

# A Marxist Educated Kant: Philosophy of History in Kant and the Frankfurt School

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## Abstract

In a lecture that Habermas gave on his 90th birthday he ironically, but with serious intent, called a good Kant a sufficiently Marxist educated Kant. This dialectical Kant is the only one of the many Kants who maintains the idea of an unconditioned moral autonomy but completely within evolution, history and in the middle of societal class and other struggles. The article tries to show what Kant could have learned from his later critics to enable him to become a member of the Frankfurt School's neo-Marxist theory of society.

**Keywords:** revolution, evolution, learning, absolute, truth, transcend, progress, ideology, existing contradiction, counter-memory

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Natural laws allow spontaneous variance and mutation; the moral law demands deviations from evil rules of conduct that are hegemonial. (Gerd Wartenberg)<sup>1</sup>

Max, the unconditioned! There is nothing else. (Theodor W. Adorno)<sup>2</sup>

In the following article, I presuppose that the development from Kant to the Frankfurt School is a specific part of a widely ramified, theoretical and practical learning process that happens at the centre of class and other social, political and cultural struggles. In contrast with Rawls' liberal pluralism, critical theory relies on the assumption that all theories and comprehensive doctrines are obliged to the same absolute ideas of truth, justice, etc., whether they know it or not. To illustrate the learning process, I take up a short remark from Habermas and try to make use of it systematically. The idea is the following: if Kant hypothetically had a

chance to read Hegel, Marx, Adorno, etc., who have learned and still learn something from Kant factually, Kant could have learned something counterfactually from all these philosophers.

The point of this learning process is not that Kant must give up his wrong theory, but that he can try to improve his theory, to stabilize some of its paradigmatic basic ideas, especially the idea of autonomy, from which critical theory can still learn something in return. This way Kant could become a kind of critical Marxist without losing his main and persisting characteristics, and stay with them as long as the Kuhnian evolution of science does not lead to a cumulation of anomalies, scientific crisis and a revolutionary invention of a new theory (paradigm).<sup>3</sup>

Doing critical theory is learning from the developmental or evolutionary history of modern society from within evolutionary history (section 1). Critical theory presumes that everything is evolution, even revolution, but that there is a moment of the Absolute in history, and that revolutions can activate it. The Absolute means unconditioned or universal truth in a broad sense of ‘truth’ – of assertions, moral imperatives, legal norms, the good or, in a more religious context, God or divine providence. Adorno, for example, first claims that there must be a trace (or moment) of truth in the ontological proof of God. However, Adorno also presupposes that this trace must be entirely historical because there is no transcendence (hence no God) beyond what is transcended. Therefore, Adorno must defend the assumption that there is an Absolute, but not beyond history (section 2).

In a way, the cognitive and social learning process of critical theory begins with Hegel, who also supposes an Absolute in history. However, he suggests that it is much more than a trace: the whole, the entire modern Ethical Life (*Sittlichkeit*), is the truth. For Adorno, the opposite is true. Ethical Life is not truth but trash. Therefore, there is no right life in the wrong one. However, there is a way out of the negative totality of the wrong life, and that is through a critique of ideology.

The progressive historicization of Kant’s idea of unconditioned autonomy through the Hegelian notion of objective spirit (Ethical Life) comes at the price of an objectification that provokes a turn back to Kant from within the objective spirit of history. The turn completes the critique of reason with ideology-critique. With the invention of ideology-critique, critical theory becomes a sociological theory of society that can refer normatively not only to moral autonomy, but also to real

‘progress toward the better’ (CF, 7: 92).<sup>4</sup> Such progress is embodied (as a kind of Absolute) in the constituent and legislative power of the people (section 3) and in the culturally deep-seated counter-memory of once successful revolutionary progress that can be called for even after the worst historical regression (section 4).

### 1. Doing Critical Theory

Lea Ypi, Howard Williams and Jürgen Habermas have recently compared Kant, Hegel and Marx. They concluded with similar suggestions to synthesize these ideas in one holistic theoretical body (Ypi 2014, 2017; Williams 2014; Habermas 2019; Normative Orders 2019). All of them tried to *improve* Kant’s own pathbreaking insight into human autonomy: that we are free if, and only if, we bind ourselves voluntarily (*aus freien Stücken*) (Marx 1985: 96) to universal norms. Binding ourselves to these norms does guarantee that everybody is free because the individual subject is really free if, and only if, all subjects are free (Habermas 2019: 788, 804–5). As Howard Williams rightly states, Marx’s revolutionary vision of history follows Kant’s idea of autonomy, and never ‘wholly leaves the realms of Kantian morality’ (Williams 2014: 638), and so do the members of the Frankfurt School. Despite his fierce criticism of the coercive character of autonomy, Adorno stays with Kant’s notion of autonomy as the ‘rational unity of the will’ and celebrates the ‘relegation of morality to the sober unity of reason’ as Kant’s ‘bourgeois sublime’ (Adorno 1966: 235).

Ypi, Williams and Habermas read Kant *after* Kant read Hegel and Marx. In a lecture last year in Frankfurt, Habermas performed this counterfactual, progressive hermeneutical reading of Kant, Hegel and Marx that tries to improve the lasting insights of Kant by reading him as a ‘Marxist educated’ author who ‘was right in comparison with Hegel after he had learned sufficiently from Hegel’ (Normative Orders 2019).

Marcuse, in 1941, was the first to read Hegel in this way, after Hegel had learned from Marx and Adorno that the critical category of negation also negates his own thesis that the existing reality is rational (Marcuse 1962). Even earlier, Adorno heard Beethoven after Beethoven has heard sufficiently enough from Schönberg. Therefore, Adorno heard Beethoven as he never was heard before (Adorno 2004). The result of such a synthesizing reading or hearing that improves an author or composer by new and enlightening insights, which are beyond his or her time-horizon, is doing the *critical theory of society*.

The idea is very simple. Once you have had some experience with cubist paintings, and then see classical portraits, you can suddenly recognize that in the best of them there are already some cubist elements and other deviations from the classical ideal of form which are *now* at the centre of modern painting. One can only recognize this retrospectively because it is just impossible to provide such a ‘modern’ reading of the classical art without the knowledge of modern art. Moreover, modern art now can be justified by art critics (such as Adorno) as a criterion of classical art that differentiates between what is still aesthetically true (great, impressive, irritating, shocking, etc.), and what has become false in the light of modern art because it was always false. The illumination provided by modern art makes the latent truth (or falsehood) of classical art manifest. The same applies to philosophy and science. Once you have read Wittgenstein, you can reread Plato to discover that in a way he was already a linguistic philosopher, and that confirms his truth claims. As we will see in the next section, this kind of reflection on historical truth is also behind the idea of Marx’s dialectical methodology.

