

Hegel, Rawls and the Separation of Church and State

Dr. Harry W. Adams*

Adjunct Professor of Philosophy, Division of Social Work, Behavioral & Political Sciences, Prairie View A&M University, College of Arts & Sciences, USA

**Corresponding Author: Dr. Harry W. Adams, Adjunct Professor of Philosophy, Division of Social Work, Behavioral & Political Sciences, Prairie View A&M University, College of Arts & Sciences, USA.*

ABSTRACT

The public realm needs to be ordered so as to allow private and particular interests a voice, without allowing any of these to gain undue dominance in this realm. By examining Hegel's and Rawls' views of the separation of the public and private realms, and of church and state, I argue that the twin problems of privatized states (states dominated by narrow interests or worldviews, or by a particular faith or denomination) and marginalized public groups (wherein groups drawn along ethnic, racial, gendered or class lines are unfairly excluded from public life and discourse) should both be avoided. To avoid these problems and achieve a kind of inclusive balance here, my strategy will be: in section I, to recount Hegel's view of the proper synthesis of these public and private realms, within the context of his categorial system; in section II, to briefly recount Rawls' view of the separation of church and state, to provide an illuminating foil to Hegel's view; and in section III, to draw resolutions based on the convergences and divergences of their paradigmatic views.

Keywords: *separation of church and state, public policy, public reason, absolutism, 1st Amendment, cultural pluralism, universality and particularity, civil society, institutional stability, overlapping consensus, justice as fairness, comprehensive worldviews*

INTRODUCTION

The recent confirmation of Amy Coney Barrett to the U.S. Supreme Court has forced certain longstanding constitutional, social and moral questions to re-emerge. Barrett has long held faith-based views involving opposition to abortion and same-sex marriages, and advocacy for fundamentalist Christian causes. So many have recently asked “might her personal views properly or improperly influence her judicial decisions? More broadly, how should such private views be (dis-) allowed to affect legal precedent and public policy?” The purpose of this paper is to shed new light on these perennial dilemmas and questions, from (a synthesis of) Hegelian and Rawlsian perspectives.

The public realm needs to be ordered so as to allow private and particular interests a voice, without allowing any of these to gain undue dominance in this realm. By examining Hegel's and Rawls' views of the separation of the public and private realms, and of church and state, I argue that the twin problems of privatized states (states dominated by narrow interests or worldviews, or by a particular faith or

denomination) and marginalized public groups (wherein groups drawn along ethnic, racial, gendered or class lines are unfairly excluded from public life and discourse) should both be avoided. In part because these problems are often the flip side of the same coin (representing similar dangers), I propose a kind of inclusive balance that should be struck between the state and church, and the state and these groups; and I defend certain public-private dynamics as properly expressing this balance. If my arguments are sound, then grasping this balance will help to resolve pressing questions about cultural pluralism (esp. "What influence may cultural and religious groups legitimately expect to have in the public sphere?"). To achieve these ends, my strategy will be: in **section I**, to recount Hegel's view of the proper synthesis of these public and private realms, within the context of his categorial system; in **section II**, to briefly recount Rawls' view of the separation of church and state, to provide an illuminating foil to Hegel's view; and in **section III**, to draw resolutions based on the convergences and divergences of their paradigmatic views.

I

How should we understand Hegel's conceptions of the state and religion within the rubrics of his Objective and Absolute Spirit, respectively? To answer this question, it will be essential to recall what Hegel means by each of these categories and see how they're situated within the structure of his overall categorial system.¹

Spirit (*Geist*) is, in many ways, the broadest and most central category of Hegel's system. He generally takes Spirit refers to human self-consciousness, including all its myriad forms and products, in contrast to Nature and the Logical Idea (which are the focus of the second and first sections of his *Encyclopaedia*, respectively). Hegel divides Spirit itself along three lines: There is Subjective Spirit (which includes all the categories of man's individual psychic life, including its feeling, thinking, and conscious aspects), Objective Spirit, and Absolute Spirit.²

Objective Spirit is that rubric of "thought-thinking-being" that includes the state. Objective Spirit is the spirit of a social group which, on an individual level, permeates the will, consciousness, and relations of the individual members of the group. And on a communal level, it is embodied in the laws, culture, and institutions of that group. Hegel describes the content of this Objective Spirit as being:

- Itself at first immediate, and hence as a single being—the *person*: the existence which the person gives to its liberty is *property*. The *Right* as *Right* (law) is *formal, abstract right*.
- When the will is reflected into self, so as to have its existence inside it, and to be thus at the same time characterized as a particular, it is the right of the subjective will, *morality* of the individual conscience.
- When the free will is the substantial will, made actual in the subject and conformable to its concept and rendered a totality of necessity—it is ethics [*Sittlichkeit*] of actual life in family, civil society and *State* (*PoM*, §487).

