

Review

Amir Mohseni. *Abstrakte Freiheit: Zum Begriff des Eigentums bei Hegel. Hegel-Studien Beiheft 62.* Hamburg: Felix Meiner, 2014. ISBN 978-3-787-32727-0 (pbk). Pp. 192. €78.00.

In the past two decades, scholarship on Hegel's social and political philosophy has been mainly focused on the concepts of recognition and intersubjectivity. The desideratum is to reconstruct all major parts of Hegel's *Philosophy of Right* on the basis of these concepts. For such interpretive strategies, Hegel's discussion of 'abstract right' in the beginning of the book poses a special difficulty. Hegel begins this discussion by defining a person as the 'negative actuality, whose relation to itself is purely abstract—the *inherently individual* [in sich einzelner] will of a *subject*, or as 'exclusive individuality' (§34). Similarly, he defines property not through intersubjective, legal relations, but in terms of *one* individual appropriating a thing (§45). And, more explicitly, he regards the freedom that is manifested in owning property as 'the freedom of *an individual* person who relates only to himself' (§40). These passages, as Mohseni reports, have led major scholars such as Michael Theunissen and Karl-Heinz Ilting to accuse Hegel of holding an a-social conception of personhood and property, as if the individual insofar as abstract right is concerned is alone and in the state of nature (88). The general aim of Mohseni's book is to show that Hegel's conception of abstract right is compatible with Hegel's overall social and historical approach in the *Philosophy of Right*.

The book consists of three chapters. In the first chapter, Mohseni discusses the presuppositions of Hegel's social and political philosophy by focusing on Hegel's conception of the Concept in the *Science of Logic*, and the structure of the free will in the Introduction to the *Philosophy of Right* (19–46). In the second chapter, he undertakes a close textual analysis of the beginning sections of Abstract Right (47–134). Finally, in the third chapter, he compares Jeremy Waldron's conception of private property with Hegel's, and then evaluates Hegel's own arguments in defence of private property (135–82). The book's distinct contribution lies in the second chapter, and in what follows, I shall centre my discussion on it.

If I pick out an apple from a tree and put it on my kitchen table, the apple can be considered in two ways, as my 'possession' (*Besitz*) or as my 'property'

(*Eigentum*). Mohseni undertakes a detailed analysis of §45 to discuss the distinction between the two (64–85). Whereas possession is a relation that obtains between an individual and a thing that is in his power, the relation of property obtains, precisely speaking, between the individual and himself. That is, the individual (the abstract personal I) recognizes himself (the same abstract personal I) through the mediation of a thing. Mohseni thus formulates the distinction between possession and private property in the following way: ‘I *have* something in my external power: possession; I *am* an object to *myself* in what I possess [*ich bin mir im Besitz gegenständiglich*]: property’ (77, emphases mine). In possession, in appropriating a thing (apple), the individual intentionally follows his needs and desires (hunger) in order to satisfy them. Possession thus does not have any legal significance. By contrast, in property, in addition to purposively aiming to satisfy his desires, the individual abstracts from the thing, and regards it as the manifestation of his freedom. Property is therefore, in Hegel’s words, the ‘first existence [*Dasein*] of freedom’, and has legal content.

In order to distinguish these relations of the individual to the thing, Mohseni preserves the term ‘objectification’ (*Objektivierung*) for the act of possession, and the term ‘objectivation’ (*Objektivation*) for the act of appropriation of property. Possession objectifies the individual, in that it serves as a *means* to satisfaction of his needs and desires. By contrast, property is ‘an essential end for itself’ (Hegel’s words), which objectivates my freedom (71). When I pick out an apple, Mohseni emphasizes, I do so *only* to satisfy my hunger (objectification), but the consciousness of my freedom as a legal person *accompanies* my act (objectivation) and this turns possession into property.

Whereas the consciousness of freedom may not be obvious to me—it becomes obvious, though, when somebody coercively hinders me from acting upon my legal entitlement—its necessary accompaniment obtains through the relations of intersubjectivity and recognition. For in order for me to be able to be entitled to legal claims to property, my claim has to be respected, thereby bestowed on me, by another individual. According to Mohseni, the consciousness of freedom that accompanies my act of appropriation of things is a historical achievement. I might be erring about *what* I choose to appropriate (*this* or *that* apple), but in modernity I cannot possibly be erring about the fact *that* I am free to have legal claims on things (83). The latter has become, so to speak, my ‘second nature’ that I cannot practically undo.

