

Hegel, Marx and Freedom*

Hegel, Marx e a Liberdade

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Hegel's philosophy is a philosophy of freedom. In contrast to the mainstream of modern philosophical thinking – e.g. Rousseau, Kant, Fichte and others – in Hegel's view freedom is not a negative notion, the absence of dependency, but freedom is the result of the institutionalisation of spheres of freedom in the historical development, especially by law. For Hegel, the modern law constitutes such spheres and insofar freedom, whilst other thinkers, for example Kant and Fichte, understood law as the limitation of freedom. This Hegelian approach to the problem of freedom is historical and insofar in accordance with Marx's view. Moreover both, Hegel and Marx, come together in the aim to institutionalize freedom in the modern state and society. Beyond the fruitless discussions on 'materialism' and 'dialectics' this problem could be the starting point for rethinking the relations between Hegel and Marx.¹

1) HEGEL'S THEORY OF FREEDOM

Hegel's theory of freedom is based on his concept of the free will. The free spirit is the "actual free will" as "the unity of theoretical and practical spirit; *free will*, which is *for itself as free will*".² This free spirit is the final stage of the subjective spirit, thus it signifies what the human individual is as the "bearer" of objective spirit. Because the free spirit is theoretical and practical in equal measure, it is actual in the sense of having an effect, of

* Translated by Anita Mage, Berlin.

¹ See Andreas Arndt, *Geschichte und Freiheitsbewusstsein. Zur Dialektik der Freiheit bei Hegel und Marx*, Berlin 2015.

² Georg Wilhelm Friedrich Hegel, *Enzyklopädie der philosophischen Wissenschaften im Grundrisse* (1830), § 481; *Hegel's Philosophy of Mind*. A revised edition of the Wallace and Miller translation, rev. and ed. Michael Inwood (Oxford and New York 2007), 214.

being active. What does its activity consist in? According to Hegel, the free will is “*in itself* the Idea”, that is, the absolute Idea. And this is, as laid out in the *Science of Logic*, nothing other than the unity of the theoretical and practical Ideas as absolute method. It is the completed concept as the concept of freedom. This idea thus appears, as Hegel writes, “only in the will, which is finite, but which is also the *activity* of developing the Idea and posits its unfolding content as determinate being [*Dasein*], which, as the determinate being of the Idea, is actuality – as *objective Spirit*.”³

So the absolute is the full notion of freedom. But the absolute idea is *method*, not an entity or a goddess. It is the concept which has conceptualized himself, and as *the concept of the concept* the concept is absolutely self-related and free. This pure self-relation depends on the ability of the spirit to abstract from its own presuppositions. Insofar the idea as the method is as theoretical as practical, freedom for Hegel is a normative concept for assessing our theoretical and practical relations to the ‘World’, i.e. the reality of nature and objective spirit.

This amounts to saying: objective spirit is the development and realization of freedom on the social and political level. Therefore if civil society is an integral part of objective spirit, then for Hegel it must be judged from the perspective of a comprehensive concept of freedom. “Comprehensive” means it needs to be judged according to the extent to which the reality corresponds to the concept of freedom, including its possibilities for realization. Further, it needs to be judged according to the precept that in modernity freedom must be accorded to all persons in equal measure.

At first glance, Hegel’s concept of freedom as a concept of a reflected will seems to be utterly ‘idealistic’ in a negative sense. How else should we understand the intimation that objective spirit emerges from the activity of free will? Don’t we know – at the latest since Marx – that willing alone is powerless and that people enter into social relations on the basis of objective conditions, independent of their will? Hegel also knows that human will does not just hang in the air. If it were otherwise, there would be no history of emancipation and of the consciousness of freedom, but just freedom without any mediation.

³ Hegel, *Enzyklopädie* (1830) § 482; *Philosophy of Mind*, 214 (trans. modified).