The State should not be seen as a category separate from, or opposed to, these prior forms of Spirit (such as the individual and her family). Rather, it is the ultimate form of concrete spirit that has assimilated these prior forms within

itself. As we shall see, the State integrates, assimilates, and sublates (*Aufgehoben*) these prior forms into itself not in such a way as to destroy them, but so as to let them achieve their ultimate realization, unity, and fulfillment.

On the other hand, Absolute Spirit is that rubric which includes religion, along with art and philosophy. Absolute Spirit is "that unity of mind [*Geist*] as objectivity and of mind as ideality and concept, which essentially and actually is and forever produces itself, mind in its absolute truth (*PoM*, §385)." As such, it is absolute and infinite because of the level of self-conscious awareness in reasoned thought that it attains. It is also absolute because, whereas Objective Spirit is the objectification and concretization of Subjective Spirit, Absolute Spirit is the unity of both these subjective and objective moments. It is important to note that Absolute Spirit reaches its most progressive development only within the conceptual framework of philosophy. Art and religion (which are built upon sense-images, and metaphorical/representational thinking, respectively) are only incomplete and intermediary stages of consciousness leading up to philosophy.³ This development is to be understood in a conceptual, rather than merely temporal or sequential, way.

Having thus surveyed the contextual topography of our discussion, we may note two overarching points here. First, the state and religion belong to two different moments or levels of Hegel's system of Spirit; i.e., they represent different (although not isolated) categories of social being and thought. Second, whereas the state represents the unifying and culminating moment of Objective Spirit, religion represents only a one-sided and incomplete moment of Absolute Spirit. As we shall see, Hegel concludes from these considerations that clear boundaries must be laid out, that demarcate what are the proper (as opposed to improper and excessive) influences of the church upon the state. It would be inappropriate, irrational, or "inconsistent with their concepts," e.g., to allow the church to assume the role of, or do the integrating work of, the state. In order to adequately grasp these claims, we must examine the state and church directly.

How does Hegel conceive of the state? What does he mean by defining it as "the march of God through history, as the power of reason actualizing itself as will"?⁴ In the first place, "God" should be understood here in a radically

immanent, deist, “proto-David Straussian” sort of fashion: not as the personal Lord of the Theists or Calvinists, but as Spirit qua absolute reason and self-consciousness.⁵ Hegel does not see the state as God, but as the *march* of God through history. This means that single particular states will be at best partial, incomplete manifestations of God. Even “world-historical states” like Greece or Rome or the Germanic realm (or America?⁶) have but momentary “epoch-making roles,” before they decline and make way for (the transition towards) other states that represent potentially higher or less contradictory realizations of universality, freedom, and self-awareness (*PoR*, §344-7). At any one point in time, however, the state represents the highest and most fulfilling form of “Reason incarnate.” Hegel describes these ideas and processes as follows:

The state is the actuality of the ethical idea—the ethical spirit as substantial will, manifest and clear to itself, which thinks and knows itself and implements what it knows. . . It has its immediate existence in custom, and its mediate existence in the self-consciousness of the individual. . . The state is the actuality of the substantial will. . . This substantial unity is an absolute and unmoved end in itself, and in it, freedom enters into its highest right. . . Since the state is objective spirit, it is only through being a member of the state that the individual himself has objectivity, truth, and ethical life. *Union* as such is itself the true content and end, and the destiny of individuals is to lead a universal life: their further particular satisfaction, activity, and mode of conduct have this substantial and universally valid basis [i.e., the state] as their point of departure and result. . . In so far as the authority of any actual state concerns itself with the question of reason, these will be derived from the *forms of right* which are valid within the state. . . Any state, even if we pronounce it bad in the light of our principles, and even if we discover this or that defect in it, invariably has the *essential moments* of its existence within itself (provided it is one of the more advanced states of our time) (*PoR*, §257-8).

But for Hegel, how do we know if a state is “more advanced”? A state is more advanced only if it has incorporated within itself these “valid forms of right, these essential moments.” And what, in turn, are these valid forms of right, or essential moments? Precisely those forms which include the free individual, the secure possession of property, the loving family, an

ordered system of morality and law, a fulfilling work life and civil society, and—as the consummating whole of all its parts—a stable government (preferably, for Hegel, in the form of a constitutional monarchy). In other words, that state is most true and real, and most “in accordance with the notion of state,” which most allows these forms of right to exist and be realized in a concrete and flourishing manner.

Bearing all this in mind, how does Hegel conceive of the church? Just as the state is the rational embodiment of right in the social realm, so the church is the embodiment of religion in this realm. What exactly does religion then consist of? For Hegel,

The content of religion is absolute truth, and it is therefore associated with a *disposition* of the most exalted kind. As intuition, feeling, and representational cognition whose concern is with God as the unlimited foundation and cause on which everything depends, it contains the requirement that everything else should be seen in relation to this and should receive confirmation, justification, and the assurance of certainty from this source. . . Religion is the relation to the absolute *in the form of feeling, representational thought, and faith*, and within its all-embracing centre, everything is merely accidental and transient (*PoR*, 292-3).

When religion strains toward God and the absolute, it does so in the form of faith, feeling, and mere representational (or metaphorical) thought.