## 2. Abstract Labour, Abstract Autonomy and the Societal Evolution of the Absolute

After Kant has learned from Hegel that the conditions of the possibility of knowledge are *socio-historical conditions*, he could join Georg Lukács’ project of a critical theory of society, outlined in his seminal studies on *History and Class Consciousness* in 1923. The essays from the age of the Russian Revolution became a kind of paradigm for the Frankfurt School because of the still Kantian manner in which Lukács combines Hegel and Weber with Marx (Lukács 1967).

The *historical conditions* of practical knowledge are *universal*. Marx observed in 1843 that the proletariat emerged as ‘a class of civil society which is not a class of civil society (*bürgerliche Gesellschaft*)’ (Marx 1976c: 390). The proletariat is a class that is included to be excluded. This *contingent historical position* within modern capitalism is *negatively universal*. It ‘has a universal character by its universal suffering and claims no *particular right* because no *particular wrong*, but *wrong generally*, is perpetuated against it’; therefore, the proletariat ‘can invoke no *historical*, but only *human*, title’ (Marx 1976c: 390). The invocation of the ‘human emancipation’ of the human genus (*Gattungswesen*) is the invocation of a *real but universal* product of history (Marx 1976b: 370). According to Lukács the ‘*action of the proletariat*’ is ‘free’ because it binds itself to the realization of the ‘realm of freedom’ where the

‘objectified, reified relations between all men begins’ to lose their freedom restricting ‘power’ over ‘mankind’ (Lukács 1967: 87).

As we can learn from Lukács and Kant, after Kant has read the famous methodological chapter of Marx’s *Grundrisse* from 1858, autonomy is a *real abstraction* in the same way as the category (*Begriff*) of *abstract labour*. At the same time both categories, the ‘abstract universality of wealth-creating activity’ and the *abstract universality of autonomous self-legislation*, are ‘real’ and that means they are a ‘product of history’ (Marx 1973: 44–5).

What Kant discovered in his post-mortem reading of Marx was, *first*, that Marx’s category of labour and his own category of autonomous action are not just, as Marx objects to Adam Smith, ‘an immeasurably ancient relation valid in all forms of society’ but ‘achieves practical truth as an abstraction only as a category of the most modern society’ (Marx 1973: 45). Moreover, this is what Kant (correcting his transcendental justification and its god’s eyes view from beyond social reality) learned from Marx. But, *secondly*, the very moment the ‘lightning of thought’ (Marx 1976c: 391) struck Kant’s head, Kant recognized that in the same way as he underestimated the revolutionary meaning of abstract labour, Marx underestimated the revolutionary meaning of the real abstraction of autonomy.

Marx and Kant, after their first meeting in a heavenly bar in Paris, concluded that the categories of abstract labour *and* abstract autonomy both are indispensable from an emancipatory point of view, and that both have a *time-index*. Abstract *labour* ‘became true in practice’ in the winter of 1857–8 when Marx wrote the *Grundrisse* for *Capital* in London and observed the rapid development of modern capitalism in the United States. Abstract *autonomy* became true in practice between 1789, when the *Declaration of the Rights of Man and of the Citizen* was drafted in Paris, and 1793, when for the first time in history the two bodies of the king were beheaded, and Kant wrote some papers on moral progress and the historical sign (*Geschichtszeichen*) far away in Königsberg.

The age of 1789–93 was the time when the fatal nature of the global crisis of the 3,000-year-old, monarchically governed, hierarchical society became evident. The winter of 1857–8 was the time when the universal development *and* the global crisis of modern capitalism became evident. Once a society is drawn into crisis, its actors can recognize it as a totality. Only then does critical recognition become possible because the social

actors themselves, including the participating scientific observers, have to face the real abstractions of society *as challenging problems of their entire form of life* (Habermas 1981: 590, 592). As Slavoj Žižek rightly pointed out, crisis reveals a *symptomatic truth* (Žižek 2001: 177–8), and Kant from his tomb in Königsberg enthusiastically agreed because it was this that he had experienced after 1789 during the French Revolution, and described as a historical sign (Ypi 2017).

Kant's papers on the idea of a 'universal history from a cosmopolitan point of view' are at the centre of his entire philosophy, because here, and especially after the outbreak of the 1789 revolution, the relation between transcendental idealism and history became ever more problematic (IUH). In the paper on perpetual peace from 1795, Kant mentions a claim for justice that is a real but universal product of history, or a real abstraction. The *universal claim to unconditioned justice* consists in that 'a violation of right on *one* place of the earth is felt in all', but this universalization is due to the social-evolutionary *time-index*, namely, that the communication between the nations of the earth 'has *now* gone so far' (TPP, 8: 360, my emphasis).

In this sense truth has a 'temporal core' (*Zeitkern*), and that means that there is universal or absolute truth but only in history. Another word Adorno uses for 'absolute' is 'transcendence'. However, since 'truth', 'universal', 'the unconditioned' and its combinations, such as 'universal truth' and the notion of 'transcendence', have a temporal core, that means (as Adorno argues) that 'there is no transcendence beyond that what is transcended' (Adorno 2002: 359). The title of Habermas' never published PhD thesis on Schelling's *Weltalterlehre* (doctrine of world-ages) expresses exactly the same idea: 'The Absolute in History' (Habermas 1954).<sup>5</sup>

For Kant, before he has read Schelling and Hegel, the title of Habermas' PhD thesis would make not much sense. The same is true with the designation 'critical theory *of society*'. Kant would agree with the idea of a critical theory, but would not really understand what the reference to a *society* means that is different from the old European notion of the political society (state).

Kant assumes that theory matters and that the common saying (*Gemeinspruch*), 'that might be correct in theory but it is of no use in practice', is deeply wrong (TP). However, the intelligible origin of theory prevents him from recognizing thoughts, observations, explanations,

propositions, intentions, ideas and theories as a product and part of the social reality. During his lifetime, Kant had not yet had a chance to read Marx's *Grundrisse*, Max Horkheimer's fierce criticism of dualism in the papers from the early 1930s or Gilbert Ryle's deconstruction of the Mind (as something in the head) in his *The Concept of Mind* from 1949 (Ryle 2002). Only after studying Marx, Horkheimer and Ryle, could Kant accept that ideas, intentions, propositions and other universals do not exist in the head, and that Marx was right that 'language does not transform ideas, so that the peculiarity of ideas is dissolved and their social character runs alongside them as a separate entity, like prices alongside commodities. Ideas do not exist separately from language' (Marx 1973: 100–1).

Moreover, after he had read Marx, Horkheimer and Ryle, it was easy for Kant to understand Schelling's thesis that ideas cannot be *thought* 'without any physical body' (Schelling 1946: 31). In addition, after reading Schelling, he would be prepared to take seriously the ironic question presented by a fellow student of mine, which was addressed to a German Hegelian professor in the early 1970s: 'Professor, how quickly does the notion move?' Now Kant understood Habermas' thesis that 'propositions must be asserted, and assertions have a place in space and time' (Habermas 2009: 331, 333).

