

interpretation

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LAW AS THE BASIS OF THE STATE: HEGEL

MICHAEL H. MITIAS

Millsaps College

Although a number of scholars have sought, in the past two decades, to vindicate Hegel from the charge that he espouses a totalitarian view of the state, this vindication is, so far as I can see, neither concrete nor complete; for there are critics who still maintain that his view is illiberal, undemocratic, conservative, and that he endows the state with a greater measure of authority than it should enjoy. Professor J. Plamenatz, e.g., writes: "Hegel was against democracy and was also in several ways illiberal." Again, "Though Hegel is not a totalitarian, in the bad sense, it cannot be denied that he makes extravagant and false claims for the state."¹ But why should philosophers and political thinkers persist in characterizing Hegel's political theory as totalitarian? What are the logical or ontological stumbling blocks which stand in the way of some thinkers to see Hegel's conception of the state for what it actually is? The main reason for this difficulty is, I believe, the reluctance of most critics to elucidate clearly and in detail the *basis*, or foundation, on which the state for Hegel rests, on the one hand, and the *end* of the state, on the other. The basis of the state, I submit, is, for Hegel, law and its end is human freedom. If we approach Hegel's theory with this basic intuition in mind the negative charges which have been levelled against it, especially the charge of totalitarianism, would be undermined.

In this paper I shall, first, advance a brief analysis of Jacques Maritain's critique of Hegel's conception of the state. The purpose of this analysis is to show the logic which underlies the general charge that Hegel advocates a totalitarian view of the state. Second, I shall discuss the fundamental elements of Hegel's theory of the state. My aim in this discussion is to establish a framework within which we can critically evaluate the validity of Hegel's claim about the state. Finally, I shall argue that Hegel is not at all a supporter of totalitarianism. The propositions which I hope to establish are: (1) the basis of the state, for Hegel, is law; what rules or determines the life of the individual in the state is not an agency, or power, external to the individual but law, the law which the citizen consciously recognizes and lives as a rational and free being. Hence as a member of the state the citizen exists under the conditions of individuality and as the source of the authority, viz., the state, which determines his life and the life of society in general. (2) The end of the state is the freedom of its members. Accordingly (a) the state is the medium in which the citizen achieves his freedom as a human individual; (b) the state cannot use the citizen as a means to a selfish or particular end; on the contrary, it attains its

¹J. Plamenatz, *Man and Society*, Vol. II (New York: McGraw-Hill Book Co., 1963), p. 264.

character *qua* state only when each citizen is treated as a person, i.e., as an end in himself.

I

In his critique of Hegel's conception of the state J. Maritain focuses attention primarily on those statements and passages in the *Philosophy of Right* which relate to the ontological meaning of the state. The theme which he stresses is: (1) the state is (for Hegel) the highest objectification of universal reason, or spirit, on earth; it is the concrete realization of freedom. (2) Consequently man attains his freedom only as a citizen, i.e., *qua* member of the state, and outside the state he cannot exist as an individual. Thus a person becomes free in so far as he recognizes his organic unity with the social Whole, "and is it not in being recognized by others (a theme dear to Hegel)," Maritain asks, "that individuality is born into its true nature and its supra-contingent reality?"² But the social Whole is not merely a means for the realization of the freedom of the individual, Maritain observes; it is what determines his essence, or being. He quotes the following statements from Hegel to substantiate his interpretation: "everything that man is, he owes to the State. He has his being only in it." . . . "All the worth which the human being possesses—all spiritual reality, he possesses through the State." "Since the State is mind objectified, it is only as one of its members that the individual himself has objectivity, genuine individuality and an ethical life." (*Ibid.*, pp. 163–64; see also *Philosophy of Right*, Par. 258) Accordingly the state is the entelechy of the individual. I may feel unique and I may discover my individuality when I am recognized by the social Whole, but on certain conditions—"on the condition that in return I recognize the Whole for what it is (that is, my entelechy), and on the condition that I am become *recognizable* to all—with no longer anything in me which is not exposed to all and to myself—each one in the uniqueness of his being—there no longer having any soul or spiritual interiority other than the very soul of the Whole." (*Ibid.*, p. 163) This view, Maritain holds, "is the very formula, the original formula of political totalitarianism." (*Ibid.*, p. 164)

We should here remember that the essential feature of the totalitarian state is that it does not have a place for the individual. Thus if the being of the citizen—his values, habits, ideas, attitudes, world view, conscience, in short, his character—is determined by the state his experience of subjective freedom would merely be a feeling and not a genuine achievement of freedom; for the ends which he wills, and in whose realization he attains his real freedom, are dictated by the state. His subjective will and the will of the state "interpenetrate each other in a superior identity." (*Ibid.*, p. 165) The state does not anymore "impose itself from without by enslaving individuals as did the despotic em-

²J. Maritain, *Moral Philosophy* (New York: Charles Scribner's Sons, 1964), p. 163.

pires of long ago, but subjects them to itself all the better—without submitting them to the least heteronomy—because it is the very substance and truth of their will.” (*Ibid.*, pp. 164–65) The state is the law; it is also what defines concrete duty. Kant’s “abstract categorical imperative has been replaced by the concrete *imperium* of the State. They see their duty. Its authority is over them, and it is by themselves willing this authority that they fully realize their freedom.” (*Ibid.*, p. 165) Thus in Hegel, Maritain observes, the legal and the moral become identical; abstract law is replaced by the living law of the state. One is not, consequently, compelled to reflect subjectively, or to appeal to his conscience, to determine what is right or good in a concrete moral situation. All he has to do when such a situation arises is act ‘from instinct’ or out of habit, because this instinct, or habit, is in a sense a ‘second nature’ which he acquires in the process of social growth. This nature is the internalization of the moral voice which is uttered by the state. Conscience should, then, be proclaimed banished from the life of the conscientious citizen. It is a trivial, and perhaps bothersome, voice, for what counts as right or just is dictated by the state, and what is dictated by the state is instilled in the character of the citizen as a second nature. This is exactly why when one’s conscience disturbs him in the face of some order or practice by the state he should not pursue the matter critically or with an appeal to a higher moral sentiment but should instead act according to the genuine moral sense which constitutes this second nature. (*Ibid.*, p. 166)

II

If the preceding interpretation of the state, and of the relationship between the state and the individual, is correct, it would certainly follow that Hegel espouses a totalitarian form of government; for, if the state, viewed as a kind of super-person, determines the essence of the citizen and provides him with the principles and means of moral and political conduct, he would not exist as a self-determined being, i.e., as an individual, but as a being determined by the state. But, as my discussion will presently show, Maritain’s interpretation of the state according to Hegel is one-sided and erroneous; it also fails to do justice to his analysis of its structure and end. The true character of the state, for Hegel, can be revealed if one explores its foundation or the essential elements which give it its identity as a state. In what follows I shall explore these elements, and although I shall seek to show that Hegel does not advocate, not even by implication, a totalitarian conception of the state, I shall be more anxious to argue that constitutional law is, for him, the basis of the state. This basis is the ultimate ground on which the freedom and individuality of the citizen rest.