Hegel shows his true Enlightenment colors by insisting that the form (*qua* faith) of religion is inferior to the form (*qua* reason) of philosophy, even though he sometimes suggests that religion and philosophy share the same content. Faith is not superior to, or even equal partner with, reason. Rather, faith is the informant and junior partner to reason, in their joint venture towards truth and the Absolute. Hegel insists on two points here. First, religion (including its commensurate form of representational thinking) is only a mediating and incomplete, if not misleading, precursor to philosophy (including its more rational form of conceptual thinking). Second, just as the church is the concrete exemplar and embodiment of faith and religion, so the state is the concrete exemplar and embodiment of reason and philosophy. “The essential principle of the form of the state is thought. . . Thus, science, too, is to be found on the side of the state, for it has the same element of form as the state; and its end is cognition, by

means of thought, of *objective* truth and rationality [contra *subjective* belief and disposition of religion] (*PoR*, 300)."

Through this line of reasoning, Hegel infers that: *just as faith, representational thinking, and religion must give way to reason, conceptual thinking, and philosophy within the ideal realm of Absolute Spirit, respectively, so* (if things progress rationally) *the Church must give way to the State within the concrete social realm of Objective Spirit*. That is, whereas the church may become a mere means, the state may become an end in itself, towards which all its constitutive forms of ethical life are directed. Hegel comments on these progressions in the *Philosophy of Right*:

In contrast with the *faith* and *authority* of the Church in relation to ethics, right, laws, and institutions, and with its *subjective convictions*, the state possesses *knowledge*. Within its [the state's] principle, the content is no longer essentially confined to the form of feeling and faith, but belongs to determinate thought. . . Human beings should have respect for the state as that whole of which they are the branches; the best way of achieving this [wholeness], of course, is through philosophical insight into the state's essence. But if this insight is lacking, the religious disposition may lead to the same result. Consequently, the state may have need of religion and faith. But the state remains essentially different from religion, for what it requires has the shape of a [n outward] legal duty, and it is indifferent to the emotional attitude with which this duty is performed. The field of religion, on the other hand, is inwardness; and just as the state would prejudice the right of inwardness if it imposed its requirements in a religious manner, so also does the church, if it acts like a state and imposes penalties, degenerate into a tyrannical religion. . Thus, if religiosity sought to assert itself in the state in the manner in which it usually adopts on its own ground, it would subvert the organization of the state; for the differences within the state are far apart, whereas everything in religion invariably has reference to totality. And if this totality sought to take over all the relations of the state, it would become fanaticism; it would wish to find the whole in every particular, and could accomplish this only by destroying the particular, for fanaticism is simply the refusal to admit particular differences. . . Thus, religion as such should not hold the reins of government (*PoR*, 299, 303-4).

As dense and suggestive as it is, this passage should be unpacked. In many ways, the church may inform and enrich the ethical life of a community. The Church may serve as a tutor for citizens, training and educating them about such things as right and wrong, respect for the law and the rule of law. It may deepen the springs of inward devotion and loyalty, in relation to oneself, one's family, and one's community. The Church may inspire citizens to be more faithful and diligent in their work, etc. Hegel even suggests that, since these things are true and "since religion is that moment which integrates the state at the deepest level of the disposition (of its citizens), the state ought even to require its citizens to belong to such a community (*PoR*, 295)."

The church may inform and influence the state indirectly, "from the bottom up," then, as an ancillary, enriching support of particular communities and individuals. But the church should never try to control the state directly, "from the top down," as a direct competitor to the state's power(s) and authority. Real dangers arise whenever this happens, whenever the church goes beyond its proper *private, particular* sphere of ethical life, and tries to assert itself in the *public, universal* sphere of political life. The danger, as Hegel sees it, is that the (illegitimately) universal church may end up "refusing to admit particulars, or even destroying these particulars." For, whereas the notion of the state involves accepting and uniting the particular into itself, the notion of religion involves denying the particular in the face of the absolute. "The state is actual, and its actuality consists in the fact that the interest of the whole realizes itself through the particular ends. Actuality is always the unity and resolution of universality and particularity (*PoR*, 302)." In more concrete terms, this means that the true business of the state involves coordinating and integrating cultural differences and particularities into itself in a harmonious, respectful way. Since the business of religion, on the other hand, is to pursue the absolute, it may do so, if it gains political power, in the form of an "absolutist" regime. If it has political power at its disposal, the church may end up eradicating all forms of cultural difference and particularity that do not seem to be in accordance with its absolute, as happened during the Inquisition.

If the church asserts itself like this into the business of the state, by reaching for the reins of government, then it clearly oversteps its proper

bounds. In doing this, it commits a grievous type of *category mistake*. Such a mistake, to Hegel, would be equivalent to the Church asserting that its proper business and content does not consist merely in faith and the beliefs of religion, but in knowledge and the facts of science. (Hegel uses the struggles of Galileo, when he was “shown the instruments of torture,” to show what may happen when the church overextends itself by trying to lead scientific theory. Cf. *PoR*, 300). There is only one difference for Hegel between such scientific overextension and political overextension: when the church commits the latter, and tries to assume the reins of government, widespread oppression and absolutism, rather than mere “Ptolemaic lack of epistemic progress,” results.