Looking back to the unique philosophical, political and scientific learning process of dialectical idealism in transition to historical materialism and linguistic pragmatism that he triggered with his three *Critiques* of pure, practical and teleological rationality, Kant has learned to understand the unintended contradiction of his own papers as *dialectical contradictions*. A first example of such a contradiction is seen in the discussion of the progress of the human race in *Conflict of the Faculties*, first written in 1793, twice prohibited by Prussian censorship in 1794 and 1797, and finally published in 1798. Here Kant paradoxically asserts that even engaged, 'enthusiastically looking spectators' who use the 'freedom of the pen' (*Freiheit der Feder*) to 'reveal' their 'mode of thinking' (*Denkungsart*) 'publicly' as 'wishful participation' in the French Revolution – which because of rigid censorship is 'fraught with danger' and could 'become very disadvantageous for them' – are 'uninvolved' and 'not engaged in this game themselves' (CF, 7: 85). When he wrote this, Kant had not yet learned from sociology (and in another way from modern microphysics) that *all* observation is *participatory observation*. Therefore, and because he could not look back in 1793 to the learning-process he had triggered, Kant repressed the problem by

transcendentalizing the point of view of the engaged observer into a view from nowhere (Nagel 1986).

Another example that shows Kant at the starting point of the transition of his own transcendental idealism into a dialectical theory of evolution is discovered in a short version of his first *Critique* from 1790. Here, he tries to explain to his critics that the reason why ‘ideas and concepts in our head (*gedachte Vorstellungen*) can be related to imagined objects not yet given in experience’ is because they have ‘a ground (*Grund*) that at least is inborn’ (OAD, 8: 221, my translation). But an inborn ground ‘has an origin in space and time’ (Habermas 2009: 333). This answer clearly proves that Kant was not indoctrinated by the Neo-Kantian distinction between genesis and validity (*Genesis und Geltung*), which has, for more than a century, colonized the head of every first-year undergraduate student of philosophy in Germany. However, Kant could hide the contradiction from himself because on the one hand he was already an *evolutionist who changed his theory of humankind, races and history due to new empirical finding in evolutionary biology and anthropology* (Kleingeld 2007; Vorländer 1921: 100). On the other hand, he still thought that the evolution of humans ends with their birth, and that humankind never dies. This way Kant could, before he had read all the next generations, make contradictory assumptions compatible within the frame of transcendental idealism and immune against dialectical criticism, as the Neo-Kantians in particular have repeatedly attempted to show, and with a lot of *esprit de serieux* (Sartre 1993: 1068ff.).

### 3. How is a Critique of Ethical Life (*Sittlichkeit*) Possible?

According to Paul Guyer we can distinguish a negative, deconstructing critique from a positive, constructive criticism. The distinction relates Kant’s first, generally negative *Critique of Pure Reason* to his second, generally positive *Critique of Practical Reason* by reiterating the two kinds of criticism in both *Critiques* in respectively reverse order (Guyer 2019). In the first *Critique* of theoretical rationality, Kant’s negative critique deconstructs theoretical metaphysics (pure reason) to make way for the (positively critical) constructive activity of the human subject (Guyer 2019: 8; Guyer and Wood 1998: 6).<sup>6</sup> The other way round, the second *Critique* is based on the first *Critique*, and completes its negative business with the deconstruction of any empirical justification of practical rationality, to make way for the positively critical, practical metaphysics that is a fact of reason (*Faktum der Vernunft*) that can be no longer misused dogmatically to prescribe anything to the facts of experience (as the Church did with Galileo) (Guyer 2019: 8–9, 14–15). Therefore, the constructive



power of human autonomy is the founding ground of both, theoretical *and* practical rationality.<sup>7</sup>

My thesis is that the Marxist inspired critique of the Ethical Life is based (a) on a negative critique of pure practical reason (that was Hegel's job). The latter enables (b) a negative critique of the objective spirit (*Sittlichkeit*) of the existing society *as an ideology* (Marx and Engels 1969). In Hegel's *Philosophy of Right*, the negative power of reflection is blocked by his all-embracing correspondence theory of truth. Only (c) the 'practical-critical' (Marx 1969b: 5) deconstruction of ideology opens an evolutionary path for critically constructing political, social, economic and cultural progress that finally might lead to 'revolutionary', or at least 'radical' reformist change (Brunkhorst 2009).

### 3.1 Negative Critique of Practical Reason

Kant's post-metaphysical metaphysics of pure practical reason is *post-metaphysical* because it presupposes the deconstruction of pure *theoretical* reason. As Heinrich Heine correctly observed, in his first *Critique*, Kant 'has stormed heaven and put the whole garrison to the edge of the sword' (Heine 1959: 119). However, Kant uses his deconstruction of theoretical metaphysics in his second *Critique* together with the deconstruction of moral empiricism, and rightly so; yet, only to make way for the critical construction of pure, hence metaphysical, practical reason from the outset.

Kant still assumed that it was impossible to justify unconditionally valid categorical imperatives without metaphysics. Therefore – as Heine ironically adds – after storming heaven, Kant draws a distinction between theoretical and practical reason, and with this 'magician's wand resurrects deism, which theoretical reason had killed'. Even if this was not just on behalf of his servant 'old Lampe' who 'must have a God . . . to be happy', and on behalf of the existing Christian monarchy, as Heine insinuates with brilliant Left-Hegelian wit, it was *ideology* (Heine 1959: 119). And it was ideology because of the doctrine of the *fact of reason*.

This doctrine contradicts Kant's own premise that the turn from theoretical to practical reason should get rid of theoretical, hence *dogmatic*, metaphysics to make way for a practical, hence *critical*, metaphysics. However, the doctrine of a fact of reason is immune against *any* kind of experience, and therefore it must *revivify* the metaphysical correspondence theory of truth (I will return to this point in sub-section 3.2), which

Kant's own post-metaphysical foundation of theoretical reason on the constructive spontaneity of the human subject already had destroyed.

Therefore, the doctrine of the fact of reason is ideology. As Guido Löhrer rightly objects, the upgrading of the intelligible Ego into a truly and rational human being consists 'in a self-discrimination of the human being by parting it into an upgraded intelligible and a degraded sensual part' (Löhrer 2004: 16). The empirical indestructibility of freedom is ideological *despite* its still existing truth potential.

Ideology is not a lie; it is true and false at once. Kant's doctrine of the fact of reason, as ideology, has a truth potential despite its false actualization as a correspondence theory of transcendental truth.<sup>8</sup>

The *fact of reason* is ideology because as far as the individual human being can consistently act in accordance with the moral law, this should be done and is right (good) as far as it is generalizable. However, this 'truth' has the 'false' side that acting in accordance with the moral law individually – such as Job in the biblical story – does not change anything in the world. Job's unconditioned morality is not conditioned by *any* social and productive relation. It is compatible with social relations of oppression, slavery, murder, fraud and exploitation. As Job himself painfully realizes, his morality is compatible with a social world where 'injustice is drunk as water' (Job 15:16).<sup>9</sup> It does not matter for the social reality of a stratified class society whether, finally, he is saved by God or not. The good is indestructible because it is a fact of reason, and not a fact of this world, as Adorno, Horkheimer, Brecht, Marcuse, etc., have repeatedly argued. Individuals can act morally in a world of imperialism and colonialism, even in the world of Auschwitz (Pauder-Studer and Velleman 2017).

