freedom's right

The Social Foundations of Democratic Life

AXEL HONNETH

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Translated by Joseph Ganahl

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Preface

It has taken me nearly five years to complete this book. And at the end of each day of work on it, I saw a need to include many more arguments and empirical evidence in the future. This feeling of not being finished despite all the effort I have put into this work has not yet left me, without me knowing what I could do to be rid of it. This feeling of having come up short is likely due to the ambitious goal I had set for myself when I first undertook work on the book. I sought to follow the model of Hegel's *Philosophy of Right* and develop the principles of social justice by means of an analysis of society. As I had realized a few years prior while studying Hegel's famous text, this project could only succeed if the constitutive spheres of our society are understood as institutional embodiments of particular values whose immanent claim to realization indicates the principles of justice at work in each specific social sphere. Of course, this procedure demands that we first get a clear sense of the values that are to be embodied within the various spheres of our social life.

   For this reason, the introduction to this book, which also follows the model laid down by Hegel, demonstrates that in modern liberal democratic societies these values have been fused into the single value of individual freedom in its various familiar meanings. The initial premise of my study is that each constitutive sphere in our society institutionally embodies a particular aspect of our experience of individual freedom. The modern idea of justice is thus divided into as many aspects as there are institutionalized spheres of the promise of freedom. In each of these systems of action, 'just' treatment takes on a different meaning, because the realization of freedom requires specific social preconditions

and mutual consideration. On the basis of this fundamental notion, the central and most comprehensive part of the analysis will consist in what I call a 'normative reconstruction', which will allow us to examine, by following the historical development of each of these social spheres, the degree to which the understanding of freedom institutionalized within them has already been socially attained.

It is at this point in my investigation, where I begin with the attempt at a normative reconstruction, that the difficulties begin and the inevitable feeling of incompleteness takes over. I have underestimated the fact that Hegel stood at the very beginning of the formation of sophisticated modern societies, which allowed him to determine the principles of legitimacy underlying individual social spheres without concern for future developments and by resorting to a few individual scientific disciplines. By contrast, I find myself in the middle of a two-hundred-year long process of conflictual and non-linear realization of these principles – a process that I have had to reconstruct normatively in order to be able to assess the opportunities, dangers and pathologies of the freedoms within each of these spheres. Although this more sociological approach allows more flexibility with regard to the historical material than would a strict historical account, I am still faced with the task of having to present enough findings and evidence from various fields of knowledge to convince less normatively minded readers that the direction of development I have proposed and the resulting conclusions are in fact plausible. In hindsight, much is still to be done in this regard, as we would have to take into account how all presumed paths of development have unfolded in various different nations, while also going into much greater detail when it comes to diagnosing the present.

Nevertheless, I hope that the result of my study is clear: We will only be able to get a clear sense of the future requirements of social justice if we recall, by addressing the struggles that have been fought on the normative foundation of modernity, the claims that have not yet been redeemed in the historical process filled with social demands for the realization of institutional promises of freedom.

everyone involved in the preparation and coordination of these visits and workshops. This is especially true for my colleagues, who supported me with critical objections, references and theoretical proposals. In this regard my thanks go to Titus Stahl above all, assistant at the Institute of philosophy at the Goethe University, Frankfurt, who over the course of two years put me under extremely instructive pressure with his analytical intelligence and perseverance, though I have not been able to implement all the differentiations he called for. I also profited from the support of many other individuals at various points in my work: Martin Dornes, Andreas Eckl, Lisa Herzog, Rahel Jaeggi, Christoph Menke, Fred Neuhouser and, in many conversations on literary sources, Barbara Determann and Gottfried Kößler. I have been extremely fortunate to have had such a supportive atmosphere in writing this book: Frauke Köhler did her best to decode my handwriting, keep order of the various parts of the text and put it all in the proper form. Stephan Altemeier was helpful when it came to finding important literature and also, together with Nora Sieverding, put together the index for the German edition. I am grateful to all three of them for their cooperation. I also thank Eva Gilmer for the many years of intensive and serendipitous cooperation; she is a kind of lector whom I thought only existed in the correspondences or autobiographies of older authors. She read the manuscript line for line, made many suggestions for improvements and pushed me to make the deadline. I would like to extend my gratitude to Joseph Ganahl, the translator of the English edition, who for many years, and with a great deal of care, skill and theoretical understanding, has translated my works into English. I can hardly imagine any other translator with the same friendliness and nonchalance, who nevertheless manages to put together texts in which I recognize the very same intention and tone as in my own original work. I would like to thank him again for the many years of fruitful and