What is the essential nature of the state, according to Hegel? I raise this question at the outset for two reasons: (1) unless we fully grasp what the state

is, or what sustains it as a political institution, we cannot attain a clear understanding of key concepts like the source of political authority, social justice, obligations and privileges of the state, freedom and individuality, patriotism, etc.; (2) Hegel's analysis of *the state* is intricate; this intricacy is the main reason which led many critics and Hegelian scholars to varied and conflicting interpretations of what sort of theory he espouses. Accordingly a sound treatment of any basic political category should proceed from a reasonable analysis of the concept of the state.

Hegel makes a clear distinction between 'civil society' and 'state.' 'Civil society' is an association, or an organization, of men who are *pre-eminently* concerned with the attainment and protection of their personal ends. In this society, Hegel writes, "each member is his own end, everything else is nothing to him. But except in contact with others he cannot attain the whole compass of his ends, and therefore these others are means to the end of the particular member." (Addition to Par. 182)³ The cooperation of others, however, is not enough; a public authority, viz., a government, is needed to balance and harmonize the interests of all the members of the society. This authority restricts, or conditions, the activities and aspirations of the various members to promote peace and order amongst them. Thus in the actual pursuit of their ends men establish "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." (Par. 183) This system becomes the basis of the realization of individual happiness; it may be "prima facie regarded as the external state, the state based on need, the state as the Understanding (Verstand) envisages it." (*Ibid.*)

Civil society is, then, a kind of state—an external state; it is not yet a mature state in which the citizens are consciously and thoughtfully unified by a common purpose and destiny, but a system of social, economic, and legal institutions erected solely to further the well-being, i.e., life, rights, property, contracts, happiness, etc., of the people. In this society a person functions primarily as a social and economic, not as a political, being; that is, he views the government as something external to him, not as something expressive of his will or mind. He obeys the law and cooperates with others, not out of a sense of duty, or for the sake of self-realization, but to ensure the satisfaction of his own interests. (Cf. Par. 157) He does not participate in the political process; indeed the business of government is indifferent to him. His end and the end of government may seem at first to go in opposite directions, for he tends to think that the law restricts his activities and the extent of his personal satisfaction; but in fact, Hegel observes, the interest of the particular person and that of the law are reciprocal and condition each other: "while each of them seems to do just the opposite to the other and supposes that it can exist only by

³Henceforth the number of the paragraphs and the Additions refer to Hegel's *Philosophy of Right*.

keeping the other at arm's length, none the less each still conditions the other." (Addition to Par. 184) A person may think, e.g., that paying taxes is harmful to his welfare. This way of thinking is erroneous, for the personal end of the people cannot be promoted without taxes: a country that does not receive taxes cannot provide services to its citizens. Hence in furthering the end of government a person furthers his own end.

Thus the members of civil society exist as a unity, and the basis of this unity is cooperation with one another, on the one hand, and a government which dictates a general mode of behavior agreeable and applicable to all the society, on the other. This unity, however, is feeble, for, as we have seen, a basic principle of civil society is the particular person, the person whose end is his own interest: "individuals in their capacity as burghers in this state are private persons whose end is their own interest. This end is *mediated* through the universal which thus appears as a means to its realization. Consequently, individuals can attain their ends only in so far as they themselves determine their knowing, willing, and acting in a universal way and make themselves links in this chain of social connexions." (Par. 187) Accordingly, the unity which characterizes civil society is a kind of partnership; it is not established consciously and on the basis of a political ideal but necessarily and on the basis of self-interest. This is the sort of unity which we encounter in the social contract theories of the state; here the basis of the contract is need, service. Advocates of these theories are able to think only on the level of Understanding, not on the level of Reason (*Vernunft*). They are able to see only the material, external relations which are necessary for the being of the state. This is why instead of advancing theories of the *the state proper* they advanced theories of civil society. (Cf. Par. 187, Addition to Par. 182)

III

Civil Society, however, is not only a kind of state; it is also an aspect, a phase in the state as such. It is a constitutive element of the state. It is, moreover, the state viewed as an empirical or external reality. It becomes a state when the following conditions are fulfilled. *First*, when it articulates, structures itself thoughtfully, consciously, and purposefully—when it becomes conscious of an end in which it expresses the will of the society as a whole. The state, Hegel asserts, "knows what it wills and knows it in its universality, i.e., as something thought. Hence it works and acts by reference to consciously adopted ends, known principles, and laws which are not merely implicit but are actually present to consciousness; and further, it acts with precise knowledge of existing conditions and circumstances, inasmuch as its actions have a bearing on these." (Par. 270) The highest achievement of the modern state is the discovery of the *general will* as the foundation of the state. Hegel gives credit to Rousseau for introducing this principle; his contribution consists in the fact

that, "by adducing the will as the principle of the state, he is adducing a principle which has thought both for its form and its content, a principle indeed which is thinking itself, not a principle, like gregarious instinct, for instance, or divine authority, which has thought as its form only." (Par. 258) But Rousseau does not provide an adequate account of this principle, for he views the will as something particular, determinate, and "he regards the universal will not as the absolutely rational element in the will, but only as a 'general' will which proceeds out of this individual will as out of a conscious will." (*Ibid.*) But, Hegel stresses, the basic principle of the state must be objective and independent of the desires, interests, or whim of its members: "we must remember the fundamental conception that the objective will is rationality implicit or in conception, whether it be recognized or not by individuals, whether their whims be deliberately for it or not." (*Ibid.*) When we uphold the objectivity of the universal will we do not necessarily mean or imply that the thoughts, feelings, or judgments of the individuals are neglected or ignored. As we shall presently see, the subjective will of the individual must be consulted, and it asserts itself through legal channels in the modification and realization of the law. (Cf. Pars. 298–319)

