Introduction
The significance of Hegel's separation of the state and civil society

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The distinction between the state and civil society was first made by Hegel in print in his *Philosophy of Right* published in 1821.* Within the philosophical mode of exposition which he adopted in his work, civil society (*bürgerliche Gesellschaft*) represented a 'stage' in the dialectical development from the family to the state which contradicted the kind of ethical life found in the human micro-community in order to be itself contradicted and overcome (i.e. cancelled and preserved, *aufgehoben*) by the macro-community of the politically independent, sovereign nation. While social life typical of civil society was radically different from the ethical world of the family and, Hegel believed, equally different from the public life of the state, it formed a necessary element (or 'moment' in Hegel's terminology) within the totality of rationally structured modern political community.

The conceptual separation of the state and civil society is one of the most original features of Hegel's political and social philosophy although a highly problematic one. The distinction has been both praised and attacked and its significance assessed in diverse ways; even within the present volume a number of contrasting interpretations and evaluations can be found. But in discussing the implications of the distinction far more is at stake than simply matters of Hegelian scholarship. The term 'bürgerliche Gesellschaft', which also means 'bourgeois society', was taken over from Hegel by Marx and became a fundamental concept of Marx's social theory, indeed in a way *the* foundation of the theory. Of course before it became suitable for his purposes Marx had to subject it to thorough criticism and modification, which went chiefly into three directions. First, Marx questioned the philosophical context of the concept, the validity of the Hegelian form of the dialectic, and its mystifying treatment of real human, social, historical facts and processes as elements in the development of a metaphysical entity, the Spirit or the Idea.

* This is the date on the title page of the original text, and the one normally attributed. There is evidence, however, that the book was published in 1820, the year given in Hegel's preface.

Second, while retaining the state/civil society distinction, Marx rejected the view that the state was an all-inclusive political community with a distinct ethical character, and denied it primacy in social and historical life. He reversed the Hegelian relation of the two and made civil (or rather bourgeois) society the ground of political life and the source of political change. Third, Marx decomposed the Hegelian civil society, which was a highly complex, structured concept, and reduced civil society virtually to the economic sphere of labour, production and exchange.

In his two essays in this volume K.-H. Ilting tackles the first of Marxian criticisms of Hegel's concepts of the state and civil society. He argues that in fundamental respects they are simply misplaced. Hegel's references to 'the Spirit' or 'the Idea' do not, *pace* Marx, totally vitiate or invalidate his socio-political philosophy though they certainly greatly obscure it and often successfully disguise his theoretical intentions. There are other factors which would have made a more rewarding target of criticism. These range from the desire for political accommodation or political influence in Prussia to the enormous difficulty of reducing concrete social and cultural phenomena with a historical locus to abstract philosophical categories according to the requirements of a timeless dialectical logic. It is factors such as these that, in Ilting's opinion, vitiate though not wholly invalidate Hegel's philosophical analysis of the modern state and society, an analysis which still has many merits. In my second essay I also examine Marx's criticisms of Hegel's ideas on the state and civil society, especially as they bear on Marx's concept of the nation and his theory of nationality. I argue that Hegel's systematic exclusion of national characteristics from civil society found its way so to speak automatically into Marx's social theory and made the theoretical problems of it insensitive to nationalism.

The selective Marxian appropriation of 'civil society' and the state/civil society distinction has added a large element of contestability to the two concepts. It has forced writers sympathetic to Hegel to question Marxian interpretations, while writers who are marxist or sympathetic to Marx's standpoint have felt it necessary to repeat his criticisms in order to distance themselves from Hegel. The aura of contestability around the state/civil distinction is still further enhanced by divisions within the marxist camp itself. Many marxists – and this is particularly true of most eastern (i.e. communist) marxists and those marxists in the west who seek to minimize the Hegelian heritage of marxism – treat civil society as a merely historical concept which has no particular relevance to the understanding of contemporary capitalism. However, some marxist or neo-marxist writers have not only revived the concept as a valuable tool of analysis, but have also restored to it much of its broad, Hegelian meaning as a cultural, social and even semi-political category in opposition to the narrowly economic interpretation of Marx and