uncomplicated collaboration. There are finally not enough words to express the gratitude I owe to my wife, who spent many hours discussing with me and plunging into the manuscript – it is to her that I dedicate this book.

Axel Honneth, August 2013

Introduction: A Theory of Justice as an Analysis of Society

One of the major weaknesses of contemporary political philosophy is that it has been decoupled from an analysis of society, instead becoming fixated on purely normative principles. Although theories of justice necessarily formulate normative rules according to which we can assess the moral legitimacy of social orders, today these principles are drawn up in isolation from the norms [*Sittlichkeit*] that prevail in given practices and institutions, and are then 'applied' secondarily to social reality. This opposition between what is and what should be, this philosophical degrading of moral facts, is the result of a theoretical development that started long ago, one that is closely linked to the fate of Hegel's *Philosophy of Right*. After his death, Hegel's intention to reconstruct rational institutions, i.e. institutions that guarantee freedom, on the basis of prevailing social relations came to be understood in two very different ways. On the one hand, his work was regarded as a conservative theory of restoration, and on the other hand, as a theory of revolution. This division into Right Hegelians and Left Hegelians[1] made it possible for later generations, after nearly all revolutionary ideals had died out, to shove the entirety of Hegel's political philosophy into the conservative camp. All that seemed to remain of Hegel's notion that a theory of justice must be based on social analysis was the somewhat primitive idea that given institutions must be given an aura of moral legitimacy. This nearly sealed the victory of a Kantian or Lockean theory of justice, which stipulates that the normative principles according to which we judge the moral legitimacy of social orders may not stem

from within existing institutional structures, but must stand alone outside of this institutional framework. Little has changed up to the present day.

Of course, there have been numerous objections and counter-proposals to the dominance of Kantianism over the theory of justice. In the second half of the nineteenth century, British Neo-Hegelianism – which for political and cultural reasons never caught on in Germany – sought to revive certain Hegelian motifs and make them the basis for an alternative theory of justice.[2] And more recently, the works of Michael Walzer, David Miller and Alasdair MacIntyre have proven that efforts to overcome purely normative theories of justice and revive the project of social analysis have never really slackened.[3] But these same endeavours also show just how far we have strayed from the path Hegel laid down in his *Philosophy of Right*. Current attempts to overcome the deficits of Kantian theories of justice that ignore existing institutions nearly always attempt to hermeneutically adapt normative principles to existing institutional structures or prevailing moral beliefs, without proving whether the substance of these institutions is itself rational or justified. And yet these attempts remain unconvincing because of their tendency to accommodate normative principles to official theories not supported by social reality. Hegel, by contrast, sought to unify these two approaches in his *Philosophy of Right*[4] by demonstrating the largely rational character of the institutional reality of his time, while conversely showing moral rationality to have already been realized in core modern institutions. He gave the name 'Right' to those elements of social reality that, by virtue of enabling and realizing individual freedom, possessed both substance and legitimacy.[5]