Hegel uses three historical examples to illustrate such oppression and absolutism. First, “it should not be forgotten that religion can take on a form which leads to the harshest servitude within the fetters of superstition and to the debasement of human beings to a level below that of the animals (as among the Egyptians and Indians, who venerate animals as higher beings) (*PoR*, 291).” Secondly, Hegel has nothing good to say about Oriental orders that mixed religious with political rule: “That unity of Church and state which has so often been wished for is to be found in Oriental despotism—but in this case, there is no state in the sense of that self-conscious configuration (*Gestaltung*) of right, of free ethical life, and of organic development which is alone worthy of the spirit (*PoR*, 301).”⁷ Thirdly, Hegel notes that modern Europe is not immune from such “theocratic blights.” He mentions the Reformation as a supreme and necessary blessing, specifically because it divided the unity and power of the Catholic (*qua* Universal) Church, so that it could no longer control the reins of any state:

If the state is to attain existence as the self-knowing ethical actuality of spirit, its form must become distinct from that of [religious] authority and faith. But this distinction emerges only in so far as the Church for its part becomes divided within itself. Only then, when it stands above the *particular* churches, can the state attain the *universality* of thought as its formal principle, and bring it into existence. . . Consequently, far from it being, or ever having been, a misfortune if the Church is divided, it is through this division alone that the state has been able to fulfill its destiny as self-conscious rationality and ethical life. This division is

likewise the most fortunate thing that could have happened to the Church and to thought as far as their freedom and rationality [respectively] are concerned (*PoR*, 301).

Hegel reasons that in all theocracies, be they of such Oriental or European guises, both the state and church were prevented from actualizing themselves according to their own distinct rational concept.⁸ The church was prevented from realizing itself according to the notions of inwardness and faith, and the state was prevented from actualizing itself according to the notion of right. As long as the two are commingled, each must remain a kind of self-contradictory or hideous hybrid. So the church and state must separate. Hegel concludes that “we require a power [viz., the state] to rescue us from [religion] in some of the shapes it assumes and to champion the rights of reason and self-consciousness (*PoR*, 292).” Only when the church does *not* hold the reins of government will the state be able to effectively unify and integrate its lower forms of ethical life within itself. Therefore, only when the state *alone* holds the reins of government will it be able to preserve the freedom of the individual, the security of private property, the cultivation of universal morality, the flowering of familial love, the efficient administration of legal justice, and the coordination of the system of needs and estates—which all find their rational orchestration and proper fulfillment in the state.⁹

II

In contrast to Hegel's view, what is Rawls' view about the separation between church and state? Especially in his later writings, Rawls conveys three arguments which together frame his views about this separation; these constitute his arguments about **a**) cultural pluralism, **b**) institutional stability, and **c**) public reason.

CULTURAL PLURALISM

For Rawls, a fundamental feature of any truly free and public culture is an ineradicable pluralism—a pluralism of religious beliefs, cultural values, comprehensive doctrines, views of the good life, etc. “The diversity of comprehensive religious, philosophical, and moral doctrines found in modern democratic societies is not a mere historical condition that may soon pass away; it is a permanent feature of the public culture of democracy. Under the political and social conditions that the basic rights and liberties of free institutions secure, a diversity of conflicting and irreconcilable

comprehensive doctrines will emerge."⁹ Rawls concedes not only that secular and religious forces will diverge from each other, but that they will diverge and differ within themselves. He concludes from this ineradicable pluralism that no uniform or monolithic culture will ever again be possible—unless some oppressive power gains control of the state and imposes its absolutist form of good on people by force. This preclusion of monolithic regimes not only rules out theocracies; more than this, it implies that any state giving preference to one particular religious sect or group will be inherently *unstable*—since other sects and groups will either be unfairly disadvantaged here, or else clamor for their own special treatment. This leads to questions concerning (in-) stability. (We may note that, so far, these claims are compatible with Hegel's. E.g., we saw above that Hegel celebrated the Reformation precisely for the expanded diversity and freedom it opened up, in both religious and secular realms.)