the more orthodox marxists. An outstanding example earlier in the twentieth century was Antonio Gramsci whose attempt to work out a non-leninist revolutionary strategy relied crucially on the concept of civil society.[1] Gramsci argued that in Italy (and Western Europe generally) the working class under communist leadership had a better chance of gaining hegemony within civil society than within the national/political arena and having achieved it could make it the springboard for the conquest of political power in the state.

A renaissance of the concept of civil society and the problems associated with it has occurred also among the group of writers called the Frankfurt School or the Critical Theory School. As Seyla Benhabib, a scholar sympathetic to the School, argues in her essay in this collection, Hegel had a clearer insight into the complexity of the socio-cultural phenomena accompanying and fostering the development of modern industrial society than Marx and most of his followers have had. In particular Hegel had a rather subtle conception of the relation between normative, social and economic structures and did not reduce the legitimation function of legal norms to a simple ideological justification of bourgeois property relations. While aspects of Hegel's analysis, on both systemic and political level, seem to her unacceptable, she argues that contemporary radical social theory must today turn to Hegel rather than to Marx for inspiration in constructing an adequate theoretical framework for understanding modern exchange relations. However, Garbis Kortian, another contributor to this collection sympathetic to the Critical School, gives a rather more critical assessment of Hegel's theory of civil society and its applicability to the problem of modern capitalism, although he too believes that, in re-examining the problem of subjectivity, the Critical School must proceed by re-assessing Hegelian ideas on the subject since marxism has little to offer in this respect.

The fact that Hegel's distinction between the state and civil society heavily influenced the thought of Karl Marx and stimulated his theoretical activity, and that it has proved a source of inspiration for some of Marx's followers, including contemporary neo-marxist thinkers, requires further discussion. One may wonder whether the distinction would have proved so influential or persistent had it not reflected a fundamental change in modern European consciousness, which followed an equally fundamental change in modern European society. Manfred Riedel, in his pioneering, scholarly and perceptive essay on the history of the concept of civil society first published in 1962, argued that such a connection did exist and that Hegel's separation of the state and civil society, which was an abrupt break with tradition, corresponded to a revolutionary historical change.

What Hegel, with the term civil society, raised to the consciousness of his time was nothing less than the result of the modern revolution, the rise of a depoliticized

society through the centralization of politics in the princely or the revolutionary state, and the shift of its point of gravity to the economy, a change which this society experienced simultaneously in the Industrial Revolution and which found an expression in 'political' or 'national economy'. It was in this process within the European society that its 'political' and 'civil' conditions were first separated, conditions which before then, in the classical world of the old politics, meant one and the same thing – 'communitas civilis sive politica', as Thomas Aquinas or 'civil or political society', as John Locke put it.[2]

Riedel shows that the phrase *koinonia politike* (political union or association), which Aristotle first used, was afterwards normally translated as *societas civilis* and became, together with its synonyms *civitas* and *res publica*, a general term for an independent political entity or the state. Thomas Aquinas, Bodin, Hobbes, Spinoza, Locke and Kant – not to mention a host of lesser writers – used 'political' and 'civil' as synonymous. Hegel's alteration of the traditional usage was, in Riedel's view, the boldest innovation in the language of political philosophy since Bodin introduced the concept of sovereignty and Rousseau the idea of the general will.