However, around 1793 Kant was confronted with the problem that the French Revolution offered something better than 'only' (*allein*) hope for the progression of the human race (CF, 7: 85) that is founded in the fact of reason alone: namely, (1) that *ought* implies *can*, and (2) human anthropology enables us to act in accordance with the moral law. The 'flash' (Hegel 1970b: 19) of the revolution offered more than mere hope. It offered *real* moral progression and *real* improvement of the human race. In the light of the revolution, the hope guaranteed by practical reason was not nothing, but it looks pretty desperate – as in the biblical story of Job.

This is because the revolution has *changed the basis of moral hope* that is now no longer objectified in the individual's ability to act in accordance with universal norms of justice *alone*, but in an exemplary historical development that 'is already' (CF, 7: 85) a *real improvement* because it has turned the *fact of reason*, that *ought* implies *can*, into the *historical facticity*, that *ought* has become *revolutionary praxis* (a doing) through the collective action of an entire people of oppressed subjects (Ypi 2014, 2017). Moreover, the revolution has transformed the mere *logical possibility* of moral and legal progression (verified only by the fact of reason) into a *real possibility* (Bloch 1976: 5; 1968: 105).

Not the story of Job's morality but his *diagnosis* that individual morality does not change a society where 'injustice is drunk like water', quoted by Kant in *Toward Perpetual Peace* (TPP, 8: 359, my translation), and the other biblical story of the Exodus of an entire people of slaves that was invoked by all great revolutions (Brunkhorst 2014) have become the new paradigm of historically and even emotionally justified hope. In *Toward Perpetual Peace* Kant argues that an unjust society that enables 'the cruelest and most calculated slavery' on the 'Sugar Islands' (TPP, 8: 359) is a world (*mundus*) of 'rogues' that should 'perish' (TPP, 8: 378–9) like the 'monetary rewarded' armies of the 'old martial nobility' (CF, 7: 86) of Europe that invaded revolutionary France in 1792. This, according to Kant, is the meaning of the 'saying' *Fiat justitia, pereat mundus*, which in his negativistic, but not at all desperate, translation, is rendered: 'let justice reign even if all the rogues in the world perish because of it' (TPP, 8: 379). Only then is it possible (as in the story of Exodus) to found a new society of *social relations of justice*, as in France after 1789, which Kant celebrates as the one and only real moral improvement in human history: the *Geschichtszeichen* ('historical sign') that 'will not be forgotten' (CF, 7: 84, 88).

Even if the first try in France – which is, by the way, not so different from the story of Exodus – 'fails' and is 'filled with misery and atrocities', the exemplary realization of constitutional (that is moral *and* legal) progress in a country like France is strongly anchored in cultural memory of modern world society ('too widely propagated in all areas of the world') (CF, 7: 88). This memory operates as a kind of *collective counter-memory* (Assmann 1992: 103). In ancient Israel (as described by the prophets) the emancipated slaves were re-enslaved by their own kings and foreign empires ever again. The counter-memory enabled them, and every people in a similar situation, to 'be roused to a repetition of new efforts of this kind' (*Wiederholung neuer Versuche dieser Art*) (CF, 7: 88).

Never was Kant as close to becoming the founder of critical theory as he was during the revolutionary last decade of his life. He was suddenly confronted with the internal relation of reason and revolution that, as Marcuse has shown, is constitutive for the idea of a critical theory of society. In the *Conflict of the Faculties*, Kant argues that real moral and legal improvement (that to a certain extent is irreversible because of the cultural memory) is indicated (proved) not by the *fact of reason* but by the *fact of an affect* that is the ‘enthusiasm’ of partisan ‘spectators’ who reach for their pen and ink, *and* participating revolutionaries (*Revolutionierende*) who reach for their guns, and both do it to support the just cause of the revolution (*CF*, 7: 86).<sup>10</sup> Here Kant comes very close to Adorno’s theory of moral acting because the enthusiasm of spectators and revolutionaries is no longer situated in the indestructible realm of freedom but in ‘tormentable bodies’, and the emotional affects of enthusiasm which belong to the same kind of emotional affects as Adorno’s moral ‘impulses’ which are *rational* but not ‘rationalizing’ (Adorno 1966: 281, 279) because, like Kant’s revolutionary enthusiasm, they are not ‘grafted onto self-interest’ (*CF*, 7: 87). They are located in tormentable bodies who no longer want to live in a world where *injustice is drunk as water*.

This is the moment where Kant had to change his answer to the question ‘what is the human being?’ because he had already changed his answer to the question ‘what may I hope for?’ that is a crucial part of that question.<sup>11</sup> But that implies changing his concept of reason. Kant did not draw this consequence but has triggered the turn from transcendental to historical, even revolutionary rationality (Marcuse 1962). Moreover, he finished his *Metaphysics of Morals* that in its public law part was already a theory of the objective spirit of revolutionary constitutional law (Maus 1992). Whether Kant knew this or not does not matter, he nonetheless did it. Hegel, in turn, read it, knew it and developed a more conservative alternative based not on the revolutionary constitutions of 1791 and 1793 but on the bourgeois result of the revolution, the Napoleonic Code Civil of 1804.

### 3.2 *Ethical Life (Sittlichkeit) as Ideology*

Only after studying Hegel, Marx, Freud and Adorno would Kant have been *able* to take Heine’s ironic criticism seriously *as* criticism, even if he still might not agree. The social and historical, *but not just contingent*, conditions of his own time limited the recognition that ideology is a historical *and* necessary condition of recognition, knowledge *and* critique of ideology. As Habermas put it at the end of the 1960s, ‘a radical

critique of knowledge is possible only as a social theory' (Habermas 1971a: 58). This was Hegel's great point, even if he stopped short of ideology-critique.

Hegel successfully deconstructed the idea of pure practical reason and historicized it. However, to do so, Hegel sacrificed the universality of the moral law. Therefore, and in distinction from Kant and Marx, Hegel could offer only an *immanent critique* of the existing society's objective spirit that stopped short of a radical critique of ideology that *transcends the existing objective spirit constructively*.