A passage in Hegel's *Lectures on Aesthetics* makes this point quite clear: "on the one side we see man imprisoned in the common world of reality and earthly temporality, borne down by need and poverty, hard pressed by nature ... On the other side, he lifts himself to eternal ideas, to a realm of thought and freedom, gives to himself, as *will*, universal laws and prescriptions, strips the world of its enlivened and flowering reality and dissolves it into abstractions, since the spirit now upholds its right and dignity only by mishandling nature and denying its right ... But for modern culture and its intellect this discordance in life and consciousness involves the demand that such a contradiction be resolved."⁴

The resolution of this contradiction can only succeed if both sides are mediated with each other, that is, if spirit as free will is not thought of as independent of nature, natural impulses and passions. In fact free will first emerges out of this natural determination of man. Impulses or drives, desires and passions, motivate a willing, but this is a particular willing directed toward a determinate, particular object: "*Passion* involves in its determination that it is restricted to a *particularity* of the determination of the will".⁵ In following one's impulses and passions, in the activity directed toward the satisfaction of needs, the will becomes differentiated from the impulses, insofar as the desire for immediate satisfaction of needs is held in check. This is what Hegel calls the "reflecting will",⁶ in contradistinction to the immediacy of acting on impulse. The form of this activity that has progressed beyond the immediate satisfaction of needs is labour. Labour is inhibited desire, desire held in check, but nevertheless desire. The reflection grows precisely from the impulses and passions, which in this sense are constitutive for the genesis of the will.

The reflecting will is then initially not the elevation above the interests and passions, but rather arbitrary – a free, willed choice between alternative actions, something that the German word for arbitrariness, *Willkür*, a compound of the words for will and choice (*Kür*), a choice the will makes, expresses quite well. Here the subject remains bound to particular

⁴ Georg Wilhelm Friedrich Hegel, *Ästhetik*, ed. F. Bassenge, Vol. 1 (Berlin and Weimar, 1976), 62f. Idem, *Aesthetics. Lectures on Fine Art*, Vol. 1, trans. T.M. Knox (Oxford and New York, 1998), 54.

⁵ Hegel, *Enzyklopädie* (1830) §474; *Philosophy of Mind*, 211.

⁶ Hegel, *Enzyklopädie* (1830) § 476; *Philosophy of Mind*, 213.

content. What needs to be emphasized is that Hegel's concept of freedom is mediated by *material needs and interests*. Civil society represents a specific form of the organization of the satisfaction of needs.

So the origin of freedom in Hegel's Philosophy looks quite materialistic: it's the freedom of man's immediate dependency on nature; *labour* is the first step of mankind into the realm of freedom. So history of mankind is history of freedom, Freedom is not the presupposition, but the result of history and history is – in one respect, as the history in the sphere of the objective spirit – the realization of freedom. By the development of labour – for example cooperation – and tools (machines), i.e. the Marxian forces of production, the spaces of freedom in respect to nature could be extended, but also the spaces of freedom in ethical and political life. Here the sphere of right is crucial; the sphere of action for a person is limited by right. Right, for Hegel, is the existence of freedom. It is the result of a political history. First in modern times we have right as a universal and equal right and in the consequence every man have rights and so the human rights are constituted.

In a higher sense for Hegel the history of freedom is not only the history of the objective spirit or the realization of freedom, but the history of the consciousness of freedom. This leads to the absolute idea as the final concept of freedom as the end of history. This means: the further realization of freedom in objective spirit is not part of world history in Hegel's meaning of the concept "world history", but nevertheless this is the task for the time after the end of history, as Hegel underlined in his lectures on the philosophy of religion.

2) REALITY OF FREEDOM

In the Paragraph 243 of the *Outlines of the Philosophy of Right* Hegel writes: "The amassing of wealth is intensified ... That is one side of the picture. The other side is the subdivision and restriction of particular work. This results in the dependence and distress of the class tied to work of that sort, and these again entail the inability to feel and enjoy the broader

freedoms and especially the spiritual benefits of civil society.”⁷ Hegel had expressed a similar view already in the essay “On the Scientific Ways of Treating Natural Law” from 1802/03: “the system of the so-called political economy... rests entirely on negativity and infinity” and expands “in point of quantity, and in the development of ever greater difference and inequality”.⁸