In reviving Hegel's project nearly two hundred years later, I realize of course that both social relations and styles of

philosophical argumentation have undergone significant changes. We can no longer merely rehash the intention and argumentation of his *Philosophy of Right*, and social reality, whose institutions and practices enjoy the status of moral facts, differs entirely from that of the early industrial, constitutional monarchies of the early nineteenth century. The institutional relations upon whose normative stability Hegel could rely blindly have shed their original form over the course of an accelerating, 'reflexive' modernization process and have largely been replaced by new structures and organizations that impose much less stringent demands on behaviour. Moreover, given the experience of a 'breach of civilization', i.e. the realization of the possibility of a holocaust within civilized societies, we can no longer share Hegel's optimism that modern societies follow a continuous path of rational development. Furthermore, the theoretical premises of philosophical discussion, the framework of what can ultimately be thought, have undergone a major shift since Hegel's time. We, the children of a materially enlightened era, cannot hold onto the idealistic monism in which Hegel anchored his dialectical concept of Spirit.[6] Hence we are forced to find another footing on which to base his idea that objective Spirit is realized in social institutions.

Nevertheless, we would do well to take up once again Hegel's endeavour to develop a theory of justice on the basis of the structural preconditions actually existing in society. The premises of such an endeavour cannot be so easily justified in advance, rather they can only be revealed in the course of the investigation. On the other hand, we cannot avoid outlining in advance the preconditions that make the structure and procedure of the study comprehensible at all. As long as I have not at least given a sketch of the general premises that guide my investigation, my reasons for developing a theory of justice in terms of the

idea of freedom will remain entirely opaque. The aim of constructing a theory of justice as social analysis depends entirely on the *first* premise that social reproduction hinges on a certain set of shared fundamental ideals and values. Such ethical norms not only determine 'from above', in the form of 'ultimate values' (Parsons), which social measures or developments are conceivable, but they also determine 'from below', in the form of more or less institutionalized objectives, the guidelines that each individual's life path should follow. The best example of such a conception of society remains the action-theoretical model developed by Talcott Parsons, a model that clearly stands in the tradition of Hegel, Kant, Marx and Max Weber. According to Parsons, the ethical values that constitute the ultimate reality of a given society flow into its individual sub-spheres via the cultural system, determining the actions of its members by imposing role expectations, implicit obligations and socially inculcated ideals – in short, through an entire arrangement of social practices. Members of society, whom Parsons views in a very Freudian sense as agonistically integrated subjectivities, normally act in accordance with norms that have been established as specific objectifications of higher values in various subsystems. According to Parsons, even the economic system is 'ethically' imbued, and unlike Luhmann or Habermas, Parsons views the economy as a normatively integrated sphere of action – which today, for instance, revolves around the principle of achievement. The unique characteristic of this model of society – and what makes it especially suitable as a tool for updating Hegel's intentions – is its claim that all social orders, without exception, must legitimate themselves in the light of ethical values and ideals that are worth striving for: 'No normative order [i.e. society, A. H.] is *self*-legitimating in the sense that the approved or prohibited way of life simply *is* right or wrong and admits of no questions. Nor is it ever adequately legitimated by necessities imposed at lower levels of the

hierarchy of control – e.g. by the fact that things *must* be done in a *specific* way because the stability or even survival of the system is at stake.'[7]

Even the existence of 'heterogeneous' societies marked by ethnic or religious diversity has little effect on this 'transcendental' necessity of normative integration. Although in these societies ethical values need to be formulated in a more comprehensive and general manner so to make room for the ideals held by minority cultures, material reproduction and cultural socialization must comply with a set of shared norms. In this weak sense, every society embodies objective Spirit to a certain extent, because its institutions, social practices and routines reflect shared normative beliefs about the aims of cooperative interaction. Later we will have to show that this concept of 'objective spirit' must be further enriched in order to truly justify all the aims of a theory of justice as an analysis of society.