Hegel's views, before he has read Marx, agree with those of the critical theory of society, that theory itself is internal to the society which has produced it. Moreover, he was the first to articulate this thesis: 'Philosophy ... is its time apprehended in thoughts' (Hegel 2001a: 19). This idea, at a stroke, destroyed Kant's construction of *pure* practical reason. Moreover, Hegel sublated the entire classical philosophy of the political animal with a philosophically new terminology of 'objective spirit' and *bürgerliche Gesellschaft* (civil/bourgeois society) that relied on the research programme of the eighteenth century's *political economy* (Marcuse 1962; Riedel 1968). Hegel opened the path for a critical theory of society that understands the 'essence of man' (Kant's *Menschen überhaupt*) already as the Marxian 'ensemble of the social relations' (Marx 1976c: 385; 1969b: 6).

Nevertheless, Hegel would have problems with Marx's Kantian-like *combination of critique and theory* because it yields too much to subjective spirit (*subjektiver Geist*). Hegel admits *ex post* to Kant, and in advance of Marx and Kierkegaard, that subjective spirit is an important and indispensable part of the realm of freedom. There is no rational and differentiated reality (*vernünftige Wirklichkeit*) of *family, society and the state* without the freedom of the individual subject. The reality of family, society and state is the modern Ethical Life (*Sittlichkeit*) or objective spirit (*objektiver Geist*), sometimes also called *state* because Hegel uses 'state' in a *broad* sense for the entire Ethical Life (hereafter *State*) and in a *narrow* sense for the institutions of public and constitutional law (hereafter *state*).<sup>12</sup> However, Hegel's super-positivist *correspondence theory* of truth – 'What is rational is real; And what is real is rational' (*Was vernünftig ist, ist wirklich; und was wirklich ist, ist vernünftig*) – implies that the subjective spirit of individual human beings and social groups is true and free *only as far as it is in accordance with objective spirit* (the existing Ethical Life) (Hegel 2002: 18).<sup>13</sup>

The infamous sentence from the introduction to his philosophy of law is only a totalization of Kant's fact of reason that is based on the same metaphysical correspondence of reasonable thinking and rational reality. In his lectures, Hegel sometimes explained that the rational is not yet real but is on the way to *becoming* real. However, this does not change his dependence on the correspondence theory, even if it opens the door for a kind of *immanent critique*. But this critique (which has been discussed in recent years by many Neo-Hegelians) is far too weak and particularistic to *transcend* the substance of the existing Ethical Life from within this life, hence it is (in Hegelian terminology) objectively right-Hegelian. Once the subjective spirit of critique deviates from the objective spirit of Ethical Life substantially, it is false, hence no longer rational and free (*vernünftige Freiheit*) but arbitrary and despotic, and must be corrected by the rational dictatorship of the objective spirit. Kant and Marx agree with the distinction but not with the consequence.

At the core of the objective spirit of modern society is the legal system. For Hegel it is our *second nature*.<sup>14</sup> Within the second nature of law, the subjective spirit is represented as *habit* (*Gewohnheit*) that enables the functioning, stabilization and improvement of the State through education, integrity, honesty and loyalty of public officials and citizens' public deliberations. Hegel's *Sittlichkeit* is coextensive with the *objective spirit* (in distinction from the subjective spirit of individual consciousness and the absolute spirit of art, religion and science), and it includes the family and private law, the civil/bourgeois society and civil and criminal law, and the state that is public law, constitutional law, international law, world law.<sup>15</sup> Hegel also calls *Sittlichkeit* 'State' in the broad sense that covers all branches of law. Habit is the objectivation of spirit in individual behaviour, and, in legal terms, common law.

The problem with this theory of Ethical Life is that ethical life never can become an ideology (Normative Orders 2019). But this, Marx argued, is exactly the ideological function of the existing concept of Ethical Life. Behind the façade of freedom that is respectively and ineluctably unsurmountable at the conceptual end of history (*Ende der Geschichte*), Ethical Life conceals the *reality of patriarchal and authoritarian families, bourgeois societies and capitalist states*. The Frankfurt School revitalized this critique throughout the twentieth century, from the early studies on *Authority and the Family*, to the critique of the culture industry and Habermas' *Legitimation Crisis of Late Capitalism* to the seminal papers of Claus Offe on the contradictions of the capitalist state. Adorno's short aphorism from 1951 encapsulates this idea: *Es gibt kein richtiges Leben*

*im falschen* (There is no right life in the wrong one) (Adorno 1969: 42). This (because it is ideology-critique) does not exclude that there are right (authentic) moral as well as expressive actions possible, directed against the wrong world from within this world (see Freyenhagen in this volume).

Due to the correspondence theory of truth, Hegel must block ideology-critique because the subjective spirit never can transcend the objectivity of the *worst* states' Notion: 'The worst state, one whose reality least corresponds to the Notion, in so far as it still exists, is still Idea; the individuals still obey a dominant Notion (*machthabendem Begriff*)' (Hegel 1975: 410; 2001b: 138, §1637). The reference to the '*dominant* Notion' unintentionally reveals the objective truth that the rationality of the Notion (*Vernunft des Begriffs*) is the *ideological* concealment and glorification of the wrong life (or the bad State). But the correspondence theory of truth prevents Hegel from recognizing the ideological structure of the dominant Notion of State, objective spirit and Ethical Life (*Sittlichkeit*), as an ideology. A bad house, Hegel argues, 'exists' (*hat ein Dasein*) which does not correspond to its own Notion (*ist seinem Begriff nicht angemessen*). However, 'if the bad house *only* would be inappropriate (*nicht angemessen*) to its Notion, it would be no house at all' (Hegel 1970a: 55, §167). This is because the dominant Notion of objective spirit that oppresses and exploits the subjective spirit, truth and rationality of its enslaved subjects, lives in that house as long as the house exists, and binds the slaves, its subjects, their spirit and their property to the house, for the better as well as for the worst. Therefore, a Hegelian immanent critique only can strive for a better slave-house.

The correspondence theory of truth prolongs the glorified bad past to the future and eternalizes the 'nightmare' of 'all dead generations' that weighs 'on the brains of the living' (Marx 1885: 97). As Kierkegaard correctly recognized in 1843, during the crisis of his own life, Hegel's correspondence theory of the truth of life has nothing to say about this and other crises of modern society, because it is 'true with regard to the past that we must *explain and understand life backward* – but it was forgotten that *we must live forward*'. Living forward gives us 'no moment of rest to take the stance: backward' (Kierkegaard 1941: 162). Hegel's house of Ethical Life has become Max Weber's 'iron cage of serfdom of the future' (Weber 1964: 446).

### 3.3 Practical-Critical Deconstruction of Ideology

However, after he has read Marx and Habermas, Kant may find a way to open the 'critical path' again (CPR, A855/B883). After he has read those

authors, he could explain that the naturalization (*Naturwüchsigkeit*) (Marx 1969a: 94, 377, 528; Engels 1972: 515) of the Ethical Life is a condition that makes the application of the moral law impossible because political power and economic capital have ‘erected barriers within the space of reason that are blocking its free flowing use’ (Normative Orders 2019).