“Rests entirely on negativity”: this means that it is not positive *in itself*. As a “real system”, it is a negativity that cannot convert itself into a positive system on its own. Rather, it is in conflict with the “positive totality” of Ethical Life (*Sittlichkeit*). We are dealing with a structure that is difficult to conceptualize, since the opposition of positive and negative has become, as it were, external: on the one side there is the system of needs, that is, bourgeois economy, and on the other side Ethical Life. The Ethical is not, however, the negation of a one-sided negativity. For Hegel, it follows that the negative system of the economy must be “treated wholly negatively” by the Ethical, “and must remain subject to the domination of this relation. Whatever is by nature negative must remain negative and may not become fixed. In order to prevent this system from becoming a self-constituting and independent power, ... the ethical whole must ... preserve in this system the awareness of its inner nullity”.⁹

The dialectic of the sublation and unity of opposites is brought, as it were, to a standstill or interrupted. The relation of opposites is, then, in the end a question of power. In Hegel’s view, the positive power of the ethical community (*des sittlichen Gemeinwesens*^{*}) needs to keep the system of the

⁷ Georg Wilhelm Friedrich Hegel, *Gesammelte Werke* (Hamburg, 1968ff.) (hereafter cited as GW), Vol. 14, 1, 193. Idem, *Outlines of the Philosophy of Right*, trans. T.M. Knox, revised and ed. Stephen Houlgate (Oxford and New York, 2008), 220f.

⁸ GW 4, 541f. Georg Wilhelm Friedrich Hegel, *The Scientific Ways of Treating Natural Law, Its Place in Moral Philosophy, and its Relation to the Positive Sciences of Law*, trans. T.M. Knox (Philadelphia, 1975), 94.

⁹ GW 4, 541f.; Hegel, *Natural Law*, 94.

* [Translators note] I am translating *Gemeinwesen* as “community”, but this should not be equated with later sociological constructions of the community in conflict with society (“*Gemeinschaft*” vs. “*Gesellschaft*”) – To do so is, in my opinion, to project later sociological distinctions back into Hegel’s theory, distinctions that derive from certain historical interpretations of and/or distancings from Hegel’s social and political theory. Hegel does not use *Gemeinwesen* frequently in the *Philosophy of Right*; there the political community is discussed in terms of the State; whereas in the *Phenomenology*, in the Chapter on *Sittlichkeit* he uses it often, in the context of the ethical substance as actual substance, the “absolute Spirit” as “realized in the plurality of consciousnesses ... the community (*Gemeinwesen*) which...here has emerged on its own account in its truth as conscious ethical essence”; and the

economy under control; otherwise the negative power of the latter would grow, which, one can suppose, would destroy the community. Hegel thus poses the question in the following way: under which conditions can Ethical Life – in the end, the political community – tolerate the system of needs, that is, the capitalist economy?

When Hegel calls for the state to act, the aim is the self-preservation of the political community vis-à-vis economic interests. Hegel did not see any *societal* alternatives to the capitalist economy. But in the midst of the extreme economic underdevelopment in Germany, he did – and this needs to be stressed – have an acute awareness of international developments and above all the conditions in England, and he recognized in them fundamental problems that his contemporaries and later observers hardly saw at all. His suggestion of limiting the capitalist economy through semi-state and state institutions – corporations, estates, police – is not an anachronistic attempt to stabilize a semi-feudal order, but rather to limit the apparently inexorable internal dynamic of civil society from the outset and uphold the autonomy of the political community.

So what is the problem with civil society? Or as Hegel expressed it already in 1803/04 in the first Jena System: “Need and labour ... then form on their own account a monstrous system of communality and mutual interdependence in a great people; a life of the dead body, that moves itself within itself, one which ebbs and flows in its motion blindly, like the elements, and which requires continual strict dominance and taming like a wild beast.”¹⁰ These characteristics turn up again in Marx: an internally contradictory system (“a life of the dead”), and a seemingly naturally growing System (“blindly, like the elements”). And that it also is a “wild beast” could indicate that it has fallen to the wayside, as it were, of the political community. Aristotle states in the *Politics*, “a man who is incapable of entering into a community, or who is so self-sufficing that he has no need to do so, is no part of a state, so that he must be either a lower animal or a god.”¹¹ The contradictory and precarious nature of civil society would then

“natürliches sittliches Gemeinwesen” – the family; and conflict between divine and human law discussed therein.