INSTITUTIONAL STABILITY

In the face of this pluralism, how can any state hope to remain stable, and immune from the constant disagreement or internal squabbling that may characterize free nations? Rawls reasons that the only solution to this problem comes from stringently separating the private and public spheres of culture. The private sphere is to be based on complete freedom or, as Rawls says, "the most extensive liberty [for each individual or group] that is compatible with a like liberty for others."¹⁰ Within this sphere, people are free to believe anything, to engage in any practice, to live according to any particular beliefs, rules, values, etc., that they want—with the proviso that they don't allow these particularities to overflow into the public sphere and obstruct others' beliefs, practices, etc.. (As we will see, this proviso is what constitutes a significant departure from Hegel.) The public sphere, in contrast, is mapped out as a special political domain based on the *thinnest* foundation possible, that makes no purchase on any one value system, church creed, or comprehensive doctrine. In earlier works such as *Theory of Justice*, Rawls said that the public sphere should be based on "a *thin* theory of the good." In later works such as *Political Liberalism*, he is inclined to insist that the public sphere be based on *no* theory of the good. Or at least, the later Rawls insists that the public sphere be based on an "overlapping consensus"

regarding a thin political conception of justice as fairness. This demands elaboration.¹¹

Rawls reasons that no state will be stable unless it can be supported by at least some general consensus of its citizens. But all these citizens possess widely different values. So the only thing that they can reasonably be expected to agree on is a minimal set of rules and principles governing their common political interaction—much the same way that players may agree on rules of interaction for some type of fair game that is open to all. Rawls calls this set of rules and principles his "political conception of justice." Since the public sphere is, by definition, that sphere open to all, it must be governed by such a political conception of justice—that all reasonable citizens could intuitively recognize, and consensually endorse, as fair. But does this group of reasonable citizens include religious persons who "live by faith rather than by reason"? As we shall now see, the answer to this question crucially turns on what Rawls means by "reason and reasonable."

PUBLIC REASON

Going straight back to Kant and the Enlightenment ideal of a universal reason, Rawls believes that there is a type of reason(ing) that is commonly recognizable and available to all people, even if these people come from widely divergent backgrounds. There is, in other words, a type of public reason transparent to all reasonable people. (From this type of argument, we may begin to get an idea why some critics accuse Rawls of circular reasoning, or of smuggling much particular content into his "universal reason.") This public reason is precisely what enables people with different comprehensive doctrines, cultural heritages, economic status, etc., to come together publicly to discuss common concerns:

In public reason, ideas of truth or right based on comprehensive doctrines are replaced by an idea of the politically reasonable addressed to citizens as citizens. This step is necessary to establish a basis of political reasoning that all can share as free and equal citizens. Since we are seeking public justifications for political and social institutions—for the basic structure of a political and social world—we think of persons as citizens. This assigns to each person the same basic political position. In giving reasons to all citizens we don't view persons as socially situated or otherwise rooted, that is, as being in

this or that social class, or in this or that property and income group, or as having this or that comprehensive doctrine. Nor are we appealing to each person's or group's interests, though at some point we must take these interests into account. Rather, we think of persons as reasonable and rational, as free and equal citizens.¹²

As a historical illustration of this public reason, Rawls mentions the "famous debate in 1784-5 between Patrick Henry and James Madison over the establishment of the Anglican Church in Virginia and involvement of religion in the schools."¹³ Henry is held up as a model citizen because, although he was clearly pursuing his own religious interests and those of the Anglican Church, he did so in the language of public reason. The reasons he gave to support the official recognition of the Anglican Church by the State of Virginia were "argued almost entirely by reference to political values alone." Such values included, for example, "correcting the morals of men, restraining their vices, preserving the peace of society," etc. Henry's argument was framed in reasons that were directly relevant and comprehensible to, and acceptable by, any concerned secular or non-Anglican citizen. Henry thus strained out from his arguments elements that were peculiar to, or required faith in, his own privately held comprehensive doctrine. Rawls argues from this that truly public reasons need be "the kinds of reasons on which citizens are to rest their political cases in making their political justifications to one another when they support laws and policies that invoke the coercive powers of government."¹⁴ If churches want to lobby for political power or recognition in state affairs, then, they must do so in the secular, or commonly intelligible, terms of this public reason.

III

How do these Rawlsian arguments align with, and shed light on, Hegel's position concerning the relation between church and state? On the surface, there seems to be a great deal of agreement between Hegel and Rawls: both see great danger, even injustice, when the church holds state power. Both are concerned that no individual's or group's freedom be compromised under state rule because of infringements by church influence or other private groups. And both set limits to the amount and type of involvement the church may have in state affairs. Beyond this initial agreement, though,

marked differences emerge between Hegel and Rawls. This is largely due to the different types of involvement that Hegel allows, but Rawls disallows, the church to have.

On a fundamental level, Hegel allows the church (along with other forms of civil society) to robustly inform the life and development of the state. Hegel insists that the universal life of the state be integrally informed by all the particular forms of civil society under it. And he argues that there is no such thing as a state—or actual, truly good state—that isn't constituted by the particular content and culture of civil society under it:

The state is actual, and its actuality consists in the fact that the interest of the whole realizes itself through the particular ends. Actuality is always the unity of universality and particularity, the resolution of universality into particularity; the latter [i.e. the particular] then appears to be self-sufficient, although it is sustained and supported by the whole. If this unity is not present, nothing can be actual, even if it is assumed to have existence. A bad state is one which merely exists; a sick body also exists, but it has no true reality (*PoR*, 302).