On more than one occasion Hegel reminds us that a philosophical treatment of 'the state' should concern itself with the *concept*, or Idea, of the state, not with this or that state, nor with the conditions under which given states come into being. (Cf. Par. 258 and Addition to the same paragraph) The actual states of the world do not provide a model of what the true essence of the state is. On the contrary, if we cast a quick glance at the history of human society we can immediately show that any state is in some way defective or bad: "the state is no ideal work of art; it stands on earth and so in the sphere of caprice, chance, and error, and bad behavior may disfigure it in many respects." (Addition to Par. 258) Yet regardless of its degree of imperfection, a state is such only in so far as it realizes in its actual, historical being the Idea, or the principle of the state. This principle is rational, for it is essentially an activity of reason. But reason is a power which craves the universal whether in the realm of thought or in the realm of ethics. "The basis of the state," Hegel writes, "is the power of reason actualizing itself as will." (Addition to Par. 258)

Second, civil society becomes a state when it achieves internal unity, when it exists as an organism. Unlike civil society the state is an organic unity. In it the individual does not view himself as a particular being preoccupied merely with the satisfaction of his personal ends but as a member of the whole. His destiny is intertwined with the destiny of the whole: "unification pure and simple is the true content and aim of the individual, and the individual's destiny is the living of a universal life." (*Ibid.*) He is able to realize himself as an individual primarily because "the state in and by itself is the ethical whole, the actualization of freedom; and it is an absolute end of reason that freedom should be actual." (Addition to Par. 258) Consequently, since "the state is mind

on earth and consciously realizing itself there," and since it is the highest realization of the ethical Idea on earth, it follows that whether he knows it or not the citizen cannot achieve his freedom except as a member of the state, as a member who aspires for the end which the universal will expresses.

I say "whether he knows it or not" because freedom, for Hegel, does not mean acting according to one's subjective desire, whim, inclination, opinion, or feeling but according to what is true and right or good. Concrete freedom, and we should remember that the "state is the actuality of concrete freedom," is attained when a person satisfies his subjective interests the way he would attain them in the family or civil society, on the one hand, and recognizes and wills the universal in his experience, on the other—when, in other words, he recognizes that he can achieve his true and complete end, viz., freedom, when he seeks the universal:

The essence of modern state is that the universal be bound up with the complete freedom of its particular members and with private well-being, that thus the interests of family and civil society must concentrate themselves on the state, although the universal end cannot be advanced without the personal knowledge and will of its particular members, whose own rights must be maintained. Thus the universal must be furthered, but subjectivity on the other hand must attain its full and living development. It is only when both these moments subsist in their strength that the state can be regarded as articulated and genuinely organized. (Addition to Par. 260)

Thus unlike government in civil society the state does not stand as an other, or as something external, to its members, for it is the unity, or embodiment, of their rights and interests. If the end of the individual is not harmonious in some way with the end of the state, the state, Hegel insists, "is left in the air"; it assumes the status of civil society. (Cf. Addition to Par. 265) Thus in obeying the laws which are enacted by the state the citizen realizes his freedom, for the law which he obeys is an expression of his true end, or will—it is his own law. This is based on the assumption that the citizens "have duties to the state in proportion as they have rights against it." (Par. 261)

Now we should ask: what is the objective principle, viz., the universal will, which is supposed to be the basis of the state? How does it become actual in the life of the state? Hegel repeatedly stressed that the Idea actualizes itself in the world as mind. The sphere of its actualization is the family and civil society. It cannot, however, be identified with these two spheres as empirically given orders, but with their ideality, with the principles and values whose actuality transforms them into 'the state.' More concretely, the Idea as mind becomes actual in the various institutions which make up the state as an organic unity: "the laws regulating the family and civil society are the institutions of the rational order which glimmers in them. But the ground and final truth of these institutions is mind, their universal end and known objective." (Addition to Par. 261) These institutions constitute the essential elements of the *constitution*

of the state. Thus a society becomes a state when it articulates its will—its desires, ideals, values, etc.—consciously in a constitution and organizes its life around this constitution. Accordingly a state is actual when it becomes conscious of its identity and when it recognizes that this identity is an expression of its will as a rational principle. The point which we should here stress is that the institutions which give content to the constitution, namely, the principle according to which the activities and privileges of society are organized, are “the firm foundation not only of the state but also of the citizen’s trust in it and sentiment towards it. They are the pillars of public freedom since in them particular freedom is realized and rational, and therefore there is *implicitly* present even in them the union of freedom and necessity.” (Par. 265) They are the medium within which the citizen realizes his actual freedom. They are also what shapes the political sentiment of patriotism; “this sentiment is, in general, trust (which may pass over into a greater or lesser degree of educated insight), or the consciousness that my interest, both substantive and particular, is contained and preserved in another’s (i.e., in the state’s) interest and end, i.e., in the other’s relation to me as an individual.” (Par. 268) Thus patriotism does not mean offering oneself as an exceptional sacrifice at the altar of the state; it is rather the feeling and recognition that one’s end and the end of the state are identical and that one cannot realize his destiny except in so far as he fulfills his duties in the various social institutions of which he is a member.

The patriotic sentiment is acquired only when the citizen identifies his will with the will of the state *qua* organism, i.e., with its rational principle, viz., the law. “The Idea of the state,” Hegel writes in Par. 259, “has immediate actuality and is the individual state as a self-dependent organism—the *constitution* or *constitutional law*.” Accordingly as an organism the state is essentially the constitution, and the constitution is the organization of the state; it is the method according to which the rights, duties, and activities of the citizens are distributed. Hegel distinguishes three basic powers within the state: “(a) the power to determine and establish the universal—the Legislature; (b) the power to subsume single cases and the spheres of particularity under the universal—the Executive; (c) the power of subjectivity, as the will with the power of ultimate decision—the Crown.” (Par. 273) These powers, he argues, must not be viewed as separate from each other, i.e., as self-subsistent; for if this happens the state would gradually meet its end. We may distinguish them, but we cannot separate them from each other. Their unity is the ultimate unity of the state. “What is crucial to the being and integrity of the state is the realization of rationality in its life—if, in other words, it lives according to the law which expresses its will as a state. This is exactly why Hegel argues that the question, which form of government is better, democracy, monarchy, etc.”, is not quite meaningful, for such forms are “one-sided unless they can sustain in them-

⁴Hegel discusses in detail his objections to the doctrine of the separation of powers in the state. Cf. Par. 277.

selves the principle of free subjectivity and know how to correspond with a matured rationality.” (Addition to Par. 273) The test of the goodness of a state, then, is not merely the general plan it adopts in organizing its institutions but whether or not the constitution facilitates the realization of rational law in the life of its citizens, thereby enhancing the attainment of freedom. (Cf. Par. 272)

The constitution, however, cannot be made, nor can it be given as a gift to a nation; hence the question, who is to form the constitution?, is meaningless—why? Because the question “presupposes that there is no constitution there, but only an agglomeration of atomic individuals.” (Par. 273) But an agglomeration of individuals, individuals who exist atomistically, discretely, as in civil society, do not have a conception or consciousness of constitution. They can speak of such a constitution only if they exist as a state and are conscious of their self-hood as a state. But if they enjoy this consciousness they would *eo ipso* possess a constitution. Thus the question, who is to frame the constitution?, reduces itself to: who is to amend or alter the constitution?