Kant was well prepared for such a critique of naturalization. In his 1784 essay ‘An Answer to the Question: What is Enlightenment?’ he had already argued in a similar way to Marx and Engels seventy years later. Marx argued that the historical destiny of human beings is not due to ‘self-evident laws of Nature’ but due to human beings, who ‘make their own history’. Unfortunately, ‘they do not make it under self-selected circumstances, but under circumstances existing already, given and transmitted from the past’ (Marx 1969a: 765; 1985: 96–7) – circumstances which are now blocking the free flow of reason.

Kant similarly argued that enlightenment is ‘*the human being’s emergence from his self-incurred minority*’ (WIE, 8: 35), and it is self-imposed because otherwise humans could not *make their own history*. However, they *did not self-select* the *circumstances* of hundreds of years of domination due to ‘guardians who . . . made their domestic animals dumb, and carefully prevented these placid creatures from daring to take a single step without the walking cart in which they have confined them’ (WIE, 8: 35), circumstances that now weigh like a *nightmare on the brains of the living*. Moreover, Kant adds that the nightmare is due to a ‘minority that has become almost [human] nature to him’ (WIE, 8: 36), hence his *second nature*. Already at that time, five years before the outbreak of the French Revolution, Kant asserted that both elements are needed: a ‘true reform in one’s way of thinking’, and a kind of ‘a *revolution*’ to overthrow ‘personal despotism and of avaricious or tyrannical oppression’ (WIE, 8: 36).

Moreover, what Kant at this point has learned from Marx, Horkheimer, Ryle and Habermas is that the space of reasons can be blocked only because it is not an intelligible (or transcendental) but the ‘this-sided’ (Marx 1969b: 5) space of communicative exchange between working and talking animals who engender, change and use reasons and apply reasons to reasons performatively. Therefore, the slaves in Hegel’s house of Ethical Life can learn to use their own subjective spirit. They can learn not only to ‘compel nature to answer its questions’ (CPR, Bxiii) from the *point of view of technical constructivism* but also to call the naturalization of societal relations into question from the *point of view*



of *practical-critical constructivism*, and to sink the *dominant Notion* into the Red Sea of revolutionary struggles for emancipation.

The natural laws, as Wartenberg (see epigraph) rightly observed, already ‘allow deviations, mutations’ (1971: 113), and therefore they allow living organisms to evolve through natural selection and other (epigenetic) mechanisms (including socio-cognitive learning), which are limited but *not determined by natural laws*. The presumably self-evident laws of society’s second nature also *allow* what ‘they do not prohibit’ (Hobbes 1992: 72), and this is, as Marx repeatedly emphasized, a *real progress of freedom* (Marx 1953: 368). However, the laws of society are not natural but the historical product of *forced domination*, as ideology-critique reveals.

Moreover, the *moral law* of autonomy also *developed* further as part of the social reality, from the Apostle Paul’s golden rule to Luther’s inner freedom to Rousseau’s and Kant’s notions of autonomy to the constitutional law of the Atlantic revolutions of the eighteenth century and the international human rights pacts of the twentieth century. But unlike the laws of the first and second nature, the ‘moral law’ does not only allow, it ‘*demands deviations*’ (Wartenberg 1971: 113) from the evil ethical rules of the second nature of depoliticized capitalist domination. Moreover, the moral law demands ‘*to overthrow all relations* in which man is a debased, enslaved, abandoned, despicable essence’ (Marx 1976c: 385).

Adorno’s ideology-critique of Kant is ambivalent because ideology at its best is false and right consciousness at once. On the one side, Kant is right; on the other side, he is wrong. Kant’s idea of autonomous, self-determined or self-bound freedom is emancipatory and oppressive at once:

The subjects are free, according to the Kantian model, to the extent that they are conscious of themselves, identical with themselves; and in such identity also again unfree, insofar as they are subject to its compulsion and perpetuate it. They are unfree as non-identical, as diffuse nature, and yet as such free, because in the impulses, which overpower them – the nonidentity of the subject with itself is nothing else – they are also rid of the compulsory character of identity. (Adorno 1966: 292)

However, in his late philosophy of constitutional law, Kant himself came close to a resolution of Adorno’s antinomy of autonomous freedom.

Kant's solution is democratic self-legislation. He understands the rationality of the will as an operative and procedural formation of the *subjective spirit* that becomes the *universal legislative will* in a process of either individual (morality) or collective will-formation (legality).<sup>16</sup> Through the practical-procedural universalization of the individual or collective will, the subject binds itself to universal legislation, which is due to subjective spirit alone, and the correctness (truth, validity, justice) of its self-legislation, and independently of the latter's correspondence with objective spirit. In this sense, the rational freedom of agents and agencies is unconditioned (or absolute), hence, it is as part and parcel of the objectivity of history not conditioned *by the prior truth* of objective spirit, and therefore can emancipate itself from the false and ideological forms of social objectivity.

The emancipatory power of everybody's self-legislation that, according to Marx, has 'produced the French revolution (and) all great, organic revolutions' (Marx 1976a: 260), for Kant, is *the same* in moral and legal affairs. Therefore, the *pouvoir constituant* that forms modern, power-founding constitutions (*herrschaftsbegründende Verfassungen*) must be understood as a *transformation of morality and moral autonomy* (based on unenforceable respect or *Achtung*) *into positive law* (based on enforceable ex-post respect or *Nachachtung*, as Max Weber has called it).

After Kant has read Hegel's *Philosophy of Right*, he has not only learned a lot about the social origins (s. 6) of practical rationality but also that Hegel must have ignored the Hegelian side of the *Metaphysics of Morals*. The reason for this blindness was that Hegel neglected the *constitutional* advances of the early French Revolution (1789–93). He only took the revolutionary civil law (the Code Civil from 1804) seriously, that is, the Napoleonic lasting result, and this is the violently naturalized (*naturwüchsige*) product of the bourgeois society. In contrast, Kant, who died in the year of the codification of the Code Civil, took the *constitutional* law of the legislative power seriously, and *prior to the civil law*. However, he never would have accepted any civil and private law code as a revolutionary advance *without* a new and power-founding constitution, and Hegel explicitly did.

Marx's claim (quoted above) that *men* not only should *make their own history* but rather make it *under self-selected circumstances*, and no longer *under circumstances existing already, given and transmitted from the past*, is nothing else than an implicit reference to the reflexive idea of a power-founding constitution. However, the implementation

of a power-founding constitution that enables the practical-critical *self-transcendence* of society through the legislative and constituent power of the people immediately became (as Kant learned from Marx) the ‘existing contradiction’ (Hegel 1975: 59) *within* the objective spirit of the Ethical Life of modern bourgeois society, the capitalist state and, not to forget, the authoritarian family. Modern Ethical Life *is* this existing contradiction. By the way, Marx, in *Capital*, recognized that the existing legislative power – in his case that of the British public and parliament – as a revolutionary power through radical legal reformism (Ten-Hour Bill and further labour law) can, at least partially, overcome the naturalization of societal relations (spontaneous market forces). For Marx, overcoming naturalization *is* the social revolution.