Riedel's point that classical political theory did not distinguish between 'state' and 'society' is well taken. But, as he points out himself, the theory always recognized some sections of the population – identified at different times with slaves, serfs, artisans, domestic servants and hired labourers, and of course, always women and children – who were not members of the *res publica* or *societas civilis*, although they resided within its territory and were subjects of its government. 'There is no polis for slaves' as Aristotle said (*Pol.* III, 9, 1280a 32); for him they could only be members of the household (*oikos*). Later writers talked of 'domestic society', to which servants and other non-citizens belonged. Hegel's 'discovery' of civil society may therefore have come through the realization that in his own time such non-political existence was the fate of the majority of citizens who had to earn their living through labour, production and exchange, and therefore belonged, for much of their lives, to a sort of national 'domestic society' or state-wide 'household'. An early glimpse of this occurs in his earliest political work, the unpublished pamphlet on the constitution of the German Empire.

> With the change in manners and way of life each individual was more preoccupied with his own necessities and his own private affairs. By far the greater number of free men, i.e. the strictly bourgeois class, must have had to look exclusively to their own necessities and their own living. As states became larger, those people who must have had to concern themselves exclusively with their own affairs formed a class of their own. There was an increase in the mass of things needed by the free man and the noble, who had to maintain themselves in their social position respectively by industry or by the work for the state.[3]

We can see the young Hegel clearly recognizing the rise of a largely economic sphere of 'private affairs', especially typical of the bourgeoisie, which he goes on to contrast with the sphere of public affairs, managed in the modern state by the monarch, the Estates and the civil service. Hegel is unable to conceptualize the historical process at this stage. Only some twenty years later, in the *Philosophy of Right*, was Hegel able to do so by calling the private sphere '*bürgerliche Gesellschaft*' and the public sphere 'der Staat' or, as he sometimes puts it, 'the strictly political state' (*PhR*, §§267, 273, 276) as if to emphasize even more strongly the conceptual contrast between the 'civil' and the 'political'.

There is no need to chronicle the evolution of Hegel's political theory during those twenty years. It was described in detail by Shlomo Avineri in chs. 5 and 7 of his *Hegel's Theory of the Modern State* (Cambridge, 1972) and more briefly by Raymond Plant in ch. 5 of his *Hegel* (London, 1973). The most important influence was Hegel's study of Adam Smith and other British political economists during the stay in Jena, reinforced by the reading of the British press and parliamentary reports. Their mark is most clearly visible in the second, 1805–6, series of his Jena University lectures on the philosophy of spirit (sometimes called *Jenaer Realphilosophie* II). There Hegel tries hard to theorize, but although he describes the effects of industrial society on human powers in vivid terms reminiscent of Marx, he is not yet able to produce a systematic theory of civil society, still less to integrate it into a more comprehensive social and political philosophy.

At the same time, and equally unsuccessfully, Hegel wrestles with the concept of the state. In the pamphlet on the constitution of the German Empire, Hegel defined the state rather conventionally as a multitude united for common defence or a people (nation, *Volk*) subject to a supreme public authority (state power, *Staatsgewalt*).[4] During the Jena period Hegel rejects this viewpoint in favour of a Platonic concept of the state as an ethical substance rather than a multitude of individuals. It is an organic ethical community in which a special class of rulers is charged with the task of maintaining independence and integrity of the ethical whole and the health of its spiritual life (the key concepts here are *Volksgeist* and *Sittlichkeit*).[5] The moral consequence of this concept is the absolute primacy of community ends over the private ends of its individual members; any predominance of the latter over the former marks the decay and eventually the death of the body politic. As G. Kortian shows in his essay, in Jena Hegel still regarded subjectivity and particularity (twin elements of individualism in his view) as enemies of ethical and political life; he had not yet recognized civil society as an arena where individualism found legitimate scope and could express itself safely without harming the community.