Next, the constitution cannot be offered as a gift to a nation, because it is the mind of that nation: “the state, as the mind of a nation, is both the law permeating all relationships within the state and also at the same time the manners and consciousness of its citizens.” (Par. 274) Accordingly the constitution articulates, embodies, the spiritual reality of a society as it has objectified itself in a given historical period: “the constitution of a people is of the same substance, the same spirit as its art and philosophy, or at least its imagination, its thoughts, and its general culture—not to mention the additional, external influences of its climate, neighbors, and global position.”⁵ Thus a constitution evolves with the evolution of a nation. This is why when Napoleon gave Spain a constitution, it did not work, for it was “more rational than what they had before”; it did not express their spiritual reality at that historical epoch. A society might feel a need for a better constitution, and it may enjoy the privilege of having a Socrates as one of its citizens, but unless the people as a whole rise to the value and dignity of Socrates’ moral sentiment, as well as the depth of his rational character, this need for a better, more rational constitution remains on the level of wish, not genuine desire.

IV

The preceding discussion of the fundamental features of Hegel’s concept of the state should provide a framework within which we can critically evaluate the charge that Hegel advocates, at least by implication, a totalitarian conception of the state. The point of this evaluation is not merely to show that such a charge reveals a gross misunderstanding of the depth of Hegel’s analysis of the concept of the state but also to stress that applying labels like authoritarian,

⁵G. W. F. Hegel, *Reason in History*, tr. by R. S. Hartman from the Introduction to *Philosophy of History* (Liberal Arts, 1953), p. 59.

undemocratic, conservative, illiberal, etc., to Hegel's view does not serve a useful purpose, for none of these labels, at least the way they have been used by critics, can adequately describe Hegel's position."⁶ Indeed Hegel himself shies away from such labels. His main concern, as I tried to show in the foregoing pages, is simply to analyze the essential nature, or basic principle, of the state—what makes an organized society a state? Under what conditions can a member of such society achieve his human individuality, or freedom? We have seen that, to him, the form which the constitution should assume—i.e., whether it is democracy, monarchy, etc.—is not the crucial question; the important question is: in what way can a constitution, when it becomes a factor in shaping the conduct of the citizens, help the growth of the highest type of human character, the character that can determine its destiny, the character that can, in short, be good? I am here reminded by an important Pythagorean saying which Hegel quotes: "when a father inquired about the best method of educating his son in ethical conduct, a Pythagorean replied: 'Make him a citizen of a state with good laws.' (The phrase has also been attributed to others.)" (Par. 152) This passage calls for the remark that the development or attainment of values takes place in a concrete medium of laws, custom, and, in general, institutions. We cannot, whether we like it or not, ignore the role of these factors in the nourishment of the human character. Accordingly, if self-determination, i.e., freedom, is an activity in which one attains and realizes these values, it should follow that an assessment of the goodness of the state cannot be divorced from a consideration of the legal structure which underlies its vital institutions, or laws.

Hegel clearly says that in analyzing the concept of the state he is not interested in examining historical or particular states, nor the conditions under which certain states conduct their activities, but the Idea of the state—more concretely, in how to understand the state as something rational. He does not do this abstractly but with a critical look at human nature, on the one hand, and the actual history of the states throughout the world, on the other; for the point in theorizing about the state is not to produce a beautiful political structure, e.g., a utopia, but to discover the fundamental principles according to the highest demands of reason and morality with an eye on practice, and with a passion to articulate those laws or values that can work effectively and which can ennoble human life.⁷

This book, then, (Hegel writes in the preface to the *Philosophy of Right*), containing as it does the science of the state, is to be nothing other than the endeavor to apprehend and portray the state as something inherently rational. As a work of philosophy, it must be poles apart from an attempt to construct a state as it ought to be. The instruction which it may contain cannot consist in teaching the state what it ought to be; it can only show how the state, the ethical universe, is to be understood.

⁶See Charles Taylor, *Hegel* (Cambridge University Press, 1975), pp. 374ff.

⁷*Man and Society*, p. 268.

The importance of this emphasis in Hegel is that if we know what the state as such is, and if we know the conditions under which man's highest good—freedom—can be attained, then it becomes possible for a state to amend, alter, or reform its constitution.

Now let us focus our attention on this ultimate good in theorizing about the state, viz., the conditions under which freedom can be attained, and let us consider more directly the serious objection which was raised against Hegel's theory, that is, the claim that it is a totalitarian theory of the state. What do we mean when we say of a theory that it is totalitarian? Broadly speaking, we mean that according to this theory a citizen cannot exist as a self-determined being. He owes his life—his ideas, values, character traits, in short, his destiny—to a power outside himself; this power is the state. Accordingly, a citizen is absorbed in the whole—society; he is a means to the state. He exists and lives to make actual a general purpose or value for which the state as a whole stands. Such a citizen eats, plays, and goes to school; he works, gets married, and makes a family; he votes, discourses about public policies, and stands for what he takes to be his rights as a man and as a citizen; he functions as a social being, pursues ends, and performs his obligations to others and to the state. He may, in short, feel that he is the master of his life; but, in fact, he does not know that the self which he owns and enjoys is indirectly shaped, formed, by the various powers or institutions of the state. He does not, in other words, know that his character is not the result of his spontaneous and thoughtful effort; for, once more, the conditions under which he grows up were planned on his behalf for him to be a certain kind of 'individual.' This is in substance the original formula of political totalitarianism which Maritain attributes to Hegel as a political philosopher. This charge is serious, for Hegel's language and mode of analysis create an air or feeling in that direction. Some thinkers, like Plamenatz, who consciously sought to be sympathetic and to do justice to Hegel could not feel comfortable with his theory. This discomfort is clearly sensed if we read this passage from his *Man and Society*: "I would not deny that there is an unpleasant tone about the writings of a man who appears to have believed that the Universal Mind had attained full self-knowledge in his philosophy. His manner is against him; it suggests a colossal arrogance. And we do well to mistrust the arrogant, especially when they speak of freedom."⁸