The *second* premise of this project is that the normative point of reference employed by a theory of justice should draw on those values or ideals that, as normative claims, also constitute the conditions of reproduction of a given society. For Hegel, as well as for Marx and other authors in the Hegelian tradition, the idea of justice is not an independent and free-standing notion that can be explained on its own terms, which explains why these thinkers seldom use the term in a constructive and non-polemic fashion. In the classical sense handed down to us from antiquity, 'justice' refers to the 'binding and permanent intention to render to everyone his due' (Justinian, Cicero, Thomas von Aquinas). This essentially means that each person should be treated in a way that does justice to his or her personality, which can entail both the equal and unequal treatment of different individuals. Hegel is convinced that when it comes to defining what constitutes just treatment, we cannot draw

on any independent standard within the concept of justice itself. We cannot adopt a neutral perspective, so to say, that would allow us to analyse which personal qualities we should take into account, because our relation to that person is necessarily permeated by practices in which we are both involved. For Hegel, therefore, what it means to 'render everyone his due' can only be derived from the internal meaning of previously established practices. And because this meaning derives solely from the ethical value prevailing in a given sphere within the ideal overall structure of society, the criterion for determining what counts as just can ultimately only be judged in terms of the ideals actually institutionalized in that society. Therefore, that which is 'just' is that which promotes adequate treatment – in terms of the role assigned to each different social sphere in the context of the ethical 'division of labour' in a given society.

By merely calling for an immanent analysis, however, I have not yet sufficiently distinguished this approach from conventional, 'Kantian' theories of justice. After all, the latter also present their 'constructively' derived principles as an expression of a certain value orientation. Both Rawls' theory of justice[8] and Habermas' theory of law[9] provide good examples of an approach that has its point of departure in the historical congruence between independently derived principles of justice and the normative ideals of modern societies. Unlike these theories, we should follow Hegel in abstaining from presenting a free-standing, constructive justification of norms of justice prior to immanent analysis; such an additional justification becomes superfluous once we can prove that the prevailing values are normatively superior to historically antecedent social ideals or 'ultimate values'. Of course, such an immanent procedure ultimately entails an element of historical-teleological thinking, but this is ultimately inevitable – just as it is for theories of justice that assume a

congruence between practical reason and existing social relations.

But even this distinction does not suffice to capture what makes the particularity of the endeavour to found a theory of justice on an analysis of society, for even immanently derived principles of justice can be understood as having been only secondarily applied to social reality as a criterion for judging the moral quality of institutions and practices. In this case, nothing would have changed; we would only have presupposed a certain reality set up by a third party, to which we then apply normative standards after the fact. This would only retain the division of labour assumed by traditional conceptions of justice between the social sciences and normative theory, between empirical disciplines and philosophical analysis. And yet this is precisely what Hegel sought to avoid in his *Philosophy of Right*: an external determination of how social reality must be constituted, a reality whose justification Hegel sought to determine through the analysis of that reality itself. Hegel was just as unwilling as Marx, who in this regard was a loyal student of Hegel, to leave the business of social analysis to the empirical studies of social scientists (political science, political economy). Because of the idealistic premises upon which Hegel founds his analysis, it is only with great effort that we can grasp the methodological procedure he employs in opposition to this traditional division of labour.[10] In order to spare myself from having to recount complicated discussions, I will only use the term 'normative reconstruction' to refer to this notoriously misunderstood strategy. This procedure implements the normative aims of a theory of justice through social analysis, taking immanently justified values as a criterion for processing and sorting out the empirical material. Given institutions and practices will be analysed in terms of their normative achievements and recounted in order of their significance

for the social embodiment and realization of socially legitimated values. In the context of this procedure, 'reconstruction' thus means that out of the entirety of social routines and institutions, we will only pick out those that are indispensable for social reproduction. And because the aims of social reproduction are essentially determined by accepted values, 'normative' reconstruction means categorizing and ordering these routines and institutions according to the impact of their individual contribution to the stabilization and implementation of these values.

