to the division of practical philosophy into a 'rational' and an 'empirical' part. The first part, which demonstrates a priori the varieties of human action and the

5 *Vorlesungen über die Geschichte der Philosophie*, ed. Karl Ludwig Michelet, Vol. I, in *WWG*, Vol. XVII, p. 291. (Eng. tr. E. S. Haldane and F. H. Simpson, *Hegel's Lectures on the History of Philosophy* (3 vols., London, 1896).)

Where available, English translations of German works are cited at the first occurrence in each chapter. They are cited subsequently and page references are given only where the translations are quoted directly. In all other cases, passages are retranslated for this work.

6 *Thomae Hobbes Malmsburiensis – Opera Philosophica Quae Latina Scripsit Omnia*, ed. W. Molesworth (London, 1839–45), Vol. I, Ch. X, p. 5. (Eng. tr. B. Gert, *Man and Citizen* (New York, 1972).)

principles of right and obligation, carries the title borrowed from Descartes's idea of the *mathesis universalis: philosophia practica universalis*.[7] The introduction of this new science prepares the *third step* (taken initially by Kant) in the debate between modern thinking and the tradition of practical philosophy. With the 'Propädeutik des berühmten Wolff vor seiner Moralphilosophie', Kant became clear just how far short the new science falls of being a critique of practical reason. This new science arose from the need for grounding the concepts and objects which were derived from the tradition and on which the *philosophia practica universalis* remained dependent with respect to both method and content. According to Kant, this is precisely why it does not break new ground. It does not do so because, as a general practical philosophy, it has taken for its guiding theme only the general concept of will, 'willing in general', and thereby has not considered the possibility of a will of 'a certain sort, in particular one free of all empirical determining grounds, wholly determined by a priori principles, which one might call a pure will'.[8] It was the discovery of this 'certain sort' of will freed from the nexus of natural activity which led Kant to replace a grounding of the discrete parts of practical philosophy, as found in the scholastic tradition, with the idea of self-grounding, an idea which renders impossible the recapitulation of the concepts and objects transmitted by the tradition, the strategy pursued by Wolff's *philosophia practica universalis*. The theme of Kant's *Critique of Practical Reason* (1788) is the deduction of the first principle of practical knowledge from the idea of that pure will which, in its freedom, is a law unto itself, rather than from the law of nature as the Wolffian propaedeutic still conceives it. The law of freedom explodes the coherence of the traditional system of practical philosophy as well as the relation between its 'universal' and 'particular' parts as reconstructed by Wolff.

7 *Philosophia practica universalis mathematico methodo conscripta* (hereafter *PPR*) (Leipzig, 1703). The Leipzig 'Disputationsschrift' which Wolff claimed to have written because Descartes had not handled the subject (*Ratio Praelectionem*, Ch. VI, par. 3) is the basis for the taxonomy of the *Philosophia practica universalis*, Vols. I–II (Frankfurt/Leipzig, 1738–9).

8 *Grundlegung zur Metaphysik der Sitten* (1785), (22 vols., Berlin/Leipzig, 1900–42) (hereafter Akademieausgabe), in *Kants gesammelte Schriften*, ed. Königlich Preussische Akademie der Wissenschaften, Vol. IV, p. 390. (Eng. tr. Thomas K. Abbott, *Fundamental Principles of the Metaphysic of Morals* (New York, 1949).)

Politics, economics, and ethics are excluded from practical philosophy as doctrines of prudence and pleasure; for Kant they are merely pragmatic, technical sciences which belong to the world of empirical experience, the field of activity of prudence and dexterity. To be sure, they borrow rules from the natural world in order, from time to time, to produce an effect which is possible according to the law of causality; but they never – as in the older doctrine of prudence – borrow the ends which generate the power of ethical obligation in moral and political action. The Kantian law of freedom terminates such borrowing. In so far as it contains the a priori ground for determining all actions, it is for Kant the object of a 'particular philosophy which is called practical', in opposition to those – in the Kantian sense – pragmatic and technical disciplines which have unjustly appropriated the title 'practical'.[9]