First, what do we mean by linguistic expressions like, "The state determines the life, or character, of the citizen," "The citizen is a means to the state, or to a goal adopted by the state," "The character of the citizen is indirectly shaped by the state," etc.? I raise this question primarily because if the state is a determining factor in the life of the citizen, and it is to a reasonable degree, we should then enquire into the principle, or value, by which this determination is effected. We should also enquire into the sort of atmosphere which the state

⁸I have discussed this question in my essay "Another Look at Hegel's Concept of Punishment," *Hegel-Studien*, Band 13, 1979.

provides for the education (*Bildung*) and growth of the citizen. If such principle and conditions do not allow the essential powers of human nature to grow naturally, and this under the conditions of *reason*, *morality*, and *spontaneous creativity*, we can certainly say that a state of this character is totalitarian. But Hegel's theory of the state does not contain such principle or conditions, for, to him, as I stressed, the fundamental principle of the state is law. Indeed we can say without hesitation that the government which Hegel advocates is a government of law. This law becomes actual as the constitution, and the latter determines not only the organization of the society but also the kind of institutions within which the character of the growing citizen is nourished into maturity. Hegel condemns despotism, the view that force is, or should be, the basis of the state: "despotism means any state of affairs where law has disappeared and where the particular will as such, whether of a monarch or a mob (*ochlocracy*), counts as law or rather takes the place of law; while it is precisely in legal, constitutional government that sovereignty is to be found as the moment of ideality—the ideality of the particular spheres and functions." (Par. 278. Also cf. Par. 258)

The sovereignty of the state is, according to Hegel, the ideality of the powers which are designated by the constitution: the Legislature, the Executive, and the Crown. It means the unity, the inter-dependence, of these powers. "Sovereignty," Hegel writes, "depends on the fact that the particular functions and powers of the state are not self-subsistent or firmly grounded either on their own account or in the particular will of the individual functionaries, but have their roots ultimately in the unity of the state as their single self." (Par. 278) The source and basis of this unity is the constitution. When each of the powers of the state functions independently of the others they are bound to oppose and consequently destroy each other. This would mean the end of the state. Their harmony, cooperation, and unity is, therefore, absolutely essential to the realization of the end of the state, viz., the freedom of the citizen. The monarch symbolizes the actual unity of these powers. This is why his signature is needed to implement any decision or action of the state; in his figure as the monarch he represents both the unity and sovereignty of the state, that is, its will as it is expressed in the constitution. It is perhaps hard to understand how one person can decide, act, on behalf of a nation. A remark here is in order. As a sovereign, the monarch sums in his figure the ideal unity of the state *qua* constitution. Accordingly when he acts on behalf of the nation as a whole his decision is legitimate, valid, only in so far as it is identical with the constitution, or insofar as it expresses the essential spirit of the law. Thus he cannot act capriciously, subjectively, or in the interest of any other group or power: "as a matter of fact, he is bound by the concrete decisions of his counsellors, and if the constitution is stable, he has often no more to do than sign his name." (Addition to Par. 279) I quote this sentence only to shed further light on my earlier claim that the government which Hegel advocates is a government of

law, i.e., what determines the decisions, actions, or institutions of the state is in the final analysis the law. The 'I will,' or signature, of the monarch is "the last word beyond which it is impossible to go." (*Ibid.*) And inasmuch as it is grounded in, and expressive of, the constitution it asserts the supremacy of the law in the life of the state; it also signifies a moment of self-consciousness, a moment in which the state becomes conscious of its will and its capacity to realize this will actually, concretely: "in a well-organized monarchy, the objective aspect belongs to law alone, and the monarch's part is merely to set to the law the subjective 'I will.'" (Addition to Par. 280)

The difficulty with Hegel's view, I may be told, is not merely his thesis that law is the basis of the state but rather his inability to show how the citizen can be a self-determined being, i.e., free. The citizen remains caught up within the web of the state; for if the government as the actual reality of the constitution determines the values and institutions of the state, and if these are formative factors of the character of the citizen, it should follow that this character is shaped by extraneous forces, by the sort of values which the state happens to promote in the life of society. A character of this sort cannot be self-determined. And in order for it to be self-determined it must create its own values, habits, or general outlook upon life; its life must be an expression of will as a person. Accordingly, what guarantees, or safeguards, do we have that a given constitution provides the conditions *par excellence* for the realization of freedom? Or, what criterion should be met in order for a constitution to create a sociopolitical atmosphere for the highest realization of freedom? I raise these questions on behalf of the critic only to stress that, unless a citizen is somehow able to create his own individual character amidst the complex framework of social and political institutions which he encounters as he begins to become conscious of himself as person, he remains a product of society, he remains deprived of the opportunity to determine himself. Hegel is aware of this problem; for, on the one hand, he insists, as we have seen in some detail, that the fundamental principle of the state, viz., the constitution, which determines the life of the society, must be objective and independent of caprice, arbitrariness, and idiosyncratic interest, and, on the other hand, the highest form of constitution must be rational. Indeed rationality is the ultimate criterion by which we evaluate the goodness of a constitution. Thus a state is good, valid, inasmuch as it is rational; such a state is a community of self-determined beings. But, (1) what do we mean when we say a constitution is rational, or that it is good inasmuch as it is rational? (2) Under what conditions does the rationality of the constitution become actual in the life of the citizens?

"A state is absolutely rational," Hegel writes, "inasmuch as it is the actuality of the substantial will which it possesses in the particular self-consciousness once that consciousness has been raised to consciousness of the universal." (Par. 258) Thus a constitution acquires the character of rationality if it meets three conditions. *First*, it should express concretely the will of the

people—their values, interests, ideas, customs, etc. In this expression the will becomes both intelligible and actual. It accordingly reveals the mind, the spiritual substance, of the society as an organic unity. It is this translation of the general will into a concrete way of life which led Hegel to view the constitution as ethical in character: “the state is the actuality of the ethical Idea. It is ethical mind *qua* the substantial will manifest and revealed to itself, knowing and thinking itself, accomplishing what it knows and insofar as it knows it.” (Par. 257) As the ideal unity of the state, and as the principle of its organization, the constitution permeates all the relationships and institutions which make up the state. These institutions are rational in so far as they reflect the meaning and interest of the constitution. I should here remark that when Hegel considers the general will as the foundation of the state he in effect erects the structure of the state on reason, for, to him, reason actualizes itself in the life of a society as will. In the addition to Par. 258 he writes: “the basis of the state is the power of reason actualizing itself as will.”