¹⁰ GW 6, 324. Georg Wilhelm Friedrich Hegel, *System of Ethical Life and First Philosophy of Spirit*, trans. H.S Harris and T. M. Knox (Albany, 1979), 249 (trans. modified).

¹¹ I, 2, 1253a. (translation Rackham, modified).

consist precisely in that a “system of communality” would not be subject to conscious socialization, and for Hegel that means *political* socialization. And this characteristic also turns up again in Marx, in the formulation ‘social production by private producers’.

There can be no doubt that Hegel did not analyse how civil society functions, its internal mechanics; here he relied on bourgeois “Political Economy”, that means Smith, Say, and Ricardo. What distinguishes Hegel is not a deeper insight into the mechanics of the bourgeois economy, but a perception of the consequences of this mechanics. These consequences are subsumed together under the concept of the “rabble”.

For Hegel, the rabble is the necessary consequence of a contradictory dynamic – he explicitly refers to a “dialectic” of civil society – that “drives it ... to push beyond its own limits”.¹² The mode of appearance of this dialectic is the polarization of society in wealth and poverty. The rabble is created whenever an ever greater part of the population sinks below the socially necessary level of subsistence, thus becoming materially impoverished. At the same time “there is a consequent loss of the sense of right and wrong, integrity, and of honour in maintaining oneself by one’s own activity and work”.¹³ Here material being has direct consequences for consciousness, for the ethos (*Gesinnung*) of the rabble. For Hegel this element of an ethos is decisive insofar as it shakes both the principle of civil society – the provision of subsistence through labour – and the foundation of the political community – the sense of right and wrong.

The problem cannot be solved by traditional ways, for example the right of distress (*Notrecht*) or the alimentionation of the poor by public institutions – possibly financed through a direct levy on the “wealthier class”,¹⁴ because in this case the poor would no longer receive their subsistence through their own labour. Without a doubt, Hegel would also reject the calls for an unconditional basic income being made today on the same grounds. It is noteworthy that Hegel also rejects state job creation schemes: “in this event the volume of production would be increased, but the evil consists precisely in an excess of production and in the lack of a

¹² GW, 14, 1, 195 (§ 246); *Outlines of the Philosophy of Right*, 222.

¹³ GW, 14, 1, 193 (§244); *Outlines of the Philosophy of Right*, 221.

¹⁴ GW 14, 1, 194 (§ 245); *Outlines of the Philosophy of Right*, 221.

proportionate numbers of consumers who are themselves also producers”.¹⁵ As Hegel suggests, the cause of the evil is civil society itself, which “despite an excess of wealth ... is not rich enough, i.e., its own resources are insufficient, to check excessive poverty and the creation of a penurious rabble.”¹⁶

Hegel described the consequences of the contradictions in civil society ever more critically, to judge by the lecture transcripts published up to now, which in many respects are clearer than the published text of the *Philosophy of Right*. In Griesheim’s transcript of Hegel’s lectures from 1824/25, Hegel described the consequences of poverty quite drastically: “Poverty leads to the forfeit of all advantages of society. The poor man cannot teach his children any skill or knowledge ... The poor man loses the protection of the law easily, no justice can be had without costs ... Just as little can he provide for his health... Even the consolation of religion is lost to the poor man, he cannot go to Church in rags ... in the end the clergy also prefer to visit the houses of the rich than to go to the shacks of the poor to give them consolation on their deathbed.”¹⁷

At first, Hegel tends to see poverty and its consequences as the costs of freedom: “The state must respect the moment of inequality, because it is a moment of arbitrariness [*Willkür*] in the contingency and freedom of the individual. A universal [i.e., the state] must, however, make efforts to avert the possible consequences if they are harmful.”¹⁸ These consequences are harmful already in that the dependency of the working class, as stated in §243 of the *Philosophy of Right*, entails the exclusion from the freedoms of civil society. And that’s not all. Above all, the rabble is excluded from its rights, since, as the transcripts of the lecture of 1821/22 state: “in civil society each has the entitlement to live through his own work; if he does not achieve this through his own activity, he finds himself devoid of rights, he cannot receive justice, and this feeling is what brings forth inner indignation. Then one makes oneself devoid of rights and considers oneself also released

¹⁵ GW 14, 1, 194 (§ 245); *Outlines of the Philosophy of Right*, 221.