Although it might appear that Hegel's procedure in no way meets the demands of a theory of society, it nevertheless overlaps with the works of various classical sociologists to a surprising extent. Both Durkheim and Parsons, to name just two of the most prominent authors, analyse the material they derive from their studies of modern societies not merely in terms of the material or technical constraints of social reproduction, rather they focus on those social spheres or subsystems that make an especially significant contribution to securing and realizing the dominant institutional values of modernity.[11] Both sociologists carry out a normative reconstruction by investigating the metabolism of social reproduction in terms of how it preserves certain socially accepted values and ideals. Similar to Hegel in his *Philosophy of Right*, they determine the order of social spheres according to the respective function they fulfil when it comes to stabilizing and realizing the modern hierarchy of values. Neither Durkheim nor Parsons, however, employ structural sociological analysis in order to develop a theory of justice; instead they restrict their purview to potential threats to normative integration, whereas Hegel seeks to locate within these processes the social conditions that, taken together, constitute the principle of justice in modern society.

The *third* premise for basing a theory of justice on social analysis is therefore the methodological procedure of normative reconstruction. To avoid the danger of merely applying immanently derived principles of justice to given reality, we must not assume that we have already sufficiently analysed social reality itself; instead we must throw into relief the essential features and particularities of that society by demonstrating the contribution that each respective social sphere makes to securing and realizing the values that have already been institutionalized in society. The image of contemporary, highly modern societies that thereby emerges may deviate in many ways from the prevailing, official image found in the social sciences; after all, we will be dealing with institutions and practices of which we generally take little notice, while pushing into the background other occurrences that generally enjoy greater attention. But such shifts between the foreground and the background, between the significant and the negligible, are not uncommon in the social sciences – a discipline whose concepts are nearly all controversial.[12] In the context of the present investigation, these shifts follow from our aim of presenting only those social practices and institutions whose normative character serves to realize socially institutionalized values.

By emphasizing the structural conditions of contemporary societies, we produce a systematic sketch of what Hegel once termed 'ethical life' (*Sittlichkeit*). Soon after Hegel's death this notion was discredited along with his entire philosophy of right. It would soon be viewed in enlightened and progressive circles as a clear indication that he sought to preserve only those customary practices and moral institutions that worked to uphold the dominant order. However, contrary to the then prevailing tendency of moral philosophy, Hegel sought to draw attention to the network of institutionalized routines and obligations in which moral

attitudes not only take the shape of moral principles, but social practices as well. For Hegel, whose methodology remained largely Aristotelian when it came to practical philosophy, there was no question that intersubjectively practised customs and not cognitive beliefs are what define the homestead of morality.[13] Yet Hegel did not intend his notion of ethical life to be a mere description of already existing forms of life; the very procedure he employed – the above described procedure of 'normative reconstruction' – demonstrates that his approach was more selective, typifying and normative than would be permitted by Aristotelian positivism. For Hegel in his *Philosophy of Right*, of all the diverse ethical forms of life, only those that could be proven to contribute to the realization of universal values and ideals of modern societies could be included in the concept of 'ethical life'. Anything that contradicted these normative requirements by representing merely particular values or embodying backward ideals could not be viewed as suitable objects of normative reconstruction.

Even so, the concept of ethical life still seems to have a tendency to affirm the existing order. After all, the only social forms of life that can be viewed as 'ethical' are those that embody a universal value by virtue of the fact that the practices suitable for their realization have already taken shape in society. But if we take a closer look at Hegel's procedure, we will see that he did not merely wish to affirm and reinforce current practices and institutions, but also to correct and transform them. In the course of normative reconstruction, the criterion of 'rationality' applied to those elements of social reality that contribute to the implementation of universal values not only asserts itself in the uncovering of already existing practices, but also in the critique of existing practices or in the attempt to anticipate other paths of development that have not yet been exhausted. It is difficult to find an appropriate