Hegel's critique of the scholastic tradition of practical philosophy, a critique which goes as far beyond it as possible, is carried out on the basis of this Kantian concept of freedom and its theoretical presupposition, the discovery of the spontaneity of self-consciousness in the *Critique of Pure Reason*. The dialectical method completes what was left undone by the geometrical, rational, and transcendental methods: the dissolution of the tradition. This follows less from the critical acuity and radicality of Hegel's thinking – in this respect Hobbes and Kant were certainly his superiors – but rather from the conditions under which it arose. The *first* has already been mentioned, namely, the Kantian idea of the autonomy of the will to which Hegel's philosophy directs itself, making his criticism of the tradition superior to that of Hobbes and Wolff, since for both of them there is no solution to the related Aristotelian problems of freedom and of lordship and bondage. The *second* is the inclusion of modern political economy in the design of practical philosophy in an attempt to connect the latter's traditional principles with the present historical experience of the societal and industrial world. The most important consequence of this is Hegel's speculative dissolution of the relation of production (*poiesis*) and activity

9 *Kritik der Urteilskraft*, Introduction, Akademieausgabe, Vol. v (1790), pp. 171 f. (Eng. tr. J. C. Meredith, *Critique of Judgement* (Oxford, 1952).)

(*praxis*). To be sure, the traditional demarcation of the two had already been relativized by Hobbes, but it had not been truly overcome, because this relativizing was limited to the sphere of politics and to the creation of the leviathan, produced by the human subject, without reaching into the sphere of economics. This recurs in Kant, who wants to exclude completely the science of 'political economy', newly established in the mean time, from 'particular' practical philosophy. Finally, the *third* condition, which is, to be sure, an achievement of Hegelian thought rather than merely a presupposition on which it relies, concerns the connection with history. This connection severs the categories of practical philosophy from the ahistorical rigidity of the scholastic tradition and locates them within that dialectical movement of 'the concept' which brings itself into a fundamentally different relationship with its content.

At the same time, the shift in the history of practical philosophy initiated by Hegel begins with a paradox which must be recognized and articulated if one wishes to understand the scope of the shift. The paradox is that from the outset Hegel found renewed and immediate access to the very tradition from which he separated himself most widely. This paradox distinguishes his struggle with the tradition from the critical steps taken in various ways by Hobbes, Wolff, and Kant. While these others are all related to Aristotle either at a direct historical distance (Hobbes) or simply obliquely (Wolff and Kant) because they base their work on a specific, relatively late, stage of Aristotelian scholasticism, the young Hegel was one of the first people in Germany to study the texts of Aristotle's *Ethics* and *Politics*,[10] thereby achieving a much more accurate picture of the tradition than did those critics for whom these sources were either completely unknown or at best obscure. But the decisive thing in this process was Hegel's

10 Hegel's involvement with Aristotle began during his time at the Stuttgart Gymnasium with a reading of the *Nicomachean Ethics*. Cf. K. Rosenkranz, *Hegels Leben* (Berlin, 1844), p. 11. His proper study of Aristotle (from the old Basel edition of the sixteenth century) goes back to the years in the Tübingen seminary. Cf. the testimony of Leutwein in D. Henrich, 'Leutwein über Hegel. Ein Dokument zu Hegels Biographia', in *Hegel-Studien*, Vol. III (1965), 58. The influence of the reading of the *Politics* shows itself repeatedly in the early writings of the Jena period. Cf. *WWG*, Vol. I, pp. 111, 114, 485 ff., 494 f., 511; *Schriften zur Politik und Rechtsphilosophie* (hereafter *SPR*), ed. G. Lasson (Leipzig, 1913), pp. 417 ff., 442 ff., 460 ff., 478 f.)