Moreover, democratic legislation as Kant understood it, is related internally to Adorno’s antinomy of rational freedom. In the famous §46 of *Metaphysics of Morals*, Kant explains that only laws which are produced by ‘the united and consenting will of all the people – in so far as each of them determines the same thing about all, and all determine the same thing about each ... , can do injustice to nobody (*niemandem Unrecht tun*)’ (MM, 6: 314–15, my translation).

Whatever Kant originally meant with that sentence, finally, after he has learned enough from Marcuse’s Marxist educated reading of Hegel’s concept of negation and Adorno’s Kierkegaardian educated deconstruction of Hegel’s concept of identity, he could explain §46 in the following way. The general quantification *all* from the first sentence – ‘all determine the same thing about each’ – refers to the *universal* perspective of the *law* that is *identical* for everybody, whereas the singular quantification *each* in the second sentence – ‘each determines the same thing about all’ – refers to the *different perspective* of the individual’s interests, reasons and passions. This singular perspective is not necessarily identical with that of *all*, except in the moment of legislation. Rather, it is *non-identical* and even contradictory to the law at many other times and in different situations.<sup>17</sup>

Therefore, and after an additional reading of the papers of Offe, Habermas and some others on deliberative democracy, Kant could further argue that only a democratic self-legislation (including the norm-creating power of all branches of government) that is revisable, deliberative, deconstructive, experimental, participatory and inclusive, can do justice to the difference of *each* and *all*, not in a positive, but in the *negative sense of doing injustice to nobody*. In contrast with Hegel, such a *ratio of voluntas* of individual and collective agencies

*can* but *does not have to* comply with the normative order of the existing society – as Kant has learned from Hegel, Marx, Dewey, Marcuse, Adorno and Derrida. Such a ratio of *voluntas* can also lead to civil disobedience or ‘revolutionary activity’ (Marx 1969b: 5) any time, and for all *and* each: *Fiat justitia, pereat mundus*. This is revolutionary justice. And it is the same use of the word ‘justice’ that right now (1 June 2020) is made by the huge protest movement after the police killing of George Floyd in Minneapolis: ‘No justice – no peace!’

#### 4. A Concluding Remark

Rousseau, Sieyès, Madison, Kant and the young Marx supposed that popular sovereignty was the resolution of the riddle of all constitutions. The weapon of criticism that destroyed the Hegelian ideology of modern Ethical Life was one short sentence: ‘Democracy is the resolved riddle of all constitutions’ (Marx 1976a: 231).

It is popular sovereignty, but who are the people? For this question, the theory of the French Revolution had the *normatively* right answer, and the still valid answer is that of §46 of *Metaphysics of Morals*. The people are *all* individual human beings who are addressees of legal norms, and all addressees of these norms should be their included as their authors. However, to Tugendhat’s *empirical* question, ‘who are all?’ (Tugendhat 1997), the revolutionary theory was deaf. In the age of the Atlantic revolutions, the people were an empty signifier, a passive icon, which the revolutionary column on the march carried beforehand. The icon should conceal that the people were factually a hollow shell that could be stuffed with any content, and especially with the class interests of the revolutionary avant-garde. So it was that the Jacobins ‘rapidly displaced the old intermediaries’ and replaced them with the ‘members of the Third Estate’, which now declared themselves as the nation (or people), lawyers, officials, merchants, notaries, bankers, judges, tax farmers, undertakers, physicians, academics and the new class of intellectuals, the philosophes (Tilly 1995: 167–8). As long as the people persisted as an empty signifier within the old frame of Aristotelian political theory (*societas civilis sive politica*) the notion of people was an ideology of Ethical Life. Therefore, popular sovereignty for a long time remained (and in many cases still remains) not only factually but legally compatible with the exclusion of huge segments of the population, such as labourers, women, people of colour, national and religious minorities, migrants and entire peoples, stigmatized as uncivilized races and nations. The revolutionaries of the eighteenth century with few exceptions (Gracchus Babeuf,

Olympe de Gouges) did not even ask themselves who are ‘all’? They themselves were included in any case.

The eighteenth century was deaf to the question, and their deafness was an ideological barrier to the flow of reasons – but not for Hegel and Marx. They opened their ears, removed the barriers and laid ground for the further development of sociology and the theory of society (Marcuse 1962). They *enriched* and *realized* the notion of people through, first, a *functional differentiation* between family, society, state; second, a *social differentiation* between social classes, and, in particular through Marx’s further, third, *structural differentiation* between *base* and *superstructure*.

All three sociological innovations together disclosed a completely new field of *historical and evolutionary research*. Sociological developments now could be understood as *critical or affirmative reflection of the development of modern capitalism and the capitalist state*, and critical theory became with Marx critical theory of *society*.

Kant only had to learn as much of sociology as he found in Hegel’s *Philosophy of Right* and Marx’s *Capital* to understand the entire further and breath-taking development of sociological research from Durkheim to Luhmann and its highly ambivalent results for the perspective of the idea of autonomy that he shared with Rousseau and Sieyès.

Finally, after reading Christopher Thornhill’s latest book on *The Sociology of Law and the Global Transformation of Democracy* (2018) Kant could consider that the sociologists (superstructure!) discovered ever more functional and social differentiations of peoples and societies, which turned out to provide as many obstacles for the formation of the generalizable popular legislation that is democratic. Moreover, he had to take into account that the same is true for the evolutionary development of the *constitutional reality* of capitalist states. The state agencies, reluctantly and in small slices, integrated ever more elements of democracy during the last 200 years but turned the originally democratic meaning of political autonomy slice by slice into its opposite so that it fits to the interests of the ruling classes, the self-preservation of the state and its imperial and nationalist endeavours (Thornhill 2018: 179–80). However, finally and hopefully, he could recognize that the ‘avaricious or tyrannical oppression’ (WIE, 8: 36) of the bad *constitutional reality* could never completely get rid of the equally *real constitutional norm* and the cultural *counter-memory* that makes revolutionary progress still

possible, because ‘the democratic ideals promoted in the revolutionary period obtained a certain enduring reality’ during the entire development of modern society (Thornhill 2018: 41–2). The Kantian mindset of autonomy still seems effective as a *normative constraint* of modern capitalism that is its *existing contradiction*.