Neither at Jena nor during the subsequential period of his life which he spent in Bamberg and Nuremberg did Hegel resolve the conceptual and theoretical problems of the state and society, which preoccupied him in the early years of the nineteenth century. Partially he laid them aside to devote himself to more purely philosophical and systematic concerns. The crowning achievement of his Jena period was of course the *Phenomenology of Spirit* published in 1807, which Judith N. Shklar has rightly called 'an elegy for Hellas'.[6] The work clearly reflects Hegel's nostalgia and admiration for the ethos of the Greek polis, which for several years of his youth he regarded as an unsurpassed form of communal life. Yet it is tempered by a realization that the ideal could not be achieved in the modern world; the heroic attempt to establish a democratic political community on the basis of a revolutionary *Sittlichkeit*, quite alien to the moral, intellectual and political tradition of modern European civilization, ended in Hegel's view in a gigantic fiasco. The brilliant treatment of the Jacobin republic in the chapter on 'Absolute Freedom and Terror', particularly well discussed in Charles Taylor's writings,[7] cannot disguise the fact that Hegel in the *Phenomenology of Spirit* is unable to provide an analysis of the ethical, political and social consciousness of modern Europe to match his sympathetic analysis of the vanished world of the Greek polis. He makes few references to contemporary political reality and his ideas about modern politics and society are fragmentary and negative.

One should, however, mention here another celebrated chapter of the *Phenomenology of Spirit*, that on the master and slave (or master and servant, as it should perhaps be translated). The chapter has given rise to a sizeable volume of interpretative and critical literature and through Alexandre Kojève's work has strongly influenced contemporary neo-marxism. The essay by J. M. Bernstein in this volume brings out the significance of the chapter for the understanding of Hegel's conception of community while polemizing with a materialist critique of the master–slave dialectic. According to Bernstein Hegel has shown in the *Phenomenology* that human self-consciousness is impossible without reciprocal recognition by the members of a community. The kind of reciprocity and recognition characteristic of a community, however, is radically different from the exchange and end–means relationship typical of the social interaction which Hegel was later to call civil society. Thus the master–slave dialectic of the *Phenomenology* is as important as the analysis of the Athenian polis for the understanding of Hegel's views on the nature of political community and its distinction from civil society.

It was ten years after the *Phenomenology of Spirit* that Hegel's ideas about the state took on a clear and definite shape. His main philosophical preoccupation during his stay in Bavaria – between Jena and Heidelberg – was the writing of the *Science of Logic* (published in Nuremberg, 1812–16), a work far removed from the realm of political philosophy though not wholly

irrelevant to it. It was the dialectical method and the basic categories of analysis formulated there that Hegel was to apply later to the sphere of ethics, law, politics and society. We find the first systematic treatment of this sphere in the section on 'Objective Spirit' in the third volume of the *Encyclopaedia of the Philosophical Sciences* (Heidelberg, 1817), dealing with the philosophy of spirit (or mind). The first outline of the *Philosophy of Right*, published a few years later in Berlin, is clearly visible in the Heidelberg *Encyclopaedia*. *Recht* (right or law) is subdivided into 'abstract right', 'morality' and 'ethical life', but there is no further division into subsections and the relevant paragraphs are few and short. §434 deals with the family, §§436 and 437 with civil society, and §§438–41 with the state, but 'civil society' does not occur in the text, and even the word 'state' occurs only in the context of international relations. But something else happened in Heidelberg. The copy of the *Encyclopaedia* from which Hegel lectured at Heidelberg University has been preserved, and it contains marginal notes written by him at the time of the lectures and dated end of February/beginning of March 1818. The phrase *bürgerliche Gesellschaft* occurs in these notes for the first time. We can thus pinpoint with considerable accuracy the time when Hegel made a conscious and explicit distinction between civil society and the state, and began using the former term systematically.[8]

The *Philosophy of Right* may best be described as a philosophical reconstruction of modern ethical life (*Sittlichkeit*) – the totality of ideas, practices, sentiments and relations which not only prevail in fact, but are regarded by the modern man as valid in some normative sense. It is not just an account of its main features, as Hegel perceived them about 1820; nor is it a historical account of how ethical life had come into existence. Both these elements, however, play an important role. Hegel had studied ethical life and observed its contemporary forms for some thirty years before he felt able to construct a detailed theory in which ethical ideas, sentiments, practices and relations were expressed in philosophical concepts and systematically related to each other. A vast quantity of empirical and historical raw material, transformed into concepts and compressed into theory, had gone into the making of his *chef d'oeuvre*.