simultaneous application of Aristotle to his own thoughts and to the task of a practical philosophy as posed by contemporary historical experience, rather than a simple reconstruction of the essentials of the classical theory. Hegel worked on this basis in the writings of the Jena period. The applicability which he demanded from the classical tradition clarifies the forced nature of his attempts to submit a mass of material to concepts often not derived from the material itself and of contrary origin. Thus in the first phase of Hegel's employment of practical philosophy (1801–4), concept and reality, form and content are completely separate; and although he comes to understand the foundation of his own philosophy and its relation to the sphere of the practical in the second phase (1805–7), it is not until the third, the beginning of which could be dated from the appearance of the second volume of the *Science of Logic* and the *Encyclopedia of the Philosophical Sciences* (1816–17), that he succeeds in formulating the concept of 'objective spirit' which provides a framework for overcoming the traditional principles and systematic form of practical philosophy.

II

Hegel's return to classical political philosophy at the beginning of the Jena period is foreshadowed in the predominantly theological and historical studies of the 1790s, although it had a different meaning in that context. The paradox of the youthful writings lies less in the fact that Hegel found his way back once again to the classical ethical life of the *polis* than in the fact that at the same time he adapted it to the concepts of Kant's *Critique of Practical Reason* (freedom, autonomy, spontaneity, etc.). For Hegel, the individual who believes and acts according to practical reason and the ancient republican are both equally free; the former determines himself as his 'immortal, spiritual' rational essence demands, and the latter does his duty 'in the spirit of his people'.[11]

11 *Theologische Jugendschriften*, ed. H. Nohl (Tübingen, 1907), p. 70. (Eng. tr. T. M. Knox, *Early Theological Writings* (Chicago, 1948).) Cf. Ephraim, 'Untersuchungen über den Freiheitsbegriff Hegels in seiner Jugendarbeit', in *Philosophische Forschungen*, Vol. VII (Berlin, 1928, pp. 59, 63.) Recent edn I. Görland, *Die Kant-Kritik des jungen Hegel* (Frankfurt on Main, 1966), pp. 4 ff.

The appearance of Kant's *Metaphysics of Morals* (1797) put an end to this mixture, since it offered no foothold for transplanting the idea of autonomy into the sphere of politics. During the Frankfurt period (1798–9) Hegel criticized it. He proceeded from the substantive ethical life of the ancients, and from the unity of reason and nature in the fulfilled freedom of a popular religion. But the freedom of the ancients did not form the measure of his own political will, nor did he use it in his interpretation of Kant's concept of autonomy.[12] On the contrary, the critical intention of the young Hegel was directed *against* the insufficient scope which Kant (and with him Fichte) gave to the law of freedom by severing it from the law of nature and thus exposing practical reason itself to the 'difference'. Since Hegel placed the differentiation of freedom and nature in Kant and Fichte (a relation which he interpreted as one of compulsion and suppression) at the centre of his criticism and searched for a unification of the two in the idea of a political whole, he was driven back to the pre-Kantian tradition of practical philosophy.

This is the paradox with which Hegel's critique of Kant and Fichte begins in the early writings of the Jena period. Extending the concept of freedom to a political whole, which is to make 'free ideal activity' possible for individuals, has exacted a price: nature, suppressed up to now, is once again to attain its 'right' in the construction of the moral ideal. This perspective is the origin for the essay *Über die wissenschaftlichen Behandlungsarten des Naturrechts*, whose title expressly avows the systematic form of scholastic philosophy: its 'Stelle in der praktische Philosophie'.[13] In the first section Hegel discusses the crisis of this science which, following Hobbes, had lived by criticizing its own tradition. The fate of natural law, as well as the fate of the disciplines of politics and political economy (to which Kant denied the title 'practical philosophy'), has been that in the course of modern thinking 'the philosophical element in philosophy' has come to reside solely in metaphysics, so that these sciences 'were kept aloof in complete independence of the idea'.[14] According to Hegel, Kant's critical

12 *Theologische Jugendschriften*, pp. 221 ff.

13 See Ch. 2 in this volume. Hegel, *Natural Law* (hereafter *NL*) (Eng. tr. T. M. Knox (Philadelphia, 1975).

14 *WWG*, Vol. 1, pp. 437 f.; *NL*, p. 55.