Second, a constitution is rational insofar as it expresses man’s highest end—freedom: “it is an absolute end of reason that freedom should be actual.” (Addition to Par. 258) Thus we cannot accept a constitution as rational, and consequently we cannot accept it as valid, unless it creates a satisfactory condition for the attainment of freedom. But the question to which we are seeking an urgent answer is: how is concrete freedom possible in a state with a rational constitution? Hegel is alive to the importance of this question, for at the beginning of his analysis of the *concept* of the state he writes:

Rationality, taken generally and in the abstract, consists in the thoroughgoing unity of the universal and the single. Rationality, concrete in the state, consists (a) so far as its content is concerned, in the unity of objective freedom (i.e., freedom of the universal or substantial will) and subjective freedom (i.e., freedom of everyone in his knowing and in his volition of particular ends); and consequently, (b) so far as its form is concerned, and self-determining action on laws and principles which are thoughts and so universal. (Par. 258)

We need to interpret this passage carefully, for it is crucial to the whole argument of this essay. A citizen in a state is an individual; he is a world of thought, feeling, and action. He is able to seek ends that are peculiar to his character. He uniquely distinguishes himself by personal interests, ideas, habits, values, and character traits. But he is also a member of the state; as such, he seeks and realizes the universal, viz., government, law, and custom in his life. This universal, whose foundation is the constitution, underlies the will of the people as a whole; it embodies their essential values and aspirations inasmuch as they have received the baptism of reason. Thus a citizen who is conscious of his membership in the state is also conscious that *qua* universal the constitution is the embodiment of his true freedom, for it is an expression of his true will. The laws which it prescribes are not any more external, indifferent commands which he has to obey if he has to achieve certain ends but his own

laws, the laws which express his will as a member of the state: "they are not something alien to the subject. On the contrary, his spirit bears witness to them as to its own essence, the essence in which he has a feeling of his selfhood, and in which he lives as in his own element which is not distinguished from himself." (Par. 147) This is why his freedom can be achieved only when he *wills*, in his action, to realize the system of laws which emanate from the constitution. Put differently, the citizen determines himself, he achieves a breath of freedom, when he acts on the basis of the laws which are upheld by the constitution. Consequently, a citizen who fails to identify his personal, subjective will with the objective will which embodies the highest degree of rationality does not realize in his action his complete freedom. We cannot say that a person who ignores the objective will cannot *to some degree* be free. Hegel admits that such a person can be free, but his freedom is one-sided, abstract: "we must remember that . . . knowing and willing, or subjective freedom (the *only* thing contained in the principle of the individual will) comprises only one moment, and therefore a one-sided moment, of the Idea of the rational will, i.e., of the will which is rational solely because what it is implicitly, that it also is explicitly." (Par. 258)

Third, a constitution is rational when the powers of the state cooperate and function as an organic unity. "The constitution," Hegel writes, "is rational in so far as the state inwardly differentiates and determines its activity in accordance with the nature of the concept. The result of this is that each of these powers is in itself the totality of the constitution, because each contains the other moments and has them effective in itself, and because the moments, being expressions of the differentiation of the concept, simply abide in their ideality and constitute nothing but a single individual whole." (Par. 272) I quote this passage in its entirety only to underscore a basic condition for the rationality of the state which Hegel repeatedly emphasized. He was sharply critical of those who held that the powers of the state should be divided, i.e., separate, or self-subsistent. This view is advanced on the assumption that division promotes public freedom, but it does not, for it implies that in its very nature, each power is disharmonious and hostile to the others. But if the powers of the state function separately the end of the state is imminent. This is what happened in France during the Revolution; "the legislative power sometimes engulfed the so-called 'executive,' the executive sometimes engulfed the legislative, and in such a case it must be stupid to formulate, e.g., the moral demand for harmony." (Addition to Par. 272) But we must *distinguish* these powers, Hegel argues, for each performs a unique function in the life of the state; "each of them must build itself inwardly into a whole and contain in itself the other moments. When we speak of the distinct activities of these powers, we must not slip into the monstrous error of so interpreting their distinction as to suppose that each power should subsist independently in abstraction from the others. The truth is that the powers are to be distinguished only as moments of

the concept. If instead they subsist independently in abstraction from one another, then it is as clear as day that two independent units cannot constitute a unity but must of course give rise to strife, whereby either the whole is destroyed or else unity is restored by force." (*Ibid.*) This is another way of stating the doctrine that the state is an organism and that the principle of this organic character is the constitution. As in every organic structure, when the part is separated from the whole it loses its identity, its essence, and when all the parts function disharmoniously, separately, the whole falls apart. Thus a state exhibits the character of rationality when its powers, or institutions, function as an interdependent unity and when in this functioning they make the will of the people actual and, consequently, free.

V

A constitution, then, is rational if it (1) embodies, expresses, the will of the people, (2) promotes the freedom of the citizens, and (3) guarantees the unity and harmony of the powers and various institutions of the state. These criteria, our critic would argue, are general; they explain the sense in which a constitution is rational, or what it means for a constitution to be rational. But, how does the criterion of rationality apply actually in the life of a nation? What concrete attitude, or principle, should the state adopt towards the citizens in pursuing their ends as human individuals? We raise these questions, our critic would go on, primarily because (I) the implicit, or potential, rationality of the constitution remains abstract, theoretical, and therefore irrelevant, unless it permeates the practice, the laws, which affect the life of the citizens, and (II) the various states of the world are, as Hegel is quite aware, imperfect; they are not well-organized. This means they are not as rational as they ought to be. So, what means and principles should be adopted in order for a state, the way Hegel views it, to grow in rationality and to maximize the highest degree of freedom in the lives of its citizens?