characterization for this corrective, or rather, critical side of Hegel's notion of ethical life. The point is not simply to outline a certain desired state of affairs, and thus to follow a purely normative approach, but to examine contemporary reality in terms of its potential for fostering practices in which universal values can be realized in a superior, i.e. a more comprehensive and suitable fashion. By making such corrections and anticipatory proposals, Hegel in no way intends to abandon the reality of social life; social reality remains the criterion for all normative considerations, and we cannot make abstract and largely unrealistic demands on social behaviour. Wherever Hegel criticizes social reality or, just as frequently, proposes reforms in the name of justice, his normative reconstruction looks just beyond the horizon of existing ethical life in order to explore the possibilities for making as many changes as can be realistically expected given the circumstances. In this context, therefore, we should recall the methodological concept of 'objective possibility' developed by Max Weber in his attempt to describe empirically tested ways of anticipating social developments.[14]

Hence a further, *fourth* premise for developing a theory of justice on the basis of social analysis is that the procedure of normative reconstruction always offers room for criticizing social reality. The point cannot be merely to uncover and reconstruct instances of already existing ethical life, rather it must also be possible to criticize these findings in light of embodied values. And the relevant criteria for this form of critique are the very same that guide normative reconstruction itself. For instance, if an instance of ethical life is whatever represents universal values or ideals in the shape of a bundle of institutionalized practices, then we can also draw on these same values in order to criticize given practices as being unsuited to what it is they are supposed to represent. In the context of such

'reconstructive criticism', we do not merely confront given institutions and practices with external criteria; rather, the same standards according to which these institutions and practices are picked out of the chaos of social reality are used to criticize insufficient, still imperfect embodiments of universally accepted values. Thus the character of our corresponding normative judgements is gradual rather than categorical, because what we criticize is the fact that an institution we regard as 'ethical' could embody the values that serve as an overarching guideline for the reconstruction of ethical life in a better, more perfect or comprehensive way. A good example of this 'critical' intention of Hegel's concept of ethical life in his *Philosophy of Right* is his account of 'corporations' at the end of the section on 'civil society'. Hegel maintains that within the division of labour for realizing overarching values, such corporations are assigned the institutional task of providing the members of different economic strata with an ethical sense of their constitutive contribution to market-based reproduction. This implies a series of social practices whose function is to foster a sense of honour in belonging to a given estate and to proclaim the intention to serve the general welfare. In §253 of his *Philosophy of Right*, Hegel points out phenomena of ethical decay that he traces to the failure of corporations to fulfil their assigned task in a sufficiently comprehensive manner:

> When complaints are made about that luxury and love of extravagance of the professional classes which is associated with the creation of a rabble (§244), we must not overlook, in addition to the other causes [of this phenomenon] (e.g. the increasingly mechanical nature of work), its *ethical* basis as implied in what has been said above. If the individual is not a member of a legally recognized corporation … he is without the *honour of belonging to an estate*, his isolation reduces him to the

selfish aspect of his trade, and his livelihood and satisfaction lack *stability*. He will accordingly try to gain *recognition* through the external manifestations of success in his trade, and these are without limit, because it is impossible for him to live in a way appropriate to his estate if his estate does not exist.

This criticism of conspicuous consumption on the part of the bourgeoisie is obviously grounded in the claim that the guilds, as institutions of ethical life, do not integrate their members to the extent required by their function in the social division of labour. Hegel's critique thus does not draw on an external standard, rather he points out 'reconstructively' the neglected potential of already existing institutions.

By outlining these four premises, I have only given a rough sketch of the very general, methodological presuppositions of the present study. The attempt to develop a conception of justice on the basis of social analysis must, as a *first* premise, assume that the given form of social reproduction in society is determined by shared universal values and ideals. The aims of both social production and cultural integration are ultimately regulated by norms that are ethical in the sense that they embody conceptions of shared goods. The *second* premise claims, as a first approximation, that the concept of justice cannot be understood in isolation from these overarching social values; social practices and institutions are 'just' to the extent that they are capable of realizing generally accepted values. Only with the *third* premise do we have a more detailed definition of what it means to develop a theory of justice on the basis of an analysis of society: Out of the diversity of social reality, we select – or to put it in methodological terms, we normatively reconstruct – those institutions and practices that are truly capable of securing and realizing general values. Finally, the *fourth* premise should guarantee that in applying this

methodological procedure we do not merely affirm existing instances of ethical life. If we strictly follow the procedure of normative reconstruction, we will have to develop the latter to a point that clearly demonstrates the extent to which ethical institutions and practices do not represent the general values they embody in a sufficiently comprehensive or perfect fashion.