Hegel asserts that there is no such thing as a purely neutral universal state; states must necessarily arise out of some thoroughly historical, contingent context. This holds, e.g., even for constitutional republics like America, which aim to "make no law respecting an establishment of religion, or prohibiting the free exercise thereof." For Hegel, even such "1st-Amendment states" are always already presupposing or privileging some religious views, or at least some preconceptions of the good. He argues that true and healthy states are constituted precisely by a unity, inclusion, and synthesis of the particular cultural content and ethical forces within their domain. Consequently for Hegel, the church may have as much influence as it wants in and on the state—provided that it doesn't squelch other cultural influences and doesn't challenge state power in a revolutionary way. (For a provocative elaboration of these views, see Hegel's note on the "Quakers and Anabaptists," *PoR*, 295-6.)

In opposition to this view, Rawls believes that the universal nature of the state precludes it from being tainted or biased by any particular content (or what he calls comprehensive doctrines, views of the good life, and narrow cultural interests). In somewhat formalistic

Kantian fashion, Rawls insists that the political domain be constituted not by any substantive content, but by the fair and formal procedures, and generality and universality, of “neutral public reason.” Contra Hegel, but in Hegelian terms, he insists that the *right* of the state depends on it separating itself from the *good(s)* of civil society. Consequently for Rawls, if the church is to have any legitimate say in the affairs of state, it must divest itself of all particularity; it may rightfully enter the public domain only on the condition that it expresses itself in terms of a universal public reason. Or as he insists, a true or truly fair state must be built upon a “political, not metaphysical, conception of justice.”

The crux of this difference between Hegel and Rawls seems, again, to go back to Kant and a question that has often been posed in relation to Kant’s moral philosophy: How much moral content can we get from maxims that are framed so as to be strictly universal(izable)? Or, for our context: How substantive and informative can discourse in the political domain be which is framed in terms of a purely universal public reason? Hegel’s answer to this question would be “Not substantive or informative at all, since the price one must pay for universality is substance and, conversely, the price one must pay for substance is universality.” Rawls’ reply, on the other hand, would be “The discourse and life of the political domain will be robust and substantive enough to insure that any and everyone’s interests are adequately represented, since what is required is not the eradication of particular interests, but the proper and reasonable formulation of these interests, in terms that are relevant and comprehensible to the public at large.”

So which of these views seems more plausible, more able to accommodate a healthy relation between church and state, and more supportive of the public good (understood in terms that both Hegel and Rawls could agree on, generally as “the greatest freedom for each, as is compatible with the greatest freedom for all”)? The answer to this question is difficult, since Rawls’ and Hegel’s view each have certain strengths; so let’s consider some of these salient strengths and differences.

Rawls’ view has at least two main strengths or virtues on its side. First, it seems to lend itself to greater overall coherence within the political realm. Rawls’ realm of public discourse will tend not to be governed by a Babel-like din of

foreign and discordant voices, each clamoring for its own private interests through its own particular grammar (or as Wittgenstein would say, “its own private language”). Rather, this realm will resemble an orderly courtroom or synod, wherein each sect or claimant for public justice and consideration will have to frame its interests in terms that are relevant to, and comprehensible by, others. Second, Rawls’ view will lend itself to greater structural stability than Hegel’s. For whereas Hegel might let any widespread cultural group (e.g., a “moral majority” or widespread fundamentalist denomination) inform the state, Rawls will stipulate that any such group must not threaten the interests of all (the interests of other citizens seen as free equals). For Rawls argues that the stability of any state will be in accord with its being built not on any particular interest, but on the fairness of certain impartial, consensually endorsed procedures.¹⁵

In contrast, Hegel’s view has other relevant virtues. First, it might be more sober or realistic or honest, in doubting whether a thin and purely procedural political process can produce any substantive order, without smuggling in some particular content, such as some substantive form of liberalism. (Along these lines, critics of Rawls including communitarians have accused him, with his supposedly political and procedural, rather than metaphysical, conception of justice, of actually smuggling in a particularly liberal conception of justice and of the good.) Secondly, Hegel’s view has the virtue of allowing particular civic interests—whether these be of religious, economic, ethnic or cultural groups—greater latitude in how they (re-)present themselves in the public sphere. By *not* having to present themselves through the form of a universal public reason, these particular groups seem freer to (re-)present themselves in their own unique way, in accordance with their own particular identities. Is it really reasonable, then, to insist with Rawls that a church, or any other “private” member of civil society, must participate in the political domain *only* in terms of universal, public reason? Or should it be allowed to participate in its own terms and according to its own values, particular as these might be? I will conclude by offering two possible answers to these questions.

First, it might be the case that, in conforming to this standard of public reason, churches and other members of society have to divest

themselves of essential parts of their identity. Hegel fears this: he fears that if these consequences follow—if private members of society have to relinquish their particularity when they enter the public realm—then the state which requires this is not a true or truly legitimate one. As we have seen, for Hegel a “true and right and universal” state is not one which destroys or obscures cultural differences and particularities, but one which respectfully integrates these things into itself (*aufgehoben*). Hegel thus suggests that a neutral public culture, *if* such a thing is possible, will be incomplete or impoverished. A public culture that strained out all particularity, or required its citizens to “leave their differences at the door” and participate in their subcultures only in private, would, for Hegel, be no culture at all.