I. A truly rational constitution should uphold the principle that a citizen ought to be accepted as a rational being, as a person; as such, he should be treated as an end in himself, never as a means. (Cf. Kant) Hegel recognizes this as a fundamental principle of the state. From the standpoint of political philosophy this means that the state must treat its members as persons. But a person is a being with rights, and he cannot attain his personality unless his rights are respected and protected. "Personality," writes Hegel, "essentially involves the capacity for rights and constitutes the concept and the basis (itself abstract) of the system of abstract and therefore formal right. Hence the imperative: 'Be a person and respect others as persons.'" (Par. 36) A rational state should recognize the rights of its citizens. It cannot, e.g., condone slavery—why? Because the justification of slavery rests on the premise that man is a 'natural' being; consequently he can be owned the way we own objects. But man, Hegel

argues, is not a natural object but *mind*, and as mind he is essentially free. Therefore he cannot be owned or used as a slave. (Cf. Par. 57) Again, a man should be respected not on the basis of his race, religion, nationality, or social origin, but on the basis of his manhood, on the basis of what makes him a man, i.e., a human being: "A man counts as a man in virtue of his manhood alone, not because he is a Jew, Catholic, Protestant, German, Italian, etc." (Par. 209)

One of the most important rights which is crucial to the attainment and integrity of personality is the right to property. One cannot enjoy a sense of personality unless his property is respected; hence it is the duty of the state to respect the right of the citizen to his property: "a person has as his substantive end the right of putting his will into any and every thing and thereby making it his, because it has no such end in itself and derives its destiny and soul from his will. This is the absolute right of appropriation which man has over all 'things.'" (Par. 44) The point which merits special attention here is that a state is, for Hegel, under obligation to respect the property of its citizens primarily because in this way it safeguards their freedom. This respect extends to one's moral conviction, i.e., conscience. This faculty is a personal privilege; it "is the disposition to will what is absolutely good." (Par. 137) In this activity a person determines what is right and obligatory in his life; none can realize this end except the citizen as a responsible individual, for he is the only one who knows himself and knows his end in life. This is why Hegel characterizes conscience as the "deepest inward solitude with oneself where everything external and every restriction has disappeared." (Addition to Par. 136) The will, it should be remarked, is rational inasmuch as it seeks what is *objectively right and good*, for in this seeking it raises itself from the level of particularity to that of universality. Accordingly, as this unity of the particular and the universal, conscience "is a sanctuary which it would be sacrilege to violate." (Par. 137)

Respect for property and conscience is, for Hegel, inseparable from respect for religious belief. For if a religion, or religious conviction, is genuine, if it expresses a divine content, it does not undermine but promote the integrity and end of the state. Thus the state should protect the church as a basic institution in the life of the nation. This means the church should have the right to property, because "the practice of its worship consists in ritual and doctrinal instruction." (Par. 270) And "in addition, since religion is an integrating factor in the state, implanting a sense of unity in the depths of men's minds, the state should even require all its citizens to belong to a church—a church is all that can be said, because since the content of a man's faith depends on his private ideas, the state cannot interfere with it." (Par. 270) This, it seems to me, is a clear statement of principle for the necessity of religious freedom. But Hegel goes a step further. He insists that the state should not interfere in the details of a given religion; it should, in other words, be tolerant even to a sect (e.g., the Quakers, the Anabaptists, etc.), "a sect (though, of course, all depends on its members) which on religious grounds declines to recognize even its direct

duties to the state.” (*Ibid.*) Hegel introduces this limitation on the ground that no institution in the state can enjoy all the rights it demands unless it performs its duties to the state, for unless it performs these duties it would obstruct the end and unity of the state. This is why if the members of a sect decline to perform a basic duty to the state, e.g., if they refuse to enlist in the army and defend the nation, they cannot have a claim to citizenship, though they may enjoy the civil rights which are guaranteed by the constitution.

One can discuss other rights in Hegel—for example, the right to education, to choose a career, to express one’s ideas orally and in writing, to personal safety, to fair treatment before the law, etc.—as essential to the attainment of personality. My aim in considering, though briefly, the right to property, conscience, and religious belief is only to show that, for Hegel, a state is not truly rational unless in its laws and practice it safeguards the personality—or individuality—of its citizens. As stressed earlier, no man can be an individual unless he is a self-determined, i.e., free, being. Thus if the constitution of the state à la Hegel places the highest value on human individuality, and if the state promotes this individuality *concretely in its practice*, it should follow that such a constitution, or state, is rational.

II. Attainment of personality, however, is incomplete unless the state provides a sociopolitical atmosphere within which the citizens can prevent the state *qua* government from being or acting as a separate or independent agency. If the citizen is to actualize himself as a free being under the conditions of rationality, morality, and spontaneous creativity, the laws or institutions which regulate his activities in society should be an expression of his will. Thus unless the state, as an actual, historical event, is the *living will* of its people, the citizen of such a state cannot exist as an individual. But in order for a state to be the living will of its people the people must share in the refinement and realization of their constitution. Accordingly if what rules a state is law, and if this law embodies the will of the people *actually*, we can certainly say that the state rules itself and that it is self-determined.

Now, does Hegel’s theory of the state provide the means for the citizen to share in the refinement and realization of the constitution? This question assumes, with Hegel, that the states of the world are imperfect, and that their destiny consists in the constant realization of the highest possible degree of freedom. Thus, unless a citizen is actively involved in the modification, enactment, and actualization of the constitution, and unless he is responsive to the fact that the laws which determine his values and conduct emanate from his will, or that he intends them, the state becomes alienated from, or external to, him. This may create the tendency or danger that those who enact and execute the laws may ignore his real will. If this happens the state ceases to be a state proper; it degenerates into a civil society.

The citizen, for Hegel, participates in the political process, that is, in the modification and realization of the law in two ways, directly and indirectly. (A)

He participates *indirectly* by means of the legislature, which is an assembly of estates whose members are elected by the people. This institution performs two basic tasks: it modifies, i.e., determines, the laws of the state and structures the programs which affect the well-being of the society as a whole: "the legislature is concerned (a) with the laws as such in so far as they require fresh and extended determination; and (b) with the content of home affairs affecting the entire state." (Par. 298) It is, then, the legislature which determines the extent of the rights, duties, privileges of the people as individuals and as socio-economic groups.

The legislature plays, moreover, two basic roles in the actual translation, or enactment, of the will of the people concretely. In the first place, it is a bridge; it is what mediates between the powers of the state. (Cf. Par. 300) It is, in other words, the institution which solidifies the unity of the state. For in determining the legal system it in effect determines the extent of action both of the monarch and the executive. As we have seen, the monarch decides, acts, on behalf of the state only in so far as the constitution allows. In a similar way the main function of the executive is to see to it that the laws which are enacted by the legislature are applied with the utmost of skill, honesty, and proficiency. (Cf. Par. 303) Thus the greater the efficiency in actualizing the laws which express the will of the people the greater is their freedom as citizens.