¹⁶ GW 14, 1, 194 (§ 245); *Outlines of the Philosophy of Right*, 221.

¹⁷ Georg Wilhelm Friedrich Hegel: *Vorlesungen über Rechtsphilosophie*, ed. K.-H. Ilting, Vol. 4 (Stuttgart-Bad Cannstatt, 1974), 605f.

¹⁸ Georg Wilhelm Friedrich Hegel, *Vorlesungen über Naturrecht und Staatswissenschaft. Heidelberg 1817/18 mit Nachträgen aus der Vorlesung 1818/19. Nachgeschrieben von P. Wannemann* (Hamburg, 1983), 129.

from duties, and the result is the rabble.”¹⁹ One can sum up the rabble as the partly factual, partly subjective dissolution of the existence of rights and duties, and thus the dissolution of the sole instance through which freedom can exist.

Hegel leaves no doubt that he regards such a dissolution resulting from a suffered injustice as “shamelessness” and “depravity”.²⁰ However, the cause of the injustice that the rabble suffers from not finding subsistence through work lies in the dynamic of civil society itself. This dynamic is what undermines the sense of right and with that the rule of law.

But if the rabble consists essentially in not receiving its subsistence through its own work, whereby it does not respect the rights of others while insisting at the same time on its own rights, then one can also turn the tables: wealth, insofar as it is not based on one's own work, must also create a rabble – a rabble of the rich. Frank Ruda is the first to have extensively analysed Hegel's category of the “rich rabble”; we find an elaboration of this category in the notes of the lecture from 1821/22: “There is also rich rabble. Since wealth is a power and this power of wealth readily realises that it also is the power over right, the rich man can remove himself from many detrimental situations ... wealth can see the subsistence of many in its hands, see itself as the ruler of their need and thus also of the rights of the same. One can also call this depravity [*Verdorbenheit*], that the rich man thinks everything is permitted.”²¹ If we take Hegel literally, we cannot reject the argument that today the rich rabble not only holds the economic power in its hands, but also has control of the political community. In this case, we have a situation that Hegel warned against in the *System of Ethical Life*, in which he maintains that “possession” (*Besitz*) as an element of civil society must not be intermixed with the government.²² In the *Philosophy of Right* as well Hegel writes that the state must not be “confused with the civil society”.²³

With the polarization between rich and poor rabble, the foundational legal consensus of society is shattered. The “indignation” of the

¹⁹ Georg Wilhelm Friedrich Hegel, *Die Philosophie des Rechts. Vorlesung von 1821/22*, ed. H. Hoppe, (Frankfurt am Main, 2005), 222.

²⁰ *Ibid.*, 223.

²¹ Georg Wilhelm Friedrich Hegel, *Die Philosophie des Rechts* (Frankfurt am Main, 2005), 222f.

²² GW 5, 361; *System of Ethical Life*, 176.

²³ GW 14, 1, 201, § 258; *Outlines of the Philosophy of Right*, 228.

poor rabble is, according to Hegel, the consequence. Therefore power relations arise that make one doubt whether injustice can be stopped only through the law. This was Marx's original insight. By making social emancipation central, he posed at the same time the question of how the community that he called the "association of free people" should be organized. This formulation already contains Marx's understanding of his project as the realization of freedom, and which is most definitely personal freedom. I now turn to his project of emancipation.

3) MARX'S ANALYSIS OF CIVIL SOCIETY

I don't wish to discuss here the various fates of Marxist theory, in which the idea of freedom, which I consider central for Marx, degenerated over time into a mere platitude. The revisionists and their successors reduced the horizon of freedom in the end to the formula of parliamentarianism and a market economy, while the party Marxists cynically denounced and oppressed all personal freedom as petty bourgeois or as bourgeois individualism. Both positions are a regression from the insights Hegel had reached and which Marx explicitly built upon.

Hegel's concept of the history of freedom is definitely present here, and I think it also continues to inform Marx's programme, since for Marx the emancipation of the working class, the "liberation of the proletariat", as his new slogan puts it, is also an integral part of a universal human history of freedom and liberation. For Marx, the principles of freedom are suspended by the contradictions in the mechanics of civil society.