There is another possible response to our aforementioned questions. It might be the case that, by making this form of *universal* public reason a requirement for participation in the political sphere, that some *particular* members of society end up being excluded or underrepresented. For sects like the Pennsylvania Dutch and German Amish, and groups like first-generation immigrants, and the impoverished and undereducated, may not be able to represent themselves in public discourse quite as “reasonably and universally” and articulately as, say, established whites who enjoyed a strong liberal education. Iris Marion Young, among others, has expressed some concerns about this, and the way that the ideal of *universal* citizenship has sometimes functioned to exclude *particular* citizens. She points out that, when we frame public discourse and civic life in terms of a universal public reason and general qualities of citizenship, this may effectively marginalize or exclude particular groups who do not so easily fit into the homogeneous contours of this reason and citizenship:

The ideal of the public realm of citizenship as expressing a general will, a point of view and interest that citizens have in common which transcends their differences, has operated in fact as a demand for homogeneity among citizens. . . While [some civic republicans, for example] extolled the virtues of citizenship as expressing the universality of humanity, they consciously excluded some people from citizenship on the grounds that they could not adopt the general point of view, or that their inclusion would disperse and divide the common good. . . These

republican exclusions were not accidental, nor were they inconsistent with the ideal of universal citizenship as understood by these theorists. They were a direct consequence of a dichotomy between public and private that defined the public as a realm of generality [and universality] in which all particularities are left behind.¹⁶

The ideals of universal citizenship and a universal public reason, then, can serve as double-edged swords. On the one hand, these ideals can function to inspire citizens to accept all other citizens as free and reasonable equals, worthy to participate in their commonly shared public culture. This is what Rawls hopes for. On the other hand, these ideals can mask a certain type of exclusivity—by excluding churches or social or economic groups whose particularities are unpalatable to the standards of a general, universal class, and whose private beliefs are not in accordance with the standards of public, universal reason. This is what Hegel warns us about. Granted, he does not warn us exactly in Young’s terms here. He is more inclined, in his high-blown abstract way, to say that “The state is actual, and its actuality consists in the fact that the interest of the whole realizes itself through the particular ends. Actuality is always the unity of universality and particularity, the resolution of universality into particularity.” But this passage may be taken to mean that “The true and right (or as Hegel says, “actual”) state will be the one that integrates the private and particular interests of society into its own public and universal framework. This state will separate itself from the particular interests (whether these are the interests of churches or particular cultural, gendered, or socio-economic groups) of civil society only in ways that respect, subsume and even further these interests. Otherwise, as we saw earlier, the state will be no different or better than a kind of illegitimate Church which—if it holds the reins of government as a theocratic state—eradicates whatever particular forms of culture are not aligned with its notion of the Absolute.

REFERENCES

- [1] In relation to this categorial philosophy, I will be assuming a particular perspective that not all of Hegel’s commentators assume. I will assume that Hegel’s overall project, including his project of the *Philosophy of Right*, is primarily categorial, rather than normative, in focus. According to this perspective, Hegel, even

in his political writings, does not primarily set out to analyze how the state ought to act. Rather, he first sets out to offer a *categorical analysis* of the conditions that are required for thought to be able to “think the social being of the state” (with emphasis upon the rational concepts that must be presupposed in such thought). That is, Hegel is arguably not primarily trying to answer moral questions about the state (which, he thought, pre-occupy the inquirer with finite concerns), but rather categorical questions about it (which he thought raise the inquirer to the level of an “infinite” or universal standpoint). Two central questions he addresses here are: “Why and how is the category of State necessary to conceive the ultimate unity and freedom of the individual person?” And “How should we understand particular wills and individuals as mutually recognizing themselves and others in a universal way?” As such, the *Philosophy of Right* may be interpreted as a theoretical (more than practical) application of the project and content of his *Logics*. This is especially true if we remember that, in each work, the progression is from particular immediacy to abstract universality, and then on to unifying concretion. Accordingly, it seems that many critics of his political philosophy would have done better to criticize the progression and logic of Hegel's formal categories of thought, rather than criticizing this or that (supposedly) moral claim he made.