In the second place, the legislature has the sole goal and duty to modify the laws of the state according to the actual desires, interests, or aspirations of the people. I say 'actual' because the law recognized by the state at a given time must express the will of the people. This is why Hegel insisted that the constitution cannot be granted as a gift, constructed, or even copied. It simply *is*, for it is the rational articulation of the will of the people. But this does not mean it cannot be changed. On the contrary, it must grow and mature, and its growth and maturity should reflect the growth and maturity of the people as a state: "the constitution must in and by itself be the fixed and recognized ground on which the legislature stands, and for this reason it must not first be constructed. Thus the constitution *is*, but just as essentially it *becomes*, i.e., it advances and matures. This advance is an alteration which is imperceptible and which lacks the form of alteration." (Addition to Par. 298) This passage is extremely important, for it clarifies Hegel's position on political reform. It asserts that the law, or constitution, of the state is not final but always subject to change or reform, and this according to the criterion of rationality. In Par. 216 Hegel is sharply critical of the view, held mostly by German Scholars during his lifetime, that a legal code should be absolutely complete or that it cannot be reformed. A legal code, like other types of code, is always the child of its age.

It would, I think, be interesting to remark here that although the Estates are entrusted with the determination of the law this task is not, and should not, be exclusive to them alone; the public servants and the ministers of the monarch may well excel in their contribution to the attainment of this end: "the

Estates are a guarantee of the general welfare and public freedom. A little reflection will show that this guarantee does not lie in their particular power of insight, because the highest civil servants necessarily have a deeper and more comprehensive insight into the nature of the state's organization and requirements." (Par. 301) The Estates further the freedom and welfare of the society primarily by the novel insight which they may bring to the political process and by allowing public opinion and criticism to be a constructive factor in this process. Accordingly they mediate between the government and the nation as individuals and groups. This is why they should "possess a political and administrative sense and temper, no less than a sense for the interests of individuals and particular groups. At the same time the significance of their position is that, in common with the organized executive, they are a middle term, preventing both the extreme isolation of the power of the crown, which otherwise might seem a mere arbitrary tyranny, and also the isolation of the particular interests of the persons, societies, and Corporations." (Par. 302; cf. also Par. 314)

Hegel repeatedly emphasized that as plenipotentiaries the members of the assembly must enjoy high moral character and a sense of devotion to the well-being of the state. They must also be versatile in the business of the law. These features are the basis of the public trust in the Estates: "the important thing, then, is that a member of the Estates shall have a character, insight, and will adequate to his task of concentrating on public business. In other words there is no question of an individual's talking as an abstract single person. The point is rather that his interests are made good in an assembly whose business is with the general interest. The electors require a guarantee that their deputy will further and secure this general interest." (Addition to Par. 309) What counts, then, in the election of the members of the Estates is whether they are qualified, not whether they are elected directly and universally by the people. (Cf. *ibid.* and Par. 303, 308) Indeed Hegel shies away from universal suffrage and introduces a system whereby deputies from the major socioeconomic groups are elected; such deputies have a greater grasp of the needs, interests, or circumstances of the various sectors of the society.

(B) The citizen participates *directly* in the political process by voicing publicly his private personal opinion on matters relating to the business of the state: "the formal subjective freedom of individuals consists in their having and expressing their own private judgments, opinions, and recommendations on affairs of state. This freedom is collectively manifested as what is called 'public opinion,' in which what is absolutely universal, the substantive and the true, is linked with its opposite, the purely particular and private opinions of the Many." (Par. 316) Thus, as it is expressed actually, public opinion is a mixture of the petty and the serious, the rational and the irrational, the particular and the universal. It is also expressed by individuals who differ in intelligence, temper, interest, or even motivation. This shows that public opinion is presented to the government in a disorganized way; but the state should conduct its

business under the conditions of order and thoughtful planning. Accordingly it should select those ideas or views which are most expressive of the rational interest of the society as a whole. What is important in this selection is not who or how many express a given idea or view, but which idea is good or great. Great is he who can articulate the universal need of the people: "the great man of the age is the one who can put into words the will of his age, tell his age what its will is, and accomplish it. What he does is the heart and the essence of his age, he actualizes his age. The man who lacks sense enough to despise public opinion expressed in gossip will never do anything great." (Addition to Par. 318) We may, accordingly, despise or respect public opinion. We may despise it in so far as it contains falsehood and idiosyncratic interest; and we may respect it in so far as it contains the true interest of the nation. As such it "is a repository not only of the genuine needs and correct tendencies of common life, but also, in the form of common sense (i.e., all-pervasive fundamental ethical principles disguised as prejudices), of the eternal, substantive principles of justice, the true content and result of legislation, the whole constitution, and the general position of the state." (Par. 317)

It is, I believe, reasonable to assert that the state is not, for Hegel, an unquestioned authority; on the contrary, it derives its authority from the will of the people, not only by what the people say directly, by voicing their opinion verbally and in writing, and indirectly by means of the legislature, but also by the wisdom of those citizens who possess the richest insight into what is best for the state as a whole. I do not see at all any arrogant or pretentious claim in Hegel to an all-knowing state which assumes superior authority in knowledge and power over its citizens. What concerns Hegel pre-eminently is the need to recognize a higher standard according to which (1) reform is possible and (2) the dignity of the citizen as a person can be upheld. This standard is none other than the voice of reason. This voice does not, as I stressed, emanate from a dogmatic, absolute power; it is always checked and tested by the continued satisfaction and well-being of the human personality. Its source in the final analysis is: (1) thoughtful reflection and (2) the happiness and dignity of the citizen as a human individual.

In view of the preceding discussion in its entirety I can say, contrary to the critics referred to in the first part of this essay, that in Hegel's view the citizen *qua* individual is the corner stone of the state. The constitution which emanates from the will of the people is the ultimate principle according to which the activities and the institutions of the state are organized. Within this organization no activity, whether it is legal, economic, religious, social, educational, etc., is valid or justified if it does not uphold the personality or individuality of the citizen. The latter cannot in any way be viewed as shaped or 'formed' by the state, for the structure within which the citizen grows is essentially rational. It does not limit the development of the natural powers or forces which constitute his nature as a human being. He exists as a free person. This freedom is not a

privilege identified with capricious, fitful, or aimless behavior, but with that sort of behavior which is conducive to the realization of the *human* element in his being. The criterion by which this realization can be effected is the law of reason. What is valid in the *state* which Hegel supports “derives its authority, not at all from force, only to some extent from habit and custom, really from insight and argument.” (Addition to Par. 316)