## Notes

- 1 In German: *Naturgesetze gestatten spontane Abweichungen, Mutationen; das Sittengesetz fordert die Abweichung von den herrschenden, üblen Verhaltensregeln* (Wartenberg 1971: 113).
- 2 In German: *Max, das Unbedingte! Es gibt nichts anderes* (Adorno 1952).
- 3 See already Brunkhorst (1983, 1998). An alternative to such a progressive reading of history of ideas is pluralism. For an interesting dialectical application to critical theory see Freyenhagen (2018).
- 4 Parenthetical references to Kant’s writings give the volume and page number(s) of the Royal Prussian Academy edition (*Kants gesammelte Schriften*), which are included in the margins of the translations, unless referring to the *Critique of Pure Reason*, where I will refer to the standard A/B pagination. English translations are from the *Cambridge Edition of the Works of Immanuel Kant*, and, when stated, my own translation. I use the following abbreviations: CF = *Conflict of the Faculties* (in Kant 1996b: 239–328); CPR = *Critique of Pure Reason* (Kant 1998); G = *Groundwork of the Metaphysics of Morals* (in Kant 1996a: 41–108); IUH = ‘Idea for a Universal History with a Cosmopolitan Aim’ (in Kant 2007: 108–20); MM = *The Metaphysics of Morals* (in Kant 1996a: 363–602); OAD = ‘On a Discovery Whereby any New Critique of Pure Reason is to be Made Superfluous by an Older One’ (in Kant 2004: 283–336); TP = ‘On the Common Saying: That may be Correct in Theory, But it is of No Use in Practice’ (in Kant 1996a: 277–309); TPP = *Toward Perpetual Peace* (in Kant 1996a: 315–51); WIE = ‘An Answer to the Question: What is Enlightenment?’ (in Kant 1996a: 15–22).
- 5 Habermas read and met Adorno only after he had finished his Dissertation. However, a key to Habermas’ entire work is this title together with the talk he gave in Heidelberg 1960 on Schelling and Marx (Habermas [1963] 1971b).
- 6 The subject’s constructive activities contain acts of thinking on something that constitutes (structures and forms) the realm of objects of knowledge (§16 of the *Critique of Pure Reason*) together with the experimental praxis of scientists (as Kant adds particularly in his famous preface to the second edition). On this constructive part and its further developments see Lorenzen (1968, 1969); Weizsäcker (1947); Apel (1973); Klüver (1971); Habermas (1968).
- 7 It was Kant’s ‘great idea’ that ‘the very thing that explains the possibility of our knowledge of the fundamental principles grounding a scientific view of nature’, hence the constructing power of autonomy, ‘is also the key to the possibility of our freedom in both intention and action, which seems threatened by the rule of causality in that natural world’ (Guyer and Wood 1998: 21).
- 8 The truth-potential of Kant’s practical philosophy comes out especially in his theory of state and politics, as Martin Welsch has shown in a groundbreaking PhD thesis at the University of Heidelberg (Welsch 2020). Welsch shows that it is *practical truth* (‘Any true republic is and can only be a system representing the people’ (MM, 6: 341; my emphasis of ‘true’) that makes the crucial difference between a democratic and an authoritarian (Hobbesian but also Sieyèsian and mainstream liberal) non-truth model of representation (Welsch 2020: 319–20, 321ff.).

- 9 This my translation of Kant's translation of Job's 'Unrecht wie Wasser trinken' (*TPP*, 8: 359).
- 10 The English translation of 'Revolutionierende' (in Kant 1996b: 302) is misleading here because it says 'revolution' instead of revolutionaries! The long arm of the Prussian censor from 1793 reaches far.
- 11 Kant certainly was not a liberal reformist in revolutionary times. From 1789 until his death in 1804, he was committed to the revolutionary cause of the Jacobins. Even if Kant 'rejected without hesitation the right to revolution', he was 'one of its most passionate supporters when the event historically occurred. It is believed that upon receiving the news of the instalment of the Republic in France, the then sixty-five year old philosopher exclaimed "Now I can say like Simon: 'God, let your servant die in peace, for I have already lived this memorable day!'"' (Ypi 2014: 265). Whereas most of the German followers of the revolution 'withdraw their support during the years of the terror, Kant seems to have never changed his mind' (Ypi 2014: 265). Nicolovius, a reliable witness, student and publisher of Kant's books, reports that Kant often insisted 'that all the horrors that took place in France were nothing compared to those that people had suffered under a despotic regime, and that the Jacobins were probably right in all their actions' (Ypi 2014: 265; the Kant quotes are from Droz 1949: 157–8).
- 12 Hegel's term *Sittlichkeit* combines Kant's use of *sittlich*, *Sitte* and *Sittlichkeit* as *morality* with Aristotle's use of the category of the *good life* or *eudaemonia*.
- 13 I am thankful to Fabian Freyenhagen for reminding me that Hegel can also be read as a radical critique of the correspondence theory of truth. That is true, but he can be read both ways; I guess this is the only weak side of dialectical thinking, and even this side is productive! Theunissen in his seminal *Sein und Schein* (1980) reads him as a radical societal critique of the correspondence theory, but in the important essay on *Begriff und Realität* (1978) as a defender of correspondence theory who is in line with the existing power-structure. Marcuse in *Reason and Revolution* reads him as a critic, Adorno in his *Drei Studien* reads him more as an apologist of correspondence theory. The most radical readers on the critical side are Dewey and Rorty but at the price of giving up the entire Hegelian concept of reason and truth, and, fascinatingly, reading him as a suggestion to go ahead into an unknown utopian future of ever richer, ever more extended and ever more egalitarian realizations of freedom.
- 14 A brilliant analysis is found in Menke 2018: 36ff., 119ff.
- 15 The category of world law (represented by the term *Weltgericht*) developed in the last pages of *Philosophy of Right* is the most critical category of Hegel's *Sittlichkeit* because it is the only transcending category, and related to absolute spirit (Hegel 2001a: 266–72, §§340–60). As *Weltgericht* world history even transcends the state from within, and the state is 'exposed to chance' and 'external contingency' because the *Weltgericht* reveals the 'particularity' of the existing 'ethical whole' (Hegel 2001a: 266, §340; see also Fine 2003). This is one of the many progressive sides of Hegel, which he could discover after having learned enough from Marx and the Frankfurt School. During his lifetime and cut off from the sources of his later critics, Hegel solved the problem of the missing universality of the State by references to the civilizing power of European colonialism and imperialism (Hegel 2001a: §§355–60).
- 16 'Freedom and the will's own lawgiving are both autonomy and hence reciprocal concepts' (G, 4: 450).
- 17 This, by the way, is in accordance with advanced juridical interpretations of the principle of democracy in constitutional law which draw a similar distinction between *collective* and *individual* legitimization (Möllers 2003). Moreover, as Welsch has shown, it is backed also by Kant's entire chapter on public law (*MM*, 6: 311–42, §§43–52) because

the postulate of public law refers to the constitutive practical idea of a free legal association that does not permit the free individual to enslave itself at any time, neither totally nor partially, and that implies that the individual must be able to change his or her will *any* time. Only if this demanding condition (that considers the non-identical) is fulfilled, is a non-oppressive, hence 'true' representation of the people through themselves possible as democratic self-representation or self-legislation (Welsch 2020: 22, 31–2, 40, s 332).

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