Of course, it is not enough to assemble these four premises in order to understand what is meant by 'justice' in the present investigation. This preface is a mere sketch of the theoretical framework within which it makes sense to found a theory of justice on an analysis of society. At any rate, it should have already become apparent that every step of this project depends on how we define the universal values inherent in present societies. Only after we have accomplished this task can we begin in earnest with the business of normatively reconstructing our current, post-traditional ethical life.

Notes

1 For the origin and logic of this separation, see Karl Löwith, *From Hegel to Nietzsche: The Revolution in Nineteenth-Century Thought*, trans. David E. Green (New York: Columbia University Press, 1964).

2 Thomas H. Green, *Lectures on the Principles of Political Obligation* (Cambridge: Cambridge University Press, 1986); Francis H. Bradley, *Ethical Studies* (Oxford: Clarendon Press, 1967). For a good overview, see Peter Nicholson, *The Political Philosophy of British Idealists* (Cambridge: Cambridge University Press, 1990).

3 Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983); David Miller, *Principles of Social Justice* (Cambridge, MA: Harvard University Press, 2001).

[4] G. W. F. Hegel, *Elements of the Philosophy of Right*, trans. H. B. Nisbet (Cambridge: Cambridge University Press, 1991).

[5] On this broad concept of Right, see Ludwig Siep, 'Vernunftrecht und Rechtsgeschichte: Kontext und Konzept der Grundlinien im Blick auf die Vorrede' in *Grundlinien der Philosophie des Rechts* (Berlin: Akademie, 1997), pp. 5–30.

[6] See, for instance, Dina Emundts/Rolf-Peter Horstmann, *G. W. F. Hegel: Eine Einführung* (Stuttgart: Reclam, 2002), esp. pp. 32ff.

[7] Talcott Parsons, *Societies: Evolutionary and Comparative Perspectives* (Englewood Cliffs, NJ: Prentice Hall, 1966), p. 11.

[8] See John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993). For an account of the Hegelian motifs in Rawls' work, see Jörg Schaub, *Gerechtigkeit als Versöhnung: John Rawls' politischer Liberalismus* (Frankfurt/Main: Campus, 2009).

[9] Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge, MA: MIT Press, 1996).

[10] See Herbert Schnädelbach, 'Zum Verhältnis von Logik und Gesellschaftstheorie bei Hegel' in Oskar Negt, ed., *Aktualität und Folgen der Philosophie Hegels* (Frankfurt/Main: Suhrkamp, 1970), pp. 58–80; Hans-Friedrich Fulda, *Das Recht der Philosophie in Hegels Philosophie des Rechts* (Frankfurt/Main: Klostermann, 1968).

[11] Émile Durkheim, *The Division of Labour in Society* (New York: The Free Press, 1964); Talcott Parsons, *The System of Modern Societies* (Englewood Cliffs, NJ: Prentice Hall, 1971).

[12] Bernard W. Gallie, 'Essentially Contested Concepts', *Proceedings of the Aristotelian Society*, 56 (1955): 167–98.

[13] Allen W. Wood, *Hegel's Ethical Thought* (Cambridge: Cambridge University Press, 1990), part IV.

[14] Max Weber, 'Objective Possibility and Adequate Causation in Historical Explanation', in *The Methodology of*

the Social Sciences (New York: The Free Press, 1949), pp. 164–88.