In the sphere of circulation the "*realm of liberty, equality, and property based on 'labour'*" prevails.²⁴ Marx identifies the conditions for this in his analysis of surplus value. Let me make a brief and simplified statement of the problem. The question concerns the exchange of capital and wage labour. Surplus value is not created by paying the worker incommensurately for his labour. The worker is not paid for the labour done, but rather for putting his labour-power at the disposal of the capitalist for a contractually agreed upon period of time. He – the worker – receives as pay what under

²⁴ As Marx wrote in a draft outline of *Capital* that he sent to his friend Friedrich Engels on 2.4.1858, MEW 29, 317; MECW 40, 303.

the given social conditions is necessary for the reproduction of his labour power. The average utilization of labour power creates, however, more value than this labour costs. The capitalist appropriates this difference without violating the laws of exchange, since labour-power as a commodity was sold or bought, respectively, at its value, without cheating the owner.

Up to this point, everything is for the best in the best of worlds. But for Marx, circulation is just the “surface of civil society.”²⁵ Marx’s analysis shows that this superficial appearance of a voluntary and mutual recognition and exchange of equivalents by the owners – the capitalist and the wage labourer as the owner of labour power – harbours a relation in which the right of property based on labour, which appears as the presupposition of circulation, is negated. Under the conditions of capitalist production, the product does not belong to the worker as the immediate producer, but rather to the buyer of labour-power, the capitalist. The decisive thing is that in Marx’s view, this negation represents just the other side of the basis of property in labour; we are dealing with a “dialectical reversal” – to use a Marxian term,²⁶ that is, the realization of the principle proves it to be immanently contradictory. Marx cites the Geneva economist and jurist Cherbuliez, who explains this reversal as the result of property titles becoming transferable, that is, that the owner no longer has to be the labourer, which also justifies the ownership of the means of production. With the establishment of the wage system reproduces itself, in which not the labourer, but rather the owner of the means of production appropriates the product. The appropriation *through* labour is reversed into the appropriation of the product of labour through the ownership of the means of production.

Conversely, for Marx the reversal arises from the existence of the free wage labourer as the fundamental presupposition of the relation of capital, since the wage labourer is free not only as a juridical person and hence capable of contract, but also in the negative sense of lacking ownership of the means to realization of his labour capacity, the means of production. The property relation of the wage labourer is “not the result, but rather the presupposition his labour”, and the “exchange of labour for labour” – of labour-power for wages – “rests on the foundation of the

²⁵ MEW 29, 317; MECW 40, 303 (trans. modified).

²⁶ MEW 23, 610 (note 23); MECW 35, 583 (note 1).

worker's propertylessness.”²⁷ The primordial property relation is not produced by labour, but rather is its presupposition as the specific relation of labour to “the conditions of production as its own property”, that is, to the given social relations of production.²⁸

Marx calls the “fundamental principle” of the foundation of property through labour a “pure fiction”, which arises “from the surface appearance of *commodity circulation*”;²⁹ in truth, it is based not on a law of *appropriation*, but rather on a *law of expropriation*.³⁰ But at the same time this is a necessary, dialectical illusion, since the socially universally binding relation of buyer and seller, who are in a relation as free and equal persons, presupposes that the product sold does not contain any appropriated foreign labour external to the exchange of equivalents, therefore in the end that it is the product of one's own labour. The illusion of circulation, the exchange of equivalents of free and equal owners, is also formally not violated – and Marx insists on this in particular³¹ – when the capitalist buys labour capacity at its value and then appropriates the products of the use of this capacity, the labour itself. Hence, “capital ... has appropriated alien labour time *without exchange* by means of the *form* of exchange” and the exchange itself is “merely formal”.³²

Civil law, specifically law of contract and property, gives the wage labour relation a form in which, regardless of its foundation and its content, it can appear as an exchange of equivalents between free and equal owners and at the same time gives it “an existence independent of the accidental transitoriness of the individual capitalists”.³³

Marx's objection is not a criticism of Hegel's linking of the concepts of personhood and property. For Marx, their connection is self-evident, in as much as “(a)ll production is appropriation of nature on the part of an

²⁷ Karl Marx: *Grundrisse der Kritik der politischen Ökonomie (Rohentwurf 1857-1858)* (Frankfurt am Main and Vienna, n.d.), 414 (cited hereafter as *Grundrisse*). Karl Marx, *Grundrisse: Foundations of the Critique of Political Economy (Rough Draft)*, trans. Martin Nicolaus (London and New York, 1993), 515 (hereafter cited as *Foundations*).