- [2] G.W.F. Hegel, *Philosophy of Mind: Being Part Three of the Encyclopaedia of the Philosophical Sciences (1830)*, trans. William Wallace, Oxford: The Clarendon Press, 1971, cf. §385-6 (hereafter *PoM*).
- [3] W.T. Stace clearly explains this notion of Absolute Spirit, and of the relation of its three moments (art, religion and philosophy) as follows: “Absolute spirit is, in general, the apprehension of the Absolute by the human mind. Its different phases are constituted by the differences of form under which this absolute content may be cognized. In the first form, that of art, the Absolute appears in the form of sense-objects. But art has seen to develop within itself a contradiction. . . . Because the Absolute is spirit, it can only be known as spirit, and no sensuous form is adequate to it; but, on the other hand, the very notion of

art involves the apprehension of the Absolute, not as spirit, but as sense-object. Art being thus inadequate and self-contradictory, a new form is required for the apprehension of the Absolute. . . . Now the essence of spirit is not feeling, or emotion, or sense-consciousness, or even understanding, but reason, or in other words, the Notion or the Idea. Its essence is thought as thought, the universal. Consequently, any genuine apprehension of the Absolute will cognize it, not as sense-object, but as pure thought, as reason, as the universal. Such a knowledge of the Absolute, however, is only found in philosophy. But the mind does not rise at once from the apprehension of the Absolute as sense-object (art) to the apprehension of it as pure thought (philosophy). There is an intermediate stage in which the Absolute is cognized neither in a purely sensuous way nor in a purely rational way. This intermediate stage is *religion*.” (W.T. Stace, *The Philosophy of Hegel: A Systematic Exposition*, N.Y.: Dover Publications, Inc., 1955, 485-6.)

- [4] Hegel, *Elements of the Philosophy of Right*, trans. H.B. Nisbet, Cambridge, U.K.: Cambridge University Press, 1996, 279, cf. §257-9 (hereafter *PoR*).
- [5] In his pre-Jena religious writings (1795-1800), for example, Hegel portrays Jesus as a sort of Nazarene proto-Kantian, who goes around spouting categorical imperatives. Cf. Hegel's *Early Theological Writings*, trans. by T.M. Knox, Philadelphia, Pa.: U. of Pennsylvania Press, 1971.
- [6] Cf. Hegel, *The Philosophy of History*, trans. J. Sibree, N.Y.: Wiley Book Co., 1900, 85-7.
- [7] This is consistent with what Hegel says about the Oriental realm in his conclusion of the *Philosophy of Right*: “The secular government is a theocracy, the ruler is also a high priest or god, the constitution and legislation are at the same time religion, and religious and moral commandments. . . . are also laws of right and of the state. Within this magnificent whole, the individual person has no rights and disappears altogether. . . . The distinctions which develop between the various aspects of customs, government, and the state take the place of laws; and even when customs are simple, these distinctions become

ponderous, elaborate, and superstitious ceremonies--the accidents of personal power and arbitrary rule--and the divisions of social estates harden into a natural system of castes. Consequently, the Oriental state lives only in its moment, and since nothing in it is stable and what is firmly established is fossilized, this movement turns outward and becomes an elemental rage and devastation" (*PoR*, §355).

- [8] For examples and explanations of how particular things may or may not be realized in accordance with their concepts, or notions (*Begriffe*), see *PoR*, §81, 92, 272, and *Hegel's Logic*, trans. William Wallace, N.Y.: Oxford Clarendon Press, 1975, §160-4.
- [9] This assumption holds at least for states that are not thwarted or malformed through serious forms of corruption or tyranny.
- [10] To be sure, Rawls wanted this condition to apply to the public sphere as well. But he suggests that the private sphere will, in many ways, allow for greater range of personal freedom than the public, for reasons we shall see.
- [11] John Rawls, "The Domain of the Political and Overlapping Consensus," from *Contemporary Political Philosophy: An Anthology*, ed. Robert E. Goodin & Philip Pettit, Malden, Ma.: Blackwell Publishers, 1998, 274. Cf. also Rawls, *Political Liberalism*, N.Y.: Columbia U. Press, 1973.
- [12] John Rawls, "The Idea of Public Reason Revisited," *The University of Chicago Law Review* (Vol. 64, Summer 1997), 799-800.
- [13] *ibid*, 794.
- [14] *ibid*, 795.
- [15] To see this difference, we might imagine the situation of two hypothetical Congressmen, named Hegel and Rawls, being transplanted into the genteel culture of the Antebellum South. Hegel would lobby for freedom for the slaves, but if he did so, he would do so in terms of gradual reform, rather than immediate abolition. For, he would say, reform is always preferable to revolution and, in this case, we must not upset overnight the whole economic basis of our society. Rawls, on the other hand—in light of his views about justice for the worst-off, the inherent equality of all men and women, and the requirement that institutions reflect this justice and equality—would lobby for a more radical and sudden abolition. Slavery, he would say, is fundamentally intolerable (even if it flies in the face of the cultural values and economic stability of a nation), since it contradicts fairness and a free and equal citizenry. Even though this thought experiment is imaginative, it illustrates what Hegel's and Rawls' positions would be if they remained consistent with their theoretical principles. Even if Hegel would say that this thought experiment merely reflects the *Zeitgeist* of our contemporary American epoch, I think strong arguments can be made that Rawls' position and applications here are "the more reasonable."
- [16] Iris Marion Young, "Polity and Group Difference: A Critique of the Ideal of Universal Citizenship," from *Contemporary Political Philosophy: An Anthology*, eds. Robert E. Goodin & Philip Pettit, Malden, Ma.: Blackwell Publishers, 1998, 257-9.

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