Part I

Historical Background: The Right to Freedom

Of all the ethical values prevailing and competing for dominance in modern society, only one has been capable of leaving a truly lasting impression on our institutional order: freedom, i.e. the autonomy of the individual. Of course, other conceptions of the good, from the deism of the natural order to romantic expressionism,[1] have lent new accents to our experience of the self and its relation to others for over two centuries. But in terms of their social impact, once these values go beyond the narrow circle of an aesthetic or philosophical avant-garde and inspire imaginations within the lifeworld, they are quickly subsumed under the notion of autonomy, to which they ultimately only manage to add new layers. Today, at the beginning of the twenty-first century, it is nearly impossible to articulate one of these other values of modernity without immediately grasping them as facets of the constitutive idea of individual autonomy. Whether it is a matter of invoking a natural order, idealizing an inner voice, upholding the value of community or authenticity, these are all but mere additional elements of what we mean by individual self-determination. As if by magical attraction, all modern ethical ideals have been placed under the spell of freedom; sometimes they infuse this idea with greater depth or add new accents, but they never manage to posit an independent, stand-alone alternative.[2]

The enormous gravitational force exerted by the notion of autonomy derives from the fact that it manages to form a systematic link between the individual subject and the social order. Whereas all other modern values refer either to the horizon of the individual or the normative framework of the society as a whole, the idea of individual freedom establishes a connection between the two. Its conceptions of what the individual regards as the good also contain indications of what constitutes a legitimate social order: The idea that the value of human subjects lies in their capacity for self-determination, an idea which has only gradually attained such a dominant position, has changed our perspective on the rules of social interaction as well. The normative legitimacy of the social order increasingly depends on whether it does enough to ensure individual self-determination, or at least its basic preconditions. As a result, notions of social justice and considerations on how to ensure that the way society is organized does justice to the interests and needs of its members have become inseparable from the principle of individual autonomy. Although other ethical aspects might also play an important role in the modern discourse on justice, they are overwhelmed by the value accorded to the freedom of the individual. Conceptions of justice and concepts of freedom have become so intertwined that it has become nearly impossible for us to recognize the specific place that various theories have accorded to the central value of individual freedom. Only after painstaking reconstruction can we see that even these theories of justice place individual autonomy at the centre of all other ethical relations.[3] For instance, it took years to see that even the 'postmodern' ethic, supposedly critical of the subject, ultimately represents a more deep-seated variety of the modern idea of freedom. These theories sought to tear down what were previously regarded as natural limits to individual self-

determination – the biological identity of the sexes or certain conceptions of the human body – by demonstrating their origins in cultural determinations.[4] Hence no social ethic and no social critique seems capable of transcending the horizon opened up two centuries ago by linking the conception of justice to the idea of autonomy.

What is true for philosophy is no less true for contemporary social movements. Ever since the French Revolution, hardly any group that has struggled for social recognition has failed to paint the slogan of individual freedom on its banners. National revolutionary movements and the champions of women's liberation, the labour movement and the civil rights movement – all have fought against legal and social forms of disrespect they saw as irreconcilable with their claims to self-respect and individual autonomy. The adherents of these social movements were convinced, right down to their moral sensorium, that justice demands equal opportunity for freedom; and even where achieving this aim has meant restricting individual freedom, the postulate of freedom still serves to legitimize these movements' objectives. In modernity, the demand for justice can only be shown to be legitimate by making some kind of reference to the autonomy of the individual; it is neither the will of the community nor the natural order, but individual freedom that forms the normative foundation of all conceptions of justice.

This close bond between justice and individual freedom, however, is more than a mere historical fact. It is true that the fusion of these two concepts represents the outcome of a centuries-long learning process, in which the classical idea of natural law first had to be freed from its theological framework in order to declare the individual subject an equally entitled author of social laws and norms. The difficult and agonistic path that would have to be travelled before individual self-determination could become the