Although the *Philosophy of Right* is concerned with modern ethical life, it contains many references to the remote past, including Greek and Roman antiquity. This is not at all puzzling. In the *Phenomenology of Spirit* Hegel sought to demonstrate that modern European culture was a product of a long historical evolution, traceable as far back as ancient Greece. Each major stage in the evolution – Roman Empire, Christianity and secular Enlightenment – contributed some important ideas, points of view and philosophical concepts, which became part of what one might call the collective consciousness of modern Europe. Ethical life was part and parcel

of that consciousness – its practical as opposed to its theoretical part – the part that concerned men's conduct and relations with each other rather than his place in history and the universe. Hegel of course believed that in the last resort practical and theoretical matters were inseparable and constituted different manifestations of the same *Geist* – a point forcefully argued by Charles Taylor in *Hegel*, his major study of the thinker.

The explanation and justification of Hegel's philosophical method is contained in the *Science of Logic*, to which he refers the reader in the Preface to the *Philosophy of Right*. In general terms the method involves demonstrating the inherent rationality, necessity and truth of various elements of ethical life by placing them in a scheme of dialectical logical development, which begins with the concept of individual will abstracted from all ethical, social and historical context and ends with the state.

> . . . the truth about Right, Ethics, and the state is as old as its public recognition and formulation in the law of the land, in the morality of everyday life, and in religion. What more does this truth require – since the thinking mind is not content to possess it in this ready fashion? It requires to be grasped in thought as well; the content which is already rational in principle must win the *form* of rationality and so appear well-founded to untrammelled thinking (*PhR*, p. 3).

Right, ethics (or ethical life) and the state are clearly the key concepts of the *Philosophy of Right*, and they are logically related to each other. By Right (*Recht*, which is normally translated as law) Hegel means the whole sphere of norms of various kinds, rationally grounded, by which men determine their conduct in the world. Ethical life (*Sittlichkeit* or social ethics) includes the actual conduct of men guided by those norms, and is the result of a social process of character-training and habit-forming fostered by institutions but also (in the modern world) of critical reflection and intellectual grasp. The latter aspect of the process Hegel calls *Bildung* (education) and describes as follows:

> education is the absolute transition from an ethical substantiality which is immediate and natural to the one which is intellectual and so both infinitely subjective and lofty enough to have attained universality of form (*PhR*, 187R).

This process of education results in distinguishing within ethical life two subordinate normative spheres, that of 'abstract right' (rules governing the rights of person and property based on reciprocity) and of 'morality' (disinterested, conscientious conduct). The state in the sense in which Hegel frequently uses it in the *Philosophy of Right* (e.g. as 'the actuality of the ethical Idea', *PhR*, §257) is a politically organized, independent ethical community – a people or a nation permeated by the normative order of *Recht* and manifesting *Sittlichkeit* in their actions and relations.

The originality of Hegel's political philosophy, compared with that of

other modern thinkers, consists in grounding it not in some universal characteristics of human nature or in the idea of fundamental human rights, but in ethical life or *Sittlichkeit*, and seeing political life as a concrete manifestation of *Sittlichkeit* in the public realm. It is *Sittlichkeit*, together with other cultural factors and historical traditions which Hegel stresses particularly in the lectures on the philosophy of history and calls 'the spirit of the people' (*Volksgeist*), which binds the population of a state spiritually, and forms it into an ethical community. Hegel derived the idea of *Sittlichkeit* from the ethos of the ancient Greek polis. In this he was heavily influenced by Plato's *Republic*, a work of which he had the highest opinion and which, as he says in the Preface to the *Philosophy of Right* (p. 10), 'is in essence nothing but an interpretation of Greek ethical life'. M. J. Inwood's essay in this volume critically analyses Hegel's views on Plato and Greek *Sittlichkeit*, and points out difficulties in the concept itself. My own essay on 'Political community and individual freedom in Hegel' argues that Hegel attempted to remedy what he took to be the fundamental inadequacy of Plato's (and ancient Greek civilization's) conception of ethical and political community by deriving the necessity of the state and its organic, highly differentiated modern structure from the structure of the individual will. In this way he also hoped to meet the challenge of Rousseau's conception of individual freedom characteristic of modern civilization. To put it differently, according to Hegel the destiny and capacity of the individual human being to be free is actualized in the modern state as a rationally organized, politically sovereign, ethical community.