²⁸ *Ibid.*

²⁹ MEW 26.3, 372; MECW 33, 301.

³⁰ MEW 26.3 373; MECW 33, 301.

³¹ Cf. MEW 23, 610f. MECW 35, 583f.

³² Marx, *Grundrisse*, 566. *Foundations*, 674.

³³ Marx, *Grundrisse*, 373; *Foundations*, 470.

individual within and through a specific form of society.”³⁴ However, property here refers not to private ownership of the means of production, which historically speaking is only a recent special form of property, but rather to the appropriation of nature or the regulation of the metabolism with nature on the basis of a specific social relation to nature. In this relation freedom for all would first be guaranteed when the social individuals as such (and not only as private owners of the means of production) deliberately place themselves in relation to the conditions of production, that is, when they are able to rationally organize their relation to nature and to each other in a way that is desirable by all.

4) MARX’S ALTERNATIVE

Marx anchors the dialectic of civil society in its presuppositions, which at the same time constitute and consolidate its legal form. According to him, only through the abolition of these presuppositions, the abolition of private ownership of the means of production, can a legal situation be established that is no longer violated by the law of appropriation and thus, to use Hegel’s word, is no longer occasion for “indignation”, nor for indignation about the law.

Two points need to be clarified here. First: for Marx, the abolition of private ownership of the means of production is *not* the abolition of all forms of property. The *Communist Manifesto* already stated: “The distinguishing feature of Communism is not the abolition of property generally, but the abolition of bourgeois property.”³⁵ This refers not (only) to individual ownership of consumer goods, for instance, one’s own toothbrush. Marx’s concept of individual property aims to allow the labourer have “real ownership of the fruits of his labour”.³⁶ In *Capital*, Marx writes that the negation of capitalist private property does not re-establish individual private property, but rather “individual property based on the achievements of the capitalist era: namely cooperation and the possession in common of

³⁴ Marx: *Grundrisse*, 9; *Foundations*, 87.

³⁵ MEW 4, 475; MECW 6, 498.

³⁶ MEW 17, 552; MEGA² 1, 22, p. 62.

the land and the means of production produced by labour itself.”³⁷ One should understand this in the context of a community that Marx describes as an “association of free people” or an “association of free producers”. If individual ownership of the products of labour is linked to this, this can only mean that each social individual can individually co-determine the distribution of labour and its products in the framework of democratic processes. Not less, but rather *more* freedom in all areas of social life is Marx’s vision. This has nothing in common with the structures of the purportedly “real” once-existent socialism (of whatever variety).

The second point: The critique of bourgeois right does not provide the basis for a legal nihilism. Nor are all forms of right qualified as “bourgeois”, but rather civil law, which regulates the forms of interaction in civil society. In the critique of the German Social Democrats’ “Gotha Programme” Marx envisioned for the first phase of socialism a distribution of products for individual consumption according to the criterion of the labour performed; here “the same principle prevails as that which regulates the exchange of commodities, as far as this is exchange of equal values”,³⁸ and for this reason civil law would still be valid, which, as universal, necessarily abstracts from the differences between individuals, their abilities and needs. This “narrow horizon of bourgeois right” can first be transcended when organization and productivity of labour allow the realisation of the principle “From each according to his ability, to each according to his needs”.

One needs to understand Marx’s positions on the politics of the International Workingmen’s Association, the First International that he co-founded, against this background. They show that Marx understood law as a means to change society. With a view to Hegel one could say that Marx de facto takes over Hegel’s programme of a limitation and control of civil society through the state. As Marx wrote in 1866, right is the “conversion of *social reason* into *social force* and, under given circumstances, there exists no other method of doing so, than through *general laws*, enforced by the power of the state. In enforcing such laws, the working class does not fortify governmental power. On the contrary, they transform that power, now used

³⁷ MEW 23, 791. Karl Marx, *Capital*, Volume 1: A Critique of Political Economy, trans. Ben Fowkes, (London and New York, 1976), 929.