If intersubjectivity is a necessary condition for the consciousness of freedom, and thereby for the institution of property, then how shall we interpret the apparently a-social definitions of property and personhood that I quoted in the first paragraph of this review? Mohseni’s answer is twofold. First, he argues that such passages should not be understood as self-standing, but should be conceived as abstract but necessary ‘sections’ of the complex totality of social,

political and legal relations. To support this reading, he emphasizes Hegel's handwritten note on the margin that in the exposition of abstract right 'all concrete situations [must be] forgotten' (105). Second, Mohseni argues that the sphere of right, i.e., objective spirit, is the result of the development of subjective spirit. In his account of subjective spirit, Hegel explicitly thematizes the 'process of recognition' to construct the concept of spirit (*Enz*: §430). Therefore recognition is already presupposed in objective spirit, and need not be explicitly addressed (103). This means that in abstract right, Mohseni emphasizes, the ability of the individual to establish a purely abstract relation to himself independently of others is already '*sociogen*' (105).

Up to now, Hegel has proved that the institution of 'property' is a necessary condition for the objectivation of freedom; it is only through a thing, which I appropriate, that I can give objectivity to my freedom. But what about the necessity of the institution of 'private property', namely, a property that is *exclusively* mine, no matter whether I want to use it or not? Why is Hegel justified, if he is, in regarding private property as *the* true form of property that expresses freedom? According to Mohseni, Hegel's derivation of the institution of private property is not based on the institutions of contract and exchange (133). These latter institutions already presuppose private property, and therefore cannot ground it.

Mohseni suggests rather—quite fascinatingly—that Hegel grounds the necessity of private property through one instance of private property that everybody necessarily has, i.e., one's own body. Recall that in order for my claim to property to gain validity, other individuals must respect it. However, the others cannot refer to me in my abstract self-relation. They have to be able to perceive me as a distinct individual, and this requires that I be visible, i.e., be *embodied*. Body, therefore, is a 'spatiotemporal medium through which my demand for being respected is mediated' (133). The derivation is clearly reminiscent of Fichte, but Mohseni finds evidence in Hegel's own text to support his interpretation (§48). My ability to relate to my own body is the result of other people recognizing me as having such a capability, and this is a historical achievement. Mohseni writes:

Through achieving this first-personal control over one's own body the persons are not obliged to conceive of themselves as citizens of state, members of family, partners of economic institutions, officials, or in general, as parts of the social totality. They have the right, in complete independence [of others], to relate only to themselves and to their individual interests. (131–32)

It is certainly odd to regard the body as an instance, indeed the primal instance, of private property. Private property by definition is alienable. Is one's body alienable? Obviously, Hegel is not a spiritualist who thinks that the soul could

exist apart from the body. He holds, however, that although I live *in* my body, my body remains an 'external existence' for me (122). This is the reason why human beings are able to mutilate or even kill themselves. The claim of my body's separability from myself makes perfect sense, especially in the domain of abstract right. If I suffer from a cancer, I still can abstract from my body and regard myself as a person that is free and entitled to make legal claims.

In the third and final chapter, Mohseni considers whether or not Hegel's argument for the legitimacy of private property works. One question is: why should one's exclusive relationship to one's body be understood in terms of private property? Why can't it be simply understood in terms of the right to bodily integrity, or the right to freedom of movement? (170). It could be argued that the development of the right to bodily integrity is historically coextensive with the development of the market economy, which is based on private property. But this genetic simultaneity, according to Mohseni, is not an adequate philosophical reason to lump the two together (171). More importantly, if private property is grounded on one's exclusive right to one's body, then how is Hegel justified in deriving the right of exchange of commodities, given that he explicitly rejects the right to sell organs of one's body? Similarly, one cannot in this way justify the institution of wage-labour, in which one sells one's capacity for labour in exchange for money (172–73), nor can one justify the legitimacy of exchange of commodities for the sake of profit making (175).

Mohseni has written a book that is insightful and rigorous. His preferred method of exposition of Hegel, section-by-section and line-by-line, is illuminating, yet to my mind this method occasionally gives the book a pedantic tone. It would have been appropriate, I believe, if Mohseni had pursued the systematic significance of his interpretation in more detail. I would like to raise two issues in closing. First, if the basis of private property is one's right over one's body, as Mohseni suggests, then even communist societies, where there is no private property in the usual sense of the term, should be counted as based on private property. This makes Mohseni's project somehow self-defeating, for its aim is to explain the historicity and sociality of Hegel's conception of abstract right in the modern bourgeois-capitalist social order. But with such a loose conception of private property, derived from the right to one's own body, the specific historical form of that social order cannot be grasped. Mohseni needs to clarify what exactly he means by the historicity of Hegel's thought. Is such historicity aimed to grasp the actual society that we live in, or do its claims refer to *any* society that would respect one's access to one's body? Second, what would be the social and political significance of regarding one's body as private property? Private property is a legal institution that is enforced by the authority of the state. Mohseni himself in another context concedes that the sphere of abstract right is the lowest sphere of right and, when necessary, can be overridden

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by the state (179). Privatization of bodies, therefore, entails and justifies their regulation by the state. I am not sure whether this is a conclusion that we should be willing to draw from Hegel's philosophy of right.

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