In the *Philosophy of Right* Hegel subdivides the sphere of ethical life into family, civil society and the state. They are 'moments' of 'the ethical order', and 'are the ethical powers which regulate the life of individuals' (*PhR*, §145). The norms of the ethical order are actualized in a different way in the actions and relations of individuals who belong to the three types of ethical order. In the family, as in the Greek polis, the individuality of its members is submerged in a transcendent unity. Ethical duties are determined by one's place in the family, which ultimately depends on the natural factors of sex and birth. Love, altruism and concern for the whole are the dominant features of ethical disposition in the family community. In civil society this type of 'substantial', 'immediate' or 'natural' ethical unity disintegrates. Men are primarily concerned with the satisfaction of their private, individual needs, which they do by working, producing and exchanging the product of their labour in the market. This creates bonds of a new kind. While individuals behave selfishly and instrumentally towards each other they cannot help satisfying other men's needs, furthering their interests and entering into various social relations with them. Men are 'socialized' into playing socially useful roles for which they are not merely rewarded with money but also

with respect and recognition. Their self-interest becomes enlightened ('educated' in another sense of the word *Bildung*) and they become self-conscious and respectable members of society. Ethical life, therefore, reasserts itself in civil society albeit in a different form than in the family and the state, and civil society comes to resemble community or the state.

> In the course of the actual attainment of selfish ends . . . there is formed a system of complete interdependence, wherein the livelihood, happiness and legal status of one man is interwoven with the livelihood, happiness and rights of all. On this system, individual happiness, etc., depend, and only in this connected system are they actualized and secured. This system may be prima facie regarded as the external state, the state based on need, the state as the Understanding envisages it (*PhR*, §183).

The economic exchanges in civil society take place within a framework of rules, which define the rights of individuals, their person and property. The acquisition and exchange of property, as well as its loss through the operation of market forces, therefore forms a major part of Hegel's analysis of civil society. Alan Ryan's essay in the volume distinguishes Hegel's concept of property from that of other modern political theorists, and examines what happens to Hegel's rather original justification of it when the individual finds himself faced with the ethical claims of the state. As already mentioned, the interaction of exchange relations, the norms of abstract right and positive law and state authority is the subject of Seyla Benhabib's essay.

Although the ultimate bases of civil society are human needs and the activities and relations involved in their satisfaction (which give rise to social classes or 'estates', and associations of producers or 'corporations'), Hegel includes in the concept of civil society also public authorities (courts of law, welfare and regulatory agencies), which normally are thought to be organs of the state. The reason is that in his view such public or civil authorities are just as much concerned with 'the livelihood, happiness and rights of all' as are the individual members of civil society. Private activities form the bulk of activities in civil society. Public authorities, however, intervene in the operation of the market in order to ensure the safety of person and property and to guarantee every person's right to livelihood and welfare, the *raison d'être* of civil society (cf. *PhR*, §230). Obviously, Hegel does not have the same faith in the beneficial results of the unregulated market economy as the classical British political economists and their contemporary followers have, and while his solutions to the problems of poverty, unemployment, market fluctuations and so on resemble Keynsian economics they have been often questioned on practical and theoretical grounds.

The historical context of Hegel's concept of civil society raises the question how far it can help us to understand contemporary social reality. Hegel formulated the concept when capitalism was in its infancy in Germany and