³⁸ MEW 19, 20; MECW 24, 86.

against them, into their own agency. They effect by a general act what they would vainly attempt by a multitude of isolated individual efforts.”³⁹ Here Marx has the achievement of the standard working day in mind, the prohibition of night work, and limitations on child and youth labour.

Because the limitation of the working day has a direct influence on the conditions of the production of surplus value, it can further an overcoming of the capitalist system. The possibility for substantial reductions of labour time is given when technological change leads to higher productivity. Technological progress makes the creation of “real wealth”, that is, use values, “less dependent on the labour time and the quantity of labour applied than on the power of the agents set in motion during labour time”.⁴⁰ With the reduction of the socially necessary labour time for the production of use values, the possibility exists to drastically limit the individual labour time, whereby “the production based on exchange value” would collapse.⁴¹

For Marx the crucial thing is that the metabolism with nature needs to be organized in harmony with the objective possibilities of the development of labour, so that the social individuals “rationally regulate their metabolism with Nature, bringing it under their common control ... achieving this with the least expenditure of energy and under conditions most favourable to, and worthy of, their human nature.” But, Marx adds that “it nonetheless still remains a realm of necessity. Beyond it begins that development of human energy which is an end in itself, the true realm of freedom, which, however, can blossom forth only with this realm of necessity as its basis. The shortening of the working-day is its basic prerequisite.”⁴²

The realm of freedom that Marx has in view here is the realm of particularity and (abstract) personal freedom in Hegel’s sense, thus it replaces civil society’s principle of connection with the political community. Here the goal is the freedom of action for the individual’s personal self-determination. Marx’s son-in-law Paul Lafargue had specified this as the “right to be lazy”. Insofar as this freedom of action is dependent upon the common regulation and control of social metabolism, it also demands a

³⁹ “Instruktion für die Delegierten des Zentralrats 1866”, in MEW 16, 194; “Instructions for the Delegates of the Provisional General Council”, in MECW Vol. 20, 189.

⁴⁰ MEW 42, 600. MECW 28, 438.

⁴¹ MEW 42, 601. MECW 28, 438.

⁴² MEW 25, 828; MECW 37, 807.

corresponding political framework, the “association of free people”. Marx does not give us any concrete description of what this association might look like. The watchword of the “dictatorship of the proletariat” disappears in 1852, and only comes up again briefly in the context of the Paris Commune, not to come again afterwards. Marx never spoke of a “withering away” of the State; this formulation, which was decisive for Lenin, was from Engels. What becomes clear from Marx’s occasional remarks is that he had decentralization and self-management in mind,⁴³ thus the opposite of “democratic socialism”.

In his response to the question of a Dutch socialist about the political and economic measures under the rule of the working class, Marx remarked that this “question, being posed *out of the blue*, in fact poses a fallacious problem to which the only answer can be a *critique of the question* as such. We cannot solve an equation that does not comprise within its terms the elements of its solution.”⁴⁴ This remark as well links Marx to Hegel. Hegel had expressed a comparable thought in the preface to the *Philosophy of Right*, “One word more about giving instruction as to what the world ought to be. Philosophy in any case always come on the scene too late to give it ... The owl of Minerva begins its flight only with the falling of dusk.”⁴⁵

I would like to conclude with one remark. It seems to me to that there are good reasons to move Hegel and Marx closer together than has occurred in past attempts to spell out what a revolutionary dialectic might be. In doing so, we can see how Marx was following Hegel in his project of a realization of freedom. Such a new critical Hegelian Marxism could help to avoid regressing into dogmatic arguments and contribute to an unbiased discussion of the social-critical potential of Marx’s theory.

⁴³ Cf. MEW 16, 195ff.; MECW 20, 188ff.

⁴⁴ MEW 35, 160; MECW 46, 66.

⁴⁵ GW 14, 1, 16; *Outlines of the Philosophy of Right*, 16.